

**TRANSCRIPT OF PROCEEDINGS**  
**BEFORE THE**  
**TEXAS STATE HOUSE OF REPRESENTATIVES**  
**HOUSE SELECT COMMITTEE ON IMPEACHMENT**  
**AUSTIN, TEXAS**  
**VOLUME 11**

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TRANSCRIPT OF PROCEEDINGS  
BEFORE 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 III

BE IT REMEMBERED that on Thursday, May 22, 1975, beginning at 8:15 o'clock p.m., in the Old Supreme Courtroom, State Capitol Building, Austin, Texas, the above-entitled matter came on for hearing, having been continued from Wednesday evening, May 21, 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, 504 Travis Building, 205 West 9th Street, Austin, Texas 78701.



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## MEMBERS PRESENT

1 REPRESENTATIVE HALE - CHAIRMAN

2  
3 REPRESENTATIVE MALONEY - VICE CHAIRMAN

4 REPRESENTATIVE LANEY

5 REPRESENTATIVE KASTER

6 REPRESENTATIVE HENRICKS

7 REPRESENTATIVE SLACK

8 REPRESENTATIVE MABERS

9 REPRESENTATIVE DONALDSON

10 REPRESENTATIVE THOMPSON

11 REPRESENTATIVE CHAVEZ

12 REPRESENTATIVE WEDDINGTON

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1 THURSDAY, MAY 22, 1975

2 THIRD SESSION

3 (The hearing was reconvened at 8:15 p.m.,  
4 pursuant to the recess on Wednesday, May 21, 1975.)

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

8 The Clerk will call the roll.

9 (The Clerk called the roll.)

10 CHAIRMAN HALE: Six? There is a quorum  
11 present. (Gavel.)

12 We apologize to all of you in the audience here  
13 for the late start. Unfortunately, there is other  
14 business being transacted that all of us are involved  
15 in this week and it is extremely difficult for us to  
16 attend to everything that we have to do.

17 There are one or two items of business, Members  
18 of the Committee, that the Chair would like to dispose  
19 of, before we start hearing testimony.

20 First, with respect to the witness that we  
21 heard last night, Rodolfo M. Couling, you will remember  
22 that he was the one who was the former tax collector at  
23 the Benavides Independent School District, and to most of  
24 the questions and all meaningful questions that were  
25 propounded to him, he claimed his privilege under the

1 Fifth Amendment. He is under subpoena and the Chair sees  
2 no reason to maintain that status with respect to this  
3 witness, in view of his status, so I would entertain a  
4 motion.

5 MR. KASTER: All right.

6 CHAIRMAN HALE: Mr. Kaster moves that Mr.  
7 Rodolfo M. Couling be released from the subpoena under  
8 which he has been held for the last two days.

9 Is there any discussion on the motion?

10 (No response.)

11 (The motion, being put to a vote, was carried.)

12 CHAIRMAN HALE: The Chair has a request  
13 for the issuance of a subpoena here this evening for a  
14 witness who is here, Marvin Foster, as a witness. We have  
15 been requested to issue a subpoena for him.

16 MR. HENDRICKS: I so move.

17 CHAIRMAN HALE: Mr. Hendricks moves that  
18 the Chair be authorized to issue a subpoena in the name  
19 of the Committee for the attendance at these hearings of  
20 Mr. Marvin Foster.

21 Is there any discussion on the motion?

22 (The motion, being put to a vote, was carried.)

23 CHAIRMAN HALE: The motion prevails.

24 (The Chair signed the subpoena.)

25 CHAIRMAN HALE: Will you serve it, Mr.



1 Kelly?

2 (Mr. Kelly served the subpoena.)

3 CHAIRMAN HALE: Next, Mr. Mitchell, the  
4 Chair would like to make inquiry of you, if I may, at  
5 this time, in order to determine some action that the  
6 Chair may need to take.

7 It was my understanding from one of my previous  
8 conversations with you that you have in your possession  
9 the ledger, the regular bank statements and canceled  
10 checks and the deposit slips from these accounts for the  
11 Zertuche General Store and the Farm and Ranch Store. Is  
12 that correct?

13 MR. MITCHELL: I have in my possession all  
14 of the books and records, going back since 1964, of  
15 all entities.

16 CHAIRMAN HALE: Was I correct in my in-  
17 terpretation that you intend to make those records  
18 available to the Committee?

19 MR. MITCHELL: No, I can't make them  
20 available, because I am facing a Federal trial, as the  
21 Committee knows, but I am going to want to bring them in  
22 here with the permission of the Chair and bring an  
23 accountant in at the time, and I would like to develop  
24 some sort of a blueprint, where I could use them for  
25 reference to clear matters that might be raised at the

1 time that I offer them, Mr. Chairman. But I don't want  
2 to introduce them for obvious reasons. I need them in  
3 defense of this man who stands trial in the Southern  
4 District, but I will bring them before the Committee.

5 CHAIRMAN HALE: Will you permit the  
6 Committee members and/or our agents to examine those  
7 records and photocopy any parts of them that we feel are  
8 pertinent to this inquiry?

9 MR. MITCHELL: No. Unless they become  
10 relevant. I mean, I don't want to make a blanket  
11 discovery in to them at this point, Mr. Chairman. Because  
12 if they don't become relevant, I don't intend to offer  
13 them, because I don't want to jeopardize my client's  
14 rights before a Federal Grand Jury.

15 CHAIRMAN HALE: Let the Chair state that  
16 it's the intention of the Chair to recommend to the  
17 Committee that if you do not make these records available  
18 to us, that a subpoena be issued to the bank down there,  
19 to obtain microfilm copies of them, photocopies from their  
20 microfilm records.

21 I have discussed it with the President of the  
22 Bank and he tells me that they have microfilm records  
23 of all these records and that under proper subpoena, he  
24 will be happy to produce those records for the benefit  
25 of the Committee.

1           My question to you, if you have the originals  
2 here and will make them available to the Committee, it  
3 will save us the necessity of issuing that subpoena and  
4 putting the bank to all that extra work. That's the  
5 reason for my interrogation to you.

6           MR. MITCHELL: Well, I don't want to appear  
7 to impede the Committee's work, Mr. Chairman, and the  
8 reason for my communication to the Chair is, as the  
9 Chair will recall, is simply to determine a way for  
10 security over them. I didn't, by that simple request,  
11 intend, however, to dump literally carloads of documents  
12 into the hands of the Committee, mainly not because I  
13 care about what the Committee sees in them. I have  
14 nothing to hide in them. The question is, I am set for  
15 trial on June the 30th and I need them in that trial.  
16 If we can, if the Committee can indicate what they want  
17 and let me know what they want, then I wouldn't have  
18 any objection to making that material available to the  
19 Committee. That would be satisfactory with me.

20           CHAIRMAN HALE: We would like to see all of  
21 the bank records pertaining to Zertucha General Store and  
22 Farm and Ranch Store from the January 1, 1970 to the  
23 present time.

24           MR. MITCHELL: I will make them available  
25 from 1964 to the present time to the Chairman, make the

1 Farm and Ranch Supply, Zertuche General Store and the  
2 partnership, the tax returns that go with them. I  
3 believe if I am going to be put to the requirements of  
4 delivery, I would like to put it in a context to show an  
5 orderly presentation, which I intend to do and that is,  
6 to show the input into the tax returns, introduce all of  
7 the tax returns, all of the items of sales, all of the  
8 items of deductions. I have nothing to hide on them.  
9 That is what I intended to do, Mr. Chairman, when I  
10 called the Chair.

11 CHAIRMAN HALE: Let me say, Mr. Mitchell,  
12 the Chair is asking you whether or not you are voluntarily  
13 willing to do this.

14 MR. MITCHELL: Yes.

15 CHAIRMAN HALE: You seem to imply by your  
16 statement that I was pressuring you into doing it. The  
17 Chair had no intentions of attempting to elicit anything  
18 from you or your clients at this point in this hearing.  
19 But, if, to the extent that you wish to voluntarily  
20 do that, then we would appreciate it.

21 MR. MITCHELL: Fine. Of course, as the  
22 Chair knows, I've got the obligation to defend my client.

23 CHAIRMAN HALE: I understand that.

24 MR. MITCHELL: I don't want to waive any  
25 rights.

1                   CHAIRMAN HALE: That is your first respon-  
2                   sibility and I commend you for it.

3                   MR. MITCHELL: I am saying to the Chair,  
4                   that if the Chair will indicate to me what they want, I'll  
5                   make them available, but I would like to also make  
6                   them available in the context of my presentation, Mr.  
7                   Chairman. And if I don't cover it— Well, I'll just tell  
8                   the Chair in the presence of the Committee that I will  
9                   deliver whatever they want, but I don't want them put in,  
10                  in pieces and patches here and there and you. I intended  
11                  to offer all of them; or at least to have them available;  
12                  not to offer them, because I just don't want to get into  
13                  the physical problem of withdrawing them and then having  
14                  to go down to Corpus three weeks from now and not having  
15                  my records.

16                  CHAIRMAN HALE: What we would do on any of  
17                  the records you make available to us, with your permission,  
18                  what we would do, we have ample photocopying equipment  
19                  here in the Capitol Building at our disposal. What we would  
20                  do is that anything in which we were interested, we would  
21                  simply photocopy it, and give you your originals back.

22                  MR. MITCHELL: May I say this to the  
23                  Chair that upon receiving of the request, that I would make  
24                  the preliminary indication to the Chair that I would make  
25                  them available, subject only to my clients invoking his

1 right, in which event, I will notify the Chair immediately.

2 CHAIRMAN HALE: All right.

3 MR. MITCHELL: But at this point in an  
4 informal statement, I intend to offer them anyway. I  
5 intend to paint the entire picture, Mr. Chairman. I  
6 just didn't want to have them picked here and there and you.  
7 They do include those, incidentally, but not from 1970.  
8 They go back, the indictment is from '67. We are cutting  
9 it all up. All the notice I have, of course, is  
10 for the indictment. I would like to go back to 1964 with  
11 the Zertuche Store and bring it all forward. It will  
12 fill this room.

13 CHAIRMAN HALE: You will have that oppor-  
14 tunity, Mr. Mitchell.

15 MR. MITCHELL: Thank you.

16 CHAIRMAN HALE: Could I inquire as to when  
17 we could first see these records and examine them, not  
18 necessarily to introduce them into evidence here, but when  
19 the Committee is not in session, could we have an attor-  
20 ney, or one of our members check them tomorrow, for  
21 instance?

22 MR. MITCHELL: Mr. Chairman, I do respect  
23 the Committee, but I am not going to let Mr. Canales  
24 have them under any circumstances. That's the first  
25 thing.

1                   CHAIRMAN HALE: Mr. Canales is not an  
2 agent of this Committee any more than you are.

3                   MR. MITCHELL: Hes' doing a lot of talking  
4 and I've been a criminal lawyer for 25 years and—

5                   MR. CANALES: I haven't said a word,  
6 Mr. Chairman. (Laughter.)

7                   MR. MITCHELL: I mean the last three or  
8 four days.

9                   CHAIRMAN HALE: Well, you will have your  
10 opportunity, Mr. Mitchell. You are aware that we have to  
11 have a due order of proceedings here—

12                   MR. MITCHELL: I understand.

13                   CHAIRMAN HALE: —and you both can't  
14 talk at the same time, At least we can't understand you  
15 when you do.

16                   MR. MITCHELL: Out of fairness to the  
17 record, it all started when I informed the Chair about  
18 four or five days ago that I planned to bring an  
19 accountant up and planned to put all this evidence in.  
20 That's the facts. Then then, I'd like to do it that  
21 way, if I could, Mr. Chairman; to do it the way I had  
22 already telegraphed to the Chair that I was going to  
23 do. I hate to have it come in and him send somebody  
24 over there to paw around in them, because, you know,  
25 I've been chasing rabbits and hauling equipment and busting

1 people out of back doors and whatnot and I have no notice  
2 of it. I just don't want to be put in the position where  
3 I'm going to waive the rights of my clients. That's all.

4 CHAIRMAN HALE: Mr. Canales?

5 MR. CANALES: Mr. Chairman, with your  
6 permission, I would like to subpoena what he issued,  
7 simply because I think I am entitled to see these docu-  
8 ments. If they will be kept from me, it will seriously  
9 impede my presentation of this case.

10 CHAIRMAN HALE: You get the subpoena  
11 prepared that you want and then we'll see.

12 Mr. Mitchell?

13 MR. HENDRICKS: I would like to ask  
14 something.

15 CHAIRMAN HALE: Mr. Hendricks?

16 MR. HENDRICKS: Mr. Mitchell, is it my  
17 understanding that you want us to see these records as  
18 you introduce them into evidence?

19 MR. MITCHELL: I would have an order of  
20 presentation.

21 MR. HENDRICKS: In other words, you want  
22 to present them, yourself, into evidence?

23 MR. MITCHELL: Yes.

24 MR. HENDRICKS: Comment on them and—

25 MR. MITCHELL: I've made arrangements, if



1 it please the Member, to have them duplicated and so  
2 inform the Chair. I don't have, however, any desire, to  
3 have Mr. Canales subpoena me, because if he does, I'm  
4 going to stand on my privileges.

5 MR. CANALES: I have no conversation to  
6 carry on with Mr. Mitchell other than a polite "Hello."

7 I would like to know, though, if it is the  
8 intention of Mr. Mitchell at this point to filter through  
9 the documentation of these different stores and pick out  
10 just what he wants the Committee to see and claim his  
11 privilege on the remainder?

12 If that is the situation, I would like the  
13 Committee to issue a subpoena so that the Committee can  
14 have access to the entirety of the records and not just  
15 that portion that might be taken out of context.

16 MR. MITCHELL: By the same token, I could  
17 duplicate his talk about my end of it, Mr. Chairman. I  
18 would like the Committee to know that I made the offer  
19 to bring them all over here. If I could have gotten a  
20 DPS Guard to stand over them, in fact, whole boxes of  
21 them.

22 MR. LANEY: Mr. Chairman, I'd like to  
23 raise a point of order. We are debating something that's  
24 irrelevant at this point in time.

25 CHAIRMAN HALE: Mr. Laney, it's the Chair's

1 own motion that this matter was brought up, because we  
2 need to determine whether or not to issue a subpoena to  
3 the bank. I was trying to avoid the attendant difficulty  
4 and expense and trouble it is going to cause the bank  
5 to go through hundreds of reels of microfilm and isolate  
6 these individual transactions on these two stores.

7 MR. HENDRICKS: I have a comment, Mr.  
8 Chairman.

9 CHAIRMAN HALE: Mr. Hendricks?

10 MR. HENDRICKS: I am inclined to agree  
11 with Mr. Canales. I think it would save the time of  
12 this Committee, if we go ahead and subpoena what records  
13 we want, what records the bank has, so we can set at  
14 our leisure and examine without the necessity of having  
15 them introduced and explained into evidence. For that  
16 way, when he does introduce them into evidence, we will  
17 have them and follow along with them.

18 CHAIRMAN HALE: Do you wish to make a  
19 motion?

20 MR. HENDRICKS: I wish to make a motion  
21 that this subpoena be issued.

22 CHAIRMAN HALE: Mr. Hendricks moves that  
23 the Chair be authorized and directed to issue a subpoena  
24 to First State Bank of San Diego, Mr. Carl Williams,  
25 Vice President and Cashier, for all records held by the

1 bank pertaining to Farm and Ranch Store and Zertuche  
2 General Store. Is that correct?

3 MR. CANALES: Mr. Chairman, I don't know  
4 what the authority of this particular cashier is. I would  
5 suggest to the Committee to avoid any complications on  
6 authority of the individual to produce the records, that  
7 the president, who generally has plenary authority in the  
8 bank, be ordered and subpoenaed to produce these records.

9 CHAIRMAN HALE: The Sheriff talked with  
10 Mr. Goldthorn on the telephone. He was most cooperative  
11 on all aspects of this, Mr. Canales. He advised me  
12 that Mr. Carl Williams, if we were going to subpoena any  
13 of these records, Mr. Carl Williams was the vice president  
14 and cashier and was in charge of all these records and  
15 knew the most about it and that the subpoena should be  
16 directed to him.

17 MR. CANALES: Thank you, Mr. Chairman.

18 CHAIRMAN HALE: Mr. Kaster?

19 MR. KASTER: What timeframe are we talking  
20 about for the bank to produce these records?

21 CHAIRMAN HALE: I don't know. I asked  
22 that question of Mr. Goldthorn. He indicated it was  
23 going to take a little time. It wasn't something you  
24 could do just instantaneously.

25 MR. KASTER: Hundreds of reels of microfilm.

1 I was just wondering how long it's going to take.

2 CHAIRMAN HALE: I have no idea. It  
3 depends on the number of transactions the bank has in a  
4 day. I don't know how many transactions they have, but  
5 those microfilm records, if they photocopy every check,  
6 microfilm every check and every deposit slip and you have  
7 to go through those things and isolate these individual  
8 checks, it's going to take some time.

9 MR. KASTER: Are we talking about a week,  
10 or a month, or what?

11 CHAIRMAN HALE: I have no idea. I  
12 just don't have any idea.

13 MR. CHAVEZ: Mr. Chairman?

14 CHAIRMAN HALE: Mr. Chavez?

15 MR. CHAVEZ: Didn't Mr. Mitchell indicate  
16 that he might allow some Representative of the Committee  
17 to look at those records and perhaps we might be able  
18 to xerox some of those?

19 CHAIRMAN HALE: Would you care to direct  
20 your question to Mr. Mitchell?

21 MR. MITCHELL: Mr. Chavez, I had originally  
22 stated earlier, called to bring the records over. I had  
23 to have security for them, because I wanted them here in  
24 the Committee Room. I intended, as part of my case, to  
25 present the tax returns and the input data into those tax

1 returns, and that is still my intent, but I don't— I  
2 would like to reserve the right to change my mind. I don't  
3 want, however, out of step of the flow of the case from  
4 my point of view, to have counsel for anyone on the  
5 other side or any place to just come pick and choose. I  
6 think that I should have the right to present it in the  
7 fashion that it is orderly and I hope best flows to the  
8 understanding of this Committee.

9 MR. CHAVEZ: In other words, if the  
10 Committee asked you, if we could send a subcommittee  
11 over there to look at those records and perhaps xerox  
12 some of them, your answer is that you will not allow us  
13 to do that.

14 MR. MITCHELL: That's right, in that  
15 fashion.

16 CHAIRMAN HALE: Ms. Weddington?

17 MS. WEDDINGTON: Mr. Chairman, is that  
18 true, even though you would then be allowed and there  
19 would be an agreement at the same time, that you would  
20 be allowed the opportunity to come and present the same  
21 presentation you are already planning?

22 MR. MITCHELL: Ms. Weddington, I simply  
23 don't want— You're an attorney and you understand, I  
24 don't want you to pick and choose and beat me to death  
25 with it and leave it in that context and then interrupt

1 my free flow of the case. I intended to take all of that  
2 data, in fact, to chart it out. I have the charts of  
3 all of the returns and all the input. I wanted to do  
4 that and had so expressed my intentions to this Committee  
5 because of the questions raised.

6 MS. WEDDINGTON: If, at an early oppor-  
7 tunity next week you made a presentation to the Committee,  
8 as you had in mind, would you then have objection to  
9 someone, either a counsel hired by the Committee or a  
10 Committee Member to come and look through—

11 MR. MITCHELL: No.

12 No, I would not. As a matter of fact, I had  
13 anticipated having an accountant here tomorrow night,  
14 hoping the case would be put in my control by the Com-  
15 mittee and I had intended to put the accountant on  
16 tomorrow and commence it, but it doesn't look like I am  
17 going to be able to, so I had really projected to do  
18 it as recently as tomorrow.

19 MS. WEDDINGTON: But once you make your  
20 presentation in the order you would like to, then you  
21 would have no objection to us coming and making xeroxes  
22 or—

23 MR. MITCHELL: Not at all.

24 MS. WEDDINGTON: —looking—

25 MR. MITCHELL: In fact, I had made

1 arrangements through courtesy of the Chair to Xerox and  
2 I called today and I have tons of xeroxing to do and I  
3 want to make it available to the Committee, but I would  
4 like to be able to do it with an accountant and in an  
5 intelligent fashion and an orderly fashion; and not have  
6 someone say, "Well, I want from January 1st, 1972 to  
7 3:00 o'clock on the third." If it's going to come in,  
8 it's got to come in, in free flow. For example, an  
9 indication has been made that the store never existed.  
10 Well, the store did exist. It existed in '64 and '65 and  
11 '66. I am called on to bring them in on '70. Well, if  
12 you all get that in '70, the free flow and the facts, I  
13 think are going to be distorted.

14 MR. CHAVEZ: But you are going to bring  
15 them?

16 MR. MITCHELL: Yes, I am, Mr. Chavez.  
17 I have them.

18 CHAIRMAN HALE: Mr. Mitchell, let me say  
19 that in response to our conversation on the telephone and  
20 in person about this, I believe we had two conversations  
21 about it. It was my understanding you were going to  
22 bring all of those records in a number of big boxes up  
23 here last night and leave them here. And then pursuant to  
24 that conversation, I had even talked to the Sergeant at  
25 Arms, Mr. Kelly, about security arrangements on those

1 records, under the impression that you were going to  
2 turn the custody of them temporarily over to this  
3 Committee. I certainly didn't understand that they were  
4 going to be sealed in boxes that we were not permitted  
5 to go into and examine.

6 MR. MITCHELL: Mr. Chairman, that is true.  
7 And the Sergeant-at-Arms made that fact known to me.  
8 However, I did not feel that I wanted to leave my clients  
9 records here. I would, as I told the Chair, if the  
10 Department of Public Safety man, which this Committee  
11 certainly has all of the power in the world to call in and  
12 say, "Now, you are in charge of them and you set on them,"  
13 then I was going to bring them and have them loaded up.  
14 I didn't know how I was going to get them here; needed  
15 a pickup.

16 CHAIRMAN HALE: That was my understanding.

17 MR. MITCHELL: I had told you that. As my  
18 client said, "Now, that's my life and my freedom you are  
19 carrying around." I said, "Yes, Judge, you're right."  
20 Not reflecting on anybody, but I am charged with a tre-  
21 mendous responsibility, both in that case down there  
22 and this one, and would certainly be remiss in my duty,  
23 if I didn't say, "I'll say to the Chair and the Committee  
24 today, if I can have that type of security over it, I  
25 will bring them over."



1 CHAIRMAN HALE: I'm not so concerned about  
2 you physically bringing them to us. We don't particularly  
3 want the custody of them. We simply want the privilege to  
4 examine them and see what's in those records. Again, we  
5 don't have any predisposition in advance of what those  
6 records are going to reveal.

7 MR. MITCHELL: I understand.

8 CHAIRMAN HALE: There has been testimony  
9 concerning checks written between those two accounts.  
10 Either that testimony is true or it's not true, and we  
11 would like to check those records. Those records will re-  
12 flect whether that testimony is true or not, if your  
13 records are complete.

14 It seems to me that this Committee, as Mr.  
15 Hendricks points out, if we are going to have access to  
16 those records, we should have access to all of them, and  
17 not to just what parts of them you want us to see.

18 MR. MITCHELL: Mr. Chairman I don't have  
19 any objection to telling this Committee that I intend to  
20 put on my accountant and all of the records. I intend  
21 to subpoena Mr. Parr, the Attorney General, Mr. Reynaldo  
22 Guerrero, Mr. Dolio Briones, Mr. Canales and about fifty  
23 more witnesses. I intend to present a full case. I will  
24 represent to this Committee that I will present that  
25 accountant, as I told the Chair I would. I'll present

1 those tax returns and I'll present all that input. That's  
2 the most that I can say that I'll do. I want to plan to  
3 do it in my own way. There is no reflection on how some-  
4 one else may want to handle my case.

5 MR. NABERS: Mr. Chairman.

6 MR. HENDRICKS: There is a motion before  
7 the Committee.

8 CHAIRMAN HALE: Mr. Nabers?

9 MR. NABERS: It may be, Mr. Chairman, we  
10 don't want to consider certain things that might not be  
11 relevant in regards to this investigation. So, conse-  
12 quently, his making his full presentation may not have a  
13 thing to do with what we are interested in.

14 CHAIRMAN HALE: Well, it's entirely  
15 possible. Let me say to you, Mr. Mitchell, also, before  
16 fifty subpoenas are issued, I assure you the Chair is  
17 going to expect justification from you as to why you  
18 need that many witnesses.

19 MR. MITCHELL: I appreciate that.

20 CHAIRMAN HALE: We are not interested in  
21 making a career out of this hearing.

22 MR. MITCHELL: I understand. (Laughter.)

23 CHAIRMAN HALE: Also, we are not interested  
24 in a great deal of duplicate and repetitious testimony.

25 MR. MITCHELL: I've got to prove that

1 cement did not belong to my client, though, Mr. Chairman,  
2 and I am going to bring a man up here to prove it.

3 CHAIRMAN HALE: Do you think it will take  
4 50 witnesses to prove it?

5 MR. MITCHELL: That's one. That's one point  
6 I have been put, not because I select to do so, but I am  
7 sitting here listening to this testimony and I am looking  
8 at the record and I've got to go down that record, and I  
9 am going to bring a man that sold him that cement. That,  
10 I've got to do.

11 Mr. Nabers questioned the man about him, and  
12 I think he's entitled to say, "Well, now, who owned it?"  
13 The County didn't own it. My client owned it. So, I am  
14 going to bring a witness up here to that effect.

15 Then, I want to know why all those employees  
16 left one government entity, moved to another and got their  
17 pay raised and then suddenly all appear up here to be  
18 witnesses. I think this Committee ought to know  
19 whether it's being used in that political fight. I  
20 think that's relevant.

21 MS. THOMPSON: Mr. Chairman, parliamentary  
22 inquiry.

23 CHAIRMAN HALE: Yes, ma'am?

24 MS. THOMPSON: Are we allowing Mr. Mitchell  
25 to make his case at this time?

1 CHAIRMAN HALE: No. The Chair was trying to  
2 determine whether or not we would be justified in trying to  
3 subpoena all these records from the bank. That's what  
4 started this inquiry. I had hoped that we could avoid  
5 the necessity of having to put the bank to that trouble.

6 MR. HENDRICKS: Mr. Chairman?

7 CHAIRMAN HALE: Mr. Hendricks?

8 MR. HENDRICKS: We've got a little over a  
9 week left in this Session. We hope to be able to wind  
10 this up, if at all possible. I still insist upon my  
11 motion.

12 CHAIRMAN HALE: Is there any further  
13 discussion on the motion?

14 MRS. WEDDINGTON: Do we have any indication  
15 from the bank at all they could furnish that within a  
16 week? It is simply my thought that if it's going to take  
17 longer to get the records from the bank than to give Mr.  
18 Mitchell an opportunity to make a presentation and there-  
19 after him make all those records available to us, that  
20 the more expedient thing to do might be the latter, rather  
21 than the former.

22 MR. HENDRICKS: If he's got 50 witnesses,  
23 we will be here three weeks from now.

24 MS. WEDDINGTON: I had at least understood  
25 from his original statement that he desired to make an

1 original presentation of some of those records and books,  
2 but we might ask Mr. Mitchell how long he would think  
3 that particular presentation would take, if that could be  
4 made the first order of business and thereafter we could  
5 examine those records?

6 I would like to do whatever we can do to save  
7 the most time.

8 CHAIRMAN HALE: The Chair would like to  
9 avoid having to put the bank to the trouble. They are an  
10 innocent bystander in this entire proceedings, I assume.  
11 I would hate to put them to all this expense and trouble,  
12 if we could avoid it, and that was the reason for my  
13 dialog with Mr. Mitchell.

14 MR. MALONEY: Mr. Chairman?

15 CHAIRMAN HALE: Mr. Maloney?

16 MR. MALONEY: With due respect to Mr.  
17 Mitchell, he is representing his client. The things that  
18 he will do in this case will be, I am quite sure, to the  
19 benefit of his client. But without us having known that  
20 we have all the records that are available in our hands,  
21 or at least are on the way, I don't think that this  
22 Committee would be in a position to really evaluate  
23 the testimony that Mr. Mitchell may present to us. I  
24 do think that we have to satisfy ourselves that we have  
25 the complete record.

1           It may save time in the long run, because if  
2 we are able to get those, we will be able to go through  
3 these things ourselves and Mr. Mitchell's testimony or  
4 presentation may make more sense to us at that time.

5           MR. CANALES: Mr. Chairman—

6           CHAIRMAN HALE: Well, that was my thought  
7 of us seeing the records in advance, was that we would be  
8 able to make a more intelligent appraisal of his presen-  
9 tation, if we had a chance to have seen the records.

10           MR. CANALES: If I may change the subject  
11 momentarily, I would like to make an inquiry of the Chair  
12 and of the Committee. Under the case of Ferguson versus  
13 Mattox, which the Chair quoted at the onset of this  
14 particular inquiry, 263 Southwestern, page 890, the Supreme  
15 Court says that in the matter of impeachment, the House  
16 acts somewhat in the capacity of a Grand Jury.

17           Mr. Chairman, in my practice of law, it has been  
18 my understanding that the Grand Jury is not a forum for  
19 the presentation of defenses. I am not objecting to Mr.  
20 Mitchell putting on testimony, but to try the case before  
21 the Committee would seem to me to assume the posture or  
22 the position that the Senate would have, should the House  
23 vote out Articles of Impeachment, and we would, in effect,  
24 have at least two trials, if not three.

25           CHAIRMAN HALE: I dare say we will have to

1 two or three before we are through with this thing, the  
2 way it's going.

3 MR. HENDRICKS: I have a statement I would  
4 like to make.

5 CHAIRMAN HALE: Mr. Hendricks?

6 MR. HENDRICKS: My problem on insisting on  
7 this motion is that Mr. Mitchell is a very fine attorney.  
8 He is going to represent his client, with which we are  
9 all in agreement. He should and will do it to the best  
10 of his ability. But if we reach the point in time that  
11 he feels it is to the benefit of his client to withhold  
12 records from this Committee, then he is going to with-  
13 hold the records, and we cannot blame him for it. That is  
14 why I insist upon my motion.

15 CHAIRMAN HALE: That's true, but, of  
16 course, our job, also, Mr. Hendricks, is not to determine  
17 the guilt or innocence of anyone in this hearing, but  
18 whether or not we think there is sufficient evidence  
19 to justify making a recommendation to the House. It's  
20 the Chair's thinking that we could reach that conclusion,  
21 I think, on the basis of his refusal to produce records, if  
22 we wanted to.

23 MR. HENDRICKS: Yes, but by that time, it  
24 would take maybe even three weeks more to get the records.  
25 That's why I would like to get it started now.

1 CHAIRMAN HALE: Any further discussion  
2 on the motion?

3 (No response.)

4 Mr. Hendricks has moved that the Chair be  
5 authorized to issue a subpoena to the First State Bank of  
6 San Diego for all of the records which they have pertain-  
7 ing to Farm and Ranch Store and Zertuche General Store  
8 from 1970 to the present time.

9 Is that the substance of your motion, Mr.  
10 Hendricks?

11 MR. HENDRICKS: Yes.

12 CHAIRMAN HALE: Is there any further  
13 discussion on the motion?

14 (The motion, being put to a roll call vote,  
15 was carried.)

16 CHAIRMAN HALE: Being seven "Ayes," and  
17 one "Nay," the motion is adopted. (Gavel.)

18 Is there any further preliminary business to  
19 come before the Committee before we start hearing  
20 testimony?

21 MR. CANALES: I would like to request that  
22 a copy of the subpoena when it is issued be submitted  
23 for my file.

24 CHAIRMAN HALE: All right. The Chair will  
25 be happy to give you that.



1 MR. CANALES: I would like to ask one  
2 other question of the Chair. The Court Reporter here is  
3 making a record and transcribing it on to paper, I would  
4 imagine. I would like to request that I be supplied  
5 with a copy of it as it is being produced, if possible.

6 CHAIRMAN HALE: The House Rules govern  
7 that, Mr. Canales. You will be provided with whatever  
8 is proper under the House Rules.

9 MR. CANALES: Thank you, Mr. Chairman.

10 CHAIRMAN HALE: Are you ready to call your  
11 next witness?

12 MR. CANALES: Yes, Mr. Chairman, but before  
13 I proceed, I would like to introduce or present for the  
14 Committee's review certified copies of payment records  
15 kept in the usual course of business in the Office of  
16 the County Auditor in Duval, Texas, and certified copies  
17 of canceled checks kept in the usual course of business  
18 in the office of the County Treasurer in the County of  
19 Duval. These records reflect some of the transactions  
20 which we have discussed previously. I have not gotten  
21 separate copies for all of the Committee members, but if  
22 you find them to be of interest, I am sure they are not  
23 that extensive; they can be copied very easily.

24 CHAIRMAN HALE: We can make photocopies.

25 Will there be testimony tonight pertaining to

1 these?

2 MR. CANALES: This one has already been  
3 distributed to the Committee, if I am not mistaken, except  
4 for the fact that it was cut up in pieces to give it some  
5 semblance of order. It is a certified copy of the  
6 original documents that were presented to the Committee.  
7 This, the Committee does not have. I believe that it  
8 reflects, the certified copies of checks to the people  
9 who have testified here to the effect that they were  
10 employed by the County.

11 At this time, Mr. Chairman, I'd like to call  
12 Mr. Octavio Hinojosa, Jr.

13 CHAIRMAN HALE: Does this witness speak  
14 English?

15 MR. CANALES: I believe so.

16 CHAIRMAN HALE: Will he need an in-  
17 terpreter?

18 MR. CANALES: I don't believe so, Mr.  
19 Chairman.

20 CHAIRMAN HALE: Mr. Hinojosa, it's my duty  
21 as chairman to advise you of your rights with reference  
22 to your testimony. You will be sworn to tell the truth  
23 and your failure to do so will subject you to a prose-  
24 cution for perjury.

25 After you have completed your statement, Members

1 of the Committee may ask questions concerning your  
2 testimony. You must answer these questions truthfully,  
3 and your refusal to do so could subject you to punish-  
4 ment for contempt. You can refuse to answer questions  
5 only on the ground that such answers might incriminate  
6 you, or tend to incriminate you in some way.

7 You are privileged to have an attorney of  
8 your selection to sit with and advise you as to your  
9 answers, if you desire.

10 The Chair will attempt to protect your rights  
11 at all times. Do you understand the advice I have given  
12 you?

13 MR. HINOJOSA: Yes, sir. I do.

14 CHAIRMAN HALE: Are you now ready to  
15 testify?

16 MR. HINOJOSA: Yes, sir.

17 CHAIRMAN HALE: Would you please stand  
18 and raise your right hand and take the oath.

19 (The witness was sworn by the Chairman.)

20  
21 MR. OCTAVIO HINOJOSA, JR.  
22 was called as a witness by the Plaintiff and, having been  
23 duly sworn, testified as follows:

24 CHAIRMAN HALE: For the record, would you  
25 please state your name and address?

1           A     My name is Octavio Hinojosa, Box 392, San Diego,  
2     Texas.

3                     CHAIRMAN HALE: You may proceed.

4                     MR. CANALES: With the Committee's per-  
5     mission, I have laid out on each one of your desks a  
6     file or a bunch of copies of the Duval County payroll  
7     summary, which are official records and of which Mr.  
8     Hinojosa has in his possession right now on the desk.  
9     These copies are excerpts from this particular book. I  
10    have showed the book to several of the Members of the  
11    Committee for authentication purposes. These have been  
12    taken out of there and if the Committee will permit, I  
13    will allow Mr. Hinojosa to have my copy so he can go  
14    along with any questions that you might have with a little  
15    bit more ease than going through that entire book, if it's  
16    all right with the Committee.

17                    CHAIRMAN HALE: That will be fine.

18                    MR. MITCHELL: I wonder if there is an  
19     extra copy, Mr. Chairman, for my client, of this  
20     document?

21                    CHAIRMAN HALE: Do you have a copy that  
22     you could provide Mr. Mitchell?

23                    MR. CANALES: Mr. Chairman, those are a  
24     matter of public record. If he wants to go get a copy  
25     of them, I am sure he can, or if the Committee wants to

1 provide him with a copy? It would come out of my con-  
2 tingent fund, and I would hate to be spending it on  
3 Mr. Mitchell.

4 CHAIRMAN HALE: Mr. Mitchell, the Chair  
5 will make you a copy available.

6 MR. MITCHELL: Thank you, Mr. Chairman.  
7 We will have to do it after the meeting. It's a rather  
8 voluminous thing.

9 MR. CHAVEZ: We can trade. When he gives  
10 us his, we can give him ours. (Laughter.)

11  
12 DIRECT EXAMINATION

13 BY MR. CANALES

14 Q Mr. Hinojosa, would you explain to the  
15 Committee what type of records that you have in your  
16 presence there in that particular book that you have  
17 brought under the subpoena duces tecum for this Committee?

18 A Yes, sir. This is a payroll summary of the  
19 last five years of payroll summary of Duval County, of  
20 employees paid monthly for the past five years, or five  
21 and a half years.

22 Q Mr. Hinojosa, these are the regular County  
23 employees and these records would not be included, the  
24 people who have received checks on claims—

25 A That's right.

1 Q —claims of payment?

2 A That's right.

3 Q That is a different record, or how does it work?

4 A These only reflect the people that have been  
5 hired monthly—by the month.

6 MR. CANALES: Again, I will submit these  
7 for the Committee's review. I passed them out the  
8 other day. These are not included in these particular  
9 pay records. There are other individuals who are being  
10 paid from the County payroll, which are not included  
11 in these records here, but they are not considered steady  
12 County employees.

13 Q Is that my understanding?

14 A That's right.

15 Q Those that are paid by the—

16 A They are employed by the week, or seasonal,  
17 certain days of the month, but are not in the summary.

18 Q These are then prepared from the checks that  
19 are issued at the end of the month to pay the county  
20 payroll?

21 A Yes. We have made the checks out of these  
22 here.

23 Q Mr. Hinojosa, would you go from, in that  
24 particular first page that you have there, I believe  
25 reflects a payment to a Mr. Tomas Elizondo. Would you

1 tell the Commission how much he was paid for the month  
2 of April?

3 CHAIRMAN HALE: What year?

4 MR. CANALES: 1975. It is the first page  
5 also. I will try to follow in sequence, as they are  
6 presented to the Committee.

7 A These are—the month of April, he was paid  
8 \$750, but these checks are not good any more. They  
9 haven't cashed these checks. They are pending, you know,  
10 because there is litigation at the depository bank at  
11 the present time.

12 Q Not because the County has not hired the man at  
13 that price?

14 A No.

15 Q It is just that there is a problem as to who  
16 is the Commissioners Court?

17 A Yes, sir.

18 Q And who has the authority to hire and fire?

19 A That's right. The bank would not honor these.

20 Q The warrant was, in fact, issued to pay \$750  
21 to Mr. Tomas Elizondo?

22 A Yes, sir. It was issued on February the 29th.

23 Q Mr. Hinojosa, would you go from left to right  
24 on that particular sheet in front of you and explain the  
25 different entries that are on the sheet there in relation

1 to the payment of his monthly salary to Mr. Tomas Elizondo?

2 A The first column is the regular salary. The  
3 second column is the deduction for hospitalization  
4 insurance. And the third column is, I guess is the  
5 FICA, Social Security. And the fourth column is the with-  
6 holding tax. The sixth column, that is the code system we  
7 use to classify where we pay a certain office.

8 Q Would you explain to the Committee who, and in  
9 whose employ this particular individual is by that code  
10 you have there in front of you?

11 And, Mr. Hinojosa, if I can interrupt, would  
12 you please speak into the microphone so that the audience  
13 here can hear you?

14 A Yes.

15 In this particular payroll, he was paid as a  
16 bailiff for the District Judge.

17 Q As a bailiff?

18 A Bailiff. Yes, sir.

19 Q For the District Judge?

20 A Yes, sir.

21 Q Would you please turn to the next page and see  
22 if there are any check marks on it?

23 MR. CANALES: The check marks indicate the  
24 salary or the pay of the individuals who have testified  
25 that they are, in fact, that have been testifying here as



1 to their employment and other individuals who are employed  
2 by the County.

3 Q Is there any check mark on the next page?

4 A I have Mr. Cleofas Gonzalez.

5 Q Would you please read the amount that he is  
6 paid for the month of April there, even though the  
7 money might not have been disbursed?

8 A Yes. The regular pay is \$500; hospitalization,  
9 \$14.23; social security \$29.25; withholding tax, \$31.80;  
10 and the other two columns are two other—

11 Q In whose employ was Mr. Cleofas Gonzalez?

12 A According to that quote there, he is employed  
13 by the County Shop.

14 Q By the County Shop?

15 A County Shop. Yes, sir.

16 Q Not one of the Precincts?

17 A Not a precinct. No.

18 Q There is a different code for the individual  
19 precincts?

20 A Yes, sir.

21 Q There is no other individual check mark on  
22 that page?

23 A No, sir.

24 Q Would you please turn to the next page?

25 A Mr. Thomas Elizondo.

1 Q Would that be the same Mr. Tomas Elizondo  
2 who was being paid \$750 by warrant on the first page?

3 A Yes, sir.

4 Q Would you please tell the Committee how much  
5 he was paid for the month of March?

6 A In the month of March he was paid \$375. Do  
7 you want the deductions? The same deductions.

8 Q He was paid \$375?

9 A 375.

10 Q And in April he was paid \$750?

11 A Yes, sir.

12 Q In March he is working for who, according to—

13 A Precinct No. 3.

14 Q Who is the Commissioner of Precinct No. 3?

15 A Mr. Ramiro Carrillo.

16 Q You say that at the \$750 figure he is now  
17 working for Judge O. P. Carrillo, personally, as a bailiff?

18 A According to the—

19 Q —the records that you have in front of you  
20 there?

21 A —information.

22 Q Now, Mr. Hinojosa, would you please go to the  
23 very last page of the papers that you have, the last  
24 page. Let's start from the back toward the front.  
25 Going back to the year of 1971, I believe. Are there any

1 check marks on the very last page?

2 A I have Oscar Sanchez.

3 Q Is that the same Oscar Sanchez that testified  
4 here last night?

5 A Yes, sir.

6 Q Were you here present last night when he  
7 testified?

8 A I was here. Yes.

9 Q What is the salary of Mr. Oscar Sanchez and  
10 who did he work for in that month of 1971?

11 A In January of 1971, his salary was 275 and  
12 he worked for the County Shop.

13 Q In which precinct, Mr. Hinojosa?

14 A No. He was paid out of the County Shop.

15 Q The County Shop?

16 A Yes.

17 Q He was working for the County?

18 A Yes, sir.

19 Q According to that?

20 A According to the summary.

21 Q Can we turn to the next page, going forward.

22 A Cleofas Gonzalez.

23 Q Who was he working for in January of 1971?

24 A For the County Shop.

25 Q The County Shop in January of 1971?

A Yes.

1 Q Is there anybody else listed on that page?

2 A Francisco Ruiz, \$325.

3 Q Who was he working for?

4 A He was working for the County Shop.

5 Q Also the County Shop?

6 A The County Shop.

7 Q The next page?

8 A Tomas Elizondo. This is for January 1971, \$300.

9 He was paid out of Precinct No. 3.

10 Q Ramiro Carrillo's Precinct?

11 A Yes, sir.

12 Q Was Ramiro Carrillo County Commissioner at  
13 that time?

14 A Yes, sir. 1971. Yes, sir. He was.

15 Q Proceed to the next page.

16 A Oscar Sanchez.

17 MR. CANALES: Excuse me, Mr. Chairman, I am  
18 trying to go through these as briefly as possible. If  
19 the Committee has any questions they want to put to him,  
20 it won't bother me at all, if they would put the  
21 question to Mr. Hinojosa.

22 CHAIRMAN HALE: Let me ask him a question  
23 right now.

24 This third column from the right is labeled  
25 "Code." Does that code tell you where they were working?

1           A     It is the second column, from the right.  
2     Net pay, that's a code. Yes, sir. I can tell he worked  
3     in the Shop for a certain office, or whatever it is.

4                   CHAIRMAN HALE: 310; would every No. 310  
5     indicate they are working for Precinct 3?

6           A     Yes, sir.

7                   CHAIRMAN HALE: Everything coded 310.  
8     Everything coded with a plain "10," would indicate they  
9     were working for the County Shop?

10          A     Correct. Yes, sir.

11                   CHAIRMAN HALE: Thank you.

12          Q     Would you continue with the next entry?

13                   CHAIRMAN HALE: Let me ask one other. By  
14     the same token, if it were 410, that would indicate  
15     Precinct 4?

16          A     Precinct 4. Yes, sir.

17                   CHAIRMAN HALE: And 210 would indicate  
18     Precinct 2?

19          A     Precinct 2.

20                   CHAIRMAN HALE: Thank you.

21          Q     Would you continue with the next entry?

22          A     February, 1971, Cleofas Gonzalez, \$300.

23          Q     Who was he working for?

24          A     County Shop. He was working for the County  
25     shop.

1 Francisco Ruiz. 325, out of the County Shop.

2 Q Let me ask you, Mr. Hinojosa, is this the  
3 same Mr. Francisco Ruiz that testified here last night?

4 A Yes, sir. We have another Francisco Ruiz from  
5 Precinct 4.

6 Q Francisco Ruiz, Sr?

7 A Senior. Yes, sir.

8 Q But that is not the same one that testified  
9 here last night?

10 A No, sir.

11 MR. CANALES: Mr. Chairman, I have no  
12 further questions of this witness. I believe that any  
13 other testimony he would give would be repetitious.  
14 As we go through there, you will find from the back  
15 toward the front that back in 1971 we had Mr. Oscar  
16 Sanchez working, Mr. Francisco Ruiz working as per their  
17 testimony; Mr. Cleofas Gonzalez and Mr. Tomas Elizondo,  
18 people who have been referred to in prior testimony here.

19 I can't remember the exact dates. I believe  
20 some time possibly in 1972 or '73, Mr. Oscar Sanchez  
21 is left off the County payroll. Whatever other position  
22 he assumed, I can't remember from his testimony.

23 There will remain on there payments to Francisco  
24 Ruiz, Cleofas Gonzalez and Tomas Elizondo. Later on,  
25 toward the front, Francisco Ruiz dropped out and I believe

1 he went to work for the Water District, if I am not  
2 mistaken. Or both of them later went on to work for the  
3 Water District. Then, as far as all of those records  
4 are concerned, from 1971 to the present, Mr. Cleofas  
5 Gonzalez was in the employ of the County, as was Mr.  
6 Tomas Elizondo. Those records are present right there  
7 on the witness's desk and they are the official records  
8 of Duval County.

9 I have no further questions, Mr. Chairman

10  
11 QUESTIONS BY THE COMMITTEE

12 BY CHAIRMAN HALE

13 Q Mr. Hinojosa, have you checked through these  
14 photocopies before tonight? Had you seen these photo-  
15 copies before tonight?

16 A No, sir.

17 Q Have you had an opportunity to see whether these  
18 these are true copies of what you have there in your  
19 possession?

20 A Well, I—

21 CHAIRMAN HALE: Mr. Canales, let the Chair  
22 ask you the question. You made these photocopies, didn't  
23 you?

24 MR. CANALES: I made the photocopies.

25 CHAIRMAN HALE: Are they copies of the  
records he has in front of him?

1 MR. CANALES: Let me do this. My  
2 secretary had the photocopies made. They were made from  
3 this book, from all the entries of which I put a check  
4 mark beside.

5 CHAIRMAN HALE: I see. Okay.

6 MR. CANALES: Any record that is in that  
7 page there can easily be referred to in this book, if  
8 anybody has a question as to just any entry. We can go  
9 to any particular month and find that entry.

10 CHAIRMAN HALE: Mr. Maloney?

11 MR. MALONEY: Mr. Canales, as I under-  
12 stand it, these are selected pages where you just found  
13 the names that you checked and only photocopied the  
14 pages that had a check mark on them?

15 MR. CANALES: No, sir. I only photo-  
16 copied pages in the County records that reflected the  
17 employment of the people involved. In other words, I  
18 could have copied the whole book, but there were entries  
19 in there which had nothing to do with the employment  
20 of these individuals.

21 MR. MALONEY: It doesn't purport to be the  
22 entire payroll?

23 MR. CANALES: No, no. Not at all. There  
24 is nothing sinister about that. The book is there  
25 available, and I am sure that Mr. Hinojosa would be more



1 than happy to go over it. We could pass it up here  
2 and you could check any entry that you want. It is  
3 continuous employment, as far as this particular book is  
4 concerned, January of '31 to the present date of '75.  
5 The records were xerox copied from there. The copies  
6 were made at the request of one of the Committee members  
7 so that they could have copies of the individual entries,  
8 instead of having to carry around a book, which had a  
9 lot of material in it which they would not otherwise have  
10 had any purpose to use.

11 If the Committee would prefer we can xerox  
12 the whole book.

13 CHAIRMAN HALE: That would apparently be  
14 unnecessary, Mr. Canales. I think you have done a good  
15 job in providing this material.

16 Q Mr. Hinojosa, you are the Assistant County  
17 Auditor of Duval County?

18 A Yes, sir. I am.

19 Q Do you still hold that position?

20 A Yes, sir.

21 Q How long have you been Assistant County  
22 Auditor?

23 A Twenty years in May.

24 Q And are the maintenance of these payroll  
25 records a part of your duties?

1           A     Yes, sir.

2           Q     Are the records which you have there in the  
3 bound book typed the same way these sheets are typed?

4           A     Yes, sir.

5           Q     The information is typed on it?

6           A     Yes, sir.

7           Q     These records are made monthly?

8           A     Yes, sir. Every month. Yes, sir.

9           Q     Are checks issued from these records, or are  
10 these records made from the checks?

11          A     No. We type the checks out of this payroll  
12 summary.

13          Q     Who makes up this payroll summary here?

14          A     Myself and Mr. Ramon Olivera.

15          Q     You have some documentation which enables you  
16 to determine whose name to put on here and how much to pay  
17 them each month?

18          A     Well, unless they change in the Commissioners  
19 Court Minutes, you know, we assume it's the same as the  
20 previous month. Because there is no change in the payroll,  
21 in 30 days, unless they hire new personnel or fire some-  
22 body, we have to make changes.

23          Q     How do you know that they have employed someone?

24          A     Usually they have to write in the Minutes, in  
25 the Commissioners Court Minutes.

          Q     Do you receive some type of an official

1 document from someone?

2 A I don't understand.

3 Q For instance, supposing the County hires Mr.  
4 Jones to go to work, how do you know to put him on the  
5 payroll?

6 A Usually they have to write in the Minutes,  
7 you know, when they meet every month, and hire them in  
8 the Minutes. Or, sometimes, I guess they just give us  
9 a notice or a piece of paper, you know, authorizing the—

10 Q That was my question. Do you receive anything  
11 in writing from anybody telling you to put somebody on  
12 the payroll?

13 A Yes, sir.

14 Q Who is authorized to put people on the payroll?

15 A Well, especially the Commissioners, the County  
16 Commissioners.

17 Q Do you get a letter or an order of some kind  
18 every time they put someone on the payroll?

19 A Not usually; sometimes verbally, or just by  
20 telephone, or in the Minutes, the Commissioners Court  
21 Minutes.

22 Q The Commissioner would just pick up the phone  
23 and call you and tell you to put somebody on the payroll  
24 at a certain salary, and you would do it?

25 A Well, actually, the Treasurer is the one that

1 should prepare the summary and they do it that way. Yes,  
2 sir.

3 Q How do you determine what the withholding tax  
4 is?

5 A We have schedules there to compute the with-  
6 holding tax, according to the number of dependents.

7 Q Somebody then must get a form W-4 signed by  
8 the employee?

9 A Yes, sir. That's correct.

10 Q Is that your responsibility?

11 A It's the Treasurer's responsibility, Mr. Manuel C.  
12 Solis.

13 Q Are those records maintained in your office  
14 or in the Treasurer's Office?

15 A The County Treasurer.

16 Q The County Treasurer?

17 A Yes, sir.

18 CHAIRMAN HALE: I have no further questions.

19 Mr. Maloney?

20 BY MR. MALONEY

21 Q Mr. Hinojosa, could you give me what some of  
22 these codes mean? I understand that it is prefaced by  
23 two, three, four and it's going to be a precinct, an  
24 employee of a precinct. Is that correct?

25 A In this particular case, this is the payroll

1 summary, the road and bridge. 10 is the County Shop.  
2 110 is Precinct No. 1 and so forth.

3 Q Okay. For instance, you said that Tomas  
4 Elizondo was on the payroll on the first page as a  
5 court bailiff?

6 A Yes, sir.

7 Q Is that what 600 is?

8 A Yes, sir.

9 Q That is charged to the court?

10 A In the general fund. Yes, sir.

11 Q Were there five court bailiffs then? On that  
12 first page, right under Mr. Elizondo, I see four others  
13 that have the same—

14 A No, sir. We have Mr. Arnulfo Guerra who is the  
15 District Attorney and then we have Mr. Luis Dram was his  
16 Assistant DA and Mr. Guerra's secretary— 600 means  
17 the expenses for the District Attorney's Office.

18 Q What is 602?

19 A 602, that is Assistant County Auditor.

20 Q Assistant County Auditor?

21 A Yes, sir.

22 Q I take it on line 13 on the first page,  
23 Octavio Hinojosa at \$750 is you. Is that correct?

24 A That's correct. Yes, sir.

25 Q I notice back at one page I picked at random in

1 April of '73, Octavio Hinojosa made \$300 a month as  
2 Assistant County Auditor?

3 A Yes, sir. That's correct. Yes, sir.

4 Q When did you get your raise?

5 A Well, I believe it was sometime in August, 1973,  
6 I was raised to 500 and sometime about August of 1974, I got  
7 a raise to 750.

8 Q Do you handle the payment of accounts? In other  
9 words, if someone submits a bill to the County, do you handle  
10 that also?

11 A Yes, sir. Yes, sir.

12 Q If someone has ordered some material for the  
13 county—has ordered some material from someone, the County  
14 is billed. How is that transaction covered by you?

15 A Well, we get the invoices or statements and  
16 process them and put them in plain jackets and then present  
17 them to Commissioners Court every 30 days.

18 Q They either approve it or disapprove it?

19 A Yes, sir.

20 Q Is that correct?

21 A Yes.

22 Q What happens to their claim jacket after it is  
23 approved or disapproved?

24 A We give them a claim number and we write a  
25 check out of that claim, that jacket.

Q What happens physically to that jacket that

1 has the invoices?

2 A I have them on file.

3 Q You keep all of these as a matter of record?

4 A Well, except some records that have been  
5 subpoenaed by the Internal Revenue Service in the last  
6 two or three years.

7 Q How far back do these records go?

8 A Well, it depends on what records, you know.

9 Q Let's just say that the County bought some  
10 cement and some posts and some wire in 1971, do you feel  
11 that you would have these records?

12 A Yes, sir.

13 Q The invoices?

14 A Yes, sir.

15 Q And you would have all of what has been sub-  
16 poenaed by some other authority?

17 A Correct. Yes, sir.

18 Q After you respond to the subpoena, do you copy  
19 for your records what has been given to the other  
20 authority, or do you just physically give them everything  
21 you have?

22 A We don't give them anything. They just go  
23 there and pull out the claims and just tell the County  
24 Auditor that they will need that material. I guess the  
25 first time they brought a subpoena, a subpoena for certain

1 records, you know, but we don't keep—we don't know what  
2 claims are missing, you know.

3 Q I'm sorry. I didn't understand that last.

4 A If they took some claims out of the file, you  
5 know—I know if they are missing, because I have a  
6 5 x 8 card where I've posted everything. But you go there  
7 to the office and ask for a certain claim, you know, I  
8 can find it right away, if it's in the file.

9 Q But if it didn't happen to be where it was  
10 supposed to be, do you have any record of where it is,  
11 if it's gone?

12 A No, I don't. No, sir.

13 Q The things that were subpoenaed from you, do  
14 you still have a copy of the subpoena?

15 A Well, that was back in 1972. I believe we have  
16 a copy in the office. Yes.

17 Q Were you given any receipt for the things—

18 A No, sir.

19 Q —that were subpoenaed?

20 A No, sir.

21 Q Then it would be your testimony that you have  
22 everything in your custody as a record that has not been  
23 subpoenaed by some lawful authority?

24 A Yes, sir.

25 Q Did the subpoenas that you received direct you



1 to specific items, or do they ask for something in a  
2 lump sum? for instance, the year of 1971?

3 A Well, to tell you the truth, sometimes we don't  
4 know what they are looking for. They just ask permission  
5 and bring a subpoena with no specific name or anything.  
6 They just go through the records and pull out the claims  
7 they need.

8 Q They don't give you a receipt for what they  
9 have taken?

10 A No, sir. No.

11 Q Let me clear up for my last question: Did they  
12 ever come in and just take the lump of a year or six  
13 months?

14 A Yes, sir. The year 1972, they have everything.

15 Q They took the year of 1972?

16 A Yes, sir. The complete works! All claims.

17 Q When you say "the complete works," what do you  
18 mean? Everything as far as warrants and vouchers are  
19 concerned?

20 A Yes. And journals and ledgers and claims, just  
21 about everything, except maybe like this payroll summary.  
22 We still have it.

23 MR. MALONEY: Thank you, Mr. Hinojosa.

24 CHAIRMAN HALE: Mr. Slack?  
25

1 BY MR. SLACK

2 Q Mr. Hinojosa, I notice in the back of this  
3 handout that we have, it says, "four of five pages,"  
4 and each page has places for 20 names, which would in-  
5 dicate that there are approximately 100 employees of the  
6 County for road purposes. Is that about correct? Is  
7 that how many employees Duval County has, approximately?

8 A I believe it is more than that, sir.

9 Q How many would you have now?

10 A I would say around 234.

11 Q 234?

12 A Yes.

13 Q Also I see down here on January 31st, 1971  
14 entry, the last one in the handout, "Farmers NW Life  
15 Insurance Company," and then FNW Insurance" in the  
16 second column from the left. Is that insurance that's  
17 paid on county employees? That must be what that  
18 entry is.

19 A Yes, sir. At the end of the payroll, we add the  
20 deductions and write a check on the insurance company.  
21 Then the county participates with another percentage.

22 Q I see. The employee contributes and the county  
23 contributes to this insurance?

24 A Yes, sir.

25 Q And this is a life insurance policy. Is that

1 what it is?

2 A This Farmers is for hospitalization.

3 Q For hospitalization?

4 A Yes, sir.

5 Q I see some members participate and some do not.

6 Who determines whether they participate or not?

7 A Well, this is commercial insurance and the  
8 people over 65 are excluded from the insurance.

9 Q I see. And they also had an opportunity, I  
10 suppose, to volunteer whether they want to go on with it?

11 A Yes, sir. They have a privilege of taking it  
12 or not.

13 Q They had an option then?

14 A They have an option. Yes.

15 MR. SLACK: Thank you, sir. I have no  
16 further questions, Mr. Chairman.

17 CHAIRMAN HALE: Mr. Hendricks?

18 BY MR. HENDRICKS

19 Q Mr. Hinojosa, who is George Zertuche?

20 A George Zertuche?

21 Q Yes.

22 A He is an employee from Benavides.

23 Q How long has he worked for Duval County?

24 A I don't have an idea, sir.

25 Q Is he any relation to these Zertuches that run

1 this store?

2 A I don't know. No, sir. I couldn't tell you.  
3 I don't know.

4 Q E-u-s-e-b-i-o Carrillo, Jr. Who is that?

5 A He is from Benavides.

6 Q What relation is he to Judge Carrillo?

7 A Well, I am not too well acquainted with the  
8 Carrillo family. I know Judge Carrillo, his brother,  
9 but I don't know if they are related with Mr. Octavio.

10 Q He is an employee with "3", is that correct?

11 A Eusebio Carrillo?

12 Q This Carrillo I mentioned is an employee accord-  
13 ing to these records of Precinct 3. E-u-s-e-b-i-o,  
14 Carrillo B.?

15 A Yes, sir.

16 MR. CANALES: Eusebio.

17 Q Eusebio?

18 A Yes, sir. Precinct 3.

19 Q Raul P. Carrillo. What relation is he to  
20 Judge Carrillo?

21 A I don't have an idea. I don't know the man.

22 Q Is he an employee of Precinct 3?

23 A Yes, sir.

24 Q Andres Carrillo? What relation is he to Judge  
25 Carrillo?

A None. I don't know.

1 Q Is he an employee of Precinct 3?

2 A Yes, sir.

3 Q Notice on the very first page here, a payment  
4 to O. P. Carrillo, of \$100. It is marked "600-A." What  
5 is that?

6 A I believe this is a fee they get for juvenile  
7 services for the county.

8 Q Juvenile services?

9 A Yes, sir.

10 Q I couldn't find it in the rest of the book.  
11 These are excerpts, I believe from the book.

12 MR. CANALES: Yes, they are.

13 A Yes, sir.

14 Q Are you familiar with how they handle their  
15 food payments down there where the county more or less  
16 grants the indigent to buy their food?

17 MR. CANALES: May I give him these?

18 Are you familiar with these type of slips?

19 Q Would you examine those items, please, sir?

20 A We don't have them.

21 Q Are you familiar with those?

22 A No, sir. I have never seen these orders  
23 before.

24 Q Well, do you know what they are?

25 A Well, I imagine they are for the grocery store

1 where they buy the—

2 Q Do you recognize the initials or the signature  
3 on them?

4 A No, sir.

5 Q What is the custom the county uses in making  
6 their food donations or payments for food for the  
7 indigent?

8 A Well they have, Mrs. Elvira de Leon, she is the  
9 Director of the Welfare Department—

10 Q What is her name?

11 A Elvira de Leon. I guess whoever needs not only  
12 groceries, but doctor or medical care, or medicine—

13 Q All right. Is she the one that issues these  
14 slips and they take it to the different merchants?

15 A No. Mrs. de Leon uses another type of  
16 authorization.

17 Q Who issues this type of slip?

18 A I have never seen those slips of paper before.  
19 I don't know what they are.

20 Q How long have you been employed there, sir?

21 A Twenty years.

22 Q Twenty years?

23 A Yes, sir.

24 Q You have never seen that used before?

25 A No, sir. No, sir.

1 Q Have you ever received invoices from the Zertuche  
2 Store?

3 A Well—

4 MR. CANALES: I think I can refresh his  
5 memory. I have passed to the Committee certified copies  
6 of what payment record cards duly kept in the usual  
7 course which he, himself, has certified and brought up.  
8 It isn't in one of those folders. If you would like to  
9 ask him any questions on them, and these are the ones  
10 that I first handed out to the Committee.

11 Q Have you ever received any invoices from the  
12 Zertuche's General Store, or whatever the name is?

13 A Well, I imagine so in the prior years. If I  
14 have a record, it is that we actually received payments  
15 or invoices and made out checks. Yes, sir.

16 Q How long have you lived in Duval County?

17 A All my life.

18 Q Where is the Zertuche General Store?

19 A I don't know, sir.

20 Q Have you ever seen it?

21 A No, sir.

22 Q Didn't you think it unusual to receive invoices  
23 from a store that you had never seen?

24 A No, I don't think so, sir, because this place  
25 is in Benavides and I seldom go to Benavides.

1 Q You are familiar with Benavides?

2 A Well, it's just a little town.

3 Q What is the population of Benavides?

4 A I will say about 3,500.

5 Q Don't you feel like that if there was a  
6 Zertuche General Store in Benavides and having lived in  
7 Duval County all your life, you would have known where it  
8 was?

9 A Well, maybe, but I don't know.

10 Q Have you since learned, or do you have  
11 knowledge now that no such store ever existed?

12 A Well, I have heard rumors. I can't say that it  
13 is true or not. I don't know.

14 Q You had no reason at the time then to question  
15 these invoices and pay these warrant numbers to the  
16 Zertuche General Store? Is that correct?

17 A After we prepare the claim, it us up to the  
18 Commissioners to approve the claims. It is not up to me,  
19 the auditor.

20 Q And many, many thousands of dollars through the  
21 years were paid to the Zertuche General Store. Is that  
22 correct, sir?

23 A Yes, sir.

24 Q Do you have any knowledge of who supposedly  
25 owned the Zertuche General Store?



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

2 Q Do you know where the Benavides Implement and  
3 Hardware Company is?

4 A No, sir. I don't.

5 Q Have you ever received invoices and made pay-  
6 ments to the Benavides Implement and Hardware Company?

7 A Yes, sir.

8 Q Did that amount over the years to several thou-  
9 sands of dollars?

10 A Yes, sir.

11 Q Do you have occasion when these warrants are  
12 cashed to notice who cashes them? Do they come back into  
13 your possession?

14 A Until a couple of years ago, the bank had  
15 custody—

16 Q All right. Prior to a couple of years ago,  
17 did you ever notice the endorsement on any of the  
18 drafts or warrants or county vouchers?

19 A No, sir. They are in the custody of Mr. Manuel  
20 Solis, the County Treasurer.

21 Q I will ask you this: Of your own knowledge, do  
22 you know whether or not Cleofas Gonzalez ever endorsed  
23 any of these vouchers?

24 A No, sir. I don't. I have never seen the checks,  
25 the original checks.

1 Q Do you know who supposedly owned the Zertuche  
2 General Store? Which Zertuche was it?

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

4 Q Was there ever a young boy by the name of  
5 Zertuche on the county payroll that was attending college  
6 up in Denton?

7 A Well, it is impossible to remember all those  
8 names, you know. I type a lot of checks, but maybe  
9 two or three years ago, Arturo?

10 Q Arturo?

11 A Arturo.

12 Q Did he go to college up in Denton at North  
13 Texas State University?

14 A I don't know Mr. Zertuche, personally.

15 Q Was he on the county payroll?

16 A I don't think he was on the county payroll.  
17 He was paid—

18 Q How was he paid?

19 A By claim.

20 Q By claim?

21 A Yes, sir.

22 Q Do those all come through your office?

23 A Yes, sir.

24 Q Then he was paid by claim, while he was in  
25 college by Duval County?

1 A I don't know that he was in college or not. I  
2 don't know him.

3 Q By whose authority was he paid?

4 A By the authority of the Commissioners.

5 Q Which Commissioner?

6 A The Commissioners as a Board, I guess. They  
7 approve the whole bunch of claims.

8 Q Which precinct submitted the claims, if you  
9 remember?

10 A I have to see the copy. I don't remember.

11 Q Okay. You have the certified copy of this  
12 instrument I am holding in my hand. Is that right, Mr.  
13 Hinojosa?

14 A Yes, sir.

15 Q You have a certified copy of this?

16 A (The witness nodded.)

17 Q All right. Will you tell me what Claim No.  
18 A-221 is and who that claim was paid to?

19 A It was paid to Arturo Zertuche.

20 Q It was paid to Arturo?

21 A Zertuche.

22 Q How much was it?

23 A \$225.

24 Q What fund was it paid out of?

25 A Road and bridge, Precinct No. 3.

1 Q Precinct No. 3?

2 A Yes, sir.

3 Q Claim No. A-483. What was that to?

4 A Arturo Zertuche, 225, road and bridge, Precinct  
5 3.

6 Q Now, if these claims— There are several of them  
7 here— I won't take the Committee's time with them—running  
8 from January 1970 through August of 1973, all of them  
9 except the last one in the amount of \$225. Then there is  
10 a supplemental, going up until April of 1971. If this  
11 young man was in College up in Denton from January of  
12 '70 through April of '71 and the County was paying him,  
13 something is wrong, isn't it?

14 A Yes, sir.

15 Q Somebody has got their hand in the cookie jar,  
16 haven't they?

17 A I imagine so, sir.

18 Q Of your own knowledge, Mr. Hinojosa, have  
19 county warrants ever been made out to fictitious persons,  
20 of your knowledge?

21 A Not that I know of. No, sir.

22 Q Have you ever heard rumors that they might have  
23 been made out to fictitious persons?

24 A Well, I have heard rumors, read the newspapers  
25 and other things.

1 Q Is there anything that you might enlighten this  
2 Committee on, that you would like to tell us, yourself,  
3 without examination?

4 A I don't have anything to say. No, sir.

5 Q And you can't remember who submitted these  
6 warrants, or the invoices from the Zertuche General Store,  
7 who sent the invoices to the County to be paid?

8 A Well, usually, if it's the County Commissioners,  
9 the County Commissioner, himself, brings up the bills,  
10 you know.

11 Q You never did see the original invoice from  
12 whoever submitted them? You don't know whether Cleofas  
13 Gonzalez submitted those invoices or not?

14 A Well, when they filed them with the County  
15 Auditor's Office, the Commissioners bring them to the  
16 County Auditor's Office. I don't know anything about  
17 Cleofas.

18 Q Of your knowledge, do you know that this equipment  
19 was purchased; all of this equipment bought or invoiced  
20 through Zertuche General Store was actually purchased  
21 through the Farm and Ranch Store, owned by Judge O. P.  
22 Carrillo and his brother?

23 A No, sir. I didn't know anything about that.

24 Q You never had any firsthand knowledge of this?

25 A No, sir.

1 Q You do know now that there was never a Zertuche  
2 General Store, don't you?

3 A Well, I have heard a lot of testimony.

4 Q Did you ever drive over to Benavides and look  
5 for it?

6 A No. I have no business over there, so I never  
7 drove over there.

8 Q Is there anything you can think of, Mr. Hinojosa,  
9 that you can tell this Committee, whether I have asked  
10 you or whether I haven't asked you, that you would like  
11 to tell us?

12 A No, sir.

13 MR. HENDRICKS: I believe that's all.

14 CHAIRMAN HALE: Mr. Nabers?

15 BY MR. NABERS

16 Q Mr. Hinojosa?

17 A Yes, sir.

18 Q What does W. W. Meek do?

19 A He is the County Auditor.

20 Q He is the County Auditor?

21 A Yes, sir.

22 Q Can you explain why this book has xerox copies  
23 in part of it and what looks like to be originals in the  
24 rest of it?

25 A Well, from 1970 to '74 are originals. 1975, we

1 made some copies and left, because we were working on  
2 the '75 year, you know. The rest of the payrolls were  
3 already on file. In 1975, we were working on it at the  
4 current time, you know, so I just made some copies for  
5 1975.

6 Q To make the record complete?

7 A Yes, sir.

8 Q Could you make available to this Committee the  
9 claim statements that you have in regards to the Zertuche  
10 General Store and the Farm and Ranch Store of Benavides?

11 A Well, whatever we have on file.

12 Q That some other agency does not have under  
13 subpoens? Could you do that?

14 A Well, first, I would have to ask permission  
15 from my boss, you know, Mr. Meek.

16 Q Well, would a subpoena kind of help you?

17 (Laughter.)

18 A Well, in that case, we can do it. Yes, sir.

19 MR. NABERS: Thank you, sir.

20 Q Mr. Hinojosa, I ask the Sergeant here to give  
21 you a statement and some invoice tickets and ask if  
22 you have ever seen any of these before, after you  
23 examine them?

24 Have you ever seen any statements like that or  
25 claims made from the Zertuche General Store?

1 A Yes, sir.

2 Q All right, sir. Did Mr. Cleofas Gonzalez bring  
3 you statements like that, periodically?

4 A Not that I remember Mr. Cleofas bringing any  
5 claims, you know. Most of the claims were brought by  
6 the Commissioner.

7 Q By the Commissioner?

8 A Yes, sir.

9 Q As, as a practical matter, you didn't receive  
10 those, but you have seen statements from the Zertuche  
11 General Store. Is that correct?

12 A That's correct.

13 Q On what occasion, or how did you come to see  
14 those kind of statements, from the Zertuche General  
15 Store?

16 A Well, when they bill the County for supplies,  
17 I guess. They have to go through the Auditor's Office  
18 for processing.

19 Q Then they would bring those statements to you.  
20 Is that correct?

21 A Yes, sir. Correct.

22 Q Then you would put those in the claim file?

23 A Yes, sir.

24 Q Those would be records that you would have  
25 that you could make available for us?



1           A     Yes, sir. We are supposed to have a claim with  
2 the statements inserted. Actually, it is just an  
3 envelope, cut on the top—

4           Q     Okay.

5           A     —and we just file it in there.

6           Q     Do you know anything about the Benavides Hard-  
7 ware and Implement Company?

8           A     No, sir.

9           Q     Do you know if there is such an establishment?

10          A     Well, I have received a lot of statements from  
11 Benavides Implement. Yes, sir.

12          Q     So you assume there is such a business?

13          A     Yes, sir.

14          Q     Do you know who might own that business?

15          A     No, I don't. No, sir.

16          Q     Do you know who might own the Zertuche Business?

17          A     No, I don't.

18          Q     Do you know who owns the Farm and Ranch Store  
19 in Benavides?

20          A     No, sir.

21          Q     Have you ever received any bills from the  
22 Farm and Ranch Store of Benavides?

23          A     I imagine, not recently. Maybe some time years  
24 ago, three or four years ago, I guess.

25          Q     Say, in 1971?

1 A I can't say for sure, you know. Maybe. I  
2 don't know.

3 Q But your records would reflect whether or not  
4 you had?

5 A Yes, sir.

6 Q Have you ever been to Judge Carrillo's ranch?

7 A No, sir.

8 MR. NABERS: I believe that's all.

9 CHAIRMAN HALE: Mr. Kaster?

10 BY MR. KASTER

11 Q Mr. Hinojosa, do you, in the performance of  
12 your duties, attend Commissioners Court meetings?

13 A No. I never do.

14 Q You don't?

15 A No, sir.

16 Q Have you ever been to one and seen it in  
17 operation?

18 A Well, maybe once in a while.

19 Q What I am getting at, is it customary— I have  
20 been to several in smaller counties and the Commissioners  
21 sit around and each Commissioner brings in the bills that  
22 his particular precinct has had during the month. I am  
23 just wondering if this is the similar type thing that  
24 happens there?

25 A No. Usually, they bring the bills about five

1 days before the meeting and we process them and put  
2 them all together and when they have a meeting---

3 Q Each Commissioner?

4 A Yes, sir. ---they are given their approval.

5 Q Then, in the meeting, the ones I have seen,  
6 each Commissioner reads a list of the bills that he has  
7 incurred.

8 A Yes, sir.

9 Q Then there is a vote taken for approval to pay  
10 those bills. Is that what happens in the Duval County?

11 A I don't know. Sometimes they just approve it.

12 Q I mean, it's perfunctorily, but, in effect,  
13 they are approving it, if the Commissioners Court sits  
14 as a whole and you present these bills and the committee,  
15 or somebody, you assemble them and then they are  
16 approved by the Commissioners Court as a whole. Then you  
17 go ahead and what? mail the checks then?

18 A No. We type the checks after they approve  
19 the payments.

20 Q But you don't send the checks out until after  
21 they are approved by the court for you to go ahead and  
22 send that?

23 A Yes, sir.

24 Q So all these bills from Zertuche and the  
25 Benavides Implement Company, you just get the bills and

1 assemble them, or they bring them to you and you assemble  
2 them for the Commissioner and you don't pay them, until  
3 they tell you to pay them.

4 A We take them to the Commissioners, so they can  
5 check them, you know.

6 Q Right. So the Commissioners Court, sitting as  
7 a whole, then approves every bill or every check that you  
8 send out?

9 A Yes, sir.

10 Q Now, the payroll: Do you go ahead and mail  
11 the payrolls and then give them these sheets, or do you  
12 give them these sheets first?

13 A Usually, if there are no changes, it is routine.  
14 We just go ahead and make it at the end of the month,  
15 maybe four days before the end of the month.

16 Q Did the Commissioners Court then ever look at  
17 these payroll records, sitting as a Court, as a whole,  
18 go over these?

19 A Once in a while they did.

20 Q So they have the responsibility then as the  
21 Court sitting as a whole to approve them? You don't have  
22 the authority to say, "This is the way it is," until  
23 they finally approve of it. Is that right?

24 A Yes, sir.

25 Q I notice here on the first page, and the reason

1 I ask, on line 9, there is a name, "Archer Parr, \$25,"  
2 and then there is a line scratched through it. Why is  
3 that? Did somebody not approve of that payment?

4 A I guess in April he was not— That \$25 is for  
5 the same services that Judge Carrillo, according to the  
6 office, he wasn't the Judge anymore and they redlined  
7 it.

8 Q The Court instructed you to draw a line through  
9 there and delete it, or did you do that?

10 A The County Treasurer did it, Mr. Solis.

11 Q But they did it, sitting as a group. In other  
12 words, he wouldn't have the authority to scratch it by  
13 himself, would he?

14 A No. I guess not.

15 Q Now, you said how many county employees are  
16 there?

17 A Well, more or less about right now, about  
18 234.

19 Q What about in 1971? Was there about the same  
20 number?

21 A Well, I would say 30 or 40 less, more or less.

22 Q So 180 or 190 people?

23 A From 180 to 200.

24 Q Now when you put these people on the payrolls,  
25 somebody tells you, gives you a W-4 and you make a payroll

1 record and you start paying the guy. Right?

2 A That's a wrong procedure. You know, actually,  
3 at the beginning of the year, there should be a general  
4 order in the Minutes of all the personnel employed.

5 Q Then during the year, as they hire them, you  
6 are instructed then to hire?

7 A Yes, sir.

8 Q Again, the Commissioners Court, sitting as a  
9 whole, approves of the new employees?

10 A Right.

11 Q I would assume the Commissioner has some  
12 latitude to hire and fire within his precinct, I would  
13 assume?

14 A Yes.

15 Q And then the Court then, sits and approves it?

16 A That's correct.

17 Q With 180 employees then, you don't know,  
18 necessarily, other than the code, what they are doing  
19 every day or where they are?

20 A Maybe a few of those people, I might know,  
21 personally. There are a lot of them, I don't, because we  
22 have people working---

23 Q To get back to Mr. Zertuche, did you say that  
24 during the period from January 1970 through April 1971,  
25 did you say you knew he was in college, or you didn't know

1 where he was? I wasn't clear on the answers.

2 A I told Mr. Hale or somebody that I don't know  
3 Mr. Zertuche. I don't know him.

4 Q The answer to Mr. Hendricks that you said that  
5 he was at North Texas State, or you elicited an answer  
6 to him in response.

7 A I told him that I had never seen Mr. Zertuche.  
8 I don't know him.

9 Q So you didn't know—

10 A I don't know if he was in college or not.

11 Q Now, you get bills from all over the County of  
12 Duval. Is that correct, from the various stores that  
13 the Commissioners bring to you?

14 A Yes. From Freer, Texas, Benavides, San Diego.

15 Q You don't normally, in the course of your  
16 business, go look at every single store that you get  
17 bills from, just to make sure it's there, do you?

18 A No. Of course not.

19 Q You don't question, if a Commissioner brings  
20 it to you, as your boss, you do what you are supposed  
21 to do, in your normal processing. Is that right?

22 A They have the authority to approve these  
23 claims, I guess. The only thing I can do is just present  
24 the claims to the Commissioners. If they approve them,  
25 we have to make the checks.

1 Q Who attends the Commissioners Court meeting?  
2 Is it the Auditor?

3 A Mr. Solis. Manuel Solis.

4 Q The Treasurer?

5 A The County Treasurer. Yes, sir.

6 Q Both of them normally attend?

7 A Mr. Meek usually attends the meetings, also.

8 Q Who keeps it? Is it the County Clerk that  
9 keeps the Minutes of the Commissioners meeting?

10 A Mr. Roberto Garcia, the County Clerk.

11 Q So he is normally there?

12 A Yes.

13 Q And the Auditor is there?

14 A And the County Treasurer.

15 Q And the Treasurer. Those three people are  
16 normally there. Do the Commissioners meet once a month?

17 A Once—the second Monday.

18 Q The second Monday of every month?

19 A Yes, sir.

20 Q Okay.

21 MR. KASTER: Mr. Chairman, I have a comment,  
22 just a comment, to illustrate a point, on why I voted  
23 "present" on the subpoenas.

24 We are given excerpts by Mr. Canales. When he  
25 asked if we wanted the entire payroll record xeroxed, you



1 said, "No, because it wouldn't serve a purpose," of course.  
2 And yet, not to be argumentative, but I understand that  
3 that's what counsel for Judge Carrillo said that he wanted  
4 to do, and yet we subpoena and we are going to have a  
5 mountain of records. He said that he had a pickup truck  
6 full of four boxes. I think we are going to be deluged  
7 with records. And my understanding is that what he was  
8 going to do was the same thing that Mr. Canales was going  
9 to do, so that's why I voted "present," because I have  
10 pity for the poor bank, to be honest.

11 I pass.

12 CHAIRMAN HALE: Thank you, Mr. Kester.

13 Mr. Donaldson?

14 BY MR. DONALDSON

15 Q I direct your attention to this black folder.  
16 I think have you the same thing in yours, where it lists  
17 the warrants paid to Arturo Zertuche?

18 A Yes, sir.

19 Q All these have a code number. Do you have a  
20 cross reference with you, by any chance? For example,  
21 what is Code No. 320?

22 A That is seasonal employment.

23 Q Seasonal employment?

24 A Seasonal labor. Yes, sir.

25 Q What do you mean "seasonal employment"? When a

1 warrant comes in, how do you know whether it is classified  
2 as "seasonal employment" or what?

3 A I guess because it is not in the regular pay-  
4 roll summary.

5 Q Arturo Zertuche was seasonally employed every  
6 month during 1970, wasn't he?

7 A About seven months of it.

8 Q What does Code No. 329 mean?

9 A That is either tractor or truck hire.

10 Q It is equipment rental of some kind?

11 A Yes, sir.

12 Q I notice that on 8/10/1970, on that day, you  
13 received a check for \$225 for seasonal employment and  
14 \$680 for Code 329, which is equipment rental. Is that  
15 correct?

16 A Yes, sir. That's correct.

17 Q Okay. Just one other brief question: Who is  
18 Mike Hinojosa?

19 A He is— I understand he is from Benavides. I  
20 don't know Mr. Mike Hinojosa.

21 Q Do you know whether or not he is connected  
22 with Benavides Cedar Post?

23 A No, sir. I don't.

24 Q Who is Miguel A. Hinojosa?

25 A Miguel Hinojosa is from San Diego. He works

1 for the County Shop.

2 Q Are they related to you?

3 A No, sir.

4 MR. DONALDSON: I pass.

5 CHAIRMAN HALE: Thank you, Mr. Donaldson.

6 Mr. Laney?

7 BY MR. LANEY

8 Q Mr. Hinojosa, you testified that the IRS had  
9 subpoenaed some of your records?

10 A Yes, sir.

11 Q Has anybody else ever subpoenaed any of your  
12 records, other than the ones we subpoenaed?

13 A Well, except for the IRS, I guess that's about  
14 all. The IRS.

15 Q Has anybody come in there and looked at your  
16 records, any other government entity, such as the Judicial  
17 Qualifications Commission, or anything like that, or the  
18 Attorney General's Office?

19 A Well, the Attorney General's Office have been  
20 there lately, in the last couple of weeks. And the news-  
21 paper man from Corpus. They go there just about every  
22 day. (Laughter.)

23 Q Have any of the records been subpoenaed  
24 by the Attorney General's Office?

25 A Not so far. No, sir.

1 Q Is this the Texas Attorney General's Office, or  
2 the United States Attorney?

3 A No. Texas.

4 MR. LANEY: That's all I have, Mr. Chairman.

5 CHAIRMAN HALE: Thank you. Ms. Thompson?

6 BY MS. THOMPSON

7 Q Mr. Hinojosa, who is the Commissioner of Precinct  
8 1?

9 A Well, I don't know. We have two. According to  
10 the last ruling, I guess Mr. Manuel Amaya, Jr,

11 Q How many persons have been paid for that par-  
12 ticular position?

13 A Ma'am?

14 Q How many persons have been issued checks for  
15 that particular position, Commissioner, Precinct 1?

16 A Well, in the last month, I guess just Mr. Amaya.

17 Q Before the last month?

18 A In March, it was Mr. Archer Parr. He was the  
19 County Commissioner.

20 Q Mr. Hinojosa, in 1972, you made \$300.

21 A Yes, sir.

22 Q You indicated that you had been working in your  
23 present capacity for some twenty years.

24 A Yes, ma'am.

25 Q And in 1975, you are making \$750. Why a \$350  
raise? From one year to another?

1 A Well, I guess—

2 Q From 1972 to 1975?

3 A I guess after so many years, they felt like  
4 maybe I was entitled to a little raise, you know.

5 Q I notice in going through these sheets that  
6 George Zertuche was given a \$100 raise from 1972 to 1973.  
7 Did this indicate that he had changed his position, in  
8 Precinct 3?

9 A The only thing that changed, I guess, was his  
10 salary. I don't know about his position. I don't know  
11 what he does.

12 Q I notice he didn't get but \$25 raise in 1974.

13 A (The witness nodded.)

14 Q Do you know whether or not the Commissioners  
15 Court uses a scale to compute the increases in salaries?

16 A No. They don't use any scale.

17 Q They just do it by whim?

18 A Yes, ma'am.

19 Q They just put out the way they feel?

20 A Yes, ma'am.

21 Q About a particular person.

22 A Yes, ma'am.

23 MS. THOMPSON: Thank you.

24 That's all, Mr. Chairman.

25 CHAIRMAN HALE: Thank you. Mrs. Weddington?

1 BY MS. WEDDINGTON

2 Q I take it there are four Commissioners. Is  
3 that right?

4 A Yes, ma'am.

5 Q Do each one of the Commissioners cover approxi-  
6 mately the same area in square miles?

7 A Not so far, no ma'am. I don't know the square  
8 miles. I guess I am confusing the population. The  
9 population: Precincts 2 and 4 have very little population.  
10 I don't know exactly, but Precincts 1 and 3 have most of  
11 it, about 3,000.

12 Q Precinct 1 has about 3,000?

13 A I guess they go by the votes. No. The popula-  
14 tion. They have most of the population anyway.

15 Q How much does Precinct 2 have in population,  
16 about?

17 A I guess not over 400 people.

18 Q And Precinct 3 has about how many?

19 A Precinct 3 covers Benavides and Freer and some  
20 other communities. It is the biggest precinct. I would  
21 say it has almost half of the population.

22 Q Do you have any idea how many people would be  
23 in that precinct?

24 A Well, the County has about 11,500, more or less.

25 Q But in just that one precinct, do you have some

1 estimate of how many are in it?

2 A Well, at least, one-half, I guess. Maybe  
3 a little less than half.

4 Q About—

5 A 4,500. That's just a guess, you know. I am  
6 not sure.

7 Q Then 4 has about how many?

8 A Well 4 is a very—not over 400, I guess.

9 Q So then I take it that the budgets for those  
10 precincts would be very different as well?

11 A Not too much difference.

12 Q Okay. Do the Commissioners have an annual  
13 budget where they outline approximately how much would  
14 be spent by each precinct and for what purposes?

15 A Well, I haven't seen the one for '75, 1975.  
16 We had a budget for 1974.

17 Q Has the County ever had some sort of schedule  
18 of employees and what they would do? In other words,  
19 if Precinct 1 would have so many employees that would  
20 do certain kinds of work; not by name, but just by  
21 categories?

22 A Not usually. I don't think they use that  
23 procedure over there.

24 Q How would you compare the amount of money spent  
25 in Precinct 3 for salaries, to that spent in the other

1       precincts for salaries?

2           A       Well, I don't have an idea, ma'am. I know  
3       that smaller precincts have quite a few employees also,  
4       you know, so—

5           Q       Well, approximately how many employees would  
6       Precinct 1 have?

7           A       I only have part of the payroll here, so—

8           Q       If you were given the larger book, could you  
9       tell more easily?

10          A       Yes, ma'am.

11                 (The ledger was presented to the witness.)

12          A       For the month of April, last month?

13          Q       Okay. Let's take April as an example.

14          A       Precinct 1 has 18 employees.

15          Q       Okay. And Precinct 2?

16          A       Precinct 2 has 16.

17          Q       And Precinct 3?

18          A       29.

19          Q       And Precinct 4?

20          A       Precinct 4 had 9.

21          Q       Now, you said there were some other funds, like  
22       the County Fund, for example, that some people are paid  
23       out of, even though they might be working a particular  
24       precinct. Are there a large number of the county fund  
25       employees that are actually working in one particular



1 precinct?

2 A No. The Commissioner might have four or five  
3 people working on a daily basis, for sometimes, not always,  
4 and maybe the next month they have eight or ten. It  
5 varies.

6 Q Do you have any way of knowing whether those  
7 people work about an even amount in each precinct, or  
8 whether they tend to work just in one or two precincts  
9 most of the time?

10 A I don't know whether they work or not, but  
11 the four Commissioners hire people by the day or by the  
12 week.

13 Q What about expenses of supplies? Is most of  
14 the money spent in those precincts for building roads,  
15 maintaining roads?

16 A Yes, ma'am. I guess so. Road maintenance and  
17 once in a while they have some fencing to do, I guess.

18 Q Is the amount of mileage in each of those  
19 precincts about the same, as far as the number of roads  
20 they have—the mileage of roads they have to maintain?

21 A I imagine it is. Yes, ma'am.

22 Q Are the expenses in Precinct No. 3 greater,  
23 lesser, or about the same in terms of invoices that you  
24 paid in the other precincts?

25 A It's a little over the other precincts, because

1 they have a much larger area. Then they have two towns  
2 in the precinct, you know. I guess they do some work in  
3 the city, because they are unincorporated, so the county  
4 does a lot of work for Benavides and Freer.

5 Q Do you all have any kind of central ordering  
6 system for the county where somebody in the central  
7 offices orders supplies that are used by each of the  
8 precincts, perhaps, at a discount price?

9 A No, ma'am. Every Commissioner buys his own  
10 supplies. In fact, every office buys their own supplies.

11 Q How do you decide when you put somebody on the  
12 payroll whether they will be considered a regular  
13 employee, or whether they will be paid by claim?

14 A Usually the Commissioners let us know about it;  
15 whether they are going to be hired on a permanent basis,  
16 or just temporarily.

17 Q If you pay a person on a claim, do you still  
18 deduct withholding and social security and insurance and  
19 those kinds of things?

20 A We assume that he is going to be employed for  
21 a month or two or two or three weeks. We don't make any  
22 deductions.

23 Q If you were to see that one particular person  
24 had been hired for, say, seven months straight at the same  
25 salary and paid monthly, would you question whether or not

1 that person was a regular employee?

2 A Well, usually we don't question them. It is  
3 up to the Commissioner who brings the claim.

4 Q How many people work on claim, on more or less  
5 a regular basis, for Precinct 3?

6 A Well, lately, not too many, about three or  
7 four, I guess.

8 Q Have they in the past had more than that in  
9 Precinct 3?

10 A I say in prior years, most precincts have a lot  
11 more employees.

12 Q Let's say in the years 1972, 1973, how many  
13 employees would Precinct 3 normally have on claims?

14 A Well, that's been about two or three years ago.  
15 I don't remember that, ma'am.

16 Q Do you have any guess as to how many it might  
17 be?

18 A I can guess, but I might be wrong.

19 Q Did Precinct 3 tend to have more than other  
20 precincts on claim?

21 A Not usually. No, ma'am.

22 Q I notice on the records that you furnished us  
23 that you make out the records that you showed us. Is that  
24 correct?

25 A Yes.

Q You typed these sheets up every month?

1 A Yes, ma'am.

2 Q So you are generally familiar with the names  
3 that are on there; not the people, but the names?

4 A The names; yes.

5 Q I notice there are three different people  
6 named Carrillo who work for Precinct 3. Are there any  
7 people named Carrillo who work for any other precinct?

8 A I just can't remember. I believe that they all  
9 work in precinct 3. No, we have a lady who works for  
10 the District Office, Mrs. Antonio Carrillo, that I can  
11 recall right now.

12 Q Has she been hired since the time one of the  
13 Commissioners was named Carrillo?

14 A Well, Commissioner Carrillo has been a  
15 Commissioner, I would say, for about ten years. I imagine  
16 she was hired before that time.

17 Q You are generally familiar with Duval County,  
18 aren't you?

19 A Yes, sometimes.

20 Q Have you ever paid a claim to a store that you  
21 did not know where it was located, or had never seen it,  
22 other than perhaps Zartuche and Benavides Implement?

23 A Yes, ma'am. We paid quite a few claims to  
24 Zartuche and Benavides Implement.

25 Q Okay, but that's not what I am asking. I under-  
stand that you have not seen those two stores. Is that

1 correct? And you don't know where they are?

2 A Well, the address is in Benavides.

3 Q But you personally have never seen them. Is  
4 that right?

5 A I have never been there. That's right.

6 Q Is there any other store that you have paid a  
7 claim to that you don't know where it is, or that you have  
8 never seen?

9 A Well, there are a lot of stores. You see, we  
10 have bills from all over the United States.

11 Q In Duval County, have you ever had a claim  
12 from a store in Duval County that you did not know where  
13 it was, or didn't have some familiarity with it?

14 A Well, except for Zertuche Store, Benavides  
15 Implement, whatever he's got.

16 Q You would know all the other stores that you have  
17 paid claims to?

18 A Especially in San Diego.

19 Q So Zertuche is the only one that you can at  
20 least think of that you did not know where it was  
21 specifically located in Duval County?

22 A Well, I assume just in Benavides. I don't  
23 have an address, just a box number in the city. What I  
24 am trying to tell you, I have never been in the store.

25 Q No. I am not questioning that. I am just saying

1 that every other store you've got a claim for, you have  
2 either seen or been in. Is that correct? Or had some  
3 knowledge of the store?

4 A Yes, ma'am.

5 Q How are checks distributed to employees?

6 A Well, usually they are hired by the Commissioner.  
7 The Commissioner picks them up whenever they are ready  
8 and takes them to their precincts.

9 Q So you don't mail the checks to the employees?

10 A No, ma'am.

11 Q You do not require the employees to come to a  
12 central office and pick up their checks?

13 A No, ma'am.

14 Q You just give them to the Commissioner and  
15 that's all you know about it?

16 A Yes, ma'am.

17 Q When did you begin getting claims from  
18 Zertuche General Store?

19 A Well, it must have been in the 1960's, but I  
20 just don't remember.

21 Q Was it early 1960's?

22 A I don't have an idea.

23 Q Have you been getting any lately from Zertuche  
24 General Store?

25 A No, ma'am.

1 Q When did you stop getting them?

2 A I would say in the year 1973, or 1974.

3 Q When you quit getting ones from Zertuche  
4 General Store, who did you start getting the claims  
5 from at that time?

6 A We got a lot of claims from Benavides Implement.

7 Q Had you gotten many claims from Benavides  
8 Implement while you were getting them from Zertuche?

9 A No.

10 Q So at the time you stopped getting them from  
11 Zertuche, you started getting them from Benavides  
12 Implement?

13 A It looks that way. Yes.

14 Q Are you still getting them from Benavides  
15 Implement?

16 A Well, up to— I can recall up to about a couple  
17 of months ago.

18 Q And you aren't getting them right now from  
19 Benavides Implement?

20 A Well, we haven't paid any claims since April,  
21 so I don't know. I might have a basketfull of claims  
22 there, but I haven't seen them.

23 Q Have you noticed any store that you are getting  
24 a lot of claims from just in the last couple of months  
25 that you didn't get them from before?

1 A No.

2 Q Do you have a record in your office of all the  
3 vehicles owned by the County?

4 A I have— I should have all the titles to the  
5 vehicles.

6 Q And so you would have all the licenses and the  
7 license plate numbers and that sort of information?

8 A Well, those heavy trucks, they lose their  
9 license plates every day, and we replace them.

10 Q Does your office replace those license plates  
11 when they are lost?

12 A Well, the tax collector—actually, they have  
13 exempt licenses.

14 Q Are there any vehicles in the county that have  
15 exempt licenses, other than those that the county owns?

16 A Not that I know. No, ma'am.

17 Q So if you saw a vehicle that had an exempt  
18 license plate, you would assume it was owned by the  
19 County. Is that correct?

20 A Well, either the county, the school districts  
21 or water district.

22 Q Do you know if the county owns a backhoe?

23 A Yes. They bought a backhoe back in 1970— I  
24 guess I recall back in 1971 or 1972; mounted in a pickup  
25 truck.



1 Q Does the County have several backhoes, or just  
2 one?

3 A They have a lot of equipment.

4 Q But how many backhoes?

5 A I don't have an idea.

6 Q Okay. What about caterpillars? Do they have  
7 any caterpillars?

8 A They have plenty of them.

9 Q About how many, do you suppose?

10 A They have some on a rental basis; others are  
11 owned by the county.

12 Q Do you pay all the rental claims on the  
13 equipment from your office?

14 A Yes, ma'am.

15 Q Do you get invoices from the Plains Equipment  
16 Company at Corpus Christi?

17 A Yes, ma'am.

18 Q And what is that for?

19 A Well, some invoices or some statements are for  
20 repairs to equipment and other invoices are for maintainers  
21 and loaders that are on a rental basis.

22 Q Do you have any caterpillars on a rental basis?

23 A Well, we also make business with Biddy Holt.  
24 I imagine we might have some caterpillars on a rental  
25 basis.

1 Q Do you know if you have any caterpillars on a  
2 rental basis from Plains Equipment Company?

3 A I am not sure if they have caterpillars. I  
4 know they have loaders and other kinds of equipment.

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

6 CHAIRMAN HALE: Thank you, Mrs. Weddington.  
7 Mr. Chavez?

8 BY MR. CHAVEZ

9 Q Mr. Hinojosa, as I understand from your initial  
10 testimony on these code numbers, whatever is in the  
11 hundreds, whatever starts with a "2" is related to  
12 Precinct 2; whatever starts with a "3", Precinct 3; and  
13 "4", Precinct 4? Is that correct?

14 A Yes, sir.

15 Q For example, 229; What is 229?

16 A Well that is travel or rental of— travel  
17 allowance. We have a 229 on Precinct 2. This man is paid  
18 so much in regular salary and he gets a travel allowance.

19 Q Yes. I saw that over here, but I am talking  
20 about the other one; the one that has a Zertuche General  
21 Store.

22 A Zertuche General Store. That is a truck or  
23 tractor rental.

24 Q If you look at this— You have this one,  
25 don't you? Right after the page where you signed, the

1 next is the Zertuche General Store and starts off  
2 there with Claim 1467

3 A 1970?

4 Q Yes, sir.

5 MR. CANALES: Excuse me, Mr. Chavez.

6 Here is the original copy. Yours has been  
7 cut out and put in order, so his might be a little  
8 mixed up, in relation to yours. I took the time to  
9 cut them out and put them in order for your particular  
10 notebook, so they would be easier for you—they would  
11 be in order for you.

12 A I have it. Yes, sir.

13 Q All right.

14 A 1970.

15 Q \$305 R and D fund, Code 29, 1/12/70.

16 A What claim number is that?

17 Q Let me show it to you.

18 A Okay.

19 Q You have a code 29?

20 A Yes.

21 Q Then down further— What is Code 29?

22 A That's a rental of equipment, I guess.

23 Q Okay. 229?

24 A I haven't seen the claim. I imagine it's  
25 rental of equipment, or a truck, or whatever.

1 Q What Precinct would 229 be?

2 A 229 is Precinct 2. 29 is County Shop, just  
3 plain County Shop.

4 Q 311?

5 A 311? That's lumber and hardware for Precinct 3.

6 Q 423?

7 A 423 is fencing material for Precinct 4.

8 Q In that year there that we have here from 1/12/70  
9 to 5/11/70, you have different amounts paid to Zertuche  
10 General Store and apparently charged to different pre-  
11 cincts. Would that be correct?

12 A Yes, sir. That's correct.

13 Q That would indicate whether or not Zertuche  
14 General Store existed that some of the—well, all of the  
15 Commissioners apparently charged things to Zertuche General  
16 Store. Would that be an accurate statement to make?

17 A Yes, sir. Except Precinct 1. I don't see  
18 Precinct 1 there. It looks like the rest of the Precincts  
19 have whatever it is charged to them.

20 Q Who was the Commissioner of Precinct 1?

21 A Dan Tobin. Daniel Tobin.

22 Q Then going further on down to the next one,  
23 Zertuche General Store, again, it's got different items  
24 charged to different precincts and apparently paid to  
25 Zertuche General Store.

1 A Yes, sir.

2 Q So, would that indicate that these other  
3 Commissioners from these other precincts knew that  
4 Zertuche General Store existed?

5 A Well, it looks like it, because they approved  
6 those claims in open court.

7 Q How far is San Diego from Benavides?

8 A Sixteen miles.

9 Q Sixteen miles?

10 A Sixteen. Yes, sir.

11 Q Do you have any relatives over there?

12 A Relatives in Benavides?

13 Q Yes, sir.

14 A I might have a cousin or two there.

15 Q Do I understand you correctly that you hardly  
16 ever go there to Benavides?

17 A That's correct. Yes.

18 Q Sixteen miles. How long have you lived in the  
19 County?

20 A Oh, about, for except eight years, I have  
21 lived there all my life.

22 Q So you have lived there just about all of  
23 your life?

24 A Yes.

25 Q And you never go over to Benavides at all?

1           A     Well, usually I go— I don't even live in  
2 San Diego. I live out of San Diego six miles. I work  
3 in San Diego.

4           Q     You live where? I didn't understand you. I'm  
5 sorry.

6           A     I live in San Diego and I seldom go to  
7 Benavides. I don't see why I should go to Benavides.  
8 I have no business over there.

9           Q     A little town sixteen miles away, it seems  
10 you know—

11          A     Well, I might pass through there once in while.

12          Q     Then after this Zertuche then, there is  
13 Benavides Cedar Post. Do you know who that belongs to?

14          A     No, I don't know. I've got some claims for  
15 it, the Benavides Cedar Post, but I don't know who owns  
16 it.

17          Q     Well, you've paid several thousand dollars,  
18 about \$17,000 or \$18,000 in '74?

19          A     Yes, sir. We paid a lot of claims. Yes, sir.

20          Q     You don't know what that was for?

21          A     No, sir. I don't.

22          Q     Well, can you look at those code numbers?

23          A     Oh, I know what they were for. Yes, sir.

24          Q     What were they for?

25          A     Benavides Cedar Post. I have one here for

1 Precinct 1, for fencing material, posts.

2 Q If you look at those for Benavides Cedar Post,  
3 they all start with different numbers. 100, 200, 300, of  
4 course those are all precincts, but the last digits are  
5 all 23.

6 A Yes, 23. That's the County Shop.

7 Q 423 and 323?

8 A For the precincts.

9 Q 23 is for what?

10 A That's just plain County Shop. That is charged  
11 to the County Shop; not to the— They have appropriations  
12 to the County Shop.

13 Q I am not making myself clear. I'm sorry.

14 223, what is that to?

15 A That is Mr. Real, Juan Real, Precinct No. 2.

16 Q What is that for?

17 A For fencing, posts.

18 Q Would it be fair to say that in 1974 then, the  
19 County went into an extensive fencing operation?

20 A It looks that way.

21 Q Who owned that place? Do you know?

22 A No, I don't.

23 Q Then Benavides Implement Company, again all  
24 these different precincts charge to that company? And  
25 you don't know who owned that?

1 A No, I don't. No, sir.

2 Q Do you know where the Duval County Water District  
3 is? The Office?

4 A The Duval County Conservation and Reclamation?

5 Q Yes, sir.

6 A It's in San Diego.

7 Q Just the Duval County Water District?

8 A That's the same office. The main office is  
9 in San Diego.

10 Q Do they have an office over there in Benavides?

11 A They might have, but the main office, it's in  
12 San Diego.

13 Q This gentleman that was here last night, Mr.  
14 Couling, do you know him?

15 A Rodolfo Couling?

16 Q Yes.

17 A I knew him for two or three years, I guess. Not  
18 for a very long time.

19 Q You don't know that he owned the Benavides  
20 Implement?

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

22 MR. CHAVEZ: That's all I have.

23 CHAIRMAN HALE: Thank you, Mr. Chaves.

24 Mr. Hinojosa, let the Chair ask you one or two  
25 other questions, as a result of some of the answers you



1 gave a moment ago.

2 BY CHAIRMAN HALE

3 Q In answer to one question, you made a statement  
4 that no claims had been paid since April. Why have no  
5 claims been paid since April?

6 A Well, one of the reasons is that the depository  
7 bank in San Diego canceled all of our accounts in the  
8 bank and wrote a cashier's check and took it upstairs  
9 to the District Clerk. That was some time on the 29th of  
10 April, just about the time we were ready to pay the  
11 people. That's one of the reasons, because they claim  
12 they don't know who the legally constituted Commissioners  
13 Court is right now.

14 Q Why do they not know who the legally consti-  
15 tuted Commissioners Court is?

16 A Well, Mr. Archer Parr was ousted from office  
17 in March, some time in March, and Mr. Daniel Tobin was  
18 appointed County Judge some time about the same date, I  
19 guess.

20 Q Who ousted Archer Parr as County Judge?

21 A District Judge O. P. Carrillo.

22 Q Who appointed the new County Judge?

23 A Judge Carrillo.

24 Q Were any of the Commissioners ousted?

25 A Well, let's see— I am confused now. Daniel

1 Tobin was the Commissioner in Precinct 1. He is now the  
2 County Judge. Manuel Amaya was appointed to replace  
3 Daniel Tobin.

4 Then the other court met with Archer and—well—  
5 It's a complicated matter— (Laughter.) They appointed  
6 Antonio Garcia to be Commissioner of Precinct 1. I can't  
7 even recall who the other guy was.

8 MR. CANALES: Mr. Chairman?

9 CHAIRMAN HALE: Well, that's all right.

10 Q There were, in other words, Judge Carrillo  
11 ousted several of the officials in March or April?

12 A Actually, he ousted the County Judge and appointed  
13 Daniel Tobin County Judge.

14 Q Did he oust officials in any other governmental  
15 agency, other than the county government?

16 A I understand some members of the school board  
17 in Benavides.

18 Q How about the Water District?

19 A Not the Water District, that I know.

20 Q So that in April then, the bank took all the  
21 money out of your accounts and put it in a cashier's  
22 check and delivered it to the District Clerk?

23 A Yes, sir.

24 Q Is that correct?

25 A That's correct.

1 Q Do you know what the District Clerk did with  
2 the check?

3 A Well, I am not sure, but I understand they took  
4 it back for safekeeping at the same depository bank, in a  
5 trust fund, I guess.

6 Q And no checks on the county funds have been  
7 issued since that time?

8 A No, sir.

9 Q The employees have not been paid since that  
10 time?

11 A They haven't been paid since March the 31st,  
12 actually.

13 Q I believe Ms. Weddington asked the question to  
14 you about the county vehicles. Do you have a list of all  
15 of the county vehicles, all vehicles that the county owns  
16 in your office?

17 A We don't have a complete inventory, but we have  
18 most—except for maybe old equipment that is junked—but  
19 we have a list of inventory, not a complete inventory.

20 Q Could you provide this Committee with a certified  
21 copy of the inventory of county vehicles according to the  
22 records of your office?

23 A Do you want heavy equipment and trucks and cars  
24 and everything?

25 Q I would like to have an inventory of all county

1 owned equipment, mobile equipment.

2 A We can furnish the Committee a copy. Yes, sir.

3 Q We would appreciate it.

4 Now, do you also have an inventory of all  
5 vehicles which the county is renting?

6 A Yes, sir.

7 Q And, as a matter of fact, you pay rental on  
8 those every month, do you not?

9 A Yes, sir.

10 Q On those. Could you also provide us with an  
11 inventory of those, of all vehicles which the county is  
12 now renting?

13 A Yes, sir.

14 Q Or has rented in the past two or three years?

15 A We could do that. Yes, sir.

16 Q If you would provide us with those inventories,  
17 it would be most helpful.

18 CHAIRMAN HALE: Are there other questions  
19 of this witness?

20 MS. WEDDINGTON?

21 BY MS. WEDDINGTON

22 Q You said that those people paid by claims; that  
23 for those people who are paid by claims, you do not deduct  
24 anything from their checks?

25 A No, ma'am.

1 Q Do you ever get them to sign a W-2 or W-4 form  
2 of any kind?

3 A Not these people; just people hired in the  
4 regular summary.

5 Q Do you have any records of any kind that could  
6 verify a signature on a check issued to someone on a  
7 claim, rather than regular employment?

8 A Well, I guess when they write a claim for  
9 payment, you mean?

10 Q Yes. When you have a claim for payment, does  
11 the employee sign that claim?

12 A Sometimes they bring the claim already written,  
13 but the claimee should sign it.

14 Q Do the Commissioners sometimes just submit  
15 like they do on regular employees information about paying  
16 such and such a name, so much this month, and no written  
17 claim is ever made, or is there always a written claim?

18 A There is always a written claim on those claims.  
19 They have to sign it.

20 Q When you pay bills from businesses, do you mail  
21 those to the businesses, or are those also given to the  
22 Commissioner?

23 A I mail all bills like utilities and supplies that  
24 go out of town, to Alice, Corpus, or San Antonio.

25 Q To the Zertuche General Store, would you mail

1 those, or would you have given that to someone?

2 A Usually, the County Commissioners take those  
3 checks to local businesses and personnel that they  
4 employed.

5 Q So for businesses located in one of the precincts,  
6 you would probably give the check for that business to the  
7 Commissioner?

8 A Yes, sir.

9 MS. WEDDINGTON: Thank you, Mr. Chairman.

10 CHAIRMAN HALE: Are there any further  
11 questions?

12 Mr. Hendricks?

13 BY MR. HENDRICKS

14 Q Under Code 10, which you say that is "Shop." Is  
15 that correct?

16 A Yes, sir.

17 Q Does each Precinct have a shop?

18 A In their respective precincts?

19 Q Yes.

20 A I believe they have not a very big place, I  
21 guess, because they have the main shop in San Diego.

22 Q What I am speaking of Mr. Hinojosa, if Cleofas  
23 Gonzales says he worked at this Farm and Ranch Store which  
24 was also where Precinct 3 kept their equipment, would he be  
25 classified as "Shop" employee?

A I imagine he could be. Yes, sir.

1 Q Have you ever been on Judge O. P. Carrillo's  
2 ranch or any of his ranches?

3 A No, sir.

4 Q Just one or two questions about the payment  
5 record cards. This pertains to Benavides Implement and  
6 Hardware Company. Notice here on 7/17/73, Warrant No.  
7 C-1439, there were \$2,132.67 paid to this Benavides  
8 Implement and Hardware Company under Code 311. What does  
9 that mean?

10 A Let's see. I'm lost. Pardon me. I came to  
11 Benavides—

12 Q All right. Card B-2 and start with 6/12/73.

13 MR. CANALES: What claim number is it, Mr.  
14 Hendricks?

15 MR. HENDRICKS: D-1361. No. #1439.

16 A 1439. 311.

17 311 is lumber and hardware for Precinct No. 3.

18 Q On 7/17/73, Precinct 3 bought \$2,132.67 worth  
19 of lumber.

20 A It looks that way. Yes, sir.

21 Q Going right down the line there on Claim No.  
22 D-1792, what is that claim, sir?

23 A That's 411? That's Precinct 4, lumber and hard-  
24 ware.

25 Q No. Right above that, that \$2,350.95. It says

1 329 on it. What is that?

2 A That is equipment rental like tractor or a  
3 truck hire, or rental.

4 Q Is that Precinct 3 also?

5 A Precinct 3. Yes, sir.

6 Q August the 29th of '73 he rented \$2,350.95  
7 worth of tractors?

8 A Yes, sir.

9 Q I believe you said 311 was lumber?

10 A Lumber and hardware. Yes, sir.

11 Q Then again on October the 4th, Precinct 3  
12 bought \$2,523.64 worth of lumber, didn't it?

13 A Yes, sir.

14 Q And then they rented equipment again on  
15 November the 2nd and paid \$1,956.29 for it, didn't  
16 they, Precinct 3?

17 A Yes, sir.

18 Q Then on November the 19th, in an amount of  
19 \$2,824.24, there is a 314. What is that?

20 A Parts.

21 Q Boards?

22 A Parts and repairs.

23 Q That's Precinct 3 also?

24 A Yes, sir.

25 Q Then on 12/18 there's \$2,522.77. That is marked



1 323. What did you say that was?

2 A Fencing material like barbed wire and maybe  
3 posts.

4 Q Just glancing over that, why does it look  
5 like Precinct 3 is buying about two or three times as  
6 much equipment and lumber and fencing as all the rest  
7 of the precincts?

8 A I don't know.

9 Q Does it appear that way to you, sir?

10 A Yes, sir.

11 MR. HENDRICKS: I believe that's all I  
12 have, Mr. Chairman.

13 CHAIRMAN HALE: Mr. Donaldson?

14 BY MR. DONALDSON

15 Q A couple of quick questions. I hope nobody  
16 has already asked this. If it's repetitious, just let  
17 me know: What is Code CO?

18 A Where is that?

19 Q I am looking at two warrants to Farm and Ranch  
20 Supply. They are on the same page as the claims paid to  
21 Roberto Elizondo in your book there.

22 CHAIRMAN HALE: I believe the page numbers  
23 are different on the copies he has.

24 Q That's a \$3,500 warrant paid to Farm and Ranch  
25 Supply and it's marked "Code CO."

1 A Oh, actually, I have to go back. I can't recall.

2 Q All right. Let me ask you this: Can you furnish  
3 us a copy of the chart of accounts or whatever you call  
4 it where each of these different code numbers are listed?

5 A Yes, sir.

6 Q So that we can go through those ourselves.

7 All right now, on the one below that, it's  
8 another one to Farm and Ranch Supply, and I believe it's  
9 marked "Code 11." What is "Code 11," sir?

10 A That is lumber and hardware.

11 Q So those two warrants— What are the dates of  
12 those warrants?

13 A One is March the 12th, 1973 and the other is  
14 November the 15th, 1974.

15 Q And those two warrants were paid directly to  
16 Farm and Ranch Supply. Is that correct?

17 A Yes, sir.

18 Q Do you know who owns Farm and Ranch Supply?

19 A No, I don't know who owns the Farm and Ranch  
20 Supply.

21 Q Let me ask you one other question:

22 Have you ever had need to see an attorney for  
23 anything? A will or anything like that?

24 A No, sir. For a partition deed. Yes, sir.

25 Q Who was your attorney?

1 A Kenneth Odam from Alice.

2 Q Thank you. Have you ever consulted Judge  
3 O. P. Carrillo for legal advice?

4 A No, sir.

5 MR. DONALDSON: Okay. Thank you.

6 CHAIRMAN HALE: Are there further  
- questions?

8 Fine. Thank you very much.

9 MR. CANALES: I have some.

10 CHAIRMAN HALE: Okay. You have some more?

11 Mr. Canales.

12 .  
13 REDIRECT EXAMINATION

14 BY MR. CANALES

15 Q Mr. Hinojosa, who do you work for?

16 A Mr. Walter Meek.

17 Q What is his position, Mr. Hinojosa?

18 A County Auditor.

19 Q Is he an elected official?

20 A Mr. Meek is appointed by the District Judge.

21 Q Then you indirectly are working for the Judge  
22 as you work for somebody who is directly appointed by  
23 him?

24 A I guess you can call it that. Indirectly I  
25 work for him.

1 Q Do you have any personal animosity against  
2 the Judge?

3 A No. I don't have any against Judge Carrillo.

4 Q I would like to ask you one more question, Mr.  
5 Hinojosa.

6 I would remind you that you are under oath at  
7 this time.

8 I would direct your attention to the time when  
9 you left the County Courthouse with the records that  
10 are presently on the desk there in front of you. Did  
11 you have occasion to encounter Mr. Ramiro Carrillo, the  
12 brother of Judge O. P. Carrillo?

13 A Mr. Ramiro Carrillo was in the County Auditor's  
14 Office. Yes, sir.

15 Q Is that the office where you work?

16 A Yes, sir. It is.

17 Q Did you have any conversations with him?

18 A Well, he just told me that I could not bring any  
19 records to this Committee, because I had no subpoena.

20 Q He told you not to bring these records as you  
21 were not subpoenaed?

22 A Yes, sir.

23 Q Did Mr. Ramiro Carrillo use any threatening or  
24 vulgar language in directing you not to bring these  
25 records? And I would remind you that you are under oath?

1           A     Not to my knowledge. He didn't use any  
2 abusive language or anything.

3           Q     And he did not threaten you?

4           A     No, sir.

5           Q     But he told you that you should not bring these  
6 records up here?

7           A     He told me that I could not take any records  
8 out of the courthouse without a subpoena, public records.

9                   MR. CANALES: Thank you.

10                   CHAIRMAN HALE: Are there further questions  
11 of this witness?

12                   Mr. Maloney?

13 BY MR. MALONEY

14           Q     Mr. Hinojosa, what was the bank that was your  
15 depository?

16           A     The First State Bank of San Diego.

17           Q     How long has that been your depository? All  
18 during your term?

19           A     Well, since it was organized, I guess, back  
20 in the 50's, the 1950's.

21           Q     How many banks are in San Diego?

22           A     That's the only bank.

23           Q     Do you know how many are in Duval County?

24           A     There is another bank in Freer.

25           Q     In where?

1 A Freer, Texas.

2 Q Freer.

3 A That's in Duval County.

4 Q Did you ever use the First State Bank and  
5 Trust Company in Rio Grande City?

6 A No, sir. Not the County; not Duval County.

7 Q Do you know who the principal stockholders are  
8 of the bank in San Diego?

9 A Well, I understand that Mr. Harris Pender from  
10 Tyler, Texas is the main stockholder, and— I can't  
11 recall the name of the rest of the stockholders or  
12 directors.

13 MR. MALONEY: Thank you.

14 CHAIRMAN HALE: Are there any further  
15 questions?

16 (No response.)

17 CHAIRMAN HALE: Thank you very much, Mr.  
18 Hinojosa.

19 MR. DONALDSON: Could I ask one more question.

20 CHAIRMAN HALE: Mr. Donaldson has a question.

21 BY MR. DONALDSON

22 Q I notice through here there are several  
23 warrants that were payments to insurance companies.

24 Do you have some kind of insurance on employees  
25 and that kind of thing?

1 A Yes, sir.

2 Q Do you know whether or not any of those insurance  
3 payments have been paid to Richmond Credit Life Insurance?

4 A What company is that, sir?

5 Q Richmond Credit Life Insurance Company?

6 A No.

7 MR. DONALDSON: Okay.

8 CHAIRMAN HALE: Is that all, Mr.

9 Donaldson?

10 MR. DONALDSON: Yes, sir.

11 CHAIRMAN HALE: Thank you, Mr. Hinojosa,  
12 for your attendance here this evening.

13 (The witness, Mr. Octavio Hinojosa, was excused.)

14 CHAIRMAN HALE: The Chair is going to  
15 read into the record at this point—and I possibly should  
16 have done it earlier: We have certificates here from the  
17 Secretary of State of the State of Texas concerning O. P.  
18 Carrillo, which shows that he was elected to the office of  
19 County Attorney of Duval County in November 1960; qualified  
20 for office on January 1, 1961 and served in that capacity  
21 until he resigned on January 30, 1970.

22 The records of the Secretary of State also show  
23 that O. P. Carrillo took the Oath of Office as District  
24 Judge of the 229th Judicial District on January 2, 1971,  
25 and served a four-year term and took a second Oath of

1 Office as Judge of the 229th District Court on January 1,  
2 1975.

3 I am going to ask the Clerk tonight to get  
4 the photocopies of these instruments so that we can  
5 put them in the record as exhibits. We will do that  
6 at our next meeting.

7 Mr. Canales, do you want to call your next  
8 witness?

9 MR. CANALES: Mr. Chairman, I would like to  
10 inquire of the Committee if they would like to have  
11 these certified copies entered into evidence or the  
12 testimony here?

13 CHAIRMAN HALE: I would like to get photo-  
14 copies of those, a set of photocopies for every member  
15 of the Committee, if we might.

16 Are those the two pamphlets that you laid out?

17 MR. CANALES: These two particular documents  
18 the Committee has. Those certified copies, the Committee  
19 has not received.

20 CHAIRMAN HALE: I would like to have the  
21 Clerk take this, if we may have it, and between now and  
22 the next meeting, let's get a set of these, certified  
23 copies for every member of the Committee—not "certified,"  
24 but photocopies of all the records here.  
25



1 MR. CANALES: Mr. Chairman, members of the  
2 Committee, at this time I am going to call Mr. M. K. Bercaw  
3 who is an attorney from Freer, Texas, and return at a  
4 later date to the point that we are discussing right  
5 now relating to county employments and misappropriations  
6 of funds.

7 At this time I will introduce Mr. Bercaw who  
8 will testify before this Committee to official misconduct  
9 and to political oppression which has occurred since  
10 March 19th, I believe, of 1975, at which time Judge O. P.  
11 Carrillo made a statement to the "Corpus Christi Caller"  
12 newspaper. We have the copies of the newspaper here for  
13 the Committee's scrutiny.

14 He made a statement in there in which he  
15 stated publicly that he was making a split with the  
16 political party of the late George B. Parr. On that  
17 date, or two or three days subsequent to that date, the  
18 turmoil which has presently been in the newspapers  
19 regarding removals, appointments, re-removals and  
20 re-appointments, resulting in two different school  
21 boards in Benavides, Texas, one appointed by the District  
22 Judge, one elected, and the occasion in Duval County  
23 where they had two Commissioners Courts, one appointed  
24 by the Judge and the other one the elected one. Mr.  
25 Bercaw will begin with a history to tie this in, to try

1 to present to the Committee the point at which the  
2 relationship began between a Mr. Clinton Manges of  
3 Freer, Texas, and Judge O. P. Carrillo. He will present  
4 evidence and have certified copies of a transcript of a  
5 trial in which Judge O. P. Carrillo was removed from  
6 the case because of his personal interest in the case.

7 Mr. Bercaw will indicate after his  
8 introductory remarks, historical remarks in this  
9 particular case, the tie-ins of these political replace-  
10 ments, removals and re-replacements and re-removals to  
11 that history and to the relationship which presently  
12 exists between Mr. Clinton Manges and Judge O. P.  
13 Carrillo.

14 At this time, Mr. Chairman, I would like to  
15 call Mr. M. K. Bercaw.

16 CHAIRMAN HALE: Fine.

17 MR. CANALES: Mr. Bercaw is an attorney  
18 at Freer, Texas.

19 CHAIRMAN HALE: Thank you.

20 Mr. Bercaw, we're delighted to have you here  
21 and appreciate your attendance.

22 MR. CANALES: Mr. Bercaw, have you got  
23 that newspaper clipping in which Judge Carrillo made the  
24 statement that he was splitting?

25 MR. BERCAW: I think I have documentary

1 evidence for this Committee that I will present that  
2 will be of interest to this Committee in regards to  
3 things that you may be interested in, some historic—

4 CHAIRMAN HALE: If you will wait just a  
5 minute, Mr. Bercaw, we'll get to it. We can't get  
6 ahead of the Court Reporter here.

7 Mr. Bercaw, since you're an attorney, this is  
8 probably unnecessary, but out of a super-abundance of  
9 precaution let me say to you it's my duty to you as  
10 Chairman to advise you of your rights with reference to  
11 your testimony. You will be sworn to tell the truth and  
12 your failure to do so could subject you to a prosecution  
13 for perjury.

14 After you have completed your statement members  
15 of the Committee may ask questions concerning your  
16 testimony. You must answer these questions truthfully  
17 and your refusal to do so could subject you to punish-  
18 ment for contempt.

19 You can refuse to answer questions only on  
20 the ground that such answers might incriminate you or  
21 tend to incriminate you in some way. You are privileged  
22 to have an attorney of your selection sit with and  
23 advise you as to your answers if you desire. The Chair  
24 will attempt to protect your rights at all times.

25 Do you understand the advice I have given you?

1 MR. BERCAW: Yes, sir.

2 CHAIRMAN HALE: Are you ready to testify?

3 MR. BERCAW: Yes, sir.

4 CHAIRMAN HALE: Would you stand and be  
5 sworn.

6 (The witness was sworn at this time by  
7 the Chairman.)

8  
9 MR. M. K. BERCAW, JR.

10 was called as a witness by the Author and, having been  
11 duly sworn, testified as follows:

12 CHAIRMAN HALE: For the record, would you  
13 please state your name and your mailing address.

14 A My name is M. K. Bercaw, Jr. I'm an attorney  
15 in Freer, P. O. Box 179.

16 CHAIRMAN HALE: All right. You may pro-  
17 ceed with whatever statement you care to make, Mr.  
18 Bercaw, either on your own or on questions from Mr.  
19 Canales.

20 DIRECT EXAMINATION

21 BY MR. CANALES

22 Q Mr. Bercaw, I would like to call your attention  
23 to events which occurred— I'm not completely cognizant  
24 of the year, but I'm sure you are; you have documentary  
25 proof in your possession, certified copies of transcripts,

1 et cetera. I would like you to relate to this Committee  
2 the events of a trial in which Judge O. P. Carrillo  
3 was sitting as judge. Mr. Jim Bates, James S. Bates, I  
4 believe, from Edinburg, Texas, former Senator of the  
5 State of Texas, the State House, was in that proceeding,  
6 I believe, a receiver appointed by District Judge O. P.  
7 Carrillo in which Mr. Clinton Manges was the plaintiff.  
8 Would you please relate the testimony or the pertinent  
9 facts which you think this Committee should hear in  
10 that particular regard.

11 A Mr. Chairman, Committee members, I have, and  
12 have had for a very short period of time, in my  
13 possession a motion in Cause Number 3953, Clinton Manges  
14 vs. M. A. Guerra, et al, in the District Court of the  
15 229th Judicial District, Starr County, Texas, motion  
16 for disqualification, or accusen, of Judge Carrillo,  
17 addressed to the Judge. It is lengthy. I have it here  
18 for the Committee, and would like to submit this to the  
19 Committee for whatever purpose they would like to have  
20 in regard to the motion. I have a second supplemental  
21 motion for disqualification.

22 May it please the Committee, I would like to,  
23 from a Statement of Facts—and this is a xerox copy of  
24 the Statement of Facts in this case—explain who was  
25 involved as attorneys, according to the Statement of

1 Facts, which I just read Sunday.

2 For appearances for the attorneys for the  
3 plaintiff were the firm of Kampmann, Church, Burns and  
4 Brenan of San Antonio, Mr. William C. Church.

5 For the defendants, the firm of Smith,  
6 McIlheran, McKinney and Yarbrough of Wesleco by Mr.  
7 Garland F. Smith, and Mr. Michael McKinney. And they  
8 were the ones who prepared these.

9 Q Mr. Bercaw, may I interrupt you. If you  
10 think that it would be too lengthy to read these, would  
11 you please summarize the contents of these motions for  
12 the Committee?

13 A I thought I would do that after I explained  
14 what I had here in my possession for you and for your  
15 consideration and examination.

16 Then I have a brief filed on behalf of the  
17 defendants by Mr. Garland Smith, and I have an order  
18 on motion for disqualification of judge which is signed  
19 by Judge Mangas Smith, who was the presiding judge in  
20 the Judicial District in which the 229th was there, and  
21 Judge Smith was the judge who heard this disqualification  
22 from which this Statement of Facts was made.

23 This Statement of Facts is lengthy. I'm not  
24 familiar with the details of the case other than what I  
25 have here. I was not involved in the lawsuit, but

1 it has a relative bearing on things that are yet to  
2 come here, and they had meetings, according to the  
3 Statement of Fact, and according to Judge Smith's Order  
4 and I think this might be in order to bring you up to  
5 date in how this came about. This motion was filed and  
6 Judge Almia, who was the presiding judge of that Judicial  
7 District, appointed Judge Smith on February 5, 1973,  
8 to hear this Motion for Disqualification.

9 The first hearing was held on February 20,  
10 1973, the next one on March 30, 1973. On April 23,  
11 1973, and at the conclusion there were some more  
12 movements and motions and so forth and the Judge entered  
13 his order on the 21st day of May, 1973.

14 Now, this Statement of Facts, as I state, is a  
15 photocopy, but it does bear the—on the last page—the  
16 signature of the Clerk—excuse me—the reporter, who  
17 took this, Mr. D. A. Dresar, I guess it is. It's  
18 D-R-E-S-A-R. Official Reporter, 93rd Judicial District,  
19 Hidalgo County.

20 To summarize this thing rapidly for the  
21 essence of time, and again historic only, I would read  
22 from the record at page 338 of the Statement of Facts,  
23 and I quote:

24 "THE COURT: Well, gentlemen, it is kind of  
25 hard for a Judge to make this decision regarding

1 a fellow judge, but it is the opinion of the  
2 Court that Judge Carrillo is disqualified  
3 as of—well, say the 1st of February, 1971.  
4 I don't want my ruling in any wise to prejudice  
5 the rights of any of the parties or reflect on  
6 anyone, but I feel that the promiscuous—Judge  
7 Carrillo, I think, has been honest. I don't  
8 think he feels he is disqualified or has done  
9 anything wrong. But the fact remains that the  
10 key, unquestionably, the negotiations with  
11 reference to the sale of the—or transfer of the  
12 house and lot in Benavides took place after,  
13 that is, it originally took place before he  
14 went into office, and was finally consummated  
15 after he was in office.

16 Also, there was a lease on a number of  
17 acres of land— I don't know how many acres—you  
18 might say a free lease for a short period of  
19 time— I don't remember how long—which would  
20 have amounted to a gift. Then the lease on  
21 some five or six thousand acres of land at a  
22 price of \$5,000 per year, for three years,  
23 payable at the end of the term, and also for the  
24 right of Mr. Manges to terminate at any time he  
25 wished, would be a financial interest that would



1 go with this case. It would be expensive for  
2 him to move his cattle and he would have to pay  
3 up what he was owing on the lease at that time.

4 Also, Mr. Manges is by far the greatest  
5 controlling stockholder of the bank. And the  
6 appointment as a director would have been a  
7 financial interest to him, even though small  
8 in comparison with the amounts involved in this  
9 lawsuit.. And the fact that he, Mr.—that the  
10 bank, in which the litigant, Mr. Manges, owned  
11 possibly three-quarters interest in it, by far  
12 the controlling interest, was making loans to  
13 him up to two or three hundred thousand dollars.

14 As I recall, one of the notes for two or  
15 three hundred thousand dollars was payable in  
16 one year, and the fact that the note could  
17 easily be demanded to be paid at maturity or  
18 extended at the will of Mr. Manges.

19 All of these things and other matters  
20 are, like the sword of Damocles, hanging over the  
21 head of the Judge by a thin hair. I don't  
22 see how a person in that predicament could  
23 possibly render an impartial judgment. I  
24 couldn't. It's bad. But this is a matter  
25 that can be raised at any time. It could be

1 raised after judgment, and it would have to be  
2 done all over again. It would be just wiped  
3 out.

4 If you have another judge hear it, he  
5 could go over this matter and vindicate the  
6 decisions of Judge Carrillo, if that is  
7 correct, or render whatever judgment is correct.  
8 That is the reason I don't want in any manner  
9 to make any rulings that would in any wise be  
10 construed as either ratifying and confirming  
11 or the opposite, holding that there was anything  
12 unjust.

13 In my opinion, in other words, what I'm  
14 saying is I am not accusing, no; that's not  
15 exactly the word. I don't mean to hold any of  
16 his decisions are not correct. I have no way  
17 of knowing that. The fact that they were correct  
18 or not correct, in my opinion, does not touch  
19 the question of disqualification. It goes to  
20 the root of our system itself.

21 Our courts are under pressure and subject to  
22 criticism on many things that are unjust. Our  
23 courts are the very foundation of our system of  
24 society. And if our courts become corrupt then  
25 there is no justice in the land. And where there

1 is no justice in the land, the only recourse is  
2 revolution and bloodshed, and then all people  
3 suffer.

4 We, as judges, must, like Caesar's wife, be  
5 above and beyond reproach. It is hard enough to  
6 render justice and meet the criticism of people  
7 on decisions we're called on to make that are  
8 controversial without the burden of anything else  
9 that can at all be questionable.

10 I like Judge Carrillo. I have always  
11 thought a lot of him. He is young and he is  
12 inexperienced on the Bench. But he was kind  
13 of caught up in a web of circumstances that has  
14 bound him in this particular case. So it would  
15 be the judgment of this Court that he is  
16 disqualified."

17 There is more, gentlemen. I leave this for you.  
18 It is quite voluminous. It only sets a pattern histori-  
19 cally.

20 Q Mr. Bercaw, would you explain to the Committee  
21 the capacity in which Judge Carrillo presently serves  
22 with the First State Bank or the Bank and Trust of Rio  
23 Grande City, or at the time of this particular trial?

24 A At the time of this trial, according to this  
25 Statement of Facts, Judge Carrillo was on the Board of

1 Directors of the bank in the Rio Grande City. I do not  
2 know whether he is on that board now.

3 Q Was there any comment made in this particular  
4 transcript in reference to a car, a Cadillac automobile,  
5 which Judge Carrillo had in fact contracted to purchase  
6 and which Mr. Clinton Manges paid for by check?

7 A Yes, Mr. Canales, there is some lengthy  
8 discussion in regard to transactions. And, as I said, I  
9 read this thing Sunday, and it is interesting and—

10 Q Mr. Bercaw, do you have in your possession a  
11 xerox copy although it may not be certified, do you have  
12 a xerox copy of a check made to some Cadillac agency,  
13 signed by Mr. Clinton Manges and at the bottom where the  
14 indication is what the purchase was designed for it says,  
15 "O. P.'s Cadillac," on it?

16 A No, sir, I don't have that in my possession.

17 MR. CANALES: Then I must have it some  
18 place.

19 Q I would like you to explain some of the other  
20 points which were mentioned briefly in this particular  
21 transcript you were reading from, Mr. Bercaw, which I'm  
22 sure the Committee does not realize because you read an  
23 excerpt and it is impossible for them to understand the  
24 facts without reading the entire transcript.

25 A Well, this case originated in 1968, according

1 to this Statement of Facts, while Judge Woodrow Laughlin  
2 was sitting on the Bench in the 79th Judicial District,  
3 at which time Starr County was in the 79th Judicial  
4 District before the 229th was created.

5 Then when the 229th was created, of course,  
6 automatically it went into it. And Judge Laughlin was  
7 not. In the meantime, there was a receivership in  
8 Federal Court. It dealt with the Guerra family and  
9 a partnership that had been created some years before  
10 by the father of all of these Guerra young people. As  
11 I recall, I think there are five or six brothers and a  
12 sister. They in turn had created "M. Guerra and Son," a  
13 partnership. And Mr. Manges—again, I don't recall. As  
14 I said, I hurriedly Sunday remembered, but Mr. Manges  
15 bought some interest from some of these partners and  
16 then himself became a partner of M. Guerra and Son. And  
17 I assume this to be—again, I was not involved in the  
18 lawsuit; so the basic lawsuit I don't know about. I'm  
19 just talking about this disqualification historically  
20 for what is yet to come, with Mr. Manges and Mr. Carrillo  
21 in this Cadillac transaction that Mr. Canales mentioned,  
22 and the lease transaction and cattle lease and the land  
23 swapped out on a house in Benavides, I leave it for you.  
24 I just don't remember all the details; I'm sorry. But  
25 this is basically what it all involved.

1           The stock was involved with the house and the  
2 car and the stock in the bank. Mr. Ramiro Carrillo was put  
3 on the Board at the time.

4           Q     Mr. Ramiro Carrillo was also on the same Board  
5 of Directors—

6           A     Mr. Ramiro Carrillo was—there is a list or a  
7 photostat somewhere, I believe, of the directorate of the  
8 bank as of January, close of business, December 31—  
9 January— December 31, 1973. Directors: Frank L.  
10 Anderson, O. P. Carrillo, Ramiro Carrillo, Pedro Dias,  
11 Jr., M. F. Garcia, Francisco Garcia, H. P. Guerra, III,  
12 Dennis E. Hendricks, Max L. Jones, Don A. Manges, Frank  
13 R. Nye, Jr., Robert G. Richmond.

14           Now, just a second. You asked me a question  
15 about that. I don't recall ever seeing a check like  
16 that.

17           These are the records, gentlemen, that I  
18 bring to you for your inspection.

19           Q     Mr. Bercaw—

20           A     Excuse me, ladies. I didn't mean to leave you  
21 all out.

22           Q     —it was obviously the opinion of Judge Manges  
23 Smith in this particular case that Judge Carrillo had  
24 too many personal financial and monetary ties with  
25 Clinton Manges to serve in an impartial capacity in any

1 trial with him. Is that your understanding?

2 A I would not presume to assume what Judge  
3 Manges Smith thought. I read what he said.

4 Q Now, Mr. Bercaw, with that history, I would  
5 like you now to go into the removals—well, let me ask  
6 you first, I asked you earlier whether you had a news-  
7 paper clipping with you or in your possession—

8 A Yes, sir.

9 Q —from the "Corpus Christi Caller" in which  
10 Judge Carrillo made a statement in which he publicly  
11 split with the—and I quote—"Old Party" which purportedly  
12 was organized or headed by the late George B. Parr.

13 A Yes, sir. I have here a clipping from the  
14 "Corpus Christi Caller" dated March 19, 1975.

15 MR. CANALES: If the Committee would  
16 permit me, this is an excerpt from the "Corpus Christi  
17 Caller" newspaper, and the heading on it is "Parr vs.  
18 Carrillos— School race causes Duval Split." It is  
19 written by Joe Coudert, Staff Writer. It says:

20 "The April 5 school board election has  
21 apparently precipitated a complete split  
22 between Duval County political leader George  
23 B. Parr and the Carrillo family.

24 Former state legislator Oscar Carrillo  
25 split with Parr last year over Parr's support

1 of State Senator John Traeger.

2 Tuesday, District Judge O. P. Carrillo  
3 told a Caller reporter he is 'all through  
4 with Parr.'

5 'I've spent this past year trying to  
6 patch up the differences in the Old Party but  
7 now I'm through. He—'

8 and it refers to Parr—

9 'guaranteed me on his name as a Parr that  
10 Hilda Parr would withdraw from the school board  
11 race if my father, D. C. Chapa, entered the  
12 race. He then waited until the last minute so  
13 nobody else could file, then told me he was not  
14 going to ask Hilda to withdraw. He broke his  
15 word,' Carrillo said.

16 Indications of the pending split have been  
17 apparent for several days but the judge's announce-  
18 ment was the first official confirmation.

19 Contacted by telephone Tuesday evening,  
20 County Commissioner Ramiro Carrillo said he has  
21 joined his two brothers in the split. 'I'm  
22 going with my daddy, D. C. Chapa,' he said.  
23 Chapa is a candidate in the Benavides school  
24 board race who is opposed by two known Parr  
25 candidates. 'This makes it the whole family



1 now,' the commissioner announced, referring  
2 to the split with the Parr factions of the  
3 Old Party.

4 Last year both Ramiro Carrillo and O. P.  
5 Carrillo at least visibly, supported Parr and  
6 his candidates in the Benavides school board  
7 elections and city elections.

8 No reason has been presented for Parr's  
9 actions which some say are unlike him. One  
10 Carrillo brother said Parr was 'personally very  
11 hurt,' when one of his candidates in the school  
12 board and city elections was defeated.

13 Candidates for the two seats available on  
14 the board this year are incumbent Rogelio  
15 Guajardo, nephew to Oscar, O. P., and Ramiro  
16 Carrillo; D. C. Chapa, father of the three  
17 brothers and Guajardo's grandfather; Mrs. Hilda  
18 Parr, widow of the late Atlee Parr, brother to  
19 George Parr; Ruben Chapa, owner of a service  
20 station and Mrs. Parr's running mate; O. G.  
21 Barton; and C. R. Cuellar.

22 Incumbent David Carrillo withdrew from  
23 the race last week."

24 Mr. Bercaw, in connection with this race which took  
25 place in the month of April, would you please inform this

1 Committee who were the winners of that political race?

2 A Yes, sir. Mrs. Hilda Parr and Mr. Ruben  
3 Chapa were the winners of that race.

4 Q Mr. Bercaw, from the date of March 19th, 1975,  
5 what has transpired with relation to the Benavides  
6 Independent School District which brings it to its  
7 present position where we—or the present point in  
8 history—where we now have two, one school district  
9 appointed by the Judge—not school district; one school  
10 board appointed by the Judge—and the other one constituted  
11 of elected members. Could you give us some history to  
12 the Committee?

13 A May it please the Court, I'm going to introduce  
14 some stuff that will have a xerox copy of that in it, in  
15 a few minutes, Mr. Chairman.

16 CHAIRMAN HALE: That will be fine.

17 Let the record reflect that the "Corpus  
18 Christi Caller" is one of the outstanding daily  
19 newspapers in Texas.

20 MR. : I'm sure, Mr. Chairman, as  
21 it's in your home district.

22 (Brief recess.)

23 CHAIRMAN HALE: The Committee will come  
24 back to order.

25 Mr. Canales, you may proceed.

1 MR. CANALES: Mr. Chairman, I would  
2 offer for the Committee or introduce into evidence this  
3 Motion for Disqualification, the second supplemental  
4 Motion for Disqualification, the Order on Motion for  
5 Disqualification, and the accompanying Brief of the  
6 defendants in this particular matter. I believe these  
7 are all certified copies.

8 CHAIRMAN HALE: Fine. Hand them to the  
9 Court Reporter and let him mark them as exhibits.

10 (The documents referred to were  
11 marked "1," through "4," for  
12 identification.)

13 MR. CANALES: I would also submit the  
14 Supreme Court of Texas Code of Judicial Conduct,  
15 effective September 1st, 1974, amended to September 24th,  
16 1974.

17 (The code referred to was marked  
18 "Exhibit 5," for  
19 identification.)

20 Q Mr. Bercaw, after having read this newspaper  
21 article of the "Corpus Christi Caller," I would ask you  
22 to relate the incidents that occurred subsequent to  
23 this press announcement by Judge Carrillo in relation to  
24 the Benavides School Board wherein this election had  
25 just transpired.

A Well, this has just transpired. The school  
election, I believe, was April the 6th, 1975, or the 5th,

1 I don't remember. It was the first Saturday in April.

2 On March 19, 1975, I was on the Board. Mr.  
3 Al Schuenemann, Mr. Joe—you have in your folders,  
4 gentlemen, if you can find them, a slip that we prepared  
5 and put with this, if you find it in your folder. Mr.  
6 Canales gave me a copy of it and I have it here before  
7 me. I don't see any sense in wasting the Committee's  
8 time reading who was on the Board. But it is kind of  
9 mixed up.

10 As you can see, on the 19th who was on the  
11 Board the day the article was written in the "Caller,"  
12 and on the 20th four cases were filed, one against me,  
13 one against Joe Garcia, one against Luis Elizondo, one  
14 against Enrique Garcia. And I have here certified  
15 copies of all four of the cases and all matters relating  
16 to me to date.

17 MR. CANALES: Mr. Chairman, I would submit  
18 these in evidence for the Committee.

19 CHAIRMAN HALE: Let the Court Reporter  
20 mark them as exhibits.

21 (The documents referred to were marked  
22 "Exhibits 6," through 9," for  
identification.)

23 MR. CANALES: Mr. Chairman, I would like  
24 to read the style of the case. It is the State of Texas  
25 on the Relation of Jose R. Nichols, this particular

1 cause number, 8884, vs. M. K. Bercaw.

2 Q Mr. Bercaw, before you proceed would you  
3 please tell me if you know Jose R. Nichols?

4 A Yes, sir, I do.

5 Q With who is Mr. Jose R. Nichols employed?

6 A He is employed by the Duval County Ranch  
7 Company.

8 Q Who owns the Duval County Ranch Company,  
9 Mr. Bercaw?

10 A Clinton Manges owns the stock of the Duval  
11 County Ranch Company.

12 Q Were all of these causes filed by Mr. Jose R.  
13 Nichols?

14 A Yes, sir.

15 Q Thank you. Would you please continue then  
16 with your statement to the Committee.

17 A On March 21st, the State of Texas, on relation  
18 of Ricardo H. Garcia, County Attorney, removed the  
19 remaining school board members. On March 24th— I have  
20 a certified copy which I'll give to you in a moment—  
21 Judge Carrillo on the docket sheet disqualified himself  
22 as to David H. Carrillo and Rogelio Carrillo.

23 Q Is that Rogelio Carrillo or Rogelio Guajardo?

24 A Excuse me, I'm sorry. Rogelio Guajardo, and  
25 removed Alfred Schuenemann. This is all in one case, this

1 case. He severed these two out—they are his nephews—  
2 and under a temporary order of removal for Mr.  
3 Schuenemann he appointed a trustee, Mr. Cosas.

4 Q Mr. Bercaw, may I interrupt you briefly on  
5 this particular question. You say that four or five  
6 were initially removed from the school board.

7 A Four were removed on the 20th by the relation  
8 of Mr. Jose R. Nichols and Mr. Arnulfo Guerra who is  
9 the District Attorney.

10 Q That was one day after Judge Carrillo said he  
11 was splitting with the Old Party?

12 A Yes, sir.

13 Q Now let me ask you, the other two—the other  
14 three individuals that were left? There were seven on  
15 the Board at that time?

16 A Yes, sir. The School Board at that time was  
17 composed of seven members.

18 Q Would you please tell this Committee what  
19 their names were again, please?

20 A Alfred Schuenemann— Al Schuenemann, as they  
21 have it here— David H. Carrillo.

22 Q Is he any relation to Judge O. P. Carrillo?

23 A He's his nephew. And Rogelio Guajardo.

24 Q Is he any relation to Judge O. P. Carrillo?

25 A He is his nephew.

1 Q What happened when the County Attorney, Mr.  
2 Ricardo Garcia—

3 A As I stated, under the docket notation, he  
4 disqualified himself as to David H. Carrillo and  
5 Rogelio Guajardo, severed Mr. Schuenemann and disqualified  
6 him.

7 Q And left only his two nephews on the School  
8 Board?

9 A Yes, sir.

10 Q I would like to ask you, Mr. Bercaw, are you  
11 familiar with the Cannon of Ethics for Judges somewhat?

12 A Somewhat. Yes, sir.

13 Q Are you familiar with the fact that when a  
14 case is filed and the judge has any interest in the  
15 case at all he is supposed to take no other action other  
16 than to spread the cause on the minutes?

17 A Now you've got me in something that I am not  
18 that familiar with, Mr. Canales.

19 Q However, Judge Carrillo did sever the case  
20 and tried only Mr. Schuenemann and didn't try the case  
21 as to his two nephews?

22 A This was not a trial.

23 Q Well, in the relation.

24 A Yes.

25 Q Would you please continue with your statement.

1           A     Then you can follow the appointments to a  
2 point by this sheet.

3                     However, if you will notice by the sheet  
4 that on March 31, Judge Carrillo appointed J. R. Cosas  
5 to take Mr. Schuenemann's place temporarily, and Mr.  
6 Cosas resigned. And on April the 8th, Mr. Garcia filed  
7 a nonsuit in that case. I believe it is all here in the  
8 record, and this is a certified record of the—

9           Q     Now, Mr. Garcia, is the County Attorney?

10          A     He is the County Attorney.

11          Q     He took nonsuit against whom?

12          A     Against the whole case.

13          Q     Which was against the two Carrillo nephews and  
14 Mr.—

15          A     The two nephews and Mr. Schuenemann.

16          Q     —Schuenemann. The County Attorney took a  
17 nonsuit?

18          A     He filed a nonsuit on April the 8th.

19          Q     When did the Judge remove him? Subsequent to  
20 the nonsuit or prior to the nonsuit?

21          A     He appointed Mr. Cosas on March the 31st and  
22 Mr. Cosas subsequently resigned and then Mr. Garcia  
23 filed a nonsuit on the 8th.

24          Q     Mr. Bercaw, at best, I'm confused.

25          A     Yes, I'm sure.



1 Q It is a very confusing matter when you end up  
2 with two school boards.

3 Who are the members that were appointed, Mr.  
4 Bercaw, in the original removal of four members?

5 A Mr. Morris Ashby was appointed to replace me.

6 Q Would you tell me who or what is the  
7 occupation of Mr. Morris Ashby?

8 A Mr. Morris Ashby is the Executive Vice  
9 President of the Duval County Ranch Company.

10 Q Who owns the Duval County Ranch Company?

11 A Mr. Clinton Manges.

12 Q Who else was replaced and who replaced them  
13 in this particular proceeding?

14 A Mr. Leonel Garza replaced Joe Garcia.

15 Q Is he any relation to Mr. Manges?

16 A No, sir.

17 Q No business contacts?

18 A No, sir.

19 Q Who else was replaced?

20 A Mr. Bill Ham was appointed to replace Mr.  
21 Luis Elizondo.

22 Q What happened to Mr. Ham when he was appointed?

23 A Mr. Ham qualified and was subsequently by orders  
24 as shown in the Elizondo case—Mr. McMichael was  
25 appointed to replace him.

1 Q Now, wait a minute. Mr. Ham was appointed  
2 and then removed?

3 A Well—

4 Q Resigned, or what did he do?

5 A As far as I know he qualified by making bond.  
6 It will reflect in the record. And in the meantime—and  
7 I think this was all on the 25th, as the record will  
8 reflect—Mr. Ham qualified, Judge Carrillo appointed  
9 E. V. McMichael to take his place, and E. V. McMichael  
10 resigned, and Judge Carrillo on the 31st of March  
11 appointed Santiago Garcia to take his place.

12 Q Why were all of these people resigning as soon  
13 as they were appointed, Mr. Bercaw?

14 A Well, I have another newspaper clipping, Mr.  
15 Canales, that may be of some—

16 Q Would you please give it to the Committee.

17 A This is the "Corpus Christi Caller," Tuesday,  
18 March 25th, 1975. There is an article by Mr. Spencer  
19 Pearson, a Staff Writer for the "Caller," and the  
20 article here quotes—firstly the headline says, "Newly  
21 appointed trustees deny that they're Carrillo backers,"  
22 and I quote from the paper:

23 "Although Ham said he is 'a George Parr  
24 man,' he added, 'If I go on the board it will  
25 be straight down the line for the kids and for

1 the school district. That's who I'm fighting  
2 for. When it comes to the kids, I'm for them  
3 and nobody else.'

4 Q What happened to Mr. Ham after he stated that  
5 he was a George Parr man?

6 A I'll let the record speak for itself, Mr.  
7 Canales. It's in the case.

8 Q Was he removed?

9 A The record speaks for itself.

10 Q Mr. Bercaw, who replaced the fourth member?

11 A Mr. Pete Kunter replaced Enrique Garcia.

12 Q Who replaced Mr. Schuenemann?

13 A This was this J. R. Casas, and then on April  
14 the 18th, Martin Alaniz. The record again will speak  
15 for itself. And on the 22nd, Mrs. Wilma Viegas was  
16 appointed, of April.

17 Q Mr. Bercaw, I would now like to call your  
18 attention to some other documentation which you have in  
19 your possession in regard to the Grand Jury Commissioners  
20 that were appointed by Judge O. P. Carrillo. Have you  
21 got any documentation in your possession dealing with  
22 that particular topic?

23 MR. CANALES: Mr. Chairman, I would like  
24 to get this newspaper for the Committee, if the Chair  
25 would agree, and have copies made.

1 CHAIRMAN HALE: That will be fine, if  
2 you will have copies made.

3 MR. CANALES: I would like to have it  
4 entered into the evidence, Mr. Chairman.

5 (The newspaper clipping referred  
6 to was marked "Exhibit 10,"  
7 for identification.)

8 CHAIRMAN HALE: Let the Chair suggest  
9 you might want to enter this first newspaper clipping  
10 in evidence, for whatever value it might have.

11 (The newspaper clipping referred  
12 to was marked "Exhibit 11,"  
13 for identification.)

14 Q Mr. Bercaw, would you now please relate to  
15 the Committee the appointments to the position of Grand  
16 Jury Commissioners. I believe that's the title that  
17 the people bear that select the grand jurors.

18 A Mr. Canales, I have here for the Jury  
19 Commissioner's Appointment on January 24, 1975,  
20 appointing five people as Commissioners.

21 Q Would you please read the name of the first  
22 Grand Jury Commissioner?

23 A Manuel Amaya, Jr., San Diego, Texas.

24 Q Would you tell me what is the occupation of  
25 Mr. Manuel Amaya, Jr.?

A Well—

CHAIRMAN HALE: How do you spell Amaya?

1 MR. CANALES: A-M-A-Y-A.

2 A I think you heard a moment ago some dis-  
3 cussion and in previous testimony that Mr. Manuel Amaya,  
4 Jr. right now is on one of the two boards of the Com-  
5 missioners.

6 Q He is one of the County Commissioners?

7 A Right.

8 Q Was he appointed?

9 A At this time, or this partacular date, or close  
10 to this date, I saw a letter in Mr. Manuel Amaya, Jr.'s  
11 handwriting where he addressed himself to the Duval  
12 County Water Reclamation and Conservation District  
13 stating that he represented the Duval County Ranch  
14 Company in some dealings that they were having with the  
15 Water District.

16 Q Mr. Amaya at that time represented the Duval  
17 County Ranch Company?

18 A According to his letter. Yes, sir.

19 Q Owned and operated by Mr. Clinton Manges?

20 A Yes, sir.

21 Q And Mr. Manuel Amaya is presently a County  
22 Commissioner appointed by County Judge, or purportedly  
23 County Judge, Dan Tobin, Jr.?

24 A Yes, sir.

25 Q Who appointed Dan Tobin, Jr.?

1 A I think Dan Tobin, Jr.—you mean in the  
2 present position that he is holding?

3 Q He is holding the present position of County  
4 Judge?

5 A Yes, sir.

6 Q Who appointed—

7 A Judge O. P. Carrillo.

8 Q Judge O. P. Carrillo appointed County Judge  
9 Dan Tobin, Jr., after having removed Archer Parr whom  
10 he had—

11 A That's my understanding. Yes, sir.

12 Q Then County Judge Dan Tobin appointed Manuel  
13 Amaya, an employee of the Duval County Ranch to the  
14 County Commissioner's position, which he vacated?

15 A Mr. Canales, let me say this: I think Mr.  
16 Amaya had other employment other than working for the  
17 Duval County Ranch Company at this time.

18 Q What other employment did Mr. Amaya have?

19 A Some governmental agency, I believe. I have  
20 known Mr. Manuel Amaya, Jr. for many years, but I do  
21 not know how he was actually employed. But in this  
22 particular letter he said he was representing the Duval  
23 County Ranch Company in the dealings with the Duval  
24 County Water and Reclamation District.

25 Q The next name on the list, Mr. Bercaw, is

1 Nicolas Garcia.

2 A Yes, sir, from Concepcion.

3 Q Is there any relation between Mr. Nicolas  
4 Garcia and Mr. Clinton Manges?

5 A Not that I know of.

6 Q The next name on the list is Ernesto Benavides.  
7 Is there any relation between Ernesto Benavides and Mr.  
8 Clinton Manges?

9 A Not that I know of.

10 Q The next name on the list is Mr. Roberto  
11 Elizondo of Benavides, Texas. Is there any relation  
12 between Mr. Roberto Elizondo and Mr. Clinton Manges?

13 A Mr. Roberto Elizondo is Judge O. P. Carrillo's  
14 Court Reporter.

15 Q The next name on the list is our familiar  
16 friend, Mr. Morris Ashby. Would you tell me what  
17 relationship he has and if he is the same one that was  
18 appointed to the school board and presently holds the  
19 position of President of the School Board that has been  
20 appointed by Judge O. P. Carrillo?

21 A Yes, sir. That's the same Morris Ashby. He is  
22 Executive Vice President of the Duval County Ranch  
23 Company.

24 Q Then you would say that assuming there are  
25 five members on this particular Grand Jury Commissioner—

1 this array of Grand Jury Commissioners, three of them  
2 have direct ties, assuming that the comments made by  
3 Judge Manges Smith in the case of Clinton Manges vs.  
4 Guerra, would you be of the opinion that there might be  
5 a direct tie between three members that are present  
6 here on this list?

7 A Yes, sir. You could assume this.

8 Q Mr. Bercaw, this may be an assumption, but on  
9 your part do you believe it to be true?

10 A Yes, sir.

11 Q Have you got certified copies of this Order  
12 Appointing Jury Commissioners?

13 A I have only a xerox copy which I would like to  
14 offer to the Court. The Commission can, of course make  
15 itself available a certified copy of it.

16 MR. CANALES: Would the Committee like a  
17 copy of this?

18 CHAIRMAN HALE: Put it in the record.

19 (The Order referred to  
20 was marked "Exhibit 12,"  
21 for identification.)

22 Q Mr. Bercaw, would you assume that should  
23 these three Grand Jury Commissioners have any relation  
24 or business ties or political ties that they might  
25 influence very significantly the members who were  
appointed in fact to the Grand Jury?



1           A     Well, I would assume they would appoint some-  
2     one, yes, sir, along those lines. That would be the  
3     normal reaction.

4           Q     Is it the function of the Grand Jury to  
5     investigate and to indict people on criminal offenses?

6           A     Yes, sir.

7           Q     Mr. Bercaw, have you any other comments that  
8     you would like to make to the Committee at this time?

9           A     I just have another xerox copy of the Grand  
10    Jury that was chosen, and the only observations I  
11    would make, that the number one man on this list and  
12    the number eleven man on this list both work for the  
13    Duval County Ranch Company, one of them being Mr. Jack  
14    Dameron and one of them Mr. Jose R. Nichols who was  
15    appointed Foreman of the Grand Jury.

16          Q     These are the people that are actually on the  
17    Grand Jury today?

18          A     Yes, sir. This is for the February term  
19    beginning February for six months.

20          Q     Is there any way to determine who was the one  
21    that selected these names to be—

22          A     I do not know.

23          Q     Have you any further comments?

24          A     That's all I have there.

25                   MR. CANALES: I will turn over Mr. Bercaw

1 for questioning by the Committee, Mr. Chairman.

2 CHAIRMAN HALE: Fine. Thank you very  
3 much.

4 QUESTIONS BY THE COMMITTEE  
5 BY CHAIRMAN HALE

6 Q Mr. Bercaw, for the record, if it got into the  
7 record, I missed it, what school district were you a  
8 member of the Board of Trustees of?

9 A Benavides Independent School District.

10 Q And all of the references in here to the  
11 school district in your testimony are to the Benavides  
12 Independent School District?

13 A Are with reference to the Benavides Independent  
14 School District. Yes, sir.

15 Q How long had you been a member of the Board  
16 of Trustees of the Benavides Independent School District?

17 A Nineteen years.

18 Q Is that an elective position?

19 A Yes, sir.

20 Q A six-year term?

21 A Three-year term.

22 Q Three-year term?

23 A Yes, sir.

24 Q You were elected every three years over a  
25 period of nineteen years?

1 A Yes, sir. I was just elected in '74 for a  
2 new three-year term. To clarify for the Committee,  
3 three from Freer run on a three-year term, then two from  
4 Benavides and two from Benavides. And that's how  
5 your seven members are elected for the three-year terms.

6 Q Is there an election every year then?

7 A Every year in April there is—the first  
8 Saturday in April—there is a school election. Yes, sir.

9 Q So that at the time of your removal you had  
10 about two years left of a three-year term, approximately?

11 A That's correct, sir.

12 Q That removal was by an order signed in the  
13 law suit that you stated was filed, State ex rel.

14 Nichols vs. Bercaw?

15 A Yes, sir.

16 Q Was an order entered by the court in that  
17 removing you as school trustee?

18 A Yes, sir.

19 Q Who signed that order?

20 A O. P. Carrillo.

21 Q What was the basis for the removal according  
22 to the lawsuit?

23 A Misconduct of the board members, naming the  
24 four of us in individual suits, for misconduct.

25 Q Was there any specification as to the nature of

1 the misconduct?

2 A Yes, sir. I think there were three.

3 Q Could you give us those, if you recall?

4 A Yes, sir. Destroying records—

5 Q Did you destroy any records?

6 A No, sir. —attorney's fees for—you heard  
7 testimony with regard to the IRS, and the Board was  
8 subpoenaed for various things, and the Board hired  
9 attorneys and the thing was that, I assume we weren't  
10 supposed to hire attorneys for the Board. Then  
11 something about the amounts of the attorney's fees.

12 Q Did the Board itself hire an attorney to  
13 represent the Board?

14 A Yes, sir.

15 Q You did not have an attorney representing the  
16 Board prior to that time?

17 A Well, we have had—Mr. Frank Lloyd through  
18 the years has represented us on a minimal basis of  
19 calling up and needing a letter or some advice. I do  
20 not practice law on the school board, Mr. Hale. I make  
21 it a very clear and concise effort not to do that.

22 Q That thought hadn't crossed my mind. I was  
23 wondering if the school board did not have an attorney  
24 of some type on a retainer or—

25 A I had discussed this subpoena with Mr. Frank

1 Lloyd and he recommended that the school board hire  
2 attorneys to represent them.

3 Q Who did you employ?

4 A We hired Mr. Charles Orr of Houston and Mr.  
5 Marvin Foster of San Diego.

6 Q And one of the complaints against you in the  
7 lawsuit was your action in employing these attorneys to  
8 represent the school board?

9 A Yes, sir.

10 Q And in your opinion was there any merit in  
11 the allegation contained in the petition with respect to  
12 the employment of attorneys?

13 A No, sir.

14 Q Was it your opinion that it was within the  
15 legal province of the school board to employ these  
16 attorneys?

17 A Yes, sir.

18 Q Were they paid an excessive fee, in your  
19 judgment?

20 A Well, Mr. Hale, I can only answer in this way:  
21 "No," because, you know, what's an excessive fee when  
22 you don't know where you're going?

23 Q I see. What was the third—

24 A You being an attorney and me being an attorney,  
25 you know, I don't set your fees when we deal together  
and you don't set mine. You know what I mean.

1 Q What was the third grounds of disqualification?

2 A That we had hired—the first superintendent  
3 had been indicted for income tax evasion. He had been  
4 our superintendent for a number of years and built a  
5 beautiful school system with teachers and facilities and  
6 everything, was well respected in the community. We had  
7 given him a contract as consultant, of course, based  
8 upon his return because he was given a one-year term for  
9 income tax evasion. He had tremendous abilities, tre-  
10 mendous knowledges and this sort of thing, and this was  
11 the third item, that we were supposed to be paying him  
12 while he was gone.

13 Q Did you pay him while he was gone?

14 A No, sir.

15 Q Was he imprisoned for one year? You said he  
16 was gone for one year.

17 A I just got a letter. He'll be out August the  
18 6th.

19 Q But during the time he was incarcerated, did  
20 you pay him any salary or any emoluments of any kind  
21 during that time?

22 A Our checks are issued on a—Mr. Powell resigned  
23 as superintendent and our checks are based in the  
24 computer, and two checks came out but were never  
25 delivered, out of that computer, and then it was cut off.

1 Q You mentioned the Freer school. Is the school  
2 at Freer a part of the Benavides Independent School  
3 District—

4 A Yes, sir.

5 Q —or is it an independent school district of  
6 its own?

7 A Yes, sir.

8 Q "Yes, sir" to what?

9 A Yes, sir, it is a part of the Benavides  
10 Independent School District.

11 Q Were the other three trustees that were  
12 removed at the time you were removed, removed for the  
13 same three causes?

14 A Yes, sir.

15 Q Was there a hearing on that removal?

16 A No, sir.

17 Q Did you request a hearing?

18 A I think the record will speak, Mr. Chairman,  
19 of all of the things that we tried to do to get to court.  
20 I'm not going to presume to tell this Committee how to  
21 read the Vernon's Annotated Statutes of the State of  
22 Texas. But there are articles of removals and manners  
23 in which they are to be done, and I never considered  
24 myself off the board because the articles were not  
25 complied with.

1 Q I see. With respect to any of the four?

2 A That's right.

3 Q Do you still consider yourself a member of  
4 the Board of Trustees of the Benavides Independent  
5 School District from a legal standpoint?

6 A No, sir. No, sir. We pursued to get an  
7 immediate trial, requested it, requested a disinterested  
8 judge, pursued as much as we could, and on May the 9th  
9 Judge Carrillo just prior to this had set our four  
10 cases, based on the same allegations after refusing a  
11 Motion to Consolidate, from June the 9th through  
12 September the 29th. And on May the 9th, after consulta-  
13 tion with attorneys and the five of us, this other,  
14 Mr. Schuenemann, discussed this matter at great length  
15 the day before and for the benefit of the school system,  
16 the children, the administration, the teachers, the  
17 continuity, we felt the best thing for us to do was  
18 resign.

19 Q So the five of you tendered resignations?

20 A Only four have because Mr. Enrique Garcia  
21 was out of the county on business at the time.

22 Q And replacements were named to each of those  
23 positions by Judge Carrillo?

24 A No, sir. We resigned under the statutes of  
25 the Vernon's Annotated Civil Statutes to the duly elected



1 board members, and they in turn, under that statute,  
2 replaced us for the remaining term—not term, but for  
3 the next election of that statute.

4 Q Did four of you resign at the same time?

5 A Yes, sir.

6 Q That meant that the three remaining trustees  
7 named four to fill vacancies then?

8 A That's right, sir.

9 Q Those three being David H. Carrillo, Rogelio  
10 Guajardo and who was the third one?

11 A No, sir. The only people who were on the  
12 Board at the time of our resignation, if you can follow  
13 it back on the chart now, we're going to go to May 9,  
14 on the date of our resignation.

15 Q My chart doesn't go that far.

16 A All right. I know it doesn't, that's what I'm  
17 saying. I'm carrying you past your chart but if you'll  
18 go back to April 5 you'll see Hilda Parr and Ruben Chapa  
19 were elected, which removed any question about David H.  
20 Carrillo and Rogelio Guajardo. And since Enrique Garcia  
21 was still under the temporary suspension of Judge  
22 Carrillo, even though, as I say, we felt we were still  
23 board members. Mr. Hunter, if you take Judge Carrillo's  
24 order, was on the board. And these elected  
25 officials made the appointments of the new board members.

1 Q Are the members of the Board of Trustees of the  
2 Benavides Independent School District paid any compen-  
3 sation for their services on that board?

4 A No, sir.

5 Q Are there any emoluments accruing to members  
6 of that board by virtue of their service?

7 A No, sir.

8 Q During the time that you were on the Board of  
9 Trustees of the Benavides Independent School District  
10 did you transact any business with a business entity  
11 known as Farm and Ranch Store?

12 A If the bills were presented by the people  
13 who were authorized to purchase for the schools through  
14 the administrative process and the superintendents each  
15 board meeting would present us bills which we would  
16 approve.

17 Now, as far as the Benavides end of the school  
18 system is concerned, Farm and Ranch I'm sure is there.  
19 I just don't recall whether it is or not. To my real  
20 knowledge, I'm 24 miles away, and extremely busy, and  
21 trying to perform all our services, we let the adminis-  
22 trators, the principals and the superintendents operate  
23 the school systems in the sense that they were the  
24 purchasing agents for the school system. They would  
25 present the bills, we would approve them and pay them in

1 the ordinary course of business.

2 Q Were there any bills paid to the Zertuche  
3 General Store?

4 A I'm sure there were.

5 Q Do you know where the Zertuche General Store  
6 is located?

7 A No, sir.

8 Q Do you know where the Farm and Ranch Store  
9 is located?

10 A No, sir. Well, like you have, I have heard  
11 in the last two night sessions where these stores are  
12 located.

13 Q Did you know anything about either of these  
14 two entities prior to testimony before this committee?

15 A Yes, sir. I think you will find that on  
16 April the 7th I got a letter from the Comptroller of  
17 Public Accounts wherein I inquired as to who owned  
18 these entities.

19 Q In connection with the ouster suits on the  
20 members of the school board, what court were those law-  
21 suits filed in?

22 A Judge Carrillo's court.

23 Q The 229th District Court?

24 A Yes, sir.

25 Q Was any effort made by any of the defendants in

1 those cases to disqualify Judge Carrillo?

2 A There was a motion filed by our attorneys—  
3 again, the records are there—to disqualify him. We  
4 came to the Court of Civil Appeals of the Supreme  
5 Court for a speedy trial. We just wanted to be heard.  
6 As I say, then when it was ultimately done from June  
7 9th to September the 29th in order for the continuity of  
8 the school board we had no alternative but to get out of  
9 there.

10 Q What happened to the Motion to Disqualify Judge  
11 Carrillo? Was it ever acted upon?

12 A I don't know. We were represented by counsel.

13 CHAIRMAN HALE: I believe that's all I  
14 have.

15 Mr. Maloney?

16 BY MR. MALONEY

17 Q Mr. Bercaw, you're an attorney?

18 A Yes, sir.

19 Q You practice in Freer?

20 A Yes, sir. I have practiced in Freer a little  
21 over twenty years.

22 Q Do you have any other business interests at  
23 all?

24 A Oh, yes. You know how lawyers are, they  
25 dabble here and dabble there when they can. But I don't

1 have—right now I am on a board of directors of a  
2 company of which I have an option to purchase some  
3 stock, and that's the extent of my outside business  
4 activities right now.

5 Q Is that company in Freer?

6 A Yes, sir.

7 Q What is the nature of that business?

8 A It's a petrochemical electrical contracting  
9 company, with most of our business in Freeport, Texas,  
10 with Dow Chemical.

11 Q What is the name of this company?

12 A Industrial Electric Corporation.

13 Q Have you been in any other businesses since  
14 1970?

15 A Not since 1970, I don't believe, Mr. Maloney.  
16 No, sir. I was in the house building business a number  
17 of years ago with a builder, and my only dealings were  
18 to handle the financial, interim finance and paper  
19 closings and that sort of thing.

20 Q Well, I was noticing from the minutes of the  
21 School Board meetings that before the Judge was elected  
22 a Judge he was on the school board with you.

23 A Yes, sir. I went on the Board in '56, Mr.  
24 Maloney, and I believe Judge Carrillo came on the Board  
25 in '65, then resigned in '70. And to answer your

1 questions of the other night of the two resignations,  
2 I don't have the answer to that either.

3 Q I take it then that at no time while you were  
4 serving on the Board did O. P. Carrillo indicate to  
5 you that he had an interest in the Farm and Ranch Store  
6 in Benavides or in Zertuche's?

7 A No, sir.

8 Q And yet it looks like about weekly here you  
9 all were paying good sums of money to both.

10 A I don't know the businesses in Benavides.  
11 Of course, in some places all schools buy from the same  
12 spot because it's the only place you can get it. In  
13 other cases, all of us try to do business at home as  
14 best we can. These are little towns and they are small  
15 communities and you try to do your business at home.  
16 You ask me about Freer and I can tell you everybody  
17 and who owns and everything else. But when you go into  
18 Benavides there are many people that I don't know and  
19 don't know who owns these things.

20 Q Let me ask you this question: Had you known  
21 that Judge Carrillo had an interest in either one of  
22 these businesses, or both, would you have questioned  
23 these bills?

24 A You betcha. Let's put it this way. The minute  
25 I got knowledge of anything like that I think you can see

1 the certifications that I went after.

2 MR. MALONEY: Mr. Chairman, I'm wondering,  
3 since Mr. Bercaw was a member of the board at this  
4 time whether he could authenticate these records for  
5 us?

6 CHAIRMAN HALE: He might.

7 BY CHAIRMAN HALE

8 Q Mr. Bercaw, this book has been given to us for  
9 our examination and purportedly it represents photo-  
10 copies of possibly not all of the minutes, but at least  
11 some of the minutes of the Board of Trustees of the  
12 Benavides Independent School District beginning in 1970  
13 and going through 1973. I would ask if you could look  
14 at that and examine it and see if it purports to be  
15 actual photocopies of the original minutes?

16 A Now, I'm not going to be able to authenticate  
17 the dates because I don't remember, or what's in them.  
18 But now as to whether these look like they're our  
19 minutes, they look like it. There is no question about  
20 that very rapidly. This is the format we've used since  
21 I've been on the Board.

22 Q I realize you would probably have to have the  
23 original minutes and compare them side by side.

24 A Well, the original minutes would all be signed  
25 and I see some of these are not signed.

1 Q I noticed that myself.

2 A But all the original minutes would be signed,  
3 I'm sure.

4 Q Who signs the minutes of the school?

5 A The President signs the minutes after they  
6 are approved. At the next board meeting, they are approved  
7 from the previous meeting, and then signed by the  
8 President and the Secretary.

9 Q I see. Who would have been the President and  
10 who would have been the Secretary during the period of  
11 '70 to '73 that these minutes purportedly cover?

12 A Well, of course, as I'm looking here, Mr. D.  
13 C. Chapa was President, and Alfred Schuenemann was  
14 Secretary.

15 Q Is D. C. Chapa related to Judge Carrillo?

16 A He's his father.

17 BY MR. CANALES

18 Q Mr. Bercaw, do you recognize Mr. D. C. Chapa's  
19 signature on any of those minutes?

20 A I have no reason to doubt that they are not.  
21 I just can't say that I recognize his signature that  
22 well, but I would have no reason to believe that they  
23 are not. This looks like the format of the type of  
24 thing that we do in the ordinary course of the school  
25 business. Yes.



1 CHAIRMAN HALE: Could I see the book back?

2 A Yes. Judge Carrillo was President of the  
3 Board for a period of time, and then Mr. D. C. Chapa  
4 was President of the Board for a period of time.  
5 I was President of the Board for a period of time many  
6 years ago. I went back on as President, let's see now,  
7 last year.

8 MR. MALONEY: I believe you served without  
9 compensation on the school board?

10 A It's cost me a ton of money, Mr. Maloney.

11 MR. MALONEY: I know.

12 A Somebody has got to do it.

13 I want to tell you something, if it was a  
14 paying job, it would have to be an awfully doggone good  
15 one.

16 MR. CANALES: Mr. Chairman, if I can  
17 interrupt the Committee and if Mr. Mitchell is in  
18 agreement, I realize that the Committee would like to  
19 have the additional records which the auditor could  
20 supply us with. I would like to ask that he be  
21 permitted to go home to bring his records to us. Right  
22 now he is under subpoena and cannot leave the Committee  
23 unless he has permission.

24 CHAIRMAN HALE: Let's hold that in  
25 abeyance just a minute here.

1 BY CHAIRMAN HALE

2 Q Mr. Bercaw, let me ask you a question here.  
3 On October 19, 1970, there are minutes here bearing  
4 that date, showing a meeting of the Board of Trustees  
5 convened with the following members present: D. C.  
6 Chapa, President; M. K. Bercaw, Jr., Vice President;  
7 Al Schuenemann, Secretary; Enrique Garcia; O. P.  
8 Carrillo; and Luis Elizondo, Trustees; the following  
9 members absent: Jose R. Garcia.

10 One of the entries in that set of minutes  
11 reads like this:

12 "At this time M. K. Bercaw, Jr. read letter  
13 of resignation from O. P. Carrillo to the Board.  
14 Luis Elizondo made a motion to accept the  
15 resignation from O. P. Carrillo. The motion  
16 was seconded by Al Schuenemann. Vote carried  
17 unanimously."

18 Do you remember that?

19 A I remember the incident, yes, sir. This is  
20 what I was referring to a while ago.

21 Q Then the next entry reads:

22 "M. K. Bercaw, Jr. read letter of  
23 resignation to the Board from D. C. Chapa.  
24 Luis Elizondo made a motion to accept D. C.  
25 Chapa's resignation from the Board, seconded

1 by Enrique Garcia. The motion carried unanimously."

2 Do you recall that incident?

3 A I just remember the overall whole thing,  
4 Mr. Chairman.

5 Q Then it says:

6 "Luis Elizondo made a motion to appoint  
7 Rogelio Guajardo, Jr. in place of O. P.  
8 Carrillo as a board member for the Benavides  
9 Independent School District. It was seconded  
10 by Al Schuenemann. Mr. Luis Elizondo also  
11 made a motion to appoint D. C. Chapa as a  
12 board member of the Benavides Independent  
13 School District. It was seconded by Enrique  
14 Garcia. M. K. Bercaw, Jr., presiding, called  
15 for a vote on the motion."

16 It doesn't say what disposition was made.

17 Then: "Mr. Luis Elizondo made a motion  
18 to reorganize the board by appointing D. C.  
19 Chapa as President, M. K. Bercaw, Jr. as  
20 Vice President, Al Schuenemann as Secretary.

21 It was seconded by Enrique Garcia. The  
22 vote carried unanimously."

23 Do you remember all of those transactions?

24 A I don't remember the specifics. As I say, I  
25 remember the transactions. Yes, sir.

1 Q Could you explain to the Committee, please,  
2 why Mr. Chapa would resign and then at the same meeting  
3 be reappointed?

4 A The only explanation that I could possibly  
5 see from when you were asking this the other night, and  
6 I remembered the question in my mind at the time, is  
7 that Rogelio Guajardo, Jr. is D. C. Chapa's grandson  
8 and a nephew of O. P. Carrillo. Now, why this was  
9 necessary, I do not know. But it was done. I don't  
10 know of any significance, Mr. Hale.

11 Q The date of the minutes reflect it was done  
12 on October 19, 1970, is the date on the minutes.

13 A This is when Judge Carrillo resigned to run  
14 for the District Judgeship of the 229th.

15 Q How long had Mr. Carrillo been on the Board  
16 of Trustees of the Benavides Independent School District  
17 at that time?

18 A Oh, I've got in my mind 1965, but it could  
19 have been before that.

20 Q It was several years, though, prior to 1970?

21 A Oh, yes. He was on there several years as  
22 President and then Mr. Chapa came on. I don't remember  
23 who got off and who got on through the years, Mr. Hale,  
24 but then Mr. Chapa became President.

25 Q The records of the Secretary of State reflect  
that Mr. O. P. Carrillo was County Attorney of Duval

1 County from January 1, 1961 until January 30, 1970.

2 A I'm certain that's correct.

3 Q Then he served on the Board of Trustees of  
4 the Benavides Independent School District simultaneously  
5 with his service as County Attorney of Duval County?

6 A Yes, sir. I assume that to be correct.

7 CHAIRMAN HALE: Mr. Maloney?

8 MR. MALONEY: That's all I have. Thank  
9 you.

10 CHAIRMAN HALE: Fine. Mr. Slack?

11 (No response.)

12 CHAIRMAN HALE: He's gone.

13 Mr. Hendricks?

14 BY MR. HENDRICKS

15 Q Ken, let me say it's awfully good to see you  
16 after so many years.

17 A It's good to see you.

18 Q Do you have any knowledge of this Cadillac  
19 transaction?

20 A I have no knowledge of it other than what you  
21 heard. It's in that—the way this transcript reads,  
22 Judge Carrillo—now this is recalling from memory, having  
23 read Sunday in a hurried manner, trying to wade through  
24 and try to pick out this thing to see whether it was  
25 probative or not, because it had just been given to me.

1 Judge Carrillo was trading cars in, I believe,  
2 December of 1970, and I don't remember the date, but in  
3 doing so he—well, it's a confusing thing there too, and  
4 I don't question what was said, but it was a confusing  
5 thing. He was swapping a house and lot in Benavides for  
6 for the ten shares of stock and the Cadillac. I believe  
7 that's what it boiled down to in the testimony of the  
8 Statement of Facts.

9 CHAIRMAN HALE: Fine.

10 Mr. Nabers?

11 BY MR. NABERS

12 Q Mr. Bercaw, do you know whether or not it  
13 violates the constitutional laws of the State of Texas  
14 to serve as County Attorney and on the school board  
15 simultaneously?

16 A I think it does.

17 Q What about—

18 A I say this to you, I think that when you run for  
19 one you automatically resign from the other.

20 Q Yes, sir. That's my impression, too. Of  
21 course, I could be wrong. We'll find out.

22 As a licensed attorney to practice law before  
23 the Supreme Court I assume you also practice law in  
24 Judge Carrillo's court?

25 A Yes, sir, I do.

1 Q In your opinion as an attorney practicing and  
2 licensed to practice before the Supreme Court, what kind  
3 of judge is he?

4 A I have no complaints the way Judge Carrillo  
5 has treated me since he has been on the Bench.

6 Q As a judge?

7 A Yes, sir.

8 Q Except for this one instance whereby he removed  
9 you from the school board without a hearing?

10 A Well, of course, I assume if you're an  
11 attorney you just got your new bar card and we had a  
12 little note with our bar cards, you'll remember, and  
13 you've got to have continuity of judicial conduct. that's  
14 good. I don't like to be here.

15 Q Does Judge Carrillo office in the courthouse  
16 in San Diego?

17 A His main office is there. I think he has—you  
18 see, I don't practice in Starr County. I think I've  
19 been in the courthouse in Starr County one time, and  
20 that was on an uncontested matter and just went into the  
21 court room. And I don't believe I've been in Jim Hog  
22 County since Judge Cazan—that was taken out of his  
23 district, and I don't believe I've been—but I'm sure he  
24 has some type of office. But his main office is in the  
25 courthouse in San Diego, yes, sir, to answer your question.

1 Q To your knowledge, do you know whether or not  
2 he has practiced law in the years of 1971, '72 or '73?

3 A Judge Garrillo?

4 Q Yes, sir.

5 A No, sir. I don't think he has practiced any  
6 law—are you talking about since he's been on the Bench?

7 Q Yes, sir.

8 A No, sir. I don't think he's practiced any  
9 law since he's been on the Bench.

10 Q Then would you quarrel with the sworn state-  
11 ment signed by the Judge that he received income from  
12 the practice of law?

13 A Would I quarrel with it?

14 Q Yes, sir.

15 A No, sir. If he signed it I wouldn't quarrel  
16 with it.

17 Q But to your personal knowledge?

18 A I don't know of any practice he has done.  
19 No, sir.

20 Q Do you know whether or not that violates  
21 the Cannon of Ethics?

22 A You betcha.

23 MR. CANALES: Mr. Nabers, may I interrupt  
24 you momentarily?

25 MR. NABERS: Yes, sir.



1 MR. CANALES: I believe in that question  
2 that you were putting to Mr. Bercaw with relation to  
3 the legality of holding two public offices at the same  
4 time, I believe that that practice is in violation of  
5 Article 16, Section 40, and Section 65 as was set out  
6 in the case of Ramires vs. Flores, 505 Southwest 2nd, 406,  
7 Writ refused NRE.

8 MR. NABERS: Thank you.

9 Q Do you know of any incidents where county  
10 property has been used on Judge Carrillo's ranch?

11 A Of my own knowledge, no, sir.

12 Q Do you know of any county funds being expended  
13 through the Farm and Ranch Store or the Zertuche Store?

14 A I have represented the county and have been  
15 right-of-way agent for many years and things of this  
16 type. I know nothing about the actions or the workings  
17 of the Commissioners Court, you know, if that is the  
18 question you asked me.

19 MR. NABERS: Thank you.

20 CHAIRMAN HALE: Mr. Kaster?

21 BY MR. KASTER

22 Q Mr. Bercaw, it is my understanding that you  
23 and the others were removed from office with an order that  
24 alleged—

25 A Misconduct. Yes, sir.

1 Q —destroying records and misconduct. These  
2 were specifications for the misconduct. Then you all  
3 asked for a hearing on this matter?

4 A We pursued it pretty heavily.

5 Q At the time the order was made to remove you,  
6 was there another order appointing your replacements at  
7 the same time?

8 A The first time, Mr. Kaster, that I saw any  
9 kind of order that I got in my lily white hands, so to  
10 speak, was in the Court of Civil Appeals when we went  
11 there.

12 Q So you were seeking—

13 A The day I was served, I was served by Ranger  
14 Powell, I had already had advance warning several days  
15 before this was going to happen, and I quizzed him because  
16 there was no order. And I'm not sitting here trying to  
17 tell this Committee what the statute provides in regard  
18 to the removal of an elected official, but all I had  
19 was a normal civil service citation on or before the  
20 first Monday after the expiration of twenty days.

21 Q Which is in effect sort of an indictment.

22 A Well, that is exactly what it was. It just  
23 says, "You're bad, and we're not going to set the time  
24 like it's supposed to be and we'll have a hearing on this  
25 thing."

1 Q Until you have a hearing, though, it's just  
2 an indictment until it's finally disposed of. Is that  
3 correct?

4 A Right.

5 Q So that you were removed based on this indict-  
6 ment. I would assume that you and the others were  
7 elected to fill your terms, including Carrillo and  
8 Guajardo?

9 A Yes, sir.

10 Q Were those two terms up when Parr and Chapa  
11 were—

12 A Their terms were up then.

13 Q Your others were still running?

14 A Yes, sir. We were still on the Board.

15 Q Those two were the only two that were up that  
16 year?

17 A Yes, sir.

18 Q Now, currently on the Board, as I read this  
19 chart, is Mr. Ashby, Viegas, Oliveria, Garcia, Pete  
20 Hunter, Parr and Chapa. Is that correct?

21 A No, sir. We've got two boards.

22 Q Okay. All right.

23 A We resigned—and I have here—well—

24 Q Okay. That's not the Board and that's not what  
25 I'm trying to get at.

1 A All right.

2 Q Those who were on there in March the 19th  
3 were removed by indictment. Now, I notice that there  
4 is an indictment and I see the date of March 28th  
5 against Judge Carrillo, which is a Federal indictment,  
6 which took place somewhere during all this on the school  
7 board. Did you all become aware of that indictment of  
8 Judge Carrillo or was that earlier or later, or do you  
9 know? The Federal indictment.

10 A March the 28th? Is it dated?

11 Q Filed March 28th.

12 A Let's put it this way, this indictment, I  
13 don't—now I'm recalling from memory and I don't recall,  
14 but that indictment was—oh, yes, I remember now. It  
15 was a sealed indictment.

16 CHAIRMAN HALE: It was a sealed indictment.

17 A And held over until after the school board  
18 election.

19 Q After April the 5th?

20 A After April the 5th. That's right.

21 Q Then when was it made public?

22 A I don't have any idea.

23 Q Was it soon after April the 5th?

24 A I would assume so. Yes, sir.

25 Q Well, it—

1 A You know, I'm kind of like Will Rogers, all  
2 I really know sometimes is what I read in the paper.

3 Q Yes. It disturbs me that somebody is removed  
4 on the basis of an indictment without a hearing, because  
5 if you follow that logic to conclusion we should do  
6 the same thing because this man is indicted.

7 A I'm not going to comment.

8 Q Well, I mean I'll have to resolve of that  
9 in my own mind.

10 A I'll take that, Mr. Kaster, if you ask me a  
11 direct question.

12 Q No. Just thinking out loud.

13 Thank you.

14 CHAIRMAN HALE: Mr. Kaster, you kept  
15 making reference to an indictment. Were you or the other  
16 members of the school board indicted?

17 A No, sir. We were suspended.

18 Q I'm referring to this—

19 CHAIRMAN HALE: Do you mean this civil  
20 suit that was filed, the removal suit?

21 A Yes. It's a civil suit in the form of a—it's  
22 a removal.

23 CHAIRMAN HALE: A removal action. Quo  
24 warranto.

25 A Right. It's a quo warranto action, Mr. Hale.

1 Q I'm not an attorney and, to me, when I get a  
2 piece of paper and somebody is accusing me of something,  
3 it's—

4 A It's a public indictment. It may not be a  
5 criminal indictment but it's a public indictment.

6 Q If I get something from a judge I'm going to  
7 worry about.

8 CHAIRMAN HALE: I simply interrupted to  
9 clarify the record that it was not an indictment  
10 involved in connection with—

11 A It's a civil indictment.

12 CHAIRMAN HALE: A civil law suit.

13 Q To me they're both allegations and the  
14 indictment is an allegation and this quo warranto is an  
15 allegation and until you have a hearing and it's finally  
16 decided they're allegations. I guess that's probably the  
17 more better term.

18 CHAIRMAN HALE: That's true. Do you have  
19 any further questions?

20 MR. KASTER: No.

21 CHAIRMAN HALE: Mr. Donaldson?

22 BY MR. DONALDSON

23 Q Mr. Bercaw, let me ask you first, Benavides  
24 Independent School District is—

25 A I'm sorry. You're a little garbled, Mr.

1 Donaldson.

2 Q I don't doubt that.

3 A At this time of the morning and all day and  
4 last night and before, I know.

5 Q How many school buildings are there in the  
6 Benavides Independent School District? Where do you  
7 live?

8 A I live in Freer.

9 Q Is there a school in Freer?

10 A There is a complete school system in both  
11 towns.

12 Q And they are both a part of the one school  
13 district?

14 A Yes, sir.

15 Q As I recall, we had some testimony earlier  
16 that part of the Board took care of one school and part  
17 of the Board took care of the other school.

18 A Mr. Donaldson, you're going to get confused  
19 again. This school board was created by the Legislature  
20 back in the early 30's when Freer was a boomtown, and  
21 Benavides was a prosperous ranching and farming community.  
22 And for a number of years— now I don't know how long;  
23 this is long before I moved there—the two boards never  
24 met. There were three from Freer and four from Benavides  
25 and they transacted their businesses and that was it.

1           And then in the 50's they started meeting  
2 together. But in truth and in fact and in the sense of  
3 the word Freer runs Freer and Benavides runs Benavides.

4           Q     But it's all one board of trustees?

5           A     But it's all in one district. All one board  
6 of trustees. In other words, when they recommended  
7 somebody or presented a bill we approved and they did  
8 the same thing for us.

9           Q     How did you decide who ran which one?

10          A     I didn't understand your question.

11          Q     How did you decide which members would run the  
12 Freer school and which ones would run the—

13          A     The three from Freer ran the Freer and the  
14 four from Benavides ran Benavides. I mean, you know,  
15 personnelwise all of the entire workings of the system.  
16 If you will notice, a school district technically can  
17 only have one superintendent. But you'll see where there  
18 are two superintendents.

19          Q     One for the Freer school and—what are the  
20 names of the schools?

21          A     Well, we call ours Freer Public School and  
22 Benavides calls theirs Benavides Schools.

23          Q     How does your tax collections work on that?

24          A     All in one district. We have two separate bank  
25 accounts for maintenance, we have two ledgers, two



1 journals. The only thing that's all together are  
2 salaries. I said you're going to get confused.

3 Q But you've got only one taxing authority,  
4 don't you?

5 A That's right.

6 Q How do they decide who gets how much money?

7 A Based on the ADA of the school systems. Just  
8 like the State does to the district itself. We're a  
9 budget balanced school.

10 Q They take the local ad valorem tax raised  
11 and apportion that on the basis of ADA?

12 A Right.

13 Q We're going to have trouble equalizing that one,  
14 aren't we?

15 A You betcha. It's been a workable system for  
16 forty something years, so in a sense of the word you  
17 can't really argue with it.

18 Q I suppose not.

19 What confuses me a little bit, we have bills  
20 that were paid to Farm and Ranch Supply and they were all  
21 billed out to Benavides Independent School District. I  
22 suppose there is no way to know whether that went to the  
23 Freer group or to the Benavides group.

24 A I think you can look through those bills and  
25 you will see the breakdown just like I'm telling you it

1 is. Freer bills and Benavides bills, Benavides cafeteria,  
2 Freer cafeteria, Benavides transportation, Freer  
3 transportation, Benavides vocation, Freer vocation.

4 Q Let me ask you one other quick question. I  
5 have never in my part of the country run onto this  
6 resignation and appointment of succeeding board members.  
7 Is there a statutory authority for appointment of  
8 removed school board members by the District Judge?

9 A The only authority that I know of is Article  
10 2318 of the Education Code, which states that the  
11 remaining school board members—

12 Q Shall appoint?

13 A —shall appoint.

14 Q The successors of those removed or otherwise  
15 vacated?

16 A It doesn't say anything about removal. Who  
17 have resigned.

18 Q Well, if the office is vacated.

19 A Who have resigned.

20 Q Okay. So that section relates only to  
21 resignations.

22 A Right.

23 Q And to your knowledge you don't know of any  
24 other statute which specifically authorizes the District  
25 Judge?

1 A That's a removal statute that we're talking  
2 about.

3 Q Does the removal statute provide that the  
4 District Judge will appoint someone to serve pending  
5 the termination of the removal?

6 A Pending hearing.

7 Q Pending hearing?

8 A Pending hearing. And he shall set a time  
9 and place to be heard on the citation.

10 Q On the citation? What did the citation  
11 provide?

12 A Are you an attorney, Mr. Donaldson?

13 Q Used to be.

14 A I had a simple, civil service, "On or before  
15 the expiration of twenty days."

16 Q File an answer.

17 A That's right.

18 Q And it didn't provide a place, date, time for  
19 hearing?

20 A No, sir.

21 Q But one was subsequently set. Right?

22 A They were ultimately set for, like I said a  
23 while ago, from June 9th through September the 29th, and  
24 we felt like that you can't—

25 Q So then what you're telling me then is that upon

1 filing of the papers for removal, then the judge was  
2 acting within statutory authority—

3 A To appoint.

4 Q —to appoint someone—

5 A To appoint. Yes.

6 Q —pending a final determination or a hearing,  
7 which prior to the time that that hearing took place  
8 you resigned. Is that correct?

9 A That's right. What I'm saying is that we made  
10 a moot question out of the case, to clear the air.  
11 Tried to clear the air anyhow. We didn't do it but we  
12 tried to.

13 Q What prompted you to inquire of the Comptroller  
14 as to the ownership or retail sales permit for Zertuche  
15 and Farm and Ranch Supply?

16 A When this removal suit came up and I'm  
17 charged with destruction of records, which I knew  
18 nothing about, I inquired, and there was also a hearing  
19 in the court in the 229th.

20 Q That's what I don't quite understand. From  
21 your earlier testimony you have indicated you didn't  
22 know anything about Farm and Ranch or Zertuche, and  
23 you can't even recall specific bills but you knew that  
24 there were some that were probably paid by the school.

25 A If they were presented they were paid, I'm sure.

1 Q My question is, why did it occur to you that  
2 you should inquire as to who owned those businesses?

3 A That's what I was trying to answer your  
4 question on.

5 Q Okay.

6 A Then I start getting this feedback and, you  
7 know, rumors don't buy a thing. There's only one way to  
8 find out and that's to go to the source. And I went to  
9 the source.

10 Q All right.

11 MR. DONALDSON: Thank you.

12 CHAIRMAN HALE: Mr. Laney?

13 BY MR. LANEY

14 Q What type of record were you supposed to have  
15 destroyed? Was that named in the—

16 A I don't recall any specific records.  
17 Technically they were checks and, of course, the bank  
18 has the checks.

19 Q You were supposed to have destroyed—the  
20 Board members were supposed to have destroyed the checks?

21 A Right. Like I say, I didn't know this until  
22 some time in February that there had ever been anything  
23 destroyed. Whenever this Grand Jury started its  
24 investigation I was subpoenaed and, of course, I have  
25 no personal records of the school; they are kept in

1 Benavides. And when we got over there then that's when  
2 I discovered this, and of course then there was a  
3 hearing of— I believe in the newspaper there was  
4 something about checking the records. And I didn't  
5 know, you know. I just didn't know it. So then, as I  
6 say, I started getting all these rumors and feedbacks and  
7 stuff and the only way I could—like I told Mr. Donaldson,  
8 the only way I know to go about something is to go right  
9 straight at it.

10 Q Have you ever been in contact with anybody from  
11 the Attorney General's office concerning any matters  
12 down there?

13 A No, sir. I have been subpoenaed to the Grand  
14 Jury, but that was before the Attorney General came down  
15 there.

16 Q What about any discussion or any contact from  
17 the Judicial Qualifications Commission?

18 A Have I had any?

19 Q Right.

20 A Yes, sir.

21 MR. LANEY: I have no further questions.

22 CHAIRMAN HALE: Ms. Thompson?

23 BY MS. THOMPSON

24 A I want to know how much were the attorney's  
25 fees that you all paid to Attorney Orr?

1 A I don't know. I don't remember the breakdown,  
2 but the record's there. I think the total was \$60,000.

3 Q Where do you buy the supplies in Freer for  
4 the Freer schools?

5 A All over, you know.

6 Q Where do you buy your food, basically, for the  
7 schools?

8 A For the school system?

9 Q Yes.

10 A For the cafeteria? Is this what you're  
11 asking?

12 Q Yes.

13 A From various. You know, they'll supply—one  
14 store will supply for a while then another store will  
15 supply for a while. We spread it around the town.  
16 We're a small town.

17 Q Are these stores owned by any of your relatives?

18 A Pardon?

19 Q Are these stores owned by any of your relatives?

20 A I don't have a relative except a wife in Freer  
21 who does not work, a son who is going to A and M and a  
22 daughter who is married and lives in Houston.

23 Q How long did you retain Mr. Orr, the four of  
24 you, as your attorney?

25 A The four of us?

1 Q Yes. Or the five, whichever number—

2 A Are you talking about this money on this  
3 allegation?

4 Q Yes. For the \$60,000.

5 A The seven of us did it.

6 Q Seven. How long was that period of time?

7 A It was just to—for whatever was involved in  
8 the investigation. I and several of the people were  
9 under subpoena to the IRS.

10 Q Was it for one month, two months, three  
11 months?

12 A There was no specific time, Ms. Thompson. I'm  
13 sorry. It was just that we hired them to take and  
14 represent us at the advice of the attorney that we  
15 normally used, and he did not do this type practice.

16 Q How long did you say you had served on the school  
17 board?

18 A Nineteen years.

19 Q Nineteen years. And you never, out of the  
20 whole nineteen years, were ever concerned or interested  
21 in Zertuche and the Farm and Ranch Store? I mean that  
22 has never entered your mind?

23 A Whenever their bills were presented to the  
24 board at the regular meeting by the superintendents,  
25 which is the normal procedure and had been when I got on



1 the Board, and still is, we paid them.

2 MS. THOMPSON: Thank you.

3 A Ms. Thompson, may I say we're audited by a  
4 CPA and file our audits with the TEA like we're supposed  
5 to do.

6 CHAIRMAN HALE: Ms. Weddington?

7 BY MS. WEDDINGTON

8 Q I'm still trying to puzzle through D. C. Chapa  
9 resigning and then being reappointed. You were on the  
10 school board at that time. Can you look at those  
11 records and tell if D. C. Chapa perhaps resigned from a  
12 term that was about to end and was reappointed to one  
13 that had—

14 A I could not by just looking at that date, I'm  
15 sure, because I don't know. Now let me think. I might  
16 back up to it backwards. Okay. Give me just a minute  
17 and I may be able to answer your question. But he  
18 could only be appointed to the next election anyhow, you  
19 see, under the statute.

20 Q But the next election for one position might  
21 be two or more years.

22 A Right. Yes, this is true. Okay, let me see.  
23 Maybe I can figure it out for you, because when—do you  
24 want me to figure this for you, Ms. Weddington?

25 Q Could you figure that later and maybe give it

1 to the Committee?

2 A I'll try. Let's see, '74, David Carrillo had  
3 taken his grandfather's place on the board. That was  
4 in '74. He had to run so that was one year left on his  
5 return in '73. So that would be '73, '72, '71. So he  
6 would have had to run the next year, I assume. And I  
7 don't remember whether he did or he didn't. I don't  
8 remember.

9 Q Okay.

10 A But he would not have been able to run for  
11 any, you know, I mean he could not have been appointed  
12 for any longer period of time than what he would have  
13 run for, if I'm right in my figuring.

14 Q You don't have any other explanation to offer  
15 for that transaction?

16 A I have none.

17 Q When did you all hire the firm to represent  
18 the seven of the school board members? What month?

19 A In August of last year.

20 Q In August of '74?

21 A Yes, ma'am.

22 Q And at that time, what kind of contract was  
23 entered into for attorney's fees?

24 A No contract.

25 Q Was there any agreement as to the attorney's

1 fees?

2 A No, ma'am.

3 Q That is very unusual to hire an attorney  
4 without any kind of agreement as to fees.

5 A Let's put it this way. The Board felt that  
6 we needed representation.

7 Q Yes.

8 A Because we were being subpoenaed. And I might  
9 say it was an illegal subpoena, and Judge Renaldo Garza  
10 did throw it out, and then we had to go back. And we,  
11 at that particular time, didn't know what they were  
12 looking for or what they were after or anything else, and  
13 I didn't—that's just the best answer I can give you, is  
14 we didn't know where we were going.

15 Q Who negotiated on behalf of the school board  
16 with those attorneys for representation?

17 A I think we discussed it at that meeting that  
18 night who we would hire.

19 Q Who contacted the attorneys about it?

20 A I'm sure I did, because I was under subpoena.

21 Q But you were the person that talked to the  
22 attorneys about representing the Board?

23 A Right.

24 Q And you did not in any way discuss fees with  
25 them?

1 A No, ma'am.

2 Q You didn't discuss whether you would pay them  
3 an hourly fee?

4 A No, ma'am.

5 Q Or what that rate would be?

6 A No, ma'am.

7 Q Or what a contingent possible fee might be?

8 A We didn't go into—that's not the normal—

9 Q How did they bill you for their services?

10 A I didn't even know when they were paid. I  
11 never saw the bill until much time later.

12 Q Were bills regularly presented to the school  
13 board at their monthly meetings?

14 A Yes, ma'am.

15 Q Did you not look at the bills as they were  
16 presented?

17 A They were not presented in that manner.

18 Q How were they presented?

19 A As I recall, they were paid in the salary  
20 fund, as I found out later.

21 Q And the Board never looked at the salaries?  
22 If you were the person that contacted them did you not  
23 have to tell somebody what they were to be paid, or  
24 no one ever asked you what kind of salary arrangement?

25 A Nothing was said.

1 Q Who would have been the person that would have—

2 A Excuse me just a second. Pardon?

3 Q Who would have paid that out of that salary  
4 fund?

5 A I don't know who signed the check. I didn't  
6 sign it.

7 Q Who has authority to sign the checks?

8 A Well, the tax collector is one. You will find  
9 in the minutes the authority. The tax collector has  
10 to be on the check and then the superintendent in  
11 Benavides for Benavides and the superintendent in Freer  
12 for Freer, and one of the officers of the board.

13 Q How many of those people have to sign one check?

14 A Three.

15 Q Three of the four have to sign it?

16 A Well, in Freer, as Vice President I was an  
17 officer and Al Schuenemann was a secretary.

18 Q Yes.

19 A In Benavides Luis Elizondo was Vice President  
20 and Enrique Garcia was secretary.

21 Q Do three of the four people have to sign a  
22 check?

23 A Right. There has to be three signatures on  
24 each check.

25 Q Since you were the main one who was under

1 subpoena and were being represented, did you never  
2 inquire as to whether your attorneys were being paid?

3 A The only bills I recall paying through the  
4 normal course of bills were the expense bills. These  
5 were paid and I don't think the minutes reflect how  
6 much were paid.

7 Q And you never asked any of those people  
8 whether or not they were paying your attorney or whether  
9 they had gotten bills and you never asked the attorneys  
10 whether they had—

11 A Let's put it this way. Up until the time I  
12 discovered that they were paid and how much, we were  
13 still involved.

14 Q And when did you learn how much they had been  
15 paid?

16 A I don't recall, Ms. Waddington, exactly, but it  
17 was some time afterwards. And when I say "some time,"  
18 I'm talking about four or five months. Three or four  
19 months. Something like that. I just don't recall.  
20 Fact of the matter is, one of the Board members brought  
21 it to me, to my attention.

22 Q If you hired them in August then that would  
23 have been representation through—

24 A It was towards the latter part of the year  
25 because we had not heard any more from—at this particular

1 time. We hadn't heard anything more from the IRS or  
2 anything.

3 Q How did it come to the other board members'  
4 attention and they raised it with you?

5 A I have no idea.

6 Q What was the context of the conversation?

7 A I assume, you know, they discussed it because  
8 it was signed in Benavides and I assume they discussed  
9 it is how they found it out. I don't know.

10 Q How much time would you estimate those  
11 attorneys put into that case?

12 A Oh, gosh, I don't know. We made briefs, they  
13 made briefs. I visited with them. If you're trying to  
14 put it to an hourly basis type of thing, Mrs. Weddington,  
15 I can't do it. Of course, I'm not a lawyer who goes  
16 by the hourly basis. I just don't.

17 Q What basis do you go on?

18 A What I do for somebody. I've never charged a  
19 penny for just advice. I give more away than I--

20 Q And you didn't talk to them about some  
21 arrangement based on what they were doing for you?

22 A Afterwards I discussed the fact and they  
23 explained the fact that we didn't know where we were  
24 going or what we were going to do and what the procedures  
25 were going to be and everything else. They were just

1 attacking everybody and we were just trying to protect  
2 what was ours, you know.

3 Q Would you say that that transaction is  
4 characteristic of the business dealings of the Benavides  
5 Independent School Board?

6 A Well, in the manner in which this was done,  
7 yes. I'm going to tell you when that IRS goes to looking  
8 at you, you want to look back at them pretty hard.

9 Q I would say I would also want to know how much  
10 I'm paying to be looked back, though.

11 Have you ever represented any taxing  
12 authority in Duval County?

13 A Yes, ma'am.

14 Q Which ones?

15 A I have been delinquent tax collector for  
16 Duval County.

17 Q What about the school board?

18 A No, ma'am.

19 Q The Water District?

20 A No, ma'am. Well, of course, the Water District  
21 is in with—yes. The Tax Collector of Duval County  
22 collects everything except the school taxes.

23 Q So you represented Duval County as far as  
24 delinquent taxes were concerned.

25 A Yes, ma'am.



1 Q Did you represent them in any other legal  
2 context?

3 A Yes, ma'am. I have been right-of-way agent  
4 for them ever since I've been in Freer.

5 Q Any other context than those two?

6 A Dan Tobin, when he was County Judge, at the  
7 time hired me and retained me to buy right-of-way and  
8 deal with the State of Texas, and I have done it ever  
9 since I've been in Freer.

10 Q How long have you represented the county as  
11 far as their delinquent taxes were concerned?

12 A Off and on for a number of years. I don't  
13 remember the first contract and I was out for a while and  
14 back in.

15 Q How much would you estimate that your work on  
16 behalf of the county has generated in legal fees on  
17 the average each year that you have worked for them?

18 A Well, let's put it this way. I could tell you  
19 if I had my books here, but I don't recall offhand. It  
20 was good last year. We collected quite a bit.

21 Q How much was it last year then?

22 A Oh, somewhere near \$40,000.

23 Q In legal fees?

24 A Yes, ma'am.

25 Q Who decides who does the legal work for the

1 county?

2 A The Commissioners Court.

3 Q Have they changed attorneys recently?

4 A I discussed with them in December my contract  
5 runs from Commissioners Court to Commissioners Court,  
6 which is every two years, you know, to run. In  
7 December I discussed the contract with the Commissioners  
8 Court. In January I presented it and they executed it,  
9 and this month it was brought to my attention that it  
10 was not on the Commissioner's agenda and we're to  
11 discuss it on June the 9th.

12 Q So at this time your contract has not been  
13 continued?

14 A Well, I just— I consider it to be in effect.

15 Q Are you continuing to do their legal work?

16 A Yes, ma'am.

17 Q And they are continuing to refer it to you?

18 A Well, let's put it this way. Not in the last  
19 few days. I do many things. I'm in Freer. I'm the  
20 only lawyer. I do many things for this work that you're  
21 discussing about me working for Duval County.

22 Q Yes.

23 A One of the things that we're working on and  
24 have been working on for some time is under these new  
25 laws of sanitation. We have to have sanitary landfills

1 for the three large communities in the county. I have  
2 negotiated with some engineers and gotten estimates and  
3 stuff like this for them, and negotiated with land  
4 owners to—well, only on two land owners. You see,  
5 you've got so much requirement, and one of the problems  
6 in Freer is that we've got so many of those old oil  
7 wells and you can't get close to one of those things,  
8 you know.

9 Q Is your legal work in that connection in  
10 addition to that that you would earn as the delinquent  
11 tax attorney?

12 A Yes, ma'am.

13 Q So you earned \$40,000 last year in connection  
14 with your delinquent tax attorney work?

15 A Yes, ma'am.

16 Q How much additional fee did you earn from the  
17 county for other work done?

18 A I draw \$300 a month retainer from them for the  
19 rest of this other stuff.

20 Q In addition, if you have a particular item of  
21 business like those negotiating those transactions, are  
22 you paid in addition?

23 A I charge phone calls and stuff like that. I  
24 don't charge any expense for travel to San Diego and  
25 things of this type. It is just \$300 a month and then

1 whatever phone calls I have.

2 Q Are there other attorneys in Duval County?

3 A Yes, ma'am.

4 Q Approximately how many?

5 A Almost everybody is an elected official, so  
6 there is just— I think three of us that actually  
7 practice law.

8 Q Have you represented any other public entity  
9 in the county?

10 A I represent the Freer Water Control and  
11 Improvement District. Yes, ma'am.

12 Q How much do you earn from them?

13 A I draw \$50 a month retainer.

14 Q Plus other sums for special work?

15 A The only sums I drew is when I organized the  
16 fees for that type work were 3 per cent, so I split it  
17 with them, half civil and half legal.

18 MS. WEDDINGTON: Thank you, Mr. Chairman.

19 CHAIRMAN HALE: Mr. Chavez?

20 BY MR. CHAVEZ

21 Q Mr. Bercaw, you gave us a bunch of copies of  
22 this "Corpus Christi Caller." Do you know this fellow  
23 Spender Pearson personally?

24 A Yes, sir. He was here just a little while ago.

25 Q I know Mr. Hale places great trust in this

1 newspaper. Do you also place great trust in it?

2 A I don't disagree with the—the "Caller" is a—  
3 I take it every day. Of course, I take the "Alice Echo"  
4 too and the "Laredo Times."

5 Q Is Mr. Spencer Pearson a fairly reliable  
6 reporter?

7 A I think he is, Mr. Chavez. Yes, sir.

8 Q You wouldn't question too much what he says?

9 A Well, you know, newspapers like to sell  
10 newspapers now. Let's don't kid each other.

11 Q Well, but I mean, I'm asking you. I don't  
12 know this fellow. So I'm asking you, do you think he's  
13 a pretty good and reliable reporter?

14 A I think "Bones" is a pretty good boy. I really  
15 do.

16 Q Who was the tax collector over at the Benavides  
17 Independent School District?

18 A Mr. Couling.

19 Q Mr. Couling? The fellow that was here  
20 yesterday that took the fifth Amendment?

21 A Yes, sir.

22 Q In addition to being a tax collector, did he  
23 perform any other services for the district?

24 A No, not for the district.

25 Q He didn't act like the business manager for the—

1 A Oh, well, yes, in this sense of the word. He  
2 kept the books and this sort of thing there in the tax  
3 office, and this is the only central place that we've  
4 got in this unique district that we're living in.

5 Q You mentioned a while ago that if you had  
6 of known that Judge Carrillo might have had an interest  
7 in a store that might have done business with the school  
8 district that you might have--

9 A I would have questioned him about it, certainly.

10 Q You might have stopped that type of practice  
11 because he might have a conflict of interest?

12 A I think that is quite true.

13 Q Not necessarily just Judge Carrillo but  
14 anybody else?

15 A Let's put it this way. I don't think Judge  
16 Carrillo--well, I don't want to make it--let me answer it  
17 this way. I would have talked to Judge Carrillo about  
18 the situation had I have known it. Yes, sir.

19 Q And you would have done that with anybody else  
20 associated with the school district?

21 A Yes, sir.

22 Q Did the school district ever do business  
23 with the Benavides Implement and Hardware?

24 A According to the things I've heard, yes, sir.

25 Q Okay.

1 A Of course, as I found out since then, the only  
2 one that I used to remember what this was prior is the  
3 old Olivetti Implement Company. And that was one that I  
4 did know about.

5 Q You didn't know that Mr. Couling owned this  
6 Benavides Implement?

7 A No, sir. I sure didn't.

8 Q You worked with him closely there in the  
9 school district and you didn't know this?

10 A I knew him as tax collector and we discussed—  
11 well, for the years that I was not president of the  
12 board I didn't have the contact with him I've had in the  
13 last few—since I've gotten back as President of the  
14 Board.

15 Q Right. You gave us a whole bunch of newspaper  
16 clippings from the "Caller." I don't think you mentioned  
17 this one that came out today. It says, "Success in  
18 Duval: Use Implement charge card." It's a little  
19 story by Spencer Pearson.

20 A Yes, sir. I read that myself.

21 Q It has to do with Rodolfo M. Couling.

22 A I don't have it. I read it.

23 Q Okay. Well, I'll read portions of it for you  
24 for your benefit. It says,

25 "Rodolfo M. Couling was not a highly paid

1 executive when he was tax collector for the  
2 Benavides Independent School District, but  
3 the fringe benefits were good. The salary  
4 was \$1,035 a month; that he got lots of extras  
5 such as travel allowance, all gasoline he could  
6 use and tires for his car. Another fringe  
7 benefit was profits for his store, Benavides  
8 Implement and Hardware, which did a pretty  
9 good volume of business with the school  
10 district. On top of all of that, the tax  
11 records reflect that he didn't bother to collect  
12 taxes he owed the school district. Couling  
13 was a tax collector for several years, was  
14 fired by the court appointed school board in  
15 April. No reason was given for his dismissal  
16 but it occurred during an investigation into the  
17 school district financial records. Although his  
18 title was tax collector, he acted as business  
19 manager.

20 Couling ran into trouble with the school  
21 trustees when they asked to look at some  
22 canceled checks issued by the school district.  
23 He said that all checks issued prior to the  
24 current school year had been destroyed. He did  
25 not say how the checks were disposed of but they



1 could have been run through a paper shredder  
2 in the tax office store room. There were bits  
3 of checks in the shredder yesterday."

4 This is dated May 22nd.

5 "He also kept a miniature shredder behind  
6 his desk."

7 Did you know that?

8 A No, sir.

9 Q As a school trustee you didn't go to the—

10 A I've been in his office many times and I've  
11 never seen a miniature shredder. I wouldn't know what a  
12 miniature shredder looked like though, so I could have  
13 seen it and might not have known it.

14 Q All right. Now let me go on and skip a little  
15 bit here. It says:

16 "Couling's salary which was \$1,035 a  
17 month was really more than that. He did not  
18 have to contribute to his own retirement as  
19 most school employees do. The School District  
20 itself paid 6 per cent for him which amounted  
21 to \$62.10 monthly. The School District also  
22 paid the retirement contribution of Ross—"  
23 that's one of your superintendents. Right?

24 A Yes, sir.

25 Q —whose salary was \$2,096 a month. The

1 6 per cent contribution was \$125.76 a month.

2 Couling's salary in 1973 was \$835 a month.

3 He received a \$5,000 check on June 8, 1973,

4 which was marked 'Advanced salary.' The gross  
5 amount was \$5,500, and \$500 was deducted for  
6 income taxes."

7 Did you know about that?

8 A No, sir. I did not know about that until I  
9 read it in the paper.

10 Q You were on the school board at that time?

11 A Yes, sir.

12 Q And you didn't worry about—

13 A I didn't know this.

14 Q You all don't make a budget?

15 A Sure we make a budget.

16 Q You don't make an audit?

17 A Sure we make an audit.

18 Q And this wasn't brought to your attention?

19 A I just didn't know it. That's right. Again,  
20 Mr. Chavez, you've got to remember one thing. We're  
21 24 miles apart and I'm not there every day.

22 Q But you go to the school board meetings, don't  
23 you?

24 A Yes, sir. One in Benavides one month and one  
25 in Freer the next month. This never came to the Board's

1 attention.

2 Q Let me skip a little bit down further.

3 "Couling drove his own car and to use all  
4 the gas he signed for he must have driven all  
5 over the countryside daily. During 1973 he  
6 signed for 5,491.1 gallons of gas using a  
7 credit card assigned to the tax office.  
8 Assuming an average of 12 miles to the gallon  
9 he could have driven to Freer and back five  
10 times a day, five days a week, for 50 weeks  
11 and still had enough left over for a 3,000  
12 mile vacation trip."

13 A I assume his mathematics are correct.

14 Q "His credit card tickets often showed  
15 amounts of more than thirty gallons. They  
16 also showed purchases of different types,  
17 premium on one ticket and regular on the next."

18 Let me go on down.

19 "A December 1973 invoice from Oshman's  
20 Athletic Goods of Houston showed the purchase  
21 of two jump suits, two pairs of hunting pants,  
22 two ammunition belts, two pairs of insulated  
23 underwear, a radio, a stereo set and a cart  
24 all shipped to Benavides Tax Office care of  
25 R. M. Couling."

1 Do you know about that?

2 A No, sir.

3 Q "The Benavides Implement and Hardware,  
4 which Couling owns, did a land office business  
5 with the District, average better than \$2,500  
6 a month until 1974.

7 In 1973 Benavides Implement and Hardware  
8 received a total of \$30,583 for invoices  
9 listing all kinds of supplies, ranging from  
10 toilet tissue to lawn mowers. The District  
11 bought lawn mowers as if they were going out of  
12 style. Invoices for 1973 showed 25 lawn mowers  
13 sold to the District for three schools in  
14 Benavides."

15 Do you know about that?

16 A No, sir. I'm sure I approved the bill if it was  
17 presented, but I didn't see the invoice, if that's your  
18 question.

19 Q All right.

20 "The School District Tax Rolls indicate  
21 Couling didn't bother to pay his taxes, and  
22 as tax collector didn't bother to collect them.  
23 He was on the delinquent tax rolls for the  
24 years 1966 through '73, owing \$425.44 for these  
25 years, plus \$79.29 for the current year, which

1 was due last September. He also was on the  
2 delinquent rolls for the years 1953 to '64  
3 but a notation on the rolls states 'settled  
4 by Board on 9-15-64.'"

5 Do you remember that transaction?

6 A No, sir. You're asking me if I remember it.  
7 I'm not saying it's not so; I'm not saying it is. I just  
8 don't remember.

9 Q You're here obviously a little irritated about  
10 the fact that Judge Carrillo apparently signed an order  
11 removing you from office.

12 A Well, yes, sir, it's a little irritating, I  
13 have to admit.

14 Q Right. And you mentioned that some of the  
15 reasons that you all were dismissed was for destroying  
16 the records, paying those exorbitant attorneys fees  
17 and, as you mentioned, the basis for removal was  
18 misconduct.

19 Taking all these things, if all these things  
20 are true, and apparently Mr. Pearson I don't think would  
21 lie about these things, don't you think that there was  
22 some misconduct?

23 A Well, let me ask you this, Mr. Chavez: when  
24 you heard Mr. Couling taking the Fifth last night, I  
25 think that answered your question, didn't it?

1 Q You don't think you're responsible for this  
2 also?

3 A Well, let's put it this way, I didn't know  
4 about it, and if I'm responsible for something I didn't  
5 know anything about then I stand responsible then.

6 Q If these have taken place you don't think you  
7 ought to assume some responsibility?

8 A I'm not denying any responsibility.

9 Q And if these things were happening and you  
10 didn't know about it—

11 A That's what I'm saying.

12 Q —then you should—

13 A For whatever responsibility I stand up for I  
14 have to stand. I cannot run from it and I don't intend  
15 to run from it.

16 Q And you don't think this is the basis for  
17 removal from office?

18 A That wasn't what the basis was.

19 Q You mentioned what—well, something about  
20 destroying checks and stuff.

21 A May I make this statement to you, Mr. Chavez.

22 Q Make any statement you want to.

23 A Since you're quizzing me in this manner, I  
24 would like to make this statement to you. I did not  
25 know anything was destroyed until, like I say, some time

1 in February.

2 Q You didn't know anything about all these  
3 payments to Couling or Couling's place?

4 A I'm sure they were put on the bills and were  
5 approved by the bills. I don't question this.

6 Q All right.

7 A Mr. Couling testified, I understand— I was  
8 not present in court—that Mr. D. C. Chapa was the one  
9 that told him after the audit was approved by the TEA  
10 to go ahead and get rid of all this stuff out of the  
11 office. Now, I don't know that to be true. But that  
12 was testimony I understand in the court.

13 Q I take it that you did have some type of a  
14 hearing on the removal?

15 A No, sir.

16 Q It was a summary removal? Ex parte?

17 A Ex parte.

18 Q All right. The instruments that you received  
19 that they have a show cause order?

20 A No, sir. They had nothing but just a petition  
21 in a normal civil—are you an attorney?

22 Q Part time.

23 A —civil service citation, "on or before the  
24 first Monday after the expiration of twenty days." Period.  
25 It's in the record.

1 Q All right.

2 You did have your case eventually set for  
3 trial?

4 A Eventually after—

5 Q So the issues that were raised by this  
6 petition were never litigated?

7 A That's right. They were not.

8 Q Since they were not litigated either by Judge  
9 Carrillo or any other court, we don't know whether or  
10 not the allegations set out in that petition are true or  
11 not.

12 A That's exactly right. I tried to get it done  
13 through my attorneys all the way across the street, to  
14 get an immediate hearing.

15 Q Well, but your case did eventually get a  
16 setting, did it not?

17 A Yes, sir. The four of us from June the 9th  
18 to September the 29th.

19 Q Well, but you did get a setting.

20 A Oh, yes. Yes.

21 Q And you decided to dismiss.

22 A For those number of months and keep a school in  
23 turmoil? You can't do that and keep a good school.

24 Q Well, I've tried a case or two in my career and  
25 some times some cases take quite a bit of time.



1 A Right.

2 Q And I've seen some cases dismissed when you  
3 don't have either a good defense or you don't have a  
4 good case to start with.

5 A I wouldn't have tried so hard if I hadn't of  
6 wanted a hearing.

7 Q Why did you decide—

8 A Because of the length of time involved and the  
9 disruption of the school time, for the benefit—the TEA  
10 can write a letter of unaccreditation of the school.  
11 Right here in—dealing with accredited schools.

12 Q If you felt really that strong about it—

13 A I want to tell you it wasn't easy to decide  
14 to resign. I'll tell you that.

15 CHAIRMAN HALE: Let's try not to both of  
16 you all talk at the same time. It makes an impossible  
17 situation for the Court Reporter.

18 A I'm sorry, Mr. Hale. I was just trying to  
19 clarify.

20 Q If you felt that strong about it, why didn't  
21 you actually go ahead and go to trial? You paid these  
22 guys \$60,000 bucks.

23 A We're still paying them right now.

24 Q But you still didn't litigate it?

25 A No. I haven't litigated.

1 Q Now, you had an opportunity to litigate and it  
2 wasn't litigated, and now you and these others witnesses  
3 are coming here and asking us to in effect remove Judge  
4 Carrillo.

5 A I'm just giving you what stuff I had to offer  
6 you to show what I had. I'm not asking you to do any-  
7 thing. That's your job, Mr. Chavez.

8 Q Do you think he ought to be removed?

9 A Yes, sir.

10 Q On what basis?

11 A Mr. Chavez, I have here in my hands a case  
12 from the 229th in which Judge Carrillo sat on the Bench  
13 in a case where the Duval County Ranch Company filed a  
14 lawsuit against a number of oil companies, none of whom  
15 I represented—none of whom I represented.

16 Q When was that case filed?

17 A That case was filed— I don't recall the date,  
18 but let me read you something here: This is the Beaumont  
19 Court, and I do not have the citation because I just  
20 got this in my hands, but it is in the Advance Sheets,  
21 I'm sure. It was filed January the 23rd.

22 Q What year?

23 A 1975.

24 Q That's the Opinion of the Beaumont Court?

25 A This is the Opinion of the Beaumont Court.

1 Q All right.

2 A The case was for a temporary restraining  
3 order against the oil companies "from pumping, flowing  
4 or producing any petroleum or oil from leases located on  
5 the following sections of land in Duval County, Texas,  
6 from which the foresaid defendants have been producing  
7 petroleum and oil, to wit," and here follows the name of  
8 each individual oil companies. And they set it out in  
9 here, which I'll give it to you in just a minute.

10 Q Try to make it short. What is it specifically  
11 that the Court says that Judge Carrillo did wrong?

12 A Here is what I'll quote, on page 5 of this, a  
13 footnote 3—well, "The appeal—" and I'm quoting from  
14 page 4 at this moment.

15 "The appeal from the order granting the  
16 temporary injunction dated January 18, 1973,  
17 has been delayed because of the inability of  
18 the Court Reporter to prepare and file a  
19 Statement of Facts. It was not until June 14,  
20 1974 that the record was completed."

21 Footnote three.

22 "Delay over such a protracted period  
23 frustrates the administration of justice and must  
24 be eliminated. This is particularly true when  
25 the appeal is from an order granting a temporary

1 injunction. A 20-day appeal under the revised  
2 civil statutes, 4662, 1952—" and then it quotes some cases.

4 I would like to present that right here.

5 Q Well, are you saying that the judge specifically  
6 prevented the Court Reporter from preparing the  
7 transcript, the Statement of Facts, or whatever was  
8 needed?

9 A Who does the Court Reporter work for?

10 Q He works for the State of Texas, or the  
11 County. It depends on how—

12 A That's right. And under whom?

13 Q Is that what you're saying? Is that your  
14 accusation, that Judge Carrillo prevented this Court  
15 Reporter from preparing the necessary instruments?

16 A I could not say that Judge Carrillo prevented  
17 it. No, sir, I cannot say that.

18 Q You understand the severity of the proceedings.  
19 You understand what we're doing and it's pretty important.

20 A You bet.

21 Q You wouldn't want us to—

22 A Make a wrong decision.

23 Q You wouldn't want us to guess this man off the  
24 Bench, would you?

25 A No, sir.

1 Q Isn't that in fact what you're asking us—  
2 you've given us—let me finish my question. You're  
3 giving us this case showing that one instance in which  
4 the Court of Civil Appeals apparently got after somebody  
5 for not doing something expeditiously, and you're saying  
6 that that reflects back on the Judge himself? Is that  
7 what you're saying? The Opinion—the footnote, as far  
8 as you read it, didn't say anything about the Judge.

9 MR. CANALES: Mr. Chairman, I think I  
10 have a witness that is coming in who will testify. I  
11 told the Committee that I was going to go from the  
12 malfe—or the acts which we were discussing earlier into  
13 official misconduct and political oppression.

14 I have a witness who will be coming in and  
15 will testify, I anticipate, to the effect that the  
16 present Court Reporter— I believe his name is Roberto  
17 Elizondo—

18 A Yes, sir.

19 MR. CANALES: —was put through school on  
20 county pay checks similar to those claims that we have  
21 here at the instance of the County Commissioner, and  
22 the minute, or as soon as he finished Court Reporter  
23 School after drawing checks while he was not working  
24 for the county but away at school, the Court Reporter of  
25 that Court was summarily removed and then Mr. Roberto

1 Elizondo replaced him.

2           The man who— I don't know who approved the  
3 checks for the payment of these particular claims or  
4 whatever, but it is apparently either the Judge or his  
5 brother. And this man is the one that is presently  
6 serving as the Court Reporter in this particular  
7 instance.

8   (A document was marked  
9   "Exhibit 13,"  
10    for identification.)

11           Q     Mr. Bercaw, have you ever read any other  
12 court appellate decision by an Appellate Court, Supreme  
13 Court, Court of Criminal Appeals, Federal Courts, in  
14 which in some instances they have also made some comments  
15 about the way the judges have handled the cases?

16           A     Oh, yes.

17           Q     Do you think those judges ought to be  
18 disqualified, removed from office?

19           A     On this alone?

20           Q     Yes, sir.

21           A     No, sir.

22           Q     All right.

23           A     One other thing I might add, Mr. Chavez,  
24 since you have asked me about it, if you will remember  
25 what I have said and shown you here, there was filed  
on October 24, 1974, under the Reciprocal Act for Child

1 Custody, a case numbered 8841 on the docket of the 229th  
2 court, where Bernice Margaret Nichols filed for child  
3 custody against Mr. Joe R. Nichols.

4 MR. CANALES: Excuse me, Mr. Bercaw. Is  
5 that the same man that we were referring to earlier?

6 A This is the same man we were referring to a  
7 while ago. And you will note what has been placed on  
8 that record.

9 Q What is it that you are saying that the Judge  
10 did wrong there?

11 A Well, I would think child custody to a woman  
12 who had children under age would be an important matter  
13 that ought to be brought to the Court's attention and  
14 some action taken on it.

15 Q I haven't read the thing and I don't have  
16 time to read it now. That's why I'm asking you, what is  
17 it that—

18 A She is seeking child custody, I mean child  
19 support, excuse me. I don't mean custody; child  
20 support.

21 Q What is it that you say the Judge did wrong?

22 A Well, I think I would have acted on it.

23 MR. CANALES: Mr. Bercaw, I think he  
24 wants to know how long this matter has been pending in  
25 court without a—

1 A Since October of 1974.

2 Q And it hasn't been acted on?

3 A Passed February 3rd, 1975.

4 Q Does the docket reflect—

5 A There's the docket sheet right there and I  
6 think it's signed as of the 17th day of May, 1975.

7 Q Does it reflect who requested the case be  
8 passed?

9 A No, sir, it does not reflect it.

10 MR. CANALES: Would it be the District  
11 Attorney in this particular type of matter?

12 A I would assume it would be the District  
13 Attorney. I don't know. Under the Reciprocal Act I  
14 would have to assume it.

15 Q If there is a case there before the judge and  
16 the District Attorney comes up there, he's the movant  
17 and he says, "I want to pass this case," does the  
18 judge—

19 A No reflection of this. Normally Judge  
20 Carrillo reflected who wanted what passed, if it was  
21 asked to be passed.

22 Q Are you saying he passed it on his own motion?

23 A I assume so, knowing how Judge Carrillo used  
24 to handle his cases.

25 Q Do you have personal knowledge of his doing



1 that?

2 A He notes everything he does on the case.

3 Q Do you have personal knowledge of his doing  
4 that?

5 A No, sir, I do not.

6 Q All right. Do you have personal knowledge of  
7 any other improprieties that you might want to accuse  
8 him of?

9 A I don't think so at this time, Mr. Chavez.

10 Q Well, this might be the only time you have now.

11 A I might make one more statement.

12 Q Yes, sir. Go ahead.

13 A This is not pleasant to me.

14 Q Well, it's not pleasant for us to be raking  
15 the Judge over the coals or anybody else.

16 A I know it's not. This is a very serious,  
17 serious thing.

18 Q Yes, sir.

19 A And I don't like sitting here.

20 Q I could be home with my family too, you know.

21 A And I have already had to be out of my  
22 business quite a bit, too. But if I didn't think it  
23 was important I wouldn't be sitting here.

24 Q I'm sure that's true, Mr. Bercaw, and I don't  
25 argue with that.

(The docket sheet was  
marked "Exhibit 14,"  
for identification.)

1  
2  
3 Q Mr. Bercaw, the things, as I understand it,  
4 that you might want to show this Committee, things that  
5 the Committee might consider as matters that might be  
6 called impeachable offenses, is that he would not, or  
7 he was disqualified in that Manges-Guerra lawsuit; that  
8 the Beaumont Court of Civil Appeals made a reference  
9 about the record not being sent up there timely, and this  
10 other matter here that has not been acted on since  
11 October?

12 A Well, let me go one step further with you.

13 Q Yes, sir.

14 A There is definitely a connection, as has been  
15 shown, both in the disqualification of the Starr  
16 County case and in the actions that have been taken  
17 since, let's just say March 19, 1975, however, I knew  
18 of it before that, certainly show not an impartial  
19 judge sitting fair, impartially and unbiased on the  
20 Bench of the 229th District in Duval County.

21 Q All right. Now, you as an attorney would  
22 recognize that, wouldn't you?

23 A All I want is a fair and impartial judge.

24 Q Right. But I say you as an attorney would  
25 recognize that.

1 A Yes, sir.

2 Q Would that not be also true of the attorneys  
3 that were involved in that litigation? Wouldn't they  
4 recognize that also?

5 A I would assume so.

6 Q Would you consider that to be either mis-  
7 conduct in office or a violation of the Rules and  
8 Cannons of Ethics?

9 A I would answer you in this way, Mr. Chavez,  
10 that Judge Carrillo appointed a man who ran for the  
11 school board and lost very heavily to take my place,  
12 you know, and who was soundly defeated in the next  
13 school election, and who made a public statement of how  
14 he felt in the newspaper, which you have in front of you,  
15 and you have quoted it, and then makes these actions and  
16 then refuses to do what a normal judge trying to be fair  
17 and impartial to all litigants and all attorneys in a  
18 case. Add it up, Mr. Chavez.

19 Q Now, you know as an attorney, Mr. Bercaw, that  
20 no district judge acts without someone initiating some  
21 litigation, don't you?

22 A That's right.

23 Q Who initiated the litigation on you?

24 A Joe R. Nichols who works for Clinton Manges.

25 Q Is he an attorney?

1           A     No, sir. He's the foreman of the Grand Jury,  
2 chosen to be on the Grand Jury by Mr. Morris Ashby who  
3 took my place and also works for Mr. Clinton Manges.

4           Q     Maybe I misunderstood you. I thought you said  
5 you were served with a citation and a petition.

6           A     On the Relation of Joe R. Nichols.

7           Q     Who filed that for Mr. Nichols? Did he file  
8 it himself or did somebody—

9           A     No, certainly not. The District Attorney  
10 filed it.

11          Q     All right. So the District Attorney—

12          A     Is the attorney in the case.

13          Q     Do you think he might have made some investi-  
14 gation or something and listened to the complaint, or  
15 are you also accusing the District Attorney of some  
16 impropriety?

17          A     I'm not accusing the District Attorney of a  
18 thing.

19          Q     So the District Attorney initiated the  
20 petition, took it to the judge, apparently convinced the  
21 judge that this was the proper thing to do and the judge  
22 signed the order. Would that be a proper sequence of  
23 events?

24          A     May I ask you what order and how and in which  
25 manner it was done and how was, you know, was the law

1 complied with in doing so?

2 Q But my point is that the judge himself did not  
3 initiate this petition. He didn't file it himself and  
4 issue an order himself, did he?

5 A No, sir.

6 Q All right.

7 A while ago I asked you if this matter of the  
8 disqualification in that Manges-Guerra litigation, if  
9 you might consider that as a violation of the Rules and  
10 Cannons of Ethics? You answered me but you started off  
11 somewhere else. I would like for for you to try to  
12 answer that question for me.

13 A At the particular time this case was tried—  
14 again, as I say, this is new in my hands—we did not  
15 have the rules promulgated by the Supreme Court of the  
16 State of Texas which we now have in effect.

17 Q Well, we have always had Rules and Cannons of  
18 Ethics, haven't we?

19 A Well not in the manner in which we now have  
20 them. We only have them since the court put them in in—

21 Q Let me ask you this way then.

22 A You're an attorney. You know whenever we saw  
23 them come in.

24 Q Since I've been practicing law I thought that  
25 we had some Rules and Cannons of Ethics. Maybe I've been

1 wrong all this time. Have we or have we not had some  
2 Rules and Cannons of Ethics over the past, say, ten or  
3 fifteen years?

4 A Not judicial conduct.

5 Q Don't the Rules and Cannons of Ethics apply to  
6 all lawyers?

7 A Lawyers, yes. We have had them since we  
8 integrated the bar.

9 Q Right. Aren't the District Judges lawyers?

10 A Certainly.

11 Q You don't think that the Rules and Cannons of  
12 Ethics at that time affected them?

13 A I'm not going to prejudge or anything else  
14 about what transpired in Starr County in that case, Mr.  
15 Chevez.

16 Q Well, as I understand—

17 A I submitted that to you for what Judge Manges  
18 Smith found in that case, for whatever probative value  
19 it may be to this Committee. That's all I submitted it  
20 for.

21 Q You don't think that if that had been a  
22 serious breach of his duty that somebody might not have  
23 brought that to the attention of the Supreme Court or  
24 something like that to remove this man if he was not  
25 doing his job like he was supposed to?

1 A I think he was doing it. I've been told that  
2 he was doing it.

3 Q And the Supreme Court didn't agree?

4 A And there was no Supreme Court—it was taken  
5 to the Qualification Board at a later time.

6 Q You know that the statutes also provide another  
7 manner to remove District Judges besides impeachment?

8 A Through the Supreme Court. Yes, sir.

9 Q And no steps have been taken along that line?

10 A Not to my knowledge.

11 MR. CHAVEZ: Thank you very much.

12 A Yes, sir.

13 CHAIRMAN HALE: Are there any further  
14 questions?

15 MS. THOMPSON: I would like to ask a couple  
16 of them.

17 CHAIRMAN HALE: Ms. Thompson?

18 BY MS. THOMPSON

19 Q Sir, do you own any other property  
20 besides a homestead?

21 A I have three small rent houses in Freer and one  
22 small rent house in Houston and one small little old  
23 place up here on the river.

24 Q But you don't own any land just itself?

25 A No, ma'am.

1 MS. THOMPSON: Thank you.

2 A Do you mean ranch land and that sort of thing?

3 Q Yes, sir.

4 A No, ma'am.

5 CHAIRMAN HALE: Mr. Maloney?

6 BY MR. MALONEY

7 Q Mr. Bercaw, in your capacity as attorney for  
8 the county in the collection of delinquent taxes, did  
9 you ever have occasion to try to collect any delinquent  
10 taxes from Clinton Manges?

11 A Yes. I had several conversations with Mr.  
12 Manges in regard to the taxes and they were trying to  
13 get settled.

14 Q What was the result of that?

15 A They haven't been paid.

16 Q They still have not been paid? Can you tell us  
17 a little bit more about that?

18 A As of May 20, 1975, the Duval County Ranch  
19 Company owed Duval County, the Water District Vocational  
20 School \$308,757.65.

21 Q What period was that?

22 A That was unpaid in May.

23 Q What period does that cover?

24 A 1972, '73, '74.

25 Q What efforts have been paid to collect those



1 taxes?

2 A I made several visits to San Diego with Mr.  
3 Manges in regard to his taxes and try to get them cleared  
4 up.

5 Q Has a lawsuit been filed?

6 A No, sir, not yet.

7 Q Why not?

8 A Well, I think— I don't know, Mr. Maloney,  
9 obviously. The pure and simple reason is it was being  
10 discussed as of the other day when I found out my con-  
11 tract was not on the agenda.

12 Q How long has that suit been in your office?

13 A I didn't get your question.

14 Q How long has that lawsuit been in your office?  
15 When was it referred to you?

16 A Well, of course, as I say, there were some  
17 discussions with the Commissioners Court trying to  
18 settle the taxes over a period of time, and some time  
19 last month there were some discussions about probably  
20 the necessity of filing a suit over the taxes.

21 Q The taxes have been delinquent how long?

22 A Three years. And, as I say, I made several  
23 trips with Mr. Manges to try to settle his taxes.

24 Q What is the point in trying to settle the taxes?  
25 Why didn't you just file a lawsuit?

1 A Well, he's claiming damage to his surface,  
2 subsurface oils and this sort of thing. Of course, I  
3 have no authority to do this sort of thing. That is  
4 the Commissioners Court or the Board of Equalization  
5 does this sort of thing. I don't have anything to do  
6 with it. All I have is what's on the books. He paid a  
7 check—I don't want to be wrong, but I believe it was  
8 in, I want to say March. It could have been a little  
9 before; it could have been a little after. And then—for  
10 settlement and then stopped payment because it was only  
11 a partial payment, considered as a partial payment.

12 Q What is your fee arrangement with the county?

13 A The Attorney General and Comptroller's 15 per  
14 cent fee.

15 Q So if you were to collect that fee—

16 A I would like to have that.

17 Q —it would be \$45,000. Right?

18 A I would like to have that. Right.

19 Q And you haven't done anything more than have  
20 a couple of conversations?

21 A Well, as I say, my contract became an issue on  
22 the 12th of May.

23 MR. MALONEY: Thank you.

24 (The tax statement referred to  
25 was marked "Exhibit 15,"  
for identification.)

1 MR. DONALDSON: Mr. Chairman, just  
2 briefly?

3 CHAIRMAN HALE: Mr. Donaldson?

4 BY MR. DONALDSON

5 Q Are there any other notable figures down there  
6 with delinquent taxes?

7 A No large amounts, Mr. Donaldson, like this.  
8 What we do each year is send statements. In fact, I had  
9 just instructed the girls to send statements that lead  
10 up to filing some lawsuits.

11 Q What about that O. P. Carrillo?

12 A Offhand, I don't know, sir. I would have to  
13 have the delinquent tax rolls to know. I just don't know.  
14 There are quite a few on the rolls is what I'm saying.  
15 I don't know who are on the rolls, but there are some  
16 that owe some taxes, no question about that.

17 CHAIRMAN HALE: Are there any other  
18 questions?

19 MR. HABERS: Yes, Mr. Chairman.

20 CHAIRMAN HALE: Mr. Habers?

21 BY MR. HABERS

22 Q How many tax suits have you filed in the last  
23 five years?

24 A Well, I was informed the other day I had filed  
25 six. I usually try to file them about every three or

1 four years.

2 Q But you filed how many?

3 A Well, whoever is on the tax roll.

4 Q Six?

5 A Whoever is on the tax roll. I blanket it  
6 and when they get out, well, then it's—you know, you  
7 collect your taxes in many ways, Mr. Nabers.

8 Q Yes, sir.

9 A Mostly the easiest and best is personal contact  
10 with the bigger tax paying people, tax payers. Of  
11 course, our primary tax payers are oil companies, and  
12 of course they take their discounts. So we don't ever  
13 have much problem in this line, and those are the big  
14 amounts of money that are on the tax rolls. They get a  
15 3 per cent in October, 2 in November, 1 in December,  
16 and they all take their 3 per cent, and they're the big  
17 tax payers.

18 Q But you haven't had to do a lot of litigation  
19 in regards to the delinquent taxes?

20 A Over the years that I've had the contract with  
21 them, when I've had it, we, like I say, I'll try about  
22 every three or four years. One of the problems you're  
23 faced with is, of course, you've got, as I've said  
24 before, you've got a lot of little 120 and 240 and 200  
25 acre people that are trying to run eight cows and can't

1 pay their grocery bill, you know.

2 Q Yes, sir. I understand that. It is just  
3 general information I was interested in.

4 A Yes. I try to send statements every year.  
5 Was there something else?

6 Q You might finish your statement.

7 A I try to send statements every year to  
8 everybody on the delinquent roll.

9 Q To all the delinquents?

10 A Yes. And then file suits periodically. Some  
11 of these can grow fairly large, not too big in one year,  
12 but in three or four years they can get pretty big.

13 Q Could you tell the Committee why the School  
14 Board was—which superintendent was indicted and  
15 convicted?

16 A The one in Freer.

17 Q What about the attorney, Commissioner Orr, from  
18 Houston? Why did you all go that far to get an attorney?

19 A I didn't have anything to do with it.

20 Q Who hired the attorney?

21 A He did.

22 Q Who did?

23 A Mr. Powell.

24 Q The school superintendent hired him?

25 A Yes, sir.

1 Q All right.

2 A This was how he became acquainted to us as  
3 being a tax attorney.

4 Q Sir?

5 A This is how he got hired by us when we were—  
6 if you're trying to find out how we got in contact with  
7 Orr was through the handling of the cases that he handled  
8 there we knew him to be a good tax attorney.

9 Q Orr is a good tax attorney?

10 A Yes, sir.

11 Q I would think you might need a good criminal  
12 defense lawyer.

13 A Pardon?

14 Q I said I would think you'd need a good criminal  
15 defense lawyer if—

16 A That's what I'm talking about. IRS criminal,  
17 I mean, you know—

18 Q Is that what he is?

19 A He handles IRS type stuff. Yes.

20 Q I see. Okay. I'm not familiar.

21 A That is where I became familiar with him.

22 Q But the superintendent is the one that engaged  
23 him and the school board ratified by paying the bills?

24 A No, sir. We didn't pay anything on that.

25 CHAIRMAN HALE: Was there more than one

1 attorney involved in this \$60,000 fee?

2 A Yes, sir. Mr. Orr and Mr. Foster got Judge  
3 Sharp in Brownsville to go with us to Judge Garza's  
4 court in regards to these two different appearances we  
5 made down there. Yes, sir, they hired them.

6 BY CHAIRMAN HALE

7 Q So there were three lawyers involved?

8 A Yes, sir.

9 Q Mr. Orr, Mr. Foster and Mr. Sharp?

10 A Yes, sir. All we did was pay Judge Sharp's  
11 expenses. I assume they paid his fees.

12 Q Were any of these attorneys under any obligation  
13 to perform any legal services for anyone other than the  
14 School Board as part of the consideration for the  
15 \$60,000 fee?

16 A No, sir. Not to my knowledge.

17 Q Had the School Board during the time you were  
18 on it ever paid any legal fees to any lawyers for  
19 services other than those rendered to the School Board?

20 A No, sir. Not to my knowledge. Like I say,  
21 we normally have retained attorneys through the years,  
22 and whenever I have served as President, or whenever I  
23 needed some legal advice myself I have always called Mr.  
24 Frank B. Lloyd in Alice. And when I went back as  
25 President I hired him at a very small retainer just to

1 answer questions like that, and once in a while write  
2 me a letter in case I needed something confirmed.

3 Q Who determined the amount of the attorneys  
4 fees that were to be paid in this case?

5 A I was not a party to that, Mr. Hale. I have  
6 no idea. I assume the attorneys did.

7 Q Who made the contact with the attorneys  
8 initially to employ them to represent the School Board?

9 A Like I say, I believe I did. I wouldn't even  
10 swear to that, but I'm sure I did.

11 Q Who made the final agreement with them to  
12 represent the School Board?

13 A I went with them to the Valley twice, if this  
14 is what you're asking, because I was under subpoena.  
15 So I assume—we discussed them that night at the board  
16 meeting when the board agreed to hire the attorneys to  
17 represent the board.

18 Q Was there a motion put in the minutes of the  
19 school board to employ the attorneys?

20 A Yes, sir.

21 Q Was there nothing said about fees in that  
22 motion?

23 A I do not recall. But I'm sure there wasn't  
24 because I didn't know it until some time later, and if  
25 it would have been in the Minutes I would have seen it



1 the next time.

2 Q Was there any discussion of fees at the School  
3 Board meeting?

4 A No, sir.

5 Q Were all seven members of the School Board  
6 present at that meeting?

7 A Yes, sir.

8 Q Was it a unanimous vote to employ these  
9 attorneys?

10 A Yes, sir.

11 Q Were all seven members of the School Board  
12 present when the bill for \$60,000 was authorized to be  
13 paid?

14 A I was not present and do not know who was  
15 present. There was no Board meeting for that payment  
16 that I know of.

17 Q You mean the \$60,000?

18 A I think if it was made at a Board meeting I  
19 would have known about it.

20 Q Was a \$60,000 payment made out of school funds  
21 without authorization of the School Board?

22 A I assume, as I say in retrospect, I assume  
23 that we—they authorized—we discussed authorizing the  
24 hiring of lawyers to protect our interests as a Board,  
25 and then they sent us a bill and somebody paid it.

1 Q Where are the minutes of the Benavides  
2 School Board? Let me see that book.

3 In all these minutes here, Mr. Bercaw, there  
4 is page after page of itemized school disbursements.  
5 Here is one for \$8.30, one for \$8.10, one for \$4.20,  
6 itemized by who it's disbursed to, the amount and the  
7 check number. Those are all itemized in the minutes.  
8 Let me finish my question.

9 A Yes, sir.

10 Q Those are all itemized in the minutes of the  
11 Board of Trustees of the Benavides Independent School  
12 District and approved by a motion made at a subsequent  
13 school board meeting. Is that right?

14 A Yes. That's right.

15 Q Now, was the \$60,000 item treated in that same  
16 manner?

17 A No, sir.

18 Q How was it handled?

19 A It was handled, as I said, as I found out later,  
20 through the salary fund instead of the maintenance fund.

21 Q You don't approve salaries at the School  
22 Board meetings?

23 A No, sir.

24 Q Who sets the salaries for the employees of the  
25 Benavides Independent School District if the School Board

1 doesn't do it?

2 A The superintendents and the principals and  
3 the people who do the hiring of the personnel.

4 Q And that's not ratified at a meeting of the  
5 School Board?

6 A The only thing we ratify, of course, are  
7 contracts for teachers. You will see in the minutes  
8 there where we ratified the teachers for whatever  
9 years you've got there.

10 Q And you permit the superintendent to disburse  
11 \$60,000 without ever coming to the School Board and  
12 saying he's going to spend \$60,000 of the tax payers'  
13 money?

14 A I didn't know it, Mr. Hale, if that's your  
15 question. I did not know it was done in that manner.

16 Q Did the School Board know it? Did the rest of  
17 the Board know it?

18 A I didn't know it, and I don't know who did.

19 Q When did you find out?

20 A As I was saying, it was subsequent and I can't  
21 remember, but it was quite a bit later. The only thing  
22 that appeared as you're quoting in those things were  
23 the expenses of Judge Sharp and—and then he made a  
24 refund of some expense money. Those were in the minutes,  
25 paid out of the maintenance.

1 Q It's your statement then, to the best of your  
2 knowledge, that this \$60,000 was never approved by the  
3 School Board?

4 A Not that amount at a School Board meeting.  
5 No, sir, it was never done. The hiring of the lawyers  
6 was. When the bills were presented, I do not know.  
7 I don't even know what the date of the check was. I  
8 have never seen it. I've heard about it but I've never  
9 seen it.

10 Q Would you consider each member of the School  
11 Board equally responsible for the activities that go on  
12 in the school district?

13 A Certainly. I would assume so. A School Board  
14 can't function without a quorum present.

15 Q If there was any misconduct involved in the  
16 payment of \$60,000 in attorneys' fees, would you say  
17 that that misconduct would fall equally on all seven of  
18 the School Board members?

19 A Let's put it this way. This was the way I  
20 felt. If I was guilty of misconduct then all seven  
21 members were or should have been guilty of it.

22 Q If anyone was going to be removed for that  
23 purpose then all seven of them should have been removed?

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

25 CHAIRMAN HALE: Are there any other

1 questions?

2 Mr. Laney?

3 BY MR. LANEY

4 Q You said you have heard of this check later, and  
5 you said before that each check had to have three  
6 signatures. Out of this salary fund does each check  
7 have to have three signatures?

8 A Yes, sir. I do not know whose names are on  
9 the check. I know Mr. Couling's had to have been on it.  
10 I know Mr. Ross would have had to have been on it if it  
11 was paid in Benavides, and one of the officers of the  
12 Board.

13 Q But you don't know whether the names that  
14 signed the check were ones that stayed on the Board or  
15 the ones that were kicked off?

16 A No, sir, I don't. Well, there had to be two.  
17 Two of them had to be kicked off for the pure and simple  
18 reason the Secretary and Vice President were kicked off  
19 at the same time I was.

20 Q The Secretary had to sign the check, the  
21 President had to sign the check and then any other member  
22 of—

23 A No, sir. One officer and then the superinten-  
24 dent of whatever school, you know, Benavides or Freer,  
25 and then Mr. Cooling as collector. The minutes reflect—

1 Q Okay. But two members of the Board are  
2 actually all it has, plus the superintendent?

3 A One member of the Board, officer, the  
4 superintendent of either the schools in Freer or the  
5 schools in Benavides, and Mr. Couling. You'll find  
6 that in these minutes in the nineteenth meeting when  
7 they reorganized, Mr. Hale, if you want to read and let  
8 Mr. Laney read how the checks are authorized to be  
9 signed, that you were asking me about a while ago,  
10 about whether the resignations took place and then  
11 reorganized.

12 CHAIRMAN HALE: Yes, sir, I remember.

13 Q In other words, either the President of the  
14 School Board or the Secretary of the School Board had to  
15 sign the checks?

16 A Or the Vice President.

17 Q Or the Vice President. One of the officers?

18 A Yes.

19 CHAIRMAN HALE: Mr. Donaldson?

20 BY MR. DONALDSON

21 Q You said earlier that you had indicated that  
22 someone from the Judicial Qualifications Commission had  
23 contacted you?

24 A No, sir. I said I had talked to them.

25 Q You talked to them?

1 A Yes, sir.

2 Q Did you contact them?

3 A Yes, sir.

4 Q Who did you talk to?

5 A Mr. Pitkin.

6 Q When?

7 A I don't remember what date it was. It wasn't  
8 very long ago.

9 Q During the last thirty days?

10 A Oh, yes.

11 Q Did they reveal to you whether or not they had  
12 looked into this matter at all?

13 A He said their Board was not meeting until  
14 I think it's July.

15 Q I wonder when they met last. Do you have any  
16 idea?

17 A I have no idea.

18 Q I don't want to keep going over this, but you  
19 indicated that you all felt it necessary to hire an  
20 attorney when you were served with subpoenas from the  
21 Internal Revenue Service?

22 A Yes, sir.

23 Q Were you served in your capacity as a School  
24 Board member?

25 A I was served as President of the Board, a

1 subpoena duces tecum for which no records did I actually  
2 have. They are all in Benavides.

3 Q Now, isn't Mr. Orr also Mr. Couling's lawyer?

4 A Yes. He sure is.

5 Q I wonder when he was retained to represent  
6 Mr. Couling?

7 A I have no idea. I have no idea.

8 Q Do you suppose that any of that \$60,000  
9 might be for that?

10 A I would not think so.

11 Q I have done a limited amount of practice in  
12 representing clients with Internal Revenue Service,  
13 auditing them and that kind of thing, and I'm a little  
14 bit surprised that on the service of these subpoenas  
15 you all felt that the gravity of the situation was such  
16 that you needed to lay out this kind of money for an  
17 attorney right at that point.

18 A It's kind of like Mr. Cleofas Gonzalez said  
19 the other night. They were all over everywhere, and we  
20 didn't know what they were looking for or where they  
21 were going or what they wanted.

22 Q You were, though, aware of what your conduct  
23 had been as President of the Board.

24 A You bet. You bet.

25 Q Did you have concern?



1 A No, sir. Personally?

2 Q Personally.

3 A No, sir. I have none now.

4 Q What can the Internal Revenue Service do to  
5 the Board as a Board?

6 A I don't know.

7 Q Well, you're an attorney.

8 A I'm not a tax attorney, Mr. Donaldson. I have  
9 no idea what they can do to the Board.

10 Q If they're going to do something to the Board  
11 collectively, they can't just say "The Board is going to  
12 jail." They are going to have to do it against  
13 individuals.

14 A Well, let me give you a little background on  
15 how this developed. This Internal Revenue agent came to  
16 me and asked me if he could see the school records, and  
17 I said, "Yes." They went down there and they photo-  
18 stated whatever records they were interested in. The  
19 only request that I asked them to do was whatever he  
20 took a picture of, make two. And then he comes back and  
21 subpoenas the records to the Grand Jury in Brownsville.  
22 So, again, we don't know where we are or what we're  
23 doing, or where we're going.

24 Q At that time was Mr. Couling still the tax  
25 assessor-collector?

1 A Yes, sir.

2 Q Were the subpoenas issued to all members of  
3 the Board or just to the Freer group?

4 A No. They were to me, Mr. Couling—

5 Q The officers?

6 A No, there were three. The Secretary.

7 Q Then the whole Board wasn't subpoenaed?

8 A No, sir. We were subpoenaed in our capacities  
9 with the Board.

10 MR. DONALDSON: That's all I have, Mr.  
11 Chairman.

12 CHAIRMAN HALE: Ms. Weddington?

13 BY MS. WEDDINGTON

14 Q Mr. Couling was subpoenaed, but he has no  
15 official connection with the Board. Is that right?

16 A That's right.

17 Q He is the tax assessor-collector for the  
18 Board, but does the Board owe a responsibility to  
19 represent him in legal proceedings that might be  
20 conducted?

21 A Personally?

22 Q Well, in what capacity was he subpoenaed?

23 A As the person who actually had the physical  
24 records.

25 Q So his capacity was just one that he had the

1 records, and that was all? I mean as far as the subpoena  
2 was concerned?

3 A Tax collector. Yes.

4 Q Okay. At the same time, did he have Mr. Orr  
5 as an attorney at that time personally?

6 A I believe he did, Ms. Weddington.

7 Q He was one of the people that signed that  
8 check, right, as tax assessor-collector?

9 A Yes. It would have been necessary.

10 Q Then Mr. Ross as superintendent of Freer  
11 signed that check?

12 A Benavides.

13 Q Of Benavides signed that check.

14 A I assume.

15 Q Did he have Mr. Orr as an attorney, by any  
16 chance?

17 A No, ma'am. Not to my knowledge.

18 Q But the superintendent at Freer did have Mr.  
19 Orr as an attorney in connection with his own legal  
20 problems with the IRS. Is that correct?

21 A But this had already been settled at that time,  
22 as I recall. I'm not sure but I believe they had already  
23 had their plea bargaining and wound it up. And they had  
24 their own contract, I understand.

25 Q One other unidentified officer of the School

1 Board would have signed the check, but you don't know  
2 who that was?

3 A No, ma'am.

4 Q And the School Board officer who signed the  
5 check was one that was not subpoenaed. Is that correct?

6 A We were subpoenaed in our capacity as on—

7 Q You were subpoenaed, Couling was subpoenaed,  
8 and who was the other person subpoenaed?

9 A I believe it was Schuenemann.

10 Q He was Secretary of the Board?

11 A He said that he had nothing, and I agreed  
12 to go down there.

13 Q So Schuenemann did not respond to the subpoena?

14 A That's right.

15 Q Do you know if he was the other person that  
16 signed that check?

17 A No, ma'am, I do not know.

18 Q Do you know who the check was made out to?

19 A Well, I assume from what—like I say, I've  
20 never seen the checks.

21 Q Yes.

22 A I've heard about them. But I assume they were  
23 made directly to the attorneys.

24 Q And that would be Mr. Orr or to—

25 A And Mr. Foster.

1 Q Are they in the same firm?

2 A No. Mr. Foster is in San Diego and Mr.—

3 Q You wouldn't make a check to both of them,  
4 would you?

5 A Pardon?

6 Q You wouldn't make a check to both of them then,  
7 would you?

8 A Make separate checks. There's one for one  
9 amount and one for another and the total was \$60,000.

10 Q There was more than one check involved then?

11 A That's my understanding.

12 Q I'm sorry. We have talked about the check so  
13 far.

14 A Two checks. Yes, there were two checks.

15 Q Two checks. Do you know how much each of  
16 those checks were for, approximately? Have you heard  
17 rumors about that?

18 A I just remember the totals.

19 Q Okay. So you were the only person of those  
20 three who responded to the subpoena?

21 A No. Mr. Couling went.

22 Q You and Mr. Couling went down there?

23 A Yes.

24 Q And then you mentioned a while ago all the  
25 time involved in preparing the brief. What was the

1 brief about?

2 A In the first place, the first subpoena said that  
3 if we just gave the IRS these records we wouldn't  
4 even have to go to the Grand Jury down there.

5 Q And did you do that?

6 A Are you an attorney?

7 Q Yes, I am.

8 A Then you know that public records cannot be  
9 taken in that manner. And I informed this young man  
10 of the IRS of this fact. But we had to answer it.

11 Q Yes.

12 A And Judge Garza didn't even go into chambers.  
13 He just threw it out right there and then, of course,  
14 we had to go back the second time because then they did  
15 it in the correct manner to bring it to the Grand Jury.

16 Q At that time did you file a brief?

17 A Yes, ma'am, they filed it.

18 Q When was the brief filed?

19 A I assume in both of them. Again, I wasn't  
20 acting as an attorney in this case.

21 Q But as an attorney you weren't even interested  
22 enough to look over the papers that were filed on your  
23 behalf?

24 A I'm sure I did.

25 Q But you don't remember anything about them?

1 A I don't have them.

2 Q I mean I've just been sued once, but I  
3 read everything about it.

4 A That was a unique experience to me. That was  
5 the first time I ever sat on the other side of the  
6 table. Now I know how my clients feel, you know.

7 Q But you didn't read the document, or you don't  
8 remember much about them or—

9 A You know, they worked in the law library.  
10 Again, an attorney who has himself for a client has a  
11 fool for a client.

12 Q Even as a client you might read what is in it.

13 A I'm sure I read the pleadings at some time or  
14 other before or after they were filed or after it was  
15 over with, I don't remember, but I'm sure I read them.

16 Q Were there reports made to the School Board  
17 on the progress of the litigation?

18 A Oh, yes.

19 Q Would those be reflected in the minutes of the  
20 School Board?

21 A I don't know. I can't say. I just don't  
22 remember. I reported the ultimate end of the thing was  
23 that we brought the records on back to San Diego, I mean  
24 to Benavides without any—

25 Q Would there be any reflection in the minutes of

1 School Board as to papers or documents that were filed  
2 by the attorneys and therefore perhaps some indication  
3 of the amount of time that was involved?

4 A I'm sure there is nothing there like that.  
5 There would be no reason for that.

6 Q You do have copies personally of the papers  
7 that were filed in your behalf?

8 A No, ma'am.

9 Q You don't have copies of them?

10 A No, ma'am.

11 Q Who has copies of them?

12 A The attorneys.

13 Q Would you be willing to get copies of those  
14 papers from the attorneys and just submit them to us?

15 A Why, I sure would. I have no objection.

16 Q I would just be interested in looking at them.

17 A Must be pretty good briefs because Judge Garza  
18 was real strong on that.

19 Q Did Judge Garza have any special connections  
20 with the judge that heard the case?

21 A Judge Garza was the one that heard it.

22 Q Was Judge Sharp involved in the case?

23 A Yes, ma'am.

24 Q Did he have any special connection with Judge  
25 Garza?



1           A     Let's put it this way. At one time I think he  
2 was his law partner.

3           Q     Do you know whether that had anything to do  
4 with the fact that Judge—

5           A     No, ma'am. I think Judge Garza ruled with the  
6 law, the way I understand it.

7           Q     Do you think that had anything to do with the  
8 reason Judge Sharp was hired?

9           A     That, I don't know. I didn't hire Judge Sharp.

10          Q     You just paid his fee.

11          A     Pardon?

12                   MS. WEDDINGTON: Pass the witness.

13                   CHAIRMAN HALE: Mr. Maloney?

14                   MR. MALONEY: Just two brief questions.

15 It is getting very late.

16 BY MR. MALONEY

17           Q     In relation to your job in collecting the  
18 delinquent taxes—

19                   MR. KASTER: Mr. Chairman, we've got a  
20 staff sitting around here and I just wondered how long  
21 we intend to go. It's quarter of two.

22                   CHAIRMAN HALE: I hope not much longer,  
23 Mr. Kaster.

24           Q     In your collecting delinquent taxes, may I  
25 ask if Archer Parr is one of the delinquent tax payers?

1 A Mr. Maloney, I have ladies in San Diego who  
2 work from the tax rolls. The tax rolls are in San  
3 Diego, and I believe Archer Parr is on the delinquent  
4 rolls. Yes, sir.

5 Q May I ask if you are one of those?

6 A No, sir.

7 Q Were you one?

8 A No, sir.

9 Q Not at any time this year were you delinquent  
10 in your own taxes?

11 A I have never owed any delinquent taxes at any  
12 place I've ever owned any property.

13 MR. MALONEY: Thank you.

14 BY CHAIRMAN HALE

15 Q You submitted a tax statement here of what  
16 purports to be one written out in handwriting, showing  
17 a delinquent tax of \$308,757.65 for the Duval County  
18 Ranch, Freer, Texas. Does that include the taxes due  
19 to the Benavides Independent School District also?

20 A No, sir.

21 Q Have you any idea what the tax bill would be  
22 to the Benavides Independent School District on that  
23 same property?

24 A I do not know the amounts. He made a partial  
25 payment at the same time he started to make a payment in

1 San Diego.

2 Q Are the school district taxes normally con-  
3 siderably higher than the state and county taxes?

4 A No, sir. Not considerably higher. In fact,  
5 I don't know how it was last year. They usually run  
6 about fairly close to the same.

7 Q You mean the state and county taxes in Duval  
8 County are as high as the school taxes?

9 A They usually run about the same. But I think  
10 by the time you add the Water District and everything  
11 else. If you're asking about just state and county, no,  
12 but if you're asking about the total tax thing, why,  
13 as to the school it's about the same.

14 Q Do you know whether or not the taxes on the  
15 Duval County Ranch were delinquent to the Benavides  
16 Independent School District for the same years as  
17 covered by this statement?

18 A I'm certain they are, but I'm not absolutely  
19 certain.

20 Q And if so, and if they were about the same,  
21 that would have been roughly \$300,000 delinquent to the  
22 Benavides Independent School District in addition to  
23 this?

24 A I can only state that Mr. Couling called me  
25 one day back whenever these checks came in and said he

1 had gotten a check from the Duval County Ranch Company  
2 for \$34,000, and I said, "Does that cover the taxes?"  
3 And he said, no, I should write him a partial payment,  
4 and that's what we did.

5 CHAIRMAN HALE: Are there any other  
6 questions of this witness?

7 (No response.)

8 CHAIRMAN HALE: Mr. Canales, what was  
9 your motion a minute ago or your suggestion about this  
10 witness? Something about getting some records?

11 A That was the auditor, I think.

12 CHAIRMAN HALE: The auditor?

13 MR. CANALES: That was the auditor,  
14 Mr. Hinojosa. The Committee, you stated that you wanted  
15 an inventory of the heavy equipment, et cetera, that he  
16 had there and I can't remember what the other point was.

17 CHAIRMAN HALE: Rental cars, all  
18 vehicles, the inventory of the rental vehicles and  
19 an inventory of all county-owned vehicles.

20 MR. CANALES: And I was suggesting it  
21 so that he could go get them, that we relieve him from  
22 the subpoena or give him another subpoena to go bring  
23 them or whatever it takes.

24 CHAIRMAN HALE: The Chair is not disposed  
25 to relieve anybody under subpoena from their obligation

1 to stand by on this, but I would interpret it, subject  
2 to correction, that as long as he doesn't leave the  
3 State of Texas and shows up when he's supposed to here,  
4 he wouldn't be in violation of the subpoena.

5 We've got plenty of lawyers around here. Do  
6 any of the lawyers disagree with me on my interpretation?

7 MR. CHAVEZ: And about seven district  
8 attorneys.

9 CHAIRMAN HALE: The Chair will authorize  
10 him to go down there and get those records on the  
11 condition that he understands he is still under sub-  
12 poena and he will be here when we need him.

13 A May it please, Mr. Chairman, I would like to  
14 ask this: I know I am under subpoena and under the same  
15 rules, but I do have quite a few things that need to  
16 be done, and if I could be relieved to be called if you  
17 want me and when you want me, I'll make myself available  
18 immediately. I would like to proceed with my things  
19 that I have lined up to do, because, again, being the  
20 only lawyer—and I was supposed to be in Houston even  
21 today on some business—

22 CHAIRMAN HALE: I'm sure you have a lot  
23 of sympathetic ears on this Committee with that problem.

24 A If I could just assure the Chair that if you  
25 want me and when you want me and give me just enough time

1 to get back here from whatever I may be doing at that  
2 particular time, I'll come right back.

3 MR. CANALES: Mr. Chairman, I would  
4 advise the Committee that the only reason Mr. Bercaw  
5 is under subpoena is to protect him from being  
6 subpoenaed away to some other point in the State of  
7 Texas and to guarantee that he would be present tonight  
8 when his testimony was set.

9 A I've got cases set that I've got to work on—

10 CHAIRMAN HALE: Well, with the under-  
11 standing, Mr. Bercaw, that you're still under subpoena  
12 and—

13 A Yes. I won't deny or run from the subpoena.

14 CHAIRMAN HALE: You will be back here when  
15 we need you, why, the Chair will authorize you to go on  
16 about your business.

17 A I would like to go about my normal business  
18 and Tuesday or Wednesday or Thursday or something if you  
19 want me, just call.

20 CHAIRMAN HALE: It may be that we will  
21 never need you again. I don't know. I can't anticipate.

22 MR. MITCHELL: Mr. Chairman, may I have  
23 some—yes, I will want him. I have several questions.  
24 I wonder if we could have some time that I could, out of  
25 fairness to Mr. Bercaw, that I could notify the Chair

1 when I would like to ask him several questions?

2 A Mr. Mitchell, let me ask you, do you anticipate  
3 it some time next week?

4 Q Perhaps so. I would like to do it now but  
5 I'm not permitted to.

6 A I'm on the docket for two cases next week.

7 CHAIRMAN HALE: Counsel, if you will  
8 direct your remarks to the Chair.

9 A Oh, excuse me, Mr. Chairman.

10 CHAIRMAN HALE: Mr. Mitchell is not a  
11 party to this investigation other than as an attorney  
12 for Judge Carrillo.

13 A I would make myself available to Mr. Mitchell  
14 if he will let me know so that, like I've got Judge  
15 John Miller and some settings that I must, I hope,  
16 attend to, or get myself excused under the subpoena.

17 CHAIRMAN HALE: You only have to worry  
18 about getting a call from the Chairman or someone  
19 authorized by the Chairman of this Committee in order  
20 for you to turn up here and you don't have to worry  
21 about phone calls from anybody else as far as this  
22 Committee is concerned.

23 A All right.

24 CHAIRMAN HALE: Mr. Mitchell, on this  
25 matter of your questions—

1 MR. MITCHELL: They are in writing.

2 CHAIRMAN HALE: —we have the under-  
3 standing on that that whatever questions you wanted to  
4 ask any of these witnesses you would submit to the  
5 Chair in writing.

6 MR. MITCHELL: Yes, sir.

7 CHAIRMAN HALE: And the Chair will  
8 decide whether to ask the questions or not and in what  
9 manner.

10 MR. MITCHELL: I understand that, Mr.  
11 Hale. I just wanted to get some sort of time sequence  
12 on it.

13 CHAIRMAN HALE: Is there any further busi-  
14 ness that we need to transact tonight other than go to  
15 bed?

16 MR. NABERS: I move we recess until  
17 9:30 in the morning. The House is in session.

18 CHAIRMAN HALE: Until 9:30 in the morning?

19 MR. NABERS: Yes, sir. The House is in  
20 session at 9:30, isn't it?

21 CHAIRMAN HALE: The House is in session  
22 at 9:30, I believe.

23 We do need to have a business meeting of the  
24 Committee here to discuss some of these things.

25 A May I approach the Chair please, sir?

CHAIRMAN HALE: Yes, sir.



1           A     Since Monday is a holiday, is the House in  
2 operation?

3                   CHAIRMAN HALE: Yes, sir.

4                   MS. WEDDINGTON: Not Monday night.

5                   CHAIRMAN HALE: Why not Monday?

6                   MR. LANEY: Mr. Chairman, will you  
7 entertain me for a highly privileged motion?

8                   CHAIRMAN HALE: I will in just a moment.  
9 We need to resolve of one or two things here about it.  
10 Is Monday night the arrangement on Speaker's Night?

11                   I have a feeling the speaker will be glad to  
12 excuse this Committee from attendance in order for us to  
13 get on about our business. We can cross that bridge when  
14 we get to it, I guess. But the House will be in session  
15 Monday, I'm sure of that.

16           A     Is it the Committee's intention to meet on  
17 Saturdays and Sundays?

18                   CHAIRMAN HALE: No, sir. We'll not meet  
19 on Saturday and Sunday. At least we will not hear any  
20 testimony on Saturdays and Sundays.

21           A     I'm trying to schedule in my mind to get to  
22 my calendar. You're not going to meet Monday night?

23                   CHAIRMAN HALE: Well, we won't need you  
24 monday night.

25           A     So then I could possibly schedule a trial

1 Tuesday morning?

2 CHAIRMAN HALE: We'll accommodate you,  
3 Mr. Bercaw, within reasonable limitations.

4 A I do have a setting in Judge Miller's court.  
5 They called the docket for the 26th but I think Judge  
6 Miller overlooked this Federal change for the holiday  
7 situation. I thought it had been changed but my  
8 secretary today told me the opposing counsel said he  
9 could be ready the 27th.

10 CHAIRMAN HALE: What holiday is Monday?

11 A That is Memorial day. They changed one of  
12 these five free day holidays. I just don't want to get  
13 myself in a position of trying to do something and then  
14 being wrong with you folks in trying to accommodate me.

15 CHAIRMAN HALE: Okay. Well, we have  
16 already lost our quorum, obviously.

17 A Will you understand then that I'm available  
18 when you call?

19 CHAIRMAN HALE: Yes, sir. That's fine.  
20 You go ahead and schedule your plans and we'll let  
21 you know and give you ample warning.

22 MR. MALONEY I move we stand in recess.  
23 until 8:00 tomorrow evening.

24 CHAIRMAN HALE: Mr. Maloney moves that the  
25 Committee stand recessed until 8:00 o'clock tomorrow

1 evening or such earlier time as the Chairman might call  
2 the Committee. Is there any objection?

3 (No response.)

4 CHAIRMAN HALE: The Committee stands  
5 recessed.

6 (The witness, Mr. M. K. Bercaw, was  
7 excused.)

8 (Whereupon, at 2:00 o'clock a.m., Friday,  
9 May 23, 1975, the Committee recessed, to reconvene at  
10 8:00 o'clock p.m., May 23, 1975.)  
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