

MELCHOR CHAVEZ
House of Representatives
P. O. Box 2910
Austin, Texas 78767

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

TEXAS STATE HOUSE OF REPRESENTATIVES

HOUSE SELECT COMMITTEE ON IMPEACHMENT

AUSTIN, TEXAS

VOLUME VII

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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 VII

BE IT REMEMBERED that on Wednesday, June 4, 1975, beginning at 9:00 o'clock a.m., in the Old Supreme Courtroom, State Capitol Building, Austin, Texas, the above-entitled matter came on for hearing, having been continued from Tuesday, June 3, 1975, before the HOUSE SELECT COMMITTEE ON IMPEACHMENT, the HONORABLE L. DEWITT HALE, CHAIRMAN, Presiding, and the following proceedings were reported by Hickman Reporting Service, 205 West Ninth, Austin, Texas, 78701.

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MEMBERS PRESENT

1
2
3 REPRESENTATIVE HALE - CHAIRMAN

4 REPRESENTATIVE LANEY

5 REPRESENTATIVE KASTER

6 REPRESENTATIVE HENDRICKS

7 REPRESENTATIVE SLACK

8 REPRESENTATIVE MALONEY - VICE CHAIRMAN

9 REPRESENTATIVE NABERS

10 REPRESENTATIVE DONALDSON

11 REPRESENTATIVE THOMPSON

12 REPRESENTATIVE CHAVEZ

13 REPRESENTATIVE WEDDINGTON

14
15 APPEARANCES

16 FOR HOUSE SIMPLE RESOLUTION NO. 161

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

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

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

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1 WEDNESDAY, JUNE 4, 1975

2 SEVENTH SESSION

3
4 (Whereupon, the hearing was reconvened
5 at 9:00 o'clock a.m., pursuant to the recess on Tuesday,
6 June 3, 1975.)

7 CHAIRMAN HALE: The Committee will come
8 to order and the Clerk will call the roll.

9 (The Clerk called the roll.)

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

12 Mr. Canales, are you ready to proceed?

13 MR. CANALES: Yes, sir, Mr. Chairman.

14 CHAIRMAN HALE: You are recognized.

15 MR. CANALES: Mr. Chairman and members of
16 the Committee, I've tried, or I'm going to try to explain
17 some very complicated, or a very complicated sequence of
18 events as it concerns the suspension and reappointment
19 of the County Commissioners Court, and if there is any
20 question as I go along don't hesitate to ask. I'm going
21 to try to give you a brief outline on it. I'm sure Mr.
22 Foster, who will be the next witness, will be able to
23 give you some more of the details.

24 Now, the original County Commissioners Court—
25 and I say that was before there was a split and then they

1 ended up with two County Commissioners Courts, and now
2 they have one County Commissioners Court again, if we
3 can get that one down.

4 The original County Commissioners Court of
5 Duval County consisted of Archer Parr who was the County
6 Judge; Ramiro Carrillo was the County Commissioner of
7 Precinct 3; Juan Leal, County Commissioner of Precinct 2;
8 Dan Tobin, Precinct 1; and I think Felipe Valerio,
9 Precinct 4. You will all remember the newspaper
10 clipping which said that there was going to be a split
11 between the Carrillos and the Parrs; it was entered
12 into evidence earlier.

13 After the split there was a relation filed
14 by Mr. Jose R. Nichols who was here testifying
15 yesterday before the Committee. When Mr. Jose R.
16 Nichols filed his petition—and I don't know the dates;
17 Mr. Foster will bring the dates into perspective for
18 you, I hope— Mr. Archer Parr was suspended. And there
19 are some legal technicalities there but I won't go into
20 them. Technically he was suspended. So that left,
21 supposedly, Felipe Valerio; Dan Tobin, Jr., who is
22 presently the County Judge, appointed by the District
23 Judge; Juan Leal; and Ramiro Carrillo.

24 You will notice that there are two asterisks
25 by the name of Dan Tobin and Ramiro Carrillo. The

1 reason that the asterisks are beside these people's
2 names is that they were disqualified apparently from
3 holding office because of, I believe Article 16, Section
4 40 and Section 65, and I believe Mr. Maloney, if not
5 Mr. Nabers, raised a question of holding two offices in
6 which I cited 505 Southwest 2nd, 406, Writ of Error
7 refused, NRE.

8 These people supposedly were disqualified,
9 Dan Tobin having run for a Trustee of the San Diego
10 Independent School District. Mr. Foster will correct me
11 if I am in error. And Ramiro Carrillo ran for City
12 Alderman of the City of Benavides, both being positions
13 of public trust and I believe falling within the inter-
14 pretation of that particular case.

15 So in fact then, we have a suspended judge at
16 this time, Felipe Valerio, who is the unquestioned
17 County Commissioner; Dan Tobin, who is de facto as
18 opposed to a de jure County Commissioner; Juan Leal,
19 unquestioned; and Ramiro Carrillo, again, a de facto as
20 opposed to a de jure County Commissioner. And this will
21 be brought out later.

22 When Mr. Archer Parr was removed, Mr. Dan Tobin
23 was appointed by the District Judge. This was prior
24 County Commissioner of Precinct 1. I believe the
25 statutes require in a suspension of this type that two

1 bonds be filed by the person who is replacing the
2 suspended individual. One is a suspension bond indemnify-
3 ing the one suspended for losses, and the other one is
4 the regular bond which an official has to make to
5 qualify to be a County Judge.

6 At this time then we have Ramiro Carrillo, at
7 the time that Dan Tobin was appointed, who had been, as
8 a matter of law I would suspect, disqualified as having
9 run in an election for a prior public office; Dan Tobin,
10 who was, again, removed as a matter of law I would
11 suspect, but then he was appointed as County Judge. These
12 two members here: Dan Tobin, the acting County Judge, or
13 the one appointed by the District Judge; and Ramiro
14 Carrillo, who apparently has no authority and will be
15 recognized later, all of these records have been handed
16 out to you and you see the bonds there for the dates of
17 qualification. These two gentlemen combined, Dan
18 Tobin without having qualified or filed any one of his
19 bonds—he filed a suspension bond but we'll get to that
20 later when Mr. Marvin Foster gets into his testimony
21 and we'll see how it is not a proper bond, and he is
22 not qualified, because the only way that a qualifying
23 bond is accepted is by vote of the Commissioners Court.

24 Well, you will see that the only ones that are
25 actually on the Commissioners Court are Mr. Felipe

1 Valerio and Juan Leal, as Mr. Archer Parr has been
2 suspended. He in effect has resigned, if he hadn't
3 already been taken out as a matter of law, and he should
4 have been disqualified as a matter of law. So these
5 two people here, Dan Tobin and Ramiro Carrillo, their
6 qualifications being very questionable, appoint Manuel
7 Amaya. This is the one who works with the Duval County
8 Ranch Company, as we had a letter introduced into
9 evidence here. They appoint Mr. Manuel Amaya together,
10 without the joinder of Juan Leal and Felipe Valerio,
11 whose authority is not questioned even by the present
12 Commissioners Court, and approve the bond of Mr. Manuel
13 Amaya, Jr.

14 We have two people whose authority is question-
15 able approving the qualifications and appointing
16 another County Commissioner.

17 Now, Manuel Amaya, Jr., you will notice, in
18 your packet that was handed out this morning— I'm
19 sorry I didn't have them numbered—anyway, his official
20 bond and oath were filed purportedly on the 25th day of
21 March, 1975. I have that marked over here. Appointed
22 by Dan Tobin and Ramiro Carrillo.

23 Now, subsequent to this—now there are a lot
24 of events taking place. I'm just trying to get down
25 this particular sequence. There are events taking place

1 by the other Commissioners Court at this time, too.

2 Now, on March 31st, as the certified copies
3 will reflect, on March 31st, six days after Manuel
4 Amaya, Jr.—this man here—qualified with his oath and
5 bond, on 3-31-75, Dan Tobin Jr., who has appointed this
6 man, and has in effect—well, it purports to be an
7 official act; I don't know whether it is or not, whether
8 he can act in that capacity without having qualified.

9 On March 31st, 1975, Dan Tobin, Jr., the
10 County Judge, files his bond and oath of office, six
11 days after he has already appointed a County Commissioner.

12 Now, on April 17th—that would be 4-17-75—
13 apparently it was recognized that Commissioner Carrillo
14 was in fact not qualified to act as a County Commissioner
15 because on April 17—your packets will reflect as they
16 contain these bonds— Ramiro Carrillo subsequently filed
17 a bond and oath of office.

18 Now, this is what we have now as constituting
19 the County Commissioners Court. We have these two
20 individuals here: Felipe Valerio and Juan Leal,
21 unquestioned by anyone, having been elected. We have
22 Dan Tobin, Manuel Amaya and Ramiro Carrillo.

23 Now these people here— I'll go over it briefly
24 again. He was appointed by the District Judge. These
25 two combined and appointed this one, who qualified on

1 the 25th. These three combined and approved his bond
2 on the 31st. And then these three again combined and
3 approved his bond on April the 17th of 1975. In effect,
4 we have unqualified members approving the bonds of
5 other members in an attempt to qualify them, and this
6 is what we have presently as the County Commissioners
7 Court.

8 Now I'll try to go over some of the events
9 for the Parr court, if we can so call it.

10 CHAIRMAN HALE: Mr. Maloney would like
11 to ask a question.

12 MR. MALONEY: Mr. Canales, before you go
13 any further, you're saying that at this point there is
14 a Commissioners Court consisting of only a County Judge
15 and two Commissioners?

16 MR. CANALES: No, sir. We have still
17 Felipe Valerio and Juan Leal, unquestioned.

18 MR. MALONEY: On this same one that we've
19 been talking about, there being two courts, one court
20 consists of Dan Tobin—

21 MR. CANALES: Let me go into it again.

22 At the time that Mr. Archer Parr was removed,
23 he continued serving as County Judge, together with
24 Felipe Valerio and Juan Leal, there being a question,
25 and it's reflected in here, as to the propriety of his

1 removal simply because the removal statutes were not
2 followed. Mr. Marvin Foster will give you some of the
3 legal technicalities of the process of removal.

4 Archer Parr continued to sit as a County Judge,
5 believing himself to be improperly removed and con-
6 sequently still believing that he was the County Judge,
7 sat with Felipe Valerio and Juan Leal. And these two
8 people subsequently appointed or filled the vacancies
9 which were supposedly left when these two people—when
10 it was brought to the attention of the Commissioners
11 Court that these two people were disqualified because
12 they had run for public office.

13 MR. MALONEY: That is one court.

14 MR. CANALES: That is one court.

15 MR. MALONEY: I'm trying to keep the
16 personnel of each court separate in my mind.

17 MR. CANALES: It is all running at the
18 same time and it's going to be difficult to explain it
19 and I'll repeat it as often as possible until you get
20 the names down and the sequence of events.

21 CHAIRMAN HALE: Who are the ones on the
22 Tobin Court, the so-called Tobin Court? That would be
23 Tobin, County Judge; Valerio; Leal; Carrillo and Amaya?

24 MR. CANALES: Right. That's the present
25 County Commissioners Court, with Dan Tobin, Jr. serving

1 as Judge.

2 CHAIRMAN HALE: At least one of the—

3 MR. CANALES: The Parr court, if I can so
4 call it, which consisted of Archer Parr, Felipe Valerio,
5 Juan Leal and the two appointees, have been enjoined by
6 the District Court from functioning as a Commissioners
7 Court. There was some type of an injunctive action; I
8 don't know exactly what it was.

9 MR. FOSTER: No.

10 MR. CANALES: They were not enjoined?

11 MR. FOSTER: No. They refused the
12 injunction.

13 MR. MALONEY: Does that mean then that
14 we're talking about the situation of there being two
15 courts? There are two commissioners that are supposedly
16 on those courts.

17 CHAIRMAN HALE: Valerio and Leal are on
18 both courts.

19 MR. CANALES: Valerio and Leal have never
20 been questioned. Right.

21 CHAIRMAN HALE: They would be on both
22 courts.

23 MR. CANALES: Yes. So to speak.

24 CHAIRMAN HALE: Whichever one is held
25 legal, they will be on it.

1 MR. CANALES: Yes. They are in fact
2 County Commissioners. Nobody has questioned their
3 credentials.

4 CHAIRMAN HALE: Now, is there a third
5 court?

6 MR. CANALES: I hope not.

7 CHAIRMAN HALE: For instance, you start
8 out with Parr, Valerio, Tobin, Leal, Carrillo.

9 MR. CANALES: Those are the five pur-
10 ported members at the instigation of this entire
11 fandango.

12 CHAIRMAN HALE: All right. Now, the
13 Tobin court then would be Tobin, Valerio, Leal, Carrillo
14 and Amaya?

15 MR. CANALES: Right.

16 CHAIRMAN HALE: Is there a third court
17 with Parr contending over here with one or two of those
18 replaced that contends is still the court?

19 MR. CANALES: No. The second court, or
20 the first court, whichever way you want to number them,
21 consisted of three original members of the original
22 County Court, the very first one before there were any
23 removals, and that would have been Archer Parr, Felipe
24 Valerio and Juan Leal. Mr. Parr was sitting with the two
25 unquestioned County Commissioners, as County Judge, as he

1 questioned the validity of his suspension. That is the
2 other County Commissioners Court.

3 CHAIRMAN HALE: Mr. Canales, I think—
4 you confused me by going into too much background. Just
5 let me ask you a question and you give me the names.

6 MR. CANALES: Yes, sir.

7 CHAIRMAN HALE: We started out with the
8 five members that you have listed on the board.

9 MR. CANALES: Right there.

10 CHAIRMAN HALE: All right. Now, Tobin
11 contends that the proper legal court now consists of
12 himself as Judge, Valerio, Leal, Carrillo and Amaya.
13 Is that right?

14 MR. CANALES: Correct.

15 CHAIRMAN HALE: Now, then, if I were to
16 ask Mr. Parr, "What is the legally constituted
17 Commissioners Court today in Duval County?" what would
18 Mr. Parr contend are the five on the Court today?

19 MR. CANALES: Mr. Hales, I can only
20 presume to say that he would say himself, and I don't
21 know what he would say. I would presume that he would
22 say Mr. Parr himself, Felipe Valerio, Juan Leal and the
23 two appointees which they named.

24 CHAIRMAN HALE: Who are the two appointees?
25 That's what I'm getting at. It seems to me that we're

1 talking about really three courts: the original court
2 which you have up there, the one Tobin contends is the
3 legally constituted court, and then the one that Parr now
4 contends is the legally constituted court. And none
5 of those three have identical membership. Is that
6 correct?

7 MR. CANALES: Almost. Yes, I guess you
8 could put it in that perspective.

9 CHAIRMAN HALE: Who would be the five
10 members if you were going to line up a Parr court
11 today? Who would be the five members of that?

12 MR. CANALES: Well, assuming that he is
13 replaced, the Parr Court would consist of Archer Parr;
14 Felipe Valerio, the unquestioned County Commissioner;
15 Juan Leal, the unquestioned County Commissioner; and two
16 appointees.

17 CHAIRMAN HALE: Who are those two
18 appointees?

19 MR. CANALES: Let me go through these
20 records; they're in here someplace.

21 MR. CHAVEZ: Antonio Garcia is one of
22 them, isn't he?

23 MR. CANALES: Antonio Garcia.

24 MR. FOSTER: And Francisco Ruiz.

25 MR. CANALES: And Francisco Ruiz.

1 CHAIRMAN HALE: L-U-I-S?

2 MR. CANALES: R-U-I-Z.

3 CHAIRMAN HALE: R--what?

4 MR. CANALES: R-U-I-Z.

5 CHAIRMAN HALE: Ruiz.

6 MR. MALONEY: Mr. Canales, we had a
7 witness testify whose name was Francisco Ruiz. Is it
8 the same one or a different one?

9 MR. CANALES: Your guess is as good as
10 mine. I have no idea which.

11 MR. FOSTER: Yes.

12 MR. CANALES: Is it the same one? It's
13 the same one.

14 MR. HENDRICKS: Mr. Chairman?

15 CHAIRMAN HALE: Mr. Hendricks?

16 MR. HENDRICKS: Might I ask a question?

17 CHAIRMAN HALE: Yes.

18 MR. HENDRICKS: Counselor, now you're
19 saying that Tobin ran for the School Board or some
20 other office.

21 MR. CANALES: It has been brought to my
22 attention that that was the reason he was considered as
23 disqualified as acting as a Commissioner.

24 MR. HENDRICKS: And Carrillo ran for an
25 office.

1 MR. CANALES: City Alderman in the City of
2 Benavides.

3 MR. HENDRICKS: While they were qualified
4 as—

5 MR. CANALES: While they were sitting on
6 the County Commissioners Court.

7 MR. HENDRICKS: Did anyone bring suit on
8 this?

9 MR. CANALES: I think that they were
10 removed as a matter of law. Are they disquali—

11 MR. HENDRICKS: My recollection of the
12 law is that point has to be brought forward. I could
13 be mistaken.

14 MR. CANALES: I'm not sure. Mr. Foster
15 could give you more background on that, Mr. Hendricks.

16 MR. HENDRICKS: I remember it in the
17 past, and my recollection of it is that even though
18 they run, if there is no objection raised and they win
19 that office they can assume the office.

20 MR. CANALES: That could very well be
21 true.

22 MR. HENDRICKS: And if you sit back and
23 do not file suit then nothing is done about it. But
24 as far as you know, no suit was filed?

25 MR. CANALES: Well, the only reason that I

1 suspect that the men were disqualified is because of an
2 opinion, I believe, in which the County Attorney, Mr.
3 Ricardo H. Garcia, citing the case of Ramirez vs.
4 Flores, he told the County Commissioners Court of Duval
5 County that in his opinion these two offices had been
6 vacated. Whether there was any—

7 MR. HENDRICKS: Well, as I say, I could
8 be mistaken. But I was thinking some action had to be
9 brought to disqualify them.

10 MR. CANALES: I'm not sure. Possibly.

11 MR. HENDRICKS: Thank you.

12 MR. CHAVEZ: Mr. Chairman?

13 CHAIRMAN HALE: Mr. Chavez?

14 MR. CHAVEZ: Mr. Canales, after these
15 removal orders were filed, there were some applications
16 made to the Court of Civil Appeals and the Supreme
17 Court for a Writ of Prohibition and so forth. Do you
18 remember?

19 MR. CANALES: I am not familiar with them.

20 MR. CHAVEZ: As I understood the effect
21 of these courts' denying the request for the various
22 writs, it had the effect of upholding the original
23 orders of the court.

24 MR. CANALES: I'm not sure, Mr. Chaves.
25 What I'm trying to do at this time—and I'm sorry if I

1 have misled you—is just try to give you a little
2 background so that when Mr. Foster gets up here and
3 testifies you can ask him some of the more detailed
4 questions which he is more familiar with than I am.

5 MR. CHAVEZ: Let me ask you this: isn't
6 one of the contentions for removing Judge Carrillo the
7 fact that he—

8 MR. CANALES: Judge Carrillo has not
9 been removed.

10 MR. CHAVEZ: Aren't you asking that he
11 be impeached?

12 MR. CANALES: Oh! Okay.

13 MR. CHAVEZ: And one of the grounds for
14 impeachment that he improperly or illegally removed
15 these people?

16 MR. CANALES: No. I'm saying that there
17 is political oppression and official misconduct involved.
18 I'm not a judge to determine whether they were in fact
19 legally or illegally removed. I'm simply saying that
20 the removals were done with the intent of replacing
21 them with political allies, not that the removals were
22 either legally or illegally done. I would be presumptuous
23 to assume that they were legally or illegally done.

24 MR. CHAVEZ: Well, if he removed them on
25 a political basis he would be abusing the power of his

1 office, would he not?

2 MR. CANALES: Well, there are two ways of
3 doing things. Certainly, you can do something that is
4 legal and have a malicious intent at the time that it is
5 done.

6 MR. CHAVEZ: Okay. But this is—

7 MR. CANALES: And still be within the
8 confines of the law.

9 MR. CHAVEZ: But these removal orders
10 have not yet been fully litigated, have they?

11 MR. CANALES: Not that I know of. Again,
12 Mr. Foster—

13 MR. CHAVEZ: If this were one of the
14 things that we were to pass on, wouldn't we in effect
15 be passing judgment on these orders while the matter is
16 still pending in court?

17 MR. CANALES: I think it would be very
18 presumptuous of the Committee to assume the position of
19 a judge. Yes.

20 All of this, the testimony that will be
21 presented today, Mr. Chavez, is simply relating to
22 trying, or trying to establish a connection between all
23 of these people who have been removed and appointed to
24 establish a—for lack of a better word—a conspiracy.

25 MR. CHAVEZ: Isn't that illegal?

1 MR. CANALES: It depends on the type of
2 conspiracy.

3 MR. CHAVEZ: A conspiracy to remove office
4 holders because—

5 MR. CANALES: You and I could conspire
6 to carry a cup of coffee into the House Balcony and I
7 don't think it would be illegal.

8 MR. CHAVEZ: Well, but we're not talking
9 about a cup of coffee here, we're talking about the
10 removal of public officials, and if you're saying that
11 the judge abused the power of his office by conspiring
12 with others to remove his political enemies, then in
13 effect he is—

14 MR. CANALES: Mr. Chaves, again, I would
15 refer you to the case of Ferguson wherein it says it
16 doesn't necessary have to be a criminal act in order
17 that impeachment be voted. It is simply misconduct.
18 I haven't got the case before me, but it is simply
19 conduct which is repugnant to the office itself.

20 MR. CHAVEZ: Tell us where we would be.
21 Let's say, for example, we go through with all these
22 hearings, and after hearing from Mr. Foster and every-
23 thing, then this Committee decides or finds that Judge
24 Carrillo abused the powers of his office by improperly
25 removing his political enemies. We make that finding and

1 refer that article to the House and the House agrees
2 with us. Then this case is litigated in court in
3 Rio Grande City or wherever it is litigated, and it is
4 tried before a jury and the jury finds that these people
5 were not illegally removed, then where would we be?

6 MR. CANALES: Mr. Chavez, we get right
7 back to where we were a while ago. I think it would be
8 presumptuous on the part of the Committee to make a
9 judicial ruling that they had been illegally removed.

10 MR. CHAVEZ: Nothing that we do here is a
11 judicial ruling, as I understand it.

12 MR. CANALES: The only thing we are
13 supposedly doing here is to determine whether there are
14 sufficient facts to bind this matter over for trial
15 in the Senate.

16 MR. CHAVEZ: Well, but if we do find that
17 he in fact abused the powers of his office, shouldn't
18 we then refer that to the House?

19 MR. CANALES: The House simply would also
20 determine whether there are sufficient facts. The
21 House is not a fact-finding body, only to the extent
22 that it determines that there are sufficient facts to—

23 MR. CHAVEZ: Let's go one step further.
24 Let's go ahead and say that we do find that Article of
25 Impeachment and the House votes it and he is tried in the

1 Senate and the Senate finds that he did abuse the powers
2 of his office.

3 MR. CANALES: Well then I would sus—

4 MR. CHAVEZ: And then the jury finds that
5 he didn't.

6 MR. CANALES: Well, the jury—in which
7 case is there a jury trial now?

8 MR. CHAVEZ: Well, in that removal case
9 that's pending in Rio Grande City.

10 MR. CANALES: We have to distinguish
11 between the two cases. One is to determine the
12 judicial qualifications of a man and the other one is to
13 determine the propriety of the removals. I think that
14 the two are complete and distinct questions. I'm sure
15 that a man could remove an individual from office and
16 still be within the confines of the statute, be legally
17 right. The question is whether he had ulterior motives
18 at the time that the removals and replacements occurred.
19 That is the question that we're determining here. We're
20 not determining the propriety of the removals themselves,
21 but whether or not the removals and replacements con-
22 stitute political oppression, or if sufficient facts are
23 presented to raise a question for presentment in the
24 Senate.

25 MR. CHAVEZ: Okay.

1 CHAIRMAN HALE: Are there further
2 questions?

3 (No response.)

4 CHAIRMAN: Go ahead. You may proceed,
5 Mr. Canales.

6 MR. CANALES: At the time that all of
7 this was transpiring—and I'm sure Mr. Foster is more
8 familiar with the dates— I believe—and if I can call it
9 the Parr court, or the original County Commissioners
10 Court, met and because the County Sheriff had also run,
11 I think, for the School Board—am I correct that he ran
12 for the School Board? —he was also reappointed and his
13 bond refiled, because it was recognized that as a matter
14 of law he was not qualified to act as the Sheriff as he
15 had already run for another office.

16 At the same time, the Court Commissioners
17 Court—this County Commissioners Court: Archer Parr,
18 Felipe Valerio and Juan Leal, appointed Mr. Antonio E.
19 Garcia. I think he was to replace Mr. Dan Tobin.

20 Now here we have a tricky one. At this time,
21 I think, Mr. Archer Parr resigned as County Judge and is
22 reappointed as County Judge by the remaining County
23 Commissioners. I think the intent behind this particu-
24 lar move was to come within the confines of this
25 article on removal which states that you cannot be

1 removed for an offense which you committed in a prior
2 term. I believe that the judge probably resigned and
3 was reappointed by the remaining County Commissioners in
4 an effort to make the question moot as to whether he
5 could be removed by the District Judge.

6 Now his bond was filed, I think, on the 27th
7 day of March, 1975, again retaking office.

8 On that same date— I don't know whether it
9 took place before his removal or after his removal—the
10 County Judge filled the remaining office of Ramiro
11 Carrillo which had been declared to be vacant by the
12 County Attorney, with Mr. Francisco Ruiz, which it has
13 been brought to my attention is the same man that
14 testified here earlier.

15 I am sure I have thoroughly confused everyone.
16 And before I turn this matter over to Mr. Marvin Foster
17 who can go into this more in detail and some of the
18 Benavides Independent School District transactions, I
19 would ask the Committee if there are any questions in
20 regard to these removals and reappointments?

21 If not, Mr. Chairman, I would call Mr. Marvin
22 Foster at this time.

23 CHAIRMAN HALE: Mr. Canales, let the
24 Chair ask you a question before we get to Mr. Foster.
25 During your explanation here, and with the use of the

1 blackboard and also in connection with some of the
2 statements you have made, you continually thumb through
3 a file of material. Is that the same as this file that
4 you gave the Chair?

5 MR. CANALES: Yes, sir, Mr. Chairman.
6 That's the same file that I gave you. Those are
7 comprised of certified copies taken from the County
8 Clerk's office.

9 CHAIRMAN HALE: The documents you were
10 thumbing through are identical and in the same order
11 as the documents in this file that you gave the Chair.
12 Is that correct?

13 MR. CANALES: Yes, sir. These are also
14 certified copies, replicas of the ones you have there in
15 your hands.

16 CHAIRMAN HALE: This file has been
17 duplicated and there is a copy in front of each member
18 here. Each member has a photocopy of every document in
19 this file in front of him. I think it might be well to
20 put this entire series of documents in evidence at this
21 time and then we can refer to it by exhibit number when
22 the Committee members are questioning. There are a lot
23 of documents in here. I presume we could just put it
24 in one exhibit. Let's offer this as an exhibit.

25 (The file referred to was marked
"Exhibit 54," for identification.)

1 CHAIRMAN HALE: If each member of the
2 Committee will take your photocopies and label them
3 Exhibit 54. I believe on your desk I think the
4 documents are in two packets. I believe there are two
5 packets stapled together, rather than stapled all as
6 one packet. Is that correct?

7 THE CLERK: Yes, sir. They are divided
8 up.

9 CHAIRMAN HALE: They are divided up for
10 stapling purposes, so you have two separate groups of
11 papers here which collectively constitute the Exhibit 54.

12 MR. CANALES: Mr. Chairman, I would call
13 Mr. Marvin Foster at this time, then.

14 CHAIRMAN HALE: All right.

15 Mr. Foster, you're, I'm sure, more aware
16 of your rights than probably even the Chair is, having
17 been involved in this, but for the record, let me as
18 Chairman advise you of your rights with respect to your
19 testimony. You will be sworn to tell the truth and your
20 failure to do so could subject you to a prosecution for
21 perjury.

22 After you have completed your statement,
23 members of the Committee may ask questions concerning
24 your testimony. You must answer these questions
25 truthfully and your refusal to do so could subject you

1 to punishment for contempt. You can refuse to answer
2 questions only on the ground that such answers might
3 incriminate you or tend to incriminate you in some way.
4 You are privileged to have an attorney of your selection
5 sit with and advise you as to your answers if you
6 desire. The Chair will attempt to protect your rights
7 at all times.

8 Do you understand the advice I have given
9 you?

10 MR. FOSTER: Yes, sir, I do.

11 CHAIRMAN HALE: Are you now ready to
12 testify?

13 MR. FOSTER: Yes.

14
15 MR. MARVIN FOSTER
16 was called as a witness by the Author of HSR-161 and,
17 being duly sworn by the Chairman, testified as follows:

18 CHAIRMAN HALE: For the record, please
19 state your name and your address.

20 A Marvin Foster, P. O. Box 1036, San Diego,
21 Texas, 78384.

22 CHAIRMAN HALE: Mr. Foster, you are a
23 licensed attorney, are you not?

24 A Yes.

25 CHAIRMAN HALE: And you practice law in

1 Duval County?

2 A Yes, sir.

3 CHAIRMAN HALE: Fine. Thank you.

4 Mr. Canales, do you want to proceed?

5 MR. CANALES: Yes, Mr. Chairman.

6 With the Committee's permission, I would like
7 to take this in two phases if possible. First, if it can
8 be taken in two phases, with relation to the County
9 Commissioners Court and then bringing in some of the
10 details which I'm sure the Committee is anxious to hear
11 concerning the Benavides Independent School District
12 and Mr. Marvin Foster's representation of the School
13 Board. I don't know how far he can go into this.
14 There are problems where there might be attorney-client
15 privileges involved. That is solely within his discre-
16 tion.

17 At this time I would like to begin questioning
18 Mr. Foster with regard to the County Commissioners Court.

19 BY MR. CANALES

20 Q I'll ask you, Mr. Foster, if the presentation
21 I made is substantially true and is not—it's a very
22 complicated matter for me.

23 A It is substantially the truth, but I think
24 the Committee—perhaps we all should realize that in
25 point of time the removal of the School Trustees occurred

1 four or five days before the removal of Judge Parr, if
2 you want to go into the Commissioners Court first.

3 Q Do you feel that it would be better for
4 your presentation to go into the School Board removals
5 first?

6 A I think possibly for the Committee to get the
7 background picture of the activity that was occurring
8 daily, that maybe we ought to try to do it chronologically
9 as far as we can, and then if there are any questions
10 I'll be glad to digress in any direction.

11 Q Then let's begin with the Benavides Independent
12 School District and if it would not disrupt your pre-
13 sentation, I would like to ask you in regards to the
14 testimony yesterday, you were here when Mr. Nichols
15 presented his evidence and stated that the reasons—well,
16 that the reasons stated in the petition at least, or
17 the relation that he filed with the District Attorney,
18 the reasons for the removal were that these School Board
19 Trustees burned some documents. I think that was the
20 reason stated, if I'm not mistaken. Would you please
21 elaborate on this point? I think you're more familiar
22 with it than I am.

23 A Well, I understood his testimony yesterday
24 to be that he received information—I don't know whether
25 it was in the Grand Jury or whether it was otherwise—that

1 records were burned. And I don't ever recall any
2 particular testimony about records being burned. It
3 is unquestioned that certain records were destroyed or
4 thrown away.

5 Q Would you please tell the Committee—

6 A That goes back some period of time, and I'll
7 be glad to go back into that.

8 Q Well, let's start with the question, do you
9 represent Mr. Rodolfo Couling in any legal matters?

10 A I have represented Mr. Couling individually,
11 Mr. Orr and I have, since I believe the late fall of
12 1972 in a tax related I.R.S. investigation.

13 Q Let me ask you—

14 A I also represent him in the five indictments
15 that were returned against him last week.

16 Q Let me ask you, in any of these matters in
17 which you have represented Mr. Couling, have you had
18 occasion to represent him when there was questioning
19 about the destruction of these particular school district
20 documents?

21 A Yes. I believe in either late February or
22 early March the "Caller-Times" a publishing company of
23 Corpus Christi, and possibly through the plaintiff— I
24 don't remember whether it was Mr. Spencer Pearson or
25 Mr. Joe Coudert, who are the reporters who have been

1 covering the Duval County circus—filed a lawsuit against
2 the Benavides Independent School District under the
3 Public Records Act asking to see certain records, I
4 believe beginning back—they wanted all of the financial
5 records of the School District, or wanted to see them,
6 from 1970.

7 They were informed that those records were not
8 available. A lawsuit was filed and an Answer was filed.
9 They sued Mr. Couling as the business manager in that
10 official capacity. I don't think it was a suit against
11 him individually. During a hearing on that particular
12 lawsuit, Mr. Couling testified that it had been the
13 habit of the School District, as soon as the audit of
14 the TEA was returned or approved for the preceding
15 calendar year, that the invoices, checks and mis-
16 cellaneous type records would be canceled or destroyed
17 or burned with the leaves, or however they destroyed
18 them.

19 The audit, being performed prior to the end
20 of the fiscal year, the school fiscal year, of September
21 the 1st, or August the 31st, and each year in about
22 January or February the audit would be approved and at
23 that time the records for the preceding year were
24 destroyed. Now, not the general ledgers, not the
25 minutes, not the permanent bound volumes of records, but

1 the canceled checks and the invoices and letters and
2 memorandums and things like that, there being microfilm
3 copies of all of the checks available through the bank.

4 Q Mr. Foster, it seems at least to me unusual
5 that school records would be destroyed the subsequent
6 year after an audit by the Texas Education Agency. Why
7 was this policy adopted? Do you know?

8 A I have no idea. First—well, you can presume
9 any reason why they were destroyed, but commencing in
10 April of 1972 there was a massive Internal Revenue
11 investigation concentrated on the Benavides Independent
12 School District, the San Diego Independent School
13 District, the County of Duvall, and the Duval County
14 Conservation and Reclamation District, which we call the
15 Water District. And during that Grand Jury investigation
16 in San Antonio it came to light that this was their
17 policy. So it had apparently been the policy of the
18 School District for numerous years.

19 Q Did Mr. Couling testify in his presentation
20 before the Grand Jury, I would suspect, as to where the
21 policy was developed?

22 A I don't know for sure that he did that in
23 front of the Grand Jury. Mr. Couling was called before
24 the Grand Jury, the Federal Grand Jury, in San Antonio.
25 And there was a question of some records there. He took

1 some records. Mr. D. C. Chapa was President of the
2 School Board at that time. He is the father of Judge
3 Carrillo. He also was subpoenaed. At that time he
4 was also President of the Water District and was
5 subpoenaed in connection with both of those entities
6 and the subpoenas were duces tecum for certain records.

7 The records, of course, that were available
8 in the School District I think he or Mr. Couling took.
9 There were the canceled checks and so forth were not
10 available and the IRS proceeded to obtain microfilm
11 copies.

12 Mr. Couling testified—in answer more
13 specifically to your question—Mr. Couling testified not
14 before a jury but he testified before Judge Carrillo in
15 a non-jury hearing on the "Caller-Times" suit that that
16 had been the custom, under the direction of the School
17 Board, that he had proceeded to have that done each year.

18 Q He had received instructions from the School
19 Board—

20 A Yes.

21 Q —to destroy the records?

22 A Yes.

23 Q Let me ask you, was Mr. D. C. Chapa at this
24 time the President of the School Board, in the 70's and
25 '71's?

1 A I believe he was, but the Minutes that you have
2 will reflect that. I think he was. Yes.

3 Q Was he also on the Water Board at that time?

4 A Yes, he was.

5 Q Was he the President of the Water Board?

6 A He was President for some period of time. I'm
7 not sure of the exact dates because the Board
8 reorganized a time or two, and Mr. Chapa did serve as
9 President of the Water District for some period of time.
10 Yes.

11 Q You don't know that he was serving on both
12 boards at the same time?

13 A Yes, he was.

14 Q As President of both of them?

15 A My memory is that that is true. I could be in
16 error that he would never be president of both boards
17 at the same time, but my memory was that at the time,
18 at least in the spring and summer of 1972, he was
19 subpoenaed to the San Antonio Grand Jury as President
20 of both of those entities.

21 Q Now let me ask you, Mr. Foster, as you are
22 apparently somewhat familiar with this case, as you have
23 represented Mr. Couling or at least the School Board in
24 this suit filed against it by the Corpus Christi "Caller"
25 in an attempt to be able to review these records, what

1 are the laws concerning the keeping of records, either
2 state or local, that would require the School District to
3 keep these records?

4 A Well, of course, we have researched that to
5 some extent, and my recollection of the statutes now are
6 that there probably needs to be some remedial legislation
7 about it because there is a general statute, as I
8 recall, that requires records to be kept for five years,
9 but there are no teeth in that. There is also a regula-
10 tion from the Texas Education Agency, particularly to
11 schools, with a sort of recommended or directionary
12 type of regulation that they be kept for three years,
13 but again, there are no teeth in that. It would be up
14 to the individual entity. And I don't know that there
15 are any penal sanctions in any of the laws concerning
16 the record keeping.

17 Q When you say there are no teeth, you say there
18 is no penal saction?

19 A Not to my knowledge.

20 Q Not to your knowledge.

21 Now, if you could, Mr. Foster, would you go
22 into some detail, give us a chronological sequence, of
23 the removals, if you can?

24 A Well, the school removal suits were filed,
25 four suits were filed simultaneously on March 20th.

1 Four members were temporarily suspended and four people
2 appointed to temporarily replace them for the time, I
3 believe the order stated "for the time being, until the
4 disposition of this cause." That occurred on March the
5 20th.

6 On March the 24th, suit was filed temporarily
7 suspending, or attempting to, Judge Parr from the office
8 of County Judge.

9 Q Now let me ask you, Mr. Foster, have you
10 ever had any occasion to talk to Mr. Jose R. Nichols
11 concerning these removals?

12 A To talk to him? I questioned him in a hearing.

13 Q What was his testimony at that time, Mr.
14 Foster?

15 A Where was it?

16 Q What was it? What did he testify to, in
17 effect?

18 A Well, I want to be explicit about this. And a
19 copy of that testimony that I have I do not have with
20 me, however, Mr. Walter Hickman, the Reporter for this
21 Committee, his service was employed and he sent one of
22 his reporters down there to take the transcript of that
23 and Mr. Hickman still has the original of it. So I
24 want to say this generally and then be subject to being
25 able to review that. But my recollection of Mr. Nichols'

1 testimony at that hearing was that he had had several
2 discussions with Mr. Guerra prior to the time that these
3 were filed and there was denials on the part of he and
4 Mr. Guerra during that hearing that Mr. Guerra had
5 suggested to him that they file it. I could be more
6 explicit with that testimony right in front of me.

7 Q Did he ever at any time or at any place tell
8 you that he was not familiar with the contents of the
9 petitions that he filed in these relation matters?

10 A No, he didn't tell me. What had happened
11 was—and that was part of my examination—was that I
12 asked Mr. Nichols if he had ever told anyone that he
13 signed all five of these removal suits on the same day,
14 and if he had ever told anyone that he signed these
15 papers and didn't know what was in them. After some
16 series of questions he finally admitted, not that he
17 had done that, but he admitted that he had told someone
18 that. And he said, well, he knew it would get back to
19 me and that he wasn't under oath when he said it, and
20 that that was not true; that he did not sign them all
21 at the same time and that he did know what was in them.

22 Q He told you under oath at this hearing that he
23 had not signed all of the removals or the relations at
24 the same time?

25 A That was the effect of his testimony. It was

1 a little confusing when I re-read the transcript.
2 There could have been an opening there that it could have
3 happened but his memory was that it didn't; that they
4 were signed separately.

5 Q I'm curious, Mr. Foster, because yesterday he
6 testified here that he went up, after having been called
7 by the District Attorney, and signed four of them, and
8 then they went directly from there into the Judge's
9 chambers where the orders were signed removing them.
10 He didn't testify to that same effect at this prior
11 hearing?

12 A My memory of the transcript is that there is
13 some variance in the testimony. Yes, sir. Of course,
14 now that hearing had to do with—that hearing had to
15 do with a suit filed as a class action by taxpayers
16 seeking injunctive relief against the Tobin court from
17 operating, and he and Mr. Guerra were both called as
18 witnesses and testified in that hearing. So it had
19 more to do with the removal of Judge Parr than it did
20 with the School Board removals, and I believe that my
21 recollection is I was limited somewhat by the judge
22 presiding—it was not Judge Carrillo; Judge Wesley
23 Dice, a retired judge, was there—as to how far I could
24 go into School Board matters.

25 Q Let me ask you at this point, Mr. Foster, there

1 has been considerable adieu before this Committee con-
2 cerning some legal fees which you and Mr. Orr received
3 from the Benavides Independent School District. Could
4 we go into those in detail, or as much detail as your
5 professional responsibility will allow?

6 A I don't know that I have anything at all to
7 hide about those fees, and I--

8 Q Well, the only thing, I would assume that
9 there are possibly some areas in which your attorney-
10 client relationship might apply and I would ask you to
11 the extent possible you could relate the events of this
12 legal fee to the Committee as I'm sure that they are
13 dying to know how \$60,000 were distributed by the
14 Benavides Independent School District. I'm sure there
15 are quite a few attorneys on the Committee here who would
16 like to make a fee that size.

17 A I really don't foresee any attorney-client
18 privilege in answering in response to any of those
19 fees.

20 Q Could we go into that?

21 A I would prefer to respond to any questions that
22 you or the Committee might have concerning that rather
23 than just-- I don't know where to start on a narrative
24 situation about a fee.

25 Q Then I'll skip over it and allow the Committee

1 to go into it in detail.

2 A I would say this, that as some of the back-
3 ground leading up to that particular matter, as I
4 mentioned a moment ago, commencing on April the 4th of
5 1972, a massive and intensive Internal Revenue investi-
6 gation began, synchronized very closely on the entities
7 in Duval County ostensibly with an eye toward ultimate
8 indictment and conviction of Mr. George Parr along with
9 two other school officials. Mr. Orr and I, in addition
10 to assisting the various attorneys that Mr. Parr had
11 working for him from time to time, represented Mr. Eunice
12 Powell who was superintendent over at Freer, and Mr.
13 Brian Taylor who was superintendent at San Diego who
14 were also indicted and at this time are serving a one-
15 year sentence that was a result of plea bargaining.
16 And for a period of over two years were deeply involved
17 in all of that litigation. And when the IRS attack
18 began to focus on and center on the Benavides Independent
19 School District last summer and the early part of the
20 summer of 1974, from a different angle, that was what
21 ultimately led to our employment by the Board.

22 Q I'm curious as to who contacted you, Mr.
23 Foster, in regard to this employment?

24 A You mean initially?

25 Q Initially.

1 A Well, it is really hard to say. I think
2 probably that it was Mr. Bercaw and Mr. Couling and
3 probably Mr. Powell and probably Mr. Elizondo and Mr.
4 Garcia. I was connected closely with the entire Board.

5 Q Let me ask you, Mr. Foster, when you were
6 contacted by—assuming it was Mr. Bercaw—when you were
7 contacted by Mr. Bercaw, did you assume that he had
8 the authority, or did you check the Minutes of the
9 Benavides Independent School District to determine whether
10 he had been granted the authority to contract for your
11 services, or to engage them?

12 A Well, I didn't check the Minutes at the
13 time because there were some preliminary matters that
14 went on. As a matter of fact, the special agents of
15 the Intelligence Division of the Internal Revenue
16 Service had appeared at the Benavides School Tax
17 Office in Benavides, Texas, and had requested to see
18 certain records. At that time I was contacted, and
19 that could very well have been by Mr. Gordon Ross who
20 was the superintendent at that time. There were
21 various conferences and discussions between various
22 members of the Board and myself.

23 Q Regarding this employment?

24 A Well, regarding what was happening by the IRS,
25 because we didn't know. Eventually there was a subpoena

1 served.

2 Q No, no, no. Let me interrupt you. My
3 question is, how do you know that Mr. Bercaw had the
4 authority to employ you to represent the Board?

5 A Well, there was a resolution— I've seen it;
6 I can't give it verbatim. There was a resolution
7 passed at a school board meeting; I was not there; I
8 did see the resolution later because Mr. Orr and I had
9 a copy of it with us at the time that we employed Mr.
10 Gilbert Sharp of Brownsville to also represent the
11 Board.

12 Q Let me ask you about this resolution. Did
13 you read it?

14 A Yes.

15 Q Did you check to see what members were present
16 at the time that the resolution was passed, Mr. Foster?

17 A My understanding is that that resolution
18 passed unanimously.

19 Q You say "unanimously."

20 A That was a—my recollection of it also is—
21 and I'm sure there is a copy available; I know the
22 Grand Jury had it—that it was a general type resolution.
23 The Board resolved to employ counsel to resist the— I
24 don't know that they used the word "invasion", but at
25 least the usurpation or the invasion of the local

1 governmental entities by the long arm of the Internal
2 Revenue Service out of Washington.

3 Q What I'm trying to get at, Mr. Foster, was it
4 a unanimous resolution, or was it one that was passed
5 by the four members that were removed, or were the
6 members that were not removed— I can't remember; I know
7 one of them was Rogelio Guajardo and the other one was—
8 I'm sure you're familiar. Which three members were not
9 removed?

10 A Rogelio Guajardo and David Shinorio and Alfred
11 Schuenemann.

12 Q They were not removed?

13 A No. Well, ultimately Mr. Schuenemann was
14 removed.

15 Q And left Guajardo and Carrillo?

16 A Right.

17 Q Did these members partake purportedly in the
18 passing of the resolution, to your knowledge?

19 A My information— I wasn't there the night it
20 happened. My information was that they did. And I
21 think the Minutes reflect that it was unanimous. And
22 as a matter of fact, at about that time, we were—felt
23 like we needed some help on the local scene in Browns-
24 ville where the first subpoena issued by the Internal
25 Revenue Service directed us to bring records. And we

1 decided to attempt to employ Mr. Gilbert Sharp of
2 Brownsville. And I, in an effort to, or I wanted to be
3 sure that everybody that had any connection or political
4 position or anything else concerned with it, that Mr.
5 Sharp's employment was all right. And I went by Judge
6 Carrillo's home one night, in his bedroom, and we sat
7 and talked about that phase. And I asked him if he
8 didn't think that Gilbert Sharp would be a good selection,
9 and he concurred with me.

10 Q Mr. Foster, let me interrupt at this time.
11 You're starting to go into the actual preparation and
12 presentation. I think it would be proper at this time
13 to turn you over to the Committee because I'm sure their
14 questions would be more pertinent than mine. I'm sure
15 they have curiosities that have been aroused in this
16 particular matter and would like to present the questions
17 directly.

18 Mr. Chairman?

19 BY VICE CHAIRMAN MALONEY

20 Q Mr. Foster, if you would, could you just give
21 us a chronological history of when you became involved in
22 the removal of the Trustees and the removal of the
23 Commissioners. If you will just go right straight
24 through it without any comments, but let us have a frame
25 of reference and I think the Committee can ask you more

1 intelligent questions.

2 A All right, Mr. Maloney.

3 I became involved in the removal of the Trustees
4 on the day the petitions were filed, that is, March 20th.
5 My recollection of that is that it was on a Thursday, and
6 I have a calendar here. I think the day of the week may
7 chronologically be as important as the actual dates.
8 March the 20th was a Thursday. I had been in Houston
9 on the 19th and had no knowledge at that time of the
10 events that had occurred in Duval County on the 19th.

11 I returned late the night of the 19th from
12 Houston and about noon on March the 20th was given
13 xerox copies of these petitions and at the same time, or
14 about that time, I had received a call from Mr. Gordon
15 Ross, the Superintendent of Benavides, asking me to
16 come down there; that the Texas Rangers were there to
17 serve certain papers on some of the School Board members.
18 And I picked up these xerox copies that were available
19 and went to Benavides.

20 Then on March 24th, which was the following
21 Monday—well, the 21st, 22nd and 23rd, Friday, Saturday
22 and Sunday, we were practically 24 hours a day in the
23 County Library preparing an application for a Writ of
24 Prohibition directed to the Court of Civil Appeals in
25 San Antonio, attempting to—well, we sought relief from

1 that Court by Writ of Prohibition to enjoin or to
2 prohibit Judge Carrillo from taking any further action
3 or presiding in those cases on the grounds that he had a
4 personal bias and prejudice.

5 On the 24th, before those matters were actually
6 presented in San Antonio, the removal suit against Judge
7 Parr was filed. And I believe that everybody had been
8 at the Courthouse that morning and they were filed.
9 By the time they were filed, Judge Parr had left, and
10 he accepted service, I believe, from the Ranger the
11 following day, on the 25th.

12 During that week these sequences of Commissioners
13 Court meetings back and forth, which we can go into in
14 more detail if the Committee wants to, transpired all
15 that week. But my memory is now that on the 25th, the
16 day after Judge Parr's removal, a Motion for Leave to
17 File Petition for Writ of Mandamus was filed in San
18 Antonio. And after some in-chambers conference, that
19 Motion for Leave to File was denied.

20 The following day, either the 26th or possibly
21 on the 27th, the same motion was filed, or was presented
22 to the Supreme Court here in Austin. And that Court
23 neither granted nor denied leave to file. They did
24 require us to perfect service of a copy of all papers
25 upon Judge Carrillo, and they set for hearing the

1 following Monday, the 31st, March the 31st, as the
2 deadline for Judge Carrillo to respond with whatever
3 answer that he may care to respond with and to file any
4 briefs that he cared to file.

5 Then on the 27th and 28th, during this very
6 busy week, a hearing was held before Judge Carrillo
7 concerning Judge Parr's activities, as a result of which
8 two more, two petitions—two Motions for Leave to File
9 Petition for Writ of Mandamus were prepared over the
10 weekend and also filed Monday morning, March the 31st,
11 with the Supreme Court; one on behalf of Judge Archer
12 Parr filed by an attorney out of Corpus Christi named
13 Oscar Spitz; another one filed on behalf of Alberto
14 Garcia, the County Clerk of Duval County, filed by a
15 Mr. Cantu of San Antonio, who I understand represents
16 the County and District Clerks Association.

17 The Supreme Court— Judge Carrillo responded
18 to the Motion for Leave to File for Prohibition. That
19 was on the part of the School Board. That was a con-
20 solidated motion on the part of the four removed School
21 Board Trustees.

22 Mr. Arthur Mitchell appeared for him, and I
23 believe on the preceding Friday had filed a—he was
24 engaged in a trial of a case here in Austin and had
25 sought a continuance which was— I don't know whether it

1 was denied or what happened on it. At any rate, on
2 Monday morning he did file a response to the Writ of
3 Prohibition and a brief in support of his response.

4 We filed an amended prayer to that asking for
5 mandamus relief as well as prohibition relief. After
6 the Court considered these matters for most of Monday,
7 they were all denied. All Motions for Leave to File
8 were denied. And then the following Wednesday, I guess
9 at their submission date, there was an order entered
10 granting us leave to amend the motion that they had
11 already denied.

12 Now, have I lost everybody again?

13 Q Yes, I believe so. I know you've lost me.

14 If you would, if you would go back in talking
15 about your mandamus and your prohibition, please
16 explain in your mandamus what actions you wished
17 mandated and in the prohibition what you wished pro-
18 hibited.

19 A All right. We first sought from the Court of
20 Civil Appeals a Writ of Prohibition to more or less
21 enjoin or restrain— I take it prohibition is the same
22 thing— Judge Carrillo from presiding and to mandamus
23 him to disqualify himself from any further participation
24 in the School Board removal cases. That was first
25 presented to the Court of Civil Appeals in San Antonio

1 on, I believe the 25th of March.

2 The Court of Civil Appeals, it was very
3 questionable whether or not they had jurisdiction. I
4 think most of the Committee here are lawyers, and
5 peculiarly in this State, you cannot mandamus a judge
6 to disqualify himself, and bias or prejudice is actually
7 no grounds—it is not an automatic disqualification.
8 So you need some fact determination about it. There is
9 no law that prohibits a District Judge from hearing that
10 motion to disqualify himself. He can hear it himself.
11 And he can hold that "I'm not biased and prejudiced,"
12 and there is no relief from such a holding, actually.

13 There had been one Court of Civil Appeals
14 opinion out of the Texarkana Court in a divorce case
15 where the Texarkana Court had issued a Writ of Prohibi-
16 tion against a District Judge in either child custody or
17 on the divorce matter. So with that one slim piece of
18 authority we sought help from the San Antonio court.
19 And they denied Motion for Leave to File, but interestingly
20 enough, because of the conflicting opinions, almost
21 invited us to file it in Austin, and we immediately did.
22 And realizing the weak position of the prohibition then
23 on the following Monday when the briefs were to be sub-
24 mitted, we sought to amend our prayer for relief and
25 asked for mandamus against the Judge on a little different

1 theory. But the relief would have been the same.

2 Q So what you were trying to do each time was
3 to either positively or negatively keep Judge Carrillo
4 from sitting?

5 A Yes, sir.

6 Q And it was with regard to the School Board and
7 not the county officials this time?

8 A At that time that's all I actually signed on
9 any pleadings for. Mr. Orr and I did that. Mr. Orr
10 and Mr. Bercaw went to San Antonio and I remained in
11 San Diego, at which time I got deeply involved in the
12 Parr removal. But at the same time, on the 31st of
13 March, Mr. Oscar Spitz, from Corpus Christi, had pre-
14 sented to the Supreme Court here a motion seeking
15 mandamus against Judge Carrillo on behalf of Mr. Parr
16 on four or five different points, one being that the
17 suit had become moot because of his resignation, and
18 another one that the County Attorney had, during the
19 hearing on the 28th, had tried to take a nonsuit; that
20 the removal statutes had not been followed. I forget,
21 but it was quite a lengthy petition. And that also was
22 denied.

23 The County Clerk's petition for mandamus,
24 which I had nothing—did not participate in the prepara-
25 tion of that at all; that was prepared by Mr. Cantu—

1 sought to mandamus the Court to revoke an order that he
2 had made orally to the County Clerk directing the County
3 Clerk to approve the bond of Mr. Tobin, something the
4 County Clerk felt like by law he was not supposed to do
5 and could not do, and that was the thrust of their
6 mandamus action, which was also denied.

7 Q So, as of, say, the first week in April, what
8 was the status in the Supreme Court?

9 A Well, as of the first week in April there
10 was nothing pending in the Supreme Court.

11 Q Everything had been denied?

12 A On March the 31st all Motions for Leave to
13 File in all three matters: the School Board prohibition,
14 the County Clerk's mandamus, and Judge Parr's mandamus,
15 all those motions were denied.

16 Q And there was nothing pending?

17 A Before the Supreme Court, no, sir.

18 Q You had mentioned in your testimony that you
19 had had some conversation with Judge Carrillo, I believe,
20 at his home.

21 A Yes, sir.

22 Q What was that in regard to? In regard to
23 what was that?

24 A Well, actually there were two matters. The
25 first one had to do with if he concurred in my selection

1 or recommendation of Judge Gilbert Sharp being employed
2 to assist us in the Brownsville matter. And we dis-
3 cussed that, and my memory is that he did concur. Judge
4 Sharp has been—he's an excellent lawyer and a friend of
5 all of ours; we've known him and been involved in
6 litigation with him.

7 The other matter had to do with the Internal
8 Revenue investigation itself because they had attempted
9 to either serve a civil summons or to have some con-
10 versation with Judge Carrillo's nephew, Mr. Guajardo,
11 and it wasn't clear from their conversation whether
12 they were wanting to talk to him individually or
13 whether they were wanting to talk to him from his
14 participation in School Board matters. There was no
15 decision made, but we just simply talked about what the
16 Internal Revenue Service was doing generally, probing
17 into the School Board. And I think the result of our
18 conversation is that we didn't know.

19 Q Let me go back then to the removal of certain
20 of the Trustees. Was any appeal then taken from Judge
21 Carrillo's order removing the Trustees?

22 A Other than the appellate relief that we have
23 discussed, on April the 8th—I believe it was the 8th,
24 possibly before that in Mr. Bercaw's case—there were
25 some motions filed attacking the bond of Mr. Ashby,

1 seeking to have it quashed and stricken. There were
2 motions seeking to quash citations in all cases. There
3 were motions filed to disqualify the Judge in all cases.
4 There were answers and requests for speedy trial filed
5 in all cases. But at that time no Appellate relief was
6 sought.

7 In the latter part of April, I believe on the
8 23rd or 24th; the 23rd of April, I believe—a Motion for
9 Leave to File Petition for Writ of Mandamus was
10 presented to the Court of Civil Appeals, and they
11 granted the Motion for Leave to File, and set the cause
12 for submission on April the 30th, or one week from that
13 day. And an answer was filed and we did argue it on
14 the 30th.

15 Now, that petition sought two alternative
16 grounds of relief. First of all, it sought a Writ of
17 Mandamus from the Court of Civil Appeals. I'm getting
18 ahead. This was not in the School Board cases. I'm
19 sorry. This was in Judge Parr's case.

20 Q Let me go back, if I may, to the time of the
21 removal of the Trustees. The Judge entered an ex parte
22 order.

23 A Yes, sir.

24 Q Was any bond filed by the relator?

25 A No, sir.

1 Q Would it be your opinion that such should have
2 been filed? If you're going to have an immediate
3 removal, rather than a hearing on the removal.

4 A Do you mean similar to a temporary injunction?

5 Q I'm asking your opinion because I don't know.

6 A Similar to a temporary injunction.

7 Mr. Maloney, let me say this, and I'll be glad
8 to answer any questions I can about it. Some good comes
9 out of everything, and I hope at the end of these
10 Committee hearings that the Committee will, I hope, as
11 elected officials and I hope we'll bring out enough
12 here for the Committee to realize that there is a
13 serious need for some remedial legislation on these
14 removal statutes. 5982, the statute that provides for
15 an ex parte type removal, is probably completely
16 unconstitutional. That is my opinion. And I base that
17 on the grounds that I think this legislature just
18 rewrote the sequestration laws in this state. I think
19 they probably did that because the Supreme Court of the
20 United States in Mitchell and Fuentes held the replevin
21 statutes in Pennsylvania and Florida unconstitutional
22 in that they denied an individual procedural due pro-
23 cess of notice and hearing.

24 Judge Garza last fall, the presiding judge of
25 the Southern District in Brownsville, in an attack upon

1 the sequestration laws of the State of Texas, declined
2 to even impanel a three-judge court and held by himself
3 in the light of the Mitchell Opinion that the sequestra-
4 tion law was clearly unconstitutional; that there was no
5 notice of hearing.

6 Now here we have the same thing under 5982.
7 And an elected official can, without any notice or
8 hearing whatsoever, be temporarily suspended from an
9 office that people have elected him to. I'm not saying
10 whether— I'm sure there certainly should be a provision
11 for that, but there certainly should also be a provision
12 for an immediate hearing and adequate notice.

13 I've gotten way off, and that's not
14 responsive to your question.

15 Q Well, because I'm really not familiar with
16 these statutes and obviously you have looked into them.

17 All right. If the person is removed ex parte,
18 what is your next step? Is it an appeal from that order
19 without any hearing, or is it to try to get it set for
20 a hearing?

21 A Let me back up a minute so maybe other members
22 of the Committee are not familiar with these removal
23 statutes either, and I don't—you know, if I get to— I
24 haven't thought about anything else since back in March,
25 and if I get too wrapped up in well, you stop me; I don't

1 want to get too far afield.

2 But the removal statutes, actually beginning
3 with Article 5970, now there is an article or two ahead
4 of that concerning when you're convicted, and then the
5 District Judge can—that conviction, if the judgment
6 so states, can operate to remove you from office. And
7 then the next statute, which I believe is 5970—no,
8 5969 because 5968 has to do with the conviction by a
9 petit jury. The judgment can remove the individual from
10 office.

11 Then the next statute, 5969, provides that
12 notice of appeal from such conviction would operate to
13 leave you in office unless the judge decides that it's
14 in the best interests of the public that you be removed
15 pending that appeal. Then beginning with 5970, and
16 going through 5982, the statutes are pretty explicit
17 about the exact procedure to be followed. This is a
18 procedure that's apart from quo warranto, which is an
19 entirely different proceeding.

20 5970 lists the officers and so forth that can
21 be removed under this proceeding. The citation statute,
22 under which we have attacked all of these removal
23 proceedings, is very explicit, and it provides—this is
24 Article 5979. It says that after the petition is
25 filed—now, in quo warranto, you have to have leave of

1 the court to even file a petition for removal. Under
2 these removal statutes and the cases that have inter-
3 preted them, the petition can be filed and then presented
4 to the court. There is no requirement for leave to file
5 such petition. Any relator can go in as long as he is
6 joined with the District or County Attorney, and file
7 such—apparently any individual could do it, without
8 the joinder of the County or District Attorney.

9 The petition then is presented to the Judge.
10 And then under 5979—if the judge denies it, that's the
11 end of it and you have to pay the court costs for filing
12 it and you go about your business. Then you come to the
13 citation statute, 5979; preceding that, 5977 has to do
14 with what the requisites of the petition are, the
15 certainty with which the causes for removal have to be
16 alleged. I interpret 5977, the petition statute, to be
17 almost to put the burden on the moving party similar to
18 an indictment. You have to be pretty specific about
19 when these dates occurred, and so forth.

20 The citation statute, 5979, then provides
21 that after such petition is filed, the persons so filing
22 it shall make another written application. It doesn't
23 say "another," but it says "a written application" to
24 the District Judge for an order for a citation and a
25 certified copy of the petition to be served on the

1 officer against whom the petition was filed, requiring
2 him at a certain day named, which day shall be fixed
3 by the judge, to appear in answer to the petition. And
4 until such order is granted and entered upon the minutes
5 of the Court, no action whatever shall be had thereon.
6 And then it goes on about in vacation and so forth.

7 The statute that follows that provides that
8 this day certain named by the judge can be no less than
9 five days. And the Court of Civil Appeals, the majority
10 opinion which really didn't grant us the relief we were
11 seeking, had some dicta in it concerning the intent of
12 the Legislature when these statutes were enacted, that
13 they took it that the Legislature intended for people,
14 elected officials, that were being temporarily removed,
15 to have a quick trial. That is dicta. I think I have
16 a copy of that opinion that I could make available.
17 At any rate, I'm sure it to be a published opinion.

18 Q In regard to this particular case then, Mr.
19 Bercaw, I believe, testified earlier that the question
20 more or less became moot because the Trustees who were
21 removed, whether Judge Carrillo was right or wrong in
22 his action, the Trustees resigned. Is that correct?

23 A They resigned, I believe, on May the 9th, Mr.
24 Maloney.

25 Q Some time in May.

1 A I believe it was you yesterday that brought
2 up the point about the order of temporary removal
3 reciting that a certified copy had been served, and that
4 was not so in any one of the five removal cases. At the
5 time that order was signed there had not even been a
6 citation issued. What I'm saying is available for
7 corroboration through the records.

8 Q Well, that was my understanding from looking
9 at the records. But I'm interested in any reasons for
10 the resignation of these Trustees, if this matter was to
11 continue to be litigated.

12 A The Trustees resigned on May the 9th. At the
13 same time that Mr. Mitchell and I argued the mandamus
14 action in the Court of Civil Appeals on April 30th, I
15 believe it was, I had with me at that time, and so
16 advised the Court during oral argument, motions for leave
17 to file petition for mandamus requesting a trial setting
18 on all four of the Trustee cases. That was one of the
19 alternative grounds that we asked for in our petition on
20 the Parr removal; first we asked that the Judge be
21 instructed to dismiss the case because the County Attorney
22 had taken a non-suit, and alternatively, that we be
23 granted an immediate trial. In a split opinion, the
24 majority opinion granted a conditional mandamus; having
25 been advised by Mr. Mitchell that Judge Carrillo would

1 respond and try Judge Parr's case on or before May the
2 19th, they issued a conditional writ. Now, at the same
3 time, that day during oral argument, I advised the
4 Court that I had with me— I wanted the same thing on
5 the School Board cases. And, quite frankly, the only—
6 I was a little weak in my position that I had been denied
7 a speedy trial other than the fact that no day certain
8 was named, because all I had done was to send the Judge
9 a certified copy, I mean a certified letter demanding
10 an immediate trial in these matters and informing him
11 that if I was not given an immediate hearing on them
12 that I would seek mandamus relief.

13 During the oral argument, Mr. Mitchell, one
14 of his positions was that Rule 330(b), I believe,
15 requires you to ask for a trial at a docket call. And
16 we being advised that the court calendar in Duval
17 County the following Monday, May the 5th, was a week
18 assigned to Duval County, in chambers—I believe Mr.
19 Mitchell was there—the Court suggested to me that I
20 should attend that docket call and request a setting
21 for these school cases, which I did, after some—

22 Q What setting did you receive at that time, if
23 any?

24 A Well, after some insistance colloquially
25 between the Judge and I, those cases were set, beginning

1 with the first case, Mr. Bercaw set for June the 9th;
2 another case I believe on Mr. Enrique Garcia set for
3 June the 30th; the case on Mr. Luis Elizondo set for
4 some time in August; and the fourth case, on Mr. Joe
5 Garcia, set for September the 29th.

6 Q Did you request that they all be set at the
7 same time, or what?

8 A I had moved to consolidate, I believe, in all
9 of the cases, and also orally moved to consolidate them
10 that day, which the oral motion was overruled.

11 Q Then at that point you had received settings,
12 whether or not they were close enough to suit you—

13 A Yes.

14 Q —outside of that.

15 A Yes.

16 Q If you had the settings, was it upon your
17 advice or for whatever reason it might be, if it is known
18 to you, why did the School Board members resign on May
19 the 9th?

20 A The School Board members resigned upon my
21 advice, or at least after consultation and several con-
22 ferences in an effort to bring some end to the litiga-
23 tion. And we contended that those resignations would
24 make the cases moot; and that that would immediately
25 give us mandamus relief because there is a case styled

1 Pope vs. Davidson out of Harris County where the Supreme
2 Court granted mandamus requiring the District Judge to
3 dismiss the case. This was an election contest because
4 the trial had been drug along, the election was over and
5 the case had become moot. So that was one of our
6 purposes, and also, frankly, we felt the resignations
7 submitted to the only two actual elected members of the
8 Board under Article 2318 of the Education Code would
9 create a vacancy on the Board and give that Board the
10 right to fill the vacancy.

11 There is an Attorney General's Opinion under
12 that Article that does not require—there was a seven-
13 member board, and four of them resigned, and although
14 the remaining three did not constitute a quorum to do
15 business, they did, under the Opinion of the Attorney
16 General, constitute a quorum to fill the vacancies
17 that occurred.

18 Q Then am I to take it that your testimony is
19 that the resignations were to bring stability to the
20 School Board so that it could begin to transact its
21 business, and you would know that you were dealing with
22 a lawful School Board?

23 A Right. We wanted to end the litigation if we
24 could. We felt the resignations made the matters moot.
25 On May the 9th the end of the year was fast approaching.

1 There are countless things that had to be done for the
2 School District. The Superintendent in Benavides, Mr.
3 Ross, was the duly appointed textbook custodian, for
4 instance, and bonded as such. It is hearsay in my
5 testimony, but in a small community and the rumors were
6 running rampant, we knew that Mr. Ross was going to be
7 discharged by what I call the Ashby Board. And there
8 were countless summer programs, Title I programs to be
9 instituted, there were graduation ceremonies coming
10 on, and just a real busy time of the year in a school
11 district in May. And we hoped to bring about some
12 stability.

13 And after the two elected members made their
14 appointments, they took signature cards to the bank.
15 There was another payroll coming up. And in an attempt
16 more or less to wrest political control away from the
17 Carrillo appointees these actions were taken to bring
18 an end to the litigation.

19 Q What you have testified here before me, at
20 least, during my questioning, were actions that were
21 taken by you or members of your firm, whoever it might
22 be.

23 A That's me.

24 Q Okay. Subsequent to Judge Carrillo's removal
25 of the School Board members. Is that correct?

1 A Yes, sir.

2 Q One of the matters alleged in the petition for
3 removal was the attorneys fees that had been paid earlier,
4 or authorized by the Board earlier.

5 A That's correct.

6 Q What services did those attorneys fees cover?

7 A Well, of course, I consider now that I'm
8 still earning that money. That may be a matter of some
9 dispute in a civil matter; I don't know. That was not
10 the purpose of the fees at the time they were paid.

11 Q What was the purpose, the IRS investigation?

12 A Yes.

13 Q And it was—was it to be a retainer against
14 fees to be earned and not for previous services rendered?

15 A Well, Mr. Orr and I both had been given some
16 fee at about the time of the Brownsville litigation.
17 You can't really say when it stopped and when it started
18 because actually it was not an ultimate fee either.
19 There could have been a lot of contingencies, expenses,
20 and it could have been even a more sizable fee than that
21 before—if that investigation had taken the attack that
22 it appeared to be taking at the time, there would have
23 been considerably more fee involved.

24 Q My concern is in the area—if it was directed
25 toward Internal Revenue Service investigations, were you

1 to represent members of the School Board in criminal
2 matters or in civil matters?

3 A No, sir. Not individually. Mr. Orr and I
4 did represent Mr. Couling, who was the tax collector.

5 Q That was not covered by this fee?

6 A No, sir. Mr. Couling had retained Mr. Orr and
7 I, I believe in the late fall of 1972, and paid us a
8 \$10,000 fee. And I think after that he did pay some
9 more expenses for trips or something. I don't recall
10 that he has ever paid any additional fee.

11 Q Were those paid by him personally?

12 A Yes, sir.

13 Q Or was it paid out of school funds?

14 A Well, they were paid by his personal check.

15 MR. MALONEY: Thank you.

16 CHAIRMAN HALE: Mr. Slack, let's see, is
17 temporarily absent.

18 Mr. Hendricks?

19 BY MR. HENDRICKS

20 Q Mr. Foster, no one has brought out what fee
21 was charged the School District.

22 A \$60,000.

23 Q How many attorneys were involved in this fee?

24 A In participation in that fee, only Mr. Charles
25 Orr and myself. I received \$35,000 and Mr. Orr received

1 \$25,000.

2 Q Are you and Mr. Orr associated in the practice
3 of law?

4 A No, sir. Mr. Orr offices in Houston. He is
5 associated with Mr. Taylor Moore and Mr. Brown, but I
6 don't think it's a partnership. Mr. Orr had been
7 engaged by me as an expert since about 1972 in the
8 defense of all of the—and assistance in all of the
9 tax related investigations going on in the Western
10 District in the San Antonio Federal Grand Jury, and
11 particularly with reference to representing Mr. Eunice
12 Powell and Mr. Brian Taylor.

13 Mr. Orr is a CPA as well as an attorney. He
14 also served for several years here in Austin as an
15 auditor for the Texas Education Agency. And at the
16 particular time of the Benavides employment that was
17 another large factor in my opinion that I needed some
18 help in it. And, having the auditing experience from the
19 Texas Education Agency, he was very familiar with school
20 records.

21 Q Now, I gather from what you told Mr. Maloney,
22 primarily this fee was paid to represent the School
23 Board concerning the IRS investigation and not these
24 removal suits?

25 A That's correct.

1 Q Have you charged an additional fee for the
2 removal suits?

3 A No, sir.

4 Q Has Mr. Orr charged an additional fee for the
5 removal suits?

6 A No, sir, not to my knowledge, and I'm sure
7 I'd know about it.

8 Q Are both of you representing the School Board
9 concerning the removal suits?

10 A Mr. Orr brought the matters to the Supreme
11 Court the first time, and while he has been down there a
12 time or two, I believe he is on the pleadings of Mr.
13 Bercaw's case, maybe one or two of the others. Some
14 of them I filed, he was not there. We have had a
15 lot of conferences. I think that Mr. Orr would have to
16 speak for himself, but I would assume from my con-
17 ferences with him that he would be available any time he
18 was called upon for assistance in any of the removal
19 cases.

20 Q Do you plan on charging an additional fee for
21 the removal suits to the School Board?

22 A Not on the removal cases. Now, the Board,
23 after the resignation of the four removed people, there
24 were some more lawsuits filed by what I call the Ashby
25 Board. There was a suit filed seeking injunctive relief

1 against Mr. Gordon Ross, the Superintendent. They fired
2 him and he refused to accept their word on it. There
3 was an injunctive suit filed there. There was another
4 injunctive suit filed by the Ashby Board by the four
5 people Mrs. Hilda Parr and Mr. Ashby appointed. In the
6 meantime, the bank filed an interpleader action trying
7 to determine what the Commissioners are.

8 At a called meeting, I was authorized— I was
9 employed to represent the Board and Mr. Ross, as
10 Superintendent, and was authorized to employ additional
11 counsel. I have not submitted a bill and I have not
12 been paid for any of that work. There are some
13 individuals in Freer, Mr. Bercaw included, and some
14 substantial members of the community have—

15 Q Let me interrupt you there. Will this bill go
16 to the School Board or to the individuals?

17 A Well, if I'm not successful in those cases
18 there wouldn't be any Board to submit a bill to. But if
19 I am successful I intend to submit a bill to the Board
20 for my work in those cases. There have been some
21 additional counsel hired in those cases, not by the Board,
22 by members of the community who have raised a defense
23 fund, so to speak, and two lawyers from Sinton, Texas.
24 Mr. John Miller, Jr., and Mr. Bill Bennett have been
25 employed by those individual people, have been paid

1 money, I assume, by today, the first part of this week.

2 Q In what capacity did Gilbert Sharp come into
3 the matter?

4 A The first IRS agents— I don't know whether
5 you have ever been involved in that type of investigation
6 or not, but their first approach, even though it may be
7 a criminal matter they're looking at, is they try to
8 serve really what is a civil summons. There has been a
9 lot of litigation over it over the past few years and
10 it is almost a special field for many lawyers. At any
11 rate, if you resist those summons procedures and they
12 have a grand jury cranked up someplace, they'll begin to
13 subpoena records. What had transpired over a two and a
14 half or three year period out of the San Antonio Grand
15 Jury through some designation of the agents, special
16 agents, being arms of the grand jury, they were running
17 around all over the county and country with a pocket
18 full of blank subpoenas in cases styled "The United
19 States of America vs. 'Generally'" and these agents
20 would walk into somebody's office and want to see the
21 records and if you didn't show them to them they would
22 sit down and fill out the blank federal subpoena and
23 serve it on you and you would have to appear or take
24 these records before the grand jury. We resisted that
25 with two lawsuits to the Court of Appeals in the Fifth

1 Circuit.

2 Q Still that doesn't answer my question. In
3 what capacity was Gilbert Sharp retained?

4 A Okay. I was trying to lead up to that and I'm
5 sorry I got so deep in it.

6 The first actual subpoena that was served on,
7 I believe Mr. Bercaw and perhaps Mr. Al Schuenemann,
8 and also maybe Mr. Couling, was a subpoena drawn by an
9 Internal Revenue agent, Buddy Waters, I believe, and it
10 required these records to be produced in the Brownsville
11 Division of the Southern District. At the bottom of that
12 subpoena it said, "Deliverance of these records to the
13 agent serving this subpoena will be substantial com-
14 pliance with the subpoena."

15 Mr. Gilbert Sharp offices in Brownsville
16 and has an extensive federal practice. And our first
17 thing to do was to file a motion to quash that subpoena,
18 which Judge Garza promptly did.

19 Q Was he retained specifically for the papers
20 filed in Brownsville?

21 A On the first contact, yes.

22 Q All right. Let me ask you this: did he set
23 his own fee with the School Board, or was that fee set
24 through your office or Mr. Orr's office, or how was that
25 matter determined?

1 A Actually, I suppose I arranged the fee with
2 Mr. Sharp because I made two or three trips to Browns-
3 ville, two of which I believe Mr. Orr joined me on, and
4 we discussed these matters with Mr. Sharp the week
5 before, and not knowing where this investigation would
6 lead, whether they would then revert to the Corpus
7 Christi Division or to the Laredo Division, or where
8 they would go. Ultimately, that week Mr. Sharp set a
9 \$5,000 retainer and suggested a contingent expense
10 amount of, I believe—I think we finally decided
11 \$1,500 would be a fair amount to go into his trust
12 account for expenses.

13 And I think, upon my return after that
14 conference, I took that up with the Board or some members
15 of the Board and ultimately that check was—two checks
16 were written to Mr. Sharp, one for \$5,000 and one for
17 \$1,500 to the firm and a lot of the expense money has
18 been returned.

19 Q That fee was also paid by the School Board.
20 Is that correct?

21 A Yes, sir.

22 Q Do they owe Mr. Sharp or is there any agreement
23 to pay Mr. Sharp any additional fees, to your knowledge?

24 A I'm sure that at this point they don't owe him
25 any more money. Now if the investigation were to get

1 cranked up again, I assume that Mr.—well, Mr. Sharp
2 couldn't stay in it any more because he has been
3 appointed State District Judge in Brownsville. But his
4 firm would assist, I feel certain.

5 Q You discussed with Judge Carrillo at his home
6 the hiring of Gilbert Sharp. Is that correct?

7 A Well, let me clarify that. We didn't discuss
8 any fee to be paid to Judge Sharp. I simply asked Judge
9 Carrillo if he thought that was a good selection and we
10 would be well represented by Judge Sharp and he concurred.

11 Q Let me ask you this: when did you first set
12 a fee of \$35,000 in the case? What date was it?

13 A Well, it was some time in August, Mr. Hendricks,
14 toward the—

15 Q Of '74?

16 A Yes, sir.

17 Q All right.

18 A Actually, the fee was set at \$60,000 for the
19 employment of Mr. Orr and myself. Mr. Orr had informed
20 me that he wasn't going to get involved in the matter
21 for anything less than a \$25,000 retainer.

22 Q All right. Was this fee ever discussed in the
23 presence of Judge Carrillo at any time, to your
24 knowledge?

25 A By me?

1 Q By you or anyone having knowledge of it,
2 personal knowledge.

3 A It was discussed after it was paid, but to my
4 knowledge, I don't know whether it was discussed or not
5 with him prior to the time it was paid.

6 Q Did you discuss it with him at the time you
7 visited with him in his home regarding discussing the
8 hiring of Gilbert Spark?

9 A The fee?

10 Q Yes.

11 A No, sir.

12 Q Had it ever been brought up in any way?

13 A No. At that time we were focusing primarily
14 on what had just happened, what was about to occur in
15 Brownsville.

16 Q Was he cognizant of what fee the School Board
17 had paid you and Mr. Orr?

18 A I don't know what he knew. I know that later
19 on, in January or February of this year, he was cognizant
20 of it.

21 Q When did he file his petition, or when was the
22 petition filed to remove you, or remove Mr. Bercaw, and
23 one of the grounds of excessive fee? When was that
24 filed?

25 A March the 20th.

1 Q Of this year?

2 A Yes, sir.

3 Q Was this fee ever discussed in your presence
4 and the presence of Judge Carrillo at any time prior to
5 March 20th, 1975?

6 A No, sir.

7 MR. HENDRICKS: I believe that 's all I
8 have, Mr. Chairman.

9 CHAIRMAN HALE: We've lost quite a few
10 of our Committee it looks like.

11 Mr. Nabers?

12 (No response.)

13 CHAIRMAN HALE: Mr. Kaster?

14 MR. KASTER: Yes.

15 BY MR. KASTER

16 Q Mr. Foster, it's my understanding you were
17 hired in August of '74.

18 A Yes, sir.

19 Q By the School Board?

20 A Yes, sir.

21 Q To represent them in the investigation by the
22 Internal Revenue Service. Is that the primary reason?

23 A Yes. That was primarily the reason. My
24 recollection is that the resolution may have been a
25 little broader; that it was to resist or to exert all

1 legal efforts to resist the intrusion by any governmental
2 agencies into local government. I don't have the exact
3 wording.

4 Q I'm curious. As the School Board members--are
5 you hired to represent the School Board members?

6 A No, sir. We were employed to represent the
7 Board as a board.

8 Q The Board as a whole?

9 A Now?

10 Q That is what I understand.

11 A Yes. Let me be more specific. We were not
12 employed to represent any individual--

13 Q Right. I understand that.

14 A --in any personal tax problems that he may
15 incur.

16 Q Okay. I understand that. I'm not an attorney
17 and I don't understand all these implications, but to me
18 as a layman, if the Internal Revenue Service is investi-
19 gating something and I'm a School Board member and I have
20 not done anything wrong or have nothing to hide, rather
21 than hiring an attorney to impede the progress of their
22 investigation it seems to me I would want to cooperate
23 with them, if I've done nothing wrong, and let them look
24 at anything they wanted to look at, give them any records
25 they wanted and tell them to bring the records back. On

1 the other hand, just me as a layman, if I had something
2 I was worried about I would hire me an attorney. But now,
3 \$60,000 to handle that case, I don't understand where
4 the School Board is going to be liable. They're not
5 going to go to jail, are they?

6 A If there had been tax violations—and that's one
7 of the things—

8 Q By the School Board members?

9 A Well, let me back up a minute. That was one
10 of the things that it was difficult to understand why
11 school records, which are public records, would have to
12 be subpoenaed to a grand jury in a case called the United
13 States of America versus Generally. If they were after
14 specific individuals on specific tax matters they could
15 have specified which records they wanted to see. They
16 already had all of these records, microfilm records
17 from the bank on all of the individuals that we knew of
18 that were undergoing intelligence investigation.

19 Q You're not representing the individuals.
20 You're representing the Board.

21 A Right.

22 Q Now, the case is styled what, the United
23 States vs. who? The School Board?

24 A It was styled the United States of America
25 vs. Generally on the subpoena, which is another way of

1 saying "John Doe." The feeling was this— I think
2 this might answer your question—if members of the
3 School Board acting individually, or personnel of the
4 school acting individually, had received money upon
5 which there was, or in some manner created tax viola-
6 tions, there could very well have been allegations
7 perhaps of conspiracy on the part of the other members of
8 the School Board, as a board.

9 Q Now, just a second. You mean if a couple of
10 individuals received money illegally or in violation of
11 the Tax Codes that the rest of the Board is going to
12 be—could be in a conspiracy on this?

13 A I could conceive of such a charge. Yes, sir.

14 Q So they were worried that somebody is dipping
15 into the till and the rest of them are going to be hung
16 for conspiracy? Is that why they hired you?

17 A Mr. Kaster, I don't think there is any doubt
18 in the minds of the Duval County Grand Jury or the members
19 of the news media or anybody else that there has been a
20 lot of dipping into the till in the Benavides Independent
21 School District.

22 Q By the School Board members that hired you?

23 A I don't know about that, but conceivably— I
24 would say this: that a board, as such, I would think
25 would be responsible for whatever acts might have

1 transpired and been approved by the Board.

2 Q Well, I don't understand Duval County and how
3 it operates down there, and it's obvious, but I'm just
4 talking about generally. It could be that a school
5 board, some member was allegedly taking something
6 illegally that the others knew about and in that case
7 they might very well be hiring somebody. But if they
8 didn't know about a one person or two doing something
9 illegally, I don't see how they could be held for con-
10 spiracy. I mean it might be—if I was charged with
11 that I might want to hire an attorney, but if I had in my
12 own mind done nothing wrong, then I cannot see hiring
13 at a \$60,000 fee to protect myself for something that—
14 until I was specifically charged with something. But
15 until that time I would be inclined to let them have at
16 it.

17 If I didn't feel there was anything wrong, with
18 nothing to hide, tell them to get looking it. And the
19 same thing personally on my income tax. I know very
20 well that some agent could go in there and find some-
21 thing. Income tax laws are so complex that they could
22 find something. But I do think that intent has to be
23 something, and I cannot conceive myself being—there are
24 field audits and then I understand that you're not
25 charged with anything and they can discuss what's wrong

1 and then there are methods of appeal from their decisions.
2 And until that time you are not charged with anything.

3 A The field audits are one of the ways that
4 cases get referred to the Intelligence Division.

5 Q Right. But you have an opportunity to discuss
6 those field audits, is my understanding, when they are
7 conducted and when they make—they say you owe a hundred
8 dollars or whatever they say, and you can say, "I don't
9 think so." And at that time then you have the oppor-
10 tunity to go to a tax court or something of that matter.

11 A One of the exceptions, Mr. Kaster, to the
12 production of records under the Open Records Act or
13 whatever the common name of the statute is, is that the
14 governmental entity can withhold those records provided—
15 the production of those records, provided some officer or
16 member of that entity is perhaps under criminal attack
17 and those records are necessary. That's not the exact
18 wording of the statute. And then you have to request
19 an Attorney General's opinion as to whether or not that
20 would be violative of whether you have that exception or
21 not.

22 Q These School Board members weren't under
23 criminal attack at that time, were they?

24 A Well, Mr. Couling, the business manager, was
25 being investigated by special agents. Special agents

1 were interrogating other members of the School Board and
2 members of their family.

3 Q It's my understanding, though, you were
4 representing Mr. Couling separately and personally.

5 A That's correct.

6 Q That had nothing to do with the School Board
7 then.

8 A That's correct.

9 Q Again, what does that have to do with the
10 School Board? Are you trying to protect Mr. Couling
11 by representing the School Board, too?

12 A No. I didn't see any conflict in that particu-
13 lar phase, but part of the allegations of the Internal
14 Revenue Service was that Mr. Couling had received funds,
15 tax money, school money, and that would have had to have
16 been done by Board action.

17 Q You were hired in August of '74?

18 A Yes, sir.

19 Q And I assume that's when these IRS investiga-
20 tions were commencing or were under way?

21 A Well, they had been under way for two and a
22 half years before that. They were focusing at that time
23 more directly on the Benavides Independent School
24 District.

25 Q From '74 on, when you were paid this fee, did

1 you primarily devote your time to this matter, or did
2 you have your other practice too?

3 A Well, for a while we had—the first subpoena
4 was quashed in Brownsville and they issued another one.
5 We had another hearing and some of the records were
6 tendered at that time and under Judge Garza's ruling
7 the Internal Revenue Agents were allowed to come into
8 the school under certain provisions and make copies of
9 certain records, and I was in and out a lot of that,
10 there were a lot of conferences about what they wanted to
11 see and what they were going to look at. About that time
12 their real probe seemed to stop on the School Board.

13 Q When? What time was this that the probe
14 stopped?

15 A I would say, by the end of September it seemed
16 to have slowed down. I think they ultimately issued a
17 subpoena out of the Corpus Christi Division.

18 Q September of what year?

19 A '74.

20 Q So you were hired in August of '74 and by
21 September of '74 the probe lessens?

22 A Well, they got all these records. They got
23 copies of a lot of records. They issued subpoenas
24 out of the Corpus Christi Division of the Southern
25 District to that Federal Grand Jury. Copies of records

1 were furnished them, and I assume were being investigated
2 by that Grand Jury. So I don't know when it stopped,
3 or I don't know whether it has stopped yet or not.

4 Q But your statement was that the probe seemed
5 to have lessened by September of '74. You just said it.

6 A I say by the end of September the agents were
7 no longer in the Benavides Tax Office daily copying
8 records and things, and a lot of activity insofar as
9 that particular thing was concerned, from my time's
10 standpoint, had stopped.

11 Q Then, after the end of September of '74, as
12 far as these tax matters are concerned, it was not
13 taking most of your time because the matter had lessened
14 and it was in the Grand Jury or—

15 A That would be correct.

16 Q Then, as I understand it, the next phase then
17 came with the removals, which took place in this year,
18 as far as—

19 A Of my representation of the School Board or
20 work I was doing for the School Board?

21 Q Yes.

22 A No. There were some other matters that occurred
23 in the fall of '74, for which I received no fee and Mr.
24 Orr didn't particularly participate in it other than
25 some discussions with him concerning the Education Agency.

1 About that time, in October, I believe it
2 was, in '74, there was a decision made by the two school
3 districts, the two independent school districts in the
4 county, to attempt to consolidate. And we made either,
5 I believe two trips, probably three trips, here to
6 Austin to the Agency and secured records and so forth.
7 At the time I accepted the \$35,000 fee I didn't know this
8 was going to happen. I did do that work and never
9 received any compensation for this.

10 Q Well, as far as I can determine now, you were
11 hired in August and by the end of September, the basic
12 reason for your being hired is sort of moot, and these
13 other things you did but you're not— I wouldn't imagine
14 they are dealing with tax matters, which I assume you're
15 a specialist in—

16 A No, sir. I'm not.

17 Q You're not? You're just an attorney that they
18 hired for \$35,000 on a specific matter dealing with the
19 Internal Revenue Service and you're not a specialist in
20 that area?

21 A Well, since April of 1972 that's about all
22 that I've had time to fool with, you might say, but
23 I have never—would never hold myself out to be a
24 specialist in income tax matters.

25 Q I'm just trying to get it straight in my mind.

1 It looks like you are hired in August of '74 and by
2 September it's over and there is a \$35,000 fee, however
3 you are continuing to represent them. Now we get up
4 to these removals. You filed petitions and writs and
5 all these legal terminology. But as far as I can
6 determine, your basis for contention that they were
7 illegally moved or whatever it was, was denied by the
8 Supreme Court. So your contention didn't convince the
9 Supreme Court.

10 A No, sir. That issue was not even—that was
11 not an issue before the Supreme Court.

12 Q Well, the issues that you have brought
13 before the Supreme Court having to do with the removal
14 of these people, or whatever these writs were, to make
15 the judge do something, or not, they were denied?

16 A Yes, sir.

17 Q Whatever your writs were, were denied.

18 A Even our motions for leave to file them was
19 denied.

20 Q Right. All of these were denied by the Supreme
21 Court. Okay.

22 Now, when you told the members of the School
23 Board that had been removed that you were representing
24 to resign because it's the end of school, and so forth,
25 and they resigned to the lawful members, which were two

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1 A Well, our hope is that ultimately we can get
2 it resolved in the trial court in Duval County, but I
3 assume that either side, it will eventually be resolved
4 in some Appellate Court.

5 Q When is the matter scheduled in the trial
6 court?

7 A I'm trying to think, Mr. Kaster. There are
8 two lawsuits pending, either of which could ultimately
9 lead to a decision as to who the legal Trustees are.
10 One of those suits, Judge Carrillo has disqualified
11 himself in. The other one there was an interlocutory
12 order entered by Judge Carrillo last Friday designating
13 three people to sign checks so that the school could
14 meet the payroll, I mean the school could pay the
15 teachers, and so forth.

16 There are no settings. I don't believe there
17 are any settings in any of those cases at this time.

18 Q But the Judge disqualified himself?

19 A In one case. In the other case he has not.

20 Q Has it been filed, or do you know?

21 A Filed?

22 Q Or a setting made or whatever happens?

23 A There hasn't been any setting made. In fact,
24 I think that the answer date in that suit was just this
25 last Monday of this week. The suit was only filed a

1 couple of weeks ago.

2 Q As I understand these suits there is one
3 board versus another board.

4 A Yes, sir. Actually, in those suits, one of
5 them is an interpleader by the bank saying, "We're the
6 depository and we want to know who the--there can only
7 be seven trustees; there are twelve people claiming the
8 offices. Tell us who the actual officers are." And
9 there will be--

10 Q Now, you're not representing--pardon me for
11 interrupting.

12 A All right. There are answers filed in that
13 seeking declaratory judgment as to who the legal Trustees
14 are.

15 Q Do I understand correctly you're not
16 representing either side, either of the two boards now?

17 A Yes, sir, I do.

18 Q You do?

19 A I represent the board that was--the board
20 that consists of Mrs. Parr and Mr. Chapa and the people
21 that they appointed to the vacancies.

22 Q Mrs. Parr and Mr. Chapa?

23 A Mr. Chapa. Yes.

24 Q But these are the two people that the other
25 members resigned to?

1 A Yes, sir.

2 Q And so you're still representing the Board as
3 constituted by those two plus their appointments?

4 A Yes. I might say, this occurred on Friday,
5 May the 9th, at the emergency meeting called by Mr.
6 Chapa and Mrs. Parr who were elected in the April
7 election to two spots on the Board. The following day,
8 on May the 10th, which was a Saturday, the emergency
9 meeting was called by the Ashby Board. They, in their
10 resolution, took recognition of the resignations and
11 reappointed themselves to fill the vacancies. And our
12 position is, of course, that they had no authority to
13 do that.

14 Q The fees that the Board that you're represent-
15 ing, is this part of the original fee that you received,
16 or is this an additional fee?

17 A It hadn't been anything yet. They can't
18 write a check.

19 Q I understand that. And I assume you are not
20 doing it out of the goodness of your heart. You're
21 probably doing it by—

22 A By specific resolution I was employed to
23 represent the Board and Mr. Ross in three cases and I was
24 authorized to employ whatever other lawyers I felt
25 necessary, and I have done so.

1 Q Which resolution is this, now? Is this by the
2 newest Parr Board, or is this—

3 A Well, it might be easier if we call them the
4 Parr Board and the Ashby Board.

5 Q Right.

6 A This is a resolution passed several days
7 after the Parr Board was reorganized.

8 Q This is the newest resolution to employ you,
9 which is a new fee then?

10 A Yes, sir.

11 Q Because the old fee will have been completed.

12 A Yes, sir.

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

14 CHAIRMAN HALE: Mr. Donaldson is not here.
15 Mr. Laney?

16 MR. LANEY: I'll pass right now.

17 CHAIRMAN HALE: Ms. Thompson?

18 MS. THOMPSON: I'll ask a couple of
19 questions.

20 BY MS. THOMPSON

21 Q I believe you said you represent the persons
22 who were ousted on the School Board?

23 A Yes, ma'am.

24 Q Mr. Bercaw. What were the reasons that they
25 were let out? Why were they removed?

1 A Why were they removed?

2 Q Yes, sir. What were the grounds?

3 A The petition alleged the grounds for removal,
4 number one, was that they had either destroyed or caused
5 to be destroyed certain records; secondly that they had
6 paid Mr. Orr and I fees which were not meant to be—were
7 not— I forget exactly the wording of the petition, but
8 that were not to the best interest of the District and
9 not for the purposes stated, or something like that.
10 The third reason was that they had agreed to hire Mr.—or
11 ro pay Mr. Eunice Powell a \$1,000 a month salary as a
12 consultant and that Mr. Powell is currently serving a
13 term in the Federal penitentiary for tax evasion.

14 Q The fees that they were talking about that were
15 excessive that they were paying you, those were not the
16 fees for representing them from being ousted from the
17 office?

18 A No, ma'am.

19 Q That's what I wanted to clear up.

20 MS. THOMPSON: Thank you.

21 A Although, I considered my services on those
22 ouster cases as covered by that fee.

23 Q You consider the cases that you're not really
24 handling yet already covered by that fee? Is that what
25 you're saying?

1 A I would say this: At the time that this fee
2 was paid, having gone through two and a half years of
3 what an Internal Revenue investigation could consist of,
4 it did not develop, or it has not yet developed, that
5 that fee has been totally earned. Consequently, my
6 present plans do not call to submit any additional fee
7 for representing the School Board in attempting to
8 hold the School Board intact.

9 Q But now the time that you did represent them,
10 that two and a half years or so—

11 A That was not for the Benavides Board, Mrs.
12 Thompson. I didn't mean to infer that. That was for
13 other investigations.

14 Q That didn't incur any fees that represented
15 the Superintendent?

16 A No, ma'am.

17 CHAIRMAN HALE: Ms. Weddington?

18 MS. WEDDINGTON: I'll pass, Your Honor.

19 CHAIRMAN HALE: Mr. Chavez?

20 BY MR. CHAVEZ

21 Q Mr. Foster, when was Mr. Powell convicted?

22 A I believe that he entered a plea to one count
23 in late January of '75. This year.

24 Q Who represented him?

25 A Mr. Orr appeared with him.

1 Q Well, appeared at sentencing, but who else
2 represented him? Do you know? Did you participate in
3 any representation?

4 A I represented him since the inception of it,
5 but in December of 1974 I was suspended for three years
6 by Judge Owen Cox from appearing in the Southern District.

7 Q When was this?

8 A That suspension is now on appeal and I did not
9 go to court nor participate in the actual plea of Mr.
10 Powell.

11 Q When were you suspended?

12 A I believe the order of suspension was entered
13 in late November or early—notice of appeal in the case
14 was given on December the 2nd or 3rd of '74.

15 Q But you represented Mr. Powell up until that
16 time?

17 A Yes, sir.

18 Q And he was superintendent where?

19 A At Freer.

20 Q Was Ross another guy that was convicted?

21 A No, sir. I think you have reference to Mr.
22 Taylor who was the Superintendent of the San Diego
23 Independent School District.

24 Q Was he also charged?

25 A He was also indicted in San Antonio, along with

1 Mr. Powell and Mr. Parr and those indictments were
2 dismissed and they were later reindicted in Corpus
3 Christi for the same violations.

4 Q What is the status of Mr. Taylor's case?

5 A He pled guilty on the same day to one count
6 and he is presently serving a one year sentence at
7 Springfield, Missouri.

8 Q Did you represent Mr. Taylor also?

9 A Yes, I did.

10 Q Did they pay you fees independent from the
11 School District?

12 A Yes, they did.

13 Q I presume that this can be verified?

14 A Yes, sir.

15 Q What was the nature of your representation of
16 the School Board in connection with the tax investigation?

17 A Of the Benavides Independent—

18 Q Yes, sir.

19 A You're talking about for this fee we have been
20 discussing?

21 Q Yes, sir.

22 A The nature of it?

23 Q Yes.

24 A Well, the first thing that occurred, of course,
25 was the resistance to the Brownsville subpoenas, that we

1 employed Mr. Sharp as local counsel in.

2 Q In connection with that, did that investigation
3 have anything to do with the charges that were eventually
4 filed against Powell and Taylor?

5 A They were already under indictment at that
6 time.

7 Q Was the investigation a result of these cases?
8 In other words, they filed these cases against Powell
9 and Taylor, that this didn't lead them to continue
10 their investigation into the School Board?

11 A It could very well have, Mr. Chavez. The
12 initial investigation by the IRS on April the 4th of
13 1972 was directed to Mr. George Parr, to Mr. Brian
14 Taylor and to Mr. Eunice Powell. Teams of agents
15 descended upon them simultaneously. From somewhere in
16 that investigation the IRS agents were led into the
17 Water District, the investigation of various individuals
18 in those entities, and into the School Districts, both
19 School Districts. So I would have to say that the
20 original intelligence investigation probably led to the
21 thing at Benavides. Yes, sir.

22 Q What was it that the IRS thought that the
23 School District was doing wrong for them to be investi-
24 gated?

25 A That, I don't know. And you could not tell

1 from the thrust of their investigation.

2 Q Weren't they actually investigating the
3 Trustees and the business manager and the Superintendent
4 as their activities related with monies belonging to this
5 District?

6 A You couldn't tell, because they simply wanted
7 to see all of the records.

8 Q Wasn't that their intent? I mean, how else
9 could they determine whether or not these fellows were
10 stealing from the School District?

11 A In my answer, I didn't mean to be evasive with
12 it. You could not tell from the generality of the
13 subpoena whether it was directed at any one individual
14 or at any one particular transaction. And you could not
15 tell from feedbacks of people they were interviewing, and
16 so forth. It could very well have been that they were
17 looking at an obstruction of justice case on the records,
18 which could very well have resulted in a charge against
19 the whole Board, as such.

20 Q Well, not as to the board but as to the
21 individuals, wouldn't it?

22 A Well, yes, it would be individuals, but--

23 Q But if the individuals did something wrong,
24 whether it be obstruction of justice or stealing or
25 whatever it was, do you feel that then the School Board,

1 acting as a Board, could use school monies to employ
2 attorneys for them?

3 A Not if it was their individual—not if they
4 were going to be criminally prosecuted individually.
5 But I might say that for—during the investigation in San
6 Antonio for two and a half years, various officers or
7 elected officials were subpoenaed up there, and most of
8 the time their legal fees were paid by the entity they
9 represented. Of course, they were subpoenaed as
10 individuals but in their official capacity.

11 Q Official capacities?

12 A Yes, sir.

13 Q When did Mr. Couling employ you?

14 A I believe that it was in the late fall of 1972,
15 if I'm not mistaken.

16 Q Was that in connection with the charges that
17 have been eventually brought against him, or did he
18 employ you for the School District?

19 A No, sir. He was approached by two members,
20 or one member of the Intelligence Division of the Internal
21 Revenue Service and an audit agent, and given his Miranda
22 warning and advised that they were investigating him
23 for tax liability for, I believe beginning in 1968 or '69
24 through current years, and he immediately employed myself,
25 and I got Mr. Orr in the case with me.

1 Q Okay. His case had no relation, then, to the
2 School District activities?

3 A Well, his occupation was "business manager" and
4 he handled a lot of the School District money. I
5 don't understand the question exactly, perhaps.

6 Q Well, did that---

7 A They were investigating him personally on his
8 personal tax liability.

9 Q On what? That he hadn't reported some income,
10 or what?

11 A Well, it ultimately--that ultimately has
12 been, I hope, resolved with the audit agents where an
13 assessment was made for tax not paid on money received.

14 Q Did that include some money that he received
15 from the School District illegally?

16 A It pertained to money that was paid by the
17 Benavides Independent School District and other entities
18 to the Benavides Implement and Hardware Store, and
19 transactions between the Benavides Implement and Hardware
20 Store and the Zertuche Store and the Farm and Ranch,
21 and the Carrillos personally, and other things.

22 Q That is where I get lost. If they were
23 investigating Couling because he failed to report
24 income, and in order to determine whether or not he in
25 fact had reported income or not reported income, and

1 they had to look to the School District records, here
2 you're representing a fellow that has been accused of
3 that and at the same time representing the School
4 District, would you be--

5 A Well, may I answer you? They didn't have to
6 look to the School District records to determine that.
7 The Internal Revenue Service already had complete
8 copies of all of the bank records of Mr. Couling per-
9 sonally and his ranch account and his store account and
10 of all of the School District checks and deposits.
11 Those had already been obtained from the First State
12 Bank in San Diego and taken first to the San Antonio
13 Grand Jury and then transferred to the Corpus Christi
14 Grand Jury.

15 Q Okay. Now, leaving that for a while, you
16 indicated that the reason these fellows had resigned
17 as trustees, Bercaw and these other guys, was that this
18 was done in the interest of seeing that the school
19 operated smoothly and all these things were taken care
20 of, and this was on May 9th?

21 A Yes, sir.

22 Q This was after the election of Hilda Parr
23 and Ruben Chapa?

24 A Yes, sir. That occurred on April 5th, I
25 believe.

1 Q And, of course, there was a power struggle
2 between the Carrillos and the Parrs?

3 A That's correct.

4 Q It seems to me that really the reason that
5 this action would have taken place, this resignation,
6 would be to perpetuate the Parr regime, because since
7 Hilda Parr and Ruben Chapa had already been qualified as
8 Trustees and you had the problem with the lawsuits against
9 Bercaw and these other guys, that the easiest thing to
10 do was for them to resign and have Hilda Parr and Ruben
11 Chapa appoint, and obviously appoint people of their
12 political—

13 A You're well acquainted with South Texas
14 politics, Mr. Chavez. That was one of the purposes.
15 Yes, sir.

16 Q Well, that was the purpose, wasn't it?

17 A Well, I can't—

18 Q I mean it seems to me if a guy really wanted
19 to fight this thing on principle; that he had been
20 improperly removed, and I'm sure you have taken some
21 cases on when some guys have probably a losing cause
22 but to them it's a matter of principle; that they'll
23 fight the case all the way, even if it's going to cost
24 them money and the only thing they're going to prove is
25 their principle. It seems to me if Bercaw and these

1 fellows really were interested in principle; that they
2 had been improperly removed, it seems to me that they
3 would have taken the case on to court and the Appellate
4 Courts, if necessary.

5 A Those issues will ultimately be resolved in
6 these other cases, because if they were improperly
7 removed and the other appointments were invalid, there
8 could not be an Ashby Board, and all of those matters
9 will be litigated in at least two lawsuits. One of the
10 other matters for the resignations were that the way the
11 trials were staggered those cases would not be resolved
12 of, probably, before next spring when all of the appointees
13 are going to have to run again anyway. And there will
14 be a lot of time and money spent in that litigation
15 that will ultimately be resolved in the next election.

16 Q When did you employ Judge Sharp?

17 A Pardon?

18 Q When was Judge Sharp employed?

19 A I believe in August of '74. I think that's
20 what the records will show.

21 Q Now, why did you determine it necessary to
22 discuss Sharp's employment with Judge Carrillo?

23 A Well, I discussed it with Judge Carrillo—he
24 is a political leader there; he was on the School Board;
25 he had nephews on the School Board.

1 Q Judge Carrillo was on the School Board?

2 A Had been. And I discussed it with several
3 other people before we ultimately decided to employ
4 Judge Sharp.

5 Q Well, but what business was it of all these
6 other people who was employed if the School District
7 was the one that was actually employing you and Orr and
8 whoever else you determined necessary?

9 A Well, it wasn't really, I suppose, wasn't
10 really any of their business, but I just personally felt
11 it was the thing to do before counsel in Brownsville
12 was employed to get the opinions of the other lawyers.

13 Q This was, of course, before the actual full-
14 fledged split between the Parrs and the Carrillos?

15 A Yes, several months.

16 Q Now, the following subpoenas, the one that was
17 quashed in Brownsville: when did that hearing take
18 place?

19 A That also was in August, I believe, of '74.
20 There were two hearings down there, and I'm not sure
21 whether they were both in the same week or in two
22 different weeks; the end of one week and the first of the
23 next. I'm not sure.

24 Q Now, this \$60,000 fee was sent back in '72, or
25 when?

1 A No. That was paid in August of '74 and was
2 set just about the time—shortly before it was paid, just
3 a statement was sent.

4 Q And that was this year, and there has been no
5 employment with respect to any litigation that could
6 take place in Federal Court?

7 A Well, Mr. Orr and I were employed in that.
8 We employed Mr. Sharp and we submitted separate—or bills
9 for that.

10 Q This year?

11 A Before that time.

12 Q What I'm saying, this year, has there been
13 anything that might cause litigation to take place in
14 Federal Court?

15 A This year?

16 Q Yes, sir.

17 A With reference to the School Board?

18 Q Yes, sir.

19 A No. Other than contemplated civil rights
20 suits.

21 Q Now, was there also an investigation on the
22 San Diego Independent School District?

23 A Records of the San Diego Independent School
24 District were subpoenaed to the Grand Jury in San Antonio
25 periodically throughout '72 and '73.

1 Q Did you represent that District also?

2 A Yes, sir.

3 Q Were you paid a separate fee by that District?

4 A I was on a thousand dollar a month retainer for
5 the San Diego Independent School District.

6 Q You haven't represented Clinton Manges, have
7 you, in the past?

8 A Personally?

9 Q Yes, sir.

10 A Clinton Manges personally?

11 Q Yes, sir.

12 A No.

13 Q Any of his companies?

14 A No.

15 Q You have never done any work, either directly
16 or indirectly, for Clinton Manges?

17 A Well, I have never represented Clinton Manges
18 personally. I was paid some money by Mr. Manges one
19 time, Mr. Nago Alaniz and I were. But he was paying
20 that to help a friend of his.

21 Q To help what?

22 A To help a friend of his.

23 Q Anybody involved in these matters we have
24 been—

25 A It was Mr. Jim Bates. When Mr. Bates was indicted

1 in Corpus Christi Mr. Alaniz and I were in that case for
2 a time, up until the time he got indicted.

3 Q Okay. Now, you also mentioned the Zertuche
4 Store. Did you do any legal work for that store, or
5 any of its owners?

6 A Did I?

7 Q Yes, sir.

8 A No, sir.

9 Q Well, now—

10 A Well, now—no, with this exception: when Mr.
11 Arturo Zertuche was first approached by members of the
12 Intelligence Division at the school in Freer, he consulted,
13 I think, with Mr. Powell, because Mr. Powell was already
14 under investigation at that time. And Mr. Powell called
15 me and I went over to Freer and had maybe a twenty or
16 thirty minute conference with Mr. Zertuche explaining to
17 him what his rights were in an Intelligence investigation.
18 I did not thereafter ever counsel with him, to my
19 knowledge, and never represented him and never received
20 any compensation or anything for representing him.

21 Q Do you know anything about the existence of
22 this store?

23 A Do you mean whether it exists or not?

24 Q Yes, sir.

25 A Well, the actual existence of the store, my

1 knowledge of that would be hearsay. I have seen a lot
2 of the records, and so forth.

3 Q There has been testimony that it existed and
4 there has been testimony that it didn't exist; that is,
5 there's a story that it—there was some testimony that it
6 existed as a legal entity but had no assets or no
7 inventory.

8 A I have no personal knowledge of that, Mr.
9 Chavez, other than what my investigations with reference
10 to the other matters have been, and I suppose that
11 would have to be classified as hearsay.

12 Q Well, be that as it may, what did your
13 investigation disclose?

14 A Well, my opinion from my investigation is that
15 it was a bookkeeping entity.

16 Q I don't know if you were here at the beginning
17 or not. There was testimony that this store existed in
18 name only; that it was a front for purposes of selling
19 merchandise to the county; that the county paid the
20 Zertuche Store and in turn the Zertuche Store deposited
21 and surrendered the money to the Farm and Ranch Store.
22 Did you run across any such things in your investigation?

23 A Mr. Chavez, I don't want to be evasive about
24 the question, but I feel like probably because of my
25 representation of Mr. Couling that any of the matters

1 involved probably would be subject to a privilege claim
2 by Mr. Couling, and I would decline to answer subject to
3 the ruling of the Chair on that at this point.

4 Q Mr. Couling wasn't a member of either the
5 Zertuche or Farm and Ranch, was he?

6 A No. But his business had dealings with the
7 Zertuche Store. Financial transactions between them.
8 As a matter of fact, the Zertuche records, many of those
9 records, were made available to Mr. Orr and I through
10 the cooperation of Mr. Mitchell and their accountant-
11 auditors in Harlingen, to assist us in our representation
12 of Mr. Couling insofar as the audits and compromises
13 on his tax liability were concerned.

14 Q Did those transactions take place here in the
15 last couple of years? Would they involve that period
16 of time also?

17 A I don't think past '73, is my memory of that.
18 And it could have only been '71 and '72. We were working
19 on actually about four years of audits on Mr. Couling's
20 personal tax liability, but I think that those records
21 only went through '71 or '72 on transactions between
22 Zertuche and Benavides Implement.

23 Q These removal suits were filed by the District
24 Attorney, weren't they?

25 A (No response.)

Q He was the lawyer that was preparing the

1 petitions, and so forth?

2 A I assume he prepared them. They were over his
3 signature as the attorney representing the Relator.

4 Q Before I get into that, I have been asked to
5 ask you a question here. You indicated that Couling had
6 some transactions with Zertuche. Does this mean Mr.
7 Couling individually, or in his capacity as the owner of
8 the Benavides Implement and Hardware?

9 A I don't recall any transactions between him
10 personally and the Zertuche Store. I don't recall them.

11 Q I would like to ask you the next question, but
12 you know what I told you about the way some of this
13 merchandise was, I guess, laundered through Zertuche to
14 be sold to the county. Do you know if Couling was doing
15 the same thing, or helping out the Carrillos and the
16 Parrs? It seems to me like all this stuff was going on
17 for a substantial period of time among all these people,
18 and nobody said anything because they were all friendly
19 politically. But then suddenly there is a split among
20 families down there and then all of a sudden everybody
21 is pointing a finger at everybody.

22 A Well, the Benavides Implement and Hardware
23 Store, through its account in Rio Grande City, bought
24 a Pontiac station wagon for Judge Carrillo. Now, where
25 that money originally came from, I don't know.

1 Q The Benavides who, now? I lost you there.
2 Would you repeat it again?

3 A Yes. The Benavides Implement and Hardware
4 Company, or Store, which was not a corporation, bought a
5 Pontiac station wagon for Judge Carrillo from the agency
6 in Hebronville.

7 Q When was this?

8 A This was November the 11th of 1971.

9 Q Now, is that a sales slip that you have there?

10 A Yes, sir.

11 Q Could I look at it?

12 A Yes, sir. I didn't obtain this--well, I'll
13 answer your questions concerning it.

14 Q You say you didn't obtain it, or what?

15 A Well, I mean it was picked up from the agency.
16 I can't testify as to the authenticity of that particular
17 document.

18 Q Of course, it says that it was sold to O. P.
19 Carrillo. Now, where do you get the information that
20 this was paid by the Benavides Implement?

21 A I have seen that check.

22 Q And, of course, your client, Mr. Couling,
23 could verify that?

24 A He did.

25 Q What was the purpose of the purchase?

1 A Pardon?

2 Q What was the purpose of his giving Judge
3 Carrillo a Pontiac?

4 A I can't answer that, Mr. Chavez.

5 Q Would you let us make a copy of this for our
6 records?

7 A Yes. As I say, I cannot testify. I think
8 Mr. Joe Guerra may have picked that up, but he is
9 available and I cannot testify as to the authenticity
10 of that particular instrument.

11 Q Who picked it up? Mr. Guerra?

12 A Either Mr. Guerra or someone under his direction,
13 as I recall.

14 Q When did Mr. Couling advise you that he had in
15 fact purchased this vehicle for Judge Carrillo?

16 A When? I really don't know. I have known it
17 a long time.

18 Q Where did he tell you this? In casual
19 conversations or in connection with conferences that you
20 might have had with him?

21 A I believe that the actual conversation confirm-
22 ing that probably has been had since the removal suits
23 were filed.

24 MR. CHAVEZ: Do you want to mark this,
25 please?

1 (The invoice referred to was
2 marked "Exhibit-55," for
identification.)

3 Q We understand that Judge Carrillo at one time
4 got a Cadillac from Clinton Manges and he got this
5 Pontiac from Mr. Couling. Do you know of any other
6 vehicles that Judge Carrillo might have been given over
7 the past three or four years?

8 A No, sir.

9 Q Do you know of any other substantial gifts of
10 this nature that Judge Carrillo might have received from
11 anybody?

12 A Gifts of money?

13 Q Gifts of money, merchandise, anything. I assume
14 that this Pontiac was a gift.

15 A Let me be sure about your question. Do I know of
16 any substantial gifts of money or material, tangible
17 items?

18 Q Yes, sir.

19 A No, sir.

20 Q The only one you know about is this Pontiac?

21 A (The witness nodded.)

22 Q I'm assuming it is a gift. Do you know the
23 circumstances of why Mr. Couling gave Judge Carrillo
24 this Pontiac?

25 A I do not know the circumstances surrounding

1 that. And other matters that I do know of I believe
2 probably would fall within the privilege. I don't think
3 this did, is the reason that I told you about it.

4 Q As respects Mr. Couling?

5 A Yes, sir.

6 Q I can understand that. But other people.

7 A I gave Judge Carrillo his judicial robe when
8 he was sworn in. That wasn't a very substantial gift.

9 Q Well, no. Of course, that would be a nice
10 thing for any member of the Bar to do.

11 Do you know of any vehicles that were picked
12 up from Archer Parr?

13 A Vehicles?

14 Q Yes. Jeep, Cadillac?

15 A Picked up from him?

16 Q Yes. Picked up or given to him?

17 A No, sir, I don't. I mean I just don't. It is
18 my understanding that the Cadillac he drives is a leased
19 car, but I have no personal knowledge, other than his
20 saying that.

21 Q You don't know who pays the lease fee for
22 that?

23 A No, sir, I sure don't. I represent Mr. Parr
24 in his political suits and political turmoil but I know
25 very little about Mr. Parr's financial transactions or

1 obligations. Now, I might add, I never represented him
2 prior to that time. I know in one of the matters that
3 Mr. Mitchell filed here in response that the fee paid me
4 by the School District actually was to defend Mr. Parr
5 and is incorrect. I have never represented Archer Parr
6 in my life until these removal suits.

7 Q Has he paid you separately and independently?

8 A He has not paid me one penny.

9 Q Well, have you set a fee?

10 A No, sir.

11 Q See, that is what I think bothers some of the
12 Committee members. You have been doing a lot of repre-
13 senting a lot of different people that belong to the
14 same political party. Nobody has paid any fees, but the
15 School District picked up the tab for \$60,000. That
16 would indicate to some, I guess, or somebody might presume
17 improperly, probably, that—

18 A Of course, at the time that was paid there
19 were no removal suits, you know—

20 Q Filed?

21 A I would vehemently deny that that money had
22 anything to do with the present situation because as far
23 as I was concerned, I didn't know it was going to happen
24 that far back. I knew a month or two before it happened
25 it was going to happen, but not back in '74.

P-1
C-4
S-7

1 Q Is Mr. Alaniz involved in any of this litiga-
2 tion?

3 A Mr. Alaniz appeared with me on the 19th in
4 Rio Grande City to represent Mr. Parr in his removal
5 suit. I was trying to think, there was some testimony
6 yesterday, I believe in response to a question by you,
7 or perhaps it was this morning. Maybe it was some other
8 member of the Committee. I think it would be important
9 for the Committee to realize the difference in issues in
10 the removal suits and in the other suits that are pend-
11 ing there as to the questions I believe you had for
12 Mr. Canales a while ago about this Committee's actions
13 and then something else being determined later on.
14 There is a case set for June the 25th in which Judge
15 Wesley Dice is presiding which is an offshoot or which
16 is the remaining two counts to a suit filed by us back
17 in April trying to try the title to office. First,
18 there was a suit filed, a tax payers' suit, filed against
19 the Tobin Court in which Judge Carrillo was disqualified
20 and Judge Dice was assigned to hear, and did hear, and
21 denied injunctive relief. Almost simultaneously there
22 was a suit filed by Judge Parr and Mr. Garcia and Mr.
23 Ruiz, his two appointees, against the Tobin Court, also
24 seeking injunctive relief, and alternative counts of the
25 title to office, and the third count seeking a

1 declaratory judgment as to who holds that office. So, I
2 don't know that the rightfulness or wrongfulness o
3 the removal suit, or whether it was—whether the statutes
4 were followed or not would have any—I mean, that will
5 ultimately be decided by an Appellate Court. And our
6 contention has been all along, and in our motions to
7 disqualify, has been that Judge Carrillo was misusing—
8 and this is a point you were making a while ago; that
9 if these removal suits had as their basis a personal
10 bias or prejudice or political motive, that that could
11 constitute misuse— I believe this was the point you
12 made—that that could constitute misuse of the powers of
13 the district judgeship regardless of the outcome of the
14 actual litigation. Did I interpret your point to Mr.
15 Canales correctly?

16 Q Yes, sir.

17 A And I think you were correct. I would assume
18 from Mr. Canales' answer that he maybe didn't understand
19 what you were asking him.

20 Q Well, do you think that your investigation and
21 evidence will disclose that there was a misuse of his
22 office?

23 A Mr. Chavez, if you look at the chronological
24 sequence of events and the actions taken by Judge
25 Carrillo, the appointments made, his connections with the

1 various people, you cannot come to any conclusion except
2 that he had some personal political motivation in the
3 overall actions taken. And that has been consistently,
4 by his actions on the Bench since that day, and when I
5 have appeared before him on three or four or five
6 occasions, has consistently been tremendously disappoint-
7 ing to me by his rulings. My personal opinion—you
8 haven't asked me for this.

9 Q Go ahead.

10 A —is that rules of law and procedure insofar
11 as these cases are concerned have meant nothing to Judge
12 Carrillo, and I wish he would get out of these cases.
13 And I wish we could get a disinterested judge. And then
14 if the facts are such that these parties should be
15 removed, and if the judge holds that to be the law, and if
16 the statutes were followed, then so be it. But there is
17 no opportunity in these cases, as long as Judge Carrillo
18 presides in them, to have any semblance of fair plan in
19 that Court. And I hate to say that because Judge
20 Carrillo has been a fine—and has been steadily improving
21 as a judge, and has been a friend of mine. But there
22 will be no stability to our county and to the political
23 atmosphere or to the economic situation there until Judge
24 Carrillo refuses himself from participating in these cases.

25 Q Well, based upon all that, then is it your

1 opinion that he and his family have used that office
2 to get at his political enemies?

3 A My personal opinion is that Mr. Clinton Manges
4 and at least one brother of Judge Carrillo have, by
5 exerting influence on him, have caused him to misuse the
6 power of his office. Yes, sir.

7 Q Okay. So Clinton Manges, behind the scenes,
8 and I presume that the brother you're referring to is
9 Ramiro Carrillo?

10 A No. Oscar Carrillo.

11 Q Oscar Carrillo. Okay. They have been using
12 Judge Carrillo, well, to do their dirty work, really.

13 A Well, if you look at the total connections of
14 the parties, the things that Mr. Nichols testified about
15 yesterday, the Grand Jury, attempting to hire Jim
16 Bates and the auditor, Jim Bates being a lawyer
17 closely connected with Mr. Manges and having represented
18 him also, the auditor being from Harlingen— I assume
19 you know him, but he is Judge Carrillo's auditor in his
20 tax problems. He also does work for Mr. Manges, I
21 understand. The initial thrust of the Grand Jury
22 investigation was to indict Mr. Orr and I for the fee
23 paid that we have been discussing here this morning.
24 The indictments that were returned against Mr. Couling
25 last week, the day after he testified here, are another

1 good example of how the power of the District Bench and
2 the Grand Jury, through appointment on it from the
3 District Bench, are being misused. Those indictments
4 were returned sealed and they were not filed with the
5 District Clerk's Office nor given to the Sheriff of
6 Duval County, but they were delivered directly into the
7 hands of the Texas Rangers and from another office other
8 than the Duval County Sheriff's Office those warrant
9 numbers were teletyped here to Austin. And when this
10 Committee convened that night at 8:30 there were a
11 Ranger or two outside. Mr. Couling fortunately had
12 already gone home. He was surrendered to the Sheriff's
13 Office in the county where those indictments were
14 returned the next morning, but that Sheriff couldn't
15 allow him to make bond because he didn't have those
16 indictments. And it was later on in the morning before
17 the Rangers showed up with the indictments so that the
18 bonds could actually be made.

19 This is my personal opinion, for whatever it's
20 worth, but it was an attempt and a crude attempt on the
21 part of the Manges and Carrillo dominated Grand Jury to
22 embarrass this Committee and to deter other witnesses
23 from coming up here and testifying, because it was a
24 completely unusual procedure.

25 Q What other witnesses would have been deterred

1 from coming?

2 A I don't know. It just—here was an individual
3 that testified and took the Fifth to some incriminating
4 questions and was immediately indicted the next day on
5 other matters.

6 Q You're not saying, are you, that—well, no,
7 this investigation that is taking place now is under
8 the direct supervision of the Attorney General, isn't
9 it? The Task Force?

10 A Well, the investigation now is being headed by
11 the Attorney General's Office. Yes, sir.

12 Q They wouldn't have anything to do with party
13 alignment down there, would they?

14 A (No response.)

15 Q Or would they?

16 A No. The Attorney General's Office, I think—and
17 I have been in constant—not constant, but I've been in
18 a lot of communication with them concerning some people
19 that I may ultimately represent, some people that have
20 been called before the Grand Jury. The Attorney
21 General was requested to come in to Duval County at the
22 request of Arnulfo Guerra, the District Attorney. And
23 the inception of their investigation began on information
24 furnished them by Mr. Guerra. And that information was
25 primarily directed at the Parr forces, so to speak.

1 Their investigation has now begun to broaden.
2 And last Thursday they were going to present evidence
3 to the Grand Jury and seek an indictment against Mr.
4 Guajardo, the Judge's nephew. At that time there was
5 not a quorum of the Grand Jury present, so apparently
6 the game plan of the Carrillo and Manges Grand Jury now
7 is not to fail to return indictments, but they'll simply
8 either not have a quorum or—there won't be any indict-
9 ments returned by this Grand Jury against anybody
10 associated with that faction. Now, that is my prediction.

11 Q Okay. You're not saying that Mr. Guerra is
12 involved in this thing, are you?

13 A Yes, sir. I'm saying that Mr. Guerra is a
14 direct party to the entire removal proceedings and that
15 it was a conspiracy between the Judge, Mr. Guerra,
16 Clinton Manges, and perhaps others.

17 Q These grounds for removal, you don't think
18 that the grounds for removal were valid?

19 A Well, obviously the two grounds of removal
20 sought against Judge Parr were barred by the statute
21 5986 that's been on the books since 1879, and any
22 District Attorney or Judge ought to be able to see that.

23 Q What about the Trustees?

24 A Well, there probably, on sworn allegations,
25 there certainly could be a fact issue involved in those

1 matters. But it was peculiar that the four members of
2 the School Board that were selected were removed and
3 then a suit was filed by the County Attorney, Mr.
4 Ricardo Garcia, alleging the same grounds and alleging
5 that if four were guilty of these acts the other three
6 were guilty. And that suit was filed involving two of
7 the Judge's nephews and his docket sheet will reflect
8 that he immediately disqualified himself, which he should
9 have done, but only as to those two parties, severed
10 the third party out and without even a request for
11 temporary suspension immediately suspended Mr. Schuenemann,
12 and appointed a Carrillo ally.

13 Q One last thing: you wouldn't mind having your
14 client furnish us a copy of that check that he paid to
15 M and R Motor Company, would you?

16 A I have had him attempt to find that and he has
17 been unable to. However, the bank records at the Rio
18 Grande City Bank and Trust have been obtained by the
19 Internal Revenue Service. They have been down there and
20 gotten xerox copies of those, and I would assume that
21 a one-shot subpoena from this Committee directed to
22 that particular check in about that time would immediately
23 get a xerox copy of it.

24 Q This check would be with what bank?

25 A Rio Grande City Bank and Trust, I believe is

1 the name of it.

2 MR. CHAVEZ: That's all I have, Mr.
3 Chairman.

4 CHAIRMAN HALE: Members of the Committee,
5 the Chair has some questions to ask Mr. Foster and
6 possibly others do. It being 12:30 should we take a
7 break for lunch? We haven't had a break all morning
8 and I'm sure the Court Reporter would like to have a
9 break too. He has been very diligent here this morning.
10 It's 12:30 now. Would an hour and a half be sufficient?

11 MR. KASTER: So move.

12 CHAIRMAN HALE: Mr. Kaster moves the
13 Committee stand recessed until 2:00 o'clock p.m. Is
14 there objection?

15 (No response.)

16 CHAIRMAN HALE: The Chair hears none.
17 We stand recessed.)

18 (Whereupon, at 12:30 p.m., the luncheon
19 recess was taken, to reconvene at 2:00 o'clock p.m.)
20
21
22
23
24
25

1 WEDNESDAY, JUNE 4, 1975

2 AFTERNOON SESSION

3
4 (Whereupon, the hearing was reconvened at
5 2:00 o'clock p.m., pursuant to the luncheon recess.)

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

8 Mr. Foster, if you will resume your position
9 as a witness, we will proceed.

10
11 MR. MARVIN FOSTER

12 resumed the witness stand and testified further as
13 follows:

14 DIRECT EXAMINATION (Continued)

15 BY CHAIRMAN HALE

16 Q For the record, you are Mr. Marvin Foster and
17 you were on the witness stand when we adjourned for the
18 noon recess. Is that correct?

19 A Yes, sir.

20 Q Mr. Foster, let the Chair ask a few questions,
21 if I may. The allegation has been made—and first let
22 me say some of the questions I ask may be repetitive,
23 but I want to be sure that we have them in the record.

24 It's been alleged that you were attorney at
25 one time or other for Mr. Archer Parr. Have you ever

1 represented Mr. Archer Parr?

2 A Not until the removal suit that was filed on
3 March the 24th of 1975.

4 Q It's further been alleged that part of this
5 \$60,000 fee that was paid to you and Mr. Orr from
6 Benavides Independent School District was, in truth and
7 in fact, attorney's fee to compensate you for represent-
8 ing Mr. Archer Parr in some type of legal proceedings.
9 Is that true or false?

10 A That is not true, Mr. Hale.

11 Q None of that fee was for representation of
12 Mr. Parr?

13 A I didn't hear that question, sir.

14 Q Was any of that \$60,000 to compensate either
15 you or Mr. Orr for representation of Mr. Archer Parr?

16 A No, sir.

17 Q All of that fee was for representation of the
18 Benavides Independent School District and/or its Board
19 of Trustees. Is that right?

20 A That's correct, Mr. Hale.

21 Q That \$60,000 has been paid. Is that right?

22 A Yes, sir. That was paid in, I believe August
23 of 1974.

24 Q Now, Mr. Gilbert Spark's name has been used
25 occasionally in the testimony here. For purposes of

1 identification could the Chair ask you, is this the
2 same Gilbert Sharp who at one time was Associate Justice
3 of the 13th Court of Civil Appeals in Corpus Christi?

4 A Yes, he is. He is now a District Judge,
5 replacing, I believe, H. A. Garcia that died. He was
6 appointed by the Governor to fill his term.

7 Q And prior to his appointment to the District
8 Bench, was he not appointed to some type of quasi-
9 judicial position in connection with the Duval County
10 proceedings?

11 A I'm not sure what the official—they call him
12 the Conservator for the Duval County Conservation and
13 Reclamation District. He was appointed by the Water Board
14 with the approval of the Attorney General's office. He
15 was sort of a Receiver.

16 Q I believe that is the District that we have
17 referred to here in testimony on numerous occasions
18 as the Water District, for short, I believe.

19 A That is what we commonly call it.

20 Q Now, Mr. Foster, you, of course, are familiar
21 with the motion that was filed by you in the Bercaw
22 removal proceedings. I'm looking at a photocopy of a
23 pleading "Defendant's Motion to Recuse and Disqualify
24 Judge."

25 A Yes, sir.

1 Q Which it would appear was signed by you as
2 counsel, although both you and Mr. Orr have your names
3 typed in on the pleading as counsel, and it was also
4 signed by Mr. M. K. Bercaw and sworn to before a notary
5 public on March 24, 1975.

6 A Yes, sir. I'm familiar with it.

7 Q Do you recall the instrument to which I refer?

8 A Yes, sir, I do.

9 Q Was any action ever taken on that motion?

10 A On last Saturday, a week ago— I'm going
11 to have to get my calendar out to get the exact date—
12 we were up here for Committee meetings on, I believe the
13 22nd and and 23rd. The Trustees resigned, including
14 Mr. Bercaw, on the 9th of May. On the 12th of May I
15 filed in all four of those cases a Motion to Dismiss,
16 and had the Clerk deliver a copy of those Motions to
17 Dismiss, and the grounds being that the substantive
18 matter contained in the removal suits was now moot since
19 the people had—that they were removing from office or
20 sought to remove from office—resigned. And I wrote a
21 letter to Judge Carrillo and attached copies of those
22 resignations and had the Motions to Dismiss delivered
23 to the Judge's desk. Some time later that week— I'm not
24 sure of the exact day—but no action having been taken
25 on those Motions to Dismiss, I wrote a certified letter

1 to the Judge calling them to his attention and
2 requesting that those motions be granted, and advising
3 the Court that in the event the motions were not acted
4 upon that I would seek mandamus relief in the Court of
5 Civil Appeals.

6 The Court then responded to that letter with
7 a letter of his own telling me that he had set those
8 cases, set those Motions for Dismissal for hearing on
9 Friday, the 23rd of May. Because of the testimony
10 here in the Committee meetings, those hearings, along
11 with some other injunctive hearings, were continued by
12 the Court until Saturday morning, the 24th. At that
13 time we appeared in Court at 9:00 o'clock that morning--
14 we left here I think at 1:30 or 2:00, and the Judge also
15 drove all night to get back. And we proceeded to a
16 hearing on the morning of Saturday the 24th at 9:00
17 o'clock, at which time the District Attorney had filed
18 oppositions to those Motions to Dismiss, alleging generally
19 that the subject matter--that the defendants' only
20 remedy actually was a trial on the merits and that
21 dismissing them did not dispose of the substantive
22 questions, or the resignations didn't.

23 There also was filed a motion on behalf of the
24 Ashby Board members to intervene in these removal cases.
25 I announced ready only on the Motions to Dismiss because

1 that's the only matter that had been set for that
2 morning, and the Court put us to a hearing on not only
3 the Motions to Dismiss but the State's response and the
4 Petition in Intervention. And I asked for an
5 opportunity—that I had only seen a copy of the
6 Intervention Petition at 5:30 that morning, and I wanted
7 an opportunity— I was not ready on that, and that if we
8 were going to proceed on anything other than the Motions
9 to Dismiss that I first would like to hear the motions
10 that I had filed in the case to disqualify, to which the
11 Judge—and the record, of course, will show whatever the
12 actual words were spoken there—to which the Judge
13 replied that he was not disqualified and he was going to
14 proceed to hearing on these matters and that if I wanted
15 to file any answers to the Invervention I could dictate
16 them into the record. And over some strenuous objections,
17 as you can imagine I made, we proceeded to some sort of
18 a hearing, at the conclusion of which Mr. Guerra,
19 representing the State, as I understood his oral motion,
20 they more or less joined in at that time, since there
21 was no question about the fact that not only the two
22 elected Trustees but the Ashby Board—everybody had
23 accepted the resignations of these four people and there
24 was nobody actually contesting their resignations. At
25 that point I think that effectively, Mr. Guerra withdrew

1 any objections to the Motions to Dismiss. The Judge
2 then made some findings with regard to the Motion in
3 Intervention, held that the true and lawful Board in
4 the Court's opinion was Ashby and his Board, and then
5 granted my Motion to Dismiss, to which I found myself
6 in the peculiar position of having to give Notice of
7 Appeal. So I don't know where that case is.

8 I'm sorry I digressed so far in answering your
9 question. Except for the brief question and answer
10 between the Court and I at that time on the Motion to
11 Disqualify, that's the only hearing that was had on that
12 Motion.

13 Q Was a similar motion filed in the other three
14 cases?

15 A Yes, sir. And also in Judge Parr's case.
16 Motions were filed in all four cases to quash and strike
17 the citation also.

18 Q I noticed in this motion, and the one I'm
19 reading is in the Bercau case; the motions may read, I
20 guess, slightly different in the other cases, but in this
21 particular one it alleges here that "There is pending
22 on the docket of this court certain other cases," and I
23 presume that's the other three trustees, "which are
24 subject to consolidation with this case and which the
25 said O. P. Carrillo, Judge, is disqualified as a matter

1 of law from presiding in that two parties to said other
2 lawsuits are nephews of the said O. P. Carrillo."

3 Who are the two nephews?

4 A That had reference, Mr. Hale, to the removal
5 suit filed by the County Attorney. And, of course, the
6 legal strategy we hoped was to get all of the cases
7 consolidated and Judge Carrillo knocked off the Bench
8 from hearing any of them by the consolidation because
9 Mr. Guajardo and Mr. Carrillo were his nephews. So, by
10 law, he was disqualified from taking any action.

11 Q All right. The record in this removal case on
12 Bercaw reflects that the Petitioner, State of Texas on
13 the Relation of Jose R. Nichols—that Mr. Nichols swore
14 to what I would call Plaintiff's original Petition—it
15 is not so designated here, but any way, the petition
16 which initiated the action, on March the 20th, 1975, and
17 that on the same date an order was entered removing Mr.
18 Bercaw and appointing Morris Ashby as a member of the
19 Board. Were you in court at the time of that occurrence
20 on March the 20th, 1975?

21 A No, sir. The testimony in another hearing
22 revealed that those events took place in Judge Carrillo's
23 chambers. There wasn't any court hearing.

24 Q I was leading up to that. We have had other
25 testimony in the record to the effect that there was

1 never any hearing on these removal proceedings. Are you
2 aware of any hearing that was ever held?

3 A I am not. As a matter of fact, I am aware
4 from testimony developed in another hearing that all of
5 these papers were signed and the Clerk was called down
6 to the Judge's chambers and everything was done there.

7 Q You represented Mr. Bercaw in this proceeding?

8 A Yes, sir.

9 Q When were you first aware of the fact that
10 this case, Number 8884, which is the one against Mr.
11 Bercaw, was filed?

12 A On March the 20th at about, oh, 20 minutes
13 or a quarter of twelve. Shortly before noon.

14 Q How did you find out about it?

15 A I think I stopped at about the only cafe in
16 San Diego. I was coming in, I believe from Houston,
17 and as I went in to— I think I met Mr. Pierson or
18 probably either he or the other reporter, and I think
19 that they had xerox copies of these matters and told me
20 something about the Trustees had been removed and that
21 my name was in the petition. We discussed that
22 generally. I went inside and Mr. Archer Parr and Mr.
23 George Parr and some other people were at a table and
24 they had xerox copies of all these petitions. I was then
25 on my way to Benavides.

1 Q The record reflects that Mr. M. K. Bercaw was
2 served with a copy of this, on a citation for personal
3 service, at 12:22 o'clock p.m. on March 20, 1975, by
4 G. E. Powell, a Texas Ranger.

5 A Does it say where, Mr. Hale? My memory is
6 that—

7) Yes, it does. Fifteen miles southwest in
8 Benavides, Texas.

9 A My recollection is when I got to Benavides
10 during the noon hour that Mr. Powell was there and that
11 he was serving another Board member, Mr. Elizondo; that
12 he had already served Mr. Bercaw and Mr. Bercaw was
13 present. That is my recollection. It could have been
14 that he was served there at the Benavides Tax Office.
15 That is about 20 some miles from Freer.

16 Q Is it your testimony that these four lawsuits
17 triggered the resignations of these Trustees?

18 A (No response.)

19 Q One of the events that triggered the resignations
20 of these four Trustees?

21 A Unequivocally so. Yes, sir.

22 Q The sequence was that by court order at least
23 on March 20th they were removed. Then—

24 A We questioned and would have questioned and
25 will still question any other lawsuits as to whether or

1 not the suspension, for instance of Mr. Bercaw, was
2 ever actually effective, because of the provisions of
3 Article 5982 and the requirements of the bond on a
4 temporary suspension. And we contend that the bond that
5 was filed was no bond at all because it only obligated
6 the principal and sureties to pay Mr. Bercaw if he were
7 not temporarily suspended. Maybe that's in the Parr
8 case. At any rate, the bond file in the Bercaw case did
9 not respond either to statute or the Judge's order.
10 Our contention will be that that suspension was never
11 legally effective, in addition to other defects in not
12 following the statute. I say that because although
13 the subject matter of 8884 is moot, whether or not his
14 suspension was effective may very well determine the
15 ultimate outcome of some of the other cases, including
16 the bank interpleader's action.

17 Q Is it your opinion that Mr. Bercaw would have
18 resigned from the School Board had not these lawsuits
19 been filed?

20 A He absolutely would not have.

21 Q Is it your opinion that the other three
22 Trustees would not have resigned had it not been for the
23 lawsuits filed to remove them?

24 A One of them has not yet. I think probably we
25 got a little confused. The four people that resigned on

1 May the 9th were not actually the four people that were
2 all sued on March 20th for removal. Of the four people
3 that were filed on March 20th were Mr. Bercaw,
4 Enrique Garcia, Luis Elizondo and Joe Garcia. Mr.
5 Alfred Schuenemann was one of the three people that were
6 removed in the suit filed by the County Attorney. On
7 May 9th—Mr. Enrique Garcia was out of town. On May 9th,
8 of the original four that were removed, Mr. Bercaw,
9 Luiz Elizondo and Mr. Bercaw resigned, as well as Mr.
10 Alfred Schuenemann. So there still is a removal suit,
11 and I believe it is numbered 8885, that is pending con-
12 cerning the temporary suspension of Mr. Enrique Garcia.

13 Q And he has not resigned?

14 A He has not resigned as of yet. I don't know
15 yet. Mrs. Parr and Mr. Ruben Chapa had another meeting
16 at 11:00 o'clock today for the purpose of filling
17 vacancies on their Board and I don't know whether Mr.
18 Garcia attended and resigned that one or not. They were
19 scheduled to have a meeting today at 11:00 o'clock. I
20 don't know if they had it.

21 Q How long have you known Mr. Jose R. Nichols?

22 A I didn't know him until he was appointed
23 Foreman of the Grand Jury, to my knowledge.

24 Q He testified yesterday that he signed all of
25 these removal petitions at the request of the District

1 Attorney. Were you aware of that?

2 A That is inconsistent with his testimony in the
3 229th District Court in Duval County, according to the
4 Statement of Facts Mr. Hickman's Reporting Service
5 prepared for me.

6 Q In what way?

7 A It is not entirely inconsistent. His testimony
8 there was to the effect that—it was different in this
9 respect: that I understood his testimony yesterday,
10 responding to some questions from some members of the
11 Committee, he finally testified that actually he did
12 this at the request of the District Attorney, and the
13 District Attorney agreed that he would furnish the
14 evidence to substantiate the charges. That's the way I
15 understood his testimony yesterday.

16 Q That was the way I understood it too; that the
17 District Attorney called him and asked him to come down
18 to the Courthouse.

19 He came down to the Courthouse and the District
20 Attorney had the papers apparently already typed up.
21 He read them and signed them, I believe was his testimony,
22 and he did so, and I think he admitted that even though
23 he swore to them he didn't have personal knowledge of the
24 facts contained therein.

25 A Well, his testimony at a hearing in, I believe

1 the case number was 8896, and it was held on April the
2 14th, in the 229th District Court of Duval County with
3 Judge Wesley Dice presiding. As I recall also, Mr.
4 Guerra's testimony was that—at least Mr. Nichols'
5 testimony was—that he and Mr. Guerra had discussed
6 these removal suits on several occasions and that basically
7 it was his idea that he didn't—it was inconsistent with
8 the import of the testimony that I got yesterday.

9 Q Do you know Mr. Clinton Manges?

10 A Yes, sir.

11 Q Have you ever represented him?

12 A No, sir.

13 Q Do you know who represents him in legal matters?

14 A Well, Mr. Mitchell represents him trying to
15 get the \$75,000 back that he put up for Mr. Parr on a
16 bond in—

17 Q Federal Court in Corpus Christi?

18 A —Federal Court in Corpus Christi.

19 Q That was Mr. George Parr?

20 A Yes, sir.

21 Q For the record, that was Mr. George Parr?

22 A Yes, sir.

23 Q Now deceased?

24 A Yes, sir.

25 Q Mr. Manges is a lawyer's dream, I guess. Jim
Bates has represented him. Mr. Randle Nye in Crystal

1 City has represented him. Mr. Jack Skaggs' firm out of
2 Harlingen has represented him. Since the Atlas Gurwitz
3 firm from McAllen came up to represent the Tobin firm, I
4 would assume they are also involved in some litigation
5 for him. That's just an assumption on my part.

6 Q Were you ever counsel in any of the parties in
7 the suit 3953 in the 229th District Court store account
8 styled Clinton Manges vs. M. A. Guerra, et al?

9 A No, sir.

10 Q Were you aware of the fact that hearing was
11 held in that case on the disqualification of Judge
12 Carrillo and an order entered on May 21, 1973, by Manges
13 Smith, Judge Presiding, disqualifying Judge Carrillo
14 from further proceedings in that case?

15 A I became aware of that as a result of a
16 lawsuit filed in the Federal District Court in Corpus
17 Christi by Exxon Oil Company. Mr. Frank Nesbit was the
18 attorney of record. He filed suit against the Duval
19 County Ranch Company there and sought to take Judge
20 Carrillo's deposition because there was an issue as to
21 whether or not they should be in Federal Court. Mr.
22 Nesbit's cause claimed they could not get a fair trial in
23 Duval County on a damage suit between Exxon and the
24 Ranch Company. I became aware for the first time of
25 these proceeding in Starr County on the disqualification.

1 Q Thank you. Now, there was placed into
2 evidence Exhibit Number 55 which purports to be an
3 invoice from M and R Motor Company of Hebbbronville,
4 Texas, indicating the sale to O. P. Carrillo on November
5 11, 1971, of a Pontiac automobile. Are you familiar
6 with that?

7 A With the invoice, yes, sir. I have seen the
8 invoice that I tendered here.

9 Q Are you familiar with the automobile? Do
10 you know if Judge Carrillo still owns that automobile?

11 A No, sir. The Judge had a dark blue station
12 wagon a few years back. I assume that is it. I'm
13 not— I can't swear to that.

14 Q I can't tell from this invoice whether it was
15 a station wagon or not. That transaction occurred on
16 November 11, 1971, and indicates that it was paid by
17 personal check on that same date in the total amount of
18 in excess of \$5,600. Do you know if the Judge has a
19 Cadillac?

20 A At the present time?

21 Q Well, at any time in the last two or three
22 years.

23 A He's had one. He had two for a while.

24 Q Are you familiar with the Cadillac which he
25 acquired in January of 1971, or thereabouts?

1 A Mr. Hale, are you talking about the one—about
2 the check from Manges?

3 Q Yes. To which Mr. Manges issued the check in
4 excess of \$6,800 on January 27, 1971, to the Riata
5 Cadillac Company in San Antonio in payment for that
6 automobile.

7 A I'm sure I have seen it. I probably have
8 ridden in it, but I wouldn't know which automobile it
9 was.

10 Q You're not familiar with the transaction?

11 A Well, no, sir.

12 CHAIRMAN HALE: Thank you. Are there
13 other questions?

14 Mr. Kaster?

15 BY MR. KASTER

16 Q I need to get again into an area you don't
17 care to discuss. Please feel free— I'm not a lawyer
18 and I don't know what's proper to ask and not. Something
19 was brought up in a line of questioning. As I under-
20 stand, you were hired in 1974 to represent the School
21 Board in regard to the tax matters with the Internal
22 Revenue Service in their investigation, since you don't
23 know which direction they were going in.

24 A We assumed it was tax matters because it was
25 Internal Revenue Service. It

1 could have been other related matters.

2 Q Now, you later testified to Mr. Chavez that
3 in November or December of 1974 you were suspended from
4 the practice, as I understand, the Southern District of
5 Texas, which I assume is the Federal Court?

6 A Yes, sir.

7 Q By Judge Owen Cox. Is that right?

8 A Yes, sir. That's correct.

9 Q Am I correct to assume in Federal matters you
10 could not practice in the Southern District, Texas; is
11 that right?

12 A In the Southern District of Texas. That is
13 correct. At this particular point.

14 Q Where is the jurisdiction of that court in
15 regards to Duval County?

16 A Well, Duval County is in the Southern District.
17 The Southern District of Texas runs from Houston-
18 Galveston, generally on a straight line across through
19 Victoria and into Laredo and the entire Valley, including
20 Brownsville and Corpus Christi.

21 Q The point is, they would have jurisdiction over
22 matters in Duval County. Is that correct?

23 A Generally that's true. I hesitated because
24 for two years we fought a battle in the Western District
25 in San Antonio over that very point. Technically, on tax

1 matters the Federal Court right here in Travis County
2 could conceivably have jurisdiction.

3 Q I don't know Federal matters. If you're
4 suspended in one district you're not automatically
5 suspended in the other districts?

6 A No, sir. I'm licensed in the Northern District
7 and I believe the Eastern District, in the Court of
8 Appeals for the Fifth Circuit, and in the United States
9 Supreme Court, and I'm not suspended in any of those
10 courts at this time.

11 Q Could I ask you what was the nature of the
12 suspension, or that's the area you may not—

13 A Sir?

14 Q Could I ask what the nature of the suspension?
15 What was the cause of it? I know it's on appeal and
16 it's not finally decided.

17 A Well, I hope it's on a successful appeal. But
18 it was the outgrowth of some charges filed by the State
19 Bar, a grievance committee, disciplinary action, that
20 were filed in the State Court in Duval County and tried
21 there. I believe there were eleven counts; I think
22 that's correct, and on eight counts there was not enough
23 evidence to go to the jury, and on the other three
24 counts the State took a non-suit. Thereafter, the State
25 Bar instituted formal proceedings against me in the United

1 States District Court for the Southern District of Texas
2 under the local rules of the Southern District. And
3 there is a serious contention as to whether or not they
4 have that authority, and a lot of other legal points, I
5 hope.

6 Q When were these matters first brought up by
7 the Bar or the grievance committee?

8 A Are you talking about the State Bar?

9 Q Yes, sir.

10 A Oh, that probably started in 1966, I imagine.

11 Q Were these filed by the Duval County Grievance
12 Committee?

13 A They were filed by the District 20—whatever
14 our congressional district there is. I believe the
15 Grievance Committees of the State Bar operate under
16 congressional districts. And Duval County is in that
17 district. It was filed by the District Committee.

18 Q My point—what I'm trying to find out is, were
19 these matters pending in August of '74 against you when
20 you were hired by the School Board?

21 A Those matters were not. The State Bar
22 proceedings were not. We were at that time—pardon?

23 Q They were filed after '74 by the State?

24 A No, sir. I believe they were filed in 1971.
25 I believe '71.

1 Q Assuming then that in November or early
2 December, by December the 7th, I believe you said, when
3 the suspension order took place, you could no longer
4 then represent the School Board in the Southern District
5 where, as I understand, jurisdiction would be on these
6 tax matters. Is that correct?

7 A Well, it has ultimately developed that way,
8 because we have not pursued a stay of that order in
9 the Fifth Circuit. We had intended and did file an
10 application for a stay, or what is called a supersedeas,
11 actually, in the District Court. And that was denied
12 and we just simply went ahead with our appeal and did
13 not ask the Fifth Circuit to stay the order.

14 Q So then, in effect, from August of '74 until
15 late November or early December, '74, you could have
16 represented them in the matters for which you were
17 hired to represent them in court, if it became necessary,
18 and after that date there would have been a question. Is
19 that correct?

20 A That's correct. Yes. I would say this:
21 certainly after December the second or third— I forget
22 what the day was that the time for notice of appeal ran
23 out—from that time on I have not appeared in any
24 Federal District Court in the Southern District of
25 Texas pursuant to Judge Cox's order.

1 Q So that for three or four months work you were
2 paid \$35,000?

3 A I suppose you could look at it that way. Yes,
4 sir.

5 Q You now state that you're representing Mr.
6 Parr and other entities in different matters before the
7 courts. I think Judge Parr's removal suit and in items
8 like that. And I think you have testified earlier you
9 have not been paid by Mr. Parr. Is that correct?

10 A That's correct, sir.

11 Q And you further stated you have not billed
12 Mr. Parr.

13 A That's correct, sir.

14 Q Have you been paid by any other governmental
15 entity in Duval County since receiving the \$35,000 fee?

16 A No, sir. I don't believe so.

17 Q And you have not billed anybody for fees?

18 A I have billed some people for fees. Yes, sir.

19 Q I'm talking about the governmental entities.
20 The School Board—you haven't billed them any additional
21 fees, you haven't billed Mr. Parr for any fees. I don't
22 know who else you're representing in their official
23 capacity. You haven't billed those for any fees?

24 A No, sir.

25 Q Now, when you hired Mr. Sharp, which you

1 talked about earlier, was that an additional fee that
2 the School Board was going to have to pay, or was that
3 out of yours and Mr. Orr's \$60,000?

4 A That was an additional fee that the Board did
5 pay.

6 Q What was that fee?

7 A \$5,000.

8 Q And he was to represent them where?

9 A Well, he was employed to represent them, or to
10 take the lead in the representation, in the Brownsville
11 Division of the Southern District of Texas. At the
12 conclusion of those hearings, there was some indication
13 that that matter might be picked up and pursued in the
14 Corpus Christi Division, and Mr. Sharp would have
15 continued in that capacity were there any more hearings
16 up there.

17 Q Now, I need to get it straight in my mind.
18 What date did you hire Mr. Sharp?

19 A I can't give you the exact date, Mr. Kaster.
20 It was in August of '74.

21 Q Now, since there has been no billing, and you
22 have received no other fees, one might draw the con-
23 clusion that part of that fee was to represent Judge
24 Parr—isn't that correct—that there's been no other
25 evidence to the contrary, no billing and no fees paid?

1 A Well, I suppose people could draw any con-
2 clusion they wanted to, but in August of 1974, I had
3 not the slightest idea that Judge Parr would ever—that
4 the county itself would ever be in this situation.

5 Q I understand that, but it's my understanding
6 from the first part of your testimony you are hired
7 for a tax matter and all of a sudden you're representing
8 on removals and all other sorts of related matters,
9 when I thought that you were hired for the Internal
10 Revenue Service. So you're continuing into all types
11 of areas unrelated to specifically that tax investigation,
12 from what I have heard. Is that somewhat correct?

13 A Yes, sir. May I make one observation? I
14 think probably that—and I would readily admit and
15 concede that \$35,000 is a nice fee. But beside that,
16 any lawyer, I think, that is employed by an individual
17 or firm or anything else to represent them in any legal
18 matters where a substantial fee is paid probably always
19 handles a lot of ancillary matters and doesn't necessarily
20 bill for that. It's different if you're on a—some big
21 firms, I understand, have different accounting procedures,
22 and so forth.

23 Q What about Mr. Orr? Is he representing Mr.
24 Couling now? Is that correct?

25 A The matters, we think, are about concluded.

1 There were audits and compromises, and while the tax
2 hasn't been paid, it was reduced, and so forth.

3 Q My point is, is he doing other services for
4 the county, or did he just limit himself to the tax
5 matter investigation?

6 A He has been available throughout quite a bit
7 of this. He spent, gosh, I don't know how many days.
8 He stayed with me in San Diego and we worked in the
9 library one weekend, the entire weekend, night and day,
10 with only an hour or two break for sleep. He has been
11 available on a lot of occasions. I have called him on
12 some of these removal suits and he has gone to the
13 University of Houston Library and secured some photo-
14 copies of Law Review articles and has conferenced with
15 me over the phone and has been down there on numerous
16 occasions.

17 Q And he received a \$25,000 fee?

18 A Yes, sir.

19 MR. KASTER: I don't have any further
20 questions.

21 CHAIRMAN HALE: Mr. Maloney has some
22 further questions.

23 BY VICE CHAIRMAN MALONEY

24 Q Mr. Foster, this may be duplication, but
25 somewhere along the line I have missed it in the testimony.

1 On what matters have you represented Mr. Archer Parr?

2 A I have represented him, or been involved in
3 practically all—well, all of the matters pertaining to
4 Judge Parr concerning his removal suit and the other
5 related county matters. Now, Mr. Parr has a lot of
6 litigation going on.

7 Q All right. Let's stop there. Let's go back to
8 whatever it is; March 20th, of this year, would probably
9 be a good cutting-off date. We're going to remove the
10 removal suits from this.

11 A All right.

12 Q Have you ever represented Archer Parr on any
13 matter before that date?

14 A No, sir. Now, I counseled with Mr. Parr back
15 in 1972, shortly before he appeared before the Grand
16 Jury in San Antonio and gave testimony that resulted
17 in his perjury conviction. But he didn't take—my
18 advice was for him to take the Fifth, and he didn't do
19 that. But I was not paid for that. That was more or
20 less just lawyers talking to one another in a hotel
21 room before he went over to appear.

22 Q That's the only thing that you either directly
23 or indirectly have been involved in before the events
24 we have talked about starting March 20th this year?

25 A With one other exception, Mr. Maloney. I did

1 forward to Mr. Jim Gillespie, who was Mr. Parr's lawyer
2 in the San Antonio trial, copies of some briefs and other
3 things that Mr. Orr and I had prepared with reference
4 to the jurisdiction of the San Antonio Grand Jury. That
5 was just one lawyer mailing a brief to another lawyer.
6 Really, I don't know that Archer even knew I did it. I
7 talked to Gillespie directly about it.

8 Q I take it Gillespie represented Mr. Archer Parr
9 in his trial?

10 A Yes, sir.

11 Q Have you ever represented George Parr?

12 A Specifically, no. At the time the investiga-
13 tion commenced in '72, Mr. Orr and Mr. Taylor Moore,
14 from Houston, were down. We had headquarters more or
15 less, a temporary office set up at the Americana Motel
16 in Alice. We had a Mr. Jack Baumgardner who was a
17 retired Justice Department employee on a per diem basis
18 as an investigator. You might say that it was more or
19 less of a staff operation to see what this investigation
20 was all about and who it was zeroing in on and being, of
21 course, conscious consistently about the government's
22 catch-all obstruction of justice statutes.

23 Q When would this have been?

24 A Oh, this started in 1972.

25 Q Were you ever paid for your services in that?

1 A No, sir.

2 Q And I take it—you say you were not paid for
3 your services?

4 A Well, I was paid for my services by Mr. Taylor
5 and by Mr. Powell. I may have been— I don't know
6 whether it was any fee or not. I know that Mr. Moore,
7 Taylor Moore, was paid by Mr. Parr, and I think probably
8 he was picking up the tab for some trips, expenses and
9 things, that various people were making during those
10 matters.

11 Q All right, now.

12 A As far as George Parr ever handing me any
13 money or a check, no, sir.

14 Q To your knowledge, you weren't paid then by
15 any governmental agency for your services in that respect?

16 A No, sir.

17 Q Have you ever sent a check from your office
18 to Mr. Gillespie?

19 A From my office to Mr. Gillespie? I'm not
20 sure, Mr. Maloney, and I hesitate—

21 Q Let's just say within the past three years.

22 A The reason I hesitate is because during this
23 investigation in San Antonio, the Grand Jury there was
24 meeting every two weeks for three days and sometimes
25 every week. And they had innumerable people subpoenaed

1 from Duval County, various officials and other people,
2 some of whom possibly had culpability. We didn't know
3 at that time that it was going to result simply in income
4 tax indictments against three people. And I, along with
5 Mr. Alaniz, were the only two lawyers there, you might
6 say, and we did refer some individuals to San Antonio
7 attorneys to be with them at the Grand Jury. And they
8 made their own arrangements. Whether any of them—that's
9 the reason I hesitate. I don't know who all Mr. Gillespie
10 represented. There were some School District officials
11 that were subpoenaed there and that counsel was provided
12 for from both school districts, and it's conceivable that
13 a check to Mr. Gillespie from one of the entities was
14 given to me and mailed to him. But for Archer Parr, if
15 that was what your question was, specifically, no. I
16 don't really think that Mr. Gillespie—that there was
17 anybody else that fit that category, but I wanted you
18 to understand.

19 Q Well, to flat say what I'm trying to resolve
20 is I want to make sure in my own mind that none of the
21 School District's funds, for payment of any defense for
22 Archer Parr were funneled through you to his attorneys.
23 That's really what I want to know.

24 A Not through me. And there has been no funds
25 channeled through me for Mr. Archer Parr or Mr. George

1 Parr, either one, or for any of the Carrillos.

2 VICE CHAIRMAN MALONEY: All right. Thank
3 you.

4 CHAIRMAN HALE: Are there further
5 questions?

6 (No response.)

7 CHAIRMAN HALE: I guess not, Mr. Foster.
8 Thank you very much.

9 MR. CANALES: Mr. Chairman, one question.

10 CHAIRMAN HALE: Mr. Canales?

11 BY MR. CANALES

12 Q Mr. Foster, on the joinder of these suits,
13 have you read most of the pleadings in the removal suits
14 of the Board of Trustees from Benavides?

15 A Yes, sir.

16 Q Are they all the same?

17 A With the exception of the named defendants, my
18 memory is that they are all verbatim.

19 Q Would it be usual, or would it be unusual, to
20 join all these types of suits?

21 A As I recall the rule on consolidation, it is
22 that the Court has wide discretion and can consolidate
23 causes and to try and decide issues of law and fact that
24 are attributable to consolidated cases, and certain
25 issues of fact or law that are separate can be tried

1 separately.

2 Q Would I be correct in assuming that if the
3 cases were drug out, as they were staggered, that
4 regardless of which way they were decided the question
5 would be moot by the time they were decided?

6 A Well, probably, because of the elections.
7 We have an economic—not so much from the School Board,
8 but we have an economic real crisis in Duval County
9 because of the two Commissioners Courts. The bank has
10 resigned as depository. The county was broke. They
11 were issuing time warrants. And the employees haven't
12 been paid since their last pay check on March the 31st.
13 No bills have been paid. The utility companies— I
14 don't know how long they'll go. There is very little
15 opportunity—very little chance that anybody will be
16 paid because the bank is no longer, as I understand it,
17 no longer going to purchase time warrants because it is
18 illegal to pay them out of next year's tax money. And
19 regardless of which faction wins this skirmish, the other
20 side is probably going to enjoin them from spending next
21 year's money this year. So the only thing that the
22 people can be paid out of now, and the only thing that
23 the bills can be paid out of now, is delinquent taxes
24 collected for this and preceding years.

25 Q Am I correct in saying that the County

1 Commissioners Court has disengaged the delinquent tax
2 collector—the services of the delinquent tax collector?

3 A Well, the Tobin Court called Mr. Bercaw and
4 at a Commissioners Court meeting voided his contract
5 on the grounds that it was not posted on the agenda
6 back in February when the contract was granted. I'm
7 sure there will be some legal question on the part of
8 Mr. Bercaw as to whether or not they can void it. Mr.
9 Bercaw filed yesterday, as I understand, he filed notice
10 of suits and notice of lis pendens on Mr. Manges and
11 some of the Carrillo family and I think all taxes over
12 ten or twenty thousand dollars in total. I don't know
13 how many of those suits there were because I wasn't
14 there.

15 Q Now one other question, one last question:
16 you stated earlier to Mr. Chavez that viewing the
17 chronological sequence of events as they have occurred,
18 that it would be obvious to anyone that the appointments
19 and removals are politically oriented. Did you mention
20 everything that in your estimation reflects on that
21 particular comment, or are those just a couple or two
22 items that have come to mind? Are there any other
23 things that would indicate that the removals and
24 suspensions and reappointments are politically motivated?

25 A I think circumstantially, if you view the—

1 commencing back in January with the appointment of the
2 Grand Jury Commissioners, and other matters, that
3 circumstantially we know have occurred, and while they,
4 to me at this point, as a lawyer, are only hearsay, there
5 will be witnesses before this Committee: Ranger Gene
6 Powell, for instance, will testify about a meeting
7 held on the 19th of March between Mr. Manges and the
8 Judge and the Judge's two brothers, and Arnulfo Guerra
9 was there.

10 Q Is this where they discussed the preparation
11 of the relation suits?

12 A On the 19th, the day before the School
13 Trustee cases were filed, Mr. Powell will testify that
14 the conversations there had not only to do with the
15 School Trustee cases but with the Archer Parr removal
16 case.

17 Q I would ask you also, are you aware that
18 there are lis pendens filed against County Judge, Dan
19 Tobin, or purported County Judge, Dan Tobin, at this
20 time, in which the Rio Grande City Bank and Trust, or
21 whatever the name of the bank is in Starr County, is
22 the plaintiff?

23 A Yes, I am aware of it. I have seen the lawsuit
24 and I've secured certified copies of the lis pendens and
25 the deed of trust, and so forth, from Jim Wells County

1 where the Judge is a Commissioner.

2 Q Are you aware that Mr. Manuel Amaya on
3 occasions has worked for Clinton Manges in the Duval
4 County Ranch Company?

5 A Well, I'm only aware of the letter he wrote to
6 the Water District. But I'm fully aware of the obvious
7 daily connections between Mr. Manges and Mr. Amaya.
8 That is a small community.

9 MR. CANALES: Thank you.

10 MR. CHAVEZ: Mr. Chairman?

11 CHAIRMAN HALE: Mr. Chavez.

12 BY MR. CHAVEZ

13 Q You spoke earlier that, I think in the removal
14 of the School Trustees, you had asked for a consolida-
15 tion, and you also had filed a motion to disqualify. Is
16 that correct?

17 A I believe they were filed in all four cases,
18 Mr. Chavez.

19 Q The motion to disqualify?

20 A Yes, sir. I'm not sure about the motion to
21 consolidate. I know that we have prepared— I prepared
22 the motion to disqualify, and I think we just left the
23 names blank and xeroxed it and filled it in because
24 they would be the same. I know the motions to quash
25 citations and things were all the same.

1 Q Was that motion to disqualify, was it verified?

2 A Sir?

3 Q Was it verified?

4 A The motion to disqualify?

5 Q Yes, sir.

6 A Any of them that were filed, I'm sure that we
7 had them sworn to because I believe it requires that.

8 Q What is your understanding of the proceedings—

9 A It could be that they are not filed in the
10 other three cases. We filed some pleadings in the Bercaw
11 case that were not filed in the other cases. I'm not
12 sure about that, but I know that we would have attempted
13 to do that.

14 Q What is your understanding of the procedure
15 to be followed when a motion to disqualify is filed?
16 What is the next regular order of business? Does the
17 Court automatically estop any proceedings in connection
18 with that case until that motion is resolved? Or does he
19 go ahead and proceed until some determination is made?

20 A Of course, there is a difference in a state
21 procedure and a federal procedure. In the state procedure,
22 there is no—it depends on the type of disqualification
23 that you allege. Personal bias or prejudice is not a
24 statutory grounds for disqualification. Now, there was
25 a code of judicial conduct promulgated by the Supreme

1 Court and adopted last September the 1st, 1974, by the
2 courts in Texas, which is not law, and that code
3 indicates that bias or prejudice would disqualify a judge.
4 But if your affidavit only alleges bias or prejudice,
5 the most you're entitled to is a hearing and there is
6 no statutory requirement for the judge to ask another
7 judge to hear it.

8 Now, Judge Almia, who is the presiding judge
9 in, I suppose, your district, at least for the Supreme
10 Judicial District there, when we took some matters to
11 him for presentation, matters which showed on their
12 face a statutory disqualification, because relatives of
13 Judge Carrillo were made parties—

14 Q Yes.

15 A —Judge Almia would have all judges in his
16 district when such an allegation is made, even a
17 personal bias—even if it's not a statutory disqualifi-
18 cation, he would have that judge refuse himself at least
19 for the purpose of hearing the facts as to whether or not
20 he was disqualified and have that heard by a disinterested
21 judge. But there is no legal requirement for that to be
22 done.

23 Q I think I understood you earlier to say that
24 you had indicated to him that you were going to file, or
25 did file, that motion to disqualify and that he had just

1 said that he was not disqualified and was going to
2 proceed.

3 A On that particular morning that I was talking
4 about, that's my recollection of what he said. Of
5 course, the Court Reporter's notes will show whatever he
6 actually said.

7 Q Was this in open court when he said this?

8 A Yes, sir.

9 Q Did you request a hearing on the motion?

10 A Well, I think what I said was, "If we're
11 going to go back in and try this whole case, I'm not
12 ready on anything this morning but the motions to
13 dismiss. And that if we're going to try this whole
14 case then we ought to start back at the beginning. There
15 are motions here to disqualify you, and I would like to
16 try them first." And that is about all the request
17 actually that was made.

18 Q You, in expressing your opinion as to whether
19 or not he has abused the powers of his office, you gave
20 me the things about how these matters had occurred.
21 When was Archer Parr convicted?

22 A I believe in May—April or May—of 1974. Now,
23 when you say "convicted," I wasn't up there and didn't
24 participate in the trial. And I know that there was a
25 jury verdict returned and a pre-sentence report ordered

1 and then a sentence. And I would assume that the day of
2 sentence would be the day that the conviction would be.
3 I would think that that was on May the 20th of 1974.

4 Q Okay. So then it was a matter of public
5 record, a matter of common knowledge that Judge Parr
6 had been convicted in 1974, yet no movement had been
7 initiated until 1975 to remove him from office?

8 A That's correct.

9 Q Now, the other thing— I've got an article
10 here from the "Corpus Christi Caller" dated March 19th.
11 Now, you told me that the four removal suits against the
12 Trustees took place on March 20th, which was a Thursday.

13 A Yes, sir.

14 Q Okay. This article appeared on March 19th,
15 which would have been a Wednesday, and the article says:

16 "Tuesday—

17 which would probably have been March 18th.

18 A Sir? I didn't hear you.

19 Q The article says "Tuesday," referring to some
20 conversations which took place, which would have been
21 March 18th.

22 It says"

23 "Tuesday, District Judge, O. P. Carrillo
24 told a Caller reporter he is all through with
25 Parr. I spent this past year trying to patch up

1 the differences in the Old Party, but now I'm
2 through. He—Parr—guaranteed me on his name
3 as a Parr that Hilda Parr would withdraw from
4 the School Board race if my father, D. C. Chapa,
5 entered the race. He then waited until the last
6 minute so nobody else could file and then told
7 me he was not going to ask Hilda to withdraw.

8 He broke his word, Carrillo said.

9 Is this part of this abuse of power? Would this confirm
10 some of the abuse of power that you have attributed to
11 Judge Carrillo?

12 A I think that that is some evidence of this
13 pre-determined scheme. We know from Mr. Canales'
14 testimony that Judge Carrillo told him back in February
15 that he was suspect of doing this. There is also
16 evidence available that Mr. Clinton Manges told people
17 that the Washington Day celebration in Laredo—some
18 people from Freer—that his judge was going to start
19 removing some people over there.

20 There will be evidence from Mr. Powell as to
21 what was said on the afternoon of March the 19th, with
22 reference to all suits being filed at one time. There
23 is evidence available as to conversations held between
24 Mr. Guerra and Mr. George Parr and Archer Parr and Nago
25 Alaniz on the morning that the removal suit against Mr.

1 Parr was filed where Mr. Guerra agreed not to go forward
2 with that removal until he had a chance to confer with
3 Mr. Manges. So, there is a lot of circumstantial
4 evidence we are developing possibly for suit. I don't
5 know.

6 Q The Judge was going to join his brother in the
7 split?

8 A Yes, sir. That was in the story. I didn't
9 hear that said, but it was fairly common knowledge that
10 there was a pretty big political split.

11 MR. CHAVEZ: Thank you. That's all,
12 Mr. Chairman.

13 BY CHAIRMAN HALE

14 Q Mr. Foster, I think in answer to a question
15 from one member of the Committee, I have in my notes
16 here that you used the word "conspiracy" at one time
17 in connection with these actions. Who would be involved
18 in the conspiracy?

19 A As a criminal defense lawyer, generally, I
20 sort of hate the prosecutor's darling word "conspiracy,"
21 but at least in agreement or a plan, I believe circum-
22 stantially the evidence will show that at least circum-
23 stantially, if not directly, that Mr. Manges; Judge
24 Carrillo; Arnulfo Guerra, the District Attorney; at least
25 Joe Nichols was a party to some of the agreements; perhaps

1 Oscar Carrillo, the Judge's brother; perhaps Ramiro
2 Carrillo, his other brother that is the Commissioner.

3 Q Who was at this meeting on March the 19th?

4 A (No response.)

5 Q You mentioned Mr. Powell and Mr. Carrillo,
6 Judge Carrillo.

7 A I'm testifying, Mr. Hale, from my personal
8 conversation with Ranger Powell, whom I understand
9 has been subpoenaed here.

10 Q He will be a witness before we conclude the
11 testimony.

12 A That his daily activity reports will reflect
13 that he received a call some time in the afternoon from
14 Oscar Carrillo. This is my memory of what he said and
15 what I believe he will testify to; that Judge Carrillo's
16 life had been threatened and that he was at his ranch
17 and that Ranger Powell traveled from Kingsville through
18 Benavides and picked up Ramiro Carrillo and had some
19 conversation with Oscar, I believe at that time, and they
20 then proceeded to Judge Carrillo's ranch. And as they
21 turned in the gate to go to the ranch house, Mr. Manges
22 and Arnulfo Guerra and at least one other person— I'm
23 not sure who; maybe more than that—turned in either
24 right behind them or right in front of them, and that
25 there was considerable conferences and discussions, some

1 of which Mr. Powell was not privy to, between Mr. Manges
2 and the Judge back in the bedroom, between Mr. Guerra
3 and Manges and between Mr. Guerra and the Judge. Some
4 of those he was not privy to, some of them he did hear.
5 And at the time I talked to him he did not have his
6 daily activity reports with him and they would be more—
7 in fact, he told me that he can't produce them without a
8 subpoena, but if he were ever subpoenaed some place that
9 they would be better to refresh his memory with as to
10 actual conversations.

11 Q According to that, then, it was Mr. Powell,
12 Judge Carrillo, Arnulfo Guerra, Clinton Manges and
13 Ramiro Carrillo who were at that meeting.

14 A On the 19th. Again, a meeting that night on
15 the 19th, beginning at about midnight and pursuing until
16 four or five o'clock in the morning, Mr. Manges and Mr.
17 George Parr and Mr. Nago Alaniz conferred about the School
18 Board removals and some time during the night, either
19 Mr. Manges and Mr. Alaniz, one or both of them, went to
20 Benavides and had a conference with Judge Carrillo, and
21 back and forth. I was not privy. That's really hearsay
22 to me.

23 Q How did you acquire that information about
24 that meeting?

25 A Well, I, of course, heard about it the next

1 day when the suits were filed. And have since then talked
2 to Mr. Analiz. And I had talked to George Parr, of
3 course, who is now deceased.

4 Q Who did Mr. Alaniz represent at that time, if
5 anyone?

6 A Well, Mr. Alaniz has represented Mr. Parr; he
7 has represented Judge Carrillo, and he is a very active
8 lawyer and figure in that area.

9 Q Was he attending those meetings—that meeting—
10 as an attorney, or was he just attending it as a citizen
11 of the county, or do you know?

12 A I think he was probably in attendance more as
13 an interested and active participant in local politics
14 and a member of the Old Party. Over the past year or
15 two Mr. Parr has had Mr. Alaniz present at practically
16 all of his conferences.

17 CHAIRMAN HALE: Thank you.

18 Are there further questions?

19 Mr. Laney has a question.

20 BY MR. LANEY

21 Q I believe we had some testimony that Mr.
22 Manges was three hundred and something thousand dollars
23 in arrears in his taxes, in his county taxes?

24 A That's his county taxes.

25 Q That does not include school taxes. Right?

1 A No. He is subject to some taxes in the
2 Benavides Independent School District in which he is
3 also in arrears and I'm not sure of that figure. I
4 think it's somewhere in excess of \$70,000, possibly
5 \$130,000. I'm not sure.

6 Q If suit were brought or whatever the county would
7 do to collect or the Water District would do to collect
8 these taxes, in which court would this be?

9 A Well, they would have to be filed in the
10 District Court, the 229th District Court.

11 Q This would be the Judge's court?

12 A Yes, sir.

13 MR. LANEY: Thank you.

14 CHAIRMAN HALE: Mr. Maloney?

15 BY VICE CHAIRMAN MALONEY

16 Q Mr. Foster, you have mentioned Mr. Manges's
17 auditor. You said that he was also the auditor or
18 accountant for some other parties. Could you tell me
19 who those other parties were?

20 A I'm not sure that the accountants in Harlingen
21 have actually represented Mr. Manges. I can't testify
22 to that effect. In our representation of Mr. Couling
23 during the audit process, with Mr. Mitchell's-- Arthur
24 Mitchell's--permission. Mr. Orr and I went to Harlingen
25 where we worked with--

1 MR. MITCHELL: Horace McIntyre.

2 A —a Mr. McIntyre, who is an ex-Revenue agent
3 and now has a private— I guess he's a CPA too—has a
4 private accounting business. I didn't know until the
5 Grand Jury attempted to hire some auditors in addition
6 to Mr. Bates. I knew— I had heard the name "Turner,"
7 and I had also heard that he and his partner had been
8 hired. When we were at Mr. McIntyre's in Harlingen, we
9 were out at his home and in a den type thing, and I
10 thought that was his office. When I walked into the
11 Benavides School District shortly after they were
12 employed, or attempted to be employed by the Grand Jury,
13 in addition to Mr. Turner there was also Mr. McIntyre,
14 and we shook hands and talked a few minutes. And I later
15 learned that they worked together on— I don't know
16 whether they're in partners or simply work together or
17 what their arrangement is, but they were both in the
18 Benavides Tax Office.

19 You asked me in addition, other people. I
20 don't know what other people other than I know that the
21 day we were there they represented—or Mr. McIntyre did,
22 at any rate, Judge Carrillo and his brother, Ramiro
23 Carrillo, and possibly the other brother, Oscar Carrillo;
24 I'm not certain about that, in some of their tax matters.

25 Q Do you live in Benavides or San Diego?

1 A I live in San Diego, Mr. Maloney.

2 Q You don't know Mr. Oscar Kirkland, do you?

3 A O. D. Kirkland? Very well.

4 Q What is his business or occupation?

5 A He is a CPA.

6 Q He is in where?

7 A In Alice, Texas, about ten miles to the east
8 of San Diego.

9 MR. MALONEY: Thank you.

10 CHAIRMAN HALE: Are there further
11 questions?

12 (No response.)

13 CHAIRMAN HALE: Mr. Foster, on behalf of
14 the Committee, we thank you for your attendance here
15 and for your able testimony.

16 Mr. Foster, just a moment. Mr. Hendricks has
17 a question he would like to ask.

18 BY MR. HENDRICKS

19 Q A couple of questions, Mr. Foster. You practice
20 there in Duval County?

21 A Yes, sir.

22 Q You're familiar with all the lawyers?

23 A Yes, sir.

24 Q Of your knowledge, has Judge Carrillo practiced
25 law, or maintained the laws—well, first, has he

1 practiced law since January 1st, 1971, of your knowledge?

2 A Not to my knowledge, and I don't believe he
3 has, Mr. Hendricks. He took the Bench, I believe, under
4 an appointment right after the general election in '70.
5 I could be corrected, but his term began January the 1st,
6 1971, and to my knowledge—

7 Q To your knowledge, he has not practiced law
8 since that date?

9 A No.

10 Q Thank you, sir.

11 A Other than, you know, I'm sure friends would
12 ask legal questions and he would refer them to lawyers.

13 CHAIRMAN HALE: Any further questions?

14 (No response.)

15 CHAIRMAN HALE: Thank you, Mr. Foster.

16 (The witness, Mr. Marvin Foster, was
17 excused.)

18 CHAIRMAN HALE: Mr. Canales, would you
19 call your next witness.

20 MR. CANALES: Mr. Joe Guerra.

21 CHAIRMAN HALE: Joe Guerra.

22 MR. CHAVEZ: Mr. Chairman, I think Mr.
23 Foster asked that he might want to be excused subject to
24 call.

25 CHAIRMAN HALE: Yes. Is there any

1 objection on any of these witnesses if we let them go
2 subject to recall if we need them?

3 Mr. Foster, the Chair will advise you on
4 behalf of the Committee that while you are under subpoena
5 to the Committee you are free at this time to go about your
6 business as though you were not under subpoena, with the
7 understanding that you will be available in the event we
8 need to recall you at some future date.

9 MR. FOSTER: I will, sir.

10 CHAIRMAN HALE: Thank you.

11 Mr. Guerra, do you understand English?

12 MR. GUERRA: Yes, sir.

13 CHAIRMAN HALE: Fine. You don't need an
14 interpreter?

15 MR. GUERRA: No, sir.

16 CHAIRMAN HALE: Thank you.

17 It is my duty as Chairman to advise you of
18 your rights with respect to your testimony. You will
19 be sworn to tell the truth, and your failure to do so
20 could subject you to a prosecution for perjury.

21 After you have completed your statement,
22 members of the Committee may ask questions concerning
23 your testimony. You must answer these questions
24 truthfully, and your refusal to do so could subject you to
25 punishment for contempt. You can refuse to answer

1 questions only on the ground that such answers might
2 incriminate you, or tend to incriminate you, in some
3 way.

4 You are privileged to have an attorney of
5 your selection sit with and advise you as to your
6 answers if you desire. The Chair will attempt to
7 protect your rights at all times.

8 Do you understand the advice I have given
9 you?

10 MR. GUERRA: Yes, sir.

11 CHAIRMAN HALE: Are you ready to
12 testify?

13 MR. GUERRA: Yes, sir.

14 CHAIRMAN HALE: Would you please rise
15 and raise your right hand.

16 (The witness was sworn by the Chairman
17 at this time.)

18
19 MR. J. C. GUERRA

20 was called as a witness by the Author of HSR-161 and,
21 being duly sworn by the Chairman, testified as follows:

22 DIRECT EXAMINATION

23 BY CHAIRMAN HALE:

24 Q For the record, would you please state your
25 name and your mailing address.

1 A J. C. Guerra, Box 186, Roma, Texas, 78584.

2 Q Fine, Mr. Guerra. We appreciate your
3 attendance.

4 CHAIRMAN HALE: Mr. Canales.

5 MR. CANALES: Mr. Chairman, I believe Mr.
6 Guerra has a statement prepared that he would like to
7 read to the Committee.

8 CHAIRMAN HALE: That will be fine.

9 Mr. Guerra, the Chair will be happy for you
10 to read any statement that you have.

11 A Actually, it is not a statement; it is a
12 chronology of complaints that have been filed against
13 Judge O. P. Carrillo, to him personally, and mostly to
14 the Judicial Qualifications Commission.

15 CHAIRMAN HALE: Mr. Guerra, before you
16 start, let the Chair ask you one or two questions, then.

17 BY CHAIRMAN HALE

18 Q I believe you live in Roma, Texas?

19 A Yes, sir.

20 Q I believe you said. What business or
21 occupation do you pursue?

22 A I am self-employed. I manage my assets and
23 money.

24 Q That would be a nice occupation. Do you hold
25 any official position in any governmental agency?

1 A I did until May 16th. I was Mayor of the City
2 of Roma off and on for about twenty years.

3 No one would oppose me.

4 Q How did you leave that office? Did you
5 resign?

6 A I resigned for personal business reasons.

7 Q No one has attempted to remove you from that
8 office?

9 A I had opposition—no, sir. I had opposition
10 this time and won, but my personal business required
11 that I resign.

12 Q I see. Are you related in any way to any of
13 the participants in this proceeding?

14 A No, sir.

15 Q I noticed that the District Attorney in the
16 229th Judicial District is also named Guerra. Is he
17 any relation to you?

18 A No, sir.

19 Q We have also had some testimony here concerning
20 a lawsuit styled Manges vs. Guerra. There are a number
21 of Guerras involved in that. As I recall, one of them
22 was^o an M. A. Guerra, I believe. Are those Guerras any
23 relation of yours?

24 A They are all brothers, and one sister.

25 Q Were you involved in that lawsuit?

1 A Yes, sir.

2 Q You were one of the defendants in that lawsuit?

3 A I believe I was the plaintiff. The thing went
4 back and forth so much with cross actions, but I think
5 I started out as a plaintiff.

6 Q Is that lawsuit still pending?

7 A No. It was finally resolved in June of 1974.

8 Q And at the District Court level?

9 A Yes, sir.

10 Q No appeal was taken?

11 A Oh, several appeals were taken, but this was
12 finally a settlement in June of 1974.

13 Q I see. In other words, the litigation on that
14 is now complete then?

15 A Yes.

16 Q There is no more pending litigation on it.

17 A Yes, sir.

18 Q That lawsuit involved what, some property
19 rights, was it not?

20 A Yes, sir, of course. It involved our family
21 partnership and sales made by uncles who were not
22 members of our partnership but with whom we had common
23 interest in lands.

24 Q That lawsuit had nothing to do with any
25 political factions or rights or removal proceedings, or

1 anything of that nature?

2 A No, sir.

3 Q It was private litigation involving property
4 rights?

5 A Yes, sir. A family fight.

6 Q I see.

7 CHAIRMAN HALE: Thank you. You may
8 proceed with your statement.

9
10 DIRECT TESTIMONY

11 A Under date of May 6, 1972, I would like to
12 read into the record—these complaints are not so very
13 long, and I would like to read them in—the following
14 complaint was filed.

15 "To the Honorable O. P. Carrillo, Presiding
16 Judge, 229th Judicial District, Rio Grande City,
17 Texas. We, the undersigned residents of Starr
18 County, Texas, who are subject to the execution
19 of justice in your court, vehemently condemn and
20 publicly protest Your Honor's practice of
21 appointing your partisan and biased Jury
22 Commissioners who in turn select persons as Grand
23 Jurors wholly and totally from the same partisan
24 political band, and the Grand Jury so arrayed
25 have corruptly undertaken vendettas of oppression

1 and harassment to the citizenry, instead of
2 serving as a bulwark of the accused against
3 the State.

4 We respectfully request Your Honor to
5 forthwith discharge the current Grand Jury and
6 name a Jury Commission comprised of two members
7 from each of the well-known political factions
8 in the county and one independent member, and
9 to continue this impartial practice hereafter.
10 Your Honor would then contribute to the peace
11 and tranquility of the county."

12 This particular complaint was submitted to
13 Judge Carrillo on the 7th or 8th of May and was
14 signed by over 900 persons.

15 I have made some notes on each one of these.
16 This complaint asked Judge Carrillo to discharge the
17 April term Grand Jury, which was a product of the
18 biased and partisan Jury Commission that he had appointed
19 for the April term. Arnulfo Guerra was an unsuccessful
20 candidate for School Trustee. And the Grand Jury, upon
21 Judge Carrillo's order, after application to him, had
22 permitted the Grand Jury to open the stub boxes and
23 ballot boxes and matched—the Grand Jury matched each
24 ballot with its corresponding stub. The Grand Jury also
25 subpoenaed the School Superintendent, the business

1 manager and tax collector and, I think, other persons.
2 No indictments were returned by the Grand Jury to have
3 supported allegations of fraud or wrongdoing, but a lot
4 of people were terrorized as a result. A copy of this
5 complaint was sent to the State Judicial Qualifications
6 Committee.

7 MR. CHAVEZ: When was that?

8 A Sir?

9 MR. CHAVEZ: When was that sent?

10 A Right after May the 6th, 1972.

11 MR. CANALES: Mr. Guerra?

12 A Yes, sir.

13 MR. CANALES: Let me ask you, for what
14 reason, or why were these ballot boxes turned over to
15 the Grand Jury? Were there allegations of misgoings-on,
16 or what?

17 A The Court had issued an order of impoundment
18 of the election materials at the school election, the
19 Roma School District election, of April 1st, 1972. The
20 order was dated—in Cause Number 4307—and the order was
21 dated on March 10, 1972. I have a copy of that order
22 which required the absentee voting clerk to daily take
23 to the, in this case, the District Clerk's Office, the
24 ballot box of ballots voted in person, absentee and
25 person, and whatever ballots came in by mail, to daily

1 take them to the District Clerk's Office at Rio Grande
2 City, a distance of fourteen miles, and the next day go
3 after the ballot boxes again, so that he could use them
4 to conduct his absentee voting on that day. And this
5 procedure was followed for twenty days; that is, as you
6 know, the absentee voting starts on the twentieth day
7 before the date of the election. And the ballots remained
8 impounded, according to this order, at the end of
9 absentee voting until the day of the election when the
10 absentee voting clerk, accompanied by the watchers, is
11 supposed to go after the ballot boxes and the stub
12 boxes. And the stub box, incidentally, according to the
13 order, was impounded at the First State Bank and Trust
14 Company of Rio Grande City.

15 On the day of the elction the absentee voting
16 clerk would deliver the ballot box and the stub box to
17 the election officials holding the election on the day
18 of the election, April the 1st, 1972.

19 MR. CANALES: Yes, but why did they hand
20 the ballot boxes over to the Grand Jury? Is the Grand
21 Jury the recounting agent?

22 A I'm getting to that.

23 MR. CANALES: Oh. Okay.

24 A You asked the reason why, and the reason why
25 these things have come up was the impounding order that

1 the Judge had issued previously.

2 BY MR. CANALES

3 Q Before we get to the Grand Jury, can I ask
4 you—and this probably should be explained for—why was
5 the impounding order issued?

6 A The District Attorney presented a petition to
7 the Judge alleging that fraud and wrongdoings would
8 occur and that the Court needed to impound the election
9 materials under Article 9.02 of the Texas Election Code.
10 The Court had the power to do this impounding. And it
11 was pursuant to the motion of the District Attorney that
12 the Judge issued this order.

13 Q Was that Randle Nye?

14 A Randle Nye at that time.

15 CHAIRMAN HALE: Was the Order signed by
16 Judge Carrillo?

17 A Yes, sir. Then after the election— I'm going
18 to skip, to answer your question. After the election,
19 the Chairman of the— I mean the Foreman of the Grand
20 Jury filed a motion, presented a motion to the court,
21 alleging that they were—it says:

22 "Now comes Roberta A. Garza, Foreman of
23 the Grand Jury of the April term in 1972, and
24 makes and files this motion that this Honorable
25 Court order the First State Bank and Trust

1 Company of Rio Grande City, Texas and the
2 District Clerk of Starr County, Texas, to
3 deliver to the Grand Jury of Starr County,
4 Texas the ballot and stub boxes and other
5 matters which were impounded by order in Cause
6 No. 4307 in the District Court of Starr County,
7 Texas, said materials to be delivered to the
8 Grand Jury for the purpose of examining the
9 ballots and stubs to determine whether or not
10 there has been tampering or stuffing of the
11 ballot boxes. This Grand Jury has heard
12 evidence and has reason to believe that there
13 have been serious violations regarding said
14 ballots and said stub boxes in the election
15 held April 1, 1972, of the Roma Independent
16 School District election."

17 That was the petition to the District Judge.
18 That was filed at 2:35 p.m. on April the 6th.

19 Q Now, Mr. Guerra, let me interrupt you. They
20 had heard evidence that it was going to be done or that
21 it had been done?

22 A I'll read it again.

23 CHAIRMAN HALE: Mr. Canales, I believe it
24 would help the Committee if we would allow the witness
25 to make his statement and then you ask him questions.

1 MR. CANALES: Yes, sir, Mr. Chairman.

2 CHAIRMAN HALE: Your questions are at
3 least confusing me, and I dare say they are confusing
4 other members of the Committee. If your witness has
5 prepared his remarks in chronological order I would like
6 to get the chronological sequence.

7 MR. CANALES: Thank you.

8 A Pursuant to this petition of the Foreman of
9 the Grand Jury, the Grand Jury did obtain the ballot
10 boxes and stub boxes and, as I said, matched them
11 together, and the result of their investigation was
12 that there were no true bills returned. However, also
13 out of the same impoundment proceeding, there was a
14 supplemental order of impoundment on March 31, 1972,
15 signed and issued by Judge Carrillo. March 31, 1972,
16 you will note, was the day before the election.

17 This supplemental order was served upon the
18 persons cited in the supplemental order during the day
19 of the election, on April 1st. The, whatever you call
20 this precept, shows that the presiding judge was
21 served at 7:30 in the morning on the day of the election.
22 That is half an hour after the polls opened. He had no
23 hearing whatsoever, and this order was served on him by
24 a Texas Ranger, B. J. Greer or Green.

25 Other people were served also during the

1 election during the day. I'll go back and read some of
2 the things contained in the supplemental order.
3 Incidentally, I could not find in the file jacket where
4 Mr. Nye had made application for this supplemental order.
5 It just wasn't there. This is rather lengthy and I
6 will, if I may—well, it isn't that long, really. It
7 starts off by saying—well, it says:

8 "On this 31st day of March there came on
9 for consideration the application of the District
10 Attorney of the 229th Judicial District."

11 I never did find the application, but it does recite
12 that. And it says:

13 "It is within the power and duty of this
14 court to grant said application."

15 And it goes on to say:

16 "It is accordingly ordered and adjudged and
17 decreed by the Court as follows: that the presiding
18 judge of said election is hereby ordered to prohibit
19 the following: any sound truck to approach within 1,000
20 feet of the polling place during the hours the polls are
21 open for the purpose of making any political speeches
22 or electioneering for or against any proposition or
23 candidate. Any person to do any electioneering or
24 loitering while the polls are open within 100 feet of
25 any outside door through which a voter may enter the

1 building in which a polling place for said election is
2 located, all in accordance with Article 8.27 of the Texas
3 Election Code.

4 The Board of Trustees of the Roma Independent
5 School District is hereby ordered to prohibit any person
6 from loitering upon school property and more specifically,
7 the Roma School Tax Office building and the shed which
8 is situated directly across from the polling place for
9 any purpose except for the orderly conduct of said
10 election in accordance with Section 4.23 of the Texas
11 Education Code and the President of the Board of
12 Trustees of the Roma Independent School District, and
13 the Superintendent of the Roma Independent School District
14 and the presiding judge or officer and all election
15 judges of said election are hereby ordered to warn any
16 person loitering upon school property to leave such
17 school property, all in accordance with Section 4.23 of
18 the Texas Education Code. All persons, or group of
19 persons, are hereby expressly restrained and enjoined
20 from occupying or being on or about school property as
21 defined in Section 4.23 of the Texas Education Code, and
22 more specifically, the Roma School Tax Office Building
23 and the shed which is situated directly across from the
24 polling places for the purpose of carrying on partisan
25 politics, or in any way interfering with the orderly

1 conduct of said Roma Independent School District
2 election to be held on April 1st, 1972."

3 I'm compelled to read the rest, I'm afraid.

4 "That the presiding judge of said election
5 is hereby ordered with respect to services, duties
6 and privileges of watchers: 2 (a) If the presiding
7 judge permits the clerks to leave the polling
8 place for meals or other necessary reasons
9 during the time the polls are open, he must
10 accord the same privilege to watchers."

11 These are recitations of actual articles of the Texas
12 Election Code. I don't know whether you want to burden
13 the record with all of this, but they are verbatim
14 recitations of the Election Code. Is it all right to go
15 ahead and read them?

16 CHAIRMAN HALE: I think it might be just
17 as well, Mr. Guerra, if you could sort of summarize what
18 is in those instruments.

19 A All right. "(b) A watcher who leaves the
20 polling place after the polls are closed shall
21 be permitted to resume his service at any time
22 thereafter until the election officers have
23 completed their duties.

24 (c) The presiding judge shall permit each
25 watcher appointed in accordance with the Texas

1 Election Code to sit conveniently near the
2 judges or clerks of said election so that said
3 watchers can observe the conduct of the election,
4 including but not limited to, the reading of the
5 ballots. The tallying and the counting of the
6 votes, the making out of the returns, the locking
7 of the ballot boxes, their custody and safe return.
8 Any poll watchers shall also be permitted to be
9 present when assistance is given by an election
10 judge in the marking of the ballot of any voter
11 not able to mark his own ballot, to see that the
12 ballot is marked in accordance with the wishes
13 of the voter.

14 (d) The presiding judge shall in no way
15 limit, interfere or restrict the choice of
16 watcher as to the place and manner in which
17 said watchers perform their duties as prescribed
18 and defined in the Texas Election Code.

19 The presiding judge or officer and all election
20 judges of said election are hereby ordered and restrained
21 from removing the ballot boxes, sub boxes and any and
22 all voting materials from rooms 19, 20, 21 and 22 and
23 adjacent hallway of the polling place of said election,
24 being the Annex to the Roma Independent School District
25 Junior High School Building, for any purpose whatsoever

1 except to comply with the order of impoundment hereto-
2 fore issued by this court, and except to comply with
3 the provisions for allowing disabled voters who cannot
4 enter the polling place without assistance to vote in
5 accordance with the Texas Election Code.

6 The presiding judge of said election, and any
7 and all watchers at said election, are hereby ordered
8 to follow the provisions of Article 3.07 of the Texas
9 Election Code respecting the service, duties and
10 privileges of watcher. The District Clerk of Starr
11 County, Texas, shall cause a certified copy of this
12 order to be served upon all members of the Board of
13 Trustees of the Roma Independent School District, the
14 Superintendent of the Roma Independent School District
15 and the presiding judge or officer and election judges
16 or watchers of the Roma Independent School District
17 election of April 1, 1972, such service to be made by
18 an officer authorized by law to serve civil process or
19 any Texas Ranger.

20 If any person refuses to obey this order or
21 interferes with the obedience of this order, such
22 persons shall forthwith be cited for contempt and be
23 brought immediately before this Court to show cause why
24 such person refused to obey this order or interfered with
25 the obedience of this order."

1 "Signed and entered on this 31st day of
2 March, 1972."

3 And apparently that was entered, or rather filed, at
4 11:00 a.m. on March 31st. But as I said, it was served
5 on the day of the election, the following day.

6 CHAIRMAN HALE: Is that order signed
7 by Judge Carrillo?

8 A Yes, sir.

9 CHAIRMAN HALE: All right.

10 A These are all certified copies. Yes, sir.

11 Now, this was embodied and exhibits, too, in
12 another complaint filed on May 31st, 1972, with the
13 Honorable Maurice S. Pipkin, Executive Director,
14 Judicial Qualifications Commission, the Supreme Court
15 Building, Austin, Texas. And it reads:

16 "We, the undersigned, in our individual
17 and in our respective official capacities bring
18 this complaint against the Honorable O. P.
19 Carrillo, Judge of the 229th District Court
20 of Starr County and respectfully request that
21 the Judicial Qualifications Commission take our
22 plea under consideration, and upon so determining,
23 make its recommendation to the Supreme Court for
24 sanctions therefor.

25 The grounds for this complaint are the

1 judicial acts of partiality and oppression
2 designed to terrorize the election officials
3 holding the Roma Independent School District
4 election for Trustee on April 1, 1972, and
5 also designed to terrorize and intimidate
6 school officials and the general public who are
7 opposed to the political faction which Judge
8 Carrillo sought to promote thereby, placing
9 such persons in jeopardy of being in contempt
10 of his order. Specifically, the judicial
11 acts complained of are as follows: The
12 order of impoundment, the supplemental order—"

13 The supplemental order which I read.

14 "—the show cause order served on Lauro Muñoz
15 who was the presiding judge—"

16 And it was issued on April 3rd, 1972.

17 "—and order of April 6th granting Grand Jury
18 Foreman's motion for opening the ballot boxes
19 and stub boxes, the judgement of the court
20 entered by Judge Carrillo holding Lauro Muñoz
21 in contempt of court, the transcript and
22 record of which are not available to complainants
23 at this time, A further judicial act attesting
24 to Judge Carrillo's partiality by way of
25 comparison was his order of impoundment entered—

1 VICE CHAIRMAN MALONEY: Mr. Chairman?

2 CHAIRMAN HALE: Mr. Maloney?

3 VICE CHAIRMAN MALONEY: I hate to
4 interrupt Mr. Guerra, but if these are documents that he
5 is offering to the Committee for inclusion in the record,
6 I think that it would save us time and duplication if
7 he would just explain to us their significance and what
8 he expects them to prove and then the Committee will be
9 able to look them over.

10 CHAIRMAN HALE: Do you intend to offer
11 these documents to the Committee, Mr. Guerra?

12 A Yes, sir.

13 CHAIRMAN HALE: It might be better if you
14 could just summarize them rather than reading all this
15 material in the record. What the Chair will do, if you
16 will give us those records, we will have them repro-
17 duced and supply a copy to every member of the
18 Committee.

19 A Yes, sir. The only thought that occurred to me
20 in reading these was that perhaps members of the Committee
21 might want to ask questions when I got through with each
22 one of these. That was the only purpose I had in mind.

23 CHAIRMAN HALE: The Chair would like to
24 afford you every opportunity to give whatever testimony
25 you want. I would hope that you could perhaps summarize

1 these instruments rather than just read them at length.

2 A All right, sir.

3 CHAIRMAN HALE: And in doing so, perhaps
4 point out their significance to the inquiry we have
5 under advisement here.

6 A All right, sir.

7 This complaint of May 31st was signed by ten
8 persons who were in some way affected by this order.
9 And they complained to the Judicial Qualifications
10 Commission of the Judge's acts of partiality and
11 oppression upon them, to have imposed upon them the
12 jeopardy of being in contempt of court for any violation
13 of the Election Code which provides for a specific
14 punishment thereunder. But Judge Carrillo imposed them
15 the further jeopardy of being in contempt of court.

16 (The documents referred to
17 were marked "Exhibit-56,"
for identification.)

18 CHAIRMAN HALE: Mr. Guerra, let the
19 Chair ask you a question or two before you proceed.

20 BY CHAIRMAN HALE

21 Q With respect to what's been marked Exhibit 56,
22 this consists of numerous documents, all in one bundle.
23 Do all of these documents pertain to the matters you
24 have just recited, the orders of impoundment in connec-
25 tion with the school district election in the Roma

1 Independent School District on April 1, 1972?

2 A Yes, sir.

3 Q Thank you.

4 A If we're going to do that, I would like to
5 also submit the complaint of May the 6th, 1972, which
6 related to the appointment of the Jury Commission,
7 because I'll have some more testimony regarding the
8 Jury Commission.

9 Q That will be fine.

10 CHAIRMAN HALE: The Court Reporter will
11 mark it.

12 (The complaint referred to
13 was marked "Exhibit 57,"
14 for identification.)

14 CHAIRMAN HALE: All right. Exhibit 57
15 consists of two documents, one a petition to Judge
16 Carrillo dated May 6, 1972, signed by a number of
17 persons, and the second document a letter from Judge
18 Carrillo to "Honorable J. C. Guerra" dated May 16, 1972,
19 pertaining to the appointment of Jury Commissioners.

20 Q Is that correct?

21 A Yes, sir.

22 CHAIRMAN HALE: Fine. Thank you.

23 A The next document is dated August 21, 1974,
24 addressed to the State Judicial Qualifications
25 Commission, re District Judge O. P. Carrillo, 229th

1 Judicial District of Texas. This complaint was signed
2 by me individually, and it relates to the Judge's
3 conduct of a primary election contest in which a
4 brother of mine was a contestant, Virgil Guerra. And
5 the election contest was filed on May 21st, 1974, and
6 was not finally decided until August 28, 1974. This
7 complaint states that Judge Carrillo, in conspiracy
8 with Clinton Manges and the contestee, Amando Pena,
9 willfully delayed the trial of the case, which, under
10 the Election Code, should have been dispatched, should
11 have been tried with the greatest dispatch.

12 As you know, in primary elections, an
13 election contest has to be filed within ten days, an
14 answer filed by the contestee within five days of
15 service, and the Election Code even goes so far as to
16 state that the commencement of the trial may not be
17 delayed beyond a certain number of days, and I believe
18 it's five days more. And it is very stringent because
19 the primary election contest must be resolved in time
20 for either party to appeal. And even if the contestee
21 were to win in this kind of a situation, by August 28th
22 of 1974, 103 days after the election contest was filed,
23 the District Judge Carrillo ruled for the contestant.
24 I'm not here charging him with misconduct as to the
25 ruling of the case, but certainly misconduct in the manner

1 in which he handled the case, allowing it to go 103
2 days.

3 As a matter of fact, when I filed this
4 complaint on August 21st, I think I came and did it
5 personally in Austin, and probably on August 22nd I
6 understand that the Executive Director of the Judicial
7 Qualifications Commission had to track the Judge down,
8 and he found him in Colorado buying bulls. He had given
9 a week continuance to the contestee in which to get
10 the testimony of one further witness. And the docket
11 will show that after the Judicial Qualifications
12 Commission got a hold of him, he returned on August 26th
13 at 1:00 p.m. And I happen to know—of course, it's
14 hearsay how it happened—he called that morning and
15 said, "I'm to resume that case on August 26th." It
16 took him only from 1:00 p.m. on August 26th until
17 August 28th at 9:15 when he resumed the case, to decide
18 against the contestant. But he had given the contestee
19 a week in which to get the testimony of one witness in
20 this case. I don't know how it's handled elsewhere, and
21 I'm not a lawyer, but down there it's the practice of
22 the judges to keep track of the testimony given and
23 they talley their votes as they go along.

24 So, very likely, on August the 20th when granted a
25 week's continuance, the Judge certainly knew how the

1 case was going before he granted the seven-day
2 continuance, because he came back at 1:00 p.m. Between
3 1:00 p.m. on August 26th and 9:15 on August 28th, he
4 could not have heard testimony on forty some odd
5 witnesses— I mean about forty some odd votes that had
6 been contested. His talley had been made beforehand,
7 but the whole process took such a time that the con-
8 testant had no chance to appeal this case.

9 As part of this complaint I appended the
10 order on motion for disqualification of Judge Carrillo
11 in the matter of Cause Number 3953, which the Chair
12 mentioned a while ago, this family fight, and wherein
13 Judge Manges Smith found Judge Carrillo disqualified
14 because of his relationship with Clinton Manges. I
15 might say that this case was very crucial to Judge
16 Carrillo and to Clinton Manges and to everybody opposed
17 to the faction to which I belong because this would have
18 swung the control of the Commissioners Court. This was
19 one of those "must" cases in order to retain control
20 of the Commissioners Court by the faction that Judge
21 Carrillo belongs to in Starr County.

22 (The document referred to
23 was marked "Exhibit 58,"
for identification.)

24 CHAIRMAN HALE: This Exhibit 58 which the
25 Chair has consists of several documents here pertaining

1 to a petition to the State Judicial Qualifications
2 Commission about which you have just testified. Is that
3 correct?

4 A Yes, sir.

5 CHAIRMAN HALE: Thank you.

6 A On May the 12th I filed, myself, a complaint
7 with the Judicial Qualifications Commission, another
8 complaint against Judge Carrillo.

9 CHAIRMAN HALE: In 1975?

10 A Yes, sir. I'm sorry. In 1975. I can't seem
11 to find it. It related to the composition of the
12 Jury Commission which he appointed for the April term of
13 1975. I'll have to get a copy of that from the
14 Commission. I don't find it here now.

15 I do have and I want to bring to the
16 Committee's attention—since he took the Bench, Judge
17 Carrillo has appointed nine jury commissions composed
18 of five members each, and totaling 45 persons. Of the
19 45, 40 were members of his political faction in Starr
20 County and five against his faction. And only five
21 occasions did he appoint one opposing jury commissioner
22 to the Jury Commissions. From the April term, 1971,
23 when he took office to the April term, 1975, he appointed
24 40 members to the Jury Commission belonging to his own
25 faction, and I have the copies of those appointments.

1 The Committee will notice that some of those people are
2 repeated. I have circled the name of the person who is
3 not of the Judge's political faction in Starr County in
4 each one of these appointments. These were certified
5 to by the District Clerk of Starr County on May 21st of
6 1975.

7 (The documents referred to
8 were marked "Exhibit 59,"
9 for identification.)

10 A That's all the documents I have, Mr. Chairman,
11 with reference to my testimony.

12 CHAIRMAN HALE: Exhibit 59 will be
13 received. This is a certified copy of the appointment
14 of the Grand Jury Commissioners in Starr County from
15 1971 through '75. Is that correct?

16 A Yes, sir.

17 CHAIRMAN HALE: Thank you.

18 A And I would like permission of the Chair to
19 submit a copy of my complaint of May the 12th, 1975.

20 CHAIRMAN HALE: We will be happy to
21 receive it. I suppose we can reserve Exhibit Number 60.
22 We'll accept it as Number 60, if you will supply it
23 to the Chair at your convenience, earliest convenience,
24 Mr. Guerra.

25 A Yes, sir.

(The document referred to was
reserved "Exhibit 60" for
identification.)

1 CHAIRMAN HALE: Have you further comments
2 or have you completed your statement?

3 A Yes, sir.

4 CHAIRMAN HALE: Mr. Canales?

5 MR. CHAIRMAN, I'll pass at this time and
6 await the questioning of the Committee.

7
8 QUESTIONS BY THE COMMITTEE

9 BY CHAIRMAN HALE

10 Q Mr. Guerra, I take it from the documents you
11 have presented, without yet having had an opportunity to
12 read those documents and study them, that it would be
13 a fair summary of the documents and your testimony to
14 the effect that in your judgment Judge Carrillo is using
15 the powers of his office to attempt to control the
16 entire political processes there in Starr County. Is
17 that right?

18 A Yes, sir, that is true.

19 Q That, for instance, in the appointment of the
20 Grand Jury Commissioners, he is likewise controlling
21 the composition of the Grand Jury.

22 A Yes, sir.

23 Q Is the Grand Jury a powerful force in Starr
24 County?

25 A It certainly is.

1 Q Could you tell the Committee how the Grand
2 Jury could be used to oppress the people, or how it has
3 been used?

4 A Since Judge Carrillo has been on the Bench I
5 know of only that instance in 1972 that the Grand Jury
6 actually took the stubs and matched the stubs with the
7 ballots thereby learning how people voted. That was in
8 the Roma School election.

9 Q Was that information made public?

10 A No, sir. That was not made public.

11 Q Only the members of the Grand Jury learned how
12 the people voted?

13 A Yes, sir. Well, I cannot say that. They were
14 the ones to learn. Whether or not they passed that
15 information on, I could not say.

16 There is one other observation I would like to
17 make, if I may.

18 Q Yes, sir. You may go ahead.

19 A In the orders of impoundment from 1971 through
20 1974 that Judge Carrillo has issued with reference to,
21 well, specifically the Roma Independent School District
22 election which is held every year, each one of them
23 stated that the place of impoundment of the ballot boxes
24 should be designated the District Clerk's Office, and
25 the bank was the place of impoundment for the stub boxes.

1 Now, in the elections of 1975 the Roma Independent
2 School District election and the City of Roma election,
3 he chose and he deviated from his course that he had
4 pursued for years. He changed the place of impoundment
5 for the ballot boxes to the Sheriff's office and not
6 the District Clerk's office. I must infer here that
7 the reason for this is that the District Clerk, supported
8 by the Judge's opposition, won that office and holds
9 the office, and the District Judge is aware of that so
10 he changed the place of impoundment of the ballot
11 boxes from the District Clerk's Office to the Sheriff's
12 office in 1975, something I would like to point out, for
13 whatever it is worth. But it is unusual that the ballot
14 boxes which had been usually impounded in the District
15 Clerk's office, all of a sudden this year the place of
16 impoundment was changed to the Sheriff's Office where
17 there is tremendous traffic every day, night and day.

18 Q Who is the Sheriff of Starr County?

19 A Ramundo Alvarez.

20 Q Is he related to anyone involved in this con-
21 troversy?

22 A No, sir.

23 Q Who is your District Clerk?

24 A Juan Erasmo Saenz.

25 Q Juan Erasmo Saenz?

1 A Saens. Yes.

2 Q Is he related to anybody involved in this
3 proceeding?

4 A Not that I know of.

5 Q Do you know what parties the Sheriff and the
6 District Clerk belong to?

7 A The District Clerk was elected by a group
8 called "United Groups." I might explain that United
9 Groups is representative of all dissident groups opposed
10 to the "New Party," as we call it, which holds the
11 public office in the Courthouse in Starr County.

12 Q What party does Judge Carrillo belong to?

13 A To the "New Party." He is supported by the
14 New Party.

15 Q In the complaint that was filed with the
16 Judicial Qualifications Commission concerning this
17 election contest—and again, I have not had an opportunity
18 to read the documents—it's your contention that the
19 trial was deliberately delayed in order to prevent an
20 appeal?

21 A Yes, sir. I can recall that the contestant's
22 case was finished within—when they finally went to
23 trial—there was one agreed continuance at the beginning,
24 I remember, but when they went to trial the contestant's
25 case was presented within, I believe within eight to ten

1 days. Then the contestees had it from there on.

2 Q It was not finished until the 103rd day?

3 A That's right. The reasons given was such that
4 the Court Interpreter's uncle had died and therefore the
5 Court would take a break for a day or two, and so on.
6 The Judge's aunt would also get sick and he couldn't
7 get back. And one thing that I did want to bring out:
8 the Court Reporter had National Guard duty. This was
9 something that was known to the Judge and to the
10 Court Reporter, certainly to the entire court, and
11 therefore the case was continued while the Court Reporter
12 was on National Guard duty.

13 Q You and your brothers were parties in the
14 lawsuit that I asked you about earlier styled "Manges
15 vs. Guerra." Were any of you represented in that case
16 by Arnulfo Guerra who is now the District Attorney in
17 Duval County?

18 A Yes, sir. Virgil and I.

19 Q Did he represent you through that entire
20 litigation?

21 A Up until the last part of it actually neither
22 Virgil nor I were active in the contention. There was
23 the matter of accounting by the Receiver who at that
24 time was James S. Bates. The accounting of the Receiver
25 came up and it was a gross misrepresentation, a jumble of

1 accounting, just a mass of schedules rather than a real
2 accounting, and it took quite a bit of time to really
3 assemble the whole thing. I came to some conclusions
4 about it, but I counseled with Virgil that we should stay
5 back and let two other brothers who were the original
6 litigants in the matter, let them carry the ball. In
7 other words, M. A. Guerra, who was—and R. R. Guerra—to
8 establish the receiving of accounting, so we were not
9 actually active members in that—active parties in
10 that litigation except that I did get— I'm sorry. We
11 didn't. As a result of that, my brother Virgil and I
12 got different counsel. Virgil got Carlos Debril from
13 San Antonio, and I employed Harvey Hardy in the matter.

14 Q And that terminated Mr. Arnulfo Guerra's
15 participation?

16 A Yes, sir.

17 Q He was not attorney then at the time the settle-
18 ment was made?

19 A (No response.)

20 BY VICE CHAIRMAN MALONEY

21 Q Could you tell us who represented your other
22 brothers, the ones carrying forth the litigation?

23 A At the beginning and all the way through?

24 Q Yes, sir.

25 A Jack Skaggs represented R. R. and M. A. Guerra.

1 For reasons of their own, they changed to Garland Smith.
2 And Garland Smith, as you have heard here, was the one
3 who challenged Judge Carrillo's qualifications. Virgil
4 and I were not involved in that. That was something
5 that they attacked and we were not parties to that. This
6 is where my memory lapsed on me. We did not get into
7 that. We said, "We'll let R. R. and M. A. carry the
8 thing."

9 Q Who was representing Mr. Manges?

10 A George Campman and Bill Church, in San
11 Antonio.

12 Q Did the Receiver involved in the case, did he
13 have an attorney?

14 A Yes, sir. And that was Randle Nye.

15 Q You say Juan Saenz is the District Clerk of
16 Starr County?

17 A Juan Erasmo Saenz. Yes, sir.

18 Q How do you spell his last name?

19 A S-A-E-N-Z.

20 Q Is he any relation of Jose Saenz of Duval
21 County, or do you know—the Judge's campaign manager?

22 A Not that I know.

23 MR. MALONEY: Thank you.

24 CHAIRMAN HALE: Mr. Kaster?
25

1 BY MR. KASTER

2 Q I notice that you have filed several petitions
3 with the Judicial Qualifications Commission beginning
4 in '72 and again as recently as May the 12th. What has
5 been their response to your complaints?

6 A One time—and I cannot say, I cannot point out
7 any specific complaint. I know one time that they did
8 either call in or went down and talked to Judge Carrillo.
9 And that's all I know that they have done.

10 Q To your knowledge, all they ever did was
11 go down and talk to Judge Carrillo?

12 A That's all I know, sir.

13 Q They never answered you or wrote you and
14 said, "We've investigated and found nothing."?

15 A No, sir. As far as that Commission was
16 concerned, all they did to me was reply, acknowledging
17 the complaints.

18 Q They just acknowledged that they had received
19 the complaints?

20 A That's right.

21 Q And they never let you know if they investigated
22 them or anything, but you never heard anything further
23 other than the acknowledgement that they had received
24 them?

25 A Other than the case I'm testifying to now, I

1 do know that they had a talk with Judge Carrillo.

2 Q Was that in '72?

3 A I think that was in '72.

4 Q The letter in '72 that was signed by over 900
5 people, did you take that to the Judicial Qualifications
6 Commission?

7 A We sent a copy to the Judicial Qualifications
8 Commission. You notice that is addressed to Judge Carrillo.

9 Q The letter was to Judge Carrillo?

10 A Yes, sir. But a copy was sent to the
11 Judicial Qualifications Commission.

12 Q Did that go with your—no, that was in May.
13 That was after you had already filed the complaint on
14 March the 31st.

15 A No, sir. The first complaint was May 6th.
16 That was the one that was signed by over 900 people.
17 Then there was one dated May 31st. Wasn't that right?

18 Q Oh, May 31st.

19 A Yes.

20 Q Okay. I had it March 31st. So the early May
21 one had the one where 900 people signed it, and then the
22 next one was signed by ten people?

23 A The May 31st was signed by ten? Most of them
24 were people who were served with a notice, that signed
25 that. I don't think I was, but I believe I signed it. I

P-2
C-6
S-11

1 don't have a copy here. But there were people who were
2 named in the petition— I mean in the supplemental
3 order.

4 Q And again in 1974, you sent another complaint?

5 A Yes, sir.

6 Q And again this year you sent a complaint?

7 A Yes, sir.

8 Q Are you happy or unhappy with the performance
9 of the Judicial Qualifications Commission in investigat-
10 ing your complaints?

11 A Well, every time we exercise ourselves to
12 complain we hope that something would be done, of course.
13 And I visited with them on the occasion of May the 12th
14 of this year, and I learned that they have given a
15 preliminary notice to Judge Carrillo of their intention
16 to proceed. I don't know what the intentions are—
17 contentions to proceed with the movement of their
18 machinery and their procedure to remove.

19 Q That is May the 12th of this year?

20 A Yes, sir.

21 Q And you talked to Mr. Pipkin?

22 A Yes, sir.

23 Q Did you ask him what happened with the
24 complaints of 1972 and 1974, or did that come up?

25 A No, I didn't.

1 Q Do you think they are doing something now,
2 according to what he said to you?

3 A I am led to believe that they are.

4 MR. KASTER: That's all.

5 CHAIRMAN HALE: Mr. Laney?

6 MR. LANEY: No questions.

7 CHAIRMAN HALE: Mr. Chavez?

8 BY MR. CHAVEZ

9 Q Mr. Guerra, this litigation, Clinton Manges
10 vs. M. A. Guerra, et al, did this have anything to do
11 with the bank purchase also?

12 A Yes. It was involved in the litigation.

13 Q Did your family have an interest in the bank?

14 A Yes, sir.

15 Q Do you all control the bank?

16 A We did not own controlling interest, but we
17 did control it. We did not have majority interest, but
18 we had effective control of it.

19 Q Were you President at one time, or was that
20 one of your brothers?

21 A No, sir. That was a brother of mine, my oldest
22 brother.

23 Q Was this Manges's first excursion into Starr
24 County, and that area, or do you know?

25 A Yes, I know. His first in-road into Starr

1 County was his purchase of an interest belonging to the
2 estate of one of my uncles. We were all involved. My
3 father and his brothers never did partition the land as
4 to among themselves.

5 Q Yes.

6 A So he went and bought a one-seventh interest
7 in my grandmother's estate, through Fred Guerra's
8 estate, and that is how he came into the picture.

9 Q Was there some question as to whether or not
10 he was qualified to own stock or be a director of the
11 bank?

12 A Well, of course, that came subsequently, that
13 he was not qualified.

14 Q Because of a federal conviction?

15 A Yes, sir.

16 Q Then was it necessary, or did this litigation
17 against the family by Manges, did it also involve con-
18 firmation of the purchase of bank stock by Manges?

19 A Yes. The bank stock was involved. And the
20 settlement ratified the purchase of the stock and con-
21 firmed the purchase of stock by Manges.

22 Q Now, at the time that this litigation started,
23 Judge Carrillo also, was he a bank director, or did he
24 become a bank director later?

25 A No. He became a director of the First State

1 Bank at Rio Grande City after Manges obtained control
2 of the bank.

3 Q When did he obtain control?

4 A Things rocked along willy-nilly for a couple
5 of years, I believe, and it wasn't until 1971 that he
6 did.

7 Q For your information, there is a statement
8 here that says, "The cause of action was instituted by
9 Manges in 1968."

10 A Yes, sir. That is correct.

11 Q That is when all this started with the ranch
12 and then the bank stock?

13 A Yes. Well, the bank stock didn't come in,
14 really, until 1969, as I remember it.

15 Q I see.

16 A And then even that was not a certain thing.
17 I believe that things remained sort of in limbo until
18 1971. And I believe that Judge Carrillo became a
19 director in '71.

20 Q Now, the case was originally in Judge Laughlin's
21 court?

22 A Yes. I think we still had the—yes, we did.
23 We had the 79th Judicial District.

24 Q Then after the 229th was created, this was
25 some of the litigation that was referred over to the

1 229th?

2 A Well, Judge Luna was appointed as the first
3 Judge of the 229th Judicial District.

4 Q Did he do anything in connection with this
5 litigation?

6 A I really don't remember what he did with it.

7 Q He wasn't there very long, was he?

8 A No. He was there just long enough for the
9 statutory time which is required before the brother of
10 the Legislator could take over the new District.

11 Q In other words, Oscar was still a State
12 Representative?

13 A Yes, sir.

14 Q Then Judge Carrillo was elected to that
15 Bench?

16 A I believe he was elected in November of 1970.

17 Q All right. Then after he was elected Judge, he
18 began to take up this case?

19 A That's correct.

20 Q And during the time that this case was in his
21 Court, he became a director of the bank?

22 A Yes, sir. I believe so.

23 Q And at the time that this case was in his court,
24 he also transacted some business with Mr. Manges, did he
25 not?

1 A This is what I've learned through the
2 motion procedure for disqualification of Judge Carrillo.

3 Q He sold Mr. Manges a house. Are you familiar
4 with that house in Benavides that he sold?

5 A No, Mr. Chavez. I was not—as I said a while
6 ago, I was not a party to that disqualification pro-
7 ceeding. I did not take too much interest in it. I
8 wasn't even present during that time.

9 Q This was your other brothers that were proceed-
10 ing with the action?

11 A Yes.

12 Q I see. You mentioned that he had appointed
13 some people to the Grand Juries that were of his political
14 faction. Have there been any reports or complaints that
15 that Grand Jury has been improperly used to either
16 investigate or indict people?

17 A Well, of course, we have—in 1972 we have that
18 incident, and that was reported or complained of to the
19 Judicial Qualifications Commission.

20 Q Now, you're talking about the vote counting?

21 A Well—

22 Q When you say the "incident," are you talking
23 about that?

24 A No, not only that, because, you see, the Grand
25 Jury then, at that time, and as a result of that election,

1 subsequent to that election, they, the Grand Jury asked
2 for the ballot boxes and stub boxes and went into them
3 and matched them, and so on. And we complained. And
4 at that time I'm sure was when Judge Carrillo was
5 called on or up by the Judicial Qualifications Commission
6 and things did ease off. You will notice that there is
7 a gap there. In 1973 we didn't complain.

8 Q Okay. You kind of cooled it for a while?

9 A Yes.

10 Q Well, since '73, back here, up to date, has the
11 Grand Jury been improperly used?

12 A No. But it is always a threat. It is always
13 a threat. We've had this happen before and it can
14 always happen again.

15 Q Well, there was a similar situation that
16 existed prior to the time that Judge Carrillo took the
17 Bench, was there not?

18 A There was an incident in which I was indicted
19 because of this bank stock in which my partnership,
20 my family partnership, had an interest. And I was
21 indicted and subsequently the indictment was quashed.

22 I promptly resigned as mayor—before I could
23 be removed.

24 Q Well, I take it that what you're you're
25 telling us here is that Judge Carrillo, by virtue of the

1 manner in which he has conducted his court, should not
2 be in that position; he ought to be removed?

3 A Yes.

4 Q I presume that you have lived in that area
5 most, if not all, of your life?

6 A Yes, sir.

7 Q Is it possible for there to be a court in that
8 area that would ever be free of political bias?

9 A Certainly, it's possible. There is no
10 question about it. In fact, insofar as the Grand
11 Jurors are concerned, for instance, we offered a
12 solution in the very first complaint addressed to Judge
13 Carrillo, that he could, as he has done in other places,
14 ask the factions to suggest some names to him. At that
15 time, we suggested that the people are very well known
16 to the Judge and to me and to everybody around as to
17 where they belong and where they stand.

18 Q Let me ask you this: why do people who serve
19 in this capacity, why do they have to be apportioned to
20 the different political parties? A Grand Jury is not a
21 political entity, not a political subdivision; it is
22 not supposed to be a political party.

23 A No, that is true. But I don't know what the
24 statutes say, actually.

25 Q Well, they are supposed to be citizens,

1 upstanding citizens.

2 A Yes. I remember that word.

3 Q No prior felony convictions.

4 A That's right.

5 Q How many parties are there in Starr County?

6 A Right now we have two only: the New Party,
7 and United Groups.

8 Q What happened to the Old Party?

9 A Well, the Old Party probably never existed, as
10 such, but it has been fused into United Groups.

11 Q Would it be correct to say that there really
12 isn't anybody that is Independent over there, is there?
13 You either belong to one party or you belong to another?

14 A There are a few Independents.

15 Q Up until now, most of the, I guess impropriet-
16 ies that have been alleged against Judge Carrillo, have
17 had to do with Duval County.

18 A Yes, sir.

19 Q And now I think what you're telling us is that
20 this abuse of power is not confined to Duval County, but
21 extends throughout the Judicial District.

22 A Yes, sir, So far as I know, Starr County. I
23 don't know anything about Jim Hog County.

24 MR. CHAVEZ: That's all, Mr. Chairman.

25 CHAIRMAN HALE: Thank you, Mr. Chavez.

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Are there further questions?

Mr. Kaster

BY MR. KASTER

Q Mr. Guerra, I'm a little confused. You resigned as Mayor on May the 16th?

A Yes, sir.

Q 1975?

A Yes, sir.

Q Just recently?

A Yes, sir.

Q Then in response to Mr. Chavez, you said you resigned because you were indicted.

A Oh, no. That was some years back.

Q That you were indicted?

A Yes.

Q Oh, you resigned some years back because you were indicted?

A Yes, sir.

Q Then you were subsequently re-elected as Mayor?

A Yes, sir.

Q So this time there was no indictment over you when you resigned?

A Oh, no. No. No. This was absolutely of my own will.

Q So, the bank stock deal took place in '71, or

1 '68 to '71; some time around in there?

2 A Yes, sir.

3 Q And you were Mayor then?

4 A This indictment probably came before 1968,
5 Mr. Kaster. I'm talking about the indictment on me.

6 Q The indictment had to do with bank stock?

7 A My partnership, the name of the partnership
8 was M. Guerra and Sons, owned the stock. None of us
9 partners owned any stock individually. So it was a
10 partnerships ownership. And I was indicted for being
11 Mayor and having a bank account there and owning stock
12 indirectly through the partnership.

13 Q It was a depository of the city?

14 A That's right.

15 Q What happened to that indictment?

16 A It was quashed.

17 MR. KASTER: Thank you.

18 A And I might say that the depository was
19 changed to Mission, Texas, so there wouldn't be any
20 further conflict.

21 Q Was that the only bank in town?

22 A The only bank in the county.

23 Q Oh. Okay.

24 CHAIRMAN HALE: Mr. Hendricks has some
25 questions.

1 BY MR. HENDRICKS

2 Q Mr. Guerra, Judge Carrillo had nothing to do
3 with the indictment. Is that correct?

4 A Oh, no. No. That's correct. That was prior
5 to his taking office.

6 Q Let me ask you this: prior to Judge Carrillo
7 being on the Bench there in Starr County, did the prior
8 judge that had Starr in its Judicial District, did they
9 divide their Grand Jury Commission up such as you have
10 suggested to him?

11 A Yes, sir. Mostly in that situation, they
12 would be divided up. The Jury Commissions were
13 representative of both recognized factions.

14 Q Has it in the past, prior to Judge Carrillo,
15 been used as an instrument of oppression?

16 A Oh, yes. We have had people called up there
17 for no reason. The Tax Collector, as I remember, the
18 Superintendent, and Business Manager of the Roma
19 School District were called up to the Grand Jury to take
20 all the books, for instance, on a rumor. And just
21 nothing to it. You might say that throughout the years
22 there has never been an indictment for misconduct of
23 office in Starr County.

24 Q But I did understand you to say that no Grand
25 Jury under Judge Carrillo had done anything oppressive.

1 Is that correct?

2 A No. No, sir. This 1972 Grand Jury—

3 Q That's the one that got the ballot boxes?

4 A Yes, sir.

5 Q But they haven't indicted people, or things
6 of this nature, in a political manner?

7 A No, because there hasn't been anything wrong.
8 But I might also say that wherever there was any
9 investigation by the Grand Jury it was pertaining to
10 the Roma Independent School District in which the Old
11 Party, as such, in those days had control, and certainly
12 the New Party did not.

13 MR. HENDRICKS: Thank you, Mr. Chairman.

14 CHAIRMAN HALE: Mr. Kaster?

15 BY MR. KASTER

16 Q One further question and for my own mind.
17 You live in Starr County. Now, this Old Party and New
18 Party, is that the same thing that goes on in Duval
19 County? Are they the same parties, or are these two
20 separate parties?

21 A No. They are separate altogether. There is
22 no connection. It seems like whenever somebody starts
23 up against an existing party, then the existing party
24 becomes the "Old Party," such as you have in Laredo,
25 which is an independent club.

1 Q Well, for instance, I assume both of these
2 parties are all Democrats; it's just the factions within
3 the Democratic Party.

4 A We have gone Republican off and on.

5 Q In Duval County, the Old Party, as I under-
6 stand it, is the Parr faction.

7 A Yes, sir.

8 Q In Starr County the old party—that's not the
9 Parr faction?

10 A That's correct.

11 Q It is entirely different. That is where I'm
12 getting confused.

13 A Now, it's called United Groups. Dissident
14 members of the New Party joined together with the
15 elements of the opponents, traditional opponents, of the
16 New Party and called themselves "United Groups."

17 Q That's only in Starr County, isn't it?

18 A Only in Starr County.

19 Q In Duval County that's another situation.

20 A Yes, sir.

21 MR. KASTER: Okay. Thank you. That's all.

22 CHAIRMAN HALE: Just a lot of different
23 ball games going on, Mr. Kaster. You're having trouble
24 keeping up with the score.

25 Q Well, one further question. Do the Carrillos—

1 which party do they belong to in Starr County?

2 A They are supported by the New Party. They
3 were supported by the New Party.

4 Q Now, they are supported by the New Party in
5 Duval County also, right?

6 A Well, that might be a new party there.

7 MR. CHAVEZ: A different new party.

8 A Since March 19th they might have a new party
9 over there.

10 MR. CHAVEZ: They are not associated
11 factions.

12 MR. KASTER: Does anybody have a program?

13 CHAIRMAN HALE: Mr. Canales?

14 BY MR. CANALES

15 Q Mr. Guerra, being somewhat involved with the
16 Guerra vs. Manges suit, it has been brought to my
17 attention in the past that Mr. Manges at one time took
18 bankruptcy and all of a sudden I have him, or I see him
19 here buying a vast estate. How many acres were
20 included in the partnership which was passed through
21 this Receivership into Manges's hands?

22 A In our instance?

23 Q In your partnership. Yes, sir.

24 A Just a moment, please.

25 Q Would it be over a hundred thousand acres?

1 A No. Not that much at all. About 45,000

2 Q About 45,000 acres?

3 A Yes, sir.

4 Q Let me ask you, at the time that the deed was
5 transfered to Mr. Manges, he then paid you off? Or
6 he didn't pay you off?

7 A Well, let's say it was settled that way.

8 Q No. I want to know what happened at the
9 instigation when the deed— I assume that a deed was
10 signed and the land was purportedly delivered to him.
11 Is that not the way it happened?

12 A Yes, sir, but that was the thrust of the
13 litigation.

14 Q Okay. What happened that created the
15 litigation?

16 A Virgil and I gave Manges a deed. Virgil and
17 I had tried to buy from our brothers and uncles and
18 aunts for some time, and we couldn't get anything done.
19 In the meantime, the partnership was going into debt
20 year after year, further into debt. When Manges
21 bought Uncle Fred Guerra's interest, we tried to buy
22 Manges out, Virgil and I, and we just couldn't. We tried
23 every way we could, giving him a profit, but we could
24 not. That is where we started. We warned the other
25 brothers that we would sell to them or we would buy

1 from them, and that wouldn't budge them. So we gave
2 Manges a deed which became the matter of litigation.
3 But possession was never taken by him until 1971.
4 That is why I held it. I think also the stock
5 remained—the bank stock—remained in suspense until
6 then.

7 Q Then you gave him a deed and there was no
8 consideration at the time of the transfer?

9 A That's correct.

10 Q And the litigation developed as a consequence
11 of that?

12 A That's right.

13 MR. CANALES: Thank you, Mr. Guerra.

14 CHAIRMAN HALE: Are there further
15 questions?

16 (No response.)

17 CHAIRMAN HALE: Mr. Guerra, thank you
18 very much for your appearance here today, for the exhibits
19 which you have tendered to the Committee.

20 (The witness, Mr. J. C. Guerra, was
21 excused.)

22 MR. GUERRA: Thank you for the oppor-
23 tunity of being heard.

24 CHAIRMAN HALE: Mr. Canales?

25 MR. CANALES: Mr. Chairman, I have no

1 further witnesses at this time, and would like to
2 reserve the right to close, should there be any testimony
3 to the contrary or after the Chair's witnesses are
4 completed or the Judge Carrillo witnesses are completed.
5 I would like to reserve the right to close.

6 CHAIRMAN HALE: The Chair has an
7 affidavit here from the District Attorney of the 229th
8 Judicial District, Mr. Arnulfo Guerra. It has been the
9 Chair's intention to take about a five or ten minute
10 break midway through the afternoon. However, it is
11 almost 5:00 o'clock now. What's the thought of the
12 Committee? Shall we take a break or shall we proceed
13 with this witness? I had in mind giving the Court
14 Reporter a minute or two to rest, among other things.
15 I imagine Mr. Guerra will probably be a long witness.

16 Mr. Guerra, can you be here again in the
17 morning if we don't finish with you today?

18 MR. GUERRA: Yes, sir. I'll be here. It
19 won't make any difference.

20 CHAIRMAN HALE: Shall we take about a
21 10 minute break, members, and then at least hear a
22 portion of this testimony before we break for the day?
23 5 minutes? Okay. The Committee will stand in recess
24 for 5 minutes.

25 (Brief recess.)

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1 CHAIRMAN HALE: The Committee will come
2 to order. (Gavel.)

3 The Chair has a witness affidavit here from
4 Mr. Arnulfo Guerra, District Attorney of the 229th
5 Judicial District, whom the Chair will put on the witness
6 stand at this time.

7 Mr. Guerra, since you are the District Attorney,
8 I am sure this warning is unnecessary, but out of a super-
9 abundance of precaution, I will give it to you anyway.

10 It's my duty as Chairman to advise you of your
11 rights with reference to your testimony. You will be
12 sworn to tell the truth and your failure to do so could
13 subject you to a prosecution 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 punishment
18 for contempt. You can refuse to answer questions only on
19 the ground that such answers might incriminate you or
20 tend to incriminate you in some way. You are privileged
21 to have an attorney of your selection sit with and advise
22 you as to your answers, if you desire.

23 The Chair will attempt to protect your rights
24 at all times.

25 Do you understand the advice I have given you?

1 MR. GUERRA: Yes, sir. I do.

2 CHAIRMAN HALE: Are you now ready to
3 testify?

4 MR. GUERRA: Yes, sir. I am.

5
6 MR. ARNULFO GUERRA
7 was called as a witness by the Committee and, being
8 first duly sworn by the Chairman, testified as follows:
9 BY CHAIRMAN HALE

10 Q For the record, please state your name and
11 your mailing address?

12 A I am Arnulfo Guerra. I am the District
13 Attorney for the 229th Judicial District. My office
14 address is P. O. Box 454, Rio Grande City, Texas.

15 Q Fine. Mr. Guerra, the Chair presumes that
16 you have some type of statement you wish to start with,
17 and, if so, the Chair will be happy to recognize you at
18 this time.

19 A Thank you, Mr. Hale.

20 I thought I had a prepared statement in the
21 beginning. As the Chair knows, I have been here through-
22 out most of these proceedings. When I first asked if I
23 could be heard, I certainly had no idea that throughout
24 these proceedings, I would become almost a Defendant
25 in these proceedings, but it appears like I have become

1 one up till now. So the tenor of my statement has
2 changed from day to day, as I sit here.

3 CHAIRMAN HALE: Mr. Guerra, let the Chair
4 assure you that there are no defendants in this proceeding.
5 I know you use that term with tongue in cheek. A lot of
6 names have been bandied about, but as you are well aware,
7 as I told several other witnesses, this is not a prosecu-
8 tion. We are simply looking out for information and facts.

9 A Yes, sir. I am fully aware and I have mentioned
10 that, because one of the reasons for my asking to appear
11 was that newspaper accounts when this Resolution on the
12 Impeachment matter against Judge Carrillo was first
13 published, stated something to the effect that Repre-
14 sentative Canales had made some remarks about removal of
15 different officers from office in Duval County. And it
16 sort of gave me an impression for there to have been
17 any wrongdoing on the part of Judge Carrillo and/or any
18 conspiracy on the part of Judge Carrillo or others as far
19 as removals, I would certainly be a party to, one, be-
20 cause I am the one that initiated those programs.

21 Before I address myself to the Committee about
22 some of the background, because I think it will become
23 important and I am sure that you will ask me anyway, so
24 it might save some time, if I give some background as to
25 when I took office, how I took office and who supported me

1 and so forth, because it all will tie in, eventually,
2 I am sure.

3 First of all, I am from Roma, Texas. I have
4 been a practicing attorney since 1955. I am a graduate
5 of the Texas University Law School. I have run for
6 office before on several occasions, for minor offices.
7 I say "minor," school board, county school board, trustees,
8 and so forth.

9 My biggest encouragement into political life
10 came last year, when as a result of the resignation of
11 the then District Attorney, Mr. Randle Nye some time in
12 January 1974, I was approached by friends and different
13 persons to see if I was interested in seeking an appoint-
14 ment from the Governor of Texas at the time to continue
15 the unexpired term up until election time for the Office
16 of District Attorney.

17 I will tell this Committee that I was certainly
18 very much against running for office. I have never
19 depended for a livelihood on any political office. Al-
20 though I was flattered, I immediately realized that
21 the reason for Mr. Nye's resignation was probably Duval
22 County and that chilled any thoughts that I had of being
23 a public official, especially District Attorney.

24 But for a few days on the insistence of
25 friends and so forth, I, for some reason, weakened and

1 did indicate that if the Governor would appoint me, I
2 would take the appointment.

3 I came to Austin to present myself to the
4 Appointment Secretary of the Governor and up until that
5 time, I really wasn't sure that I wanted to be appointed
6 or not. After several days here, I was told that subject
7 to my filing for office, for election in the next coming
8 primary—this was in January—that I probably would be
9 appointed. I really didn't feel like I wanted to run
10 for office, but I nevertheless went ahead and filed.
11 Then, for some reason—and I think it has become clear
12 to this Committee—the political entities of the District
13 and there are quite a few. They are not limited to the
14 Old Party or the New Party. There are quite a few con-
15 flicting groups in Starr County and the same thing in
16 Jim Hogg and the same thing in Duval, it appears.

17 All of a sudden, there were quite a few
18 candidates for the appointment and all of a sudden, it
19 seemed like everybody was trying to jockey around for
20 position for this particular job, which I am sure that
21 once you are in it for a few days, nobody would want!
22 This is my feeling at this time.

23 At any rate, the Governor did not appoint any-
24 body. I proceeded to run for office and by that time,
25 I think I was acting more on pride than desire. I thought

1 there should have been a District Attorney all this
2 time. There was none for a period of January to December
3 of that year. Certainly somebody should have been in that
4 office during that time.

5 At any rate, I ran for office. I won the
6 primary in a very, very hotly contested race. Mr. Guerra
7 who testified previously here was one of those who really
8 very hotly contested my election. There were some others,
9 of course.

10 After the Primary, again, the Governor did not
11 appoint anybody. One of the reasons why I was not appointed,
12 although it appeared that that was what the Governor was
13 waiting for, was a series of grievance complaints were
14 filed against me by Mr. Guerra, before a District Committee
15 and that stalled any appointment until those matters were
16 cleared.

17 By virtue of the general election where I was
18 unopposed, of course, I won that unopposed election, I
19 was able to take office after the votes were counted and
20 so forth on December 2nd, 1974.

21 During the year 1974, I think I visited Duval
22 County twice.

23 CHAIRMAN HALE: 1974 or 1975?

24 A Yes, sir. 1974. Prior to my taking office
25 December 2nd. I mentioned this because I really—my

1 knowledge of Duval County came the same way it has
2 come to many of you and came to the newspapers.

3 I knew there was incredible turmoil in the
4 county. I knew that upon my election, my taking office,
5 eventually, I would have to conduct an investigation on
6 all those allegations.

7 The newspaper out of Corpus Christi, "The
8 Caller," had been publishing quite a few number of
9 stories about the Parrs and about things that had been
10 wrong, according to them, in the County. There were at
11 least two editorials reflecting upon the failure of
12 public officials, the Attorney General and the District
13 Attorney's Office, prior to my time and shortly after
14 I took office, to the effect that nothing had been
15 done about this investigation.

16 I mention this because I certainly don't want
17 the record to reflect that I went in there with any
18 purpose of a vendetta against anybody, or certainly
19 with any conspiracy in mind, to investigate anybody in
20 particular.

21 When I say I had little relations with Duval
22 County, I mean exactly that. I had never been employed
23 by the County. I had never been employed by anybody
24 in Duval County that I know for any particular matter,
25 prior to my taking office, and certainly not after that.

1 I have never represented Mr. Clinton Manges in any
2 litigation. He has never provided any money for me for
3 any reason. He did not contribute to my campaign
4 financially. I have known him purely as a result of
5 his being in the lawsuit in which I represented Mr.
6 Guerra and his brother, another member of the family,
7 and he was on the opposite side, or at least on the other
8 side.

9 In the Carrillo faction, Oscar Carrillo opposed
10 my election. I was supported by the Old Party in Duval
11 County by George Parr and apparently by his supporters.
12 I did not receive any support from the Carrillo family,
13 as such. At least that was my understanding and that is
14 what everybody led me to believe.

15 I mention that, because it would seem rather
16 ridiculous for me, in view of the fact that I obtained
17 a majority of 2,500 votes, I think, in Duval County,
18 to align myself with the weaker bunch, or a losing
19 party, if I expected to obtain any advantage out of
20 aligning myself with anybody as a result of any investi-
21 gation or removal of officers.

22 At any rate, I took office December the 2nd
23 and it was the most disorganized mess I've ever en-
24 countered in my life. You gentlemen who are here, who
25 are attorneys could fully realize what happened in a

1 district where no cases were tried for practically a
2 whole year, no criminals prosecuted—maybe one case, I
3 think, in Duval County. The County Attorneys were supposed
4 to take up the slack. For reasons of their own, probably
5 too much work on their own, were unable to do anything.
6 I had to take office on December 2nd and try to organize
7 case after case and try to see just what could be done.
8 A sad state of confusion, to say the least.

9 Duval County had kept through an investigator
10 who had been working there, had kept fairly good control
11 of some of their criminal cases. But, at any rate, it
12 was a massive undertaking to try to organize this thing.

13 In the back of my mind all along was an inter-
14 nal investigation within the district, because of the
15 very, very sad and bad publicity we had been getting all
16 over from everybody about wrongdoing.

17 When I thought of an investigation, I wasn't
18 thinking, primarily, of going after anybody. I was
19 thinking, primarily, of the great number of people who
20 do not engage in politics and who live in those counties.
21 I thought it fair that if an investigation took place and
22 I wasn't familiar with Duval County at all, to be able to
23 gauge how bad or how good it was—how bad the accusations
24 or how good they were.

25 But, I did know that there must be some good

1 people somewhere and my thought was that an investigation
2 should be primarily undertaken for the purpose of
3 ascertaining the areas where there was no wrongdoing
4 and so letting the people know and finally giving every-
5 body in that position a clean bill of health; then
6 examining and exploring the area where there might have
7 been some wrongdoing and trying to take whatever action
8 was necessary to correct that wrongdoing, if any was
9 found.

10 Secondly, there were malpractices or abuse of
11 discretion, official discretion, to have the Grand Jury
12 or through the proper offices so warn everybody, so as
13 to try to avoid any further recurrences of anything that
14 might have been wrong.

15 That was in the back of my mind at all times
16 and that is what prompted me to proceed with an investiga-
17 tion on February 10, 1975.

18 I was so unfamiliar with Duval County that I
19 really didn't know anybody on the Grand Jury. I might
20 have seen one or two of the Grand Jurors and I might have
21 said "Hello" to them, but that was the extent of my
22 knowledge of the Grand Jurors. I didn't know if they were
23 of the Carrillo faction, the Parr faction, the Freedom
24 Party faction, or what faction, what have you!

25 I proceeded under the theory that if I didn't

1 do something to investigate, I might be later on accused
2 of obstruction of justice, and, that, I did not want to
3 happen. So, what I did, I proceeded on February 10th to
4 file, under my signature, myself, subpoenas, subpoenas
5 duces tecum, returnable to the Grand Jury which was
6 supposed to meet on the 11th, I think it was—returnable
7 to the Grand Jury.

8 My thought was that all agencies should be
9 investigated. I had information to the effect, and very
10 general information, that the Attorney General had been
11 in Duval County in the Water District, which has been
12 mentioned here before, for quite a lengthy period of time,
13 through the Conservator and through an Assistant and
14 probably through some investigators.

15 Up until February 10th, I had not been
16 approached by a single individual, from the Attorney
17 General's office, from our local State Representative,
18 from nobody else, concerning any type of wrongdoing.
19 And, believe me, I didn't have a flock of people walk-
20 ing up the stairs to the Grand Jury room, volunteering
21 information, much less having to come two or three
22 hundred miles to come and give information voluntarily.

23 Before I could even look at records on Febru-
24 ary 10th, or 11th, I had to appear before the District
25 Court on about three occasions. Everyone of the entities

1 that I had subpoenaed records from had to drag me into
2 court to try to explain why the subpoenas and what I
3 wanted the records for, and, believe me, it wasn't easy.

4 The first opposition to looking at any records
5 came from the Water District, from the Conservator, from
6 Judge Sharp. We had to proceed in court to see if the
7 subpoenas would be honored.

8 The next opposition came from Mr. Bercaw, who
9 was the president of the School Board and who appeared to
10 be representing the business manager and himself who had
11 been subpoenaed to produce the usual records that are
12 kept by the school ledgers and checks and minute books
13 and vouchers and so forth.

14 The subpoenas specified just about every
15 possible record that could have some effect upon operation
16 of the entities.

17 I also proceeded to subpoena the County records
18 also, the same day. But what I really wanted was to see
19 if those records would be brought up, or if the answer to
20 the subpoena would indicate just what was there and then
21 try to have the Grand Jury organize with me, as far as
22 we could, the areas which would be first in line, accord-
23 ing to that, and to their wishes, after some casual
24 checking into the records.

25 I did not have the benefit of any complaints or

1 any information other than the fact that there had been
2 massive wrongdoing, because of newspaper accounts. So,
3 it was very, very difficult to proceed with the investi-
4 gation of that nature, which it seems like an urgent
5 thing to do, and yet trying to figure out just exactly
6 where to begin.

7 We proceeded, the Grand Jury, after an explana-
8 tion by me of what I felt was necessary and I just cannot
9 go into any of the matters that I discussed with them,
10 because of the prohibition to disclose Grand Jury matters.
11 I am bound by the oath. But, suffice it to say that the
12 Grand Jury, like I say, I didn't know who they belonged
13 to, and I really cared less at the time. I just wanted
14 to see if an investigation could be started.

15 The Grand Jury apparently was unanimously
16 in support of the investigation and were very enthusiastic
17 about the investigation. It was heartwarming to me,
18 because it appeared like everybody was in favor of the
19 investigation.

20 I subpoenaed only the records for 1974, or
21 for the fiscal year, beginning September for those
22 entities which had a fiscal year beginning in September.
23 The idea behind that was not to run into any possible
24 duplication of investigations which apparently had been
25 going on, according to the papers, by some other agencies.

1 But the idea was to begin with the most recent type
2 of actions and then go back, if it was indicated that
3 there were some areas that had to be covered.

4 It became obvious after a few meetings with
5 the Grand Jury and after we finally were able to see
6 some of the records, that it would be very difficult
7 to proceed without assistance. The Grand Jury wanted for
8 me to be there, well, almost daily, and in trying to
9 organize the rest of the district and trying to carry on
10 the duties of the rest of the district, and being there
11 at the same time was almost impossible to do.

12 Upon the Grand Jury recommendation, and it
13 certainly wasn't my recommendation at the beginning,
14 the Grand Jury had recommended that an assistant
15 prosecutor, a special prosecutor be hired, that they
16 could keep on hand, whenever they felt it was necessary
17 to have somebody when this investigation was taking
18 place. They also wanted an auditor or somebody who had
19 more knowledge of books than I did or than they did.

20 My recommendation was that this matter be
21 approached directly to the court, because the only way
22 we could proceed with such an appointment would be
23 through the District Judge.

24 The Grand Jury, as a group, and myself, appeared
25 before Judge Carrillo and asked for assistance in this

1 regard, first of all, with the Auditor. And the Grand
2 Jury, themselves, determined who they wanted. I had not
3 recommended any names, either for prosecutor, or for
4 the Auditor. I felt that that decision should be theirs,
5 because I certainly didn't want to be criticized later
6 on for having selected anybody or appoint anybody or
7 choose anybody that might not be to somebody's liking.

8 The Court approved the Grand Jury's recommenda-
9 tion that ex-Senator Jim Bates be appointed as a prosecutor
10 to assist with the investigation and that Mr. F. Turne
11 of Harlingen be appointed or assist the Grand Jury as
12 an Auditor, whichever manner the Grand Jury wanted to
13 use him, conditioned upon the County first approving
14 any expense involved, because, obviously, he would involve
15 some expense.

16 The Judge had not set any amount. He did not
17 recommend any fees, or any matter. He addressed himself
18 to the Grand Jury and to myself with the suggestion that
19 we first see the Commissioners Court and see what they
20 thought about this matter.

21 We proceeded. I notified the Commissioners
22 Court and it seemed like the honeymoon there for a
23 few days that I was enjoying with everybody being coopera-
24 tive ended immediately, and I never seemed to get any
25 commitment at all about either the Auditor or the

1 Prosecutor. The initial reason given was that it would
2 be too expensive. The Prosecutor was asking— Jim Bates
3 was asking for, I believe it was \$250 a day. And the
4 auditor was asking for a gradual fee of 50, 40 or 35,
5 depending upon who did the work in their firm. At any
6 rate, both of them appeared before the Commissioners
7 Court. I appeared also at the same time, to give my
8 reasons why it was necessary to have somebody come in
9 and assist. We had a Commissioners Court session in which
10 I provided all the information that I had before me and
11 the two gentlemen appeared also and were offered to give
12 whatever explanations were necessary. Yet, nothing was
13 done about it. The Grand Jury, waiting for the
14 Commissioners Court to act, decided to go ahead and ask
15 those people, if they wanted to work, pending approval
16 of the Commissioners Court. They decided that it was the
17 feeling that probably the reason for their disapproval
18 or failure to approve them was that it might be a stall,
19 on the part of those officials responsible for providing
20 the money.

21 Recommendations were made on and off that maybe
22 if they did not act, if the Commissioners Court did not
23 act to provide this money, this assistance, that it
24 might be necessary to go outside of the County for help,
25 meaning, of course, looking at some other agencies for

1 assistance.

2 The investigation rocked along. Without wanting
3 to disclose anything that I learned in the Grand Jury
4 room, enough information was uncovered to indicate that
5 at least the first entity that we were able to develop,
6 simply because it was the first to produce their records,
7 the Benavides Independent School District— It became
8 immediately clear that there was some type of extensive
9 wrongdoing taking place.

10 At that time, there was no fight between any-
11 body up there. It seemed to be a friendly bunch of
12 people. February 10th, February 16th, to my knowledge,
13 there were no fights by anybody. Certainly, everybody
14 seemed to be in agreement and my excursions to Duval
15 County consisted of going straight to the courthouse
16 and leaving there as fast as I could, after I got through
17 with my work.

18 I visited briefly with some of the members of
19 the Grand Jury after we were through. I tried to talk
20 to as many people as I could there in the courthouse
21 and then I would leave.

22 What triggered this removal matter was that on
23 February 10th—and I would have to refer to this news-
24 paper article that somebody put in evidence, "Successor
25 in Duval Use Infinite Charge Card," concerning Mr. Couling.

1 There is a photograph that Mr. Couling, where it says,
2 "Couling leaving Duval County Grand Jury Session, Feb-
3 ruary 11th with records after being subpoenaed, along
4 with School and Water District officials."

5 There were some records taken before the
6 Grand Jury which indicated that there was some wrongdoing.
7 They were discovered, not necessarily by me, but by
8 members of the Grand Jury. But some of them were quite
9 crucial to the investigation, at least those records
10 were essential—at least we thought they were—or I thought
11 they were; some canceled checks, because of their endorse-
12 ments and because of their notations.

13 I realized we could go to the bank to get
14 some records, but I would like to point out to the
15 Committee that my District Attorney's Office consists of
16 myself, a young man, the only one I could get, who
17 just graduated from Law School, who had no experience
18 and three investigators, with only one really good in-
19 vestigator. The others would not be able to go into
20 any matters of this nature.

21 Doubts were very, very great in my mind as to
22 what might happen in the event that some of my suspicions
23 were correct and I was getting information from some
24 people; some individuals were giving me some information;
25 very brief, but enough to put me on notice that there was

1 something quite wrong.

2 Regardless of what has been stated here, the
3 fact is that I had already determined the necessity for
4 acting in County matters before the events which triggered
5 the need to proceed against some of the Board members.
6 What triggered this whole thing, insofar as the County
7 Judge, Archer Parr, was concerned, was that the County
8 Attorney showed me a letter, one of the days I was there,
9 oh, about eight or ten or fifteen days before I
10 initiated the removal proceedings, from an Attorney in
11 Corpus Christi, which was quite an emphatic letter,
12 pointing out the various statutes, the various provisions
13 of the Penal Code, which imposed quite severe duties
14 upon—and with severe penalties upon the County Attorney
15 or the District Attorney, for their failure to act in
16 matters which were clearly known to them.

17 The particular reference made in that letter
18 was to a lawsuit which was filed by the County Attorney
19 in the divorce action between Mr. Archer Parr and his
20 wife, Jody Martin Parr, Petition filed October 23, I
21 believe it was, 1973, by the County Attorney on the
22 relation or for the County Treasurer, Manuel Solis,
23 in which the County Attorney alleged that both Archer
24 Parr and Jody Martin Parr, owed Duval County—there was
25 a plain intervention in that divorce matter, or a suit

1 of intervention—the County asking for— I forget the
2 exact amount, but if it wasn't close to, it was over a
3 half a million dollars, which Mr. Garcia claimed was owed
4 to the County and which he claimed Archer Parr or his
5 community estate and Mrs. Parr, had received in the form
6 of illegal payments from the County, from County funds,
7 and the illegal services of County employees.

8 Apparently a lawsuit was filed and nothing was
9 ever done about it. The lawsuit was filed against both
10 Archer Parr and Jody Martin Parr. The letter referred to
11 the fact that since Jody Martin Parr was already dead,
12 and it wanted to know why the County Attorney had not
13 done anything to proceed with an investigation of this
14 matter, particularly due to the fact that the Fifth
15 Amendment had been invoked by Mr. Archer Parr, when these
16 matters concerning the wrongdoing were brought up in that
17 litigation; not only once, but several times.

18 I discussed the matter with Mr. Garcia. I
19 took the letter—

20 CHAIRMAN HALE: Who is Mr. Garcia?

21 A Mr. Ricardo Garcia, the County Attorney of
22 Duval County.

23 CHAIRMAN HALE: Thank you.

24 A Up to that time, he had been participating in
25 some of the sessions of the Grand Jury. After that letter

1 was presented to the Grand Jury, he was no longer allowed
2 to enter or be part of the team investigating, or trying
3 to conduct the investigation.

4 It occurred to me right then and that was the
5 beginning, the inception of the idea to do something
6 concerning Mr. Archer Parr. Judge Carrillo was not a
7 party to those thoughts, or to any suggestions involving
8 Archer Parr at that time, or afterwards. It was strictly
9 my thought. Gentlemen, it was an awesome thought, because
10 unless you have been in Duval County and are familiar
11 with what goes on there, and unless you have been in my
12 shoes, you wouldn't realize the severity of the thoughts
13 that I entertained as to what would happen, after I
14 started to proceed against Archer Parr, the nephew of
15 George Parr.

16 Believe, I had second thoughts about having
17 run for office then. But I was not going to back out,
18 and I proceeded to attempt to figure out ways to go
19 about correcting this situation. I wish that I had the
20 information then that has appeared before this Committee
21 already, because Monday morning quarterbacking is always
22 so doggone-easy! It wasn't easy for me, because I was
23 having to take everything at first impression and I
24 didn't know practically any people there.

25 I want to state that about the only person who

1 was encouraging to me, in my efforts to continue the
2 investigation, was Judge Carrillo. I didn't come here
3 to defend him, whatever actions are made against him,
4 is his business. Insofar as the investigation was con-
5 cerned, I would have to state the truth. He was very
6 helpful, both to the Grand Jury and to myself. He never
7 indicated to me that I should proceed against anybody
8 in particular, or in any direction in particular.

9 The thrust of my thinking at the time was that
10 the reason why Archer Parr and the Commissioners Court—
11 I figured Archer would not allow me to have or the Grand
12 Jury to have the assistance we wanted was that we might
13 touch on him. And he gave me that reason later on,
14 himself, personally. That he didn't think he should provide
15 any money, if he was going to be investigated himself.

16 When all of these matters were being entertained
17 by me and I started doing some research, because I would
18 have to admit that I am not anywhere near or considered
19 to be the best lawyer in the world, in my knowledge of
20 the law, and it's just like all of us attorneys, we
21 are limited to what we do mostly. This is not what I did
22 mostly, remove people from office, or even think about
23 removal from office.

24 I started doing some research out of the
25 Edinburg, Hidalgo County Law Library, because I had none

1 in the District Attorney's Office and I needed more than
2 what I, myself, had in Roma, my private library.

3 Believe me, it wasn't a decision from the 18th or the
4 19th of March, as this Committee has been led to believe
5 by Mr. Canales or anybody else. I'm not that smart, or
6 that much of a lawyer to be able to sit down on the 18th
7 or 19th and overnight draw up petitions to remove people
8 from office and be familiar with those matters. I am
9 still not as familiar as I would like to be.

10 I did all of the work myself. I sought help
11 from no one. If there are any errors in what I did,
12 they were my errors.

13 I was trying to do the best I could. Now,
14 shortly before, I would say six or seven days before
15 the 19th of March, and certainly before any conflicts
16 between the Carrillos and the Parrs or anybody else
17 in Duval County my attention was called and, believe, the
18 foreman of the Grand Jury and the Secretary of the
19 Grand Jury— The Secretary of the Grand Jury, being
20 Mr. Aurelio Correa, who was an admitted George-Archer
21 Parr man, he is the Superintendent of the San Diego
22 School District. Both he and Mr. Nichols would call me
23 quite often and pressure me not to allow anybody to
24 push me and to hurry up with the investigation, because
25 they didn't want any criticism of the Grand Jury and of

1 themselves. Information was given to me— I already knew
2 about the checks, by virtue of the investigation that we
3 had started with the Grand Jury, about these checks for
4 \$60,000 and some other checks which have not been men-
5 tioned yet here, and some other matters concerning some
6 other of the trustees, some matters which I am bound not
7 to disclose, because I learned them in the Grand Jury
8 room, but which, nevertheless, are quite material—and
9 formed, shortly, the basis for my proceeding.

10 I was advised by either Mr. Nichols or Mr.
11 Correa that records were being destroyed by the School
12 District and particularly some of the records which on
13 February 11th, Mr. Couling had taken before the Grand
14 Jury, and records which had been subject already to a
15 subpoena by the Grand Jury.

16 I then, by that time, I had started knowing some
17 more of what went on in Duval County, and it became quite
18 obvious to me that something had to be done. A great to-do
19 has taken place about the Judge's nephews, and why nobody
20 proceeded against them. Well, gentlemen, pardon me— You
21 weren't here before, Ms. Weddington, I'm sorry. But,
22 the reason why I did not proceed against those two nephews
23 and Mr. Schuenemann, particularly the two nephews, was
24 because those two nephews, since April or May of 1974,
25 when there were all these matters that you all heard in

1 the beginning about why people got some \$700 all of a
2 sudden and were getting \$300 and so forth, after 1974,
3 I didn't know that, either, until later on, until I
4 started the investigation.

5 Apparently, the two nephews in the Carrillo
6 clan, had fallen into the minority element in the School
7 District of Benavides. They no longer were in the
8 majority or accepted members of the Board. Their actions
9 were certainly limited to, I guess, to looking, because
10 the information that I had, after the investigation
11 started, came from Mr. Guajardo, whom I didn't know,
12 prior to the investigation. If I knew him, I knew him
13 just very, very briefly.

14 The particular matter involving the checks,
15 they were not privy to at any meeting, regardless of
16 what has been stated here before this Committee up until
17 now.

18 The school records would not reflect, the
19 minutes would not reflect, in the regular minute book,
20 they did not—when I inspected those minutes, in
21 February, after running into some of those pretty big
22 massive checks—they did not reflect the purpose for
23 the issuance of those checks, or the authority or any-
24 thing else. What I did find in the Minute Book was a
25 loose sheet of paper in the form of a certificate not

1 signed by the members of the Board, to the effect that a
2 meeting of August 1974, when those checks were issued,
3 that the minutes should be corrected to read that at
4 an Executive Session of some kind, which minutes didn't
5 form a part of the regular minutes, but they were loosely
6 put in there, and at what time, I don't know, that they
7 wanted the minutes to reflect that there had been an
8 Executive Session where attorneys and they didn't mention
9 names or anything else, were authorized to be hired for
10 the purpose of representing the Board before IRS and
11 the Grand Jury investigation.

12 The two Carrillo nephews were not parties to
13 any authority to any hiring of any attorneys with that
14 amount of money. They denied being present at any meet-
15 ing. In fact, they were concerned, because they were not
16 present at any meeting where that money was authorized.

17 Investigation of the Minute Book reflected that
18 their observation was correct. What prompted me to start
19 the removal proceedings was the fact that very crucial
20 evidence was being destroyed and then couple with that,
21 about the same time, information finally came out to the
22 effect that in addition to these particular checks being
23 issued, that Mr. Powell and Mr. Brian Taylor, Superin-
24 tendants of the Benavides and the San Diego schools, who
25 were almost getting ready to go to the penitentiary to

1 serve—or at least Mr. Powell was, to serve his time, his
2 one year—three or four days before he went to the
3 penitentiary, he was hired as an advisor to the school
4 for \$1,000 a month and there was no authority anywhere,
5 as far as I could see.

6 I felt it my obligation to do something and so
7 I proceeded to go ahead and file the removal action.

8 I wasn't very sure about Mr. Schuenemann's
9 participation, but the information which I had reflected
10 that the other four members were participants in what
11 went on.

12 I had the idea of amending the Petition, as I
13 proceeded. Prior to going to trial, there were some other
14 matters which came to my knowledge, which I had not
15 fully investigated and did not want to state them as
16 grounds for removal action. I don't know if the Petition
17 for Mr. Parr's removal has been made an exhibit or not,
18 but I amended my original Petition and I had full in-
19 tentions and I was authorized, under the civil statutes
20 to amend and add whatever other matters might come
21 forth, but I had to act urgently, because it was my fear
22 that records would be destroyed and that the investiga-
23 tion would be impeded, worse than what it was already.

24 That's the reason why the Carrillo nephews
25 were not included. Now, I wish that I could have presented

1 this matter the first day that I was here, because it
2 would have made it a lot easier for you, gentlemen, to
3 accept the story which I have to tell you. But, since
4 that wasn't so, I just have to suffer along and try to
5 cover all of these matters which are so directly in con-
6 flict with the truth, that they embarrass me and make me
7 sick.

8 First of all, I have been on Judge Carrillo's
9 ranch twice in my lifetime. One of those times was on
10 March the 19th, and I'll tell you, gentlemen, why I was
11 there. And I certainly wasn't there pursuant to any
12 conspiracy of any kind.

13 I went to the ranch after I had proceeded from
14 Rio Grande City at 2:00 o'clock in the afternoon, to go
15 to the Courthouse in San Diego. Judge Carrillo had been
16 in Starr County that morning in Rio Grande City. I be-
17 lieve he was either selecting a Jury Commission, or
18 something or the other. I don't recall what it was,
19 but he was there on some Court matter and I asked him if
20 he would be available to me for the purpose of receiving
21 Petitions for removal of some school trustees.

22 The information had gotten out before then. I
23 started to work about four or five or six days before,
24 maybe much more, maybe seven or eight days before. I had
25 already started thinking about the Archer Parr matter.

1 The Judge indicated he would be available that
2 afternoon at the courthouse in San Diego at 3:00 o'clock.
3 This was for the school removals, on March the 19th.
4 It didn't take me— It took me more than the 18th and
5 19th to get ready, gentlemen, and Ms. Weddington. I
6 had been working for several days. The reason they were
7 not filed on the 19th may be a matter of knowledge to some
8 of you. It may not be. But it wasn't because of any
9 conspiracy. The reason was that when I got to the court-
10 house in San Diego at about 4:00 o'clock after violating
11 some of the speed laws of the State of Texas to get there
12 before the courthouse closed, and I certainly had every
13 intention to do what I did in open court, to file the
14 Petition and to ask for ousters and to proceed in accordance
15 with what the statute calls for me to do.

16 When I got to the courthouse, there were little
17 clumps of people standing all over the courthouse. When I
18 proceeded to leave my car, I had one of my investigators
19 from Rio Grande City with me, Robert Forche, an investi-
20 gator out of my office with States and Freer and who works
21 out of Duval, ran over to my car and said, "Don't get
22 out of your car. Stay there. There is trouble in the
23 courthouse."

24 I said, "What's going on?"

25 And he said, "George Parr is armed in there

1 and he's going to kill Judge Carrillo. He's angry about
2 something and he's been there since 2:30 and there's going
3 to be some bloodshed here."

4 I said, "Where's the Sheriff?"

5 "Well, he's around there."

6 "Where is Judge Carrillo?" "Has he been told
7 not to come or has anybody warned him not to come?"

8 And he said, "Well, I guess so, because he
9 hasn't shown up yet."

10 Those are not pretty moments to remember,
11 gentlemen.

12 I waited outside for a few minutes, trying to
13 figure out what the best course of action was and I kept
14 asking myself, "Why would a man be in the courthouse with
15 all those peace officers, with his nephew Archer Parr and
16 the County Judge standing out there in the front of the
17 courthouse not doing anything and nobody doing anything
18 and that one man terrorize everybody, including the Judge."

19 I stood there. While I was standing there, Mr.
20 Archer Parr came over and he started raising hell.

21 "This is what you caused by trying to remove
22 people." He mouthed off and I have to use that word,
23 because that is certainly what it was and I finally told
24 him, he ought to go and get his Uncle out of there,
25 somebody should. Just about that time Clinton Manges,

1 his brother Dan, "Chick" Manges, and some fellow who I
2 didn't know then, but who apparently is a man by the
3 name of Barnett, who was George Parr's helicopter pilot
4 or bodyguard or something came in Manges's car to where
5 I was parked and they asked me if I knew what was going
6 on and I said, "No." I asked where the Judge was. I
7 was quite concerned for his safety.

8 They said, "Well, we believe he is at the
9 ranch."

10 I said, "What ranch?"

11 "His ranch."

12 I didn't know what ranch they were talking
13 about.

14 And Manges said, "I am going over there," and
15 he invited me, if I wanted to go.

16 I asked him if any outside agencies had been
17 called and he said, "I understand that the Rangers have
18 been called and they are probably over there with Judge
19 Carrillo."

20 I had my briefcase with me with my Petitions
21 ready to file. That was the 19th. That was my only
22 reason for going to San Diego that afternoon.

23 I left the two investigators there by my car
24 and asked them to try to get the Sheriff or somebody to
25 do something about and try to take statements and try to

1 figure out just what happened, so we could take the
2 matter to the Grand Jury.

3 We proceeded at a high rate of speed to where
4 the Judge was. He was at his ranch which was, oh, some—
5 I don't know the exact distance, but it was twenty miles,
6 I guess, from San Diego to the ranch, maybe 30 miles.
7 The Ranger, Gene Powell, was either behind or in front of
8 us, most of the way. They went in first. Apparently they
9 passed us and they went in first, the Ranger and Ramiro
10 Carrillo, the Ranger being Gene Powell, and then we went
11 right behind them and the Judge was in there.

12 Needless to say, the Judge was a very harassed
13 young man. All of us knew by then that his life was in
14 great danger. It's no secret that I mention there that
15 why I had gone up there, because I asked the Judge,
16 "Now, what do I do now?" "I'd like to file these things."

17 And the Judge said, "Well, I don't know."

18 I talked to the Judge privately to see if he
19 had any knowledge of any matters which would be of a
20 criminal nature that I should know about concerning the
21 threats. He advised me that he had already notified
22 some Federal authorities and the Rangers and everybody
23 else. So the need for my action was only to try to get
24 statements from people in the courthouse who were
25 familiar with what had happened. That was the extent of

1 my conversation with him in private.

2 We came to one of the front rooms and I have
3 been in the house twice and I will explain when the other
4 time was.

5 The rest of the time, the Ranger was privy
6 to all the conversations and everybody else that was
7 there. I don't even recall who was there, other than
8 the gentlemen in the car that I went in, the Ranger,
9 Ramiro Carrillo, and there might have been some other
10 people there, ranch people or somebody who was there.

11 It was determined there that the Judge would
12 hold court the following morning, after the Rangers would
13 escort him up there. He indicated to me that he wanted
14 to handle the matter in open court. The wisdom of such
15 action, I questioned, but I kept my mouth shut. I am
16 not by nature a brave man. And had I had my choice, I
17 wouldn't have returned, but I felt that I was not going
18 to be subjected to any intimidation by George Parr or
19 by anybody else. And I figured that maybe my life was
20 in danger, at least I kidded myself.

21 The next morning— May I have some water,
22 please?

23 CHAIRMAN HALE: Yes.

24 MR. CANALES: Mr. Chairman, could we
25 break for a few minutes so that Mr. Guerra can regain his

1 composure?

2 CHAIRMAN HALE: We will just stand at ease
3 for a moment or two.

4 (Brief delay.)

5 A The next morning I asked the same poor investi-
6 gator who had accompanied me the day before to go back
7 with me. It wasn't pleasant to do, because the poor
8 fellows don't get paid enough, to offer their lives this
9 way. Believe me, there wouldn't have been any conspiracy
10 by anybody that would have forced me to go back, unless
11 I wanted to go, to prove that nobody was going to in-
12 timidate anybody at this stage of the game.

13 I went to the courthouse and it's a very sad
14 feeling when you walk into a courthouse and instead of
15 looking at faces, you look at the waists of individuals
16 to see if they are carrying guns. And, believe me, there
17 were plenty of guns around there that day. It seemed
18 like everybody and his brother was carrying a gun.

19 When I entered the courthouse corridor, Mr.
20 George Parr was there and he approached me. Apparently
21 his anger had subsided some, but there were some very
22 strange-looking people and I didn't know enough of them to
23 know who were friends or foes or whom or what, and cer-
24 tainly, I didn't know enough people there to know who
25 would be dangerous or wouldn't be dangerous to me, but I

1 did the best thing that I could think of doing. I
2 went and shook hands with everybody and after talking
3 briefly to those people in the hallway, I went to the
4 Judge's chambers and the Ranger, Gene Powell was there
5 and the Judge was there. The Judge asked me if I was
6 ready to go upstairs and I indicated to him that I thought
7 it was a very foolish thing to do; that it was dangerous.

8 He said, "Well, I would like to do this thing
9 in open court, if I could."

10 It was my idea that this whole matter could be
11 done ex parte and that it wasn't necessary to go. I
12 thought it would be very, very risky for him to walk
13 up those stairs and turn his back and risky for the
14 Ranger, although the Ranger was willing to go out and
15 take his chances.

16 It took a few minutes of actually a lot of
17 thinking and soul-searching, to determine just what would
18 be the best course of action.

19 After these things happen, you can think of a
20 thousand ways in which these things can be handled, which
21 probably would be more expeditious and better for every-
22 body. At the time, the best idea was to proceed in
23 chambers with the Court Reporter, the District Clerk and
24 the relator and—some other people, I don't recall—but,
25 as best as we could. Everything was filed and I tried to

1 comply as best as I could with the statutes. After the
2 Judge signed the orders and I did not recommend who to
3 replace, who not to replace— I didn't know anybody in the
4 area well enough to— I thought the Judge probably would
5 know.

6 I do know this much, that the four persons he
7 named to replace the four that I asked to be temporarily
8 suspended, at the time, none of the four were Carrillo
9 supporters or sympathizers as such. One, Mr. Pete Hunter,
10 and I didn't know him, but I found out at the time, was
11 supposedly independent and, if anything, partial towards
12 George Parr. A gentleman by the name of Mr. Hamm was also
13 strictly a George Parr man. Leonel Garza was certainly
14 an independent young man who owns a Texaco Service Station
15 in Freer and was a member of the Grand Jury and apparently
16 did not have any connection with the Carrillos.

17 The other gentlemen was Morris Ashby, whom you
18 heard about. He works with the Duval County Ranch
19 Company. If there was any conspiracy up until then,
20 I wish I had known, so I wouldn't risk my life again for
21 anybody, other than my own pride and my desire to do
22 what I thought was right.

23 I will digress to state this much: For me to
24 become a part of the conspiracy, I must have had a good
25 reason to take those risks.

The Carrillos had opposed me in the race which

1 I had run. I had absolutely nothing to gain by joining
2 one side or the other. I owed Mr. Manges nothing. He
3 owed me nothing.

4 If he has ever mentioned the investigation to
5 me, it's been in Rio Grande City and I think one time
6 I saw him in the courthouse in San Diego. I have never
7 been to his ranch. I have never been hunting on his
8 property. I have never used his property. I have never
9 received anything from him. I have never worked for him,
10 or anything that he owns or represents.

11 The only remarks he ever made to me were, "It's
12 a good thing you're doing. Just go straight down the
13 line and don't take sides." I think that advice should
14 be obvious to everybody when I started the investigation,
15 because at the time— I don't know whether the record
16 reflects it or not, but it can very easily be ascertained
17 that I think he had already lent George Parr a couple or
18 \$200,000 and Archer Parr a similar amount and I guess
19 but I don't know how much to Judge Carrillo and apparently
20 to a whole bunch of people. So he wasn't on anybody's
21 side in particular. At least, to my knowledge, he was
22 on everybody's side.

23 His only comments to me, and they were quite
24 brief about the investigation was to play it right down
25 the line, and I didn't need that advice from anybody,

1 because that is exactly what I was going to do from the
2 beginning.

3 And that's the story about the removal of
4 the four trustees.

5 I think that just the article that was put in
6 evidence before here by Mr. Pearson in the Corpus Christi
7 "Caller" on Rodolfo Couling, I think this would have
8 given the Committee a great insight as to what's been
9 going on in the School District.

10 The matter of the checks is not only the
11 \$60,000. There is simply no authority anywhere in the
12 records for such an expenditure. And believe me, there's
13 no justification for it. Because a check for \$5,000
14 keeps being mentioned here as being paid to Mr. Gilbert
15 Sharp, but the records before that were conveniently
16 lost or destroyed also indicated more money paid out
17 other than the \$60,000 for purposes not covered in the
18 minutes. I am referring only to the matter of Attorneys
19 fees concerning this investigation which has been asked
20 by so many members of the Committee. They are public
21 records which should be available to everybody and
22 especially investigators.

23 Unfortunately, I did not realize at the time
24 that the records would be destroyed or lost, but there
25 was a check for \$6,500 to Mr. Sharp. There is another

1 check for \$2,000 to Mr. Orr. A check for \$2,000 to Mr.
2 Foster. And some other checks totaling \$11,000 to Mr.
3 Foster, by the school district also. There are some other
4 expense monies to Mr. Sharp also.

5 I am mentioning this because it isn't only
6 \$60,000. It is much more money.

7 It appears that the emphasis on the investiga-
8 tion is now on those who are investigating. And the
9 reason I am so perturbed is because if I was guilty of
10 a conspiracy, if I wanted to protect anybody in particular,
11 it would have been rather foolish of me, three or four
12 days after I filed the Archer Parr removal petition, and
13 after my life had been threatened, to go to the U. S.
14 Attorney and to go to the Attorney General and to every-
15 body that I could for help.

16 I would like to point out to the Committee
17 that the investigation in Duval County is not only the
18 Grand Jury's or my investigation since April 1st. It is
19 by a Task Force designated as a joint investigave Task
20 Force, which consists of my office, pitiful as it is,
21 the Attorney General's Office, the Texas Banking Depart-
22 ment, the Texas Department of Public Safety and the Texas
23 Education Agency.

24 At this time, I would like to pass for the
25 Committee copies and I will read briefly what it says of

1 a memorandum put out by the Attorney General of the
2 State of Texas, John Hill, which states—dated April
3 1st, 1975:

4 "Effective April 1, 1975, a joint investi-
5 gative Task Force is established to coordinate
6 with and assist the Duval County Grand Jury
7 inquiring into allegations of official mis-
8 conduct by public officials, elected and ap-
9 pointed; misuse and misapplication of public
10 funds; equipment and personnel, and the
11 possible obstruction of justice. Assistance
12 and utilization of personnel and facilities
13 of the Attorney General of the State of Texas
14 was specifically requested by the District
15 Attorney of the 229th Judicial District of the
16 State of Texas. Such requests for assistance
17 included such other personnel and facilities
18 of the State of Texas as might be deemed neces-
19 sary and proper by the Attorney General of Texas.
20 The following named personnel shall initially
21 compose a joint investigative Task Force:
22 Arnulfo Guerra, District Attorney; John Hill,
23 Attorney General; Robert L. Forche, Coordinator,
24 Chief Investigative Assistant for the 229th
25 Judicial District; John C. Blanton, Co-Coordinator,

1 Assistant Attorney General, Office of the Texas
2 Attorney General."

3 Then it names Mr. Herbert Hancock, Neal Duvall,
4 Jerry Carruth, Otis Klar and they are Assistant Attorney
5 Generals. Ray Bravanec, Auditor-Investigator for the
6 Attorney General's office. And it names John Massey,
7 Herbert Garza and Judd Bell from the Texas Banking
8 Department. They are Bank Examiners. And John Wood, Cap-
9 tain of the Texas Rangers; Gene Powell, Texas Rangers;
10 Ramiro Martinez, Texas Ranger; Edward E. Randall, Chief
11 of Audits Division of the Texas Education Agency; Andrew
12 J. Welsh and Fred A. Hubbard.

13 Since April 1st, the list has grown to twice
14 this size.

15 I would like at this time, Mr. Hale, to present
16 this to the Committee, so if the Committee wishes to
17 put it as part of the record, it can do so.

18 CHAIRMAN HALE: Thank you.

19 (The memorandum referred to
20 was marked "Exhibit-61"
21 for identification.)

22 CHAIRMAN HALE: Mr. Guerra, these are
23 just multiple copies of one page, are they not?

24 A There is only one page. That was the way
25 it was issued at the time.

CHAIRMAN HALE: The rest of these are

1 Xerox copies?

2 A Yes, sir. I made some copies.

3 What I have to say now isn't pleasant to me,
4 because I don't want it to be a reflection upon any
5 Members of this Committee or any Member of the Texas
6 Legislature except the gentleman whom I am going to
7 discuss and that is Mr. Terry Canales.

8 I have been sitting here for I don't know how
9 many days listening to accusation after accusation, lead-
10 ing question after leading question, insinuation after
11 insinuation. And, as I sat there, I just wondered, how
12 simple it would have been for this whole matter to have
13 ended, if Mr. Canales' wish had taken place some time
14 before April 1st, when he did something which I think
15 should be pointed out to this Committee, because we are
16 sitting here trying to see if a Judge, a public official
17 has committed wrongdoing and we are sitting here listening
18 to a whole bunch of public officials, Grand Jury members,
19 myself and others being castigated with a whole bunch of
20 stuff. And I just wondered if the clean-sweep shouldn't
21 begin at home in the halls of this great Capitol,
22 starting with the Legislature itself. The reason I say
23 this is because Mr. Canales, himself, should know that
24 his interest in this matter may border close to misconduct.
25 If it isn't so, "misconduct," because of the manner in

1 which he has used his office as State Representative to
2 pursue his interest and the interest of—

3 MR. HENDRICKS: Mr. Chairman, I raise a
4 point of order at this time to this. It is not a
5 statement regarding anything taking place in Duval County
6 concerning the Judge. I think it is subject to point of
7 order and it's a jury argument. I can't say that we are
8 investigating Mr. Canales. I don't believe that we should
9 take the time with it.

10 A Mr. Chairman, may I apologize if that is the
11 position, but the reason I made those prefacing remarks
12 was because Mr. Canales tried to abolish my office four
13 or five days after I filed those proceedings, for six or
14 seven days and I think it is material. The reason that
15 I am sorry if my approach to the matter is objectionable
16 to any member of the Committee, I certainly didn't mean
17 it to sound that way.

18 CHAIRMAN HALE: Mr. Guerra, we can't try
19 the Legislature for all of its shortcomings in this one
20 Committee Hearing. And there are probably millions of
21 people that share your views that improvements can be
22 made in the Legislature. But the scope of our inquiry and
23 the limits of the jurisdiction of this Committee have to
24 do with any acts or conduct on the part of Judge Carrillo
25 which would justify preferring charges of impeachment

1 against him. To the extent that what you have to say
2 bears on the thrust of our inquiry, the Chair would
3 allow you to proceed.

4 A All right, sir.

5 CHAIRMAN HALE: Do not stray afield, though.
6 We are not here to inquire into the conduct of Mr.
7 Canales or any other member of the Legislature. That is
8 a matter that belongs in another forum.

9 MR. CANALES: Mr. Chairman—

10 A Yes, sir. I will contain myself. Pardon me.

11 MR. CANALES: Mr. Chairman, I would like
12 to request that the records of Mr. Arnulfo Guerra, the
13 reported records that he has there, be admitted into
14 evidence. I would like to ask that he be allowed to
15 make the comments, if at all possible.

16 MR. MALONEY: I don't think it is.

17 CHAIRMAN HALE: Mr. Hendricks has raised
18 the point of order on it, Mr. Canales. It is the Chair's
19 feeling that the limit of the jurisdiction of this
20 Committee has to do with the conduct of Judge Carrillo
21 and no one else. The only reason any other names should
22 be brought into this inquiry is that if those people have
23 had some relationship with Judge Carrillo that bears upon
24 the matters of the inquiry and that conduct. And any-
25 thing beyond that, it occurs to the Chair is really beyond

1 the scope of our authority and beyond the jurisdiction
2 of this Committee.

3 For that reason, the Chair will sustain the
4 point of order.

5 MR. CHAVEZ: Mr. Chairman, would it not
6 be proper, if there are some allegations as to why this
7 resolution was filed, or the reason behind it, that
8 that would not be pertinent?

9 CHAIRMAN HALE: I don't know to what
10 extent we can delve into the motivation of human nature.
11 It is filed, and it seems to me that Mr. Guerra, after
12 the impassioned plea you made about doing your duty as
13 you saw it, under the statutes, that you would be
14 charitable enough to recognize that this Committee is
15 only doing its duty under the statutes. It's a chore
16 that none of us relish any more than you relish doing
17 what you did.

18 A Yes, sir. I understand.

19 CHAIRMAN HALE: I turned down the chairman-
20 ship of this Committee twice, before I was finally forced
21 into taking it. I don't think there is a member of this
22 Committee that sought membership on this Committee.
23 We are all doing a chore, because the Constitution and
24 the laws of Texas say that that's our responsibility in
25 the same way that you have your responsibility.

1 A Yes, sir. I appreciate the position of the
2 Chair.

3 CHAIRMAN HALE: You may proceed.

4 A All right, sir. What I was mentioning to the
5 Committee is that I had been accused of engaging in a
6 conspiracy with a Judge and Clinton Manges and others,
7 which would give rise to an abuse of the Judge's power
8 to remove people from office. This whole matter would
9 have been settled if my office had been terminated.
10 There was an attempt to terminate my office by simply
11 removing the District Attorney, by simply eliminating
12 the office of the District Attorney for the 229th
13 Judicial District.

14 The reason I mention this is because I have a
15 copy of a bill with Mr.—

16 MR. HENDRICKS: Mr. Chairman, I would like
17 to renew my point of order on this line of statements.

18 CHAIRMAN HALE: Mr. Guerra, what is the
19 relationship between that and the nature of our inquiry?
20 Does that have anything to do with the acts of Judge
21 Carrillo that would justify impeachment?

22 A The accusation has been made that there was a
23 conspiracy by the Judge and others which includes me,
24 to act in such a way as to remove people without cause
25 or without reason and that such actions were wrong and I

1 just think that it certainly is proper for me to point
2 out in the sequence that I have the fact that there was
3 great obstruction of my duties to the extent of stopping
4 the investigation that I was conducting by simply
5 eliminating my office, which was the one that requested
6 and the only one that can request the Attorney General
7 to come into the investigation.

8 CHAIRMAN HALE: All right. You have
9 made the point that the bill was introduced?

10 A No, sir. The bill was not introduced. It
11 was offered to Senator Traeger's office. There is a
12 handwritten note by Mr. Canales. It says,

13 "Eddie, I have negotiated publication of
14 that test local bill and thought you should
15 review it for John, as I will be calling on
16 him to sponsor it in the Senate." Signed, "Terry."

17 It is a bill related to the abolishment of
18 the office of District Attorney, 229th Judicial District.
19 This matter came to my knowledge—

20 MR. HENDRICKS: Mr. Chairman, now that he
21 has got that across to the Committee, could we go on
22 to other matters that are under investigation?

23 CHAIRMAN HALE: Was the bill ever introduced,
24 Mr. Guerra?

25 A No, sir. Senator Traeger set some conditions

1 and it was never introduced.

2 CHAIRMAN HALE: Was it ever introduced in
3 the House? Do you know if it was ever introduced?

4 A No, sir. It was not introduced in the House.

5 CHAIRMAN HALE: Thank you.

6 A This is one of the main reasons why I decided
7 to act immediately also in getting some outsiders to
8 come in, because my feeling was that the whole matter
9 was going to be stopped, the investigation was going
10 to be stopped. Certainly, if my office was abolished,
11 the investigation would not continue, because nobody--
12 The only other person who could call the Attorney
13 General would be the County Attorney, and he certainly
14 wasn't about to take any such action.

15 Now, the Committee has heard today some
16 accusations by Mr. Foster that the Grand Jury, the present
17 Grand Jury of Duval County, was used through some influence,
18 I guess, through the Judge, or by me, to embarrass the
19 Committee on the indictment of one, Rodolfo Couling.

20 I wanted to point out what the thrust of the
21 investigation was in Duval County to show that all
22 matters that have been brought out here have been under
23 investigation, not necessarily by me, and, in fact, I
24 have not taken the leading part in the investigation, but
25 by the Task Force. And I have with me a transcript of a

1 hearing which was held on April 8th, when the Attorney
2 General came down, himself, to Duval County and made an
3 open announcement in open court, before Judge Carrillo,
4 concerning the thrust of the investigation and what it
5 would cover and what it would do and so forth.

6 I certainly wanted the Committee to have the
7 benefit of that so that the Committee will realize that
8 the investigation is not a one-sided investigation by
9 me or certainly has nothing to do with Judge Carrillo.
10 He has no more to say about this investigation than any
11 of the members of the Committee have. It is not in his
12 hands at all insofar as the tenor and the course has
13 never been.

14 Certainly, if there was any wrongdoing by
15 anybody, or any indication that such was the case, after
16 April 1st, I just cannot see how a Task Force of 30 or
17 40 people could be fooled by me, or could be directed by
18 me to take any course of action to favor the Judge or to
19 favor one side or the other.

20 I do have the announcement that was made— This
21 was a brief announcement by John Hill, covering what the
22 investigation would be about. I think it is very material,
23 because it goes into all investigations concerning all
24 matters, including the matters which are considered as
25 part of the removal petition.

1 if there was any conspiracy to remove officials, I had
2 to be part of it, because of the very fact that I brought
3 the proceedings myself.

4 But there are some matters today and it seems
5 like as I sit there, I listened to some of these matters
6 and they do, they do invite answers, particularly in view
7 of the fact that the Committee may ask questions and I
8 feel that some of the matters are not fully covered.

9 There was a reference made today by Joe Guerra
10 to the effect that apparently Judge Carrillo had done
11 something wrong in signing two orders, one of impoundment
12 and a second order for the Election of 1972. I was a
13 candidate for the School Board in 1972. After having been
14 an attorney and a friend of Joe Guerra for many years, I
15 decided to run for the School Board with two ladies who
16 wanted to participate also in school matters. As a
17 consequence, all hell broke loose.

18 The reason for the supplemental order which was
19 mentioned— I forget the date, but it was the day of the
20 Election—was served upon the officials of the Election—
21 the reason why it was sought and certainly was not at the
22 instigation of Judge Carrillo, it was at my instigation,
23 as a candidate. And I didn't do it personally. I had
24 attorneys from McAllen, Texas, Mr. Bill Ellis, Sirvando
25 Gonzalez out of McAllen, to see what could be done about

1 obtaining an order to protect those of us who were run-
2 ning for office and to insure the election would be con-
3 ducted properly, because the night, two nights before
4 the election, a meeting was held in the office of Mr.
5 Joe Guerra there in Roma, his private office, with most
6 of the persons who are supposed to work in the polling
7 place, the polling place officials. It was in March of
8 1972.

9 After that meeting, I received a call from
10 two persons who were present who were going to serve in
11 the polling place. The husband of one of the ladies who
12 was running also received a phone call from another
13 third person. They were very perturbed because of the
14 instructions that were given by Mr. Guerra about the
15 conduct of the election, how it should be conducted.
16 It was planned that a harassment to a degree of keeping
17 people from voting was to take place. I don't know if
18 you all are familiar or not with this, but we have paper
19 ballots in that area. As a result, every election is
20 contested every year. This was prior to my being District
21 Attorney and it has been going on for years before when
22 Judge Laughlin was there and everybody else. Every time
23 there was a contested election, the District or County
24 Attorneys on their own motion filed under Article IX of
25 the Texas Election Code, filed a petition with the Court

1 for impoundment of all records, of all election materials,
2 and so forth, to try to avoid any allegations later on
3 that somebody stole the election or didn't steal the
4 election.

5 Such an order in the same manner as has always
6 been entered was entered in 1972. The reason for the
7 supplemental order was the reports out of that meeting
8 that was held two nights before the Election in which it
9 was also stated that the election materials or the ballot
10 boxes were going to be removed from the regular building
11 to another building for counting, the idea being to
12 dilute the effect of the poll-watcher coverage of the
13 election. Each candidate was allowed to have two poll-
14 watchers, by statute. That would make six poll-watchers.

15 The polling place was divided into two areas,
16 it being possible to have six poll-watchers check the
17 election closely. Believe me, there have been plenty of
18 allegations about stealing elections and about stuffing
19 the ballots and all kinds of allegations in that area.

20 With the added information that was given by
21 those people who were present that night, it was
22 necessary for somebody to proceed. I went to the
23 expense of hiring an attorney, so I wouldn't have to be
24 charged, myself, with any—having done anything personally,
25 and I didn't want to represent myself then, to try to see

1 if we could obtain orders to protect the election and
2 to try to keep those allegations of wrongdoing from
3 taking place.

4 I am sorry to say we were unsuccessful, because
5 what was—although apparently the order tracked the
6 Election Code, why the things we feared would happen,
7 happened.

8 I am sure Judge Carrillo had nothing to do
9 about initiating the order. It was taken to him ex parte
10 on the basis of a request by either two attorneys or the
11 District Attorney or somebody else.

12 I thought the Committee should have an
13 explanation, because it certainly makes it sound like a
14 one-sided affair. The truth of the matter was that the
15 Judge was placed in a hell of a position where something
16 had to be done. Apparently, the order did not exceed
17 any of the authority which is—or any of the protection
18 which is provided in the Texas Election Code. I was gone
19 and so forth. I don't recall any more, but apparently
20 I know of my own personal knowledge that certainly the
21 Judge didn't dream it up himself and it certainly wasn't
22 his idea.

23 In regards to the matter of the election con-
24 test which Joe Guerra referred to involving his brother,
25 I think that I would be remiss in my obligation to this

1 Committee, if I did not try to explain what happened. I
2 was an attorney also in that case. Randle Nye and I
3 represented the County Commissioner who opposed Joe
4 Guerra's brother, Virgil Guerra. But it wasn't only a
5 one-election contest. There were four election contests
6 filed at the same time. Some were filed by the so-called
7 "New Party" candidates and some were filed by the Old
8 Party United Group candidates.

9 The four contests involved the District Clerk's
10 office, the County Clerk's office, the County Commissioner
11 of Precinct No. 2, which is Roma, and Precinct Chairman
12 of one of the election precincts.

13 It was, believe me, a massive undertaking to
14 try three lawsuits at the same time, but they were tried.
15 The delays which took place, I am surprised to hear now
16 at this stage of the game, that anybody would complain
17 about the delays as being occasioned by the Judge, him-
18 self. I wish I had known about the complaint being
19 filed against the Judge at the time, because I think all
20 the attorneys who participated in those proceedings, from
21 all sides, certainly would have been the first ones to
22 agree that if there were any delays, they certainly
23 were not caused by the Judge, and certainly were delays
24 of regulation of trial.

25 One of the things that was mentioned, one of the

1 delays was occasioned by the Court Reporter going on
2 National Guard duty or some duty. That didn't occasion
3 much of a delay, because there was another Reporter
4 brought in during the time that he was gone, by agreement
5 of all parties, to take care of the matter.

6 I might add that Mr. Guerra was not there. He
7 was gone to Europe or some place for a month or a month
8 and a half while this was going on.

9 We sat through a proceeding for practically
10 all summer long.

11 One of the delays was occasioned by the attor-
12 neys for Mr. Virgil Guerra, Mr. Morris Atlas and
13 Gary Gurwitz, who have been mentioned before. They
14 represented Mr. Virgil Guerra. They asked for time, be-
15 cause they had to go to California to close out some
16 transactions involving La Casita Farms. I think they
17 represented it and they were selling it or something.
18 They had to leave. They had to go.

19 One of the delays was occasioned by the fact
20 that I, as an attorney for Amando Pena, had just been
21 served with copies of grievance complaints filed by Mr.
22 Guerra, by the way, not involving any of the matters
23 in which I represented clients. They were third party
24 transactions, all of which have been cleared except one
25 which was filed recently, had been cleared by the Grievance

1 Committee.

2 The delay was occasioned by the fact that an
3 accusation was made to the effect that put me in a
4 position where I felt that if I proceeded without first
5 inquiring into the nature of the accusation, that it
6 would certainly place my client in jeopardy. I mentioned
7 this because it isn't fair for the Judge to come and say
8 that he occasioned this delay. When I received a copy
9 of the complaints the night before, or the afternoon
10 before the next day the case was supposed to begin, I
11 proceeded with the rest of the attorneys in chambers so
12 that I would not disclose the nature of the accusation
13 against me.

14 All the attorneys who were present for all the
15 parties agreed that it should be proper for me to have
16 enough time to go and obtain legal help to determine
17 just what I should do or should not do. By the same
18 token, it would leave-- If any of you have ever tried
19 an election contest, you realize how one attorney, when
20 you have four or five hundred potential witnesses, one
21 attorney simply is not going to do the job. It would
22 have left my client without any representation whatsoever
23 for half of the lawsuit.

24 Upon everybody's agreement, the Court granted
25 enough time for me to, and everybody was in agreement-- I

1 tried to seek more time for that and I was not given more
2 time. We proceeded anyway.

3 I mention that, because I don't think it's
4 fair to leave the impression with this Committee that
5 this was a one-sided affair for the Judge, at liberty,
6 either on his motion, or on the motion of one particular
7 individual, just to delay the lawsuit to serve either his
8 purposes or somebody else's purposes.

9 I don't recall, but Mr. Guerra said 103 days
10 from the date of the beginning of the trial until the end
11 of the trial. It sure seemed like a long time to me,
12 but we had hundreds and hundreds of witnesses. Apparently
13 some laymen think that after they get through putting
14 on their case, which might take a month, that that's the
15 end of a case. But then the other side has a chance to
16 present and at that time, with three separate contests
17 going on, by the time every attorney got through
18 questioning, or presenting their side, he took, at best,
19 four or five or six witnesses a day and there were a
20 massive number of witnesses.

21 So, in that regard, I thought it should be
22 cleared up.

23 I am familiar with Starr County and I wish I
24 were as familiar in the other counties, as I am about
25 Starr County. But there has not been a political indictment

1 in Starr County, that I know of. And I certainly, up
2 until 1971, or '72, I was a member of Mr. Guerra's
3 faction, the Old Party. I was the Attorney for the Party.
4 I was personal attorney in all litigation involving the
5 eight or ten million dollar estate.

6 It's a political setup there where you have
7 three or four factions. The gentleman he mentioned there
8 as being the foreman of the Grand Jury who asked for the
9 1972 comparison of the stubs and ballots happens to be
10 allied with Mr. Guerra now at this time. He was a member
11 of another group, other than the New Party or the Old
12 Party, what was called the new New Party. So he, certain-
13 ly, being on the Grand Jury, wasn't necessarily only a
14 New Party member. He was a new New Party member.

15 I mention these matters, because I think they
16 should be controverted by somebody and I have knowledge
17 of those. Certainly, it depends upon where you sit. You
18 have a feeling that whoever has got the power is going
19 to use it against you. I certainly felt that feeling
20 when I was sitting on the other side and Judge Laughlin
21 was there with the New Party. So many times the Judge
22 wasn't acting the way he should have acted. I disagreed
23 with him, but that was the extent of the matter.

24 I might add that Judge Carrillo in this par-
25 ticular litigation, in the 1974 lawsuits that we are

1 talking about, he ruled in three of the lawsuits. One
2 was finally severed, because it involved the Precinct
3 Chairman. But of those three lawsuits, the results of the
4 election, which by the way was conducted, the whole
5 election process was conducted by members of the so-called
6 United Old Party, New New Party, or whatever groups they
7 were. They had control of the local Democratic Party
8 process and they controlled the whole election.

9 The results of the election, insofar as the
10 contest filed by our group against the District Clerk,
11 was won by the now-present Clerk who is an opponent. So,
12 it wasn't—the Judge didn't go out and give our side
13 anything. We lost to one of the lawsuits and we won the
14 two that we won in the election and we lost the one that
15 we had lost in the election. So, certainly, there was
16 no—nothing done by the Judge, but I was disappointed
17 that we didn't win the one that we were contesting, but
18 we didn't win it. We lost. The Judge's ruling.

19 I could sit here forever and bring out a whole
20 bunch of incidents concerning political parties of Starr
21 County, and they are massive. But I know of no act where
22 a Grand Jury, regardless of the time in the last seven or
23 eight years or so has taken any political action against
24 anybody and I have been on both sides of the fence.

25 I think it is unfair to Judge Carrillo, if he's

1 done some other things wrong in some other areas, fine.
2 And I certainly will not answer for any matters which I
3 am not familiar with, but I do know, at least in my
4 tenure of office from December 2nd to this time, I don't
5 think anybody can complain that the Grand Jury is being
6 used for any purpose at all, other than for what a Grand
7 Jury is supposed to be.

8 Certainly, I have not asked any Grand Jury
9 anywhere, in any other District, to take any action other
10 than what an investigation of criminal offenses which
11 are required by law to begin with. That, you might say
12 is true of the Duval County Grand Jury. These remarks
13 about the Duval County Grand Jury being strictly a
14 Manges-Carrillo controlled Grand Jury is certainly far
15 from the truth.

16 My analysis of it and I was just as new to
17 Duval County three months ago as you members of the
18 Committee were when you started this mess—my impression
19 was that there were at least seven or eight members of
20 the Grand Jury which were strictly George Parr men. That
21 worried me. It worried me because I was afraid— I
22 was afraid coming to the Grand Jury, period! I still am.
23 I think any District Attorney would be. I didn't know
24 anybody that well to be able to tell what affiliations
25 they had, but it certainly is not a Manges or Carrillo

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1 controlled Grand Jury, by any stretch of the imagination.
2 This should be brought out. At the time the Grand Jury
3 was selected by the Jury Commission, there was no
4 discord between the Mangeses and the Carrillos and the
5 Parrs. Up to the time of the newspaper accounts, I have
6 no personal knowledge, but apparently the Mangeses and
7 the Carrillos got along well enough. He provided huge
8 amounts of money to him for bonds and for loans and for
9 other matters. So, certainly, there wouldn't have been
10 any conspiracy at the time to impanel a Grand Jury to
11 try to get at Parr or anybody else.

12 I mention this because I do think these are
13 comments which certainly should be brought out to this
14 Committee.

15 With that, I am subject to your questions
16 and certainly want to be as candid to as I can be.

17 CHAIRMAN HALE: Thank you, Mr. Guerra, for
18 your statement.

19 We appreciate your testimony and the Chair
20 regrets that there was any reason to cut you off from
21 anything you were going to say, but you've got to under-
22 stand the limits of our jurisdiction here. We simply
23 don't want to go any further afield. We don't want to
24 go any further afield than we have to, in this inquiry.

25 The Committee at a meeting earlier had decided

1 not to have evening meetings. It wore us all out during
2 the Session, trying to conduct these hearings at night,
3 after working all day in the Legislature.

4 We decided to pursue that during the remainder
5 of these hearings, to try to avoid night meetings.

6 For that reason, the Chair would ask if you
7 could be back tomorrow morning?

8 A Yes, sir. I will be back.

9 CHAIRMAN HALE: Rather than starting the
10 questioning tonight, which I have to anticipate will be
11 fairly extensive, it's been suggested that for your
12 protection, as well as ours, it might be desirable that
13 you be placed under subpoena. You have not been
14 subpoenaed by the Committee, have you?

15 A No, sir. I have not.

16 CHAIRMAN HALE: Mr. Hendricks moves that
17 the Chair be authorized and directed to issue a subpoena
18 for Mr. Arnulfo Guerra to attend the meetings of the
19 Committee until discharged by the Chair. Is there any
20 discussion on the motion?

21 (No response.)

22 (The motion, being put to a roll call vote,
23 carried.)

24 CHAIRMAN HALE: Being 7 "Ayes" and no "Nays,"
25 the motion prevails. (Gavel.) The Sergeant-at-Arms will

1 serve the subpoena.

2 Is there any further business to come before
3 the Committee this evening?

4 Mr. Hendricks moves that the Committee stand
5 in recess until 9:00 o'clock tomorrow morning.

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

7 CHAIRMAN HALE: The "Ayes" have it and
8 the Committee stands in recess until 9:00 o'clock
9 tomorrow.

10 (Whereupon at 6:30 p.m. the Committee recessed
11 until 9:00 o'clock, June 5, 1975.)

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CERTIFICATE

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THE STATE OF TEXAS §
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COUNTY OF TRAVIS §

I, Walter H. Hickman, a Notary Public in and for Travis County, Texas, do certify that on the 4th day of June, 1975, the foregoing proceedings before the HOUSE SELECT COMMITTEE ON IMPEACHMENT were reported by me and that the foregoing 288 pages constitute a full, true and accurate transcription of my Stenograph notes.

GIVEN under my hand and seal of office this 9th day of June, 1975.


Walter H. Hickman, Notary Public
in and for Travis County, Texas.