

**INQUIRY CONCERNING A JUDGE
NO. 5**

NOVEMBER 3, 1975

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

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* * * * *

BE IT REMEMBERED, on the 3rd day of November, A. D. 1975, there came on to be heard before the Honorable James R. Meyers, having been duly appointed Master for the purpose of hearing the above styled cause, the following proceedings were had, to-wit:

1
2
3
4 A P P E A R A N C E S:

5
6 HON. JOHN L. HILL
7 Attorney General of Texas
8 Supreme Court Building
9 Austin, Texas

10 By: Mr. John W. Odam
11 Assistant Attorney General and
12 Mr. Max P. Flusche, Jr.
13 Assistant Attorney General

14 COUNSEL FOR EXAMINERS

15 MR. ARTHUR MITCHELL
16 Attorney at Law
17 Westgate 315
18 1122 Colorado
19 Austin, Texas

20 and MS. JAN FOX

21 COUNSEL FOR RESPONDENT
22
23
24
25

P R O C E E D I N G S

1
2
3 THE MASTER: Mr. Odam, are you ready to
4 proceed?

5 MR. ODAM: Yes, sir. The examiners are
6 ready.

7 THE MASTER: Mr. Mitchell, are you ready
8 to proceed?

9 MR. MITCHELL: Yes, sir.

10 THE MASTER: I then call the hearing as
11 Master of the State Judicial Qualifications
12 Committee the Inquiry No. 5.

13 We have some preliminary matters which
14 I think are largely raised by you,
15 Mr. Mitchell.

16 MR. MITCHELL: Yes.

17 THE MASTER: And I will handle those
18 any way you choose to present them.

19 MR. MITCHELL: If I -- Judge Meyer, at
20 the very outset, I, of course, practice law
21 under this -- under you in Austin and I have
22 always referred to you as Judge Meyer. I
23 understand technically you are appointed as
24 a Master and I suppose we should perhaps
25 refer to you as a Hearing Officer, but if it

1 is not objected to, I would like to refer to
2 you as Judge Meyer.

3 THE MASTER: That is fine.

4 MR. MITCHELL: Is that all right?

5 All right, Your Honor, we have a first
6 motion in limine and a second motion in
7 limine and a motion for continuance that is
8 to be considered actually in connection with
9 our various pleas. We have pleas in
10 abatement, and pleas which are actually
11 constitutional pleas.

12 I would like, with the leave of Court,
13 to present the first motion in limine and
14 the second motion in limine and if I might,
15 Your Honor, at this point, introduce the
16 documentary in support of the record and have
17 leave of Court to perhaps introduce testimony
18 in support of the various motions.

19 THE MASTER: Yes, you can present
20 whatever you choose to present, in whatever
21 manner you wish.

22 I think that at our informal meetings
23 in Austin, it was suggested, and you correct
24 the record if I state it incorrectly, that my
25 role as a Master differs somewhat from my

1 role as a trial judge in that I do not
2 consider that on some of the matters you have
3 raised in your various motions that I should
4 rule because I think that is a function of
5 the Judicial Qualifications Commission.

6 For example, you have raised the issue
7 of the pre-November, 1974, is that the right
8 date?

9 MR. MITCHELL: Yes, Judge.

10 THE MASTER: Matters that is an issue
11 it seems to me which a Master does not rule
12 upon. I take the testimony, I make findings
13 and then on matters of law, the Judicial
14 Qualifications Commission, and if it goes
15 that far, the Supreme Court makes its rulings.

16 Now, you may or may not agree with that,
17 but do you agree that was the general thrust
18 of our discussions?

19 MR. MITCHELL: Yes, Judge, I agree it is;
20 I agree that is the general thrust and if the
21 cases, particularly those cited under the
22 Judicial Qualifications Commission test cited
23 in California or any guidelines, I think that
24 is perhaps the blueprint that we are going to
25 be bound with and I agree with that.

1 THE MASTER: Mr. Odam, do you agree that
2 is the thrust of our discussion and whether
3 or not it is right? Your -- well, let me
4 ask you, do you have any opposition with
5 proceeding with that understanding?

6 MR. ODAM: No, Your Honor, I have no
7 objection.

8 MR. MITCHELL: Judge Meyer, the only
9 problem that I have with that, and I might
10 verbalize this for the record, and that is
11 for example, let's suppose that my Plea of
12 Abatement is good, in any regard, let's say
13 due process or the fact that the -- under the
14 statute, under the Common Law Rule, we can't
15 go back of January the 1st of this year. It
16 seems to me that if we would have tried this
17 we would have presented the -- the Master, of
18 course, does not have the authority to pass
19 on questions of law, we will spend three or
20 four weeks trying it, I wonder if it would be
21 inappropriate to go to the Supreme Court
22 after we make a record on the pretrial for a
23 ruling on the special exceptions, the Pleas
24 in Abatement, the very constitutional pleas.

25 THE MASTER: How do you get there?

1 MR. MITCHELL: I am wondering, Your
2 Honor, there is no precedent as the Court is
3 well aware; I am thinking perhaps we might
4 have to go through the Commission, the
5 Commission in turn go on to the Supreme Court.

6 Again, I am relying kind of on the
7 record made in these qualification cases in
8 California, but it would appear, if there were
9 some vehicle that we could adopt after having
10 made our fact record here, to make it -- to
11 get a determination on the questions of law,
12 on the abatement on the special exceptions
13 and on the pretrial matters, I certainly would
14 want to try to exhaust that, for example, if
15 we are going to try, Judge Meyer, something
16 that was tried in 1969 or 1970.

17 THE MASTER: Yes, that has occurred to
18 me, but I just don't see a vehicle for doing
19 it that way. Your suggestion we may spend
20 some time hearing matters that as a matter of
21 law cannot be the grounds for any action --

22 MR. MITCHELL: That is right.

23 THE MASTER: I think that is certainly
24 a possibility.

25 MR. MITCHELL: That is right.

1 THE MASTER: But I think that is
2 unfortunately what we are going to have to
3 do. I am not opposed, but I just don't see
4 how -- there is just no statutory vehicle for
5 getting to the Supreme Court until the record
6 has been submitted to the Judicial
7 Qualifications Commission and it has acted.

8 MR. MITCHELL: Then for the purpose of
9 the record, so I am not jumping up and down,
10 I will say first to the Court that we might
11 want to consider doing this. I am certainly --
12 I don't want to waive that right.

13 THE MASTER: From the beginning, I con-
14 sider that you have presented and urged every
15 motion and matters that you have filed. I do
16 not consider you have waived anything until
17 you stand up and say you waive it.

18 MR. MITCHELL: All right. In the event
19 we decide not to pursue the remedy, we will
20 have an agreement in the record that we
21 will cross-examine and we will offer testi-
22 mony to rebut these matters beyond some of
23 our pleas so the matters will be expedited.

24 THE MASTER: That has my approval. If
25 you wish, and it won't offend me, if you

1 want to seek a mandamus -- but I don't see
2 how you can mandamus. There is no personal
3 offense, you know.

4 MR. MITCHELL: I know that. I under-
5 stand that and appreciate the fact that the
6 Court makes that declaration for the record.
7 I want to act with candor with the Master
8 and to state that whatever we do, we will,
9 of course, give ample notice and our posi-
10 tion will be clear.

11 Might I, at this point, mark and intro-
12 duce in evidence the documentary articles as
13 a prelude for the first and second motion
14 in limine and motions and exceptions.

15 THE MASTER: Yes.

16 MR. MITCHELL: I do know, under our ordin-
17 ary rules, the documents are not part of the
18 evidence. If I might --

19 THE MASTER: You may make a full record,
20 you may do it as you wish.

21 MR. MITCHELL: May I inquire, for the
22 proper designations, I guess I am a Defendant.

23 THE MASTER: I would call you a Respon-
24 dent.

25 MR. MITCHELL: I think I am a Respondent

1 and I am a Petitioner from the Commission
2 to the Supreme Court.

3 May I have these marked Exhibits,
4 beginning with Exhibit J-1, which has already
5 been marked, as Respondent's Exhibits 1 through
6 however far they run.

7 THE MASTER: Okay, sir.

8 (Exhibits R-1 through R-17 were marked
9 for identification.)
10

11 MR. MITCHELL: I am informed that the
12 reporter has marked the Exhibits and we will
13 offer, if it please the Court, Respondent's
14 Exhibits 1 and through and including Res-
15 pondent's Exhibit 17.

16 The offer is made in connection with the
17 first motion for an indefinite continuance
18 and in connection with the first and second
19 motions in limine and pleas appearing on
20 the first motion of formal procedure, and
21 that includes the due process and pleas in
22 abatement and special exceptions.

23 THE MASTER: They are admitted. That
24 offer is admitted.

25 I have not, however, completed my record

1 on the Exhibits.

2
3 (Whereupon, an off-the-record
4 discussion was had.)

5
6 THE MASTER: Back on the record.

7 MR. ODAM: Your Honor, I believe the
8 Court stated that they were admitted. I was
9 going to, after Mr. Mitchell made the offer -

10 THE MASTER: I will withhold the ruling
11 if you have some objection. They were
12 offered, though, just to support those
13 motions and pleas.

14 MR. ODAM: Yes, sir, I understand and
15 we would offer an objection on that. I can
16 go into it in more detail if you would like
17 when I respond to Mr. Mitchell's motion,
18 which I believe he is going to argue to the
19 Court or to the Master, if the Court or the
20 Master withholds the ruling until that time.

21 THE MASTER: Yes, that is fine.

22 MR. MITCHELL: Your Honor, in addition
23 to the offer made to the motions, I want the
24 record to reflect that we are making this
25 offer on Respondents' 1 through and including

1 17 in connection with the motion that is
2 pending before the Master and the Commission
3 for an indefinite continuance, the first and
4 second motions in limine, the motion to
5 disqualify and the motion to quash the
6 subpoenas. I don't want to limit the offer,
7 if it please the Court.

8 MR. ODAM: And our objection would go
9 to the introduction for those purposes, also,
10 Your Honor.

11 THE MASTER: Now, do you wish to argue
12 those motions collectively?

13 MR. MITCHELL: I would like to call
14 Judge O. P. Carrillo and offer additional
15 testimony in connection with the motion with
16 the understanding, if it please the Court,
17 that this again, for lack of a better
18 precedent on motions to suppress in criminal
19 causes, we are entitled to call the Defendant
20 in a criminal case with the understanding
21 there is no waiver of any subsequent plea on
22 the merits of the trial and we would like to
23 offer this testimony, verbal testimony
24 insofar as it relates to the motions that I
25 just outlined to the Master, the grounds set

1 out in the motions for continuance, first and
2 second motions in limine, motions to disqualify
3 and a motion to quash.

4 Out of fairness to the Court, we have
5 additional testimony we will offer, full
6 testimony in connection with all of these
7 motions, because as the Court knows, we have
8 an extensive motion to disqualify the
9 examiner; we have motions that touch the very
10 heart and soul of some of these -- of the
11 case itself. So we would like to offer
12 Judge Carrillo with the understanding we do
13 not offer him for all purposes, we do not
14 offer him subject to cross-examination for
15 all purposes, but only as to the matters
16 touched on in connection with the pretrial
17 motions.

18 MR. ODAM: Your Honor, I have prepared
19 typed-out responses to the motions that
20 Mr. Mitchell referred to. I don't know if
21 they would be appropriate until I hear what
22 they are. And also, in light of the testimony,
23 as far as the position we would have at this
24 time, again I would say we would object for
25 the reason to go into it at a later time,

1 as the Court stated, or the Master stated
2 awhile ago, I think what Mr. Mitchell is
3 going to be putting on will call for
4 conclusions of law which are only to be
5 found by the Commission at a later point and
6 it is our position that I will urge in more
7 detail at a later time, is that all of this
8 would be matters that would be presented to
9 the Commission at such time as they decide
10 what action should be taken.

11 THE MASTER: I guess what I am simply
12 asking is there is no question in your mind,
13 is there, that he has the right at this time
14 to support these various motions with
15 evidence, with testimony.

16 MR. ODAM: Well, we would object to it
17 so as not to waive that objection for later
18 purposes.

19 THE MASTER: Yes, but I am a record-
20 maker and I intend to make the record and you
21 may do that, Mr. Mitchell. Now, he has
22 suggested, and I think he is right, that he
23 can use his witnesses, including Judge
24 Carrillo, without waiving any right he may
25 have to -- well, to decline to testify, if

1 JUDGE O. P. CARRILLO,
2 called as a witness, having been first duly sworn upon
3 his oath to tell the truth, the whole truth and
4 nothing but the truth, then testified as follows:

5
6 E X A M I N A T I O N

7
8 BY MR. MITCHELL:

9
10 Q State your name for the record, please, sir.

11 A O. P. Carrillo.

12 Q You are the Respondent in this procedure, are you
13 not?

14 A I am.

15 Q I believe, Judge Carrillo, you are presently, for
16 the record, the judge of the 229th Judicial
17 District of Texas, am I correct?

18 A Yes, sir.

19 Q And your Certificate of Election is dated when,
20 please?

21 A November the -- I don't know when it is dated;
22 the election was, I believe, November the 5th,
23 1974.

24 Q All right. And your oath of office?

25 A I believe I took my oath on the 2nd day of January,

1 1975.

2 Q And you are presently the -- are you presently
3 the judge of that court, subject to, I believe, a
4 suspension, a constitutional suspension?

5 A Yes, sir.

6 Q And can you tell us briefly the reason for that
7 suspension so that the record speaks to that,
8 Judge Carrillo?

9 A Yes, sir, the legislature voted Articles of
10 Impeachment against me.

11 Q Those Articles of Impeachment were voted about
12 when, do you recall?

13 A August the 4th or 5th, I believe, I am not sure,
14 of 1975. I might be wrong on that date, but I
15 believe that is about the time.

16 Q Do you recall, Judge Carrillo, what the House-
17 Senate resolution number was, was that 161?

18 A Yes, sir, I believe so.

19 Q Do you recall, to give us some background to some
20 of the questions I am going to ask you, I will
21 get into the details, into the impeachment
22 proceedings, but about when, to your memory, does
23 your memory serve you that the procedures
24 commenced before the subcommittee on House-Senate
25 Resolution 161, do you recall?

1 A I don't recall the exact date, sir. I am sorry,
2 but I don't remember the date that they began.
3 All I remember is I read about it in the paper
4 and you, Mr. Mitchell, called me and said they are
5 starting impeachment proceedings against you
6 tomorrow and I left for Austin. I was in Rio
7 Grande City.

8 Q That was sometime about the 19th of May, 1975?

9 A Approximately, I believe so, yes, sir.

10 Q Now specifically, Judge Carrillo, I am going to
11 direct your attention to certain questions which
12 relate to the motions in limine that are pending
13 before this Master and the Commission and the
14 Supreme Court, the first motion in limine and the
15 second motion in limine.

16 A Yes, sir.

17 Q All right. Now, I will hand you in that connection
18 what has been marked and introduced as R Exhibit
19 No. 1 and ask you if you can tell the Master what
20 that is, please, sir?

21 A That, I believe is a -- yes, a copy of a notice
22 of that, that I received from Mr. Pipkin,
23 executive director of the Judicial Qualifications
24 Commission.

25 Q All right. Mr. Maurice S. Pipkin, who is in the

1 hearing room, is that correct?

2 A Yes.

3 Q He is the executive director of the State Judicial
4 Qualifications Commission?

5 A Yes.

6 Q Now, the date of Respondents' No. 1, is -- what
7 is that date, Judge Carrillo?

8 A May the 2nd, 1975.

9 Q All right. Now, using that as a date, please, sir,
10 to serve your recollection, did you -- do you
11 recall having had any conversation with Mr. Pipkin
12 prior to May 2nd, 1975 concerning the matters
13 which are -- which were reproduced in that
14 correspondence which is marked Respondents' No. 1?
15 Do you follow my question?

16 A Yes; yes, sir.

17 Q All right.

18 A My first conversation with Mr. Pipkin was, I
19 believe, in the early part of 1972, sometime in
20 1972. I believe it might have been '73, but I
21 think it was 1972. I don't have the exact date.

22 I met Mr. Pipkin at the Americana in Alice,
23 Texas.

24 Q All right. Let me interrupt, then, for the flow.
25 Prior to January, 1975, what was your official

1 position, please, sir?

2 A I was the district judge of the 229th Judicial
3 District.

4 Q And that is under a prior term, is that correct?

5 A Yes, sir, that is correct.

6 Q And tell the record, state to the record when you
7 were elected; when is your Certificate of Election
8 dated as to that prior term, if you recall,
9 Judge Carrillo?

10 A I was elected at the November -- general election
11 held in November of 1970 and again, I took office
12 and was sworn in January the 2nd, 1971.

13 Q All right. And that term expired December 31?

14 A December the 31st.

15 Q All right.

16 A 1974.

17 Q All right, sir. And you then took the oath of
18 office again in January of 1975?

19 A Yes, sir.

20 Q Pursuant to your Certificate of Election dated
21 November of 1974?

22 A Yes, sir.

23 Q All right, sir. In 1972, therefore you were then
24 still -- you were the judge of the 229th District
25 Court?

1 A Yes, sir, I was.

2 Q All right, sir. Now, do you recall what was the
3 nature of the conversation you had with Mr. Pipkin
4 insofar as it relates now to Respondents' No. 1,
5 Judge Carrillo?

6 A It was the matter of the question that had come up
7 in the case of M. Guerra and Sons, I believe, in
8 Starr County, Texas, wherein a motion had been
9 filed to disqualify me and the matters had been
10 brought out as to certain business transactions
11 that I had had with Mr. Clinton Manges.

12 Q Let me interrupt you at this point. The
13 discussion you had with Mr. Pipkin then being in
14 the early part of 1972 related to essentially or --
15 well, essentially to the matters covered in
16 Respondents' Exhibit No. 1?

17 A It had to do with the matters that had been heard
18 on the question of my disqualification in that
19 case in Starr County.

20 Again, Mr. Mitchell, I say that it was in
21 1972, I am almost certain it was; Mr. Pipkin I am
22 sure might have a record of that. I don't have
23 it, but it was either '72 or '73, but I believe
24 it was 1972.

25 MR. MITCHELL: May I have that marked,

1 please, as Respondents' Exhibit No. 18,
2 which, Your Honor, is the First Amended Notice
3 of Formal Hearings in this case.
4

5 (Whereupon, the above-mentioned
6 document was marked for identification as
7 Respondents' Exhibit No. 18.)
8

9 MR. ODAM: Your Honor, for the purpose
10 of the record, the examiners would object to
11 the admission of Respondents' Exhibit No. 18
12 on the grounds that the examiner or --
13 correction, the Master, to which it is being
14 presented, does not have the jurisdiction to
15 consider Respondents' Exhibit No. 18.

16 THE MASTER: Well, 18 is, in effect, the
17 pleadings in this cause, is it not?

18 MR. ODAM: Yes, Your Honor, but I
19 understand it is being introduced now for the
20 limited purpose of the motions in limine,
21 et cetera.

22 THE MASTER: Yes, I understand your
23 objection.

24 MR. MITCHELL: Judge Meyer --

25 THE MASTER: Which will be a continuing

1 objection. It is the same one that you have
2 had to a number of these matters, is it not?

3 MR. ODAM: Yes, Your Honor, and for that
4 purpose, if we could stipulate, I would so
5 state that we will have continuing through
6 both the testimony of these witnesses and all
7 documentary exhibits, the objection that the
8 Master does not possess the jurisdiction to
9 consider these matters, the motions for the
10 evidence introduced in support thereof and
11 however the Court or the Master desires and
12 opposing counsel desires, I can stand up and
13 make an objection each time.

14 THE MASTER: No, there is no need for
15 that. He can have that continuing objection.

16 MR. MITCHELL: That is right.

17 THE MASTER: And I may very well agree
18 with it, but whether I agree with it or not,
19 it is incumbent to make this record so that
20 the persons, the group that does have juris-
21 diction, if I don't, that is the Judicial
22 Qualifications Commission can have the record.

23 MR. ODAM: I understand, Your Honor,
24 and as Mr. Mitchell stated earlier, we don't
25 know exactly the blueprint of where we are

1 going and I do not know if it would be
2 necessary, but I do not want to have waived
3 an objection when the Commission looks at it
4 at a later point, nor when the Supreme Court
5 looks at it and says that I didn't raise it
6 properly at that time.

7 THE MASTER: It is raised and preserved
8 and may be continued as to all of this
9 evidence, whether by witness or by document.

10 MR. ODAM: Thank you, Your Honor.

11 MR. MITCHELL: And, Your Honor, in order
12 to be abundantly fair, I will place the record
13 on notice and the Court on notice that I will
14 offer, probably at a later -- in a later
15 context, all of these unlimited and
16 unqualifiedly.

17 THE MASTER: Yes, sir.

18 MR. MITCHELL: The fact that I am
19 offering them at this point solely and only
20 for pretrial would not preclude me and
21 certainly does not preclude counsel from
22 making an objection, but I don't want to
23 mislead counsel that I am going to hold back
24 on it at a later date, but it is agreeable
25 with counsel that there is a running and

1 continuing objection to this material and
2 at this point, of course, we are on the
3 pretrial and I will try to abide by that
4 notion, Your Honor, in making my examination.

5 Q (By Mr. Mitchell) Judge Carrillo, I hand you
6 R-18 now and R-1 again, if you have the two in
7 front of you.

8 A Yes, sir.

9 Q All right. First of all, R-18 appears to be the
10 formal -- the First Amended Notice of Formal
11 Proceedings, is that correct?

12 A Yes, sir.
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1 Q Turn to page two. I direct your attention to para-
2 graph two of Respondents' Exhibit 18 and ask you if
3 that is matters about which you talked to Mr. Pipkin
4 back in the early part of 1972, and where they
5 appear in substance to be brought forward?

6 A Yes, sir.

7 Q All right. Now, so there is a continuity -- but
8 if you listen to me, I will ask you if the conversa-
9 tion you had with Mr. Pipkin finds it's way into
10 Respondents' Exhibit 1, is that correct?

11 A Yes, sir.

12 Q And paragraph two of Respondents' Exhibit Number 18,
13 is that correct?

14 A Yes, sir.

15 Q As subsequently these were the same matters that
16 were subjects of inquiry in connection with Mr.
17 Manges?

18 A Yes, sir.

19 Q Now, let me direct your attention to the conversa-
20 tion in 1972.

21 Recount for the record, please, first, who
22 was present.

23 A Just Mr. Pipkin and myself.

24 Q Where was that conversation?

25 A In a restaurant at the Americana in Alice, Texas,

1 Jim Wells County.

2 Q Approximately where is that located?

3 A Approximately ten miles east of San Diego.

4 Q Jim Wells County, was that part of your district at
5 that time?

6 A It was not at that time. Mr. Pipkin and I had
7 been in conversation by telephone and we made an
8 agreement to meet there at that date and hour and
9 we did.

10 Q You indicated there had been conversation about the
11 very same matters I am questioning you about?

12 A Yes, sir. Mr. Pipkin called and advised me a com-
13 plaint had been lodged with the State Judicial
14 Qualifications Commission against me about the
15 matters of the case involving the disqualification
16 in Rio Grande City and Starr County.

17 Q Did he identify who had filed the complaint?

18 A I don't remember, it has been quite a while.

19 Anyway, the matter was conveyed to me that
20 there was such a matter pending, and he wanted to
21 discuss it with me. I told him I would be happy
22 to meet with him at any time, and by agreement we
23 both decided to meet there.

24 Q What was the -- to the best of your present recol-
25 lection, give us the contents of that conversation

1 that occurred in May in Alice.

2 A Mr. Pipkin, first of all, told me it had to do
3 with the matters of my having failed to disqualify
4 myself with the case in Starr County, Texas. I told
5 him I had seen it at that time for the first time
6 in this case where a motion was filed to disqualify
7 me, insofar as hearing of this case. I then stopped
8 the proceedings immediately.

9 Q Without going into the substance of the Article,
10 this will be a specification.

11 Did you discuss the disqualification from
12 the Gurrera case?

13 A Yes, I did.

14 Q Is that same motion raised in Respondents' Exhibit 1?

15 A Yes, we discussed the grounds as to the automobile
16 and the grazing lease and this house transaction
17 and everything that happened. We had a complete
18 and total conversation referring to that matter.

19 Q Referring to Respondents' Exhibit 1 and Respon-
20 dents' Exhibit 18, is that correct?

21 A Number 1 completely.

22 Q All right. And Roman Paragraph 18, would you look
23 at that again and answer the question, if you can?

24 A Yes, and Number 2 completely.

25 Q What, if any, conclusion was reached after that

1 conversation with Mr. Pipkin in 1972?

2 A Mr. Pipkin advised me he would have to discuss this
3 matter with the members of the Judicial Qualifica-
4 tions Committee and that he would advise me in the
5 near future what action the Commission was going to
6 take.

7 Q I will ask you, Judge Carrillo, what was the next
8 contact -- prior to January, 1975, what other con-
9 tact did you have with Mr. Pipkin or anyone repre-
10 senting the Judicial Qualifications Commission
11 regarding the conversation in the early part of
12 1972?

13 A I guess it must have been in 1973, or sometime later,
14 Mr. Pipkin again called me and advised me that a
15 certain individual in Starr County had complained
16 about the manner in which I was selecting the Grand
17 Jury members in Starr County.

18 Q What time was this?

19 A I don't recall the time. We met in Alice.

20 Q Was anything stated at that conversation in 1973
21 about the subject matter of the 1972 conversation
22 with Mr. Pipkin?

23 A No, sir, I don't believe so. I think our conver-
24 sation was at that time on the matter of the Grand
25 Jury commissions. There was nothing said whatsoever

1 insofar as this qualification matter was concerned.

2 Q That is in Respondents' Exhibit 1 or Respondents'
3 Exhibit 18, Paragraph 2?

4 A Yes.

5 Q When was the next time a discussion was had with
6 Mr. Pipkin, or anyone representing the State Judi-
7 cial Qualifications Commission, as regards the sub-
8 ject matter of Respondents' Exhibits 1 or Respond-
9 ents' 18?

10 Did you have any further conversation after
11 the time you received that Respondents' Exhibit 1?

12 A I don't recall having done so.

13 The next thing I received was after that
14 Grand Jury meeting, concerning the matters of the
15 Grand Jury, we had in Hidalgo County. I didn't hear
16 anything else from anyone until I received what is
17 marked as Exhibit Number 1, Respondents' Exhibit
18 Number 1.

19 Q Was the gentlemen that Mr. Pipkin mentioned to you,
20 was that Mr. J. C. Guerra from Starr County?

21 A Yes, sir.

22 Q And he complained about you on the Grand Jury com-
23 missions that you appointed all through that period
24 from 1972 to 73?

25 A Not with every one. Sometimes, when he was unhappy,

1 he would complain. Evidently he did not complain
2 with every jury commission I selected.

3 Q Most of them?

4 A He complained, I would say -- I don't really know,
5 three or four times. The only time it was called
6 to my attention was when Mr. Pinkin called me about
7 it.

8 Q Until you received Respondents' Exhibit 1, there
9 was only one conversation you had with Mr. Pipkin
10 as regards the subject matter of Respondents' 1?

11 A Yes.

12 Q Respondents' 2 indicates that after you received
13 that letter, Respondents' Exhibit 1, you did answer
14 by a letter dated -- I am sorry, it is not dated.

15 Can you speak to the record as to your best
16 present recollection as to when that letter was
17 sent by you?

18 A Well, I believe, that as I read the instructions,
19 I had approximately fifteen days or something like
20 that, within which to answer and I answered this
21 within that time.

22 I was not sure, from the way the letter was
23 worded, whether I was supposed to answer it like
24 this or not.

25 I called Mr. Pipkin on the telephone and

1 advised him I was sending this letter to him and
2 advised him whether or not that would suffice, as
3 far as the requirements were concerned, and insofar
4 as whatever it was I was supposed to do, or if I
5 needed to do anything further. I wanted him to
6 let me know so I could go further with it.

7 Q I believe you were given a copy of the Rules?

8 A Yes, sir.

9 Q That is a Rule Three inquiry and Rule Three answer?

10 A Yes, I wanted to be sure what I was doing was in
11 accordance with what steps I was supposed to take
12 with complaints lodged.

13 Q I will ask you now, Judge Carrillo, did you hear
14 any more from the matter from the time you sent
15 Respondents' Exhibit 2, until you received notice
16 of the present amended -- first amended notice of
17 formal proceeding? Was there any contact with Mr.
18 Pipkin until you got the notice of the first hear-
19 ing?

20 A There might have another one in between there.
21 Well, yes, there was.

22 What happened was that Mr. Pipkin called
23 me and advised me that he had served you, Mr.
24 Mitchell, with some papers in Austin, but he was
25 not satisfied with them and he thought it would

1 be best if he came and served me personally, so I
2 told him I was at his disposal and he came over to
3 San Diego to the courthouse in Duval County with
4 Ranger Powell and we met in my office and he served
5 me with some papers at that time, which papers I
6 delivered to you.

7 Q Were those papers served at that time -- do you
8 recall -- well, were they the first amended notice?

9 A No, it was not the first amended notice. I don't
10 have them with me, I don't remember.

11 I know he served me with whatever it was --
12 well, he came in there and he advised me that the
13 Commission had appointed Judge Meyer and that was
14 the first time I had heard of Judge Meyer. He
15 said that the impeachment proceedings had started
16 and Judge Meyer had been appointed Master and they
17 were trying to hold the hearing in Edinburg on the
18 following Tuesday and he wanted me to waive the
19 matters -- I mean, the time that I had for notice
20 and what have you, and start the hearing of these
21 proceedings at that time and I told him I could
22 not do so until I consulted with you on the matter.

23 MR. MITCHELL: Now, may I have this
24 entire package marked as Exhibit 19, please, with
25 sub-parts?

1 (The above mentioned documents were marked
2 Respondent's Exhibit 19, 19A and 19B for identifi-
3 cation.)

4
5 Q I hand you what has been marked for identification
6 as Respondents' Exhibit 19, 19A and 19B, and ask
7 you first if you recognize it?

8 A Yes, sir, this came through the mails and this
9 was the first amended notice of formal proceeding,
10 which was received by me on October 20, 1975. I
11 wrote the date I received it here. The receipt
12 went back to the Judicial Qualifications Commission.

13 Q Examination of Respondents' Exhibit 19B, and
14 Respondents' Exhibit 18, they are one and the
15 same document?

16 A Yes, they are.

17 Q That appears to be the first notice of formal
18 proceeding we are hearing today?

19 A Yes.

20 Q You received it as it was marked on October 20,
21 1975?

22 A Exactly. The moment I received this, I wrote down
23 the date and signed my name to it.

24 Q Now, Judge Carrillo, the Exhibit marked 19, 19A
25 and 19B, are the material received by you on

1 October 20, 1975.

2 Was there any other enclosure?

3 A As far as I know, that was all that was in there.

4 Q Did you have any conversation with Mr. Pipkin, from
5 the time that you filed your letter of response,
6 Respondents' Exhibit 2, until the 20th of October,
7 1975?

8 A That conversation that I am talking about, when he
9 came over to San Diego to visit me, was the same.

10 Q Do you have both documents you received at that
11 time?

12 A I believe I have a copy, but I furnished them to
13 you. I have a copy in my hotel room, but I can
14 look for it at noon.

15 Q All right.

16 A If it will help you, you have been served with
17 those papers a day or two before and Mr. Pipkin
18 advised me he was not sure the service on you was
19 legal and he preferred to serve me personally and
20 he flew into San Diego to serve me personally with
21 those papers.

22 To clear your thoughts up, there was a
23 matter of waiver of time for hearing.

24 Q I hand you this file and ask you if you can recog-
25 nize, or I imagine, with permission of the Master,

1 if I could leave a blank at this point to have
2 Judge Carrillo --

3 THE MASTER: I take it what you are
4 talking about is the original notice of for-
5 mal proceedings?

6 MR. MITCHELL: Yes, sir.

7 THE MASTER: We all have copies of that
8 and he certainly can find the one he has
9 in his motel room.

10 I was going to break around eleven-fif-
11 teen to eleven-thirty, but I don't know if
12 he will have time to get it then. Then we
13 will go to one and then break.

14 MR. MITCHELL: If I could just have
15 Respondents' Exhibit 24 that package, is
16 that permissible?

17 THE MASTER: Yes, that is fine with me.
18 I take it, Mr. Mitchell, you have an envelope
19 or something to go with it?

20 MR. MITCHELL: Yes, sir, the packet.

21 Q (By Mr. Mitchell:) As a matter of fact, Judge
22 Carrillo, there was an answer filed by our office
23 to the original notice?

24 A Yes, sir. I am not sure I have it, because I know
25 I gave Mr. Mitchell -- it was personal service and

1 there was no envelope. I remember the incident,
2 because he told me I had a choice of either being
3 hung or shot or to come before this hearing or be
4 tried before the Legislature.

5 Q We are talking about the conversation in 1973, is
6 that correct?

7 A No, we are talking about one this year after 1973
8 and before this one we are talking about now. That
9 is when he came over and wanted to waive the time
10 of hearing.

11 As I recall, he said the Legislature, if
12 they go through with this, they are liable to
13 impeach you and not permit you to run for office
14 again. This matter of the Commission, if you are
15 finally removed, you might have a chance to run
16 for office again and you might be able to continue
17 in office. I think that was what we were talking
18 about.

19 Q All right. Now, I believe you brought us up to
20 date. There are no pleadings other than the answer
21 to the first amended notice of formal procedure?

22 A To my knowledge, there might have been some letters.
23 I don't remember anything at all.

24 I think Mr. Pipkin would have better knowledge
25 of that than I. I don't remember anything at all.

1 MR. MITCHELL: Now, Your Honor, we
 2 will broaden our scope outside the first
 3 motion in limine and I will continue to
 4 examine the witness.

5 THE MASTER: Fine.

6 Q You have mentioned several times the impeachment
 7 procedure. First of all, are you familiar with a
 8 task force for Duval County?

9 A Yes, sir.

10 Q Tell us, please, does it serve your recollection that
 11 task force was requested by your District Attorney,
 12 Arnolfo Guerra?

13 A Yes, sir, as far as I know.

14 Q When was that task force appointed?

15 A In May, I believe.

16 Q Of what year?

17 A 75.

18 Q Do you recall -- well, did the Attorney General
 19 appear before your court?

20 A Yes, he did.

21 Q What date?

22 A I don't have the exact date. He called and advised
 23 the District Attorney had requested he come to
 24 Duval County and he said he didn't care to do so
 25 unless I thought it was okay. He wanted to address

1 the Court and let us know he was there and I said
2 fine and he went over to the Grand Jury after that
3 and it took about three minutes.

4 Q What agencies made up that task force?

5 A It was the office of the District Attorney, the
6 Attorney General --

7 Q Was that Arnolfo Guerra?

8 A Yes, and Bob Forche and the Attorney General and
9 his investigators.

10 Q Who was that?

11 A Also the Texas Rangers, and I don't know who else,
12 probably everybody that has been down there.

13 Q So we have -- do you know the name of the member
14 of the staff out of the Attorney General's office
15 that has been in Duval County? Is that John Blanton?

16 A Among several of them, there were quite a few.

17 Q Tim Duval?

18 A Yes, I think Mr. Duval, I think just came in. I
19 don't know whether he came for this particular
20 investigation. I think Tim James -- I don't know
21 their names, but I know them when I see them.

22 Q Has there been a continuous presence of the Attor-
23 ney General's office since the first part of this
24 year?

25 A Yes, sir.

1 Q Judge Carrillo, without going into the details of
2 the Task Force, would it be your opinion, based
3 on your personal knowledge, that the attorney
4 general of Texas and his staff has had an active
5 part in that Task Force in Duval County?

6 A Yes, sir.

7 Q Which is a part of your district?

8 A Yes, sir.

9 Q And how many indictments would you say have been
10 secured this year as a result of that Task Force
11 operating down there?

12 A From what I understand, I think there were about
13 seventeen, I am not sure.

14 Q All right, and how many grand juries have you
15 caused to be impaneled this year prior to your
16 suspension?

17 A There was a grand jury functioning at that time.

18 Q In February of 1975?

19 A That was impaneled in February of 1975, and then
20 the present grand jury, which was impaneled in
21 August of 1975.

22 Q All right. Now again, without going into detail,
23 has the attorney general, under the statute, been
24 going before those grand juries as far as you
25 know?

- 1 A Oh, yes, sir.
- 2 Q And has that been continued?
- 3 A Yes, sir. As a matter of fact, they have a
4 headquarters there and offices and everything.
- 5 Q They have maintained a representative there
6 absolutely daily for this entire year?
- 7 A Several, several representatives.
- 8 Q And how about the surrounding counties, Jim Hogg,
9 those other counties?
- 10 A I don't know whether they are in Jim Hogg or
11 Starr, I don't know. I know they are in San Diego.
- 12 Q Now, Judge Carrillo, let me ask you this in
13 connection with the Task Force, in addition to
14 that Task Force, state whether or not prior to
15 the Task Force, there was a federal Task Force --
16 that is a state Task Force -- was there a federal
17 Task Force?
- 18 A Yes, there was.
- 19 Q And when did that federal Task Force commence
20 operation?
- 21 A 1972, I believe.
- 22 Q All right, sir. And tell us whether or not
23 there were indictments arising out of that federal
24 Task Force?
- 25 A There were, sir.

1 Q And can you tell us the agencies, if you know,
2 that were involved? For example, the I.R.S., the
3 Internal Revenue?

4 A Yes, sir.

5 Q The F.B.I., the narcotics?

6 A They were all federal agents. I don't know who
7 all represented what, but they were all federal
8 agents.

9 MR. ODAM: Your Honor, for the purpose
10 of the record, we have objection to this
11 testimony. I don't see that it has anything
12 to do with the motion in limine, the motion
13 to disqualify the attorney general, the
14 motion to quash the subpoenas, and I object
15 on the grounds of irrelevancy for the motions
16 that have been filed as to what federal
17 agencies may have been there and at any time.

18 THE MASTER: I took this to go more for
19 the motion for continuance; am I right about
20 that?

21 MR. MITCHELL: That's right, Judge.

22 THE MASTER: And it is connected --

23 MR. MITCHELL: I am getting ready to
24 indict him and get counsel involved, that
25 is exactly right, Judge.

1 THE MASTER: Yes, the objection is
2 overruled.

3 MR. MITCHELL: It is true, Your Honor,
4 the prior testimony relates to the involvement
5 of the attorney general and others as well as
6 some indictments that have arisen involving
7 my client, and I wouldn't -- if the Court
8 wants me to, I can pinpoint the areas of
9 relevancy because I certainly don't want to
10 waste any time.

11 Q (By Mr. Mitchell) All right, Judge Carrillo. In
12 connection first with the federal Task Force,
13 were there instances -- were you and your brother,
14 Ramiro Carrillo, indicted?

15 A Yes, we were.

16 Q That was an I.R.S. indictment and that case, I
17 believe, was pending before the federal district
18 court of the Southern District, right here in
19 Corpus Christi, Texas?

20 A Corpus Christi Division.

21 Q And then under the indictment was Ramiro Carrillo,
22 Arturo Zertuche and O. P. Carrillo?

23 A Yes, sir.

24 Q Now, prior to the indictment of Ramiro Carrillo
25 and yourself and Arturo Zertuche, I believe there

1 were three occasions that your brother, Ramiro
2 Carrillo, and Arturo Zertuche and you went before
3 the federal grand jury, is that correct?

4 A Several times.

5 Q All right. Now, the indictment, I believe, was
6 sometime in March of 1975?

7 A Yes, sir, I believe March the 28th, I believe.

8 Q And the indictment was a multiple count
9 indictment containing conspiracy counts as well
10 as direct violations of Article 7206-1 of the
11 federal --

12 A Yes, sir.

13 Q The 26th U.S.C.A.?

14 A Yes.

15 Q Now, Judge Carrillo, did you employ my office to
16 represent you and did Ramiro employ us to represent
17 him and Arturo Zertuche to represent him?

18 A We did.

19 Q All right. And going through this rather rapidly,
20 were arraignments had in all three cases?

21 A Yes, sir.

22 Q And those arraignments were this year?

23 A Yes, sir.

24 Q Shortly after the indictments were returned, is
25 that correct?

1 A Yes, sir.

2 Q And do you recall about how many pretrial motions
3 and briefs were prepared by your counsel? Would
4 thirty or thirty-five documents serve your present
5 recollection? Whatever those records over in
6 federal court show?

7 A Whatever it shows it is, because I know it is
8 quite a few.

9 Q All right. And do you recall motions for
10 continuance in that case?

11 A Yes, sir.

12 Q And the hearings had on those motions?

13 A Yes, sir.

14 Q And do you recall hearings, as a matter of fact,
15 two, or at least two to three pretrial hearings
16 on the various motions and briefs in support?

17 A Yes, sir.

18 Q The bills of discovery, the bills of particulars,
19 the request for depositions, et cetera?

20 A Yes, sir, all of that.

21 Q And would you say that for the period of time of
22 March, April, May, June, counsel was engaged in
23 the pretrial in the trial of that federal case?

24 A Yes, sir, I would say even before that because we
25 went to Dallas even before that for some hearings.

1 Q As a matter of fact, the investigation commenced
2 in the last part of 1974, in connection with the
3 Appellate Division of the I.R.S., is that correct,
4 sir?

5 A That is correct.

6 Q And do you recall employing -- well, your present
7 counsel here, to represent you on that level?

8 A Yes, sir.

9 Q And we had intensive accounting, legal and
10 conferences with the federal people?

11 A Yes, sir.

12 Q In December of 1974?

13 A Yes, sir, and the meetings with the auditors and
14 the meetings -- almost daily meetings.

15 Q And in addition to the motions for continuance in
16 the various hearings that we have outlined, there
17 was also a motion filed by the government to
18 disqualify your counsel from representing all three
19 of the accused, do you recall that?

20 A Yes, sir.

21 Q And do you recall a very extensive hearing in that
22 connection?

23 A Yes, sir, I do.

24 Q And the preparation that went into that?

25 A Yes, sir, I do.

1 Q And the resolution being that the Court permitted
2 counsel to represent all parties, but that the
3 Zertuche case was severed out?

4 A That is correct, sir.

5 Q And do you recall the date that that case -- that
6 is the U.S. v. O. P. Carrillo and Ramiro Carrillo
7 went to trial?

8 A No, I don't recall the exact date.

9 Q September the 8th, 1975?

10 A Yes, sir.

11 Q Does that serve your recollection?

12 A Yes, that is correct, and until September the 28th,
13 I believe it was, or something like that.

14 Q All right. And the case -- was the case tried
15 also on Saturday mornings and Saturday afternoons?

16 A And the evenings.

17 Q And the evenings?

18 A Yes, sir.

19 Q Do you recall that?

20 A Yes, sir.

21 Q And the jury came back on September the 28th, is
22 that correct?

23 A I believe so, yes, sir.

24 Q And do you know the date that the Court has set
25 for hearing --

1 MR. MITCHELL: Strike that.

2 Q (By Mr. Mitchell) And of course, extensive
3 motions for new trial have been filed in that
4 case?

5 A Yes, sir.

6 Q Do you know when the motions for new trial are
7 set for hearing?

8 A November the 17th -- no, the motions for new
9 trial is November the 15th and the date of
10 sentencing is November the 17th, I believe, the
11 14th --

12 Q November the 14th, 1975.

13 A All right.

14 Q On the motion for new trial, Judge Carrillo --

15 A I apologize to the Court, there have been so many
16 dates, it is quite confusing.

17 Q You recall, I believe, there are subpoenas out
18 in connection with six or seven witnesses in
19 connection with those motions?

20 A Yes, there is quite a bit of work has to be done
21 for both of these.

22 Q The two matters, the matters which Judge Cox, the
23 local federal district judge, has requested a
24 hearing on?

25 A That's correct.

- 1 Q And the 17th of this month, an actual setting?
- 2 A Yes, sir.
- 3 Q And the extensive preparation has gone into the
- 4 presenting, analysis and reports, is that correct?
- 5 A Yes, it has been a daily chore.
- 6 Q All right. Now, meanwhile back at the Judicial
- 7 Qualifications Commission, this hearing, of course,
- 8 was set for today which is November the 3rd?
- 9 A Yes, sir.
- 10 Q Am I correct?
- 11 A Yes, sir.
- 12 Q And do you recall the deadline or the fifteen day
- 13 rule for the filing of an answer to the Amended
- 14 Notice of Formal Proceeding, R-18? Do you recall
- 15 that in this case, do you recall that date?
- 16 A No, I am sorry, I don't. The deadline, you mean,
- 17 for answering this?
- 18 Q Yes.
- 19 A I don't recall the deadline.
- 20 Q September the 23rd, 1975?
- 21 A Whatever --
- 22 Q I mean October, I'm sorry, October?
- 23 A It would have been from the 8th -- from whatever
- 24 date it was served, the statutory days that were
- 25 supposed to be had.

1 Q About the 23rd day of October, does that serve
2 your recollection, Judge Carrillo?

3 A Approximately, but I am not sure of the date.

4 Q All right. Now, in the meantime, let me direct
5 your attention back, if you would, please, sir,
6 to --

7 MR. MITCHELL: Strike that.

8 Q (By Mr. Mitchell) And your instruction to your
9 attorney, of course, is to pursue all avenues of
10 U.S. v. O. P. Carrillo and Ramiro Carrillo?

11 A Yes, sir.

12 Q And you recall that Judge Cox severed out Arturo
13 Zertuche and set it for trial this month?

14 A Yes, sir.

15 Q And I hand you R-17 for the purposes of serving
16 your present recollection. First, I will ask you
17 if you recognize what it is?

18 A This was a telegram that was sent to me by L.
19 DeWitt Hale, state representative, and as I recall --
20 and again, in the original -- I think it is
21 written down there the date I received it, because
22 the telegram was received by me advising me that
23 the committee, house-elected committee on
24 impeachment was going to meet, and I didn't receive
25 the telegram until two weeks after the impeachment

- 1 proceedings had gone on.
- 2 Q All right.
- 3 A But, by the telephone conversation with you and
4 the news media --
- 5 Q All right. I had informed you of a setting for
6 a hearing before the subcommittee on May the 20th
7 of 1975 at 8:00 o'clock, am I correct?
- 8 A Yes, sir.
- 9 Q To consider H.S.R. No. 161 by Canales.
- 10 A Yes, sir.
- 11 Q All right. Do you recall now when those hearings
12 commenced, Judge Carrillo?
- 13 A They commenced on May 20th.
- 14 Q All right, sir. At 8:00 o'clock?
- 15 A At 8:00, yes, sir.
- 16 Q All right.
- 17 A In the evening.
- 18 Q And when?
- 19 A 8:00 p.m., May the 20th.
- 20 Q 1975?
- 21 A 1975.
- 22 Q All right. Now, can you tell the record, speak
23 to the record, please, sir, of how long those
24 hearings lasted.
- 25 A Off and on, there was a recess in between there,

1 and so forth, it lasted well over a month.

2 Q All right. On into June, is that correct?

3 A Yes, sir.

4 Q And some eight or ten volumes of testimony were
5 adduced before that testimony considering H.S.R.
6 161, am I correct?

7 A Well, then there were several hearings in between
8 which we had no notice of by the committee.

9 Q Yes, sir. Those are the hearings that were held
10 out -- executive hearings that were set out in
11 the answer?

12 A Yes, sir.

13 Q All right. But now, for the purposes of our
14 motion for continuance and the other motions
15 pending before the Commission and this Court, and
16 the Supreme Court, Judge Carrillo, was there an
17 active daily testimony gathering session held
18 pursuant to this H.S.R. 161?

19 A Yes, there was.

20 Q They didn't give us notice and then everybody went
21 home, is that correct?

22 A That's correct.

23 Q Do you recall on occasion that those passed
24 midnight, 1:30 and 2:00 o'clock in the morning?

25 A I believe we went until 3:00 a.m. one time.

- 1 Q And commenced the very next day?
- 2 A Yes, sir.
- 3 Q Commencing daily?
- 4 A Yes, sir.
- 5 Q Now, those hearings were May 20th, 1975,
6 contemporaneous to the operation of the Task Force
7 in Duval County, the federal and the state, and
8 contemporaneous to, of course, the steam that was
9 being generated in connection with the indictments
10 being returned against you and your brother back
11 at the early part of 1975, am I correct?
- 12 A Yes, sir.
- 13 Q All right. Now, can you tell the -- speak to the
14 record as to about when the committee terminated
15 its work in Austin under H.S.R. 161, do you
16 remember about when it was?
- 17 A August the 4th or August the 5th.
- 18 Q All right.
- 19 A I am not sure of -- well, 1975.
- 20 Q And do you recall whether or not the committee
21 went before the full House then, Judge?
- 22 A Yes, they did.
- 23 Q Do you recall that date?
- 24 A Well, I guess I might have my dates wrong, I
25 think August the 4th or 5th was when the House

1 voted the Articles of Impeachment. I think the
2 committee concluded its work shortly before that.

3 Q All right. Do you then -- do you recall, Judge
4 Carrillo, when the governor then convened the
5 Senate, as was his duty under the Constitution,
6 to commence the trial on the impeachment?

7 A As I recall, it was about a week or so later, I
8 don't recall the exact date, sir.

9 Q And do you recall how many Articles of Impeachment
10 there were adopted by the House?

11 A Ten, I believe.

12 Q All right. And then do you recall when those
13 hearings commenced?

14 A Yes, sir.

15 Q Before the Senate of the State of Texas?

16 A Yes, we got through over here on the 28th, I
17 believe, of September, and we went back over there
18 on the 29th, I believe it was the next day or
19 something like that.

20 Q All right. The jury returned its verdict here on
21 a Saturday, wasn't it, or was it -- wasn't it a
22 Thursday and we were in Austin again?

23 A That is correct. We were advised that day that it
24 would be the following Monday. We would start over
25 in Austin. That is correct. It was set for the --

1 for that one day exactly and they recessed it
2 from day to day and advised us -- I stand
3 corrected on that.

4 Q And then I believe that the Senate, that is the
5 Board of Managers, through their counsel, presented
6 the case for two days -- for a full day's
7 testimony in Austin.

8 A Yes, sir.

9 Q Testimony of Miss Ysaguirre and Mr. Meeks and
10 Mrs. Chapa, do you recall those?

11 A Yes, sir.

12 Q And then the Senate voted for recess?

13 A Yes, sir.

14 Q All right. Now, let me ask you this: --

15 THE MASTER: Mr. Mitchell, are you
16 ready for a break?

17 MR. MITCHELL: I sure am.

18 THE MASTER: We will be in recess for
19 about twenty minutes.

20
21 (Recess taken.)
22
23
24
25

1 MR. MITCHELL: Judge, I understand --
2 I don't know who this gentlemen is in the
3 hearing room, but I understand the matters
4 are secret.

5 THE MASTER: You are correct. This
6 gentlemen is a representative of the Depart-
7 ment of Public Safety and is here to help
8 him as to when his witnesses should be here.

9 MR. MITCHELL: I will object to his
10 presence.

11 THE MASTER: He is here at this time
12 to see what he can say to the witnesses as
13 to when they should show up.

14 MR. MITCHELL: I imagine he will have
15 some cross-examination of Judge Carrillo on
16 these matters. I could go with him another
17 hour or two, if --

18 THE MASTER: You don't have to, you
19 understand.

20 MR. MITCHELL: Yes, sir.

21 THE MASTER: Officer, I take it that
22 tells you what you need to know?

23 MR. ODAM: He has indicated, or I
24 wanted to know, when the witnesses we have
25 subpoenaed on the merits will start potentially.

1 We would like to give them some indication.

2 MR. MITCHELL: Judge, out of fairness,
3 if he wants to call them out of order -- if
4 I perhaps finish with Judge Carrillo and he
5 has a witness that needs to be somewhere,
6 I have no objection that he call that witness
7 out of order.

8 THE MASTER: I have no objection to
9 that.

10 MR. MITCHELL: May I ask who you have?

11 MR. ODAM: On Paragraph 2 you just
12 raised, Mr. Garland Smith, Mr. Juan Rivera
13 and Mr. Clinton Manges and Mr. Jim Bates,
14 Junior, from Edinburg. Those four witnesses
15 are all in Corpus Christi ready to go on the
16 merits on Paragraph 2, Section 2.

17 Again, whatever, if it is your inten-
18 tion to go on with these witnesses for
19 several days, then I can have these others
20 come back at some other day then and that
21 is what we will do.

22 MR. MITCHELL: Fine, I might want to
23 request relief of the Supreme Court too,
24 if we think we have made our case on the
25 motion hearings, and I think we need to go

1 up to the Supreme Court to consider the
2 record for a continuance, then I may do it
3 in that respect.

4 MR. ODAM: Is it your intention to make
5 a record for the Texas Supreme Court?

6 If I bring on my witnesses subject to
7 subpoens, it may be several days before you
8 can do that.

9 THE MASTER: You are asking then if
10 Mr. Mitchell thinks he is going to go the
11 balance of today and possibly into tomorrow?

12 Do you think it will take all of tomor-
13 row, Mr. Mitchell?

14 MR. MITCHELL: Yes, I think I could
15 easily.

16 THE MASTER: Then that means you have
17 this option. You can release your witnesses
18 to come back Wednesday, or you would be
19 able to put them on out of turn, but I
20 believe due orderly process requires Mr.
21 Mitchell make this preliminary record first.
22 Then you can apply for whatever it is to
23 the Supreme Court.

24 MR. MITCHELL: That is right, Your
25 Honor.

1 THE MASTER: If you do that, I don't
2 want to adjourn or recess this, unless, of
3 course, they grant the application or you
4 file a motion for leave to file, and if they
5 grant that motion, then I think we probably
6 ought to wait, but if they request that, I
7 want to be in a position to go on and I
8 think you do, too.

9 MR. MITCHELL: Yes.

10 THE MASTER: You will go today and into
11 tomorrow?

12 MR. MITCHELL: Yes, I don't know whether
13 I can go through five o'clock, because the
14 witnesses I have subpoenaed -- I do have
15 Judge Carrillo and I would ask for Mr.
16 Pipkin next. I don't know if any of the
17 rest of these folks are here -- I don't know
18 if the Attorney General is here.

19 THE MASTER: Are you speaking of Mr.
20 Hill?

21 MR. MITCHELL: Yes, and I want Terry
22 Canales and Arnolfo Guerra. Perhaps I could
23 call him at the break and get him over here.

24 THE MASTER: Well, I want to move on,
25 but at the same time, I understand the

1 scheduling problems. Hopefully, we can
2 improve it tomorrow.

3 MR. MITCHELL: Fine, Judge.

4 THE MASTER: That tells you what you
5 need to know. Do you want to make a deci-
6 sion at this time?

7 MR. ODAM: Your witnesses that you have
8 subpoenaed, Ramiro Carrillo, would that be
9 on the merits?

10 MR. MITCHELL: Yes, that is the merits.

11 These are the subpoenas we are preparing
12 Terry Canales, John Blanton, Edward Kline --

13 THE MASTER: What do you want to tell
14 the officer?

15 MR. ODAM: Well, that -- this is off
16 the record.

17 (Discussion off the record.)
18

19 MR. ODAM: We subpoenaed Garland Smith,
20 Mr. Jim Bates from Rio Grande City, Juan
21 Rivera and Mr. Clinton Manges. I am going
22 to retain those subject to the subpoena, but
23 release them on a day's notice. Later on,
24 I will be able to tell them when to come
25 back. I don't see any need to have them

1 sitting here at this time.

2 THE MASTER: Thank you very much.

3 You may proceed, Mr. Mitchell.

4 Q (By Mr. Mitchell:) Judge Carrillo, I direct your
5 attention -- you recall I asked you about the tele-
6 gram notice, and that was Respondents' Exhibit 17.
7 You previously identified it.

8 It gave you notice on May 20, at eight
9 o'clock on Tuesday, that the House Select Committee
10 could start up on that hearing?

11 A Yes.

12 Q Do you recall that specifically now, keeping in
13 mind May 20, 1975, when you got notice, and by
14 what means you got notice of that hearing?

15 A The notice I got was when you called me and from
16 the news media. There was a telegram sent to me
17 by the mails and it didn't get to me until two
18 weeks after the hearing had begun in Austin.

19 Q If it appears that Tuesday was May 20th, do you
20 recall when I called you, was it Tuesday or Monday?

21 A You called me Monday.

22 Q That would be, if the Lord has not changed the
23 calendar, that would be May 19, 1975?

24 A Yes.

25 Q Did you appear on Tuesday, May 20?

1 A Yes, I recessed my court case in Rio Grande City
2 and went to Austin.

3 Q What were you doing on that date?

4 A Holding court in Rio Grande City, Texas.

5 Q What counties make up your district?

6 A Starr, Jim Hogg and Duval County.

7 Q How often do you ride that circuit?

8 A I have a schedule of one week of each month for
9 each of the three counties and then the fourth
10 week is open and I go to whatever county requires
11 court service at that time.

12 Q Does that schedule occupy your entire week?

13 A Yes, sir.

14 Q Have you maintained a regularity of schedule for
15 the year 1975?

16 A Yes, sir, up until the time I was notified the
17 House had voted Articles of Impeachment. I was
18 hoping we could get through with the impeachment
19 hearing on Thursday or Friday and I could return
20 to my Court and try to get back into that.

21 Q Now, you recall that -- 1974, you were also a judge
22 under the preelection, I believe, that occurred in
23 1959?

24 A Yes, sir.

25 Q You continued to hold court through all of that

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period?

A Yes, sir.

Q And have you done that this year. insofar as you were allowed to?

A Yes, sir, I have.

Q Do you recall, Judge Carrillo, whether or not -- I believe there are seventeen state comments on the right of cross-examination.

Do you recall there was no cross-examination permitted during that hearing?

A Yes, sir, there was none.

Q Could you tell me what examination was permitted?

A As I recall, you were permitted to submit some questions in writing at the end of the testimony of the witnesses.

Q Do you recall that I had requested, as your attorney, a right of cross-examination?

A Yes, and you requested the right to subpoena witnesses also.

Q And do you recall that I was not given the right to suggest a witness to be called?

A At the very end.

Q Do you recall how the right of cross-examination was given, if any?

A It was very limited.

- 1 Q Do you recall if it was by written questions?
- 2 A Yes, by written questions.
- 3 Q And the right to cross-examination was not per-
- 4 mitted?
- 5 A That is correct.
- 6 Q Do you know Mr. Canales?
- 7 A Yes.
- 8 Q That is a member of the House that sponsored that
- 9 resolution?
- 10 A Yes, sir.
- 11 Q Do you recall whether or not he is an attorney?
- 12 A He is, sir.
- 13 Q Where does he live?
- 14 A Premont.
- 15 Q What county is that?
- 16 A Jim Wells County. His office is in Alice, Texas.
- 17 Q Now, say in January of this year, or the middle of
- 18 last year, what was your relationship with Terry
- 19 Canales politically?
- 20 A We were friendly, yes, sir.
- 21 In January of this year, you are saying?
- 22 Q Yes.
- 23 A Yes, we were friendly.
- 24 Q Was there a period of time when you and he developed
- 25 some divergence of opinion, and if so, tell us the

1 occasion.

2 A He was representing Mr. George Parr and Archer

3 Parr in two separate cases involving the disbarment

4 proceedings brought by the Bar in my Court.

5 Q Is Mr. Canales a duly licensed attorney?

6 A Yes.

7 Q And he filed a motion for a continuance in those

8 cases?

9 A Yes, sir.

10 Q And the legislative continuance spoke to the fact

11 that he was a member of the Legislature?

12 A Yes, sir.

13 Q And he represented George and Archer Parr in two

14 cases?

15 A Yes, sir.

16 Q And he said he was attorney for George and Archer

17 Parr, is that correct?

18 A Yes.

19 Q Now, Judge Carrillo, can you pinpoint the time when

20 petitions were presented to you by Arnolfo Guerra

21 to remove school officials in your county?

22 A On or about March 18th.

23 Q What year?

24 A 1975.

25 Q Now, at that time, did the District Attorney present

1 to you certain petitions for removal?

2 A Yes.

3 Q Now, do you, using that as a point in time, do you
4 recall when you and Mr. Canales came to a parting
5 of the ways?

6 A After I acted on the removal petitions of the
7 district attorney.

8 Q Let me interrupt you. Did you -- did the district
9 attorney present a petition to you as district
10 judge to remove Archer Parr?

11 A Yes, he did.

12 Q And as you knew at that time, Archer Parr was
13 represented by Mr. Canales?

14 A Yes, sir.

15 Q And did you receive a call from Mr. Canales after
16 the petition was filed by the district attorney
17 of the information, I think it is the technical
18 reference, to remove Archer Parr?

19 A Yes, sir, after I acted on the petition of the
20 district attorney to remove Archer Parr as county
21 judge, Terry Canales placed a telephone call to
22 me at the courthouse in Jim Hogg County.

23 Q Was that after the legislature had gone into
24 session out of which H.S.R. 161 evolved?

25 A The legislature was just about ready to adjourn.

1 It was just about two weeks before, or something
2 like that.

3 Q All right. What was the nature of that
4 conversation?

5 A Well, he called me and he asked me to step down
6 from the bench using the indictment that had been
7 brought over in Corpus Christi Division, and step
8 down and not hear any more of those cases, and
9 I -- From my understanding, what he was trying to
10 do was to get me to step down and not hear the
11 Parr cases.

12 Q Had you -- what was this understanding based on,
13 Judge Carrillo?

14 A Well --

15 Q Anything that he told you?

16 A Well, I knew that he was a state representative,
17 but I knew that he was a lawyer who was practicing
18 in my court and had those cases pending, and I
19 felt -- I felt it very inappropriate for him to
20 ask me to step down. He said, "Either you're
21 going to step down or I'm going to file impeachment
22 proceedings against you."

23 Q Do you recall specifically his threat to file
24 impeachment proceedings?

25 A Yes.

1 MR. ODAM: Objection, Your Honor, to
2 any testimony what Mr. Canales said to
3 Judge Carrillo at some time ago on the grounds
4 of hearsay.

5 THE MASTER: If it is offered to prove
6 the truth; if it is offered to show this man's
7 state of mind, of course it is admissible for
8 that.

9 MR. MITCHELL: Yes, it is.

10 THE MASTER: I am not sure, Mr. Mitchell,
11 of the relevancy of this line, though. I mean,
12 just to educate me, what does this go to?

13 MR. MITCHELL: Judge, the -- we are now
14 onto an area of showing that the -- not only
15 is this in connection with our motion to
16 disqualify, but also our due process
17 considerations and our affirmative defense as
18 regards the motive behind this procedure, and
19 I think they are relevant. It relates to
20 due process.

21 THE MASTER: Well, let's take up the
22 motion to disqualify first. How does this
23 relate to the motion to disqualify? You
24 said it did, I didn't see what Representative
25 Canales did or said to Judge Carrillo can

1 disqualify the attorney general.

2 MR. MITCHELL: Well, Judge, on the
3 motion to disqualify, of course we are going
4 to get the attorney general's staff involved,
5 and of course it is indirectly related to
6 the motion to disqualify, not directly. It
7 is not directly related.

8 THE MASTER: All right. Now what --
9 explain your due process authority a little
10 more clearly to me so I can understand and
11 make rulings on objections as to relevancy.

12 MR. MITCHELL: Judge, we have actually
13 set out in our answer procedural and
14 substantive due process consideration.

15 THE MASTER: Yes, I read it.

16 MR. MITCHELL: We say, and this is
17 Page 20, we say that here the -- not only has
18 there been a direct violation of the expressed
19 language of the rules promulgated to govern
20 procedures of this type, which was covered
21 on Page 16, but we say that here there is a
22 spill-over of the evidence of the hearing in
23 Austin before the House subcommittee into
24 the present formal, the amended formal
25 procedure, that is the first thing. It is

1 the spill-over of that testimony.

2 In other words, the evidence now shows
3 that he got a notice back in May, one, two
4 and three, and after that was amended, we
5 are going to interrelate that amendment and
6 the input into that amendment into -- from
7 the evidence gathered at that House hearing,
8 that subcommittee hearing. That subcommittee
9 hearing, we say, violated due process, no
10 notice, no right of cross-examination, and
11 we say that the input into the present formal
12 hearings, Judge Meyer, it is like reaching
13 over with the bucket in the syrup, bringing
14 it over into this procedure, you see, and we
15 say that for that reason, that certainly the
16 fact of no right to cross-examine, the fact
17 of no notice, et cetera, would be relevant.

18 Now, we are going to, of course, carry
19 the labeling oar, which we intend to do by
20 this witness, by Mr. Pipkin, by Mr. Canales,
21 we are going to show, as a matter of fact,
22 what happened was after that original
23 proceeding was filed, that original notice,
24 Judge Meyer, was that they simply dipped
25 over into that record in that H.S.R. 161,

1 brought it over, amended that formal
2 procedure, and here we are today. That is
3 part of that.

4 THE MASTER: All right.

5 MR. MITCHELL: And -- excuse me, the
6 haste of the proceedings today, in other
7 words, the notice, the lack of notice which
8 we have already shown, which I think we have
9 shown this man had absolutely no notice,
10 certainly none within the rules -- I did,
11 but he didn't.

12 Now, we are talking about a composite
13 picture, Your Honor, to show a want of due
14 process, subject to that procedure, the
15 spill-over evidence in violation of his rights,
16 the haste of these proceedings, the
17 participation of the attorney general in all
18 action against the Court so as to preclude
19 him being what we are considering to be a
20 proper examiner.

21 This is a swing procedure to take this
22 man and carry it all through.

23 THE MASTER: I am following you, and I
24 also see that -- well, I am following you.

25 MR. MITCHELL: Excuse me, Judge.

1 THE MASTER: I do not believe your
2 objection with respect to hearsay is good,
3 Mr. Odam, because I do not understand your
4 offering what Mr. Canales said for any truth
5 of the matter, just the fact that the words
6 were said.

7 MR. MITCHELL: The threat was made,
8 that is right.

9 THE MASTER: All right.

10 MR. MITCHELL: Except to the extent,
11 Judge Meyer, that my next question was going
12 to be who sponsored H.S.R. 161 and I think it
13 would be Mr. Canales.

14 THE MASTER: All right.

15 MR. MITCHELL: I think the record speaks
16 to that without any doubt.

17 MR. ODAM: Just to clarify my position,
18 it is my intention to object if the evidence
19 is introduced for the purpose of showing the
20 truthfulness of Mr. Canales' statement. If
21 he wants to show a state of mind or some
22 other exception to the Hearsay Rule, I will
23 have --

24 MR. MITCHELL: I think, Your Honor, we
25 all understand what I am offering or

1 requested was the state of mind and it would
2 not be hearsay to verbal acts in conduct.

3 THE MASTER: All right.

4 MR. ODAM: Let me see if I could restate
5 for the purpose of the record --

6 MR. MITCHELL: Sure.

7 MR. ODAM: In light of Mr. Mitchell's
8 statement, as I understand the statements
9 of Judge Carrillo on these points with regard
10 to Mr. Canales, the entire House procedures
11 that he has come up with, as alleged here as
12 he knows was alleged before the federal court
13 in Austin, Texas, these procedural due process
14 rights, some -- in my humble opinion, some
15 novel theory, simply because something was
16 going on over in the House of Representatives
17 that may or may not have been evidence or
18 will be evidence in these proceedings, that
19 that will somehow make it relevant for these
20 proceedings.

21 My purpose, Your Honor, is again to
22 raise the objection of the relevancy of all
23 of these, I do not think that the legal basis
24 for these motions is supported in law, on
25 any application of any statutes nor case law

1 of whatever procedures went on in the House
2 of Representatives. Whatever evidence was
3 adduced at those House hearings, whatever
4 may have been adduced at the Senate hearings,
5 is of relevancy to a claim of due process
6 that would relate here.

7 As he said to pick up over there and to
8 bring it in over here, that hasn't been shown
9 yet to even take place. So again, my
10 objection is relevancy for all of this
11 testimony.

12 THE MASTER: All right. But do you feel
13 so strongly that your objection is right, that
14 I have the authority to cut off all evidence,
15 whether on a bill or not?

16 MR. ODAM: No, sir.

17 THE MASTER: I do not think so. I think
18 Mr. Mitchell has an absolute right --

19 MR. MITCHELL: And particularly, Judge
20 Meyer --

21 THE MASTER: And particularly in my view
22 as I said earlier making this record so much
23 for me to rule upon, as for the Judicial
24 Qualifications Committee to rule on and
25 ultimately the Supreme Court and maybe the

1 Supreme Court of the United States.

2 MR. ODAM: And again, the reason I raised
3 these objections, it is actually for the record,
4 just like his testimony is for the record, and
5 I do not want to be -- I do not want it at
6 some later point where if any court ever
7 would grant the opportunity to hear this case,
8 say I am sorry that we can't do that because
9 for some reason the examiners let that
10 testimony in.

11 THE MASTER: Yes, sir.

12 MR. ODAM: And waived all of these
13 rights.

14 THE MASTER: Yes, sir.

15 MR. ODAM: That is the purpose of my
16 objection. I don't mean to get heated about
17 it here, except just personally I feel it is
18 far afield.

19 Again, the purpose of my objection, for
20 the record, simply as his testimony is, that
21 later on we have not waived any of these
22 objections that should be made.

23 MR. MITCHELL: I understand, and further
24 to explicate my theory and philosophy, and
25 the philosophy of the Qualifications

1 Committee is very narrow and subject to
2 being abused, and we have been very careful.

3 And consequently, if it please the Court,
4 with this in mind, we are going into further
5 evidence. In order for the future objections,
6 if we might have the entire minutes of the
7 Select Committee on Impeachment introduced
8 at this point, and particularly Page 9, and
9 as a background to my further questioning of
10 this witness.

11 THE MASTER: Can you mark it as one
12 exhibit?

13 MR. MITCHELL: Yes, please, Judge, if
14 it will be all right.

15
16 (Whereupon, the above-mentioned
17 document was marked for identification as
18 Respondents' Exhibit No. 21.)

19
20 MR. MITCHELL: I represent to counsel
21 that the minutes of the Select Committee on
22 Impeachment meeting indicate the minutes that
23 were given to us as represented by that
24 group as being the correct minutes of that
25 meeting of that body.

1 Page 9 interrelates to the matter I will
2 ask the judge about. The Judicial
3 Qualifications Committee in contact with the
4 H.S.R. 161 Subcommittee that is precisely
5 what we are talking about.

6 MR. ODAM: Again, for the purpose of
7 the record, the objections for relevancy and
8 the purposes of jurisdiction just a running
9 objection on both of these. A running
10 objection not only to the jurisdiction, but
11 running objection to the relevancy of these
12 proceedings.

13 THE MASTER: You may have that objection
14 to all of this documentary evidence and
15 testimony.

16 Q (By Mr. Mitchell) Judge Carrillo, so now then the
17 continuity is established, the date of this
18 conversation with Mr. Canales, please, sir, about
19 about what was the date of that conversation?

20 A It was --

21 Q Let me interrupt you for the purposes of your
22 recollection: Would you please look to the date
23 of R-17, which is the wire DeWitt Hale sent to
24 you, noticing these May 20th, 1975 hearings of
25 the committee of the House of Representatives of

1 the State of Texas.

2 A I would say it was about a week before that.

3 Q All right, sir. Now, as a matter of fact then,
4 did Mr. Canales call you back --

5 MR. MITCHELL: Strike that.

6 Q (By Mr. Mitchell) What was your answer to
7 Mr. Canales?

8 A Well, when Mr. Canales asked me to step down from
9 the bench or else he would introduce impeachment
10 proceedings in the House, I advised him that he
11 should do whatever his duties called for him to
12 do and I should do what my duties called for me
13 to do and that was the end of the conversation.

14 Q And what was -- was there pending before you a
15 motion for partition filed by Arnulfo Guerra to
16 remove certain people from the school board of
17 the Benavides Independent School District?

18 A These were for removal of Archer Parr as county
19 judge and disbarment proceedings against George
20 Parr and Archer Parr.

21 Q For the purposes of the record, Judge Carrillo,
22 did you hear the suit by the State Bar against
23 Archer Parr finally after that?

24 A No, sir, I disqualified myself.

25 Q And was he, in fact, removed?

1 A Yes, sir, he was.

2 Q Did you hear the case of -- to remove Archer Parr,
3 was that a trial before your court?

4 A Yes, sir, it was.

5 Q And was Mr. Parr represented by counsel?

6 A He was.

7 Q And was that order entered removing him?

8 A Yes, sir.

9 Q And was there an appeal taken from that?

10 A Not to my knowledge.

11 Q All right.

12 THE MASTER: Mr. Mitchell, you mentioned
13 two cases to remove Archer Parr. Was one
14 to disbar him and one to remove him from
15 office?

16 MR. MITCHELL: Yes, Judge, let me be
17 sure that the record is clear.

18 THE MASTER: Did he not -- Judge
19 Carrillo, did not try the disbarment suit?

20 A No, sir, I did not.

21 THE MASTER: It was the removal suit
22 that you tried?

23 A Yes, sir.

24 THE MASTER: All right, the record was
25 not clear on that.

1 Q (By Mr. Mitchell) Let me ask you who presided
2 over the trial of the State Bar versus Archer Parr,
3 do you recall that?

4 A Judge Darrell Hester.

5 Q Did you call Judge Hester in on that case?

6 A No, I called Judge Alamia, the administrative
7 judge, and advised him what I intended to do a day
8 or so before that. And he asked me to consider
9 the matter and advise him and then I called him
10 and I said, "Judge, I am going to refuse to hear
11 this case and I am going to step down and let
12 some other judge handle it."

13 Q All right. And as a matter of fact, Terry Canales
14 appeared before your court and requested a
15 continuance on that very case after the legislature
16 adjourned, isn't that correct?

17 A He appeared in court and as I understand it, he
18 had a motion to disqualify, which he did not file
19 because I announced from the bench when I got on
20 the bench and called the case immediately that I
21 had announced that I had an announcement and that
22 was that I was going to refuse myself from the case
23 and ask the administrative judge to appoint another
24 judge to hear the case.

25 Q As a matter of fact, did Terry Canales represent

1 Archer Parr at the final hearing?

2 A Yes, he did.

3 Q Now, going back to the removal procedures itself,
4 who represented Archer Parr at that trial?

5 A Marvin Foster, an attorney at law in San Diego,
6 Texas.

7 Q All right. Now, do you know who authorized H.S.R.
8 161?

9 A Representative Terry Canales.

10 Q All right. And by looking at that exhibit there
11 that you have in front of you, which is
12 Respondents' 17, does it contain the date of
13 H.S.R. 161 sufficient to where you could testify
14 as to when it was introduced?

15 A Well, this states that the committee would meet
16 at 8:00 p.m. on Tuesday, May the 20th. It does
17 not state when the resolution was introduced.

18 This telegram, by the way, seems to be dated
19 May the 19th, the day before.

20 Q It appears that from the time that you had your
21 conversation, or Mr. Canales had his conversation
22 with you, to that date of that notice, that there
23 had been in fact a resolution introduced as
24 regards to impeachment, is that correct?

25 A Yes, sir, Representative Canales introduced his

1 resolution approximately three or four days after
2 he called me on the telephone.

3 Q Now, Judge Carrillo, I will hand you R-21 and
4 specifically Page No. 9, which appears to be the
5 Select Committee on Impeachment, Meeting No. 5,
6 May 23rd, 1975 at 11:00 o'clock a.m.

7 A Yes.

8 Q Do you notice that?

9 A Yes.

10 Q It appears that at that time, Representative
11 Thompson, who was a member of that subcommittee,
12 moved to have that subcommittee, that is the
13 Select Committee on Impeachment, that was set up
14 pursuant to that resolution 161, they have that
15 subcommittee contact the attorney general to obtain
16 information that his office may have gathered on
17 you as a district judge.

18 A Yes.

19 Q Isn't that what it says?

20 A Yes, sir.

21 Q All right. In addition, then, Representative
22 Neighbors, who sat on that subcommittee, moved
23 to amend that subresolution to include that
24 instruction that the committee contact the
25 Judicial Qualifications Committee.

- 1 A Yes, sir.
- 2 Q And that resolution passed, did it not?
- 3 A Yes, it did.
- 4 Q It appears what happened from that subcommittee,
5 that resolution, that an inquiry was made of the
6 attorney general to get whatever information they
7 might have gathered on you as of May the 23rd,
8 1975, am I correct?
- 9 A Yes, sir.
- 10 Q And at the same time, move over to the Judicial
11 Qualifications Committee.
- 12 A Yes, sir.
- 13 Q As a matter of fact, did you have some conversation
14 which indicated that that is precisely -- personal
15 knowledge that is precisely what did occur,
16 Judge Carrillo, that the subcommittee moved into
17 the Judicial Qualifications Committee as well as
18 into the attorney general's office as regards
19 information they might have gathered under that
20 Task Force that had been organized earlier that
21 year?
- 22 A Yes, Mr. Pipkin, I believe, advised me that he
23 had talked to Representative Canales and to the
24 vice-chairman of the committee and -- Select
25 Committee on Impeachment.

1 Q And did he indicate to you whether or not he had
2 given them all the information that he had as
3 regards -- as relates to that original letter?

4 MR. MITCHELL: And for the record, we
5 are talking about R-1, and your response,
6 which is R-2, and I will hand it back to
7 you.

8 A Well, Mr. Pipkin told me that when we met in
9 San Diego at the office, that he had talked to
10 them.

11 Q (By Mr. Mitchell) To whom now?

12 A That he had talked to Representative Canales and
13 to the vice-chairman of the committee.

14 Q All right, sir.

15 A As I recall.

16 Q All right.

17 A And that was the only -- I don't remember the
18 exact -- what the conversation was or whether -- I
19 don't believe he told me what he had discussed
20 either with Mr. Canales or with the vice-chairman,
21 except for the fact that he had a visit with them,
22 and that is all.

23 Q All right. He didn't tell you the extent of that
24 visit?

25 A No, sir.

1 Q Or how much of the file was turned over?

2 A No, sir.

3 Q All right. Judge Carrillo, as of the time that
4 you -- that the applications were filed with your --
5 in your court, that is with the district clerk's
6 office for the removal of Archer Parr, did --
7 state whether or not there was a split between the
8 Parr faction and the so-called Carrillo faction as
9 of that time?

10 A There was.

11 Q Were you asked or intimidated and threatened to
12 stand down from those cases by the Parr faction?

13 A I was.

14 Q Can you tell this Court how many motions were
15 filed or mandamus requests were filed, first of
16 all, in the Court of Civil Appeals to preclude
17 those cases from coming to trial in your court?

18 A There were -- I couldn't even start to guess,
19 Mr. Mitchell. They used to file motions just
20 about every once a week, every time we had a
21 hearing. They would file a motion to disqualify
22 and the motion to disqualify and --

23 Q What did they --

24 A Finally one day Mr. Archer Parr himself talked to
25 me and he told me that if I would reinstate him

1 as county judge and remove the district attorney,
2 that he would stop the impeachment proceedings
3 in Austin.

4 Q All right. Now, let me ask you this: Let's limit
5 our answer now to the -- to those motions or those
6 mandamuses that were filed with the clerk of the
7 Court of Civil Appeals and those -- did the Court
8 of Civil Appeals ever interfere with the way you
9 handled those cases?

10 A None, they always denied their applications.

11 Q Do you recall the mandamus having been granted to
12 set down the case for trial?

13 A Yes, sir.

14 Q All right. And do you recall that the Court of
15 Civil Appeals ordered you to try that case?

16 A Yes, sir, they did.

17 Q And did you recall having tried it as per the
18 order of that court?

19 A I did.

20 Q And do you recall how many applications or how
21 many motions were filed or attempted to be filed
22 with the Supreme Court along the same subject
23 matter?

24 A There was another great amount, I don't remember
25 how many there were, but there were numerous

1 amounts.

2 Q All right. Did the pressure build up during that
3 period of time, Judge Carrillo, because of the
4 filing of the application to remove Judge Parr,
5 Archer Parr as well as some of the other members
6 of the Benavides Independent School District?

7 A Yes, sir.

8 Q I will ask you this: You heard Arnulfo Guerra's
9 testimony under oath before that Select -- that
10 House subcommittee.

11 A Yes, sir.

12 Q Do you recall his testimony as regards there being
13 no agreement with you or no understanding with
14 you or no participation by you in the preparation
15 of those petitions to remove, do you recall that?

16 A Yes, I do, because that is exactly what I told
17 Mr. Parr when he approached me. I didn't want to
18 discuss it with him, but I discussed it very
19 briefly, but I told him that matter of dropping
20 those removal cases should be brought up with the
21 district attorney and not with me.

22 Q All right. Now, Mr. Parr had been convicted,
23 had he not, in the federal court for false
24 swearing?

25 A Yes, sir.

1 Q And that sentence is being carried out presently,
2 is that correct?

3 A Yes, sir.

4 Q Do you recall whether or not the judge was
5 appointed after the order of removal was entered
6 of Judge Parr?

7 A Yes, sir.

8 Q And I believe you told us that that order was not
9 appealed from by Judge Parr?

10 A As far as I know. About a week ago, I asked my
11 court reporter whether or not a statement of facts
12 had been ordered in the case for an appeal, and
13 he said no statement of facts had been ordered in
14 it.

1 Q Now, during this period of time -- by that I
2 mean the period of time HR61 was introduced into
3 the house, do you recall whether or not Marvin
4 Foster, who was an attorney in Duval County, do you
5 recall whether he was in attendance at those ses-
6 sions at the impeachment proceedings?

7 A Yes, he was sitting at the counsel table.

8 Q Do you recall whether or not he, during this
9 period of time, conferred with Terry Canales and
10 Mr. Canales caused the basic input into that meet-
11 ing?

12 A Yes, he fed notes to Mr. Canales as the counsel
13 for the committee.

14 Q Do you recall I subpoenaed Mr. Marvin Foster and
15 Terry Canales and was refused the right to cross-
16 examine each of them?

17 A Yes, sir.

18 Q Do you recall I issued a subpoena to Terry Canales
19 and was also refused the right to subpoena him?

20 A Yes, sir.

21 Q Now, counsel for the attorney general mentioned
22 a suit involving, I believe, a federal district
23 court in the Western District.

24 Let me ask you about that, if you recall
25 that, do you not?

1 A Yes, sir, I do.

2 Q Do you recall the style of that as being O. P.
3 Carrillo versus Bill Clayton?

4 A Yes, sir.

5 Q Do you recall this being a civil rights action?

6 A Yes, sir.

7 Q Do you recall whether I suggested that would be
8 feasible to file that action at that time?

9 A Yes, sir.

10 Q And this was following the adoption of the House
11 of the Articles of Impeachment?

12 A Yes, sir.

13 Q Do you recall that?

14 A Yes, sir.

15 Q Do you recall that this petition was prepared by
16 me at your instruction and filed with the district
17 clerk of the federal district court in Austin?

18 A I do.

19 Q Do you recall that thereafter, Judge Roberts communi-
20 cated to us that Judge Brown had informed him he
21 would not let a three judge court hear that matter?

22 A Yes, sir.

23 Q And there was an attorney with the attorney
24 general's office representing the defendants and
25 I represented your interest and the request was

1 made for a dismissal and the judge permitted this?

2 A Yes.

3 Q Was that an extensive piece of litigation?

4 A Very much, sir.

5 Q As regards your attorneys, you had employed me
6 the latter part of 1974, is that correct?

7 A Yes.

8 Q With notice that came out of the appellate division
9 in Dallas?

10 Q And I have been employed by you ever since that
11 time?

12 A Yes.

13 Q And I have used Jan Fox out of my staff and Mr.
14 Richard Haynes in connection with the I.R.S. trial?

15 A Yes. Also Mr. Bonilla.

16 Q Yes, and Mr. Willie Bonilla as local counsel.

17 A Yes, sir.

18 Q Judge Carrillo, now, the earlier testimony indi-
19 cated the Senate had adjourned. Do you recall
20 whether or not a time had been fixed for that
21 to start?

22 A I believe November 18.

23 Q 1975?

24 A Yes.

25 Q And you earlier testified that the sentencing by

1 this court was November 17th?

2 A Yes, sir.

3 Q And the motion for a new trial was set for Novem-
4 ber 14th, 1975?

5 A Yes, sir.

6 Q Let me ask you this.

7 In connection with the Grand Jury and the
8 task force, I am going to ask you questions in
9 relations with that and the Grand Jury.

10 A Yes, sir.

11 Q I will ask you -- I believe you have already told
12 us there was a member of the attorney general's
13 staff in constant attendance in that county, in
14 Duval County?

15 A Correct, sir.

16 Q Now, I will ask you this. Have indictments been
17 returned against you by that Grand Jury or a
18 related Grand Jury, and if so, tell us when and
19 what for.

20 A The Duval County Grand Jury has not returned any
21 indictments against me.

22 Q Has there been another county that has?

23 A Yes, Jim Wells County.

24 Q Tell us what that is for.

25 A I still have not been able to figure out what it

1 was for. It was supposed to be for theft over
2 two hundred dollars and less than five thousand,
3 but it doesn't specify what the offence was.

4 Q Do you know where the endput came from that on?

5 A The task force.

6 Q That is the attorney general?

7 A Yes.

8 Q As a matter of fact, you retained me to represent
9 you in that and I filed a motion for continuance
10 and Judge Woodrow Laughlin has granted that and
11 set an arraignment in that case?

12 A Yes, sir.

13 Q I will ask you whether or not your brother, Ramiro
14 Carrillo, has been indicted in Duval County by
15 the Grand Jury.

16 A No, sir.

17 Q Where has he been indicted?

18 A Jim Wells County.

19 Q By the same Grand Jury?

20 A Yes, sir.

21 Q Do you know the status of that indictment?

22 A The same as mine. They are both recessed for
23 arraignment in the next week or so.

24 Q I will ask you about members of your family. Let's
25 take Rogelio Guajardo, is he a member of your

1 family?

2 A Yes, sir.

3 Q Is he on the Benavides School District?

4 A Yes, sir.

5 Q Has he been indicted by the Grand Jury in Jim
6 Wells County?

7 A Yes, sir. Also my brother-in-law.

8 Q And did that come as a result of the input by the
9 attorney general and the task force?

10 A Yes.

11 Q Do you know who he has employed to represent him?

12 A Mr. Guajardo has employed you.

13 Q How many motions have been filed there?

14 A Several.

15 Q Do you know the status of it?

16 A I believe it is set for December 5th for pretrial
17 and a trial on the merits on December 15th.

18 Q Now, I will ask you also, as regards to the peti-
19 tion for removal, have there been petitions for
20 removal of you and your family in Duval County?

21 A Petitions for removal of my brother as county
22 commissioner and that is set for Wednesday of this
23 week.

24 Q Do you know who Ramiro has employed to represent
25 him?

- 1 A He has employed you.
- 2 Q Do you know whether pleadings have been filed in
3 that case?
- 4 A Filed this morning, sir.
- 5 Q Judge Carrillo, you are aware -- are you aware of
6 publicity that is a spinoff of the various actions
7 you have outlined generally this morning?
- 8 A Yes.
- 9 Q Were you present in the courtroom before Judge
10 Cox when an application for continuance was filed
11 and several of the newspaper reporters testified
12 at this trial?
- 13 A Yes, sir.
- 14 Q Would you characterize the publicity as being
15 massive in this area?
- 16 A Yes.
- 17 Q Do you recall what Bones Pearson testified to
18 out of one newspaper about you?
- 19 A Yes, I think he said there were approximately one
20 hundred and seventy some-odd news stories within
21 that period of time with me, plus coverage in all
22 of the T.V. stations, not only in this city, but
23 in the area daily.
- 24 Q You have been able personally to keep up with a
25 lot of that and some of it gets beyond you?

1 A I would say I am on T.V. and in the newspaper
2 daily and it has come to the point that wherever
3 I go, everybody recognizes me, even in Corpus
4 Christi.

5 Q Would you characterize the publicity as being
6 massive?

7 A Yes.

8 Q And the testimony given in the federal trial was
9 given prior to the trial?

10 A I didn't hear you.

11 Q The testimony you recounted for this record of
12 Spencer Pearson, is that his name?

13 A Yes, that was before the trial in federal court.

14 Q Did not include the articles that grew out of that
15 four week long trial?

16 A No, sir.

17 Q And there have been appearances since then?

18 A Yes.

19 Q All right. Now, Judge Carrillo, there is mention
20 in your pleadings here of a resolution that was
21 adopted by the Fifth Administrative District.

22 Let me direct your attention to that. First
23 of all, what is that district?

24 A That is -- the State of Texas is divided into
25 administrative districts and there is an administra

1 judge that looks after the affairs of the judges
2 when they need help or whatever it is, it is
3 reported to him. This covers an area from Corpus
4 Christi down to my district and on down up through
5 the Valley.

6 Q Who is the chief of that district?

7 A Judge Alamia.

8 Q Does that district -- how many judges compose that
9 district?

10 A I believe we have eighteen judges in the district.

11 Q Do those judges meet from time to time?

12 A Yes, sir.

13 Q Do you recall a resolution adopted by that dis-
14 trict?

15 A I do, sir.

16 Q Tell us, please, first of all, when you received
17 notice of such a resolution?

18 A Judge Alamia called me on the telephone. I was
19 holding court in Jim Hogg County and he said he
20 wanted to visit with me. I told him I was in the
21 middle of a trial and I was unable to get away.
22 He said it is urgent that I visit with you and I
23 will meet you where you want.

24 Q When was this?

25 A During the trial of the Archer Parr case.

1 Q Time, please.

2 A That was in -- again, I am sorry, Mr. Mitchell,
3 it was --

4 Q Let me ask you this way.

5 That is the time set by the Court of Civil
6 Appeals in San Antonio when you were to try that
7 case?

8 A Yes, sir, it was during that time.

9 Q All right. Go ahead.

10 A Anyway, after I talked to him on the phone, a
11 newspaper reporter walked up to me and said were
12 you aware the resolution had been passed by the
13 judges of the Fifth Administrative District asking
14 for your resignation.

15 Q That was in the first part of July of this year?

16 A Yes, sir. I told him I was not, but I imagined
17 that was what Judge Alamia wanted to talk to me
18 about, so I called him and asked him about it.

19 He said now that you know, it is what I
20 wanted to talk to you about and I would like to
21 see you this afternoon, so I met with him that
22 afternoon. He told me that the judges had passed
23 a resolution asking for my resignation and I was
24 under the impression that all of the eighteen
25 judges had signed the request.

1 The newspaper carried that and it was not
2 until the following day, when several district
3 judges called me and told me they had no part of
4 it whatsoever that I knew anything different.

5 I called Judge Alamia back and I said, I
6 am getting these calls, and he said five judges
7 were present at the meeting and four voted for
8 the request.

9 Q The newspaper had carried the account that all
10 of the judges had voted unanimously for you to
11 resign?

12 A Correct.

13 Q And upon some of them reading the account in the
14 newspaper, they called you and the final investiga-
15 tion revealed that only four voted?

16 A That is correct.

17 Q Do you recall who those four were?

18 A Judge Darrell Hester, Judge Alamia, Judge Evans
19 and I am not sure of the fourth one, sir.

20 Q As a matter of fact, it was those same four
21 judges that recently placed your staff under
22 suspension?

23 A Yes, sir.

24 Q And Judge Hester set down a hearing for the removal
25 of your brother and one of your in-laws, is that

1 correct?

2 A Correct, sir.

3 Q Judge Carrillo, for the purpose of further authenti-
4 cation, let me hand you please, sir, commencing
5 with R-1, I want you to examine the documentation
6 indicated there and tell us if there is any there
7 that you do not know to be authorized by you or
8 produced by you or you have personal knowledge in
9 connection with.

10 A All right.

11 Q You are down to R-4?

12 A Yes, sir.

13 Q And now down to R-5?

14 A Yes, sir.

15 Q And you recognize R-7 as being the answer by you,
16 the matter of the impeachment, and I filed that
17 in your behalf?

18 A Yes, sir.

19 Q And you are now to Number 8?

20 A Yes, sir.

21 Q And a motion to disqualify the attorney general
22 in connection with the impeachment is R-9?

23 A Yes.

24 Q R-10 is the answer to the notice of formal proceed-
25 ings previously filed, do you recall those?

1 A Yes, sir.

2 Q Do you recognize them?

3 A Yes, sir.

4 Q R-11, you recognize as being the request for an
5 indefinite continuance in Cause Number 75-C-45
6 here in the Southern District?

7 A Yes, sir.

8 Q Do you recall R-12 as being a reponse in that
9 matter?

10 A Yes, sir.

11 Q And 13?

12 A I do.

13 Q And a motion for trial being R-14, in Cause
14 Number 75-C-45, setting the hearing on the 14th
15 of November, 1975?

16 A Yes, sir .

17 Q Do you recognize R-15 as being the pretrial motions
18 filed in 75-C-45?

19 A Yes, sir.

20 Q In addition, do you recognize R-16 as being a
21 copy of an article by Mr. Long in the newspaper?

22 A Yes, sir.

23 Q And R-17, 18 and 19 that have been previously
24 authenticated by you?

25 A Yes, sir.

1 MR. MITCHELL: I pass the witness.

2 MR. ODAM: Could I have a moment, sir?

3 THE MASTER: Would you prefer a break
4 at this time for lunch, since we are only
5 about fifteen minutes away from that point,
6 and come back at two or two-fifteen?

7 MR. ODAM: Yes, sir.

8 THE MASTER: I will be in recess until
9 two-fifteen.

10

11

(Lunch recess taken.)

12

13

THE MASTER: Are you ready to proceed,
14 Mr. Mitchell?

15

MR. MITCHELL: Yes, Judge.

16

17

THE MASTER: On the record, Mr. Mitchell,
18 the thought occurred to me that we ought to
19 reach some agreement about what is to be
20 done with the various papers at recess, not
21 at noon recess necessarily, but at evening
22 recess.

23

This matter is to be confidential.

24

They tell me that it is a secure building,
25 that is when they go out they lock up and
that is that.

1 I think it would be -- it wouldn't be
2 too much of a problem, but it could get to
3 be a problem moving all of these papers in
4 and out. Are you content with leaving them
5 in the courtroom?

6 MR. MITCHELL: Yes, Judge, just to have
7 someone in charge of the security is fine
8 with us, to lock the door.

9 THE MASTER: I don't know who is in
10 charge, the clerk is, and she will open up,
11 but I can't imagine, I wouldn't think,
12 anybody coming through and rifling through
13 the papers.

14 MR. FLUSCHE: I can see that the clerk
15 locks it up every night.

16 THE MASTER: She can't lock this door,
17 it has got a lock on it, but there is no key
18 to it, so it can't be locked. But they lock
19 the front door and they lock these two doors.

20 MR. MITCHELL: Excuse me, Judge. May I
21 proceed on just one matter before I turn the
22 witness loose?

23 Earlier I had raised --

24 THE MASTER: You had passed the witness,
25 that is true.

1 MR. MITCHELL: That was in connection,
2 Judge, with the exhibit number that I had
3 reserved so that I could -- so that my record
4 is complete.

5 THE MASTER: Yes, that is Exhibit 20.

6 MR. MITCHELL: That was 20, yes, sir.
7 May I do a little housekeeping at this time?

8 THE MASTER: Yes, sir.

9 MR. MITCHELL: I would like to have this
10 marked, please.

11
12 (Whereupon, the above-mentioned
13 document was marked for identification as
14 Respondents' Exhibit No. 20.)

15
16 Q (By Mr. Mitchell) Judge Carrillo, I hand you
17 what has now been marked as Exhibit 20 and ask you,
18 please, sir, very -- I have been leading all
19 morning, but I will ask you if that is the
20 documentation that you were telling us about
21 earlier that Mr. Pipkin had handed you at that
22 visit between the time that the May 2nd, 1975
23 letter and your answer was executed?

24 A Yes, sir, it is.

25 Q All right, sir.

1 MR. MITCHELL: Your Honor, we would
2 like at this point to offer Exhibit 20 for
3 the continuity of the record. I believe the
4 record has these documents in it, but because
5 there was a gap in the record, I feel a little
6 better if the record upstairs spoke to R-20.

7 MR. ODAM: I have no objection, Your
8 Honor, except the objections previously
9 stated.

10 THE MASTER: Yes, sir, and those are
11 being carried along.

12 MR. MITCHELL: I would like to have, if
13 I might, Mr. Reporter, the answers to be
14 marked R Exhibit 20-A so that we have R
15 Exhibit 20, which is the notice of formal
16 hearing, and R Exhibit 20-A, which is the
17 answer, if I might.

18
19 (Whereupon, the above-mentioned
20 document was marked for identification as
21 Exhibit R-20-A.)

22
23 Q (By Mr. Mitchell) R Exhibit 20-A, does that
24 appear to be the answer that you authorized me to
25 file in behalf of you to the notice of formal

1 proceedings being R Exhibit 20, Judge Carrillo?

2 A Yes, sir, it is.

3 MR. MITCHELL: Your witness, Mr. Odam.

4 Thank you, Judge.

5 MR. ODAM: Your Honor, at this time
6 before I begin on the cross-examination of
7 Judge Carrillo, I wonder if I could have the
8 Court's permission to make a statement re-
9 urging an earlier point?

10 THE MASTER: Yes, sir.

11 MR. ODAM: Your Honor, it appears to me
12 that counsel for Judge Carrillo has presented
13 matters to be considered by the Master and
14 is attempting to develop a record for some
15 purpose.

16 One indirect purpose of this is whether
17 intentional or unintentional, is delay, and
18 the purpose of coming down here in the first
19 place, that is pursuant to rules for the
20 Master to "make findings of fact."

21 It appears to me that the matters which
22 we have gone into with Judge Carrillo thus
23 far this morning pertain only and primarily
24 to the Plea in Abatement and the special
25 exceptions and other motions.

1 I would like to, at this time, to re-
2 urge our objection to the jurisdiction of
3 the Master to hear that evidence. It is not
4 only to hear the evidence, but rather to
5 take the time of the Master at this point in
6 the proceedings.

7 I would submit that the only motions
8 that are possibly within the jurisdiction of
9 the Master are the motions in limine, which
10 as Mr. Mitchell well knows are motions
11 directed to evidence, and which, if ruled
12 upon favorably, the evidence would come in
13 before the Master on the bill of exceptions.

14 However, in the motion for indefinite
15 continuance under the rules of the Supreme
16 Court, this would be a proper motion for an
17 indefinite continuance, but as to the
18 special exceptions and the Plea in Abatement
19 and the motion to disqualify the attorney
20 general, these are legal matters that would
21 be considered by the Commission at a time
22 when they make a response or make a decision
23 on the answer.

24 It would be entirely possible under the
25 rules of the Supreme Court for these types

1 of matters, for the Master to hear all of
2 this evidence -- correction, it would be
3 entirely possible for the special exceptions
4 for the Pleas in Abatement to be presented
5 at a later time to the Judicial
6 Qualifications Commission, and the rules
7 provide that the Commission at any time could
8 hear additional evidence on those Pleas in
9 Abatement or they could refer the matter back
10 to the Master to hear evidence on that -- on
11 those matters.

12 As I see, and we have been served just
13 recently with some more subpoenas, we have
14 subpoenas for Maurice Pipkin, Jose Alamia,
15 Elvira Rodriguez, Edward Cline and Judge
16 Carrillo as a witness would make five, and I
17 counted up a total of nineteen witnesses, all
18 it appears to me on matters of pretrial. And
19 again, the purpose to come down here, I
20 thought, was to make findings of fact and get
21 along with the business.

22 As I just made the point, it appears to
23 me that the Commission, under the rules,
24 can consider the Pleas in Abatement, consider
25 the special exceptions and if the Commission

1 wants to hear evidence from the witnesses,
2 for example, John Hill, Garland Smith,
3 Elizabeth Lebitson, and Judge Darrell Hester,
4 they could do so and refer the matter to you,
5 but it simply seems to me that for us to take
6 the time and to make this record, is not
7 getting about the business we came down here
8 for.

9 Again, the rules seem to me to clearly
10 contemplate that these types of matters could
11 be presented at a later time. Mr. Mitchell
12 is well known and I highly respect him for
13 his knowledge of Rules of Civil Procedure.
14 Dean Boswell from our School of Law at
15 Baylor would probably give him A pluses all
16 the way across on rules of procedure, and it
17 simply seems to me that the Rules of Civil
18 Procedure are very clear that these types of
19 matters which are called for conclusions of
20 law and legal rulings are things that could
21 be made by the Commission at a later time.

22 Again, I respectfully urge that we
23 reconsider at this time the possibility of
24 going ahead with the evidence and letting
25 the judge, if he so desires, present these

1 witnesses and this evidence to the Commission
2 at a later point in time before it is
3 finally ruled upon by the Commission.

4 THE MASTER: I didn't recall hearing
5 this in very much detail if at all earlier.
6 I know you had an objection, but there was
7 no jurisdiction, but I don't think you made
8 this elaborate a motion.

9 MR. ODAM: Well, Your Honor, I did not
10 make such an elaborate motion for the reason
11 that it was my understanding from the
12 understandings that you referred to earlier,
13 that is generally, and that is probably where
14 I was somewhat misled in my own mind, that
15 when we talked about jurisdiction of these
16 proceedings, I got the impression that we
17 were simply here right now making a record
18 for later on and it seems to me that
19 particularly in light of how many witnesses
20 we are going to have to "make a record,"
21 that we should not take the Master's time
22 to make this record, allow the record to be
23 made, which can be done before the entire
24 Commission. So again, it is -- I did not go
25 into earlier detail with this, that is

1 correct.

2 MR. MITCHELL: May I speak to that,
3 Judge Meyer?

4 THE MASTER: I was thinking about it,
5 yes. You may speak to it.

6 MR. MITCHELL: Judge, as the Court well
7 knows, the Master in Chancery is charged with
8 the responsibility of gathering facts. I
9 haven't seen the order that appoints the
10 Master here, however I understand it is a
11 general appointment as Master in Chancery.

12 THE MASTER: Well, Master, under the
13 Judicial Qualifications Amendment and Act
14 and Rules.

15 MR. MITCHELL: Right, and which I
16 assume, Judge Meyer, is the same as the
17 Master under our Rules of Civil Procedure and
18 the Master in the federal rules.

19 THE MASTER: It certainly -- it's
20 similar.

21 MR. MITCHELL: Similar, and of course,
22 while I know it is generally customary for
23 the Court to pass on pretrial motions prior
24 to a referral, where the pretrial motions
25 are not bottomed on factual data, I also

1 know that in many cases where there is a
2 referral to a Master, where there are pretrial
3 matters such as the motions in limine, Pleas
4 in Abatement, the exceptions, exceptions or
5 the motions for continuance, which are
6 bottomed on facts, that the Master also has
7 that authority to gather those facts along
8 with the case in sheet.

9 Here there are pleas which don't
10 require any fact background. There are pleas
11 that require factual input, we thought, and
12 we might be wrong. I don't know of any
13 guidelines, Judge, but that the matter could
14 be expedited by offering facts in connection
15 with the abatement of two motions in limine
16 and whatever other pretrial motions require
17 factual input.

18 Now, to suggest, Judge Meyer, that we
19 foreclose this factual input and let the
20 examiner proceed, and then at a later date
21 have the matter referred back, certainly
22 doesn't expedite, it fractures the case, it
23 seems to me that the orderly procedure would
24 be to gather all of the facts here in order
25 to have the Master take the matters back to

1 the Commission, and I will do whatever you
2 want.

3 THE MASTER: I would not think it would,
4 because -- but now let's think just a minute.
5 Your motions in limine go one, to the pre-
6 November 5, 1974 matters.

7 MR. MITCHELL: As well as the notice of
8 these grounds or specifications, Judge Meyer,
9 to the amendment.

10 THE MASTER: That is the other.

11 MR. MITCHELL: That's right.

12 THE MASTER: Now, if the Judicial
13 Qualifications Commission looks at those and
14 agrees with them on the face, then we are
15 wasting this time with respect to those,
16 right?

17 MR. MITCHELL: That's right.

18 THE MASTER: Now, what is the Plea in
19 Abatement again?

20 MR. MITCHELL: Well, the pleas -- motions
21 to disqualify, Judge, motions -- and the two
22 motions in limine which the Court referred to
23 and our denial of procedural and substantive
24 due process, which lie at the bottom of our
25 Plea in Abatement along with the no notice

1 of the new charges.

2 I think, Judge Meyer, in fairness to the
3 record, that the -- that probably the motions
4 in limine can be taken care of just from the
5 record. I don't think we have to go any
6 further than his testimony, Judge Carrillo's
7 testimony, as to when he got the amended
8 motion or the amended notice of formal
9 procedure, and the record on the May, and
10 the follow-up one sometime in the mid-year
11 gives my factual basis for that motion in
12 limine, numbers one and two, I think.

13 THE MASTER: Well, what Mr. Odam
14 suggested is appealing to me. I really want
15 to know, are you offended by it or harmed by
16 it?

17 MR. MITCHELL: No, except that it would
18 fracture it, Judge Meyer, it seems to me if
19 we got before the Commission, the Commission
20 says wait a minute, we can't pass on this
21 due process point without going back and we
22 don't really accomplish anything, they send
23 us right back and actually I am within maybe
24 two witnesses or three witnesses of
25 completing it. Elvira Rodriguez really is

1 on the merits, Judge, not on the pretrial.
2 On the pretrial would be Terry Canales, the
3 attorney general, and Mr. Blanton, and
4 Levantino would be on the pretrial and I
5 imagine I would be through with them in thirty
6 minutes or an hour.

7 THE MASTER: All or each of them?

8 MR. MITCHELL: No, the last two I think
9 it would take me a little longer with
10 Mr. Pipkin and the attorney general, and
11 Arnulfo Guerra a very short period of time
12 because I have already heard his testimony
13 at length.

14 I don't think anyone could pass on the
15 question of substantive and procedural due
16 process as violates the language of the
17 Article 5, Section 1-A of the Constitution
18 or the constitutional pleas involved without
19 at least that additional input, that is from
20 the attorney general, and from Mr. Pipkin and
21 perhaps, Judge, I can eliminate the need for
22 John Blanton if the attorney general was here.
23 His testimony would be over testimony which
24 would satisfy.

25 I will do anything the Court wants, I

1 mean really, I thought this was the way to
2 do it.

3 THE MASTER: Well, several thoughts have
4 occurred to me. How are you going to enforce
5 your subpoena against John Hill? Aren't you
6 subject to the Hundred Mile Limitation?

7 MR. MITCHELL: Well, that is the reason
8 for the tandem subpoena for Mr. Blanton who
9 is within the hundred miles over here at
10 Duval County.

11 THE MASTER: That is true of several
12 people I have seen. You attempt to subpoena
13 Canales in Austin. Now maybe he is a
14 resident --

15 MR. MITCHELL: Premont, that is really
16 where he should have been subpoenaed, Judge,
17 within a hundred miles.

18 THE MASTER: Yes.

19 MR. MITCHELL: I understood that subpoena
20 would go anywhere in the state except -- let
21 me see, one limitation, Judge Meyer, I might
22 be wrong. If there is any other format that
23 will serve moving it out, I certainly don't
24 know, Judge Meyer, and I wouldn't -- I
25 wouldn't have any objection to it. I know

1 very well if there is a factual input as
2 this Court knows, the Court carries on the
3 special exceptions and Pleas in Abatement
4 during the whole trial many times and rules
5 on them before the case goes to the jury and
6 I envision this is the type of a plea that I
7 have, and I can defer until they get through
8 with their side of the case and put them on
9 or I thought to put them on at this point --
10 it doesn't make any difference. If they are
11 offended because I am going first, I can
12 defer and let them go and I can go after they
13 rest. I mean I don't really care.

14 THE MASTER: Well, his suggestion is
15 that we go on to the merits and throw the
16 ball to the Judicial Qualifications Commission
17 on these preliminary matters and see if they
18 want to hear them, or if they want to send it
19 back to me, is what I understood him to say.
20 Is that correct or -- or I suppose what he
21 said is whether they don't want to have
22 anything to do with it. I don't see myself
23 how they cannot at least have you make a
24 bill, but see, they are the judge, I am just
25 the jury in this matter.

1 MR. MITCHELL: That is true.

2 THE MASTER: And that is the thrust of
3 your suggestion, isn't it, Mr. Odam, just
4 proceed with the merits and let the Judicial
5 Qualifications Commission rule first on these
6 law questions as to whether they want to hear
7 evidence or have a record on it, and if they
8 do, then do it the way they want to do it,
9 that is what I understood him to say.

10 MR. MITCHELL: Well, then, Judge --

11 THE MASTER: Am I paraphrasing you
12 correctly?

13 MR. ODAM: That is correct, Your Honor.

14 MR. MITCHELL: I wonder how we can avoid
15 my having closed the gate after the cows are
16 all gone then, if I am going to be -- if
17 my special exceptions are good or my pleas
18 are good, Lord I wouldn't know it until I
19 am already hurt.

20 Is there any way we could possibly refer
21 the matter right now to the Commission? The
22 Commission is not the final arbiters, I
23 understand. It is the Supreme Court which
24 is not a fact-gathering court.

25 THE MASTER: In this instance, it can

1 take testimony through the Master.

2 THE MASTER: No, I think -- I don't
3 think they would. I think they can take
4 testimony themselves.

5 MR. MITCHELL: I think they would perhaps
6 refer it back, as in many instances, right
7 back here.

8 THE MASTER: I think they would, too,
9 but I don't know. But how are you hurt if
10 they go on with the merits?

11 MR. MITCHELL: Well, because, Judge,
12 there is left for decision and for ruling
13 very vital matters. For example, am I going
14 to defend against this matter that occurred
15 in 1969? I really don't think I should have
16 to.

17 THE MASTER: And I agree --

18 MR. MITCHELL: Pardon me, Judge, I don't
19 mean to step on the Court's comments. How
20 about those matters, Judge Meyer, that were
21 raised for the first time in the First
22 Amended Formal Hearing, you see?

23 THE MASTER: But you're going to be in
24 that position in any event because I do not
25 consider it my function to rule on those

1 issues. I think that is Judicial
2 Qualifications and I agree with Mr. Odam
3 and I think you will agree in the past it is
4 my function to find facts.

5 Now, I mean, one, the facts could be
6 that the '69 matter is -- doesn't amount to
7 anything, and I am not sure what the '69
8 matter is, but that it didn't amount to
9 anything, and the findings may be favorable
10 to you on that situation and that issue then
11 would become moot.

12 MR. MITCHELL: Well, that is true,
13 Judge Meyer, and I, of course, am aware of
14 that.

15 THE MASTER: I think Mr. Mitchell, we
16 are going to have to sit here and try every
17 allegation of the Judicial Qualifications
18 Commission, that is -- that is not abandoned,
19 and I am not suggesting that you're going
20 to abandon any of them, but sometimes that
21 happens, I understand.

22 But irrespective of these law points,
23 we are going to have to have a factual
24 hearing on those then, and then the Judicial
25 Qualifications will take whatever findings

1 I prepare and will either follow them or
2 not follow them.

3 MR. MITCHELL: That is correct.

4 THE MASTER: They don't have to follow
5 them, and his suggestion is simply that we --
6 while you may be right, we may be right back
7 here, we may not be, depending on what some
8 of the findings are and what some of the
9 other things may be.

10 Now, I would agree with you, that if at
11 all possible, you would like to have rulings
12 on these law points in advance, but I don't
13 believe under this procedure it is possible.
14 You have asked the Commission to do so and
15 they have declined, right?

16 MR. MITCHELL: No, I --

17 THE MASTER: I thought in a letter --

18 MR. MITCHELL: No.

19 THE MASTER: That was on something else,
20 wasn't it?

21 MR. MITCHELL: No, I haven't.

22 THE MASTER: What was that on?

23 MR. MITCHELL: No, I haven't, Judge, I
24 haven't asked --

25 THE MASTER: Let's see, Mr. Mitchell,

1 you wrote --

2 MR. MITCHELL: I think, Judge, that our
3 pleadings here is a request to the Commission
4 that we be heard on them and what I was
5 proceeding on was, in effect, I was being
6 given that forum on those pretrial motions.

7 I may be wrong.
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1 THE MASTER: At least I have a letter
2 from Mr. Pipkin to you dated October 28th,
3 acknowledging receipt of your October 20th
4 letter and the request was denied, is that
5 correct?

6 In other words, in your October 20th
7 letter, you asked for a hearing before the
8 commission or a Supreme Court determination
9 of questions of law prior to the trial of
10 the case and the commission denied that re-
11 quest, so I think we are here and you have
12 got to get your rulings from the commission
13 after this hearing.

14 MR. MITCHELL: Yes, I did request on
15 the October 20th letter -- I wasn't aware
16 Mr. Pipkin would have the power to cut me
17 off, but maybe he does, I don't know.

18 THE MASTER: I am not sure this is
19 Mr. Pipkin speaking. He may be speaking
20 the sentiments of the commission.

21 MR. MITCHELL: Could I see that letter,
22 Your Honor, please?

23 I do have the letter I sent, but not
24 the reply.

25 THE MASTER: Are you prepared to go

1 forward, Mr. Odam, if I decide to go this
2 route?

3 MR. ODAM: Yes, sir, subject to asking
4 for recontact of these people, that is,
5 taking a few minutes break. They are at
6 the motel.

7 MR. MITCHELL: Excuse me, Judge --

8 THE MASTER: It appears the questions
9 involved in the law are more appropriately
10 before the commission. That is the ques-
11 tion of law.

12 As to your request for a hearing before
13 the Supreme Court and the Supreme Court rul-
14 ing does not indicate the procedures for
15 hearing at this time.

16 MR. MITCHELL: My understanding is the
17 only place I could have a factual hearing
18 would be here.

19 THE MASTER: It did -- as Mr. Odam
20 was speaking, it did occur to me there could
21 be developments that would make what we
22 are doing unnecessary, and since the commis-
23 sion has the authority, and the Supreme
24 Court has the authority, to send it back
25 on a hearing itself, that maybe we would

1 be better to get on with the matter on its
2 merits and let them decide what they want
3 to do.

4 Since I am, in my own view, not the
5 one to make that decision, we are develop-
6 ing evidence that -- well, I am perfectly
7 willing to go your route, Mr. Odam, and if
8 the commission wants to resubmit it and
9 hear testimony without evidence, that is
10 their decision to make.

11 MR. MITCHELL: If they want to take
12 the case on a chance with all the pleadings,
13 it would not be the first time. I am ten-
14 dering the witness for cross-examination
15 and on the matters we set out, and that is
16 all I can do at this stage.

17 THE MASTER: Well, with the power to
18 resubmit it, are you hurt. I mean, I have
19 asked you that twice, and I don't think you
20 are, are you?

21 MR. MITCHELL: Well --

22 THE MASTER: It may be that you would
23 have to come back down here or maybe it
24 could be done in Austin, I don't know.

25 MR. MITCHELL: You see, Judge, we are

1 touching on competency of counsel in our
2 motion.

3 We are touching on due process and
4 procedural and substantive matters and it
5 is foreign, because I am physically here,
6 that the matter can proceed in compliance
7 with the due process mandate in the proce-
8 dure.

9 It doesn't seem to me we are following
10 the tune set out by the Constitution.

11 MR. ODAM: Perhaps I am off what we
12 should be doing. I thought what we were
13 in the process of doing is, number one,
14 observing motions that have been filed and
15 taking evidence on those, number two, and
16 number three that we then have a trial on
17 the merits and have this full record that
18 has been developed of both the evidence on
19 the pretrial matters and the merits and
20 that entire record goes up to the Supreme
21 Court -- I mean, goes to the Judicial Quali-
22 fications Committee.

23 It looks like all I am suggesting is
24 that we not take the time at this point on
25 those earlier matters to make that record

1 and that record could be made later on.
2 Mr. Mitchell has filed the pleas and abate-
3 ment and special exceptions and before they
4 start in that record, it seems to me that
5 they are compeled to rule on the points of
6 law.

7 At that time it is a point of whether
8 we have a record this thick, and as an
9 objection to the report that we wish to put
10 in on testimony before the Master or the
11 commission or -- so unless Mr. Mitchell has
12 in mind he is going to present all this
13 evidence on the pretrial, and then we stop
14 there and have that ruled on before we go
15 into the merits, but if that is the situa-
16 tion, and I can see that -- I guess what I
17 am asking, does he anticipate we have the
18 hearing on the pretrial and then go forward
19 with the evidence. The entire commission
20 could listen to the evidence.

21 I would like to know whether we are
22 talking about going from here on out with
23 pretrial matters and then the merits or
24 the pretrial, break, and take that record
25 to the commission.

1 MR. MITCHELL: I think I have to do
2 that because of the rights involved. It
3 is a Constitutional right. I would have to
4 request, once we finish the pretrial, file
5 a request with the Supreme Court to file,
6 and if not, tell us, we would come back,
7 and with a clean conscious, try the case.

8 THE MASTER: I don't see that you are
9 in a position to do that. It seems to me
10 what the commission wants is a factual report
11 and I give that to them, and then you say
12 that you want to develop due process points
13 and they can say, fine, we will hear that,
14 or they can say fine, we will resubmit it
15 to the Master.

16 By doing it this way, to some extent,
17 I am usurping their function, because I
18 am determining something they have not had
19 a chance yet to determine, whether they
20 should have the evidentiary hearing on the
21 preliminary matters.

22 They must make the rulings, and I was
23 sent here, as Mr. Odam says, as the fact
24 gathering jury on the merits and I am
25 worried about my usurping their function.

1 If they send it back to me to make find-
2 ings on facts in support of various matters --
3 well, do you see what I am saying?

4 MR. MITCHELL: I understand it. The
5 order is. I know you can't step beyond --
6 may I suggest we postpone and take a poll
7 at this point as to whether they want these
8 matters submitted to them separately or
9 whether we have -- at least we have not gone
10 three or four weeks for naught.

11 THE MASTER: I don't think we will
12 ever do that. I think if we get to the
13 merits, then they don't want me to hear the
14 rest, then we are through here. There is
15 this ability to resubmit to the Master and
16 I will really have them making the decision
17 that I sort of fell into making without
18 thinking about it by starting this preliminary
19 hearing.

20 You asked them -- let's see, it appears
21 at this time the question of law involved
22 in the answer would be more appropriately
23 presented to the Master or the commission
24 after the report of the Master is filed with
25 the commission.

1 That is telling me they want a report
2 first.

3 MR. MITCHELL: Except I don't think that
4 executive secretary can bind for the state.
5 I think that the Supreme Court can reach
6 out here, and as well the commission, and
7 say well, we want to hear the facts.

8 THE MASTER: I think I agree with that,
9 but I want them to say that to me rather
10 than me say I am going to hear the preliminary
11 evidentiary matters on due process and so
12 forth, even though that is not what you told
13 me to do.

14 MR. ODAM: On that point on the letter,
15 I don't know how it, and I would ask Mr.
16 Mitchell, I mean, this letter addressed to
17 Mr. Pipkin is asking for a hearing before
18 the Supreme Court and perhaps Mr. Pipkin's
19 letter back is simply advisory and I don't
20 know how Mr. Pipkin could get us to the
21 Supreme Court.

22 I suggest there is some authority of
23 him to write back. All I am saying is,
24 if this is a request for a hearing to the
25 committee and to the Supreme Court, whatever

1 basis there was for a master to go forward --
2 but on the other hand, I don't know how this
3 letter from Mr. Pipkin could jump us to the
4 Supreme Court unless he went to Judge
5 Greenhill and requested that this be done.

6 THE MASTER: Mr. Odam, I am going to
7 grant your motion and defer these matters
8 for clarification from the Judicial Qualifi-
9 cations Commission.

10 Does that mean you want a recess to
11 get your witnesses?

12 MR. ODAM: Yes, sir, for about fifteen
13 minutes, if we could, or let me step out
14 in the hall and get Mr. Lee to be doing
15 that and I can start off with my first wit-
16 ness, which is Judge Carrillo.

17 THE MASTER: Now, I want the record to
18 reflect hat I am making this ruling, because
19 I feel I should defer to the Judicial
20 Qualifications Commission as to whether
21 they want me to hear the preliminary evi-
22 dence Mr. Mitchell was going into with
23 Judge Carrillo. I don't know, Mr. Mitchell,
24 do you want to see if Mr. Pipkin will poll
25 the commission?

1 MR. MITCHELL: I might do it myself.
2 I might file something with the Supreme
3 Court.

4 THE MASTER: That is fine. I want to
5 have you know my own role.

6 MR. MITCHELL: Just for guidance, we
7 don't have any guidance.

8 THE MASTER: I don't think you are
9 going to get any.

10 MR. MITCHELL: I am going to invoke
11 the rights against self-incrimination in
12 case this is qualified as a criminal matter,
13 and in case, if it is characterized as a
14 civil matter, then instruct the witness not
15 to answer anything beyond his name and
16 address and when he got elected to office.

17 On a criminal case, he can invoke his
18 constitutional right not to appear on the
19 stand.

20 THE MASTER: That is fair warning. I
21 don't know at what step it maybe will
22 become a matter that tends to incriminate
23 him, but I suppose a name and address and
24 a few other things, but he has that privi-
25 lege.

1 I do at this time treat it as a civil
2 matter, but, of course, I am a great res-
3 pecter of the Fifth Amendment.

4 MR. ODAM: Mr. Mitchell should know
5 this and Judge Carrillo and the Master.

6 We do not, by any means, and my sugges-
7 tion is simply as I read the rules of the
8 Texas Supreme Court, try to get an orderly
9 procedure. This is what I consider to be
10 an orderly procedure and it is not my inten-
11 tion to deny the right of Mr. Mitchell to
12 present these. It is my contention that at
13 this time is the place to do it. It is not
14 the attorney general's office procedure
15 to run pell mell over these procedures.
16 These points are called for by the commis-
17 sion to make as to law and take evidence on
18 and I want to make that clear for the record.

19 THE MASTER: Do you wish to start your
20 examination of Judge Carrillo?

21 MR. ODAM: Yes, sir.

22 THE MASTER: I want the record to
23 reflect that we are now starting the Judicial
24 Qualifications Commission inquiry concerning,
25 Judge, No. 5 on the merits of the allegations

1 as opposed to the preliminary motions.

2 Judge Carrillo was sworn in connection
3 with the preliminary motions and, of course,
4 is still under oath. You may proceed.

5 MR. ODAM: May it please the Court, if
6 the Master would permit me, I would like very
7 briefly to do two things, if I might, before
8 going into Judge Carrillo's testimony.

9 As I again read the rules, it appears
10 that we proceed and try this matter as civil
11 cases and the two things I would like to do
12 is, first of all, to give a very brief over-
13 view of the matters contained in the amended
14 notice as contained in the twelve charges.

15 Second of all, it would be my purpose
16 to go back to Section 2 or Paragraph 2,
17 however we describe it in giving -- and refer
18 back to what the testimony we think would be
19 shown on that, and then the way that we
20 would suggest conducting the procedure would
21 be that we would like to present evidence on,
22 say, Section 2, and then when we get ready
23 tomorrow, or whenever it might be to go into
24 Section 3 or whatever section we go into,
25 to make -- refresh, to say what we think

1 the evidence would show on that Section 3
2 put on the evidence and compartmentalize it,
3 I would say.

4 THE MASTER: You could certainly do that.

5 MR. MITCHELL: Judge, let me -- may I
6 speak to that? I am going to get this, I
7 know at this procedure up at the Capital, I
8 don't know what they intend to do by making
9 statements other than offer -- we offer the
10 testimony in connection say with Specification
11 1 or 2, but I would object as regards to
12 telegraphing what they are going to prove and
13 what they can't prove.

14 I think this judge has been on the bench
15 and has heard millions and millions of words
16 of testimony, and can tell whether they are
17 making their case without pointing up and down
18 the road.

19 THE MASTER: It is a question of degree.
20 If he goes further than I want him to go, I
21 will stop him.

22 MR. MITCHELL: All right.

23 THE MASTER: But I think counsel has a
24 right to state briefly what he thinks he can
25 prove.

1 MR. MITCHELL: Okay. Now, I reserve
2 the same right, Your Honor.

3 THE MASTER: Of course.

4 MR. MITCHELL: To state what I think my
5 cross-examination is going to do to that
6 witness and what I can prove.

7 THE MASTER: Well, you can do it, either
8 at the same time he makes his or --

9 MR. MITCHELL: Fine.

10 THE MASTER: Or after he has rested on
11 that particular paragraph and you have
12 started in, you could do it either time.

13 MR. MITCHELL: Thank you, Judge Meyer,
14 I knew the Court was going to be fair about
15 it.

16 MR. ODAM: Your Honor, first of all,
17 referring to our pleadings which are the
18 First Amended Notice of Formal Proceedings,
19 which were served upon Judge Carrillo, to
20 which an answer has been filed, the way that
21 the pleadings are set up are in Roman numerals,
22 and I will refer to them by those Roman
23 numerals and start off with Section 1, the
24 way that I would refer to this, and the way
25 that probably opposing counsel knows of it is

1 something generally I would like to refer to
2 as the cash store. We would think that the
3 evidence on this first paragraph of Section 1
4 will show a conspiracy to systematically
5 defraud the County of Duval by Judge O. P.
6 Carrillo by his brother Ramiro Carrillo as
7 we set forth in the pleadings.

8 Basically, we think what the evidence
9 would show would be something along the
10 following, that certain groceries were
11 charged to O. P. Carrillo's account. We
12 think the evidence will show that slips
13 would be signed by O. P. Carrillo and his
14 name would be on these slips for certain
15 amounts of groceries. These were given to
16 Cleofus Gonzalez, and Cleofus Gonzalez would
17 in turn turn them over to Mr. O. P. Carrillo's
18 brother, Ramiro Carrillo, and Ramiro Carrillo
19 would have checks issued from Duval County.
20 The checks would then go back to Mrs. Ysaguirre.

21 We would say that this amounts to a
22 fraudulent scheme on the county government
23 and thus ultimately on the County of Duval,
24 and these amounts of the checks would go back
25 to Mrs. Ysaguirre, which were ultimately used

1 to pay for groceries which we think the
2 evidence will show were used for the personal
3 use and benefit of O. P. Carrillo or other
4 persons outside of county employment.

5 Second of all, with respect to Paragraph
6 2 or Section 2, which begins on Page 2, this
7 is what I would generally characterize as the
8 article regarding Manges versus Guerra
9 lawsuit. It appears we think the evidence
10 will show, and an acceptance of bribes from
11 the Plaintiff in this lawsuit, one Clinton
12 Manges, the Plaintiff in the lawsuit Manges
13 versus Guerra.

14 This lawsuit was pending at the time
15 that O. P. Carrillo took the bench, we think
16 the evidence will show.

17 Now, the acceptance of these bribes
18 would be bribes of such things as the
19 following: First of all, a bribery or
20 acceptance of ten shares of bank stock;
21 second of all, acceptance of a directorship
22 in a bank that was primarily owned by
23 Clinton Manges; third, the acceptance of over
24 six thousand dollars in payment on a Cadillac
25 automobile to the benefit of Mr. O. P. Carrillo-

1 Judge O. P. Carrillo; fourth, participation
2 by Judge O. P. Carrillo in two open-end
3 grazing leases on property that belongs to
4 Mr. Clinton Manges.

5 We believe that the judge in this case
6 will try to explain, we think the evidence
7 will show, if he does present a response to
8 this, to say that this was all consideration
9 for a business transaction and it was
10 consideration for about fifteen thousand
11 dollars worth of real estate that was
12 allegedly sold to Mr. Clinton Manges.

13 The examiners are prepared and will
14 show that not only was this alleged quid pro
15 quo transaction, not only was it a sham, but
16 it was contrived after it was publicly known
17 in Manges versus Guerra that the real estate
18 in question was worth far less than fifteen
19 thousand dollars and could in no way be
20 considered consideration for this type of
21 transaction. We think that the sham -- we
22 think the evidence will show is further
23 demonstrated by the failure of Judge Carrillo
24 to get his share of stock once the stock
25 split, but in turn, rather these shares of

1 stock went back to Mr. Manges once the stock
2 split.

3 Judge Carrillo did not recuse himself
4 from the case despite his known -- known in
5 his own mind, I would submit, financial ties
6 with the Plaintiff in this suit, Mr. Clinton
7 Manges.

8 The examiners will show the extraordinary
9 amounts of money in the amounts of loans made
10 by the bank which Judge Carrillo was a
11 director, and which was primarily owned, the
12 stock was primarily owned by Mr. Clinton
13 Manges.

14 The third paragraph which we will come
15 to is one dealing generally with one Roberto
16 Elizando. We think that the evidence put on
17 by the examiners will show wilfull,
18 persistent conduct on the part of Judge
19 Carrillo, that is clearly inconsistent with
20 the proper performance of his duties, and
21 would clearly not be of a nature to cast
22 credit on the judiciary, but was of a nature
23 to cast discredit upon the judiciary by
24 virtue of the persistence and wilfull use of
25 both county employees and county equipment

1 for his own personal use and benefit.

2 For example, No. 3 will have evidence
3 put on, we think, showing a conspiracy on
4 the part of Romero Carrillo and Roberto
5 Elizando to systematically, over a long period
6 of time, take money from the County of Duval
7 for their own personal use and benefit.

8 This was accomplished by such extra-
9 ordinary means of having the county pay
10 money to one Roberto Elizando for which no
11 benefit was received by the county, but the
12 benefits, if there were any, were received
13 only by Roberto Elizando and Judge O. P.
14 Carrillo. We say this, we think the evidence
15 will demonstrate that Elizando was paid while
16 a student at a court reporter's school in
17 Houston, Texas and that Roberto Elizando, we
18 think that the evidence will show did not work
19 for the county government for that period in
20 question, January, 1971 to September 1 of 1972,
21 but rather these bogus claims were made for
22 work which was not, in fact, done by the
23 county, but in fact was done by Judge
24 Carrillo for personal gain.

25 **THE MASTER:** I think there was a mistake

1 made then.

2 MR. ODAM: January 1, of '72 --

3 THE MASTER: Until September of '73?

4 MR. ODAM: Let me restate it. It
5 should be pursuant to the pleadings January 1
6 of 1972 to September of 1973, we believe that
7 the evidence that would be adduced will next
8 go to the issue of continued improper and
9 persistent misuse of county personnel and
10 equipment with respect to Francisco Ruiz,
11 Section 4, Paragraph 4 of the pleadings deals
12 with Mr. Ruiz, wherein we allege and we
13 think the evidence will show that Judge
14 Carrillo wilfully and persistently, over a
15 period of three and a half years, had Mr. Ruiz
16 from time to time work on Judge Carrillo's
17 ranch on county time, using county property
18 for the judge's personal use and benefit and
19 at no time was Mr. Ruiz paid by Judge
20 Carrillo. He was only paid by the county for
21 such private services as were rendered for
22 Judge Carrillo's use.

23 Mr. Ruiz used county welding equipment,
24 we believe the evidence will show, for the
25 judge's personal gain and at no time was this

1 expensed to Judge Carrillo, but at all times
2 at the expense to the county and ultimately
3 to the unsuspecting citizens of Duval.

4 Further, along this same lines, we go
5 to Section 5 or Paragraph 5 of the First
6 Amended Notice of the Proceedings.

7 Judge Carrillo similarly obtained, we
8 believe the evidence will show, the private
9 benefit of one, Oscar Sanchez.

10 The evidence will show Mr. Sanchez was
11 a county employee and he also did personal
12 work for Mr. Carrillo appropriating county
13 equipment for such services. For none of
14 this was Mr. Sanchez paid except by Duval
15 County and again at no expense to Judge
16 Carrillo.

17 Finally, Section 6 demonstrates yet
18 another instance of misapplication of county
19 property for private use, to-wit the use of
20 one backhoe, and finally last, but far from
21 least, Section 7 through 12, we believe the
22 evidence will demonstrate a clear conspiracy
23 in which Judge Carrillo participated to set
24 up a conduit corporation for funneling county
25 funds into Judge Carrillo's personal benefit

1 and also the funds from the Water District.
2 This amounting, we believe the evidence will
3 show, to approximately twenty-nine thousand
4 dollars.

5 Again, Your Honor, that is simply an
6 over-view of the various articles. What we
7 would like to do today is we have subpoenaed
8 witnesses to begin on Paragraph 2, which is
9 Manges versus Guerra. We have chose Manges
10 versus Guerra because as the evidence has
11 shown this morning in the pretrial matters,
12 we have had thus far, those are the matters
13 which we first brought to Judge Carrillo's
14 attention. The matters which were included
15 in the preliminary notice and investigation.
16 The matters which were included in the
17 original notice and proceedings and carried
18 on in the amended notice of proceedings not
19 to say that having that in that constitutes
20 any legal position whatsoever with respect
21 to that, only to say that this is the first
22 matters we believe that were brought to
23 Judge Carrillo's attention.

24 At this time we would call as our first
25 witness, Judge Carrillo.

1 THE MASTER: All right. Excuse me,
2 Mr. Mitchell. Do you wish to reply at this
3 time?

4 MR. MITCHELL: I believe I would refer
5 if I have a choice to defer to such time as
6 the witness has completed his direct, Judge.

7 I can state at this point, of course,
8 that matters go beyond the legitimate scope
9 of inquiry set out by our answer, January the
10 1st of 1975 and --

11 THE MASTER: November 5th of 1974, which
12 is the applicable date.

13 MR. MITCHELL: I think we would prefer
14 to make our opening statement prior to our
15 cross or at the time we offer our witness,
16 if the Court will permit.

17 THE MASTER: You just remind me,
18 Mr. Mitchell, you remind me.

19 MR. MITCHELL: I will, Judge.

20 THE MASTER: You may proceed, Mr. Odam.

21 MR. MITCHELL: Judge Meyers, so that
22 we don't have any constant interruption, I
23 think we are getting a lot of our housekeeping
24 out of the way. I would like to have, if I
25 could, the statement in the record that we

1 are going to object to everything before
2 January 1st or at least November 5th, 1974,
3 without having to interrupt constantly on
4 the question of it being relevant.

5 THE MASTER: You have that standing
6 objection and you may object in both ways,
7 that is you object to it if it is before
8 November the 5th, 1974, and in the alternative,
9 you object to it if it is before -- actually,
10 he testified he took the oath January 2nd,
11 1975.

12 MR. MITCHELL: That's right, 1975,
13 that's right, and then Judge Meyers, if we
14 can just have whatever objections we are
15 entitled to by reason of our answers, I
16 believe I can sit down and shut up and let
17 him go. That would just expedite the matter.

18 THE MASTER: You can have these standing
19 objections, those that I just named, plus the
20 objection that it was not in the preliminary
21 notice of charges, of course, that is not
22 applicable to this one.

23 MR. MITCHELL: That is right, Judge.

24 THE MASTER: Plus the objection that it
25 was not in the original notice of formal

1 proceeding. Now those are the three you
2 have, aren't they?

3 MR. MITCHELL: Plus, Your Honor, may I
4 add to it that all of these, and these come
5 out of the cases, are acts committed in a
6 nonjudicial capacity and consequently are not
7 acts subject to inquiry of the Judicial
8 Qualifications Committee.

9 THE MASTER: You may have that
10 understanding.

11 MR. MITCHELL: Thank you, Judge Meyers.

12 MR. ODAM: Your Honor, again the
13 housekeeping chores: In light of the first
14 objection that is going to be raised, that
15 is objection to matters prior to November the
16 5th of 1974 and the objection to those
17 matters prior to January the 2nd of 1975,
18 either one of those, Mr. Mitchell has filed
19 a brief with respect to Article 5986, I
20 believe it is, which is in support of Pleas
21 in Abatement which generally go to the Prior
22 Term Doctrine and my understanding the basis
23 he can correct me if I am wrong, but the
24 basis for his first objection would be,
25 "The Prior Term Doctrine."

1 THE MASTER: That is my understanding,
2 yes.

3 MR. ODAM: We have not prepared -- or
4 correction, we have not finalized a brief in
5 response to that, anticipating that was a
6 matter to be presented at the Commission.

7 THE MASTER: And I agree.

8 MR. ODAM: And my question is: You note
9 the objections, at what point, if at all,
10 would you sustain the objection or overrule
11 the objection, and if it would be in these
12 proceedings, we would like to offer legal --

13 THE MASTER: That is an objection that
14 I am not going to sustain or overrule. I
15 may overrule it, preliminarily, but that is
16 not really -- I don't regard that as an
17 objection to evidence. I regard it as a
18 defense. It is a plea in bar, so to speak,
19 and if you have a valid defense, as a matter
20 of law, which you claim you have, then you
21 obviously want to object to evidence, but the
22 question of whether it is a legally valid
23 defense or not, is one that the Judicial
24 Qualifications and the Supreme Court will
25 ultimately decide.

1 I plan to take the evidence and make
2 findings in my report on that matter and let
3 the Judicial Qualifications Commission and/or
4 the Supreme Court decide whether that is in
5 bar. And, of course, if it is in bar, they
6 disregard the testimony.

7 MR. ODAM: That is fine.

8 MR. MITCHELL: Mr. Odam, are you intending
9 not to proceed with the other charges? I
10 notice that you have outlined only up to seven.

11 THE MASTER: No, he spoke to the others,
12 Mr. Mitchell, you may not have heard him, he
13 lumped them together.

14 MR. MITCHELL: Okay, fine. Thank you,
15 Judge.

16 MR. ODAM: The witness was sworn on the
17 pretrial matters and I would assume that for
18 these purposes, it is not necessary to swear
19 the witness again.

20 THE MASTER: He was sworn as a witness
21 when I called this case. Now do you want him
22 sworn again?

23 MR. ODAM: No, sir, that is fine.

24 THE MASTER: Okay.
25

- - - - -

E X A M I N A T I O N

BY MR. ODAM:

Q Would you please state your full name?

A O. P. Carrillo.

Q And where are you employed, Mr. Carrillo?

A I am Judge of the 229th Judicial District of the State of Texas.

Q And what time were you elected to the position of the Judge of the 229th Judicial District for the term you are now holding?

A In the general election in November, 1974.

Q Would that be on about November 5th, is that the date?

A I don't remember the exact date, whatever date it was.

Q And prior to your election in November, let's assume November 5th, 1974, what was your employment prior to that date?

A I respectfully decline to answer the question on the grounds that the answer might tend to incriminate me, and would be in violation of the Fifth Amendment of the United States Constitution and

1 Article 1, Section 10 of the Constitution of the
2 State of Texas.

3 Q When you were elected November 5th, 1974, when did
4 you assume your duties?

5 A January 2nd, 1975, I believe.

6 Q Do you know whether or not you assumed duties of
7 the 229th Judicial District on or about Janu-
8 ary 29th, 1971?

9 A I respectfully decline to answer the question on
10 the grounds that the answer might tend to incrim-
11 inate me in violation of the Fifth Amendment of
12 the United States Constitution and Article 1,
13 Section 10, of the Constitution of the State of
14 Texas.

15 THE MASTER: Could we reach an agree-
16 ment that a simple statement, "I decline
17 to answer" incorporates all of the language
18 he now has read into the record?

19 MR. MITCHELL: In a deposition previ-
20 ously taken, the privilege also, if you
21 recall, Mr. Odam, called on several other
22 grounds which I would like to carry over.
23 I never did get my copies of those depositions.
24 Mr. Hickman never did give me copies
25 and we adopted that format and the objections

1 dealt with beyond the scope of inquiry and
2 another one.

3 Do you have those, John?

4 MR. ODAM: Yes.

5 MR. MITCHELL: If you would allow me
6 to incorporate that, I would like to incor-
7 porate those into this record.

8 Judge, may I approach the bench?

9 This is the sort of overall thing to
10 protect our record as well as beyond the
11 scope of legitimate inquiry. I would rather
12 couch in terms of privilege.

13 THE MASTER: If you wish, you may read
14 into the record what you want, what his
15 objection is pursuant to your instructions,
16 and then we can agree that the answer, "I
17 respectfully decline to answer", that with
18 that he incorporates all of what you are
19 about to read.

20 MR. MITCHELL: I respectfully decline
21 to answer and refuse to answer the question
22 put to me on the grounds that the answer
23 may tend to incriminate me. I claim this
24 right under the Fifth Amendment of the
25 United States Constitution and Article 1,

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Section 10 of the Constitution of the State of Texas. There is no right of the attorney general to act as examiner and subject to pleas in abatement and special exceptions and motions in limine on file herein.

Thank you.

Q (By Mr. Odam:) Judge Carrillo, do you know whether or not you were elected to office as the Judge of the 229th Judicial District on November 31st, 1970?

A I decline to answer.

Q Could you state whether or not you served continuously as Judge for the 229th Judicial District Court from January 1st, 1970, up to the present time?

A I decline to answer.

Q Will you please state whether or not, at the time you assumed duties, there was pending on the docket in your court a cause styled Clinton Manges versus M. R. Guerra?

A I decline to answer.

Q Do you know whether or not the cause, Manges versus Guerra, had been pending on the docket prior to the time you assumed duties of the 229th

1 Judicial District?

2 A I decline to answer.

3 Q Do you know whether or not the lawsuit had been
4 pending prior to the time you were elected to
5 office at the time of your general election?

6 A I decline to answer.

7 Q Will you please explain to the court matters
8 involved with the acceptance or receipt from Mr.
9 Clinton Manges, ten shares of stock in the First
10 State Bank and Trust of Rio Grande City?

11 A I decline to answer.

12 Q Assuming you did receive those ten shares of
13 stock, was such bank stock included in property
14 in dispute in the Manges versus Guerra case and,
15 therefore, in custodia legis?

16 A I decline to answer.

17 Q Do you know whether or not Plaintiff Manges issued
18 to you, in the amount of six thousand nine hun-
19 dred fifteen dollars fifty cents a check payable
20 to Rialto Cadillac Company?

21 A I decline to answer.

22 Q Assuming such check were issued on the bank
23 account of Clinton Manges, do you know whether
24 or not that amount of money was applied to the
25 purchase price of a 1971 Cadillac ordered by you

1 and created for your benefit on that account?

2 A I decline to answer.

3 Q In the summer of 1970, did you have occasion to
4 order from Rialto Cadillac a 1971 Cadillac?

5 A I decline to answer.

6 Q Assuming you did order such a Cadillac in the
7 summer of 1970, could you explain whether or not
8 allowances made for a trade-in differences were
9 made by Clinton Manges, the Plaintiff in Manges
10 versus Guerra?

11 A I decline to answer.

12 Q The first amended notice of formal proceeding
13 makes notice in Section 7 to an open end graz-
14 ing lease.

15 During the summer of 1971, after you had
16 assumed duties as District Judge of the 229th
17 Judicial District Court, did you have occasion
18 to enter into such an agreement for grazing rights
19 on approximately one thousand two hundred to
20 one thousand five hundred acres with the Plaintiff
21 in Manges versus Guerra?

22 A I decline to answer.

23 Q Can you say whether or not the land included part
24 of the realty in a lawsuit to which Mr. Manges
25 was a party?

1 A I decline to answer.

2 Q Assuming a lease was entered into, did you have
3 occasion to enter into an oral agreement with
4 the Plaintiff in that lawsuit, Mr. Manges, by
5 which terms you would acquire an additional acre-
6 age of five or six thousand acres?

7 A I decline to answer.

8 Q Assume the oral agreement was entered into,
9 please explain whether the land was the subject
10 of dispute in the lawsuit, Manges versus Guerra.

11 A I decline to answer.

12 Q Assuming the oral lease were entered into, can
13 you please state whether the term was for a period
14 of three years.

15 A I decline to answer.

16 Q Can you please explain for the Master whether or
17 not one of the terms, or conditions of the lease
18 was, that you were to pay the Plaintiff considera-
19 tion in the amount of one dollar per acre per
20 year?

21 A I decline to answer.

22 Q Would you explain for the Master, please, whether
23 the consideration on the lease assumed to be
24 entered into was to be paid at the end of the
25 three year term?

1 A I decline to answer.

2 Q Assume an open end agreement was entered into,
3 could you please state whether or not the lease
4 agreement was ever reduced to writing?

5 A I decline to answer.

6 Q Judge Carrillo, were you ever appointed as a
7 Director of the First State Bank and Trust of
8 Rio Grande City?

9 A I decline to answer.

10 Q Do you know whether or not you were ever appointed
11 as Director of the bank around the date Decem-
12 ber 10, 1970?

13 A I decline to answer.

14 Q Do you know of your own personal knowledge whether
15 a motion was made by Mr. Clinton Manges that you
16 be elected a Director of the First State Bank
17 and Trust of Rio Grande City?

18 A I decline to answer.

19 THE MASTER: Mr. Odam, I permit coun-
20 sel great leeway in conducting the presenta-
21 tion of their case, but I don't know how
22 many more of these questions you have.
23 It occurs to me, if you ask the witness,
24 will you decline to answer any other ques-
25 tions I might have concerning matters in

1 Paragraph 2, and if his answer is yes,
2 and you want to build a record the way you
3 are doing, that is fine, but I want you to
4 consider that alternative.

5 You may be near the end, however.

6 MR. ODAM: Well, that is a very good
7 suggestion, Judge, and I will take you up
8 on that.

9 I will pose the following question.

10 Q (By Mr. Odam:) With respect to Section 2 of the
11 first amended notice of formal proceedings, will
12 you decline to answer any and all questions put
13 to you with respect to Section 2 of that?

14 A Yes, sir, I will.

15 Q I would like to ask the witness whether he would
16 also decline to answer all questions posed on
17 all of the paragraphs. Paragraphs 1 through Para-
18 graph 12.

19 Do you decline to answer all questions put
20 to you on the basis you have as questions were
21 previously put to you?

22 A Yes.

23 Q Let me set the record straight on one other
24 matter. This might not fall in that category.

25 Would you state whether or not you had

1 occasion to have your deposition taken Octo-
2 ber 21st, 1975, at ten o'clock a.m. in the county
3 law library in Duval County, San Diego, Texas?

4 A Yes, sir, I did.

5 MR. ODAM: At this time, I would like,
6 Judge, Judge Carrillo stated or indicated
7 he did have a deposition taken at that
8 time and I would like to offer in evidence
9 at this time a copy of what is styled the
10 deposition of O. P. Carrillo in this case
11 and ask the court reporter to mark at this
12 time this deposition as Examiner's Exhibit 1.

13 MR. MITCHELL: I would object on the
14 grounds that the witness is here and unless
15 there is some other ground for relevancy,
16 we will object on the grounds of irrelevant
17 and immaterial.

18 THE MASTER: The objection is over-
19 ruled.

20 (Examiner's Exhibit 1 marked for iden-
21 tification.)
22

23 MR. ODAM: For the benefit of the
24 Master, I pose the following question.

25 Q (By Mr. Odam:) At the time your deposition was

1 taken on October 21st, 1975, is it a fact you
2 declined to answer all questions put to you at
3 that time also?

4 A I answered some questions.

5 Q The questions you answered were such as you have
6 answered today, what your name is and that you
7 held office during your present term and questions
8 other than that you declined to answer?

9 A I don't remember exactly. Whatever the deposition
10 shows.

11 Q Would you agree the bulk of the questions put to
12 you, you respectfully declined to answer on the
13 basis you set forth here today?

14 A Yes, sir.

15 Q And the deposition can speak for itself and as
16 to the questions asked and the responses put to
17 them --

18 MR. MITCHELL: I might add for the
19 purpose of the record that the grounds
20 in the deposition were on a much broader
21 basis. They were objecting to the form and
22 manner of the taking of the deposition, but
23 essentially --

24 THE MASTER: Nothing he says binds
25 the deposition. The deposition contains

1 what it contains in that respect.

2 MR. MITCHELL: Yes, but I just wanted
3 when someone gets to that point in this
4 record. I am telling them to read it now
5 and don't skip over it as being the same
6 thing.

7 THE MASTER: Yes, I understand.

8 Q (By Mr. Odam:) Judge Carrillo, in the pretrial
9 hearing that we had thus far today, two items
10 introduced were the notice of preliminary invest-
11 gation dated May 2nd, 1975, and a letter that you
12 wrote back to Mr. Pipkin.

13 A Yes, sir.

14 MR. ODAM: I would like to introduce
15 those in evidence, Mr. Mitchell, and ask
16 the witness if he would identify those, and
17 I had earlier asked him if he would take
18 the Fifth Amendment to that.

19 MR. MITCHELL: Which we did. I am
20 afraid, if I don't, we are going to open
21 up and waive. Although it is pretentious
22 to instruct my client to answer --

23 THE MASTER: In other words, he
24 declines to identify and answer any question.
25 He declines to identify the May 2nd letter

1 from Mr. Pipkin and his response?

2 MR. MITCHELL: Yes. I would also
3 inform the Court that Mr. Pipkin's testimony
4 that he sent out the letter and received
5 a reply, I would --

6 MR. ODAM: For the full purpose of
7 our record, I would like to have the court
8 reporter mark some of the Exhibits for this
9 proceeding on the merits for proper identi-
10 fication and we can use the instruments
11 marked previously.

12 THE MASTER : Mr. Odam, do you plan
13 to mark or have marked as Examiner's Exhibits
14 each of these marked at prehearing session
15 this morning?

16 MR. ODAM: Your Honor, I believe that
17 all of them as marked, Exhibit J, were
18 originally to the answer and part of the
19 record. The only thing I intended to mark
20 at this time would be first of all the
21 May 2nd letter to Judge Carrillo and second
22 the response from Judge Carrillo and third
23 the answer to the original and fourth the
24 answer to the original. I would like to get
25 those four in.

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THE MASTER: What is your next move then?

MR. ODAM: And then I would call my next witness for tomorrow morning.

THE MASTER: That is what I assumed. Why don't we recess now and get what you want marked and get it marked and be ready to go with your next witness tomorrow morning. You are not going to get it identified unless you put Mr. Pipkin on.

MR. MITCHELL: May I also state to Counsel I will not object on authentication from any other source, such as official records of authentication.

THE MASTER: He doesn't have to put Mr. Pipkin on.

MR. MITCHELL: No, if he would pull them out and he and I can agree on the authenticity, but rather than put Counsel to that unnecessary labor, if there is some other ground of authenticity, like if it were generated out of my office, then that is fine.

MR. ODAM: One thing that would be helpful, one of the witnesses I intend to

1 call tomorrow would be an officer of the
2 First State Bank and Trust of Rio Grande
3 City for the purpose of bank records. Will
4 I have to have him come in?

5 MR. MITCHELL: Yes. Let me ask you
6 this. Are they a part of the record here
7 now?

8 MR. ODAM: No, not now, but public
9 records of the bank.

10 MR. MITCHELL: No, I could not do that,
11 Judge.

12 THE MASTER: All right.

13 (Examiner's Exhibits 2, 3 and 4 were
14 marked for identification.)
15

16 THE MASTER: All right. We will be in
17 recess until eight thirty tomorrow morning.
18 I do urge everybody to be here at eight
19 thirty, because I will be here.

20 MR. MITCHELL: Okay, Judge.

21 THE MASTER: We have to maintain this
22 time schedule in order to get this hearing
23 moving.
24
25