

INQUIRY CONCERNING A JUDGE
NO. 5

DECEMBER 5, 1975

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 5, 1975

CHATHAM & ASSOCIATES
COURT REPORTERS
GUARANTY BANK PLAZA
CORPUS CHRISTI, TEXAS

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V. 17

1 THE MASTER: Are you ready to proceed?

2 MR. ODAM: Yes, Your Honor.

3 MR. MITCHELL: Yes, Judge.

4 THE MASTER: Do you have a statement to
5 make this morning, Mr. Mitchell?

6 MR. MITCHELL: Yes, Your Honor, we have
7 Arnulfo Guerra subpoenaed and he is present.

8 THE MASTER: He is the District Attorney
9 of 229th District, is he not?

10 MR. MITCHELL: Yes, sir, he is the
11 District Attorney of the 229th Judicial
12 District and was at all times celibate, and
13 still is the District Attorney.

14 I would like to note for the record
15 and to the Court that Mr. Guerra testified
16 before the committee in Austin.

17 THE MASTER: That is the House Select
18 Committee that met in May?

19 MR. MITCHELL: Yes, sir, and the
20 transcript of the proceeding before the
21 Texas State House of Representatives, the
22 House Select Committee on Impeachment,
23 Volume 7 and 8 contains his testimony.

24 I have requested of Counsel for the
25 Examiner the possibility of a stipulation

1 that -- that if Mr. Guerra is on the witness
2 stand and the same questions are put to him
3 that were put there, his answers would, of
4 course, be the same and Counsel has so
5 agreed.

6 We would like, subject to the approval
7 of the Court, to stipulate the record -- into
8 the record Mr. Guerra's testimony, that he
9 is here, and if called to the stand, and
10 the same questions put to him, and the same
11 answers would be forthcoming as per Volume 7
12 Page 226 of the transcript of proceedings
13 before the Texas State House of Representa-
14 tives on June 4, 1975, and also, Your Honor,
15 this volume -- and continuing into Volume 8,
16 transcript of proceedings before the Texas
17 State House of Representatives to and includ-
18 ing -- the reason there is a delay, Your
19 Honor, is his testimony is followed by an A.
20 Guerra who is his brother and this would be
21 to and including Volume 8, 249, page 249.

22 THE MASTER: All right, who is --
23 well, first of all, Mr. Examiner, do you
24 so stipulate?

25 MR. FLUSCHE: We stipulate to the truth

1 of the matters contained therein --

2 THE MASTER: That isn't the stipulation.
3 The stipulation is that if Mr. Guerra were
4 called to testify in the proceeding and
5 asked those same questions, he would give
6 those same answers.

7 MR. FLUSCHE: Yes, sir, we will stipu-
8 late to that.

9 THE MASTER: All right.

10 MR. FLUSCHE: However, we would object
11 to the introduction of this because of it's
12 materiality or lack of materiality and lack
13 of relevancy.

14 The testimony has to do with Arnulfo
15 Guerra's race for the District Attorney, the
16 time he was appointed, the manner in which
17 he came into office, the expenses of the
18 election. It has to --

19 THE MASTER: But the point is, he is
20 offering it. If I sustain the objection,
21 you will offer it on a bill. Is that correct?

22 MR. MITCHELL: Yes, Your Honor.

23 THE MASTER: And there is no point in
24 telling me what the evidence is about. Let
25 me read it and make my ruling. I understand

1 your objection.

2 MR. FLUSCHE: All right, sir.

3 MR. MITCHELL: Very good, Judge. I
4 think that is correct.

5 THE MASTER: Now, whose responsibility
6 is it to get it into the record?

7 MR. MITCHELL: I will offer it at this
8 point, Your Honor, and request that the
9 reporter simply transcribe, beginning at --
10 on Volume 7, page 226, containing through
11 and including Volume 8 as previously indi-
12 cated in this record in a Q and A form as
13 it appears in the transcript, Judge, and I
14 will deliver it to the reporter for that
15 purpose the two volumes that I have -- my
16 personal volumes with the request that they
17 be redelivered to me upon the completion of
18 the transcript.

19 THE MASTER: That is satisfactory.

20 MR. MITCHELL: And I understand the
21 objection, Your Honor, and quite candidly
22 with the Court, there are some portions that
23 are immaterial and irrelevant. I appreciate
24 that, but we deem some portions vital and
25 relevant and they are vitally material.

1 MR. ODAM: Is there any way -- I am
2 wondering that -- you know what I am going to
3 say and that is that all of that typed up
4 portion, approximately a hundred and fifty
5 pages which is there and which we also have
6 a copy of here need not be retyped and put
7 into this record for a hundred and fifty
8 pages.

9 MR. FLUSCHE: It is about four hundred
10 pages.

11 MR. ODAM: About four hundred pages,
12 it could be marked as an Exhibit and have
13 the same purpose and effect, if those pages
14 which are already typed up could be inserted
15 with page numbers at this particular place.

16 My only question is, I hate to take
17 the time and a little bit of expense in
18 retyping four hundred pages of testimony
19 that is already typed up. It is just extra-
20 ordinary.

21
22 (Discussion off the record.)

23 THE MASTER: Well, now, let's see,
24 you are offering Mr. Guerra as a witness,
25 is that correct?

1 MR. MITCHELL: Yes, Your Honor, and he
2 is here.

3 THE MASTER: And you are still offering
4 him in effect out of turn because, as I under-
5 stand --

6 MR. MITCHELL: That's right.

7 THE MASTER: The Examiner has not yet
8 rested.

9 MR. MITCHELL: That's right, Judge
10 Meyers, that is correct.

11 THE MASTER: Now, with respect to your
12 request, you just get with Mr. Vernon, there
13 may be a way that some expense can be saved.

14 MR. ODAM: Let me ask --

15 MR. MITCHELL: I have no comment on
16 that whatsoever, Mr. Odam. I am sure that
17 that can be handled correctly and I would
18 have no suggestion -- whatever is satisfac-
19 tory with you, and the reporter and the
20 Court, certainly is fine.

21 MR. ODAM: And you would have no objec-
22 tion if we were to work out that these pages
23 right here were to come in right now, those
24 xeroxed pages, as the testimony right here?

25 MR. MITCHELL: No, I would not.

1 MR. ODAM: As a part of this record.

2 MR. MITCHELL: I would not, Mr. Odam.

3 THE MASTER: Mr. Odam, somewhere along
4 the line you have got to call your last wit-
5 ness, I guess Mr. Couling, and get through
6 with him. I guess Mr. Mitchell is still
7 cross-examining Mr. Couling, isn't he?

8 MR. ODAM: He passed him back to our
9 redirect examination and if Mr. Mitchell is
10 ready to proceed with our redirect, we are
11 ready to proceed.

12 THE MASTER: He passed him back but he
13 reserved --

14 MR. MITCHELL: That's right, Your Honor.

15 THE MASTER: -- the right for consider-
16 able more cross-examination, not just in
17 reply to anything you might do this morn-
18 ing, but you had some matters you wanted to
19 go into as a result of the instruments that
20 were delivered yesterday.

21 MR. MITCHELL: That's right, that is
22 correct, Your Honor, and I -- and I repre-
23 sent to the Court will not take me over
24 probably fifteen minutes, if I might be able
25 to proceed. It is a question really of

1 documentary and housecleaning on --

2 THE MASTER: But Mr. Odam has him now
3 and he may want to ask him some questions.

4 MR. MITCHELL: Fine. I have no --

5 THE MASTER: Would one of you all step
6 out and get Mr. Couling?

7 MR. MITCHELL: I'll be glad to.

8 MS. LEVATINO: I have to go out any-
9 way, I will get him, thank you.

10 MR. ODAM: Do you have the deposit slips
11 that you examined yesterday?

12 MR. MITCHELL: They have been put back
13 in the file.

14 MR. ODAM: All right, this is our box
15 and this would be the last Exhibits.

16 MR. MITCHELL: That would be, of course --
17 do you have the numbers, Mr. Odam?

18 MR. ODAM: Yes, here they are.
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1 RUDOLFO COULING,
2 recalled as a witness, having been previously sworn,
3 testified as follows, to-wit:

4 *
5 E X A M I N A T I O N

6
7 BY MR. ODAM:

8
9 Q Mr. Couling, I wish, first of all, to remind
10 you that when you testified before, you are still
11 under oath to tell the truth, the whole truth and
12 nothing but the truth, do you understand that?

13 A Yes, sir.

14 Q Mr. Couling, I show you what has been marked by
15 the court reporter as E-173-1, and for your
16 information, when we talked about these the other
17 day, these are the bank photostatic copies of
18 deposit slips. I am referring to E-173-1 through
19 173-28 and I will ask you to very briefly, for
20 the purpose of refreshing your recollection,
21 review these and then I will have some questions
22 to ask you about them.

23 A Okay, sir.

24 Q Have you had a chance to look at the deposit
25 slips?

1 A Yes, sir.

2 Q Can you state whether or not these are deposited
3 in the Rio Grande City bank account and are
4 deposits of the Benavides Implement and Hardware?

5 A Yes, sir.

6 Q Have you had the time to determine the total
7 amount of deposits to that account?

8 A Yes, sir, I made notes to that effect.

9 Q Do you have those with you?

10 A Yes, sir.

11 MR. MITCHELL: For the record, may I
12 ask counsel, are those the deposits in the
13 Rio Grande City account?

14 MR. ODAM: Yes, sir.

15 MR. MITCHELL: And only that account?

16 MR. ODAM: Yes, sir.

17 MR. MITCHELL: I said that, Your Honor,
18 to be sure that the record reflected that
19 correctly. There is a difference in the
20 figures between that account and the other.

21 THE MASTER: Very well.

22 Q (By Mr. Odam) Again, for clarification, we are
23 referring to here, the total deposits in the
24 Rio Grande City bank account?

25 A Yes.

1 Q What did you calculate to be the total amount of
2 deposits?

3 A Thirty-nine thousand, seven hundred ninety-six
4 dollars twenty-five cents.

5 Q And in looking through the deposit slips here,
6 E-173-1 through 173-28, did you notice whether or
7 not it indicates on the deposit slip the deposits
8 of checks from Duval County?

9 A On some of them.

10 Q And they are marked on the deposit slips which
11 ones are those?

12 A Yes, sir.

13 Q I show you what has been marked as E-173-15 and
14 ask you to examine that a moment. Can you
15 identify for the record what items appear on 173-15?

16 MR. MITCHELL: You said 173-315?

17 MR. ODAM: No, 173-15.

18 Q (By Mr. Odam) Go ahead.

19 A There are two deposits on May 3rd, 1974, at the
20 First State Bank and Trust of Rio Grande City.
21 One of them is Check 417 and another one is a
22 transfer from equity from the account of O. P.
23 Carrillo, fifteen dollars.

24 Q I believe it was your testimony yesterday that
25 Mr. Mitchell asked you a question about on the

1 checks to Plains Machinery, do you recall there
2 was a check that was bounced and came back?

3 A Yes.

4 Q I believe you said at that time you deposited
5 forty dollars in the account?

6 A Yes, sir.

7 Q Would you agree that 173-15 is evidence of that
8 deposit of forty dollars?

9 A Yes, sir.

10 MR. MITCHELL: That is an improper
11 question, when he asked about is that
12 evidence of.

13 THE MASTER: I did not take it as
14 legal evidence.

15 MR. MITCHELL: I will withdraw the
16 objection with that explanation.

17 Q (By Mr. Odam) All right. The deposit you made
18 for forty dollars would be the deposit slip here
19 in the amount of forty dollars, would that be
20 indicative of the forty dollars you deposited to
21 make up that difference?

22 A Yes, sir.

23 Q And on this same sheet, would the fifteen dollars
24 in transfer from the account of O. P. Carrillo,
25 per O. P. Carrillo's instructions of fifteen

1 dollars, would that be indicative of a deposit
2 into the bank account, as evidenced by 162, and
3 this statement for the month ending May 31st,
4 1974?

5 A Yes, sir.

6 Q So to summarize, those two statements, 173-15,
7 would be the indication of these two deposits of
8 fifteen dollars and forty dollars to bring the
9 balance up enough to cover that three thousand
10 dollar check?

11 A Yes, sir.

12 Q Mr. Couling, I will show you now Exhibits 172-1
13 through 172-31, and I will state to you these
14 are, according to earlier testimony and the
15 stipulation, these are photostatic copies of
16 checks from the Rio Grande City bank brought here
17 or sent here by Jim Bates, and these were
18 intended to be all of the checks written on the
19 account of the Benavides Implement and Hardware.

20 MR. MITCHELL: Your Honor, we had an
21 agreement that the yellow slips were not a
22 part of that package and I would like to
23 have them removed. They have remarks on
24 them.

25 THE MASTER: Those remarks are not

1 admissible, clearly.

2 MR. MITCHELL: Thank you, Your Honor.

3 Q (By Mr. Odam) All right. The first exhibit,
4 172-1, and I state to the record, it is not my
5 intention to go through and identify these checks,
6 all of them.

7 Can you identify that item, 172-1?

8 A It is a check on November 15, 1972, to Massey-
9 Ferguson for two thousand nine hundred seventy-
10 five dollars twenty-five cents.

11 Q And this check you referred to, 172-1, is this
12 one and the same check you signed to transfer
13 money to Massey-Ferguson?

14 A Yes, sir.

15 Q What was the purpose of that check?

16 A O. P. said I should send a check for that amount
17 to Massey-Ferguson and it came back and I had
18 already testified it was a down payment or a
19 regular payment, but it was a check issued on
20 O. P. Carrillo's instructions.

21 Q It was a payment or down payment to Massey-Ferguson
22 on O. P. Carrillo's instructions?

23 A Yes, sir.

24 Q Have you had an opportunity to total up the total
25 amount of checks on the account?

1 A Yes, sir.

2 Q Can you state what the total amount of checks
3 were that were written on the account?

4 A Thirty-nine thousand seven hundred fifty-six
5 dollars four cents.

6 Q And have you had an opportunity to -- well, that
7 series of checks you have before you, the copies
8 that includes, I take it, the checks you testified
9 earlier to to B. D. Holt and Plains Machinery
10 and Massey-Ferguson?

11 A Yes.

12 Q What would be the total of those checks?

13 A Thirty-three thousand six hundred twenty-five
14 dollars thirty-five cents.

15 Q And if you take the total amount of checks
16 written on the account and you subtract the
17 amount of checks written for Plains and B. D.
18 Holt and Massey-Ferguson and so forth for the
19 equipment, do you know what the difference is
20 between the checks for the equipment, that is,
21 Massey-Ferguson and B. D. Holt and Plains
22 Machinery and the rest of the checks, what that
23 difference is?

24 A Six thousand one hundred fifty dollars sixty-
25 four cents.

1 MR. MITCHELL: How many cents?

2 THE WITNESS: Sixty-four cents.

3 Q (By Mr. Odam) So the total of -- I think you
4 testified thirty-nine thousand seven hundred
5 fifty-six dollars four cents was the total deposit,
6 so of that there is only six thousand and some
7 odd written for payments other than equipment?

8 A Yes, and including the note payment.

9 Q How much is that?

10 A Two thousand six hundred fifty-eight dollars
11 fifty-eight cents, I believe. Yes, it is two
12 thousand six hundred and fifty-eight dollars
13 fifty-eight cents, sir.

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1 Q That would be the amount payable on the note?

2 A Yes, sir, that is fifty cents, Mr. Mitchell,
3 instead of fifty-eight.

4 MR. MITCHELL: Thank you.

5 Q Mr. Couling, the last question that I intend to
6 ask you, deals with the question that Mr. Mitchell
7 had asked you, I believe, on cross-examination
8 or earlier, and that was the question -- or to
9 get at the point of why you would -- I believe
10 he used the words or the phrase gratuitously,
11 or why you write out all of the checks to O. P.
12 Carrillo, do you recall when that discussion came
13 up, why you would write all of those checks?

14 A Which ones are you talking about particularly?

15 Q I'm talking about all the checks that you wrote
16 to O. P. Carrillo on that account and the San
17 Diego account, I am talking about the checks to
18 Plains Machinery that you wrote on the Benavides
19 Implement and Hardware account.

20 Let me ask you, I believe you testified when
21 you were first out on as a witness by the
22 Examiners some time ago, that you -- what your
23 employment record was and I believe you testified
24 that you at one time worked in the oil fields,
25 is that correct?

1 A That's correct, sir.

2 Q And when you left the oil field, what job did
3 you go to then?

4 A I believe I stayed around the store on and off, sir,
5 and then in 1962 I was approached by O. P. and
6 said if I wanted to be a tax collector for the
7 Benavides Independent School District and I did,
8 and I went to work in around October or November
9 of 1962, sir.

10 Q Now, in October of 1962, when you went to work
11 for the school district, that was the tax assessor-
12 collector?

13 A Tax collector.

14 Q And I believe you testified to it earlier and I
15 am not sure, but at that time, what was Judge
16 Carrillo's position with respect to the school
17 board or, in other words, what authority did he
18 have to ask you if you wanted that job?

19 A He was running for office then, sir.

20 Q He was running for the school board?

21 A Yes, sir.

22 Q And when he asked you if you wanted that job,
23 what was your reply to him?

24 A Well, if he got elected, I would be glad to
25 work.

1 Q And I take it that he was elected?

2 A Yes, sir.

3 Q And was -- and what position did he hold on the
4 school board?

5 A He was -- I don't know how long he was a regular
6 board member, but I don't believe it was very
7 long. He was president of the board for the
8 school district, sir.

9 Q He was president of the school board?

10 A Yes, sir.

11 Q And you at that time were the --

12 A Tax collector.

13 Q Tax collector for the school board?

14 A Yes.

15 Q Now, after he was elected to the school board,
16 did he have any conversation with you at all
17 with respect to the writing of these checks or
18 any other checks on these accounts?

19 MR. MITCHELL: Excuse me, Your Honor,
20 I don't think there would, of course, be
21 any relevancy of any conversation that
22 occurred in 1962 or 1963 and we would like
23 to assert, certainly, that these questions
24 go way beyond the confines of the formal
25 notice and the informal notice as well as

1 the question of judicial conduct, irrelevant
2 and immaterial to the structure of the --

3 THE MASTER: The question was not
4 clear to me because his question was did
5 you have any conversation about these checks?
6 Now, what checks are you talking about?

7 MR. ODAM: I am sorry, let me clarify
8 that. That is a very good point.

9 Q I said these checks, I did not mean, Mr. Couling,
10 the checks that were written during these years
11 up in 1971, past and let me see if I can clarify
12 that.

13 When I referred to these checks, I was
14 referring to not only those checks just stated,
15 but to the checks, for example, that Mr. Mitchell
16 has asked you about on cross-examination with
17 respect to your credibility, the checks that he
18 said you forged, the checks where money went to
19 O. P. Carrillo. I am referring to those checks
20 were Mr. Mitchell went back for a number of years.

21 MR. MITCHELL: I would still object,
22 those were 68 -- the tail end of 68, 69,
23 70 and the Court is aware of the ones that
24 are in evidence, 65, here as Exhibit E-65,
25 as 71 and the 151 series is 71 and we say

1 it is extremely remote, Your Honor, and
2 immaterial and irrelevant.

3 THE MASTER: But, if he's going into
4 some checks that you asked this witness
5 about, he has the right to explain anything
6 that needs explaining.

7 MR. MITCHELL: I have no objection
8 to him asking about 1968. It is 1962 that
9 bothers me.

10 Q Well, 1962 is when Judge Carrillo came on as
11 president of the school board?

12 A Yes, sir.

13 Q Now, we are talking about the checks in 1968.
14 Again, I am sorry about my question as to the
15 specificity of it, I didn't mean necessarily
16 1962.

17 Let's move up to the checks in 1968 that
18 Mr. Mitchell is referring to and he asked you
19 about.

20 Once Judge Carrillo came on as president
21 of the school board and you were serving as tax
22 collector, my question to you now is did you
23 have any conversations with Judge Carrillo about
24 that series of checks Mr. Mitchell asked you
25 about?

1 A Yes, sir.

2 Q What was that conversation?

3 A That when we needed money, see if I could make
4 some invoices and get bills out and produce
5 checks, I can give him some money and he would
6 give me part of it back to me, give me something
7 back -- give part of it back to me, sir.

8 Q Why did you do that?

9 MR. ODAM: Strike that question.

10 Q Did you think that that was a legal -- I know
11 that calls for a legal conclusion on your part,
12 did just let me ask if you thought that was the
13 proper thing to be doing, lawful thing to be
14 doing on your part, to be taking part in such a
15 scheme.

16 MR. MITCHELL: Your Honor, I want to
17 object to that, if the man is on the stand
18 and has admitted forgery and admitted ripping
19 off the county, I think it speaks for itself,
20 whether it is improper or not is a question
21 for this Court to pass on his credibility.

22 THE MASTER: The objection is overruled.

23 MR. MITCHELL: Note our exception.

24 Q Did you understand the question I am asking?

25 A Yes.

1 Q Why --

2 MR. ODAM: Strike that.

3 Q Did you think that was the legal or proper thing
4 to do?

5 A I did, but I didn't question it, sir.

6 Q You did think it was legal?

7 A No, that it was illegal.

8 Q Why didn't you question it?

9 A We were good friends and I figured if I ques-
10 tioned it, I was going to be told it was none of
11 my business. I was working for them and I am
12 supposed to do what they wanted.

13 Q When you say "they", who are you talking about,
14 when you say "they"?

15 A O. P. Carrillo, sir.

16 Q So pursuant to Judge Carrillo's instructions,
17 you began to write out those checks in 1968 of
18 the Benavides Independent School District, is
19 that correct?

20 A That's correct, sir.

21 Q And I will not go back through it as to the
22 reasons why you continued with the Benavides
23 Implement and Hardware and the county checks,
24 that is already in evidence and I won't discuss
25 that.

1 Again, the purpose of my asking you that
2 question in response to Mr. Mitchell's questions
3 why you would gratuitously write out those checks
4 to Judge Carrillo, do you understand that?

5 A Yes.

6 MR. ODAM: Pass the witness.

7 MR. MITCHELL: Your Honor, may I call
8 Octavio Hinojosa out of order so we can
9 document certain checks from the Benavides
10 Implement and Hardware, from the Duval
11 County Conservation and Reclamation Dis-
12 trict, and from the county and school dis-
13 trict preparatory to questioning this wit-
14 ness as to some of those items. May I
15 have leave of Court to do that, please, sir?

16 MR. ODAM: No objection.

17 THE MASTER: Mr. Couling, I will ask
18 you to step down and wait for a while.

19 MR. MITCHELL: May I be permitted to
20 call Mr. Hinojosa, who is out in the hall,
21 Judge Meyers?

22 THE MASTER: Yes, sir.

23
24 - - - - -

1 OCTAVIO HINOJOSA,
2 having been previously sworn, recalled as a witness,
3 and testified upon his oath as follows:
4

5 EXAMINATION

6 BY MR. MITCHELL:
7

8 Q Your name is Octavio Hinojosa?

9 A Yes, sir.

10 Q You have previously testified on two occasions,
11 have you not, Mr. Hinojosa?

12 A Yes, sir.

13 Q And the Court notes and reminds you you are still
14 under oath.

15 I asked you on a previous -- I believe you
16 were asked by the Attorney General and myself
17 to compile for us a schedule showing Benavides
18 Implement and Hardware Company checks, that is,
19 checks to Benavides Implement and Hardware from
20 the Benavides Independent School District, from
21 the Duval County Conservation and Reclamation
22 District and from Duval County commencing in
23 71 and running through and up to date, am I
24 correct, and these documents came that you brought
25 to us today represent summaries of those checks

1 to Benavides Implemet and Hardware from the
2 school district, the water district and the Duval
3 County?

4 A Mr. Mitchell, I don't know anything about the
5 water district or the Benavides Independent School
6 District. I didn't prepare those schedules.

7 MR. MITCHELL: Well, I understand that
8 you went by and picked up the ones that
9 are outside of your jurisdiction and I sup-
10 pose pursuant to a stipulation, it would be
11 stipulated to be correct, am I correct,
12 Counsel?

13 MR. ODAM: Yes, and I can clarify that
14 for the record if you would like.

15 MR. MITCHELL: Yes, let me mark them
16 and I think we should properly mark them.

17 (Marked for identification by the
18 reporter as R-91, R-92 and R-93.)
19

20 MR. MITCHELL: As to R-91, which is
21 the schedule of accounts of Duval County --

22 THE MASTER: It is the schedule of
23 what checks?

24 MR. MITCHELL: Yes, sir, I was going
25 to ask the witness.

1 THE MASTER: All right.

2 MR. MITCHELL: Strike that, maybe per-
3 haps I have got the wrong witness. These
4 were actually put together by various agen-
5 cies and brought together under an agreement
6 with Counsel and actually Mr. Hinojosa has
7 simply acted as the courier for them. He
8 does not, as indicated by his answer to the
9 questions, have predicate knowledge.

10 I suppose I will have to count on Mr.
11 Odam to make a stipulation for me on that,
12 if I can make it: That it is stipulated
13 that R-91, 92 and 93 reflect, Your Honor,
14 the date of checks, check numbers, claim
15 numbers, the amount and the funds, the
16 budget code of monies going into -- and
17 R-91 now from the County of Duval to Bena-
18 vides Implement and Hardware, and R-92 from
19 Benavides Independent School District to
20 the Benavides Implement and Hardware and
21 R-93 Duval County Conservation and Reclama-
22 tion District, into Benavides Implement
23 and Hardware Company.

24 These were brought over by Mr. Hinojosa,
25 delivered to Mr. Odam, who in turn delivered

1 them to me this morning for introduction
2 into evidence and am I correct on that, John?

3 MR. ODAM: Yes, Your Honor, I would
4 stipulate for the record that R-91, R-92
5 and R-93 are what Mr. Mitchell just read
6 off of them and what they contain, and to
7 the best of my knowledge they were prepared
8 by someone with the Attorney General's
9 office or someone with the Texas Department
10 of Public Safety and delivered by Mr.
11 Hinojosa pursuant to our agreement.

12 THE MASTER: All right. Now, is R-92
13 the school district schedule?

14 MR. MITCHELL: Yes, sir, it is Benavides
15 Independent School District to Benavides
16 Implement and Hardware. Let me show these
17 to the Court and the Court can see what --

18 THE MASTER: And the third one is the
19 Conservation District?

20 MR. MITCHELL: Yes, Judge, R-93 is
21 Duval County Conservation District and
22 R-91, of course, is the county and the
23 Court can get some idea of the scope of
24 them.

1 (Handed to the Master.)

2
3 MR. MITCHELL: I have no more ques-
4 tions of this witness, Judge, in view of
5 the stipulation we offer those into evidence.

6 MR. ODAM: And I would pose an objec-
7 tion when the Court is ready. Your Honor.

8 THE MASTER: All right.

9 MR. ODAM: Well, Your Honor, take for
10 example R-91, that is the schedule of
11 checks from the county to Benavides Imple-
12 ment and Hardware. I would object on the
13 grounds of relevancy of R-91.

14 Admittedly, that there are in there,
15 I would suppose, a computation of checks
16 which are already in evidence in this case
17 and to the extent those are in there, that
18 objection would not apply. However, as to
19 the other claim numbers, et cetera, that
20 are listed on R-91, I would object on the
21 relevancy of that. Those are not checks in
22 dispute, they appear to be checks from the
23 county to Benavides Implement and Hardware.

24 We do not know for what purpose that
25 might be developed by Mr. Couling's testimony,

1 but when it is, it does not go to any issues
2 in this case. They simply are not relevant.

3 Now, going to R-92 and 93, we can take
4 them together, they deal with checks over
5 a long period of time from the School Dis-
6 trict. R-92 and from the Water District,
7 R-93 and again we would object on the rele-
8 vancy of those.

9 They do not involve entities which we
10 say in this case that Judge Carrillo obtained
11 funds from. It would unduly take up the
12 time of the Court to examine Mr. Couling on
13 why that money was obtained for those entities
14 and for what purpose and it would just --
15 again, they are totally irrelevant to what
16 is before this court and I see no necessity
17 to go into them or even have those admitted
18 into evidence.

19 MR. MITCHELL: I don't, of course,
20 intend, Your Honor, to ask the witness about
21 each and every item. I introduced them to
22 show the full picture, the fact that is
23 pointed up by Counsel on his previous ques-
24 tions to Mr. Couling, the amount of money
25 coming out of that one single county.

1 I think it is definitely relevant,
2 the full scope of business.

3 THE MASTER: It may be vaguely rele-
4 vant. I think I will overrule the objection.

5
6 (Whereupon Exhibits R-91, R-92 and
7 R-93 are admitted into evidence.)

8 MR. MITCHELL: I have no further ques-
9 tions of Mr. Hinojosa, Your Honor.

10 MR. ODAM: We have no questions.

11 THE MASTER: Thank you, very much.

12 MR. ODAM: Wait just a minute.

13 THE MASTER: Wait, do you have any
14 questions of this gentleman?

15 MR. ODAM: Yes, sir.

16
17 - - - - -

18
19 E X A M I N A T I O N

20
21 BY MR. ODAM:

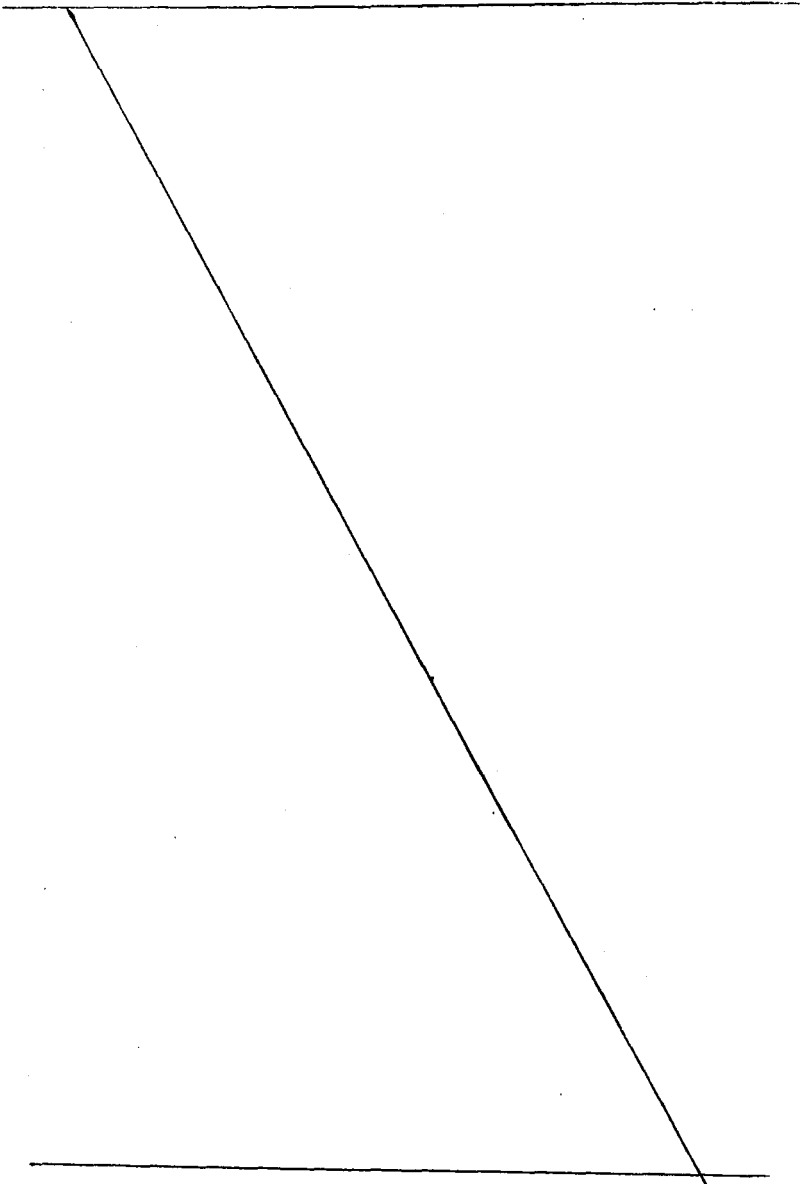
22 Q Mr. Hinojosa, on R-91 -- let me make this off
23 the record. I don't know if Mr. Mitchell is
24 aware of this or not.

25 THE MASTER: This is off the record.

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MR. MITCHELL: Yes, sir.

(Discussion off the record.)



1 THE MASTER: Back on the record.
2 Did you have a further question,
3 Mr. Mitchell?

4 MR. MITCHELL: I do.
5
6
7
8

9 R E - E X A M I N A T I O N
10

11 BY MR. MITCHELL:
12

13 Q Mr. Hinojosa, we requested you to bring in the
14 index cards of the checks going from Duval
15 County and so forth into Benavides Implement and
16 Hardware, did we not?

17 A Yes, sir.

18 Q And these are in a series of R-182 and checks
19 going into the Cash Store from Duval County?

20 A Yes, sir.

21 Q Have you brought to court this morning a similar
22 card, the original of those cards, with the tape
23 showing the total of these going to Benavides
24 Implement and Hardware and from the county?

25 A I could only find the ones of '71 and '72, the

1 originals. The rest are copies of the index
2 cards which are here up to 1975.

3 Q You have with you '71 through '75?

4 A Just copies from the originals only for '71 and
5 '72.

6 Q What is this tape, is that for the full time from
7 '71 to '75?

8 A I have no idea. Somebody else worked that up.
9 I don't know who it was. I didn't work it myself.

10 MR. MITCHELL: Mark this, please.

11

12 (The above-mentioned documents
13 were marked R-94-1 through R-94-8 for
14 identification.)

15

16 Q (By Mr. Mitchell) I had marked for the record
17 R-94-1 through R-94-8, and I will ask you if these
18 are the copies and originals of those index cards
19 you previously identified.

20 A Yes, sir.

21 Q They relate to the checks from Duval County to
22 Benavides Implement and Hardware which should
23 be also reflected on R-91, is that correct, at
24 least to the extent of those in April, 1971?

25 In other words, looking at R-91, we should

1 be able to look at R-94-1 and find the
2 corresponding claim?

3 A Yes.

4 MR. MITCHELL: We offer R-94-1 through
5 and including R-94-8.

6 MR. ODAM: We have our same objection
7 as to the others, Your Honor.

8 THE MASTER: That you made as to R-91
9 through R-93?

10 MR. ODAM: Yes, sir.

11 THE MASTER: It is overruled and they
12 are admitted.

13 MR. ODAM: We would like copies made of
14 this for our own personal use, Mr. Vernon.

15 MR. MITCHELL: Yes, we would also like
16 a copy of the same.

17 We have no further questions for this
18 witness.

19 May he be excused?

20 MR. ODAM: We have no further questions.

21 THE MASTER: You may be excused.

22 MR. MITCHELL: We would like at this
23 time -- I don't believe there has been a
24 proper or official offer -- excuse the word
25 "official," of R-71 through 78, which were

1 the checks on the Olivera Implement and
2 Zertuche General Store. These were the ones
3 I questioned Mr. Couling about and I think I
4 neglected to offer those and I will make that
5 offer at this point.

6 MR. ODAM: We would object to that,
7 Your Honor, as we did on the testimony as
8 to the relevancy of those exhibits.

9 THE MASTER: Yes, but I overrule the
10 objection and admit those.

11 MR. MITCHELL: Your Honor, also, may
12 Mr. Guerra be excused?

13 THE MASTER: Yes, he may be.

14 MR. MITCHELL: May I tell him, Your
15 Honor?

16 THE MASTER: Yes, but do it quickly.

17 MR. MITCHELL: Well, my client will do
18 that, Your Honor.

19 THE MASTER: All right.

20 MR. MITCHELL: I would like to recall
21 Mr. Couling.
22
23
24
25

1 RUDOLFO COULING,
2 recalled as a witness, having been previously sworn,
3 testified as follows, to-wit:
4

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

7 BY MR. MITCHELL:
8

9 Q Mr. Couling, the attorney for the Examiner asked
10 you concerning checks that were deposited in the
11 Rio Grande bank and I believe asked you as to
12 E-173 series, do you recall that?

13 A Which check in particular?

14 Q He asked you about E-173-15, which was the deposit
15 slips, do you recall that?

16 A Yes, sir.

17 Q So that the record is clear, the deposit slips --
18 now, that is the evidence introduced and admitted
19 by this court, those deposit slips can be tied
20 into the record by going into the checks previously
21 introduced in two series, that is, 151, 2, 3, 4,
22 and 5, and also 155 and so forth through 158.

23 Let me show you those and we could look at
24 the deposit slips, where there is a reference into
25 the deposit of the account and we should be able

1 to take those checks from Duval County and be able
2 to trace --

3 MR. ODAM: The question as to the inter-
4 relation of those, I would stipulate that
5 could be done, and apparently Mr. Mitchell
6 has done it and I have also and I have made
7 notes on that and we could get together and
8 go over this and if you have the same notes,
9 then fine.

10 For example, I could tell you E-57
11 relates to a deposit of November 27, 1972.

12 MR. MITCHELL: To that extent, I wanted
13 that as a predicate to the next question.

14 THE MASTER: All right.

15 Q (By Mr. Mitchell) In addition, Mr. Couling, I
16 am going to hand you additional checks. There is
17 a duplication of checks in the record and
18 specifically I am going to hand you the series of
19 E-65 and E-151 through 156 series.

20 Let me hand you these and see if we can
21 reconstruct these for the record.

22 Actually, the Exhibit No. 69, do you have
23 that with you? That would be in that stack and
24 I can --

25 MR. MITCHELL: I can save time, Your

1 Honor, and I can make -- E-69 is the same as
2 E-51. They are one and the same check, one
3 being an original and one a copy, am I
4 correct?

5 MR. ODAM: I don't have that right here,
6 but that probably is correct, because earlier
7 we had attempted to, with copies of checks,
8 and the question was whether he could produce
9 the originals and he provided some.

10 MR. MITCHELL: May I make a statement
11 that E-69 is the same as E-51; E-75 is the
12 same as 152 and for the record --

13 THE MASTER: Start over again.

14 MR. MITCHELL: E-69, which is a Xerox
15 copy of a check to Judge Carrillo, is the
16 same as E-151, which is the original of that
17 same check.

18 In other words, Judge, that check is for
19 one thousand eighteen dollars. It is not
20 for two thousand thirty-six dollars, it is
21 not two separate checks. E-75 is the same
22 check as E-152, am I correct, Mr. Couling?

23 THE WITNESS: Yes. This is the original
24 and a copy.

25 MR. MITCHELL: And E-76 is the same

1 check as E-153 and E-82 is the same check
2 as E-154.

3 THE WITNESS: Yes, sir.

4 MR. MITCHELL: For a total of seven
5 thousand four hundred seventy-six dollars
6 and not fifteen thousand, or whatever the
7 double of that amount is.

8 Have I just confused the Court?

9 THE MASTER: No, you have made it clear.
10 I was hearing 71 as opposed to 171 and E-71
11 is the photograph of the witness, Chapa.
12 That is the only confusion I have. What is
13 the equivalent of E-171?

14 MR. MITCHELL: I don't have E-171. I
15 have these others -- I believe it is E-151,
16 Your Honor.

17 THE MASTER: I see, and the first one is
18 E- what?

19 MR. MITCHELL: E-69 is the equivalent
20 of E-151.

21 THE MASTER: All right.

22 MR. ODAM: Again, if that is what
23 Mr. Couling states from looking at those,
24 that is the case.

25 I might state again that when the first

1 series were entered, those were Xerox copies,
2 and the best evidence objection was leveled
3 and he went back and checked and he brought
4 those particular originals following that.
5 There was a series of '69 and some more
6 checks where he could not find the originals,
7 so that is -- it was not our indication to
8 make the inference there was a double amount.

9 MR. MITCHELL: May we stipulate that
10 the total amount is seven thousand four
11 hundred seven--six dollars?

12 MR. ODAM: If that is what you say they
13 total, that is fine.

14 THE MASTER: Well, if it is wrong, I
15 will find the correct number by adding it
16 on an adding machine.

17 MR. MITCHELL: Your Honor, I have taken
18 the liberty of taking out those corresponding
19 exhibits and I have them available for the
20 Court here or for counsel, in the event you
21 want to compare between those.

22 THE MASTER: All right.

23 Q (By Mr. Mitchell) Now, Mr. Couling -- strike
24 that.

25 Mr. Couling, Mr. Hinojosa, who just preceded

1 you on the stand, has brought for us a compilation
2 which is admitted as R-91 through R-93, which
3 appear to be the checks from Duval County to the
4 Benavides Implement and Hardware. The Court has
5 admitted those in evidence. R-92 is the checks
6 from Benavides Independent School District to
7 Benavides Implement and Hardware.

8 A Yes, sir.

9 Q And Duval County Conservation and Reclamation or
10 R-93, 1971 to date, is that correct?

11 A Yes, sir.

12 Q Now, if you will look at the last page of those
13 exhibits, that is 91 through 93, you will find
14 first -- you will find a total of one hundred
15 eighty-two thousand two hundred sixty-nine dollars
16 nineteen cents paid to your business, is that
17 what the exhibit reflects?

18 A Yes, sir.

19 Q And if you look at 92, you see that shows a total
20 of one hundred nine thousand five hundred ninety
21 dollars fourteen cents?

22 A Yes, sir.

23 Q And 93, you will see seventy-six thousand seven
24 hundred two dollars twenty-two cents paid to your
25 business?

1 A Yes, sir.

2 Q Or a total of three hundred sixty-eight thousand
3 five hundred sixty-one dollars?

4 A Yes, sir.

5 Q Out of all of that business -- strike that, if I
6 might be able to, the fragmentary statement.

7 Now, not counting the checks payable to
8 Benavides Implement and Hardware, as relate to
9 the date December, 1972 and forward, that is
10 when the Caterpillar tractors were bought from
11 Plains Machinery Company of Corpus Christi, it
12 appears that the checks numbered 151, 152, 153,
13 154, 155, 156, 157 and 158 are the only checks
14 that come out of the Benavides Implement and
15 Hardware account to Judge O. P. Carrillo --
16 excuse me, including the Xerox E-165, the original
17 which we do not have, is that correct?

18 A Yes.

19 Q You may look at those.

20 A Would you repeat the question?

21 Q I say, the only ones -- setting aside the checks
22 payable to Plains Machinery, and we are talking
23 about the checks going to Judge Carrillo, are
24 E-151, 152, 153, 154, 155, 156, 157 and 158 and
25 in addition, E-65.

- 1 A Only to him, these are what you are talking about?
- 2 Q The only ones you have issued that are in
3 evidence.
- 4 A Yes, sir.
- 5 Q As far as you know, Mr. Couling, there are not
6 any more, other than those introduced by the
7 Examiner, are there?
- 8 A I don't know, sir, I can't say one way or the
9 other for sure.
- 10 Q If the thrust of the formal complaint is here
11 with checks coming from you to him and the
12 Attorney General has done a find job, a fine a
13 job as indicated by the record, you would assume,
14 if there would be more, they could have found
15 them?
- 16 A Yes, sir.
- 17 Q Let me ask you to pick up the checks you have in
18 front of you there, do you have those?
- 19 A Yes, sir.
- 20 Q If you add those figures, you will find that is
21 a total of payments to Judge Carrillo of seven
22 thousand four hundred seventy-six dollars and you
23 add E-65 in there and that is eight thousand
24 dollars, roughly.
- 25 A Well, whenever they add them, they can get the

1 right amount.

2 Q That is a total amount -- we are talking about
3 seven thousand four hundred seventy-six dollars
4 and you add that copy for a thousand, then that
5 is eight thousand four hundred seventy-six
6 dollars total -- I am sorry, my client, having
7 done the arithmetic, the seven thousand four
8 hundred seventy-six dollars does include E-65.

9 May I have the record changed to reflect
10 that?

11 THE MASTER: Yes.

12 Q (By Mr. Mitchell) Now, taking 151 and all of
13 the checks you have there, and see if that doesn't
14 come up to a total of seven thousand four hundred
15 seventy-six dollars?

16 A I can't add them, but I will agree if that is what
17 you say.

18 Q Okay. And of those checks, that is of those
19 checks E-65, E-151 through E-158, all of those
20 have recitals in the lower left-hand corner,
21 either rent on truck, tubing, and so forth, except
22 four of them, and they are E-65, am I correct?

23 A There is no notation on that one.

24 Q E-151, which has no notation?

25 A No, sir.

1 Q And E-158?

2 A No, sir.

3 Q And E-154?

4 A No, sir.

5 Q Each of the others has a notation and there is a
6 business record on it, which I understand your
7 testimony to be that you are saying that was
8 business you did with Judge Carrillo?

9 A Yes, sir.

10 Q And those that do not have notations, 158, for
11 example, is apparently endorsed over to the Cash
12 Store?

13 A Yes, sir.

14 Q And there is then, on the reverse side, an
15 endorsement by Abel Yzaguirre, that is his
16 signature?

17 A Yes, I know him.

18 Q To that extent, E-158 indicates that check from
19 you, R. N. Couling, to O. P. Carrillo, was
20 negotiated to the Cash Store?

21 A According to the signature, it does.

22 Q That leaves us without any notation on 151 and 154,
23 is that correct?

24 A Yes, sir.

25 Q And 154 having a "for deposit" notation "only"?
A Yes.

1 Q And 151, which apparently is a -- is endorsed
2 credit to the account of the payee?

3 A Yes, sir.

4 Q Out of all of those checks that we have listed,
5 151 and 154 are simply checks from you to Judge
6 Carrillo for varying amounts in 1971?

7 A Yes, sir.

8 Q All right. Now, I had --

9 MR. MITCHELL: May I have the Exhibits
10 back you are holding there, Mr. Couling,
11 R-91, 92 and 93.

12 (Handed to Counsel.)

13 (Discussion off the record.)

14 MR. MITCHELL: I believe, Your Honor,
15 I believe that's all the questions I have
16 of this witness.

17 MR. ODAM: Your Honor, Mr. Mitchell
18 has asked Mr. Couling if there are other
19 checks made out from Benavides Implement
20 and Hardware to Judge O. P. Carrillo and
21 his question was that -- or his answer was
22 that he did not know.

23 I did not really expect Mr. Mitchell
24
25

1 to raise that question and in light of
2 that, I will state that we have all of
3 the bank photostatic copies on the account,
4 and would like time to go through to have
5 an opportunity to examine Mr. Couling on
6 that point.

7 That might be that that is his answer
8 to that question, that there are no -- his
9 answers was that he did not know, but if
10 we could have the time to go through the
11 photostatic copies of all of the checks.

12 THE MASTER: You mean right now?

13 MR. ODAM: Yes, sir.

14 THE MASTER: How long do you need?

15 MR. FLUSCHE: About fifteen minutes.

16 MR. ODAM: And we are close --

17 THE MASTER: And I think we are winding
18 down. I believe we will finish today, don't
19 you?

20 MR. ODAM: Yes, sir.

21 MR. MITCHELL: Judge Meyers, the
22 only problem now is this. I might point
23 out that I have couched my entire rebuttal
24 on the extent of the record that has been
25 made by the Examiner for the last two or

1 three weeks or how long we have been there.
2 I must state quite frankly to the Court
3 that I am taken back by the statement that
4 Mr. Odam just made that there might be some
5 more checks by Mr. Couling. If there are --

6 THE MASTER: We are not at that point.
7 All I have been asked is to see if they can
8 find any and if they don't find any --

9 MR. MITCHELL: No problem.

10 THE MASTER: Then we are over the
11 hurdle. But if they do, they we face the
12 problem.

13 MR. MITCHELL: I think the Court is
14 telling me that I am crying ouch before I
15 am hurt and I think you are probably correct.

16 THE MASTER: Let's take a little longer
17 recess because you all will need some break,
18 too. Let's be in recess until, say, 10:05.

19 (Whereupon the hearing was in recess
20 from 9:40 a.m. until 10:17 a.m.)

21
22 THE MASTER: Are you ready to proceed,
23 Mr. Odam?

24 MR. MITCHELL: May I have the request
25 that he put down the time that we are taking

1 back up, Judge, to show the time spent by
2 Counsel?

3 THE MASTER: Yes, we are -- I just
4 figured we recessed -- well, correct me if
5 I am wrong. I think at 9:40 and we are
6 taking back up at 10:17 or 10:16.

7 MR. MITCHELL: Thank you, Judge Meyers.
8
9
10

11 EXAMINATION CONTINUED

12
13 BY MR. ODAM:

14 Q Mr. Couling, prior to the time of the break,
15 and I appreciate your indulgence with us, the
16 question was posed to you by Mr. Mitchell as to
17 whether or not there was any other checks, other
18 than these admitted into evidence, that you wrote
19 to Judge O. P. Carrillo on the Benavides Implement
20 and Hardware account in the San Diego State Bank.
21 Do you recall that question?

22 A Yes, sir.

23 Q And do you recall your answer that you gave at
24 that time?

25 A I believe I said I didn't remember, I thought it

1 was all of them, I don't know.

2 Q Now, you --

3 MR. ODAM: Mark that.

4
5 (Marked for identification as Exhibit
6 E-174.)

7 Q I show you what has been marked as E-174 and
8 ask you to examine it for a moment.

9 (Handed to the witness.)

10
11 Q I will have a question for you about it.

12 A Yes, sir.

13
14 (Marked for identification by the
15 reporter as Exhibit E-175.)

16 Q I will show you what has been marked as E-175
17 and ask you to examine it for a moment.

18 (Handed to the witness.)

19
20 (Marked for identification by the
21 reporter as Exhibit E-176.)

22 Q I will ask you at this time to examine what the
23 court reporter has marked as Exhibit E-176.

24
25 (Handed to the witness.)

1
2 (Marked for identification by the
3 reporter as Exhibit E-177 and E-178.)

4 Q I show you what the court reporter has marked
5 as E-177 and E-178.

6 (Handed to the witness.)
7

8 Q Have you had an opportunity to look at these
9 Exhibits E-174 through 178?

10 A Yes, sir.

11 Q All right, now, let's begin back with E-174 and
12 can you identify for the record, Mr. Couling,
13 what Exhibit E-174 is?

14 A This is a check made out to O. P. Carrillo for
15 a thousand dollars.

16 Q What is the date on that check?

17 A The fourth month, 14th day of 72, sir.

18 Q Now, did you bring this xeroxed copy with you
19 today?

20 A I don't remember. Yes, I believe I did. I
21 don't remember, sir, if I did or not.

22 Q Do you have the original copy of --

23 A -- those checks?

24 Q Yes.

25 A I might have. I don't know, sir, I can't --

1 Q Sir?

2 A I don't recall if I have them or not, sir. I
3 don't know.

4 Q I believe previously you have been asked to fur-
5 nish to the Attorney General's office all original
6 checks that you have, however.

7 A I turned over all that I have, sir.

8 Q All right.

9 MR. ODAM: Now, this check Exhibit E-174
10 we would offer into evidence.

11 MR. MITCHELL: We would object to the
12 offer of E-174 on the grounds of best evi-
13 dence rule. We would plead surprise and
14 request a motion for continuance or post-
15 ponement: beyond the specifications out-
16 lined in 1 through 12 in the formal notice
17 of hearing.

18 We would also object to the introduc-
19 tion, Your Honor, of E-174 on the grounds
20 that the same is irrelevant and immaterial,
21 being beyond the term of Judge Carrillo's
22 present office, that is as the Judge of the
23 229th District Court: it relates to non-
24 judicial acts and finally, Your Honor, we
25 would object to the introduction on the

1 grounds there is simply no jurisdiction here
2 for the purpose of an inquiry as to any
3 alleged act involving E-174, the jurisdic-
4 tion of the Judicial Qualification Commission
5 in this matter not having been previously
6 invoked.

7 THE MASTER: What is the purpose of
8 the offer? Obviously, in the face of an
9 objection, it can not expand the scope of
10 this inquiry and be a grounds of complaint,
11 is that correct?

12 MR. ODAM: Correct.

13 THE MASTER: Are you offering it
14 simply to rebut the suggestion earlier made
15 by Mr. Mitchell when he asked this witness
16 the question are there any others?

17 MR. ODAM: Yes, sir.

18 THE MASTER: Were there any others?

19 MR. ODAM: Yes, sir.

20 THE MASTER: I am not sure what the
21 question was, but in my view, it carried
22 the same implication that these were all,
23 there was a series of questions about five
24 or six checks being all the ones there were
25 except for the Plains Implement checks.

1 If that -- if that is your purpose,
2 simply to show that that thrust of questions
3 is inaccurate, I think it is admissible,
4 Mr. Mitchell.

5 MR. MITCHELL: I hate to quarrel with
6 the Court's statement.

7 THE MASTER: I am not suggesting you
8 are quarreling, I am just asking if you have
9 a response to it. I don't think it is
10 admissible to expand the scope of this
11 inquiry at all. but it is -- there was a
12 series of questions that tended to suggest
13 that those five or six checks that you handed
14 the witness were all the ones there were
15 and on all of those except two or three
16 there were notations.

17 MR. ODAM: That's right.

18 THE MASTER: Such as rent or pipe or
19 so forth.

20 MR. ODAM: And he testified, Your
21 Honor, under oath, that was the case as I
22 recall and if the Examiner --

23 THE MASTER: Now, the question was
24 though it narrowed itself, that is all there
25 are in evidence.

1 MR. MITCHELL: I believe I asked him,
2 Your Honor, I don't want to quarrel with
3 the Court, the thrust of my question was at
4 this point, at this close to the closing of
5 several weeks of trial, am I now faced with
6 all of the bad things I am faced with and
7 I put the question to him specifically with
8 that motive in mind, are you going to come
9 up here with anything else and I asked him
10 is there anything else and he said I don't
11 think there is.

12 And certainly if -- if the Court will
13 recall that very dumb followup question I
14 said don't you think if they had been scrap-
15 ing together all of this time and wanted to
16 point to me, they would have found some
17 more, and he said yes, that was the reason
18 for it.

19 Judge, I think the Court's statement
20 also raises an additional objection which
21 we would like to put to the offer of 174,
22 and it would be hearsay, that is as it is
23 being offered.

24 THE MASTER: Well, the objection that I
25 am concerned about is the best evidence

1 rule. I don't know that you have met it.

2 MR. ODAM: Your Honor, the gentleman
3 has stated that he does not have the original
4 checks.

5 THE MASTER: I thought he said he
6 didn't know.

7 MR. MITCHELL: Yes, he did.

8 THE MASTER: I think you need to
9 develop that.

10 MR. MITCHELL: All right, sir.

11 Q You understand, Mr. Couling, the question is as
12 to where, if you have the original checks that
13 we have here, now, my question to you, do you
14 have in your possession the original checks that
15 have been marked here as E-174 through 178 that
16 you have identified here to be copies?

17 A No, sir, I gave everything I could find to the
18 Attorney General, sir, all I could find, I gave
19 to the Attorney General. I don't have no checks
20 from the store in my house. The only thing I
21 have is my personal account which is a special
22 account, which is my personal account, that is the
23 only one I have.

24 MR. ODAM: Well, Your Honor, he has
25 testified to his unavailability of those

1 in his hands.

2 THE MASTER: Yes, but does the docu-
3 ment become unavailable because a witness
4 gives it to --

5 MR. MITCHELL: To the Examiner.

6 THE MASTER: -- to the Examiner?

7 MR. MITCHELL: Oh, no.

8 MR. ODAM: But the witness' testimony,
9 however, Your Honor, is he has turned over
10 to the Attorney General's office all original
11 checks which he had.

12 THE MASTER: That's correct.

13 MR. ODAM: Now, the statement or the
14 situation of things is that he didn't turn
15 over to our office originals of these checks.
16 If he did, and we have numerous originals
17 which he has, none of which are these, if
18 he did, we would put them into evidence.
19 We have numerous originals that he turned
20 over to us that he did have, the rest we had
21 to rely on from xeroxed copies or photo-
22 static copies of bank records.

23 In other words, we didn't receive
24 originals of these checks. If we did, we
25 would put them into evidence as we did

1 others we received.

2 THE MASTER: I will certainly accept
3 your representation for the purpose of this
4 discussion that you don't have the originals.

5 I think for the purposes of making these
6 copies admissible, unless Counsel will accept
7 your statement, you are going to have to
8 testify to that.

9 MR. MITCHELL: Yes.

10 THE MASTER: Because you have got to
11 prove, as I read the statute, that these
12 were made by a process that is reasonably
13 calculated to make a correct copy such as a
14 xerox, photostat and so forth, and that the
15 original is unavailable. Isn't that more
16 or less the test?

17 MR. ODAM: Yes.

18 THE MASTER: Now, I don't know, is there
19 any stipulation as to the -- as to the
20 copying process of these?

21 MR. ODAM: Well, these E-177 and 178
22 and 176 are on photostatic copy paper that
23 the bank, Mr. Carl Williams, had made pursu-
24 ant to earlier -- just like the earlier
25 situation on those checks.

1 MR. MITCHELL: It raises another objec-
2 tion that is not properly authenticated.
3 We would like to level that objection also
4 to the offer of 174, please, if it please
5 the Court.

6 May I speak just briefly to the ques-
7 tion of the best evidence rule, Your Honor,
8 and then I will -- I submit, Your Honor, the
9 best evidence rule would be emasculated in
10 it's entirety if Counsel and the witness
11 were permitted by the simple expediency of
12 Counsel, in answer to a predicate question
13 to avoid the application of the rule, to
14 simply testify, "Yes, I have the original,
15 but I have delivered them to you", and then
16 for Counsel to make the statement in open
17 court, "I don't have them".

18 I submit, Your Honor, that the --
19 that is not sufficient.

20 THE MASTER: That is not what the
21 witness testified to.

22 MR. ODAM: That isn't what he said.

23 THE MASTER: The witness testified he
24 delivered all the checks he could find.

25 MR. MITCHELL: To the Attorney General.

1 THE MASTER: To the Attorney General's
2 office. The Attorney General's office is
3 prepared to testify he did not deliver those
4 to us.

5 MR. MITCHELL: The originals?

6 MR. ODAM: Of these.

7 THE MASTER: That is, he is prepared
8 to testify.

9 MR. MITCHELL: My question is where
10 did they get the copies?

11 MR. ODAM: From the bank.

12 MR. MITCHELL: Then my objection is
13 to authentication and that is why I made
14 it.

15 THE MASTER: And the objection, with
16 respect to authentication, is good, Mr.
17 Odam.

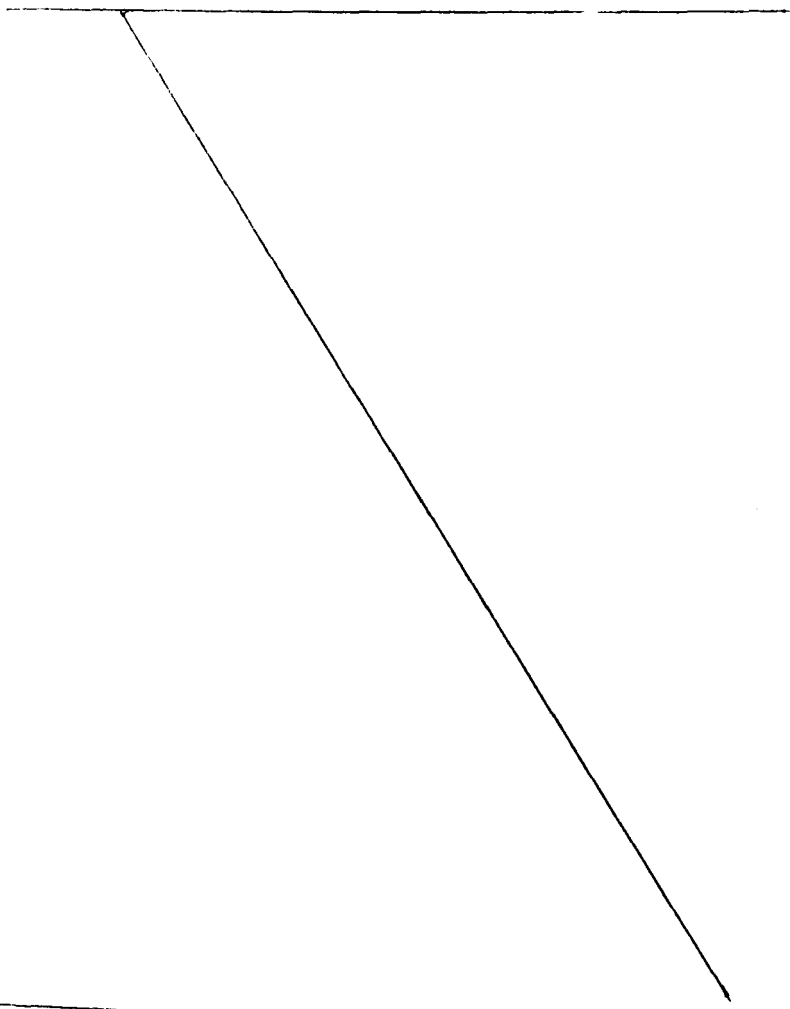
18 Now, you indicated that 174 is a
19 xerox.

20 MR. ODAM: Of a bank copy, of a bank
21 photostatic copy as E-175, it is a xeroxed
22 copy of a bank photostatic copy. Unless they
23 provided us with a xerox.

24 THE MASTER: I agree that they are not
25 authenticated and -- I agree they are not

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authenticated. I think with your representation that you will testify that they were not delivered to the Attorney General's office, I would think the test of unavailability has been met.



1 MR. MITCHELL: May I ask one question
2 on voir dire on the left observation on the
3 Court on the availability, Your Honor?

4 THE MISTER: Yes, sir.

5 MR. MITCHELL: May I see the exhibits,
6 please?

7 MR. ODAM: Yes.

8 MR. MITCHELL: I do so with the express
9 intent, of course, not to waive any objection.
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VOIR DIRE EXAMINATION

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3 BY MR. MITCHELL:
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5 Q These checks that have been marked 174 through
6 178, you have examined the copies of those, have
7 you not?

8 A Yes, sir.

9 Q And they are checks written by Benavides
10 Implement and Hardware to Judge O. P. Carrillo?

11 A Yes, sir.

12 Q In the normal course -- and each and every check
13 is drawn on the First State Bank of San Diego,
14 Texas?

15 A Yes, sir.

16 Q At a time when the Benavides Implement and
17 Hardware maintained a checking account in 1972?

18 A Yes, sir.

19 Q And the originals of these checks would have been
20 returned in the due course of the banking
21 business to you, would they not?

22 A Yes, sir.

23 Q And those originals would have come to your
24 possession at the time they were sent to you by
25 the bank?

1 A Yes, sir.

2 Q As far as you know, you got the originals?

3 A I received them, and when we made the income tax,
4 I believe they were in the store, and when
5 Mr. Garcia passed away, I could not find them.

6 Q Had you had the originals at one time?

7 A Yes, sir.

8 Q You testified earlier that these checks were never
9 delivered to the Attorney General?

10 A All I could find were, sir.

11 Q When did that delivery occur?

12 A Somewhere, I believe, in early September.

13 Q 1975?

14 A Yes, sir.

15 Q Did you make an inventory of the items delivered?

16 A I don't remember, sir. I can't say yes or no.

17 Q Did you box them? What was the size, how much
18 material was delivered to the Attorney General?

19 A Everything I had from the beginning up to 1974,
20 I believe.

21 Q As relates to the Benavides Implement and
22 Hardware account?

23 A Yes, sir.

24 Q And your personal and special ranch account?

25 A No, just the Benavides Implement and Hardware

1 account.

2 Q To whom did you make that delivery?

3 A I believe Mr. Blanton.

4 Q You did deliver all the bank statements and
5 cancelled checks you could find?

6 A Yes, sir.

7 Q And the deposit slips?

8 A I don't know whether it was together with them
9 or not. I handed them to them as I got them
10 from the bank.

11 Q Was that part of the audit material prior to
12 1975 you had earlier told us about?

13 A It was '71, '72 and '73, the ones they audited.

14 MR. MITCHELL: We renew our objection.

15 THE MASTER: Well, only with respect
16 to authentication is the objection sustained.

17 Mr. Mitchell, I might add that only
18 one exhibit has been offered and that is
19 E-174.

20 MR. MITCHELL: That is correct, just
21 174, and the objections are made to 174.

22 MR. ODAM: The assumption was that we
23 had offered 175 through 178 as well, which
24 we do offer at this time.

25 MR. MITCHELL: I plead surprise in order

1 to meet the matter and we object to it as
2 beyond the scope of the formal notice, the
3 First Amended Notice and no jurisdiction
4 as regards the expansion of those notices
5 and we also object on the grounds that it is
6 beyond the term rule, the office of Judge
7 Carrillo commencing on January 1, 1975, and
8 the checks all being in 1972; best evidence
9 rule, hearsay and improper authentication.

10 THE MASTER: Well, they are admitted
11 if they are -- they are not admitted, because
12 I don't think they are authenticated, but
13 if that occurs, then I will admit them for
14 a limited purpose of rebutting the
15 examination you made of this witness earlier
16 today suggesting that the only checks that
17 went to Judge Carrillo were the ones that you
18 handed to him and he held in his hand.

19 I can't quote the testimony exactly, but
20 that is the thrust of your examination.

21 MR. MITCHELL: We would further levy
22 the objection that it is an attempt to
23 impeach their own witness. It constitutes
24 an effective impeachment of their own
25 witness.

1 THE MASTER: That is overruled.

2 MR. ODAM: Your Honor, we would tender,
3 for the purpose of a Bill of Exception,
4 these exhibits, and I would like to determine
5 the availability of whether or not to have
6 Carl Williams drive back over here to say he
7 made these copies. We would want to go
8 into what purpose --

9 MR. MITCHELL: Pardon me --

10 THE MASTER: He said on a Bill of
11 Exception.

12 MR. MITCHELL: I appreciate that, but
13 it is hard for me to see the relevancy and
14 I am without being contemptuous, and without
15 detracting from the record, I am saying this
16 is subtrafuge and this Court has ruled as
17 regards the collateral matters and we would
18 object to, of course, this line of questioning
19 and I think the cases hold the bill is
20 properly made when the objection is made
21 and sustained as to the exhibits.

22 THE MASTER: You may proceed. You say
23 as a bill, it is a bill, because the document
24 is not in evidence. I take it, if you get
25 the document in evidence, you are going to

1 offer the bill itself?

2 MR. ODAM: Yes, sir.

3 THE MASTER: You may proceed.

4 MR. MITCHELL: That certainly puts me
5 on a disadvantage on cross-examination. If
6 he goes into the collateral matters and
7 authenticates them from a witness, then it
8 would be limited to objection. If he goes
9 beyond that, thereafter he succeeds in
10 authentication, then I would be precluded in
11 my cross-examination on the purpose of them.

12 THE MASTER: Well, I am simply following
13 what I think the Supreme Court said in the
14 first Southwest Airline case, that the court
15 should allow full bills to be developed.

16 MR. MITCHELL: I understand that.

17 THE MASTER: I don't understand why you
18 think you are limited in your cross-
19 examination. You would be free to cross him
20 on anything that Mr. Odam develops.

21 MR. MITCHELL: I would submit, Your
22 Honor, the purpose for the rules are
23 defeated. I have no notice of these checks
24 and he is going to be permitted to develop
25 them thoroughly on a Bill of Exception.

1 I don't know anything else to do except
2 request time to investigate them.

3 THE MASTER: That will be taken under
4 advisement.

5 MR. ODAM: May I have just one moment?

6 THE MASTER: Yes, sir.

7 MR. MITCHELL: May I ask the witness one
8 more question?

9 THE MASTER: Yes, sir.

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15 V O I R D I R E E X A M I N A T I O N

16 (CONTINUED)

17
18 BY MR. MITCHELL:

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20 Q Mr. Couling, do you know of any other checks now,
21 other than those five you just identified and
22 those four or five we talked about this morning?

23 A I can't remember, there might be a lot more.

24 Q Do you know?

25 A I can't remember. After going through a lot of

1 checks, I can't remember. How can I remember one
2 particular check?

3 Q You testified under oath these are the ones you
4 remember now?

5 A I don't know if there is a lot more, sir; I don't
6 know.

7 MR. MITCHELL: Judge, I submit I really
8 don't know what function I am performing.
9 I can't stop them from being generated and
10 this is a terrible way to try this case. I
11 submit I don't know what he is talking about.

12 Certainly counsel can notify me whether
13 he got any more delivered or not.

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

15 MR. ODAM: May I have just one moment,
16 Your Honor?

17 THE MASTER: Yes, sir.

18 Now, you may proceed on your Bill of
19 Exception, Mr. Odam.

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E X A M I N A T I O N

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3 BY MR. ODAM:
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5 Q I show you again E-174 through E-178, the first
6 being a copy of a check to O. P. Carrillo for
7 one thousand dollars. Can you state for what
8 purpose this check was written to Judge Carrillo?

9 A It was made from the county and the county made
10 a check to the store and I in turn made a check
11 to O. P. Carrillo for one thousand dollars.

12 Q And I show you E-175 in the amount of nine hundred
13 ninety-seven dollars to Judge Carrillo. For what
14 purpose did you write this check?

15 A The same purpose.

16 MR. MITCHELL: May I have a continuing
17 objection to this Bill of Exception and why
18 these were written?

19 THE MASTER: You may, however, this is a
20 Bill of Exception and I do not understand that
21 I have the authority, unless it gets -- I
22 suppose at some times I have the authority to
23 cut off the bill --

24 MR. MITCHELL: Well, I just don't want
25 to waive any of my objections.

1 THE MASTER: You have them all.

2 MR. MITCHELL: All right. I will let
3 counsel proceed without any further
4 interruption.

5 MR. ODAM: It is my understanding that
6 this is totally for the Bill of Exception
7 so that we can make a determination of
8 whether or not to get Mr. Williams over here,
9 if they are not authenticated, because they
10 are not in evidence.

11 THE MASTER: I regard the two as
12 divisible. It may be I will let the checks
13 in and make a different ruling on the
14 testimony.

15 MR. MITCHELL: I understand the Court
16 overruled all of my objections except
17 authentication.

18 THE MASTER: I have not ruled on this
19 testimony, because this is not coming into
20 the record; it is on a Bill of Exception.
21 There is no point in ruling on testimony
22 that comes in on a bill.

23 MR. MITCHELL: I don't think I am making
24 myself clear to the Court. The purpose of
25 this check is unrelated to authenticity. My

1 comments and objections are that if the
2 Court has overruled my objection, except
3 the best evidence rule and perhaps
4 authentication, then the question of purpose
5 is immaterial. The development of the
6 Bill of Exception to the question of the
7 objection is the only way to go.

8 THE MASTER: You are suggesting that he
9 should not, with this witness, develop this
10 exhibit any further until he gets it into
11 evidence?

12 MR. MITCHELL: That is right, except
13 as to the specific grounds for which the
14 objection was sustained, otherwise, why the
15 rules of evidence?

16 THE MASTER: That is certainly one
17 route the proceeding could take, but I don't
18 think that is the only route and you may
19 proceed, Mr. Odam.

20 Q (By Mr. Odam) I show you what has been marked
21 E-176 and ask you if you can identify this check?

22 A It is dated September, 1972, a check to O. P.
23 Carrillo for two thousand six hundred forty
24 dollars, from the Benavides Implerant and Hardware
25 on the First State Bank of San Diego.

1 Q What is the purpose of that?

2 A It says loan, but I never made him a loan.

3 Q For what purpose was that check made?

4 A It was money coming to my store from Duval County
5 and the money had to go to O. P. Carrillo.

6 Q I show you what has been marked E-177, which is a
7 check I will ask you to identify.

8 A This is a check dated January 4, 1972, in the
9 amount of seventy-seven dollars made out to O. P.
10 Carrillo.

11 Q For what purpose did you write that check?

12 A On that small amount, sir, I can't testify, but
13 I don't believe it was for anything.

14 Q You were just writing him a check for seventy-seven
15 dollars?

16 A Yes, sir.

17 Q And this check is also in 1972, can you identify
18 it?

19 THE MASTER: Exhibit number what?

20 Q I am sorry, Exhibit 178, can you identify that?

21 A Yes, sir, January 17, 1972, to O. P. Carrillo for
22 nine hundred dollars from the Benavides Implement
23 and Hardware. It is the same transfer, just to
24 give money from the county back to the judge
25 through my store.

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MR. ODAM: Would you mark these?

(The above-mentioned documents were
marked E-179-1 through E-179-29.)

Q (By Mr. Odam) Now, I show you what has been
marked as E-179-1 through E-179-29, and ask you
if you can identify these.

THE MASTER: E-179-1 through E-179-29?

MR. ODAM: Yes, sir.

Q (By Mr. Odam) Can you identify these?

A Yes, sir.

Q Look at them first and I will have some questions
to ask you about these.

A (Exhibits handed to witness.)

1 Q (By Mr. Odam:) Have you had an opportunity to
2 look at 179-1 through 179-29?

3 A Yes, sir.

4 Q And can you generally identify for the record
5 what those Exhibits are?

6 A These are checks from the Benavides Implement
7 and Hardware Company drawn on the First State
8 Bank of San Diego payable to the Farm and Ranch
9 Supply Company of Benavides, Texas, and they are
10 all from my store, sir.

11 Q And you signed all these checks?

12 A Yes, sir.

13 Q And all of these are original checks?

14 A Yes, sir.

15 MR. ODAM: We offer into evidence,
16 Your Honor, 179-1 through 179-29.

17 MR. MITCHELL: We object on the grounds
18 of hearsay. We plead surprise, and we
19 request a continuance and postponement to
20 properly defend against them: beyond the
21 formal notice, beyond the first amended
22 notice, beyond the term rule, relate to
23 non-judicial acts as between R. M. Couling,
24 Benavides Implement and Hardware and the
25 Farm and Ranch Supply Company.

1 There is absolutely no notice or any
2 type of a fashion or form of connection,
3 Your Honor, and certainly are not invited
4 by the prior questions out to the witness.

5 We object further on the grounds of
6 hearsay and I believe that is all, Judge.

7 THE MASTER: What is the purpose of
8 the offer, Mr. Odam?

9 MR. ODAM: Your Honor, the question was
10 out to the witness whether or not he had
11 issued any checks to Judge O. P. Carrillo.
12 The answer was he didn't know if he did or
13 not.

14 These checks made out to -- are made
15 out to the Farm and Ranch Store. The previ-
16 ous testimony in this case which has not
17 yet been disputed or is in question actually
18 is that the Farm and Ranch Store of Benavides,
19 Texas, was a partnership owned by O. P.
20 Carrillo and by Ramiro Carrillo.

21 We would submit that these checks are
22 offered, while they are not made out as the
23 previous ones on the bill of exceptions,
24 are made out to the Farm and Ranch Store
25 which is a partnership which O. P. Carrillo

1 and Ramiro Carrillo had an interest.

2 So these checks are relevant to that answer
3 and are offered for that purpose. They are checks
4 that are issued which indirectly Judge O. P.
5 Carrillo received the benefit of since he owned
6 the Farm and Ranch Store.

7 I recall for the record the testimony of
8 Cleofus Gonzalez and the testimony of Mr. Couling
9 previously.

10 MR. MITCHELL: I might state for the
11 record, Your Honor, I am not prepared to
12 try the Farm and Ranch Supply as it relates
13 to the Judicial Qualification rules.

14 I would also please, therefore, there
15 is no jurisdiction here as regards the tri-
16 angle they are putting us to trial on.

17 MR. ODAM: Your Honor, it is not the
18 intention to expand the notice or charge
19 Judge Carrillo with taking this money from
20 the county. We do submit, however, that the
21 checks are checks pursuant to earlier ques-
22 tions which went to Judge O. P. Carrillo
23 since they went to the Farm and Ranch Supply.

24 THE MASTER: So you are offering them
25 again to dispel the inference that was left

1 earlier this morning that the only checks
2 going from the Benavides Imolement and
3 Hardware were the five or six that were
4 handed to the witness?

5 MR. ODAM: Yes, Your Honor.

6 THE MASTER: To Judge Carrillo?

7 MR. ODAM: May I add the objection
8 improper bolstering and impeachment, attempt-
9 ing to impeach his witness, Judge Meyers.

10 THE MASTER: I will overrule the
11 objection. But I may change my ruling on
12 that one, Mr. Odam.

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16 EXAMINATION CONTINUED

17
18 BY MR. ODAM:

19 Q Mr. Couling, these checks 179-1 through 179-29
20 are in evidence in this case.

21 I take it from your testimony that each one
22 is in varying amounts to Farm and Ranch Supply
23 and I believe it was your previous testimony that -

24 MR. ODAM: Strike that.

25 Q Now, I do not intend to go with you in detail

1 through 29 checks, each and every one of these
2 checks. Why would you issue to Farm and Ranch
3 Supply these checks.

4 My question is to you, would you explain to
5 the Court and record why the Benavides Hardware
6 Company would issue these checks, these amounts
7 generally to the Farm and Ranch Supply and to
8 Judge O. P. Carrillo?

9 MR. MITCHELL: The best evidence rule
10 would apply. The checks speak for them-
11 selves and the notations contained thereon
12 and we would object as to the whys and
13 wherefores, Your Honor.

14 THE MASTER: Overruled.

15 (Handed to the witness.)

16
17 MR. ODAM: Judge, while he's looking
18 at these checks, I do understand it was over-
19 ruled and they were admitted.

20 THE MASTER: Yes, E-179-1 through
21 29 is admitted.

22
23 (Exhibit E-179-1 through E-179-29 were
24 admitted into evidence.)

25 THE MASTER: Mr. Mitchell, I want to

1 go back to a much earlier day while Mr.
2 Couling is looking at those checks and it
3 is on a completely different subject.

4 My recollection is not clear. I made
5 some notes on it and I have been rereading
6 the record. What is the status as you
7 understand it of that rather thick report
8 that the witness Garland Smith prepared?
9 Did I reserve ruling on it?

10 MR. MITCHELL: No, sir, I believe the
11 Court had reserved it's ruling at the time
12 it was offered. I objected and the Court
13 studied it and two days later --

14 THE MASTER: Sustained the objection?

15 MR. MITCHELL: Sustained the objection.

16 THE MASTER: That is what I recall, but
17 if it is not, it is sustained now.

18 MR. MITCHELL: It was put into the
19 record as a part of the bill of exception,
20 that was my recollection, Judge, Meyers.

21 MR. ODAM: That is my recollection also,
22 Your Honor.

23 (Discussion off the record.)
24

25 Q (By Mr. Odam:) You have examined the checks, Mr.

1 Couling?

2 A Yes, sir.

3 Q Do you recall the question why you would issue
4 these checks from Bensvides Implement and Hard-
5 ware to Farm and Ranch Supply, that is my question.

6 A Yes, sir.

7 Q What is your answer to that question?

8 A On some of these, I believe in the beginning the
9 checks -- the bills were made by Cleofus --

10 MR. MITCHELL: Pardon me, Your Honor,
11 I have a running or continuing objection,
12 if not, I certainly want to object that it
13 is way beyond the scope of notice. I have
14 no notice, I plead surprise and I want a
15 continuance and postponement.

16 He is getting ready to come in on some
17 new agreement and new understanding and going
18 to dump all of that in the record and I want
19 to object.

20 I certainly don't want to be by my
21 silence, to be understood that I waive any
22 of my prior objections, Judge Meyers.

23 THE MASTER: Well, you don't, but I
24 have admitted all of this, not to expand
25 any of the complaints or counts, but solely

1 to dispel or disprove the inference left
2 earlier this morning that the only checks
3 that went to Judge Carrillo were some four
4 or five or six, I don't remember how many,
5 and that totaled, as I recall some -- do
6 you recall that number?

7 MR. MITCHELL: Seven thousand four
8 hundred --

9 THE MASTER: Some seventy-four hundred
10 dollars.

11 MR. MITCHELL: Yes, and then, of course,
12 Your Honor, on that point, 179-1 through
13 179-29 to Farm and Ranch, and they are
14 endorsed for deposit only Farm and Ranch,
15 and signed by Cleofus Gonzalez and other
16 people, not O. P. Carrillo.

17 THE MASTER: Yes, sir.

18 MR. MITCHELL: All right.

19 Q (By Mr. Odam:) Go ahead, Mr. Couling.

20 A At the beginning the bills were made at Farm
21 and Ranch using my invoices taken to the county,
22 checks were issued and in turn I was told by
23 Ramiro that all of the checks that were brought
24 to me, if I didn't have no sales to be made
25 directly to the Farm and Ranch, I didn't sell no

1 supplies at all to the Farm and Ranch, I didn't
2 buy anything from them.

3 The bills that were produced by them are
4 bills that I was told by Ramiro to make myself.

5 THE MASTER: But what Ramiro told you,
6 I think is subject to the hearsay objection,
7 Mr. Odam.

8 MR. ODAM: Your Honor, at this time --
9 and I made a note of it at the end of our
10 case and for the state, this is our last
11 witness unless it is Mr. Carl Williams,
12 would reurge for consideration by the
13 Court the hearsay objection and all of the
14 testimony that had been given by this wit-
15 ness, particularly -- and the other witnesses,
16 on the exception to the hearsay rule as
17 the declaration against pecuniary interests
18 as statements made by Ramiro Carrillo to
19 this witness.

20 I believe the testimony has been
21 replete by the -- from this witness and
22 others as to the possible pecuniary interest
23 that could be incurred by one Ramiro Carrillo
24 as a result of the checks that have gone to
25 O. P. Carrillo.

1 Also, we see by the statements here
2 that there was a partnership between --
3 correction, by a previous testimony, a
4 partnership between O. P. Carrillo and
5 Ramiro Carrillo in the Farm and Ranch Store
6 and here we have checks, some of which are
7 based upon invoices to the county and for
8 which Benavides Implement and Hardware
9 received no benefit.

10 I believe the witness has testified,
11 or would testify, that Farm and Ranch re-
12 ceived no benefits. So I again, as to the
13 hearsay objection, I would reurge considera-
14 tion of the declaration against pecuniary
15 interests of Mr. Ramiro Carrillo.

16 THE MASTER: I will overrule that
17 objection. You have raised something in
18 my mind, out of court hearsay statement of
19 one partner is not admissible against the
20 other, is it?

21 MR. ODAM: No, Your Honor, in all
22 candor I don't know that exception to the
23 hearsay rule.

24 THE MASTER: I don't think it is. I
25 will sustain the objection with respect to

1 what Ramiro Carrillo told Mr. Couling with
2 respect to the testimony he just gave.

3 MR. ODAM: And as a further -- and I
4 don't think I have any additional questions
5 of this witness, these checks in light of
6 what Mr. Couling has now stated, checks
7 were admitted for the purpose of rebutting
8 the inference that no checks were issued to
9 O. P. Carrillo and also they are offered
10 for the purpose of showing the general
11 course of conduct by Mr. Couling in the
12 issuance of checks to Farm and Ranch and to
13 show the entire scheme of which we have
14 gone through with six days of this witness.

15 In other words, the overall course and
16 conduct involved in this entire pattern of
17 issuance of checks from the county, from
18 Benavides Implement and Hardware.

19 These are all, we would submit -- the
20 ones that are in evidence, particularly which
21 we have gone into and which are in our
22 notice of formal pleadings and the amended
23 notice of formal pleadings, all as we state
24 in our pleadings, show the fraudulent scheme
25 of fraudulent slips into the county and the

1 county issuing the checks out therefrom.

2 MR. MITCHELL: Now, Judge, I know I
3 have been restrided in what my objections
4 are, but now this monologue, I am going to
5 continue to object to it.

6 THE MASTER: Sustained.

7 MR. MITCHELL: Now, this is --

8 THE MASTER: I sustained your objec-
9 tion.

10 MR. MITCHELL: All right, sir.

11 MR. ODAM: They are offered for the
12 course of conduct, Your Honor.

13 THE MASTER: I do not admit them for
14 that purpose. I admit them for the purpose
15 that you stated initially to show that the
16 four or five checks this witness was ques-
17 tioned about by Mr. Mitchell earlier this
18 morning, leaving the inference that those
19 are the only ones that went to Judge Carrillo
20 or for his benefit, was a misleading infer-
21 ence.

22 MR. ODAM: We pass the witness.

23 MR. MITCHELL: There is no way in the
24 world I can prepare to examine him, Judge.
25 I asked him a question under oath, "Is there

1 any more checks", and he says he doesn't
2 know and I get some more and I'll be quite
3 frank, I am very frustrated.

4 I have been at this for twenty-five
5 years and I think the best thing for me to
6 do is to pass him back and rest.

7 THE MASTER: The Examiner hasn't rested
8 yet.

9 MR. MITCHELL: I need some more time
10 to commence an investigation into these
11 additional checks. I am not going to let
12 174 through 179-1 through 29 remain unspoken,
13 if I have got to spend the next ten years
14 getting to the bottom of them.

15 But, Your Honor, quite frankly, I cannot,
16 I am not that agile. I cannot take within
17 a period of about an hour the Exhibits 174
18 through and including 179-1 through 29,
19 that is thirty-three some odd Exhibits and
20 cross-examine and I am just not going to
21 speak to this record that I can do that
22 intelligently.

23 THE MASTER: I do not believe, Mr.
24 Mitchell, that 174 through 178, Examiner's
25 Exhibits, are in evidence, they are not, so

1 the only thing we are talking about is
2 179.

3 MR. MITCHELL: There are twenty-nine
4 checks.

5 THE MASTER: Sir?

6 MR. ODAM: There are twenty-nine checks.

7 THE MASTER: Yes, sir, that's right.

8 MR. MITCHELL: I am certainly not
9 prepared to defend on Farm and Ranch, Judge
10 Meyers.

11 THE MASTER: How much time do you
12 want?

13 MR. MITCHELL: I would say between a
14 week and two weeks for twenty-nine checks.

15 MR. ODAM: Your Honor, may I make a
16 comment?

17 THE MASTER: Of course, I'm not sure
18 you say you had no notice. You get into a
19 trial and a matter frequently comes into
20 evidence that you don't know about, and this
21 is in evidence rebutting something that you
22 opened up.

23 MR. MITCHELL: Well, Your Honor, had
24 these been checks to -- well, first, let
25 me say this now that has been -- and so

1 that it will be clear on the record, we
2 have got three Attorney Generals that have
3 a massive -- plus all of them other folks
4 in Duval County, they have been over there
5 digging this material up for the last four
6 or five months, spent thousands of dollars
7 of the tax payers' money and to tell me
8 that they focus today on the fact that they
9 cannot produce but seven checks or five
10 checks, and out of fairness to the record,
11 Your Honor, of course, I have had myself, and
12 it seems to me that certainly that the Judi-
13 cial Qualifications Commission could have
14 set out in it's notice way back there in
15 May or the amendment, tie-in all of these
16 checks and we would have called -- at least,
17 we would have been out on notice that we are
18 going to be defending the Farm and Ranch.

19 THE MASTER: I do not believe that
20 any pleader is required to plead his evi-
21 dence and this is simply evidence rebutting
22 something you opened up this morning in my
23 view. It is not admitted to prove --

24 MR. MITCHELL: Well, I have no questions
25 of this witness then, Judge.

1 THE MASTER: It is not admitted to
2 prove misconduct. I did not admit it for
3 that purpose. Do you have anything else,
4 Mr. Odam?

5 MR. ODAM: No, sir, except to make the --

6 THE MASTER: You are not going to call
7 Mr. Williams?

8 MR. ODAM: That is correct, in light
9 of Mr. Mitchell's statement, I would not --
10 in his lack of preparedness to the new
11 photostatic bar copy records, I would not
12 at this time, and will not, call Mr.
13 Williams to admit those.

14 So they stand simply on the bill of
15 exceptions and these are simply to rebut
16 the inference that no other checks were
17 offered. That is the status of the record
18 and we pass -- we have no further questions
19 of this witness and --

20 (Discussion off the record.)

21
22 MR. ODAM: And the only evidence that
23 we have left would be the final accounting
24 of Mr. Bates which is back on the earlier
25 article.

1 MR. MITCHELL: If I were prepared I
2 would have many questions of him, Judge
3 Meyers. I am not prepared and , consequently,
4 I have no further questions of him.

5 THE MASTER: You may step down, Mr.
6 Couling. I guess Mr. Couling is free to
7 go.

8 MR. ODAM: Mr. Couling, you are a free
9 man.

10 THE MASTER: But not to take those
11 with you.

12 MR. ODAM: But not to take the checks.

13 (Discussion off the record.)

14 (Whereupon the witness was excused.)

15 THE MASTER: Where is the final account-
16 ing that you want?

17 MR. ODAM: Mr. Flusche has it, sir.

18 THE MASTER: All right.

19 MR. MITCHELL: Your Honor, for the
20 purpose of the record, I understand the
21 Court now has refused a postponement or
22 request for a continuance to prepare for
23 cross-examination on 179-1 through 29.
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1 THE MASTER: I refused a week or a
2 week and a half, which is what your request
3 was, was it not?

4 MR. MITCHELL: Yes, sir, I think quite
5 frankly it would take me that much time,
6 Judge, on this new aspect of the case.

7 THE MASTER: Excuse me just a minute,
8 but for the record, I would recess certainly
9 over the weekend and maybe until Tuesday
10 or Wednesday of next week.

11 MR. MITCHELL: Well, quite frankly,
12 Your Honor, may I state that for the record,
13 I was prepared this morning to put on --
14 when the Examiner indicated this was his
15 last witness, I was prepared, based on the
16 documentation previously that had gone into
17 evidence, to put on Judge Carrillo in
18 connection with the Exhibits 69, 75, 76, 82,
19 151, 152, 153, 154. I am not, however, will-
20 ing to subject my client to testimony from
21 a facile witness as Mr. Couling has turned
22 out to be and E-179-1 through 29.

23 Now, that is the reason for my request
24 for the additional time, it requires a com-
25 plete reevaluation of my case and the posture

1 of the defense in the case, Judge Meyers,
2 and for me not to be frank and open to this
3 Court and this record, that I am surprised
4 and I am conscientiously surprised at this
5 point would be a failure to discharge my
6 duty as a member of the Bar of this state
7 for twenty-five years, if that means anything.

8 THE MASTER: As an attorney of twenty-
9 five years of experience, you have certainly
10 been surprised in the trial matters before.

11 MR. MITCHELL: Oh, no question, it is
12 quite a reoccurring experience, Judge Meyers.

13 THE MASTER: And all this is, is evi-
14 dence admitted for a limited purpose of
15 rebutting the suggestion that you made,
16 that there were only these five checks
17 that went to Judge Carrillo's benefit.

18 Now, I will also be candid with you,
19 I doubt that I will give too much weight
20 to these checks to the Farm and Ranch Store.
21 Obviously, he is a partner, but that is a
22 step removed.

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

24 THE MASTER: I don't know how much
25 weight I will give to this.

1 MR. MITCHELL: Had I thought, of course --
2 as the Court well knows, my predicate ques-
3 tions put to Mr. Couling were for the purpose
4 of setting a pattern for my case and for
5 putting of Judge Carrillo on the stand. I
6 don't -- there are other business entities
7 that I have no assurance they won't call
8 somebody now and show that he has got, let's
9 say, all of the checks going from Benavides
10 Implement and Hardware to the bank that he
11 owns ten shares of stock in. Lord knows,
12 that can be carried to an impossible end.

13 Now, if I were in a normal trial, Your
14 Honor, I would agree with the Court, the
15 Court has tried many civil cases and I have
16 tried many, I know what occurs in a normal
17 surprise, I am not -- I thought in this
18 highly specialized type of procedure, akin
19 to an indictment and akin to a criminal
20 case where I was entitled to rely on the
21 formal notice given to me, or at least the
22 amended formal notice, and it is to that,
23 that I have attached my case. That is,
24 that the type of procedure, I know, Your
25 Honor, that a case flows and gets into

1 surprise elements.

2 Now, I say that the problem is further
3 aggravated here because I think the peculiar
4 type of proceedings doesn't require that I
5 defend everything relating to the disquali-
6 fication.

7 THE MASTER: But when you open something
8 up, Counsel has a right to -- I would agree
9 with you completely, Counsel could not have
10 gotten in E-179-1 through 29 but for the
11 questions you asked this morning of Mr.
12 Couling.

13 MR. MITCHELL: Well, Your Honor, I --

14 THE MASTER: Now, and it is only mildly,
15 if the earlier Exhibit is the ones that were
16 not admitted, that is 174 through 178, that
17 would be very directly refutive or it would
18 be a very direct rebuttal of that suggestion
19 that there were only these five checks total-
20 ing seventy-four hundred dollars.

21 MR. MITCHELL: But this is the problem
22 that we are faced with, Judge Meyers. We
23 have the sworn testimony and a witness
24 sponsored by the Examiner that a partnership
25 came into existence between Ramiro Carrillo,

1 in May of 1971, and this gentlemen, Mr.
2 Couling, of which my client was a silent
3 partner and pursuant to that partnership
4 these checks were paid to my part -- to my
5 client.

6 If there is nothing in the record that
7 the -- that there was anything tied in to
8 that partnership arrangement in May of 1971,
9 of Farm and Ranch, which is another partner-
10 ship, between my client and still someone
11 else.

12 THE MASTER: Well, Mr. Mitchell --

13 MR. MITCHELL: That to me is why I --
14 I had to -- I am put in the posture now of
15 facing an entirely different charge.

16 THE MASTER: Well, as I say, I will
17 give you until Wednesday of next week and I
18 would like to know whether that is accepted.

19 MR. MITCHELL: Yes, it is accepted,
20 Judge, provided I can -- I don't want Mr.
21 Couling -- I have to get Mr. Couling back,
22 of course, Wednesday, and we will start
23 with him.

24 Yes, I appreciate it, Judge Meyers,
25 and I am not being facetious, I will take

1 it, I will take every bit of time I can get.

2 MR. ODAM: If that is the case then,
3 Your Honor, to take three days to rebut the
4 evidence which is the checks that were
5 issued to Farm and Ranch, I don't know how
6 you rebut checks that were issued, but if
7 that is the state of the record, to take
8 time to do that with those series of checks,
9 we will withdraw those checks and proceed
10 to put Judge Carrillo on the stand, and
11 when Judge Carrillo goes on the stand, we
12 will proceed from there.

13 They are -- 179-1 through 29 are with-
14 drawn from evidence.

15 MR. MITCHELL: Thank you, Mr. Odam.
16 Your Honor, as I understand it, Counsel is
17 going to rest his case?

18 MR. ODAM: And the Examiners do rest
19 their case and we will proceed from here.

20 MR. MITCHELL: And do we understand
21 all of the testimony given in connection
22 with 179-1 through 179-29 is stricken from
23 the record?

24 THE MASTER: Yes, sir.

25 MR. MITCHELL: And did he rest?

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THE MASTER: Yes, sir.

MR. FLUSCHE: Your Honor, if I might --

THE MASTER: Well, he hasn't quite rested. We still have this inventory that you know about.

MR. MITCHELL: Yes. I have no objection to the inventory, I know what Mr. Flusche has reference to, Judge Meyers.

THE MASTER: What is the Exhibit number?

MR. FLUSCHE: The Exhibit is E-40. Would you take this and put it in for E-40 and take the old one out.

(Whereupon E-40 was substituted for Exhibit E-40 formerly in the record.)

1 THE MASTER: Mr. Mitchell, do you want
2 to break to get organized or are you ready?

3 MR. MITCHELL: Your Honor, we would call
4 as our first witness, Mr. Maurice Pipkin.

5 I might state for the record, he is not
6 here, and in connection with the First
7 Amended Notice of Formal Procedure, the
8 reason for that, and maybe we can dispense
9 with him, if the Court recalls, I put on
10 Judge Carrillo on the preliminary matters
11 and if I can have an agreement Mr. Pipkin
12 will take the stand and can authenticate the
13 original notice, then that can be offered for
14 this record, then that will conclude that
15 witness.

16 THE MASTER: Let me see, the second
17 notice of informal proceeding --

18 MR. MITCHELL: Yes, sir.

19 THE MASTER: -- was there a reply?

20 MR. MITCHELL: Yes, sir.

21 THE MASTER: And the formal proceeding?

22 MR. MITCHELL: Right.

23 THE MASTER: And then the amended notice?

24 MR. MITCHELL: Right, and the replies
25 to those, Judge Meyers.

1 THE MASTER: Your replies?

2 MR. MITCHELL: Yes, sir.

3 THE MASTER: That, I take it, can be
4 stipulated, can it not, Mr. Odam?

5 MR. ODAM: Yes, I would think they are
6 a part of the record in the proceeding.

7 MR. MITCHELL: I knew the Court did not
8 admit them and we will offer them for the
9 full record.

10 MR. ODAM: We will stipulate they are
11 what they purport to be and they are so
12 stipulated.

13 MR. MITCHELL: I would like to break
14 for a short period and --

15 THE MASTER: All right. I would like
16 to break for twenty minutes and hear
17 testimony from 11:40 until 1:00 -- well,
18 11:45 until 1:00.

19 MR. ODAM: May I make a statement, if
20 the first witness is Judge Carrillo, it is
21 our intention to go into the notice of formal
22 proceeding. I take it from Mr. Mitchell's
23 statement, he is going to offer him only for
24 a limited purpose; however, I think it opens
25 it up and subjects him to full cross-examination.

1 MR. MITCHELL: I am not going to ask
2 this witness about each and every ground of
3 the specifications. I am going to go to the
4 First Amended Notice of Formal Procedure
5 without waiving my objection to it, but I
6 think I have to go to it.

7 May I have at this point some indication
8 of my tender of Judge Carrillo, Your Honor,
9 on Roman I, III and VIII; would that subject
10 him to cross on those, and if so, I will
11 not ask him about those?

12 THE MASTER: I don't know, I would like
13 some assistance.

14 MR. MITCHELL: As the formal notice was
15 adopted by the Examiner, that at the outset
16 he said he would like to make a statement
17 concerning the specifications he had a
18 witness testify to and I would like to have
19 this same thing as to whichever I might ask
20 Judge Carrillo about.

21 THE MASTER: That is a matter which I
22 contemplated when it was suggested that
23 Judge Carrillo might take the witness stand.

24 MR. MITCHELL: Yes, sir.

25 THE MASTER: Are you suggesting that he

1 can take the stand on a hearing of the merits
2 for the limited purpose of addressing certain
3 counts in the Amended Notice of Formal
4 Proceeding?

5 MR. MITCHELL: That is right.

6 THE MASTER: And still be asserting his
7 Fifth Amendment privilege to the rest?

8 MR. MITCHELL: Yes.

9 THE MASTER: You can probably do that,
10 but you will have to be awful careful.

11 MR. MITCHELL: Yes, Your Honor.

12 THE MASTER: Your idea is that it opens
13 up everything, Mr. Odam?

14 MR. ODAM: Yes, sir.

15 MR. MITCHELL: My intent was not to put
16 it on the Fifth Amendment basis.

17 THE MASTER: They say once you put him
18 on the stand to deny any of the counts, that
19 opens him up on all of the counts.

20 You were not limited in the cross-
21 examination of any of these witnesses because
22 they spoke on one count only.

23 MR. MITCHELL: Maybe they can come up
24 with case law, but I had understood that the
25 right to incriminate and the Miranda, I

1 would say that I --

2 THE MASTER: Well, I am making it easy.
3 At this stage, I will limit the cross to the
4 counts you open up, but you must understand,
5 if the law is contrary to your position, I
6 will permit cross-examination on all counts.
7 I must say I don't know the law in this area.

8 MR. MITCHELL: Other than the Miranda,
9 where it says you can stop it on the
10 proceeding at any time.

11 THE MASTER: Well, that is for a
12 criminal action and I can tell you I don't
13 know in this instance.

14 MR. MITCHELL: May I have just a minute,
15 Judge?

16 THE MASTER: Yes.

17 MR. MITCHELL: All right. Let the record
18 show that I am consulting with Judge Carrillo.

19 THE MASTER: We are in recess. You
20 don't have to consult with him in court.

21
22 (Whereupon, a short recess was taken.)

23
24 MR. MITCHELL: May I call to the witness
25 stand, Judge O. P. Carrillo?

1 THE MASTER: Yes, have a seat, please,
2 Judge Carrillo.

3 MR. ODAM: May I ask a question?

4 THE MASTER: Yes, sir.

5 MR. ODAM: When we talked about coming
6 back on Monday or not, do I take it this
7 would be your last witness and you rest after
8 his testimony?

9 MR. MITCHELL: Yes.

10 THE MASTER: I assume that is conditioned
11 on his cross-examination?

12 MR. MITCHELL: Yes, as is the present
13 plan, and in view of the stipulation and
14 kindness of counsel to stipulate, Judge
15 Carrillo would be the final witness, subject
16 only to the matters as to the Court's
17 disposition on technical rules of evidence.

18 MR. ODAM: As to the prospects of coming
19 back on Monday, if the Master determines
20 cross-examination would be limited to the
21 matters related on direct, my question is,
22 I can understand it would be limited, but if
23 I were to ask -- that means I would not be
24 permitted to ask questions on the other
25 matters?

1 THE MASTER: No, I am not saying that
2 you would be limited on that at all, but you
3 can't make a bill.

4 Now, Mr. Mitchell, as we were here
5 informally before the reporter came in, I
6 told you and the Examiner that at this stage
7 I would permit Judge Carrillo to take the
8 stand and to testify with respect to
9 individual counts contained in the First
10 Amended Notice of Formal Proceeding. These
11 are designated by a Roman Numeral I through
12 XII. I also stated that I did not know
13 whether the law was that he would thereby
14 open himself up for cross-examination with
15 respect to all of those paragraphs or whether
16 cross-examination would be limited to the
17 paragraphs on which he testified.

18 MR. MITCHELL: That is correct.

19 THE MASTER: You indicated to me you
20 contend cross-examination is limited to the
21 paragraphs about which he testifies and you
22 intend to be very careful to so limit his
23 testimony.

24 MR. MITCHELL: Yes, sir.

25 THE MASTER: The Examiner contends that

1 irrespective of that, by taking the stand
2 and testifying to any paragraph, he opens
3 himself to all, is that your understanding?

4 MR. MITCHELL: Yes.

5 THE MASTER: Judge Carrillo, is that
6 your understanding?

7 JUDGE CARRILLO: Yes, sir.

8 THE MASTER: You are a judge and a lawyer,
9 Judge Carrillo.

10 JUDGE CARRILLO: Yes, sir.

11 THE MASTER: And you know by taking the
12 witness stand, anything you say may be used
13 against you in a criminal proceeding?

14 JUDGE CARRILLO: Yes, sir.

15 THE MASTER: And you know you waive your
16 privilege against testifying, certainly as
17 to the matters of which you testify, do you
18 understand that?

19 JUDGE CARRILLO: Well, Your Honor --
20 well, would you restate that?

21 THE MASTER: Do you understand that if
22 you take the stand and testify with respect
23 to matters in any of the paragraphs, that
24 the Examiner has the right to cross-examine
25 you fully on those paragraphs?

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JUDGE CARRILLO: Yes, sir.

THE MASTER: And you voluntarily take the stand with that knowledge?

JUDGE CARRILLO: Yes, sir. I thought Your Honor was trying to say that if I was forced to testify on one --

THE MASTER: No, sir.

You also understand you may very well, by taking the stand, by testifying to one or two or three of these paragraphs, open up yourself to cross-examination on all twelve?

JUDGE CARRILLO: Yes, if that is the law, I will do that.

THE MASTER: And you are willing to take the stand with that understanding?

JUDGE CARRILLO: Yes, sir.

THE MASTER: Very well. With that understanding, will you raise your hand and be sworn.

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

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

8
9 BY MR. MITCHELL:

10
11 Q State your name for the record.

12 A O. P. Carrillo.

13 Q You previously testified in this case in
14 connection with preliminary matters, have you not?

15 A Yes, sir.

16 Q And you are the same Judge Carrillo?

17 A Yes, sir.

18 Q I have handed you a copy of the First Amended
19 Notice of Formal Proceeding.

20 A Yes, sir.

21 MR. MITCHELL: May I make this
22 statement for the record. While I intend to
23 ask the witness, Judge Carrillo, about the
24 matters raised in the First Amended Notice,
25 I do so without the desire and with the

1 specific intent to the contrary of waiving
2 any and all matters heretofore raised and
3 brought to the attention of the Court as to
4 the validity of the First Notice, and without
5 regarding to waiving especially those pleas
6 in abatement or any objections made of record.

7 THE MASTER: Well, I think the
8 exceptions have been ruled upon.

9 MR. MITCHELL: Yes, insofar as
10 permissible by law. I do so out of an
11 abundance of caution and I want to --

12 THE MASTER: I don't believe by calling
13 him as a witness you waive anything and I
14 don't deem it that way.

15 MR. MITCHELL: Thank you.

16 Q (By Mr. Mitchell) I am going to ask you certain
17 questions, Judge Carrillo, and I am going to
18 refer to specific paragraphs of the First Amended
19 Notice.

20 A Yes, sir.

21 Q I am going to ask you questions about Roman
22 Paragraph I.

23 A Yes, sir.

24 THE MASTER: And this is directed to I
25 entirely?

1 MR. MITCHELL: Yes, Your Honor. In
2 view of the fact the witness, being a judge
3 and attorney, and, of course, I recognize
4 the rules on leading my own witness and I,
5 of course, recognize the rule by which I
6 might request the Court to give me some
7 latitude in that regard.

8 THE MASTER: Yes, sir.

9 Q (By Mr. Mitchell) Without attempting to restate
10 the record, you recall the testimony as regards
11 Roman Numeral I?

12 A Yes, sir.

13 Q Let me ask you, first of all, did you at any
14 time enter into any agreement, conspiracy or
15 understanding with your brother, Ramiro Carrillo,
16 to wrongfully obtain from the public, that is,
17 Duval County funds, three hundred dollars a month
18 up until May, 1975?

19 A No, sir.

20 Q Did you enter into an agreement with anybody,
21 including Ramiro Carrillo, at any time, to
22 unlawfully secure from Duval County any money as
23 relates to the money of public funds to the Cash
24 Store?

25 A No, sir.

- 1 Q Now, there is in evidence as in 1972, some adding
2 machine tapes; do you recall that testimony?
- 3 A Yes, sir.
- 4 Q And there is in evidence testimony from the witness,
5 Cleofus Gonzalez, Mrs. Yzaguirre and Mr. Rudolfo
6 Couling, as to the operation of the welfare program
7 in Duval County.
- 8 A Yes, sir.
- 9 Q I direct your attention to that testimony. I
10 will ask you, first, as a predicate question,
11 when were you first of all elected to your present
12 term?
- 13 A I was elected at the general election of November,
14 1974.
- 15 Q And you took the oath of office when?
- 16 A Approximately the 2nd of January, 1975.
- 17 Q You were in the courtroom when the Examiner's
18 attorney entered into the stipulation as regards
19 the Cash Store disbursements of January through
20 March, 1975?
- 21 A Yes.
- 22 Q And prior to January of this year?
- 23 A Yes, sir.
- 24 Q And going back to the sixties, when did you first
25 become a public official in Duval County?

1 A I was elected county attorney at the general
2 election, I guess in 1960 and took office in 1961.

3 Q All right.

4 A Or '59 and took office in '60, but I think it was
5 '60. I am not sure, whatever the record reflects.

6 Q You were a public official beginning from 1961
7 and coming on up to date, is that a fair statement?

8 A Yes, sir.

9 Q Beginning in 1961, was there a well established
10 custom and procedure in Duval County as regards
11 the welfare program?

12 A Yes, sir.

13 Q Can you describe that for us? I am interested
14 in the state program from which monies were
15 appropriated by the Commissioners Court; do you
16 understand?

17 A Yes, sir.

18 Q Tell the Court what the program was.

19 A The program was for persons who needed help, who
20 would approach a county official who had been
21 designated as such to grant assistance to needy
22 people and there were several persons who were
23 so authorized to issue orders.

24 Q From whom would that authorization come?

25 A It would be from the Commissioners Court.

1 Q It is testified that Ramiro Carrillo is your
2 brother?

3 A Yes, sir.

4 Q And he is a commissioner in Precinct 2?

5 A Precinct 3.

6 Q Precinct 3, I am sorry.

7 When was he elected?

8 A He was elected -- when he took office, he was
9 named by the Commissioners Court after the death
10 of Atlee Parr, who was then commissioner in 1967.

11 Q From 1961 to 1967, Ramiro Carrillo was not a
12 commissioner?

13 A No, sir.

14 Q Did you participate in the welfare program from
15 1961 to '67?

16 A Yes, sir.

17 Q Tell us in what capacity.

18 A I would authorize giving of welfare orders to
19 needy people.

20 Q From whom did you receive your authority?

21 A The Commissioners Court.

22 Q And state whether or not other persons were
23 likewise given that authority?

24 A Yes, sir.

25 Q Now, from 1961 to 1967, who, besides the county

1 attorney was able to do so?

2 A There was Mrs. Elvira DeLeon.

3 Q Elvira DeLeon is the official welfare officer of
4 the county?

5 A Correct.

6 Q And is to this day?

7 A Yes.

8 Q And she has, from 1960 to date, had the authority
9 to pass on the qualifications of persons to
10 receive welfare?

11 A Yes.

12 Q Would the members of the Commissioners Court have
13 that authority as well?

14 A Yes, sir.

15 Q Also other persons designated by the Commissioners
16 Court?

17 A Yes, sir.

18 Q I will ask you what other persons besides the
19 county attorney, which was yourself, would have
20 been designated as persons authorized by the
21 Commissioners Court to receive welfare?

22 A As far as I remember, every elected county
23 official was authorized, within a certain budget,
24 which they could give.

25 Q That was the next question. When the authorizations

1 would be ruled on by the Commissioners Court,
2 would that be unlimited or would it be restricted?

3 A There was a budget for each commissioners precinct.

4 Q And would that be in turn broken down to the
5 persons in that precinct?

6 A Yes.

7 Q What was your budget in 1961 to 1967?

8 A I don't remember the exact amount for the precincts.

9 Q Strike that.

10 I want your individual -- if you don't
11 recall, I want to move from 1967 to date.

12 Did you have an authorization after 1967 --
13 strike that.

14 Let's go back from 1961 to '67. I am
15 interested in your own budget.

16 A Well, let me put it this way. In Precinct 3,
17 Atlee Parr and myself were the elected officials
18 who issued out the welfare orders, but we
19 discovered there were folks coming to me and
20 getting an order for groceries and then they
21 would go to Atlee Parr and get an order for
22 groceries, also and we were being duplicated,
23 so what happened, we sort of set up an office
24 and Mr. Atlee Parr would refer persons to me
25 with a little note or call me on the phone or

1 something and say it is all right to go ahead
2 and give Mr. Garcia, for example, a thirty
3 dollar grocery order or a one hundred dollar
4 order for a funeral or hospitalization or whatever
5 it was, and I okayed it and would give out the
6 official order.

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1 Q And was that for the purpose of precluding a
2 stacking up?

3 A That's right.

4 Q Is that right?

5 A That is correct.

6 Q Now, Judge Carrillo, was there a time there you
7 were not authorized to assist in the welfare pro-
8 gram, you individually?

9 A No, sir.

10 Q All right. Now, I'll ask you, at the time that
11 you are testifying this 61 to 67, were all of
12 these orders in wellbound books and kept?

13 A They were.

14 Q Do you recall Mr. Couling's testimony about the
15 white copies, the pink copy?

16 A Yes, sir.

17 Q And the -- green, I believe, copy, do you recall
18 those books?

19 A I remember the books.

20 Q All right, let me ask you what -- taking a person
21 other than Elvira DeLeon, what would that person
22 execute -- how would that person evidence the
23 fact that he had applied to buy a recipient or
24 prospective recipient, how would he go about that?

25 A You mean the individual that came looking for help?

1 Q Yes, sir.

2 A There was a special form that was filled out
3 and sent to whoever had given the service, that
4 would be groceries, medical or what have you.

5 However, sometimes folks would meet you
6 down on the street, it is a small community where
7 a lot of people know a lot of persons, and they
8 would come in and meet you down on the street
9 and say, "Look, I am going to need some groceries
10 and I am going to need some medicine or some-
11 thing", and I was quite busy with my job to begin
12 with and so what I did was there was a Mr. George
13 Zertuche, Junior, who was working with the tax
14 office, the school district tax office, and Mr.
15 Rudolfo Couling, and what they were doing, they
16 were, in fact, handling the welfare business for
17 me.

18 Then, I would either sign some of these
19 orders in blank when they came in with some of
20 these books or they would come in and they would
21 say we gave orders to certain individuals and
22 would you sign the authorization for them.

23 Q I believe Mr. Couling so testified, Judge Carrillo.

24 A Yes.

25 Q Now, would you ever -- of course, you trusted

1 Mr. Couling and Mr. Zertuche, Junior?

2 A Yes, sir.

3 Q To take the orders directly, am I correct?

4 A Yes, sir.

5 Q All right, I will ask you --

6 MR. ODAM: Pardon me, may I ask a
7 question on voir dire for the purpose of
8 deciding whether or not to pose an objection
9 to this testimony?

10 THE MASTER: Certainly.

11

12

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14

VOIR DIRE EXAMINATION

15

16 BY MR. ODAM:

16

17

18 Q Maybe I noted it earlier, what period of time
19 are we talking about that you were authorized to --

19

20

20 MR. MITCHELL: My questions are only
21 reaching 61 to 67 at this time, Counsel,
22 and I do intend to come forward.

21

22

23

23 MR. ODAM: Well, Your Honor, I would
24 object then, the proceedings that we have
25 before us to begin with, the time that he
assumed duties as a District Judge of the

24

25

1 229th until the time of May of 1975, the
2 time that this witness is testifying to is
3 not in question and is, therefore, irrelevant
4 to the scheme which the direct evidence
5 went to and the questions as to how he
6 handled the business with George Zertuche,
7 Junior, which is not in question and how
8 he handled it with Rudolfo Coling is not in
9 question, is irrelevant to paragraph 1.

10 THE MASTER: I assume, Mr. Mitchell,
11 that this is as you said initially the way
12 welfare was handled in Duval County and I
13 take it you are just going to bring it on
14 up and attempt to show that it was sort of
15 the same way.

16 MR. MITCHELL: That's right.

17 THE MASTER: In 71, 72 and 73.

18 MR. MITCHELL: Right on up to date,
19 that's right, Judge Meyers.

20 THE MASTER: I think the background
21 is admissible.

22 MR. MITCHELL: I will try to be brief.
23
24
25

- - - - -

EXAMINATION CONTINUED

1
2
3 BY MR. MITCHELL:

4 Q Judge Carrillo, in light of the objection and
5 the Court's instruction, let me move from the
6 period of 1967 to December 31st, 1974, are you
7 following me?

8 A Yes.

9 Q Were there any significant changes in the methods
10 used in the county for the welfare program that
11 you recall either as to groceries, medical, drugs,
12 et cetera?

13 A The procedure in the county was the same with
14 the exception of the fact that I became inactive
15 insofar as that program was concerned, not because
16 the commissioners court withdrew the authority
17 from me to issue orders, but because I didn't have
18 the time to devote to the program.

19 Q Now, you first became elected District Judge of
20 the 229th when?

21 A 1971.

22 Q And you served --

23 A I took office in 71.

24 Q All right.

25 A I was elected in 1970.

1 Q So the record is complete, you took office in
2 1971?

3 A 71.

4 Q And that term expired December 31st, 1974?

5 A That's correct.

6 Q And then you took office again January of 1975?

7 A Yes, sir.

8 Q Do your activities --

9 MR. MITCHELL: Strike that.

10 Q When you became District Judge the first time,
11 what was your schedule? What was your district
12 and what was your schedule?

13 A There were three counties involved and it was a
14 heavy schedule all the way through and I just
15 didn't have time at all for the welfare program.

16 Q You have heard the testimony as regards the
17 weekly schedule that you had prescribed for your-
18 self?

19 A Yes, sir, I had a week for each county and an
20 open week which sent me to whatever county --
21 wherever I was needed.

22 Q All right. Now, let me get specific on Roman
23 number 1, the budget Mrs. Yeaguirre talked about
24 of three hundred dollars. What does she have
25 reference to, if you know?

1 A I don't --

2 Q Excuse me, Judge Carrillo, I'm talking now from
3 the time of 1970 to December of 1974.

4 A Yes, sir.

5 Q What -- the three hundred dollars a month.

6 A Well, I really was never limited to three hundred
7 dollars a month or to anything like that except
8 that during those years that she was talking
9 about, I was not really participating at all in
10 the welfare program.

11 There were occasional times when folks would
12 approach me for orders or for something and I
13 would refer them to either send them over to the
14 county commissioner or send them over to Cleofus
15 Gonzalez who was handling the program at the
16 time.

17 I, myself, wasn't handling any of the
18 program at that time at all.

19 Q All right.

20 A And I became District Judge and I had nothing to
21 do whatsoever with it.

22 Q Your marital status has always been that of a
23 single man?

24 A Yes, sir.

25 Q You are a bachelor?

1 A Yes, sir.

2 Q And you live there in the city, when you are in
3 the Benavides area, with your dad and mother?

4 A That's correct.

5 Q And when you're out on the circuit in Starr County
6 and in Jim Hogg County?

7 A Jim Hogg and Starr.

8 Q You eat out, I suppose, do you not?

9 A Well, the noon hour. I travel back and forth
10 because my folks are elderly and I commute daily.

11 Q You have traded with the Cash Store, I suppose,
12 for many years.

13 A For many years.

14 Q What other stores have you traded with?

15 A Ramiro's Drive-in Grocery in Benavides. There
16 are about approximately three drive-ins in
17 Hebbronville that I trade with. I don't -- one
18 is Hillcrest and one is Gonzalez -- and Hillcrest
19 owns two locations, and I traded at both.

20 There is a store in Freer, the Value Mart
21 and in Rio Grande City, plus I think it is
22 Gonzalez Market, I am not sure.

23 Q Do you have your own personal account at these
24 stores, including the Cash Store?

25 A Yes, sir.

1 Q And how often -- I believe the testimony was that
2 you pay that up twice a month?

3 A I pay that up whenever I -- whenever it becomes
4 appropriate. There is no set time. I will come
5 in and pay so much on an account or pay off the
6 whole thing or if I buy fifteen dollars worth of
7 groceries, I pay fifteen dollars worth. Some-
8 times I charge and sometimes I don't.

9 Q Judge Carrillo, for the forty-eight months of
10 1970 to 74, have you ripped off or stolen from
11 the county fourteen thousand dollars worth of
12 groceries?

13 A No, sir, I have not.

14 Q If so, I want to know where you put them. Your
15 testimony is you have not?

16 A I have not.

17 Q And the accusations or allegations contained in
18 Specification 1 is simply not true, is that
19 your testimony?

20 A It is not true.

21 Q All right.

22 MR. MITCHELL: I move, if I might be
23 permitted, Your Honor, to Roman II and ask
24 only one question in that connection.

25 Q I believe the record has been introduced here as

1 relates to the transaction in Roman Numeral II,
2 has it not, that is the Mangus-Guerra case?

3 A Yes, sir.

4 Q All right, I'll ask you, you have heard Mr.
5 Smith's testimony, Mr. Garland Smith's testimony?

6 A Yes, sir.

7 Q And you know it has been -- in the evidence is
8 the motion to disqualify?

9 A Yes, sir.

10 Q I will ask you one question on that: When Mr.
11 Garland Smith filed the first motion to disqualify
12 you, what was your action at that time?

13 A The moment that -- the moment the motion to
14 disqualify was presented to me, while I was on
15 the bench, I immediately recessed the case and
16 went over to Edinburg and talked to the administra-
17 tive judge.

18 Q Who is that?

19 A Who was Judge J. R. Alams.

20 Q That would have been in the first part of
21 1971?

22 A Whatever the date was.

23 Q All right.

24 A When the motion was presented to me, there was
25 no further proceedings held. I immediately halted

1 the proceedings, got off the bench, recessed the
2 hearing, got off the bench, got in my car and
3 drove to Edinburg and talked to Judge Alamia and
4 explained to him the motion to disqualify me
5 had been filed, I believe, for the reason that
6 I owned stock in the bank and whatever reasons
7 there were and he suggested that I go to my
8 office and request, in writing, that some other
9 judge hear the motion, whether or not I was quali-
10 fied. I went back to my office and did exactly
11 that.

12 Q And now, Judge Carrillo, the evidence was, I
13 believe, Mr. Garland Smith has filed three motions
14 to disqualify, basic motions to disqualify, supple-
15 mental motion to disqualify and still a third
16 motion to disqualify, do you recall that?

17 A That is possibly so.

18 Q Yes, sir.

19 A Because I never went back to the courtroom or
20 the hearing at all.

21 Q My question put to you is the only one you ever
22 saw was the first one?

23 A That's correct.

24 Q And the considerable -- the record speaks a
25 difference in the allegations?

1 A Yes, sir.

2 Q Well, let me ask you this, in following the
3 procedure that you followed, that is in not
4 passing on your own qualification and letting
5 Judge Magus Smith, which was appointed by your
6 administrative judge to hear the matters, were
7 you following what you considered the law to be?

8 A Yes, sir, I was told I could either hear the motion
9 myself and pass on it myself or let another judge
10 hear it. Now, I preferred to have another judge
11 hear it than to hear it myself.

12 Q You understand specification 2 charges you with
13 error in not disqualifying yourself from presid-
14 ing over the case as a gross error and abuse of
15 judicial discretion, you know that?

16 A Yes, sir.

17 Q As a matter of fact, you know the Court of
18 Civil Appeals that we are sitting in the room
19 where they preside, recently handed down a deci-
20 sion to the effect that the trial court cannot
21 pass upon his own qualification and should call
22 in another judge to make that determination, am
23 I correct?

24 A I am not acquainted with that opinion, sir, but
25 that is exactly the procedure that I followed.

1 Q All right.

2 A I might state that I had not been on the bench
3 that long and I didn't know what else to do except
4 to go to my administrative judge and get advice
5 from him.

6 Q That is what I was going to ask you, this all
7 occurred within the first month of your office?

8 A Not within the first month, but it was the first
9 time that a motion to disqualify me had been
10 filed before me and I wasn't familiar with the
11 procedure that I should follow and I wanted to
12 talk to Judge Alamia and get some advise on it.

13 Q And the procedure followed was the one that you
14 discussed with Judge Alamia?

15 A That is exactly correct.

16 Q All right.

17 MR. MITCHELL: Your Honor, in connection
18 with Roman II we call the Court's attention,
19 of course, and the Court is aware to the
20 prior testimony of MangusSmith as well as
21 to the documentation that has been introduced
22 into evidence.

23 THE MASTER: You said Mangus Smith.
24 I didn't recall Mangus Smith testifying in
25 this case.

1 MR. MITCHELL: No, no, I'm sorry, the
2 hearing before Judge Mangus Smith which is
3 in evidence.

4 THE MASTER: Yes.

5 THE WITNESS: By the way, his name is
6 not Mangus, it is Magus.

7 THE WITNESS: That is right, his son is
8 practicing law in Austin.

9 THE MASTER: We don't want to get him
10 confused with Mr. Mangus.

11 THE MASTER: That's right.

12 MR. MITCHELL: With that, then, we
13 would pass from Roman II.

14 Q I'll ask you now, Judge Carrillo, if you will
15 take the first amended notice of formal procedure
16 there in front of you, please, sir.

17 A Yes, sir.

18 MR. MITCHELL: I am going to ask ques-
19 tions, if it please the Court, as regards --
20 may I ask him a question, Your Honor,
21 before I -- off the record.

22 THE MASTER: Yes, sir.

23
24 (Discussion off the record.)
25

1 MR. MITCHELL: Yes, now to Roman IV.

2 Q You are asked, the formal notice Roman IV states
3 that you wrongfully appropriated for your benefit
4 the services of Francisco Ruiz. Who is Francisco
5 Ruiz?

6 A He is a resident of Benavides, my home town, and
7 he used to work for the county. He is now
8 employed by what we normally call the water dis-
9 trict.

10 Q All right, now, the specifications point out
11 that from January the 1st of 71 until January
12 of 74, Judge Carrillo, that you appropriated his
13 services on many occasions. Can you speak to
14 that, please, that formal charge?

15 A Yes, sir, I can. I had a regular welder who is Mr.
16 Crisiforo Chava who testified here.

17 Q That was Ruben and Rudolfo's father, he was on
18 your payroll?

19 A Not on the payroll, but he was taking care of
20 all of the welding that needed to be done at
21 my ranch and he received an amount of four or
22 five thousand dollars or more a year for the
23 work that he did.

24 He was the regular welder that I used at
25 my place. There was Mr. Francisco Ruiz who did

1 go to my ranch on a weekend when Mr. Chapa was
2 not available and it was not on a matter that
3 was a big job. It was a small job that needed
4 nothing over thirty minutes to take care of.

5 We went in there and he did the job that
6 was supposed to be done and he kept the welding
7 machine at his residence on weekends because he
8 did work for other folks on weekends and on
9 Thursday, I think he had every Thursday off from
10 the county, he did other work.

11 I asked him to come over to the ranch, if
12 he would, and that I would pay him for it and
13 he was -- at the time he was making some gates,
14 I remember it as if I was going right there today,
15 he was making some gates for an individual and
16 I don't remember his name, he was making some --
17 he was welding some gates for an individual.
18 He said, "As soon as I get through here, I will
19 be over there."

20 And I said well, do you have any idea how
21 long it's going to be and he said, "No, it
22 shouldn't take very long", so we just waited
23 for him and hitched the trailer, I mean the
24 welding rig, which was -- it is mounted on a
25 little trailer, onto my own pickup and took him

1 over there and he did the job and we remained
2 at the ranch after he did the job and had some
3 beer, him and the other folks over there. We
4 were there for a couple of hours, then we came
5 on back.

6 Q Was he on county time when he went over there?

7 A He was not on county time, it was on the weekend.

8 Q And did you pay him?

9 A Yes, sir.

10 Q Out of your own funds?

11 A Out of my own funds.

12 Q And how much time was consumed in that?

13 A Well, it was a matter of just using his torch
14 and cutting something loose. It wasn't like, I
15 say, the major welding jobs were done either by
16 Mr. Crisiforo Chapa or a welder over in Three
17 Rivers, I think it is.

18 Q Mr. Francisco Ruiz, you deny using his services
19 on repeated occasions as set out in Roman IV?

20 A That's correct, as I was paying good money for
21 the regular welder that I had.

22 Q Let me ask you, Judge Carrillo --

23 MR. MITCHELL: And I ask this, Your
24 Honor, this question as a background to
25 Roman IV, V and perhaps some of the others,

1 the political --

2 THE MASTER: Now, wait a minute, you're --

3 MR. MITCHELL: I had better be a little
4 more specific.

5 THE MASTER: You're making the lines
6 fuzzy, Mr. Mitchell.

7 MR. MITCHELL: Thank you, Your Honor,
8 let me withdraw that question and let me
9 ask you: Francisco Ruiz politically today
10 is aligned -- is he aligned for you or
11 against you or do you have any indication,
12 trying to make --

13 A He is against the political association with which
14 I am affiliated with.

15 Q Is that also true of Ruben Chapa and Rudolfo Chapa?

16 A Yes, sir.

17 Q Oscar Sanchez?

18 A Yes, sir.

19 Q And Vicente Chapa?

20 A Yes, sir.

21 Q Mr. Coaling?

22 A Yes, sir.

23 Q And Arnulfo Guerra has previously testified of
24 petitions to remove, he being the District Attorney
25 of that county, that were filed with you in May of

1 this year?

2 A Yes, sir.

3 Q Tell us, is that when the split occurred between
4 you, the District Judge acting on Arnulfo
5 Guern's petitions and these gentlemen including
6 Francisco Ruiz?

7 A A split between the Carrillo family and the
8 Parr family occurred in May of 74. These peti-
9 tions were not filed until March of 75 but I
10 might state this, that when that split happened,
11 I, myself, holding the position that I had --
12 that I held, rather, I was not active, mostly in
13 the politics and I remained friendly with George
14 Parr and Archer Parr as far as that is concerned.

15 Q Didn't part of that split occur, I believe, as
16 a matter of fact members of your family were
17 called on to testify in federal Grand Jury on
18 the George Parr and the Archer Parr cases?

19 A The day the trial ended and the part -- they were
20 just about the same, one was held in San Antonio
21 and one was held over in Corpus, the day the
22 last trial ended, my father and my brother had
23 both testified against the Parrs.

24 When my father returned to home, there was
25 a letter brought to him resigning from the water

1 district and all of the other three members of
2 the water -- who were on the water board had
3 also testified and all were presented with the
4 same letter from George Parr and they had signed
5 it and they had been removed or rather replaced.
6 The letter was brought to my father to sign and
7 resign and he said fine, he got off.

8 Q That dates pretty well the split between the
9 Parrs and the Carrillos?

10 A I think those convictions were approximately in
11 May of 74, somewhere along that time.

12 Q And then Mr. Arnulfo Guerra, the District Attorney,
13 has testified that he prosecuted or filed with
14 the district clerk's office petitions to remove
15 members of the Benavides Independent School Dis-
16 trict, I believe?

17 A Yes, sir, but that was in March of 1975.

18 Q I understand, and that precipitated a further
19 rift between what had been the Parr faction and
20 the Carrillos, did it not?

21 A Up until that time, I, myself personally, had --
22 was still friendly and still visited with both
23 Archer Parr and George Parr.

24 When the petition -- when the District
25 Attorney advised me that he was filing these

1 netitions, and the word got out, the fireworks
2 started.

3 Q And that is the scene described by the District
4 Attorney very vividly in his testimony given
5 here that when the Parris appeared at the courtroom
6 wearing guns, am I correct?

7 THE MASTER: Let's not let the record
8 reflect that the District Attorney testified
9 here. He testified before the Senate
10 Select Committee and that testimony has
11 been stipulated here.

12 MR. MITCHELL: Yes, Your Honor, but I
13 would like for it to be considered as part
14 of ours.

15 THE MASTER: Oh, yes, I just don't want
16 anybody to think he actually was here testi-
17 fying.

18 MR. MITCHELL: At the House --

19 MR. FLUSCHE: It hasn't been admitted
20 yet, Your Honor.

21 THE MASTER: It has not been admitted.

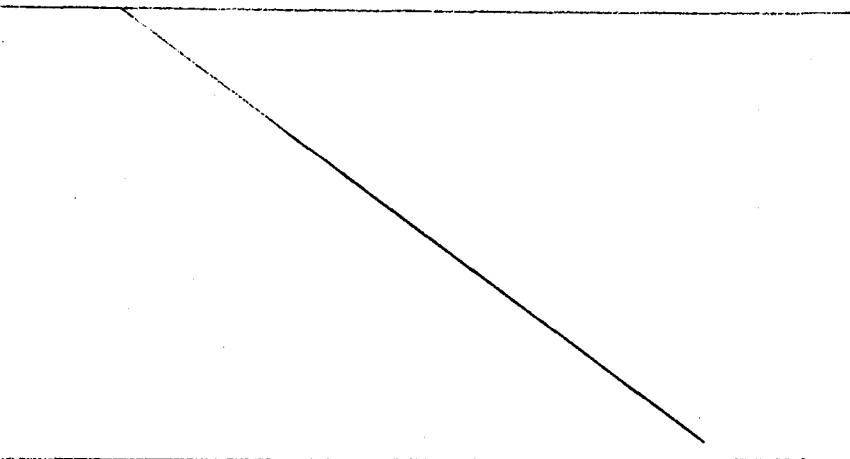
22 MR. ODAM: Your Honor, I would urge the
23 objection of relevancy as pertaining to the
24 political quarrel or dispute, however Mr.
25 Mitchell and Judge Carrillo wish to

1 characterize it between the PARRS and the
2 Carrillos.

3 THE MASTER: Overruled, that seems to
4 me to go to bias and motive for testifying
5 very clearly.

6 Q And I believe the testimony and the Court will
7 have an opportunity to review the testimony of
8 the District Attorney that there was no prior
9 conversation or conspiracy or agreement or collu-
10 sion between you and the District Attorney as
11 regards the filing of any of these actions by
12 the District Attorney, am I correct, Judge
13 Carrillo?

14 A He told me he was going to do it and I, as the
15 judge, had no choice in the matter, if he filed
16 a petition I had to entertain it.



1 Q Judge Carrillo, Cleofus Gonzalez, where is he now
2 working?

3 A He is over at the Benavides Implement and
4 Hardware.

5 Q How about Rudolfo Couling?

6 A Benavides Implement and Hardware.

7 Q Ruben Chapa?

8 A Benavides Implement and Hardware.

9 Q Oscar Sanchez?

10 A Benavides Implement and Hardware.

11 MR. ODAM: I object to that. These
12 witnesses have stated where they testified
13 to and I don't know how Ruben Chapa works
14 for Benavides Implement and Hardware. The
15 witness has testified where he worked and
16 Mr. Couling has testified where he worked.
17 If the testimony is that Mr. Couling --
18 maybe you should clarify what you mean.

19 MR. MITCHELL: Well, we will ask the
20 witness.

21 Q (By Mr. Mitchell) Where are these people working?

22 A They are located there. They are not working for
23 Benavides Implement and Hardware. It is a building
24 only that they are in that building.

25 Q Working out of that building?

1 A Yes.

2 THE MASTER: So when you say Benavides
3 Implement and Hardware, you mean the
4 building?

5 THE WITNESS: Yes, I am referring to the
6 location.

7 Q (By Mr. Mitchell) Is that Benavides Implement and
8 Hardware business conducting the business out of
9 that building?

10 A Yes, sir.

11 Q Is that the one Cleofus Gonzalez now owns?

12 A Wait a minute, I am not going to say he does own
13 it, but he claims he does.

14 Q Is that the one that Rudolfo Couling previously
15 owned?

16 A Yes, sir.

17 Q What connection does the water district have with
18 it?

19 A They have an office in that building.

20 Q And these other gentlemen, the Chapas and the
21 others work for the water district in that
22 building?

23 A Yes, and out of a shop directly behind the
24 building in another building, but within a fenced
25 area.

1 Q Do you deny on, Roman Numeral IV, the
2 appropriation of the services and labor of
3 Francisco Ruiz?

4 A Yes, if I had, I would not have spent the thousands
5 of dollars I did spend for welding.

6 Q Let me ask you now on Count 5. Do you recall the
7 testimony of Oscar Sanchez and you recall, I am
8 sure, the photographs that were introduced in
9 evidence and you recall Mr. George Zertuche, Sr.'s
10 testimony?

11 A Yes, sir.

12 Q And Patricio Garza's testimony?

13 A Yes, sir.

14 Q The occasion, please, sir, Oscar Sanchez came out
15 to the -- strike that.

16 What ranch was that?

17 A The Calvin North Ranch.

18 Q Tell the Court and the record about the Calvin
19 North Ranch. Was it a ranch owned by you at the
20 time this reservoir was built?

21 A No, at the location where the reservoir was built,
22 it consisted of one hundred and sixty acres. I
23 had bought one hundred and six acres at that time.

24 Q At what time?

25 A At the time the water reservoir was dug. What

1 they are referring to as a water reservoir was
2 a -- I would say it was a water hole of
3 approximately ten yards wide, maybe not that,
4 but I would say ten yards wide by twenty yards
5 long.

6 Q For whose benefit was that being dug?

7 A Calvin North.

8 Q Why was it being dug on his ranch?

9 A Because he wanted it.

10 Q Did you have an agreement or contract to buy that
11 ranch at that time?

12 A I had bought part of the ranch and Mr. North and
13 I were very friendly and he would come in on the
14 weekends from Laredo and spend the weekends on the
15 ranch. He would not sell that piece of property,
16 because that is the way he spent his time in his
17 retired years.

18 Q What year was that get-together at the ranch?

19 A From the truck that I know I owned, and from
20 looking at the license plate, that had to be in
21 the summer of 1964.

22 Q All right.

23 A And it certainly could not have been later than
24 '65.

25 Q Was there any work done on your ranch by Oscar

- 1 Sanchez, as relates to appropriating his services?
- 2 A No, that is the only time is when the water hole
3 was dug and there was not a single one dug after
4 that until recently and it was dug by people
5 working with my equipment.
- 6 Q Do you know anything else about the allegations
7 in Roman V as to having a conspiracy with Ramiro
8 Carrillo?
- 9 A My brother was not a commissioner at that time.
10 Atlee Parr was and it is not unusual.
- 11 Q As of this particular point, you are quite sure
12 the occasion was '64 to '65?
- 13 A Yes.
- 14 Q And you didn't own the land at that time?
- 15 A Correct.
- 16 Q Now, moving to Roman VI, the backhoe, do you
17 recall that?
- 18 A Yes, sir.
- 19 Q Tell us what happened about the backhoe? You don't
20 deny that the backhoe was out on your piece of
21 property when you were building a store, do you?
- 22 A No, sir.
- 23 Q Tell us the date.
- 24 A The date had to be around November, I would say,
25 of 1973.

1 Q All right, sir. What was the occasion of the
2 use of the backhoe?

3 A It is on the occasion I had a turnkey job with a
4 contractor.

5 Q What was this gentleman's name, Judge?

6 A Alejos Ramirez, Jr.

7 Q And who -- what was the turnkey job for?

8 A It was a turnkey job. He was supposed to lay the
9 foundation and set the concrete blocks for the
10 building and put the roof on the building.

11 Q What type of building?

12 A It is a concrete block building.

13 Q Where was it built?

14 A It was being built at the intersection of
15 Highway 16 and the -- what they normally call the
16 Borjas Highway. I don't recall the number.

17 Q Who owned the land on which it was being built?

18 A It was owned by my sister, but the building was
19 mine.

20 Q First of all, was -- strike that.

21 Give us the narrative of the involvement of
22 the backhoe.

23 A I went over to see how things were going. They
24 were going to pour the concrete and they had
25 already laid the foundation and whatever it is to

1 do on the wiring and the rods and so forth. They
2 were going to pour the concrete. I suggested that
3 some high school kids be hired, because they were
4 always looking for jobs on the weekend and I always
5 helped them out, and the contractor, of course, he
6 was not about -- he had a turnkey job and he
7 didn't want to hire them, additional people, and I
8 told him I would pay them myself.

9 When I went over there that one day, I
10 discovered what they were doing. They were working
11 the kids harder than the old men were working.
12 They had them shoveling gravel and concrete into
13 the mixer and working them a little too hard.

14 Q How did that affect you?

15 A I came into town and it didn't set too well with
16 me and I told the contractor to take it easy with
17 them. Ruben Chapa was with me that day, because
18 he had approached me about cosigning a note with
19 him. He was trying to buy the Texaco station
20 where he was working and he wanted someone to go
21 to the bank and talk to the banker and that
22 happens to me all the time, and see if I could
23 arrange a loan for him to see if he could buy this
24 filling station. I didn't think a filling station
25 was the business to go into at the time because

1 of the energy crisis, but he was talking about
2 it and we came into town and we noticed the backhoe
3 was sitting right in front of the old city hall.

4 Q You knew who owned the backhoe?

5 A I knew the backhoe belonged to the water district
6 and I knew it was not unusual for it to be loaned
7 out or rented out. The gentlemen who worked it
8 generally worked the backhoe after hours to make
9 extra money and I went over and I looked for the
10 men, the two men that worked the backhoe.

11 I looked for one individual, Guadalupe Ruiz,
12 I think it is, and I could not find them, so
13 then we went over to see this other young man,
14 whose name escapes me, but I do have it in the
15 files.

16 The other young man, we went to see him, and
17 he told me he was busy doing something. He said
18 the backhoe was not being used and you can use it,
19 but I cannot go with it. I thought it would help
20 the kids out if we could take the backhoe out
21 there and take the load off them.

22 The man said he could not go and he said the
23 key is in the ashtray of the pickup sitting over
24 there at Guadalupe Ruiz's house, so we went over
25 there and got the key and then went by and got a

1 six wheel trailer, which I owned the trailer, and
2 hooked it behind the pickup and loaded the backhoe
3 behind that trailer and took it over to where the
4 store was being constructed and Tomas Elizondo
5 was with me and he operated the thing and it worked
6 over there three hours and we brought it back in
7 and that was it.

8 Q A total amount of three hours?

9 A Yes.

10 Q And only on that day in question?

11 A Yes, to have to pour concrete and get it over
12 with and that was it.

13 Q Let me ask you, as regards the custom, if any,
14 on the use of equipment in Duval County.

15 Testimony is replete here on other persons,
16 but you are an attorney and judge.

17 What is the custom and habit, if there is
18 such, as regards the use of the equipment of
19 the county?

20 A There is no rancher or property owner in Duval
21 County that at one time or another has not used
22 or has had sent by the commissioners or other
23 persons, used either the equipment of the county
24 that is needed or rented it or something. It is
25 a practice in Duval County and all of the

1 neighboring counties that I know of in that area.

2 Q What was that piece of equipment at the North
3 Ranch, would that apply to that piece of equipment,
4 too?

5 A The Grade-all?

6 Q Yes, would it apply to it, too?

7 A Yes.

8 Q Which Chapa was it, Rudolfo or Ruben Chapa?

9 A Ruben Chapa.

10 Q You remember him testifying?

11 A Yes, he is my godson..

12 Q Did you cosign his note to get him any money that
13 you recall?

14 A I don't recall whether I cosigned the note or not.

15 Q What was the story about the wife and his problem
16 with their baby; did you assist them?

17 A No, that was Rudolfo.

18 Q You helped --

19 MR. ODAM: I object on the grounds of
20 relevancy as to help he gave on Rudolfo;
21 what is the relationship there?

22 MR. MITCHELL: Well, the young man and
23 lady testified previously, and I asked them
24 their motive for testifying, and they denied
25 it was critical.

1 MR. ODAM: You're going back to
2 Paragraph 1?

3 THE MASTER: No, I did think they pretty
4 much admitted Judge Carrillo had helped them
5 get a doctor for that child while in Laredo.

6 MR. MITCHELL: If that is the way the
7 Court remembers it, I thought they denied it.

8 MR. ODAM: I am sorry. I was out of
9 the courtroom at that time and I am sorry,
10 I thought you were asking about someone
11 other than Ruben Chapa.

12 Who is this particular article related
13 to?

14 Q (By Mr. Mitchell) Well, there had been a closeness,
15 up to when, within the family of the Parrs and
16 Carrillos?

17 A We were very close until the Parr and Carrillo
18 split, up until that time, they were close as well.

19 Q One young man -- well, strike that.

20 When was the split?

21 A In April or May of 1974.

22 Q You understand, of course, the judges under the
23 state system are political animals, do you not?

24 A Yes.

25 Q And they count on the vote of the public?

1 A Yes, sir.

2 Q And you keep the vote lined up for that, do you
3 not?

4 A I want every vote that is available.

5 Q And the Chapas have announced and run in
6 opposition to you, have they not?

7 A Yes.

8 Q And would you characterize them as allies or on
9 the opposite side of the political fence from you?

10 A Opposition.

11 Q Now, I am going to ask you, please, sir, in the
12 next series of questions --

13 MR. MITCHELL: Judge, these will
14 overlap, Roman VII, VIII, IX, X and XI. I
15 am going to exclude XI for the time being.

16 THE MASTER: So this goes to VII, VIII,
17 IX and X?

18 MR. MITCHELL: Yes, sir, and XII. I
19 could separate them, I guess, and let's see.
20 I can separate them to VIII, IX and X and
21 then the other group.

22 THE MASTER: Are you omitting VII?

23 MR. MITCHELL: No, sir.

24 THE MASTER: For the record, say again
25 what the next series of questions will relate

1 to.

2 MR. MITCHELL: VII, VIII, IX, X, and
3 they are, of course, separate checks, and
4 then I will go into XII and then end up with
5 XI.

6 THE MASTER: As I understand it, then,
7 the question of his taking the stand and
8 opening him up for cross-examination has now
9 become moot if you go into this series of
10 questions.

11 MR. ODAM: That is right, except for
12 Paragraph IV.

13 MR. MITCHELL: Your Honor, I might say
14 that the exhibits pertaining to Article VII
15 would be E-57 through E-66; Article VIII,
16 E-62, 63, 67, 68, 69 and 70, and Article IX
17 is E-71 through 76; Article X is E-78 through
18 E-83 and Article XI would be E-84 through
19 E-90; Article XII is 91 and 92 and the series
20 151 through 157, I believe it is.

21 Q (By Mr. Mitchell) Judge Carrillo, I am going to
22 hand you, first of all, these checks, and I want
23 you to separate the article that deals with the
24 five thousand dollar item, which is XI and the
25 bulldozer.

1 Let's start there first.

2 A Yes, sir.

3 Q I will ask you predicate questions. You do know
4 Rudolfo Couling?

5 A Yes, sir.

6 Q How long have you known him?

7 A All my life.

8 Q Give us your relationship from the first time you
9 ran for county attorney, was he for you or agin'
10 you?

11 A I have known him all my life. Now, there was a
12 political -- what we refer to as a political
13 hurricane in 1955. He was with the Freedom Party,
14 or considered to be such. I don't know whether
15 he voted as such or not, but he was considered
16 as such. Everybody sort of kissed and made up
17 then and things came back to a whole United Party
18 political group, which was called the Old Party.

19 Q Did that include you and the Parrs and Mr. Couling?

20 A Yes.

21 Q Okay. Go ahead.

22 A Then we were together until the time of the Parr
23 and Carrillo split in 1974 and he was over with
24 the Parr faction at that time.

25 Q Mr. Couling has been a Parr man throughout the

1 history of the political action, was he not?

2 A There was a question as to whether he was in 1955.

3 Q But other than that period in 1955, he has been a
4 Parr faction member?

5 A Yes.

6 Q And when the Carrillos got cross-wise with the
7 Parrs, which side did he go to?

8 A The Parr side.

9 Q And that situation continues until this date?

10 A Yes.

11 Q And he was tax collector for the Duval
12 Independent School District, was he not?

13 A Yes.

14 Q Did you have occasion to take action on a petition
15 filed by the proper law enforcement agencies and
16 have occasion to have removed members of the
17 school board?

18 A Not all of the school board. I removed four
19 members. I think it was four instead of five as
20 testified to.

21 Q Was that on a petition by the district attorney
22 of Duval County?

23 A Yes.

24 Q And as a matter of fact, records were supposedly
25 removed from the school district's office and

1 destroyed?

2 A Yes.

3 Q And that included also litigation?

4 A Yes, the D.A. first started an investigation.

5 Q Tell us the date.

6 A Approximately February, 1975. He started
7 subpoenaing records from the various governmental
8 agencies and then there was a refusal at first
9 to bring in the records to the Grand Jury. That
10 was the first time I found out about the
11 investigation. Those who wanted them, and those
12 who wanted relief, and I ordered that they be
13 produced.

14 Then Mr. Couling would not let the folks from
15 the Corpus Christi Caller in to see them.

16 Q So suit was filed in your court by the Corpus
17 Christi Caller Times under the Public Information
18 Act demanding an order be issued to comply with
19 their demand to deliver those records?

20 A Yes.

21 Q Was that tried in your court?

22 A Yes, it was, and I ordered they be permitted to
23 go over the records and then the next thing we
24 had was a picture of Mr. Couling with a shredder.

25 Q Mr. Couling destroyed and shredded those records?

1 A Yes. I don't know who took the picture, but it
2 was in the paper, and the next thing I knew, the
3 D.A. was filing removal proceedings because they
4 were destroying the records of the school district.

5 Q Was that filed with you?

6 A Yes, I told them, if you prepare them, I will
7 consider them.

8 Q Did he prepare them?

9 A He did and I removed the four trustees and named
10 replacements and they in turn went in and fired
11 Mr. Rudolfo Couling.

12 Q What was that date?

13 A It was around May, I would say, April or May of
14 1975.

15 Q And since that date, Brother Couling has testified
16 against you on at least two occasions that we know
17 of?

18 A Three that I know of.

19 Well, two that he has done so and the third
20 one was at the time of the impeachment hearing
21 in Austin and he was standing there at the door.

22 Q Well, after 1974 --

23 A Well, after the Parr-Carrillo split-up, when I
24 was on a friendly term with them, the Chapas and
25 Mr. Ruiz and Mr. Rudolfo Couling, those folks were

1 not speaking to us any more.

2 Q Actually, the rift began in 1974 then?

3 A Yes.

4 Q And culminated in 1975 with the action of your
5 court and on the order of the removal of the
6 trustees of the school board?

7 A Yes, sir.

8 Q And the pleadings speak for themselves in that
9 action, do they not?

10 A Yes, sir.

11 Q You did not act outside of the record, did you?

12 A No, sir.

13 Q And you did not act beyond the law in any
14 instance?

15 A No, sir.

16 Q Do you have a conspiracy or agreement with Arnulfo
17 Guerra to destroy the school board or these
18 gentlemen?

19 A No.

20 Q Did you have in the past, setting aside the
21 business transaction which I make a subject of
22 special inquiry, did you have any dealings with
23 Mr. Couling throughout the years?

24 A Yes, sir.

25 Q I want you to take out for me -- it has been

1 confirmed that E-69 is the same as Check E-151,
2 is that correct?

3 A Yes, sir.

4 Q And E-75 is the same as 152?

5 A E-75?

6 Q Yes, sir, is the same as E-152?

7 A Yes, sir.

8 Q And E-76, the same as E-153?

9 A E-76?

10 Q Yes, the same as 153, one is a Xerox and one is an
11 original?

12 A I don't see an E-76.

13 THE MASTER: No, E-76 -- or is that
14 R-76 -- well, I am thinking of R-76.

15 THE WITNESS: I don't see an E-76,
16 Mr. Mitchell.

17 Q (By Mr. Mitchell) Do you have E-153 there?

18 A Yes, I have that and -- there it is, a copy of
19 it.

20 Q Well, that check that is a copy that is numbered --
21 here we go; it is clipped over and I -- so the
22 testimony would be that E-76 is the same as E-153?

23 A Yes, sir.

24 Q Is that correct?

25 A Yes, sir.

- 1 Q And E-82 is the same as E-154?
- 2 A Yes, sir.
- 3 Q Now, let's take, first of all -- and E-65 is a
4 copy only?
- 5 A Yes.
- 6 Q E-156, which is the original of a check, that is
7 for a thousand dollars, do you have that?
- 8 A Yes.
- 9 Q And 155 and 151 and 157, 152, 153 and 154, get
10 those in front of you.
- 11 A All right, sir.
- 12 Q Now, setting aside E-65, let's start -- and also
13 setting aside 154, let's direct our attention to
14 156.
- 15 A Yes, sir.
- 16 Q At any time, did you have any character of
17 agreement with Rudolfo Couling and/or Ramiro
18 Carrillo, as regards a partnership which was to
19 be named Benavides Implement and Hardware?
- 20 A No, sir, I heard that for the first time in this
21 courtroom.
- 22 Q Did you have any character of partnership or
23 agreement with Rudolfo Couling where he could
24 bind you to do anything?
- 25 A No, sir.

1 Q Now, the checks, 156 -- was that check, first of
2 all, given to him -- strike that.

3 Given to you by Mr. Couling pursuant to any
4 conspiracy, agreement to steal from Duval County
5 the sum of one thousand dollars?

6 A No, sir.

7 Q What does the check recite on its face?

8 A Counter from O. P. Carrillo drugstore.

9 Q Did you own a drugstore?

10 A Yes, O. P.'s Drug.

11 Q When did you start that?

12 A I started the drugstore many years ago. It really
13 never got off the ground, because I could not
14 find a pharmacist to run it for me. I set up the
15 fixtures and furniture and so forth for it.

16 Q Were those items carried on your tax return?

17 A Yes.

18 Q Does the fact stated that you sold the counter to
19 Mr. Couling, is that stated on that check?

20 A Yes.

21 Q Tell us about that.

22 A I don't remember the exact date, but I know I
23 sold them to him.

24 Q Was that transaction recorded on your tax return?

25 A Yes, sir.

- 1 Q Was the check you are now holding in your hand
2 reported on your tax return?
- 3 A Well, it was given to Mr. Kirkland and is shown
4 on my income tax.
- 5 Q Is it your testimony the recital on 156 is correct?
6 A Yes.
- 7 Q And your testimony in this court is that the check
8 was not issued to you pursuant to any scheme or
9 agreement by you or your brother Ramiro or
10 Rudolfo Couling to steal that sum of money from
11 Duval County or any other governmental agency, is
12 that correct?
- 13 A Yes.
- 14 Q I will ask you, that on Exhibits 151 through 158,
15 and ask you if that is the same and correct
16 situation as were those, there was no conspiracy
17 or agreement or anything of that nature?
- 18 A No, sir.
- 19 Q And what is that check you have there?
20 A 155.
- 21 Q What is it denominated?
22 A As a loan.
- 23 Q Was there a loan from you to Mr. Couling?
24 A Well, in effect.
- 25 Q Tell us what that means.

1 A I owned a water well rig that was rented by the
2 county way before my brother became a county
3 commissioner and to this very day has not been
4 returned to our possession.

5 Q Was there other equipment that Benavides Implement
6 and Hardware would lease out on your account?

7 A The leasing out of this equipment was done through
8 the farm and ranch, I had nothing whatsoever to
9 do with it or the running of the farm and ranch.

10 Q I notice in R-91, a detailed breakdown of lease
11 rental from Benavides Implement and Hardware.

12 A Well, like I say, the equipment was rented and was
13 rented through the Farm and Ranch Supply, which
14 was run by Gonzalez at the time. I had nothing
15 to do with that.

16 Q Judge Carrillo, look through this check, E-157,
17 and tell us what that says.

18 A Tubing, but I didn't get through on 155.

19 Q Go ahead on 155.

20 A The water well rig was leased, supposedly through
21 the county, or to the county, but they were
22 drilling irrigation wells at George Parr's and
23 Archer Parr's ranch. We were supposed to be
24 getting rental on it and supposedly the rent was
25 not coming in and I -- nobody seemed to be able

1 to push it through and I flat said I need some
2 money and either we will pull this rig in or we
3 will get the money. He didn't know how much I
4 had coming and he said look, I will give you two
5 hundred dollars and we will put it down as a loan
6 and when we figure out how much it is, I will
7 give you the rest. I said, you give me the money
8 and later, when we get to that, I will go on with
9 it.

10 Q Was that rig being worked by the county?

11 A At the beginning, they were drilling wells, when
12 they owned right-of-ways. They would go through a
13 pasture and leave one side without any windmills
14 and the county, that is part of the compensation,
15 through the condemnation proceedings, agreed to
16 drill water wells and what have you.

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1 MR. MITCHELL: Excuse me, Judge Meyers,
2 may I ask the Court what the Court's inten-
3 tions were with regards to working, I cannot
4 finish and I don't think really within the
5 next ten minutes. Perhaps if the Court
6 wants to work for the balance of the after-
7 noon, I know we have been going since eight
8 this morning, we might take a shot at com-
9 pleting it today.

10 THE MASTER: Well, you mean not even
11 break for a meal?

12 MR. MITCHELL: I would like to do that.

13 THE MASTER: I get all shaky.

14 MR. ODAM: Your Honor, if I might make
15 a suggestion.

16 THE MASTER: I don't see any point in
17 it.

18 MR. MITCHELL: All right.

19 THE MASTER: Because you are going to
20 have two days of cross-examination, I
21 suspect.

22 MR. ODAM: Well, my suggestion was
23 that, of course, it is up to the Master,
24 on his time schedule, but if we could take
25 break for lunch and Mr. Mitchell were to

1 come back and complete his direct examina-
2 tion, I would prefer that to give us at
3 least a weekend to get prepared for cross-
4 examination on the entire matter.

5 The reason I say that is because we
6 are not prepared, obviously at this time,
7 and I would like to go ahead and prepare
8 the entire cross on I through XII through
9 the weekend. I am saying take a break for
10 lunch and finish the direct this afternoon.

11 MR. MITCHELL: I suggest, Judge Meyers,
12 if we are not going to complete it, I would
13 like to have an opportunity to --

14 THE WITNESS: I would like to go on
15 through and get you and I together and I have
16 got some folks that I have got coming in
17 so we are not going to complete it.

18 MR. MITCHELL: We will just go ahead
19 and recess for the weekend then.

20 THE MASTER: We can decide, Mr. Odam,
21 if Mr. Mitchell should say at 3:30 this
22 afternoon, say that is all I have and then
23 Monday morning says I have got a little bit
24 more before cross-examination starts and
25 I would have to let him have a little bit

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more.

MR. ODAM: I understand.

THE MASTER: I think we ought to break.

THE WITNESS: I have some folks coming in, Your Honor, depending on the old schedule, you know.

THE MASTER: Well, we will be in recess until 8:30 Monday morning and I won't expect a phone call and you will not expect one from me, in view of things, we will just be here at 8:30 Monday morning.

(Whereupon the hearing was in recess at 1:05 p.m. on December 5th until 8:30 a.m. on Monday, December the 8th.)