

**INQUIRY CONCERNING A JUDGE  
NO. 5**

**DECEMBER 9, 1975**

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BEFORE THE  
STATE JUDICIAL QUALIFICATIONS COMMISSION

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INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 9, 1975

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

KFT  
4782  
C3T45  
V.19

ORIGINAL

1 O. P. CARRILLO,  
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 MS. LEVATINO:  
8

9 Q Judge Carrillo, yesterday we got into some  
10 discussion about Examiner's Exhibit 55 and the  
11 white slips which I reproduced in that exhibit.

12 To clarify it in the record, I believe if  
13 you would turn to Page 353 through 355 in the  
14 exhibits you have --

15 A Yes.

16 Q Yesterday you testified that the white slips on  
17 those pages and also on Pages 361 through 363  
18 you did not believe were contained within the  
19 claim jacket to which they appear to be attached,  
20 is that correct?

21 A That's correct.

22 Q Okay. I'm handing you now two claim jackets.  
23 I would like for you to look at one which is  
24 indicated on the upper right-hand corner H-1 (2)  
25 and ask you to open that.

1 A Yes, ma'am.

2 Q And then looking at Page 353 through 355, will  
3 you compare the contents of that claim jacket  
4 with what is reproduced on those pages?

5 A Yes, ma'am.

6 Q Now, would you tell us whether or not the material  
7 marked Claim Jacket H-1 (2) is the same material  
8 which is reproduced on Pages 353 through 355 and  
9 also 356 on Examiner's Exhibit 55?

10 A Yes, it seems to be.

11 Q Okay. Would you now take the claim jacket marked  
12 H -- I believe it's H-1 (4) and take the contents  
13 of that out and see if that is the same as it  
14 appears in Examiner's Exhibit --

15 A I have H-1 --

16 Q I am sorry. I will leave all of these up here.  
17 H-1 (4) and see if that is the same as what appears  
18 on Page 361 through 363 and Examiner's Exhibit 55.

19 A Yes, ma'am.

20 Q Okay. Would you now look at the one, the claim  
21 jacket marked H-1 (11).

22 A Just a moment. I want to get this thing back in  
23 here. I don't want to get it mixed up.

24 Q Thank you.

25 A Which one now?

- 1 Q H-1 (11).
- 2 A All right.
- 3 Q And compare that with the material beginning on  
4 Page 380 of Examiner's Exhibit 55.
- 5 A What page is that in?
- 6 Q 380. It begins on Page 380 of Examiner's Exhibit  
7 55.
- 8 A Yes, ma'am.
- 9 Q Does that material in H-1 (11), does that appear  
10 to be reproduced on Pages 380 through 383 of  
11 Examiner's Exhibit 55?
- 12 A Yes, ma'am.
- 13 Q Okay. And finally, would you look at the claim  
14 jacket marked H-1 (23) and compare the material  
15 in that to that beginning on Page 405 of  
16 Examiner's Exhibit 55.
- 17 A On 405?
- 18 Q Beginning on Page 405, yes.
- 19 A Yes, ma'am.
- 20 Q Does that material contained in H-1 (22) appear  
21 to be reproduced beginning on Pages 405 of  
22 Examiner's Exhibit 55?
- 23 A Yes, ma'am.
- 24 Q Okay. You were present at the senate impeachment  
25 trial, is that correct?

- 1 A That is correct.
- 2 Q Did you hear the testimony of Mr. Meek at that  
3 proceeding?
- 4 A Yes, I did.
- 5 Q And do you recall his testimony that the materials  
6 contained in these claim jackets along with some  
7 other matters were introduced and their contents  
8 were those duly kept in his office for supporting  
9 welfare claims?
- 10 A I don't remember the exact testimony. I am sorry.
- 11 Q Okay.
- 12 A Like I said, the only thing that was vividly in  
13 my mind yesterday was this slips that I am  
14 talking about.
- 15 Q When you say this slips, are you talking --  
16 would you describe them, please.
- 17 A Yes, they have the printed form, Mrs. Castillo,  
18 twenty dollars, groceries, the initials.
- 19 Q By the printed form, Judge, do you mean that the  
20 word give is typed out?
- 21 A Yes.
- 22 Q And the amount and groceries?
- 23 A Yes.
- 24 Q And mimeographed?
- 25 A Yes.

1 Q Is it still your testimony, Judge, that the slips  
2 that are reproduced in Examiner's Exhibit 55 were  
3 not contained in the claim jackets corresponding  
4 to them in Examiner's 55?

5 A I went back last night and checked because my  
6 memory serves me very clearly that at the House,  
7 before the House Select Committee, Mr. Cleofus  
8 Gonzalez had testified about this white slips  
9 here.

10 Q Yes, sir.

11 A And he testified that he had taken them home, so  
12 I went back last night and went over Mr. Cleofus  
13 Gonzalez's testimony before the House Select  
14 Committee and on page 88 of the transcript --  
15 there is quite a few references to this, they  
16 called them chits, they referred to them as  
17 chits.

18 MR. MITCHELL: Chits.

19 A Where he states he would take these chits and  
20 this can be verified by going into the record,  
21 and he would transfer them into the official  
22 Duval County welfare order, the printed form.

23 Q Yes, sir.

24 A Then he would throw these chits away and that  
25 was what went with the claim that he would send

1 to the commissioners court and he would throw  
2 these chips away.

3 However, he kept some of these chips, took  
4 them home with him and -- because he -- as I  
5 recall the testimony on page 88 he says he  
6 figured that some day he might need them as evi-  
7 dence and he wanted to have them and he produced  
8 these chips along at the impeachment proceedings.

9 Now, I'm not saying that these are the particu-  
10 lar chips that he produced there because we were  
11 sitting back more or less as spectators before  
12 the Select Committee hearing and we were not  
13 allowed to cross-examine or that is my attorney,  
14 Mr. Arthur Mitchell, was not allowed to cross-  
15 examine, no examination, no questioning, no look-  
16 ing over the Exhibits or no nothing.

17 We were looking at them from a distance  
18 of about from here to where Mr. Pipkin is sitting,  
19 which is approximately ten yards I say, something  
20 like that and I remember that he was questioned  
21 by several of the House members concerning these  
22 chips.

23 Then the question came up as to why he took  
24 them home and he said he always destroyed them  
25 and he would enter them from here into the official



1 welfare order and then destroy this, except that  
2 he took some of them home. That was the first  
3 time they appeared and he was the first witness.  
4 I believe to testify at the hearing, that is  
5 when they came out.

6 Now, this can be verified by checking on  
7 page 88. There was a confusion because I didn't  
8 have the official copy and the number of the  
9 pages were wrong and I think it can be verified  
10 by checking those statements.

11 Q Yes, sir. Well, since you remember that hearing,  
12 do you also remember Mr. Gonzalez testifying that  
13 these chits were approximately a year and half  
14 old at the most.

15 A Mr. Gonzalez?

16 Q Yes, sir.

17 A No, sir -- no, ma'am, I'm sorry. One of the  
18 representatives, I recall from the reading of  
19 the transcript last night, asked him that they  
20 didn't appear to be very old and he said that is  
21 correct, but it is one of the State Representatives,  
22 members of the Senate Select Committee who asked  
23 the question and Mr. Gonzalez said yes, sir.

24 Q Not very old, we will get back to that in a  
25 moment. But is it still your testimony, sir, that

1 the chits are the white pieces of paper that you  
2 just examined in H-1-(2), H-1-(4), H-1-(11), and  
3 H-1-(23) were not contained in the welfare claims  
4 of the welfare county supporting claims of those  
5 dates that the Cash Store submitted?

6 A As I say to the best of my recollection, the  
7 first time they came out, when they came out not  
8 in the jackets, but out by Cleofus Gonzalez hav-  
9 ing had possession of them and his testimony that  
10 they were not included in the claims that went to  
11 the county commissioners court, that they were  
12 destroyed by him with the exception of the ones  
13 that he kept and took home.

14 Q Well then, is it your testimony, sir, that Mr.  
15 Gonzalez introduced these things in the House  
16 Impeachment Hearings and then they were subse-  
17 quently put in those claim jackets?

18 A I don't have the slightest idea how they got in  
19 those claim jackets.

20 Q But it is your testimony that the chits you have  
21 just examined from the series H-1, 2, 4, 11 and  
22 23 were the same ones Mr. Gonzalez introduced  
23 in the House?

24 A No, ma'am, I can't say that because like I say  
25 we were sitting some distance back and we didn't

1 even see them that close, or examine them that  
2 close, except that they had them there and they  
3 passed them around and we could see them being  
4 passed around and whatever.

5 We never had them -- neither Mr. Arthur  
6 Mitchell or myself, were ever presented -- had  
7 them presented to us for our examination or anything  
8 and the first time that -- and then were intro-  
9 duced in -- they were introduced in the Senate  
10 and I don't remember what procedure was used or  
11 how they came about. I will be perfected honest  
12 with you, I don't -- I know that they were there,  
13 I know they were introduced and I know they were  
14 in evidence and in connection with the claim  
15 jackets, but I don't know how they got there or  
16 anything.

17 I cannot say that the ones that Mr. Gonzalez  
18 introduced at that hearing are exactly these  
19 same ones.

20 Q But you also cannot say that you recall the testi-  
21 mony that the ones that we have just looked at  
22 were the ones that Mr. Meek testified as having  
23 been part of each one of those claim jackets and  
24 supporting claims, you do not remember that?

25 A I don't remember that, no, ma'am. It is quite

1 possible he did, I don't know.

2 Q Okay. I would like to refer you to his testimony  
3 on page 308 of the impeachment record where he  
4 was asked the question by --

5 MR. MITCHELL: Now hold on, Counsel,  
6 wait a minute, I didn't know you were going  
7 to go back -- Your Honor, may I see if I  
8 have got that, please?

9 THE MASTER: I think in fairness to the  
10 witness he ought to have it in front of  
11 him.

12 MR. MITCHELL: Yes, I do, too, Judge.

13 I might add also, I have had no notice  
14 given me of the original of these claim  
15 jackets as only the Lieutenant Governor's  
16 office called me last night about eight  
17 o'clock to tell me that Counsel for the  
18 Examiner had withdrawn them, come up to  
19 Austin to withdraw them.

20 I want the record to reflect that is  
21 the first notice I have had and I would have  
22 appreciated to have the opportunity to have  
23 ridden in that airplane myself to go up to  
24 Austin.

25 We all know we are down here in Corpus

1 and I would like to have had an opportunity  
2 likewise to have maybe brought some of the  
3 original documents down here to have avail-  
4 able to me as counsel for this judge, to  
5 cross-examine, Judge.

6 THE MASTER: Counsel does not owe you  
7 that obligation.

8 MR. MITCHELL: I don't know, Your Honor.  
9 I thought perhaps I might let the record  
10 speak it and somebody might disagree with  
11 both of us.

12 What page are we on?

13 THE MASTER: She said 308.

14 MS. LEVATINO: It is 308, sir.

15 (Discussion off the record.)  
16

17 Q (By Ms. Levatino:) Directing you to page 308  
18 with the question asked by Mr. Doyle.

19 "Q (By Mr. Doyle:) Are you ready, Mr.  
20 President? Mr. Meek have you examined  
21 all of the claim jackets and the con-  
22 tents of the claim jackets that I have  
23 handed you which are as a group marked  
24 House Exhibit Number 1?

25 A Yes.

1 Q Now, are they the claim jackets and  
2 information which are duly kept in your  
3 office as auditor of the county of Duval?

4 A That is right, they are from my office."  
5

6 Do you recall that testimony?

7 A Well, I am sure it is correct.

8 Q Judge, I would next like to hand you two individual  
9 chits and would you tell what is on those chits,  
10 you know, identify them.

11 A They are the same as these other ones that we  
12 were talking about a little while ago, they say,  
13 "Give J. Sendajar twenty dollars groceries", and  
14 it seems to be my initials, although it is not --  
15 I can't swear that it is, because it seems to be.  
16 One of them does, the other one doesn't.  
17

1 Q (By Ms. Levatino) Okay. Are there any other  
2 markings on those checks, Judge?

3 A With the exception of Exhibit 26, 5-27-75 and  
4 Exhibit 27, 5-27-75 and some initials.

5 Q Okay. Yes, we referred to the House Impeachment  
6 Committee records. I believe that if these were  
7 the chits that were introduced into the House  
8 Impeachment and the exhibit designated in there  
9 of Exhibit 26, 27 on 5-27-75 can be found in  
10 Volume V of the House hearing, specifically on  
11 Pages 103.

12 Now, would you look at Examiner's Exhibit 55  
13 and see if markings such as Exhibit 26, 27,  
14 5-27-75 appear on any of those reproduced chits  
15 or white sheets in Exhibit 55; that would be from  
16 Pages 353 through 355, 361 through 363, 380 to  
17 405.

18 A Well, let's take them one at a time.

19 Q Page 353 to 355.

20 A 353 to 355. Now --

21 Q Pages 361 through 363.

22 A Next.

23 Q 380 through 383. 405 to 407.

24 A No, ma'am.

25 Q Now, the date on those exhibits, I believe, is

1 5-27-75, which would have been in May of this  
2 year.

3 A Where is this?

4 Q On the two you're holding in your hand, sir; is  
5 that correct?

6 A That was the day that they were introduced in  
7 Austin, I guess.

8 Q Okay. And the Senate Impeachment Hearing, of  
9 course, happened after that day?

10 A Yes, ma'am.

11 Q So, if that material was put on those chits in  
12 May and they were going to turn up in Examiner's  
13 Exhibit 55 or in the Senate Impeachment exhibits,  
14 wouldn't those markings be reproduced in  
15 Examiner's Exhibit 55?

16 MR. MITCHELL: Argumentative and  
17 speculative; also no personal knowledge.

18 THE MASTER: Overruled.

19 A I believe they had -- I know they had more than  
20 that -- than these two there.

21 Q (By Ms. Levatino) We are just talking about these  
22 two right now?

23 A That's right. And these two would not appear  
24 here.

25 Q Okay. Judge, yesterday I believe you testified



1 that you ended your act of involvement in the  
2 welfare program in or around 1970, but prior to  
3 that time you had basically handled almost all  
4 of the welfare work in Precinct 2 -- pardon me,  
5 Precinct 3.

6 A No, up until around 1967 and then as the years  
7 came on, I was cutting more and more time off of  
8 this particular business and through permission  
9 of the Commissioners Court, I delegated these  
10 matters over to Mr. Couling and Mr. George  
11 Zertuche, Jr. and more and moreso until finally  
12 it just phased out.

13 Q Was your brother, Ramiro Carrillo, elected county  
14 commissioner in 1967?

15 A Yes, ma'am.

16 Q Did he take over a great deal of the county  
17 welfare work for that precinct at that time?

18 A Well, Cleofus Gonzalez had an office in the  
19 commissioner's office and was there all of the  
20 time and was the one that we would refer to these  
21 matters and say give out an order and what have  
22 you after that.

23 Q Beginning in about 1967, did your brother, Ramiro  
24 Carrillo, the county commissioner, actually do  
25 the signing of those printed Duval County welfare

1 forms?

2 A He would have signed the official welfare, I  
3 believe.

4 Q Yes, that is what I meant.

5 A And orders similar to this or like I say, if  
6 somebody caught me down the street in the middle  
7 of town, I would either refer them to go over  
8 there and get an order or if they were in a hurry,  
9 there was no set thing. I would write out a little  
10 order to go and get some groceries or go to the  
11 drugstore, go to the doctor or make a phone call  
12 instead of giving out the --

13 Q So, would it be correct to say, Judge, that  
14 these little white slips that we have been looking  
15 at were written as you testified yesterday,  
16 sometime in the sixties, probably before 1968 or  
17 '67?

18 A I think so. I have no recollection of them after  
19 '71, anyway.

20 Q Could they have been written according to your  
21 testimony yesterday as early as 1960?

22 A I just don't remember. That is quite a few years  
23 back. I don't recall. I am sorry.

24 Q But the slips we have just been examining, to the  
25 best of your recollection, were written by you

1           some time in the middle sixties perhaps, maybe  
2           '68 or earlier?

3           A    Well, they might have been later.  I don't have  
4           any particular recollection of any.  They might  
5           have been.  I know like I say, up to this day  
6           I will still recommend folks for different welfare  
7           assistance.

8           Q    Well, will you write out a little white slip  
9           like that, Judge?

10          A    No, no, ma'am.  I discontinued -- this was done  
11          for a short while because we had a book which is  
12          approximately the size of this exhibit here which  
13          would be six by ten or something like that and  
14          you would write out an order for one particular  
15          individual and that was fast going in that  
16          particular book and we didn't have that many books.

17          Q    I believe you testified that when you didn't have  
18          those books, then, you wrote out the little white  
19          slip?

20          A    For a period while they came in, those were used  
21          and the procedure started to where they would  
22          get this different orders from the different  
23          merchants and instead of just having one name and  
24          one order on one particular page, they would just  
25          fill in the several ones and total them up and

1 send them in.

2 Q But the white slips -- it's your testimony, then,  
3 that the white slips that we have been referring  
4 to were written just one time; I believe you  
5 testified yesterday there are only maybe fifteen  
6 or twenty of them and they were not used that  
7 much except when you didn't have --

8 A I didn't say one time, and if I did, I was in  
9 error. What I mean is that they were used -- they  
10 were no in frequent use. It was not the form,  
11 regular procedure.

12 Q Well, now, yesterday I believe you testified that  
13 you only wrote them out once or twice.

14 Now, do you want to say you wrote them out  
15 more than that?

16 A No, I said I used to write them out mostly --  
17 when I said once or twice would mean that if I  
18 came to the office and Mr. Couling or Mr. George  
19 Zertuche, Jr. would advise me they had given out  
20 ten orders for ten different individuals for ten  
21 different things, they would tell me who they had  
22 given them out to and I would give them out; you  
23 know, I would write out the order and make it  
24 official.

25 Q But you testified yesterday you only did that once

1 or twice on a yellow tablet, is that correct?

2 A As I recall; as I recall, yes, ma'am.

3 Q In 1967 or '68 after your brother had become  
4 county commissioner and you were winding down your  
5 activity in the welfare program, your brother,  
6 of course, was aware of the fact that you were  
7 winding down your active participation --

8 MR. MITCHELL: That would be hearsay  
9 of this witness as to what his brother was  
10 aware of, Judge. We object.

11 THE MASTER: That is sustained unless  
12 you develop the basis of his knowledge.

13 Q (By Ms. Levatino) Judge, I believe you just  
14 testified earlier this morning and yesterday  
15 that prior or earlier -- most of the 1960's you  
16 handled most of the welfare work for Precinct 3.

17 A That's correct.

18 Q Okay. And then as you became busier, of course,  
19 for a while Mr. Couling and Mr. Zertuche handled  
20 that for you and I believe you just testified in  
21 1967 or thereabouts when your brother became  
22 county commissioner, he took over through Cleofus  
23 Gonzalez most of the welfare --

24 A Most of it, not all of it, but most of it.

25 Q Okay. So, he would know that he was doing most

1 of it as opposed to you at that point in time?

2 A Well, what was happening: I would call Cleofus  
3 up until the early part of 1970 and then Cleofus  
4 and I had a misunderstanding and we weren't --  
5 we didn't speak to each other and I don't really  
6 remember how it was worked after that, to tell  
7 you the truth. There was very little communication  
8 except perhaps if you came over and wanted an  
9 order and I would tell you go over and see Cleofus  
10 and tell him that I sent you or something like  
11 that, but we had very little -- didn't speak to  
12 each other there for --

13 Q What about your communication with your brother,  
14 Judge Carrillo; did you ever talk about the fact  
15 that you were not -- as you had testified, you  
16 may still have had the authorization, but --

17 A No, as I say, even during the time when I was not  
18 county attorney, I was a candidate for district  
19 judge, and even during the time I could have  
20 issued orders. My authority was never discontinued  
21 or the Commissioners Court never came over and  
22 told me, no, you're not permitted to do so or  
23 nothing like that.

24 As a matter of fact, I was considered part  
25 of the official family, we might say this, of the

1 courthouse, even during the time that I was a  
2 candidate.

3 Q But you have testified that in fact, after 1970,  
4 you did not issue any orders?

5 A I don't recall having done so.

6 Q Okay. Now, there is testimony; we know that  
7 Mr. Ramiro Carrillo as county commissioner would  
8 take the welfare forms forward through 1970  
9 to the County Commissioners Court for payment; do  
10 you recall that testimony?

11 A I recall the testimony that they would -- well, I  
12 recall the testimony, I think, that they would get  
13 there. Who it was -- it was presumed that he took  
14 them. I don't really know he took them or how  
15 they got there.

16 Q I believe there was testimony from Mr. Cleofus  
17 Gonzalez as well as Mr. Meek and Mrs. Yzaguirre,  
18 Lauro Yzaguirre, that the county commissioner,  
19 Ramiro Carrillo, would deliver the welfare forms  
20 to the County Commissioners Court for payment;  
21 you recall that?

22 A No, ma'am. There might have been. I don't see  
23 how Mrs. Yzaguirre, unless she was at the  
24 Commissioners Court -- at the courthouse --

25 Q Assuming that that was the case, did your brother,

1 Ramiro, ever ask you why there was some long,  
2 white slips attached to some of these welfare  
3 forms which you had written out as long as ten or  
4 fifteen years ago when you weren't authorizing  
5 welfare any more?

6 A Not as a whole. Not as himself, personally.

7 Now, when the Commissioners Court met, they  
8 would go through all of these claims and approve  
9 them or allow them or disallow them and they were  
10 presented to the Commissioners Court as a whole  
11 and they examined all of them or part of them or  
12 some of them or none of them or what have you,  
13 and then they would prove them completely and,  
14 so, my brother, as an individual and I never had  
15 any conversations as such about any of these  
16 matters. It was -- when the Commissioners Court  
17 met and when the matter went from business to  
18 business and it came to these matters, they were  
19 approved, passed on and approved by the  
20 Commissioners Court and that is it.

21 Q I understand that, but it's your testimony that  
22 your brother took these claims to the  
23 Commissioners Court, never asked you about any  
24 of these white slips that you had written out  
25 that were appearing in claims from 1970, '71,



1 '72?

2 A No, no, ma'am.

3 Q Would you look at what was marked H-1 (2), and  
4 pull the slips out of those, please.

5 MR. MITCHELL: Excuse me. I have them  
6 over here. What was that one, please,  
7 Counsel?

8 MS. LEVATINO: H-1 (2).

9 Q (By Ms. Levatino) Counsel assures me these were  
10 all the contents of that.

11 In that package, are there some blank  
12 checks?

13 A Yes, ma'am.

14 Q And on the reverse side of that check, would you  
15 on the back side of the check, what is written on  
16 there?

17 A The welfare orders.

18 Q Do you ever -- you have testified previously  
19 that you only wrote these out of white pieces of  
20 paper or on a yellow tablet. Do you now remember  
21 writing them out on the back of blank checks from  
22 the Alice State Bank?

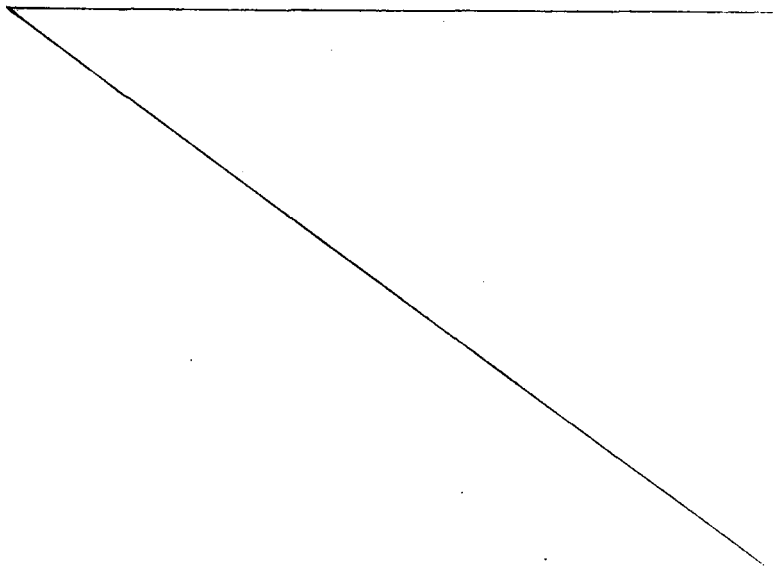
23 A Well, they were. There is no question about it.  
24 I don't have any particular recollection about  
25 it, but they were.

1 Q So, sometimes these orders were done on white  
2 pieces of paper. Sometimes they were done off of  
3 yellow legal pads. Sometimes they were done on  
4 the back of blank checks and sometimes they were  
5 done on mimeographed forms --

6 A I --

7 Q Excuse me. Has that accurately reflected your  
8 recollection in the record here?

9 A Like I said, I testified that sometimes someone  
10 would run into me downtown somewhere and ask me  
11 for an order and I would write it down on a piece  
12 of paper and send them down to the grocery store  
13 or the doctor or to the different people.



1 Q Yesterday you testified that there were about  
2 fifteen or twenty of these particular slips. I  
3 would like to again refer you to using the repro-  
4 duction of the originals, Examiner's Exhibit 55,  
5 to page 353 through 355, et cetera, and count the  
6 number of slips that appear there.

7 A I said those are the ones that I thought they  
8 had at the Select Committee.

9 O No, I believe -- if you will look at -- while I'm  
10 doing something, if you will look at page 353-5,  
11 361 through 3 and count the number of slips which  
12 appear on those pages.

13 A 363?

14 Q 361 through 363.

15 A Thirty, I believe.

16 Q Pardon me?

17 A Thirty.

18 Q 361 -- oh, there are thirty on those series of  
19 pages?

20 A Yes.

21 Q All right, then turn to page 380 through 383.

22 A Fourteen.

23 Q 380 through 383?

24 A 380 through 383.

25 Q Could I ask you to recount those please.

1 A 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15.

2 Q Okay, and page 405 through 407.

3 A Fifteen.

4 Q So that would make a total now that we haven't  
5 seen of at least sixty in Examiner's Exhibit 55.  
6 Please -- which were the originals we had looked  
7 at this morning plus two more that you examined  
8 this morning for at least sixty-two of these  
9 things, where they were written, is that correct?

10 A Possibly.

11 Q And yesterday, to refresh your recollection, you  
12 testified at page 2981 of the record that -- I  
13 notice now -- this was your response to -- "I  
14 notice now since you have asked me this question  
15 and based on the earlier questions of November,  
16 1970, those were not slips that were handed over,  
17 over a period of time. It was just a time when  
18 we did not have the regular form."

19 Those, you are going to find that they were,  
20 as I recall the evidence, before they were approxi-  
21 mately ten or fifteen of them. Now I did not get  
22 the number of them but they were all issued at  
23 the same time.

24 Is it your testimony that all of these slips  
25 that we are talking about today, sixty-two of

1           them were all issued at the same time?

2           A No, ma'am. Like I say, they were issued when we  
3           were short of those forms and I don't remember the  
4           exact time.

5           Like I say, most of these were done when I  
6           came -- when I came into the office and was told,  
7           you know, that the orders had been issued.

8           Q Okay. Continuing on with your testimony on  
9           page 2891 of yesterday, you stated that there  
10          was not but once or twice that orders were issued  
11          on or part of a yellow pad to individuals that  
12          they had a list of, and that is all.

13          Is it still your testimony today that the  
14          writing out of these slips we have been examining  
15          occurred only once or twice?

16          A To my recollection.

17          Q Okay. You had just gone through Examiner's  
18          Exhibit 55 for four different claim jackets and  
19          I believe you testified there were fifteen little  
20          slips with each one of those four jackets, is  
21          that correct?

22          A Approximately.

23          Q Okay, well, was it fifteen or more or less?

24          A Well, in one of those pages there was fifteen,  
25          yes, ma'am. Do you want me to --

1 Q I believe you testified at page 405 to 407 it  
2 was fifteen and there were thirty total for pages  
3 353 to 355 and 361 to 363, is that fifteen for  
4 each?

5 A Well, now, do you want me to go through them  
6 again. I wasn't counting them by pages. I was  
7 just, you know, I gave you thirty on one of them.

8 Q Okay, just go through page 353 through 355 and  
9 we can subtract.

10 A Okay, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 -- 355 to  
11 3 -- 353 to 355?

12 Q Yes.

13 A Ten.

14 Q Will you turn over to page 356, please.

15 A Yes, ma'am. 1, 2, 3, 4, 5.

16 Q Okay, so there were fifteen then with that  
17 series, that claim jacket.

18 Each one of those were twenty dollars pursuant  
19 to that agreement that we just discussed yester-  
20 day?

21 A Yes, ma'am.

22 Q Which means that in each one of these four claims  
23 there were three hundred dollars worth of procer-  
24 ies authorized, according to these little white  
25 slips?

1 A Yes, ma'am.

2 Q Okay. You were here, Judge, when Cleofus Gonzalez  
3 testified in this particular proceeding, weren't  
4 you?

5 A Yes, ma'am.

6 Q During his testimony we -- Counsel, Mr. Mitchell,  
7 identified a series of about twelve printed  
8 Duval County welfare forms that were in evidence  
9 in Examiner's Exhibit 55 in which the initials  
10 O. P. or O. P. Carrillo were -- appeared on that  
11 Duval County welfare form.

12 A Yes, ma'am.

13 Q Do you recall that testimony?

14 A Yes, ma'am.

15 Q Now, is it your testimony that you did not  
16 authorize those welfare orders?

17 A Well, now, again, I will state that I can't say  
18 that I authorized each particular one. I might  
19 have approved them after they were authorized by  
20 somebody else.

21 Q Well, did you do that in May of 1971?

22 A Again, it is possible, I don't have any particular  
23 recollection.

24 Q I would like to turn your attention to page 375  
25 of Examiner's Exhibit 55 please.

1 A What page, ma'am?

2 Q 375.

3 A Yes, ma'am.

4 Q You notice on the lower righthand corner it's  
5 printed county of Duval welfare department form  
6 which that is your initials at the bottom of that  
7 form?

8 A Yes, ma'am.

9 Q And I believe there are seven persons names appear-  
10 ing on that form authorized to receive twenty  
11 dollars worth of groceries each for a total of  
12 a hundred and forty dollars?

13 A Yes, ma'am.

14 Q Dated May 6th, 1971?

15 A Yes, ma'am.

16 Q And turning the page to 376 in the upper lefthand  
17 corner, there are a series of eight names appear-  
18 ing on the Duval County welfare department form  
19 authorized to receive twenty dollars each for a  
20 total of a hundred and sixty dollars and your  
21 initials appearing at the bottom of that.

22 A The initials O. P.

23 Q Yes.

24 A It is not my handwriting.

25 Q Well, I believe Mr. Gonzalez has testified --



1 A Yes, ma'am.

2 Q -- that he put those initials on for O. P.'s  
3 orders.

4 A Yes, ma'am.

5 Q Do you recall in May of 1971 authorizing three  
6 hundred dollars worth of welfare recipients  
7 groceries?

8 A No, ma'am.

9 O If you will turn to page 406 and to 407.

10 A Yes, ma'am.

11 Q On page 406 and 407 do you see the two county  
12 welfare department forms with names on them hav-  
13 ing your initials on the bottom of those forms  
14 and authorizing a hundred and sixty dollars on  
15 the one dated, I believe it is August 10th,  
16 1972, on 406 in August 16 on -- in 1972 on page  
17 407 do you see that?

18 A I see those orders, yes.

19 Q Do you recall authorizing any kind of welfare  
20 for three hundred dollars for the month of  
21 August in 1972?

22 A That is my handwriting. I don't recall it, but  
23 that is my handwriting.

24 Q So even though you weren't involved in the welfare  
25 any more in 1972, at some point in August of 72

1 you did authorize about three hundred dollars?

2 A No, I didn't say I wasn't involved at all. As  
3 a matter of fact, just a little while ago, I  
4 testified that even today, to this date, I will  
5 go home and someone will ask for something and I  
6 will recommend them or send them to someone.

7 Q Well, did you authorize Pat Garza around the 16th  
8 of August in 1972 to receive twenty dollars worth  
9 of welfare groceries?

10 A I don't recall it, again I state, you know, that  
11 sometimes this -- these orders would all be filled  
12 out in one day, from the records given me by Mr.  
13 Couling or somebody like that, at the office and  
14 now Mr. Garza, when he worked for me and he went  
15 to the Cash Store, he charged the groceries that  
16 I asked him to get for me for my personal use  
17 to my own personal account and they were paid by  
18 me personally.

19 Now, the procedure was -- that was followed  
20 by the store was that if I told Mr. "X" to get  
21 some groceries, they would charge those groceries  
22 to me and if the county did not pay for them,  
23 then I had to pay for them.

24 Q Now, Judge --

25 A So when the county paid for them, they would

1 credit my account up to whatever the amount of  
2 order were given, but those orders -- and I didn't  
3 even know that they were doing it that way.

4 Now, I have since found out that they were  
5 doing it that way but when I went to pay my  
6 account, I would ask, "How much do I owe", and  
7 sometimes I would pay the bill, sometimes I would  
8 pay it all and sometimes I would pay part of it  
9 and sometimes I would pay none of it.

10 But at the end of the year we would close  
11 out our books.

12 Q Judge Garza --

13 THE MASTER: This is Judge Carrillo.

14 MS. LEVATINO: I'm sorry.

15 Q Judge Carrillo, would you characterize Patricio  
16 Garza as a political opponent or a political  
17 ally?

18 A He is a political ally.

19 Q Would you characterize Abel Yzaguirre as a  
20 political opponent or a political ally?

21 A Mr. Abel Yzaguirre is completely disabled and  
22 I doubt that he is politically inclined one way  
23 or the other, for anyone in particular.

24 Q Prior to Mr. Abel Yzaguirre's illness, would you  
25 have characterized him as a political opponent

1 or a political ally?

2 A Prior to his illness, there were no political  
3 opponents in all of the county.

4 Q Would you characterize Mr. Lauro Yzaguirre as a  
5 political opponent or a political ally?

6 A Today?

7 Q Today.

8 A Opponent.

9 Q Why would you say that, Judge? Why do you think  
10 he is a political opponent?

11 A Well, we have an old saying in Spanish that says  
12 tell me who you hang around with and I will tell  
13 you who you are.

14 And so, his close friends, the people that  
15 they associate with, you have to live in Duval  
16 County to realize the political way of life down  
17 there and there seems to be a line drawn down  
18 the middle of the room and those who hang around  
19 over here on one side, belong to one side and  
20 those who hang around the other side, they are  
21 on the other side and there is very little co-  
22 mingling or socializing, one with the other,  
23 except for an occasional howdy.

24 Q All right.

25 MS. LEVATINO: Your Honor, at this

1 time, I have finished the cross-examination  
2 on Article 1 with the possible exception of  
3 some documentary evidence which has not  
4 arrived from Austin, which I would like to  
5 reserve the right to introduce at a later  
6 time and Mr. Flusche will begin on the  
7 Article -- or paragraph 2.

8 THE MASTER: You may proceed, Mr.  
9 Flusche.

10 MR. MITCHELL: Which paragraph, which  
11 one, please?

12 THE MASTER: Paragraph 2.

13 MR. MITCHELL: Okay, Judge Meyers. At  
14 this break, in -- may I, for the record,  
15 state that I delivered -- we were subpoenaed  
16 yesterday, I think it is appropriate that I  
17 state to the record, we delivered to the  
18 attorney for the Examiner, Judge Carrillo's  
19 personal tax returns yesterday evening as  
20 well as the Farm and Ranch tax return  
21 pursuant to the subpoena, but we did not  
22 have, and I will state for the record, the  
23 74 return, Your Honor, for his -- his per-  
24 sonal return.

25 I have since conferred with Counsel and

1 Counsel indicates to me that he is mainly  
2 interested in the input into certain gross  
3 income figures which I want to state for the  
4 record that the accountant, Mr. Kirkland,  
5 Mr. O. D. Kirkland of Alice, has all of the  
6 work papers.

7 If Counsel will delineate specifically  
8 for me what he wants, I will see if I can  
9 get that over here by Mr. Kirkland, Judge  
10 Meyers.

11 MR. FLUSCHE: Your Honor, before we  
12 proceed with the examination of Judge  
13 Carrillo, I wonder if we might take Mr.  
14 Karl Williams from the San Diego Bank out  
15 of order to authenticate some checks which  
16 were -- which were kept out of evidence  
17 the other day because of lack of authenticity.

18 MR. MITCHELL: Well, no, I'm not going  
19 to agree to that now. If he's going to  
20 cross-examine this witness, I would like to  
21 have him cross-examine him, Judge Meyers.  
22 I don't want him to be bringing people in  
23 here on material that had nothing to do  
24 with direct. I want to object to that pro-  
25 cedure.

1           That is not the proper way to conduct a  
2 cross-examination. I agreed with Counsel to  
3 out witnesses on out of order when he was  
4 presenting his case to preserve the flow of  
5 his case, but I would object to this procedure  
6 on cross-examination of this witness.

7           THE MASTER: Is this checks that you  
8 need to examine him about?

9           MR. FLUSCHE: We need to examine him  
10 about some of them, that's correct.

11          THE MASTER: Is Mr. Williams out there?

12          MR. FLUSCHE: Yes.

13          THE MASTER: I will overrule the objec-  
14 tion. Ask Mr. Williams to come in.

15          MR. MITCHELL: Am I to understand they  
16 are going to bring on an authenticating wit-  
17 ness here? I just want to know, because  
18 I am somewhat taken aback by the procedure  
19 that they are bringing in the witness to  
20 authenticate checks about which they are  
21 going to cross-examine this client -- my  
22 client.

23          THE MASTER: That's what they said.

24          MR. MITCHELL: I have had absolutely no  
25 notice, no way in the world to know --

1 THE MASTER: Just a minute.

2 (Discussion off the record.)  
3

4 MR. MITCHELL: In addition, Judge, at  
5 the time I had Couling on the stand, I had  
6 requested certain checks and they weren't  
7 forthcoming. Now, if these are inter-  
8 related to that input, that puts me in a  
9 terrible posture, if it please the Court,  
10 where my client is now being cross-examined  
11 as to items that I have been denied the  
12 right to cross-examine Couling on.

13 MR. ODAM: Which ones are those?

14 THE MASTER: I just don't know what  
15 checks we are talking about, Mr. Mitchell.

16 MR. MITCHELL: They introduced those  
17 and withdrew them, Judge Meyers, that is  
18 what I am talking about.

19 THE MASTER: Mr. Williams, you were  
20 sworn earlier, were you not?

21 MR. WILLIAMS: Yes, sir.

22 THE MASTER: Just have a seat, please.

23 (Discussion off the record.)  
24

25 MR. MITCHELL: May I be informed, for



1 the purposes of making an intelligent objec-  
2 tion, Your Honor, whether these checks relate  
3 to Article 2, 3, or 4 or 5 or whatever they  
4 relate to.

5 MR. FLUSCHE: Well, the other day, we  
6 introduced -- or we attempted to introduce  
7 Exhibits E-174, E-175, E-176 and E-177, and  
8 E-178 as checks written to O. P. Carrillo  
9 in addition to those that were contained in  
10 the charges.

11 I believe Mr. Mitchell asked Mr.  
12 Couling if there were other checks that  
13 were written to O. P. Carrillo other than  
14 those contained in the charges and those  
15 already in evidence and I believe it was  
16 the position of the Court that we might pur-  
17 sue that matter but that the checks which  
18 we proffered were not properly authenticated.

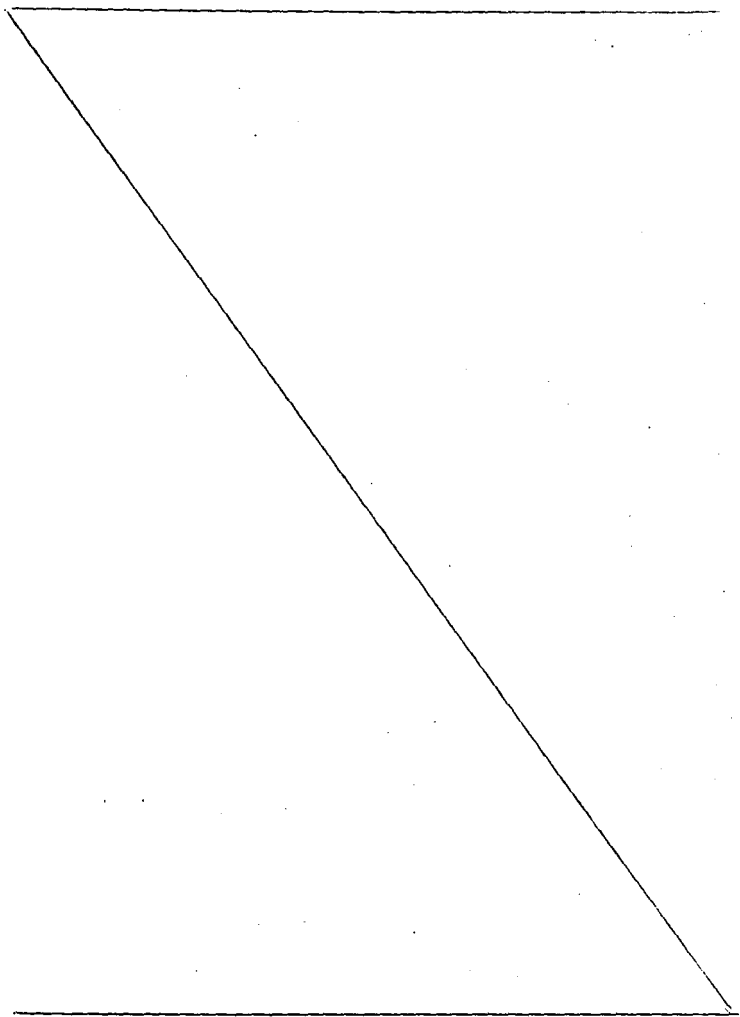
19 Did I recite the record correctly?

20 THE MASTER: You substantially recited  
21 my recollection. I permitted you to go  
22 into that matter to rebut the suggestion  
23 made by Mr. Mitchell, in his examination  
24 of Mr. Couling, that the only checks were  
25 the checks in the -- mentioned in the first

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amended formal notice of proceeding and that was the only purpose.

You are correct, because the checks could not be authenticated, and they were not admitted in evidence.



1 MR. MITCHELL: Now, Your Honor, I am  
2 going to object therefore in face of his  
3 announced intention to authenticate E-174  
4 through E-178 on the grounds I was denied  
5 the right to cross-examination and the right  
6 to confront because the witness, Mr. Couling,  
7 is not here, and I have not been allowed to  
8 examine him as to these documents and, now,  
9 by reason of the structuring of the  
10 procedure, the authenticating witness has  
11 brought in out of the flow of cross-  
12 examination of Judge Carrillo and we are  
13 going to object because of that right of  
14 confrontation, right of effect to counsel  
15 on it, Judge.

16 THE MASTER: If you want Mr. Couling  
17 back, I will, of course, have him brought  
18 back.

19 MR. MITCHELL: Yes, I will want him  
20 back, Judge Meyers.

21 MR. FLUSCHE: He will be back.  
22  
23  
24  
25

1                                    CARL WILLIAMS,  
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. FLUSCHE:

8  
9        Q    Mr. Williams, would you state your full name  
10            and your address.

11        A    Carl Williams.

12        Q    How are you employed, sir?

13        A    I am vice-president and cashier of First State  
14            Bank of San Diego.

15        Q    All right. Now, in that capacity, do you have  
16            custody of the records of the bank, the First  
17            State Bank of San Diego?

18        A    I do.

19        Q    Yesterday afternoon, did I phone you and ask you  
20            to bring certain checks to you which I announced  
21            over the phone?

22        A    Yes, sir.

23        Q    Which I listed to you over the phone?

24        A    Yes, sir.

25        Q    And this morning did I prepare a subpoena duces

1           tecum in which listed the checks that I wanted  
2           you to bring with you to this courtroom this  
3           morning?

4           A    Yes, sir.

5           Q    And you have been furnished a copy of that  
6           subpoena, is that correct?

7           A    Yes, sir.

8           Q    All right. Now, did you bring with you the checks  
9           that I listed to you over the telephone yesterday?

10          A    I did.

11                           MR. FLUSCHE: May I approach the  
12                           witness, Your Honor?

13                           THE MASTER: Yes, sir.

14          Q    (By Mr. Flusche) Now, I believe, Mr. Williams,  
15           that you have previously testified that you have  
16           worked for this bank on two separate occasions  
17           and that on each occasion you worked there about  
18           five years and you have now been there about five  
19           years, is that correct?

20          A    That's correct.

21          Q    And in your capacity as an officer of the bank,  
22           you have become familiar with and are able to  
23           recognize the signature of Mr. R. N. Couling, is  
24           that correct?

25          A    Yes, sir.

1 Q And you're familiar with and are able to recognize  
2 the signature of O. P. Carrillo?

3 A Yes, sir.

4 Q Now, will you again reiterate for the Court just  
5 briefly how these checks which you brought with  
6 you were reproduced, what mechanical process you  
7 used to reproduce these checks.

8 A Those checks were reproduced --

9 MR. MITCHELL: Pardon me. Your Honor,  
10 may I request in view of the way the record  
11 has developed, I want counsel to please  
12 dictate into the record what checks he is  
13 talking about. I don't want any more  
14 surprises.

15 Would you please, Your Honor, ask him  
16 to dictate for me?

17 THE MASTER: He has so stated, the ones  
18 previously marked in this hearing.

19 MR. MITCHELL: Can I then assume that  
20 what --

21 THE MASTER: That's correct.

22 MR. FLUSCHE: Yes, sir.

23 MR. MITCHELL: E-174, 175, 176, 177 and  
24 178 and one more. Is there any more?

25 MR. FLUSCHE: There is one dated

1 March the 1st of 1972 which has not been  
2 previously marked or offered.

3 MR. MITCHELL: So, it's not correct  
4 then, Counsel, and you're actually asking  
5 about another check that has not been marked  
6 and which I have absolutely no notice.

7 MR. FLUSCHE: May I have just a moment  
8 here, Your Honor.

9 THE MASTER: Yes, sir.

10 MR. MITCHELL: Judge Meyers, may I --

11 THE MASTER: It's what counsel has  
12 identified or 174 through E-178, inclusive,  
13 which were offered, but not admitted at an  
14 earlier day.

15 MR. MITCHELL: Now, Your Honor, I am  
16 going to object on a continuation of this  
17 line of this procedure and this authentication  
18 to bolster their case. I understand they have  
19 rested.

20 Now, the door is either closed or it  
21 isn't.

22 THE MASTER: You had rested, Counsel.

23 MR. ODAM: Your Honor, the other day  
24 when Mr. Couling was on the stand, for the  
25 purpose of the Bill of Exception while we

1 had the case, we went into these questions.

2 Now, the purpose, and as I understand  
3 the testimony from that day, was to go ahead  
4 and ask Mr. Couling the questions, assuming  
5 that the checks were authenticated.

6 Now, is it not my understanding at the  
7 time that I said we rest, which we did, but  
8 the procedure would not prohibit us from any  
9 time in the proceeding to go back and  
10 complete the Bill of Exceptions, and if one  
11 is completed and if authenticated, that that  
12 would authenticate and get into evidence  
13 those checks which we had. Once that was  
14 done, then, we would have the opportunity to  
15 use these checks on our cross-examination.  
16 So, we did rest subject to that Bill of  
17 Exception which was outstanding which we are  
18 attempting to fulfill at this time.

19 MR. MITCHELL: As I understand, Counsel,  
20 of course, you're not offering this on the  
21 Bill of Exception. You're offering it on  
22 prime evidence. My decision and my judgment  
23 to put my client on the stand was based on  
24 the record as it existed. Consequently, if  
25 Counsel is going to change the records,



1           which apparently he is going to, I am going  
2           to withdraw the offer of my client and he is  
3           not going to be any longer available as a  
4           witness in this case.

5           THE MASTER: Mr. Mitchell, you're not  
6           entitled to that. It was very clear in my  
7           recollection and in the proceedings that they  
8           have the choice of trying to authenticate  
9           these checks if they wanted to and I don't  
10          think your assumed outrage is justified.

11          MR. MITCHELL: In other words, Your  
12          Honor, so that the record speaks to this,  
13          that implicit in their resting is a right  
14          to continue to open indefinitely, to go back  
15          and authenticate anything they have gotten  
16          out of about fifteen of these Bills of  
17          Exception.

18          THE MASTER: I remember quite clearly  
19          that at least in discussion off the record  
20          or perhaps on the record and the record will  
21          reflect whether or not that they talked about  
22          the possibility about having Mr. Williams  
23          come back to authenticate these checks.

24          MR. MITCHELL: I don't know and I am  
25          sorry, Judge. Of course, the record speaks

1 to this. I don't remember that when they  
2 rested that there was implicit in that the  
3 right to continue to open particularly  
4 during the examination of my client -- I am  
5 not sure it was stated, but I do remember  
6 when they developed these checks, that I  
7 sustained your objection to them. There was  
8 some discussion of having to call  
9 Mr. Williams back to authenticate them.

10 MR. MITCHELL: Judge Meyers, I am not  
11 having any personal peak or personal outrage,  
12 although I act this way. The real problem  
13 is Judge Carrillo. Here he is on cross-  
14 examination as we stand here in a judicial  
15 procedure faced with a continued onflow of  
16 documentation that he is not prepared on.  
17 That is the problem, Judge Meyers.

18 THE MASTER: May I see those checks?

19 MR. FLUSCHE: Now, there are two checks  
20 in there that were not previously marked  
21 and offered.

22 THE MASTER: Mr. Mitchell, what really  
23 is influencing me and it occurred to me at  
24 the time when I sustained the objection to  
25 these things, was that if Judge Carrillo

1           took the stand, there was nothing to prevent  
2           them from handing these checks to him and  
3           asking him about them to authenticate them.  
4           The fact that they are not -- they don't  
5           really need Mr. Williams. I may change my  
6           mind and ask Mr. Williams to step down, but  
7           they can take the photostatic copies of the  
8           checks --

9           MR. MITCHELL: No, Your Honor, I don't  
10          mind that procedure at all because the Judge  
11          is correct.

12          THE MASTER: So, the statement that  
13          you wouldn't have put your client on, if  
14          these checks were in evidence, simply  
15          doesn't make sense to me because whether or  
16          not they are in evidence, they could ask  
17          Judge Carrillo about them where they have his  
18          name on them and his endorsement.

19          MR. MITCHELL: That's right, Judge  
20          Meyers, and the Court is lawyer enough to  
21          understand that, but there is a difference,  
22          Judge Meyers, on taking him on legitimate  
23          cross-examination and then stepping in on  
24          complete authentication. If Judge Carrillo  
25          did not recognize the item, then, I would say

1 the logical procedure as so rebuttal, and  
2 would be to put this man on. It's a question  
3 of precedence that we are going to set by  
4 continuing the Court to allow and inflate.  
5 That is all I am saying, that it's difficult  
6 to contain. The Court is right. They have  
7 taken them out and handed them to him and if  
8 he had recognized them, there wouldn't be  
9 any problem as relates to one of these  
10 specifications. That is true, and in face  
11 of that observation, Judge Meyers, I will  
12 withdraw -- no, I won't, either. I have got  
13 to stand on the records that I have previously  
14 pled for the technical aspects of the record.

15 I do want to know, if it please the  
16 Court, these other matters that I have not  
17 seen. There are two obviously -- apparently,  
18 that I haven't seen, and go over them with my  
19 clients. I would like to let my clients see  
20 them.

21 THE MASTER: Well, certainly before any  
22 bit of evidence is admitted, you have the  
23 right to view it.

24 Mr. Flusche, I think it's an imposition  
25 on Mr. Williams, but I am going to ask him

1 to step down and direct that you continue  
2 your cross-examination of Mr. Carrillo. In  
3 that view, Mr. Williams, what is the best  
4 thing for you to do, wait here or go back and  
5 be subject to call?

6 THE WITNESS: Please the Court.

7 THE MASTER: Well, don't be so  
8 accommodating. You don't have to be that  
9 accommodating.

10 Well, I am unfamiliar with the distances  
11 that we are talking about. How far is your  
12 trip over here?

13 THE WITNESS: Fifty-two miles.

14 MR. ODAM: May I make one comment while  
15 we consider this and that is that these  
16 checks came up at the very tail end of the  
17 case and if we got into them in a logical  
18 sequence with Judge Carrillo, it would not  
19 be -- it would make the sequence and I am  
20 sure -- I certainly could give Mr. Mitchell  
21 the opportunity to examine these checks in  
22 the meantime. What I am suggesting is that  
23 we had not intended to get Judge Carrillo  
24 back on the stand and pop him some questions  
25 on Paragraph 7212 and Mr. Couling finished

1 the case up on it. So, what I am saying is  
2 that it would not be a matter unless the  
3 Court wants to do so of getting Judge  
4 Carrillo back and asking questions on 7212  
5 and then bringing Mr. Williams back into it.  
6 I don't think we would get into it later on  
7 in the day and possibly tomorrow perhaps we  
8 would have to take that long --

9 MR. MITCHELL: Now, he --

10 MR. ODAM: I had not intended to  
11 although we could put Judge Carrillo back on  
12 the stand and ask him these questions if he  
13 says he can identify them, put Mr. Williams  
14 back on and get into details later on.

15 THE MASTER: Well, I think that I agree  
16 with Mr. Mitchell, that it's part -- if you  
17 want to authenticate these checks, that  
18 should be done in rebuttal.

19 So, Mr. Williams, I think I will ask  
20 you to step down and I think I am right. I  
21 don't think you will be reached today. So,  
22 you ought to go on back. I am sorry.

23 THE WITNESS: Yes, sir. Thank you.

24 MR. FLUSCHE: Mr. Williams, may I have  
25 that envelope that you brought these checks

1 in and I will retain them until you're  
2 recalled.

3 THE WITNESS: Yes.

4 THE MASTER: Let me say one other thing.  
5 I do not like surprises like this. You  
6 should have told Counsel in advance and  
7 probably me that you wanted to do this and  
8 reach some agreement on it. If there is no  
9 agreement, let's hear the objection, but go  
10 ahead now with Judge Carrillo.

11 MR. FLUSCHE: Let me say this, Your  
12 Honor, that we have each accommodated each  
13 other throughout this trial with out-of-order  
14 witnesses and --

15 THE MASTER: That is correct. That is  
16 correct. I don't think any great imposition  
17 would be made, but --

18 MR. FLUSCHE: I was presumptuous.

19 THE MASTER: Go ahead.  
20  
21  
22  
23  
24  
25

1 O. P. CARRILLO,  
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. FLUSCHE:  
8

9 Q Judge Carrillo --

10 A Yes, sir.

11 Q When you were testifying on direct examination,  
12 Arthur Mitchell indicated that he would just ask  
13 you a very few questions about Paragraph 2 of the  
14 charges and that he would stand on the record that  
15 you made in the hearing on the motion to  
16 disqualify. Do you remember that statement to  
17 the Court?

18 A Yes, sir.

19 Q All right. Do you agree with that statement;  
20 is that your statement, also, that you will stand  
21 on the record that you have made in the hearing  
22 on the motion to disqualify?

23 A Mr. Flusche, I will welcome any questions that  
24 you have to ask.

25 Q All right. Is what you testified to in the motion



1 to disqualify, is that the truth?

2 A Yes, sir.

3 Q Is it the truth that the deed that you issued  
4 in October of 1970 purports to convey certain  
5 property to Mr. Manges; is it the truth that that  
6 deed did in fact convey the property to Mr. Manges?

7 A I believe in the transcript of that hearing, there  
8 was a telephone conversation that was told to me  
9 later that a typographical error was found in  
10 the description of the first deed that was given  
11 and the explanation was given over the telephone  
12 as to the property that I had and the description,  
13 the block number and the lot number were correct,  
14 except that I think it stated instead of saying to  
15 the addition of the City of Benavides, it said  
16 Westside Addition or something like that and there  
17 was a typographical error in the description of  
18 the deed which was later corrected and handed over  
19 to Mr. Manges.

20 Q All right. Now, you say it was a typographical  
21 error, but it conveyed an entirely different piece  
22 of property, didn't it?

23 A It was not the intention to do so, Mr. Flusche.

24 Q I understand what you're saying, but it did convey  
25 another piece of property, didn't it?

1 A The property that was actually conveyed, physically,  
2 to Mr. Manges, was that one house that I had owned  
3 for years and years and my father had given it to  
4 me.

5 Q As a matter of fact, you didn't even own it on the  
6 day you conveyed it, did you, Judge?

7 A Yes, sir, I owned it.

8 Q It had to be conveyed to you by your sister before  
9 you could convey it to Mr. Manges?

10 A There was a mistake in the record as very often  
11 happens, Mr. Flusche, but you heard Mr. Riviera  
12 here who had been an occupant of that house for  
13 years before I sold it to Mr. Manges who testified  
14 very clearly that he negotiated the rents with me  
15 and paid me the rent and that rent is reflected  
16 in all of my income tax records for the years that  
17 he had it on, that Mr. Riviera lived there long  
18 before that.

19 Q Well, I know what Mr. Riviera testified to, but  
20 I also know that the record shows that you didn't  
21 even own the property and you all waited about  
22 three years before you made that correction. You  
23 didn't know that it was a mistake.

24 A That is correct because as it very often happens,  
25 when you examine deed records, you will find a

1 mistake that you have to go back and check and  
2 there was a mistake in the description of the  
3 deed, but the intention to convey was that and  
4 it was actually done --

5 Q All right. Let me ask you this --

6 A To that day Mr. Manges owned that house.

7 Q All right. But he never has occupied it for one  
8 minute, has he?

9 A I can't tell Mr. Manges what to do. If I could  
10 have, I would have asked him to testify here.

11 Q How about answering my question. Mr. Manges  
12 hasn't occupied that house for one minute, has  
13 he?

14 A No, sir.

15 Q Okay. Now, let me get back to the beginning of  
16 Manges versus Guerra. First of all, when you were  
17 called upon to be present at the House Select  
18 Committee Hearings, were you given an opportunity  
19 to testify regarding the allegations that were  
20 made up there?

21 A Oh, I imagine I had that opportunity, yes, sir.

22 Q But you didn't avail yourself of that opportunity,  
23 did you?

24 MR. MITCHELL: Pardon me, Mr. Flusche.

25 Your Honor, we are going to object to that

1 question. I believe the Constitution says  
2 this man has a right to invoke the privilege  
3 and counsel -- the witness has already  
4 testified that his counsel --

5 THE MASTER: What is the point of it?

6 MR. MITCHELL: It's a terrible question  
7 to ask.

8 MR. FLUSCHE: I am going to try to show  
9 that it's inconsistent with his position now  
10 to testify when he has had an opportunity on  
11 three prior occasions to testify and I will  
12 develop that later on and he did not avail  
13 himself of that opportunity or those  
14 opportunities.

15 MR. MITCHELL: Well, Judge Meyers, may  
16 I state for the record that --

17 THE MASTER: All right. You can state --

18 MR. MITCHELL: I am the one that made  
19 the decision on when this gentleman was to  
20 testify and when he didn't, and I don't think  
21 it can be made the basis of the complaint  
22 that he has not --

23 THE MASTER: Whether it can or can't  
24 be, it isn't --

25 MR. MITCHELL: That is true.

1 THE MASTER: -- in this instance, but I  
2 simply don't see the point, the fact --

3 MR. FLUSCHE: Well, Your Honor, this  
4 case is tried under the Rules of Civil  
5 Procedure.

6 All right. And we present authority  
7 for the proposition that it's intolerable  
8 for a party not to submit to pretrial  
9 discovery when he later intends to take the  
10 witness stand and that is the point that I  
11 am trying to develop.

12 THE MASTER: What do you mean  
13 intolerable?

14 MR. MITCHELL: Pardon me, Your Honor.  
15 May I ask the Court what is he talking about,  
16 pretrial? He is talking about the House --  
17 he is talking about the subcommittee?

18 THE MASTER: Now, what do you mean  
19 intolerable?

20 MR. FLUSCHE: Well, I think that if we  
21 were trying a negligence case and we asked  
22 the Plaintiff to take the witness stand and  
23 he declined to answer on the grounds that  
24 it might tend to incriminate him, that that  
25 would be an intolerable situation in a

1 negligence case and I am submitting that the  
2 same rules obtained in these proceedings  
3 would obtain in a negligence case.

4 THE MASTER: I don't know what you mean,  
5 intolerable. What do you want me to do,  
6 tell him he can't testify?

7 MR. FLUSCHE: No. I think there's  
8 some type of presumption when there's  
9 failure to present himself for pretrial  
10 discovery.

11 THE MASTER: Do you have an authority  
12 to that effect?

13 MR. FLUSCHE: No, sir, I don't have at  
14 this time. That is the reason I wanted to  
15 develop these facts.

16 THE MASTER: I had rather see the  
17 authority first. You think there is case  
18 law to the effect that you can show that a  
19 person who is on the stand has previously  
20 refused to testify and that bears on his  
21 credibility?

22 MR. FLUSCHE: Yes, sir.

23 THE MASTER: I will have to see that  
24 authority first.

25 MR. FLUSCHE: All right.

1 THE MASTER: It's my view that you're  
2 not even permitted in the face of the  
3 objection --

4 MR. MITCHELL: To go into it.

5 THE MASTER: -- to require a witness to  
6 take the Fifth Amendment, particularly  
7 before the jury. Now, before the court is  
8 a different thing, but before the jury,  
9 that you're not permitted to do that.

10 MR. MITCHELL: That's right. And it's  
11 a reversible error; that's correct, Judge,  
12 to put him on there knowing he is going to  
13 take it, and much less where there is a  
14 comment as counsel has now done, a drawn  
15 commentary from the witness's right to  
16 invoke that constitutional privilege; that  
17 is a further error and improper and would  
18 be reversible if this were tried before a  
19 judge.

20 THE MASTER: In front of a jury. I  
21 don't permit it --

22 MR. MITCHELL: Judge Meyers, I take the  
23 full responsibility for guiding this man on  
24 what to do and what not to do. The Second  
25 Amended Formal Answer, I am glad I did

1                   because I didn't know the --

2                   THE MASTER: The Second Amended Formal  
3 Answer?

4                   MR. MITCHELL: The Second -- Judge, I  
5 am sorry. I keep misnomerung that. That  
6 is the First Amended Notice --

7                   THE MASTER: Of Formal Procedure.

8                   MR. MITCHELL: I thought it was a pretty  
9 good strategy until I got it drawn out to  
10 see where I thought it was going.

11                   THE MASTER: But, Mr. Flusche, I am not  
12 cutting you off. I am just unfamiliar with  
13 the law that you think is the --

14                   MR. FLUSCHE: Well, let me ask you this,  
15 Your Honor: Am I foreclosed from discussing  
16 with him the taking of the Fifth Amendment  
17 prior to trial?

18                   THE MASTER: Until you show me the  
19 basis upon which you intend to base that  
20 discussion.

21                   MR. FLUSCHE: Well, Your Honor, I take  
22 it that whenever a man under oath swears that  
23 he declines to answer on the grounds that  
24 the answer might tend to incriminate him,  
25 that that statement is either true or false



1 and I would like to examine him on that  
2 question. Now, that is no idle commentary  
3 as Mr. Mitchell would suggest. It's no  
4 ministerial act which merely reflects the  
5 position of the lawyer, but it's a statement  
6 made under oath.

7 THE MASTER: Well, there may be something  
8 to that, but I want to see some authority.  
9 I mean the fact that you say that you think  
10 it ought to be admissible doesn't necessarily  
11 make it admissible. The Fifth Amendment is  
12 a highly regarded and valuable right given  
13 by the Constitution of this country and I  
14 just don't know whether you could cross-  
15 examine the witness on his earlier pleadings  
16 of the Fifth or not.

17 MR. FLUSCHE: All right, sir.

18 THE MASTER: I will recess now, which is  
19 just ten minutes before our regular recess  
20 if you want to do some --

21 MR. FLUSCHE: I will abandon it for  
22 the time being and check during a long break.

23 THE MASTER: All right.  
24  
25

1 Q Judge Carrillo, let me ask you this question,  
2 what was the position of Senator Jim Bates at  
3 the time you took office, the first time you took  
4 office January 1st of 1971?

5 MR. MITCHELL: Excuse me, Counsel, you  
6 mean in connection with the case?

7 THE MASTER: Political -- position,  
8 what political position?

9 Q Did he exercise a political position of authority,  
10 as far as you know?

11 A I don't remember whether he was still state  
12 senator or not, Mr. Flusche. He was a state  
13 senator for a while, but I don't know whether he  
14 was still senator or not.

15 Q You don't recall whether Raul Longoria was the  
16 state senator or Senator Bates was it at the time  
17 you took office?

18 A No, sir.

19 Q How about Dennis Hendrix, what was his position?  
20 Was he just a lawyer, practicing in Edinburg or --

21 A I met Mr. Dennis Hendrix for the first time at  
22 the First State Bank and Trust Company of Rio  
23 Grande City.

24 Q And when did you meet him for the first time?

25 A Again, Mr. Flusche, I don't even remember when

1 I met you for the first time. It has just been  
2 recently, it was some time back in 71 or -- I  
3 guess 71.

4 Q All right.

5 A I became a director December the 10th, 1970 --  
6 1970, yes, and he might have been on the board  
7 of directors and he might have come in at the  
8 same time or he might have come in later. But  
9 that is where I met him.

10 Q Okay, now what was the position of Randall Nye,  
11 did he have an official position at the time you  
12 became the district judge?

13 A He was the district attorney.

14 Q All right.

15 A Of the 229th Judicial District.

16 Q All right, now, were you present in the hearing  
17 on the motion to disqualify when Mr. Dinnie  
18 Hendrix testified?

19 A No, sir, I was called upon to testify. I remained  
20 in my office, the office that I had at the court-  
21 house in Starr County until I was called. When  
22 I got through testifying, I went back to my  
23 office for a little bit and they recalled me  
24 for something or other and I came back on the  
25 stand for about five or ten minutes, and then

1 they told me I was through.

2 I said that I wanted to be sure that they  
3 were, because I had to leave and they said, "Yes"  
4 and I left.

5 The next time that they had some questions  
6 for me, they agreed that they would take them over  
7 the telephone and I never went back or attended  
8 any of the hearings or heard any of the testimony  
9 of any of the witnesses in relation to that motion  
10 to disqualify.

11 Q Did you retain Dennis Hendrix to prepare the  
12 original deed to Mr. Clinton Manges?

13 A I believe that I did.

14 Q You believe that you did?

15 A Either I or Mr. Manges, one of us did.

16 Q That would have been well before December the 10th  
17 of 1970, wouldn't it?

18 A Yes, sir.

19 Q All right, now did you meet him for the first  
20 time on December the 10th or did you retain him  
21 sometime prior to that, now, can you answer that  
22 question?

23 A I don't remember, Mr. Flusche.

24 Q If he testified --

25 MR. MITCHELL: Pardon me, pardon me,

1 Mr. Flusche. Judge, I don't want to inter-  
2 rupt, but I think this is as good a time as  
3 any to object to the scope of the cross  
4 that has gone beyond the formal notice,  
5 beyond the amended notice and as relates  
6 to judicial, non-judicial and beyond the  
7 term nie. These are questions back in 70,  
8 Judge Meyers.

9 THE MASTER: Yes, that objection is  
10 overruled.

11 Q Now, Judge Carrillo, the thrust of your testimony  
12 before the -- before Judge Magnus Smith in the  
13 disqualification hearing, and the thrust of your  
14 testimony and your answers to a demand for admis-  
15 sions from Mr. Garland Smith, and the thrust of  
16 the position that you took in answer to Mr.  
17 Pipkin's letter of May of this year, is that this  
18 was an arm's length transaction between you and  
19 Clinton Manges and that you merely traded to him  
20 a piece of property in exchange for ten shares  
21 of bank stock and six thousand nine hundred fifteen  
22 dollars and fifty-five cents on your Cadillac,  
23 is that correct?

24 A That is correct.

25 Q That was absolutely an arm's length transaction?

1 A Like I stated, there was no -- there was no cases  
2 pending on the docket of the 229th Judicial Dis-  
3 trict involving Mr. Clinton Manges whatsoever at  
4 the time that the transaction took place.

5 Mr. Manges wanted a house, Mr. Manges was a  
6 friend of mine and he is a good friend of mine  
7 and to this very day, and I would be honored to  
8 have him as my neighbor.

9 Now, that house that we are talking about  
10 would not have been sold just to anybody, because  
11 I don't want just anybody living right next to  
12 my driveway but I wouldn't have Mr. Manges as my  
13 neighbor, I will admit that.

14 I agreed, he was looking for a house, it was  
15 a matter of contract of meeting of the minds. He  
16 wanted a house, and I had a house, and I would  
17 like to have him as my neighbor.

18 At the time I had placed an order for a  
19 Cadillac automobile and he said look, I can get --  
20 he buys about ten Cadillacs a year or so from  
21 the same dealer and he gets a discount when those  
22 things are done.

23 He said, "Look, I can get one cheaper than  
24 you can , and I'll pay the difference." I was  
25 going to buy the Cadillac from Dick Presley

1 Cadillac in Alice and he suggested making a  
2 trade over there and you will come out better  
3 and I will pay the difference and give you the  
4 ten shares of stock of the First State bank and  
5 Text Company for the house.

6 He fully intended to move into that house,  
7 and move his family there and I am going to tell  
8 you why. They were getting ready to remove his  
9 driver's license and he was going to be tried  
10 in Bexar County because that is where he resided,  
11 and he was moving to Duval County in the hope of  
12 avoiding, and keeping his driver's license, and  
13 he was going to move down.

14 Q He was going to be tried in some county where  
15 you didn't control the courts, isn't that right?

16 A I don't control the courts there in -- as a  
17 matter of fact --

18 MR. MITCHELL: Now, Judge, that's an  
19 improper question. We are going to move to  
20 strike it. It is highly improper on a  
21 driver's license. Judge Carrillo is a  
22 judge of a district court and as relates to  
23 a driver's license matter, which is a muni-  
24 cipal court matter and I don't think that  
25 there is anything in the record to justify

1 that character of inquiry.

2 THE MASTER: I sustain the objection.

3 A I will state --

4 Q Let me ask you this, let me interrupt you. You  
5 think a man who is capable of buying ten Cadillacs  
6 a year is going to buy some dummy establishment  
7 that has been described at the outset as being  
8 worth some seven thousand dollars?

9 MR. MITCHELL: I am also going to  
10 object to that question. The characteriza-  
11 tion is not supported by the record.

12 THE MASTER: The objection is overruled.

13 A In the first place, Mr. Flusche, it was not a  
14 dummy house when he got it. It is now, and I  
15 don't like to see the house in the repair, in the  
16 state of repair it is today, but it is not my  
17 own and if Mr. Manges would sell it back to me,  
18 I would buy it and replace it because it reflects  
19 on my home next door. But it is his house and  
20 I can't tell him what to do, if I could, I would.

21 Q All right, let me ask you this, you heard Jerry  
22 Parmer testify, didn't you?

23 A Yes, sir.

24 Q When did he go to work for you?

25 A 1971.



1 Q That was shortly after you supposedly sold this  
2 house to Clinton Manges?

3 A That's right.

4 Q And he testified that he looked at it and it was  
5 beyond his capacity of restoring it to livable  
6 conditions?

7 A Yes, sir, but that was a couple of years after  
8 that, Mr. Flusche. Jerry Parmer started working  
9 for me and there towards the end, his wife, whom  
10 he had divorced previously, moved down and they  
11 were going to get married. I was going to marry  
12 them, and I was doing my best to keep my court  
13 reporter because I couldn't find court reporters  
14 to move down to our town, to our dumpy grounds,  
15 as you say.

16 We are poor folks, we are not claiming to  
17 live in ultra modern neighborhoods, but we do  
18 get along and we are proud of our heritage.

19 He moved down there with us, and he moved  
20 his family and she stayed there for about a week  
21 and then left.

22 I was just trying to accommodate him. The  
23 house belonged to Mr. Manges and Mr. Manges is a  
24 good friend of mine and I was sure that if I  
25 could help Jerry, and I went to Mr. Manges and

1 requested that he rent the house to Jerry and  
2 Mr. Manges would accommodate us, he is that type  
3 of man.

4 Q Well now, you also heard the testimony of Juan  
5 Riviera that he said the house was in a sad state  
6 of repair when he moved out in August of 1970,  
7 some two months prior to the time you conveyed  
8 it to Mr. Manges.

9 A The house was not in that type of repair when  
10 Mr. Riviera took it over, but he had some kids  
11 that were not necessarily the best housekeepers  
12 around.

13 Q So it is your testimony --

14 A I would like to --

15 Q So it is your testimony that the house was delapidated when --

17 A It was not delapidated, it needed repairs, but  
18 it was not delapidated.

19 THE MASTER: Let's break for twenty  
20 minutes at this time.

21 (Whereupon the hearing was in recess  
22 from 10:00 a.m. until 10:20 a.m. of the  
23 same day.)  
24  
25

1 THE MASTER: Are you ready to proceed,  
2 Mr. Flusche?

3 MR. FLUSCHE: Yes, sir.  
4  
5  
6  
7

8 EXAMINATION CONTINUED

9 BY MR. FLUSCHE:

10 Q Judge Carrillo, you did receive ten shares of  
11 bank stock on December the 10th of 1970, didn't  
12 you?

13 A Yes, sir, I did.

14 Q And that was transferred to you by Mr. Clinton  
15 Manges?

16 A Yes, sir.

17 Q And I believe that you were appointed a director  
18 on the same day?

19 MR. MITCHELL: Pardon me, may I talk  
20 to my client, may I confer with my client  
21 off the record?

22 THE MASTER: Yes, sir.

23 MR. MITCHELL: In connection with an  
24 answer he just made.

25 THE MASTER: Yes, sir.

1  
2 (Whereupon discussion was had off the  
3 record between Mr. Mitchell and the witness.)

4 MR. MITCHELL: Thank you, Judge Meyers.  
5 And so that the record will reflect it, Your  
6 Honor, I had had reason to request my client,  
7 because of the question on whether the stock  
8 might have been authorized but not issued  
9 or whether it was Mr. Manges' personal stock  
10 and I just wanted the record to reflect.

11 THE MASTER: I had assumed you were  
12 asking him whether he got it from Mr. Manges  
13 or --

14 MR. MITCHELL: Authorized but unissued.

15 THE MASTER : -- unissued stock owned  
16 by the bank.

17 MR. MITCHELL: Thank you, Judge Meyers.

18 I am sorry.

19 Q (By Mr. Flusche:) What is your testimony in  
20 that regard, was it transferred by Mr. Manges or  
21 was it unissued stock transferred to you by the  
22 bank?

23 A It was issued to me by Mr. Manges, I would  
24 imagine because we made a trade for that.

25 Now, whether he went and bought it from the

1 bank, I don't know.

2 Q Now, on the same day, you were appointed a director  
3 of the bank, is that correct? That is what you  
4 testified on direct, isn't it?

5 A No, not -- you mean on the hearing held in Rio  
6 Grande City or here?

7 Q No, I mean on direct examination here.

8 A I don't believe I was asked that question.

9 Q All right, you were appointed a director of the  
10 bank?

11 A I was appointed a director of the bank.

12 Q On December the 10th, 1970?

13 A To the best of my recollection, Mr. Flusche, I  
14 believe it was on December the 10th.

15 Q And that was at a directors meeting and you were  
16 subsequently appointed a director of the bank  
17 at a shareholders meeting in January of 1971?

18 A Yes, sir.

19 Q Isn't that correct?

20 A Yes, sir.

21 Q And then for each succeeding year at the annual  
22 shareholders meeting in January of each succeed-  
23 ing year, you were appointed a director of the  
24 bank until you resigned in 1974?

25 A Whenever it was, yes, sir.

1 Q What is the requirement of the bank insofar as  
2 becoming a director is concerned, are a certain  
3 number of shares of stock required to be owned  
4 by a potential director of the bank?

5 A As I understand it, you have to own at least ten  
6 shares of stock.

7 Q All right, now, the record shows that in the  
8 Exhibits that we have put on here, that you  
9 attended quite a few of those directors meetings  
10 in 1971 and 1972, is that correct?

11 Do you recall having attended those meet-  
12 ings in 1971 and 1972?

13 A I attended some meetings. I was absent quite a  
14 bit.

15 Q Well, your absence became more predominant in  
16 1973, isn't that correct?

17 A I don't remember exactly when Mr. Flusche, but  
18 as my case load got heavier, insofar as my court  
19 was concerned, where there was a conflict between  
20 my court duties and my meetings as a director of  
21 the bank, well I attended to my court duties.

22 Q Did you receive a stipend of fifty dollars for  
23 each of those meetings that you did attend?

24 A Yes, sir.

25 (Discussion off the record.)

1 Q Let me ask you this, you have continually referred  
2 to the -- to the weight of the judicial duties  
3 and the number of cases. Could you tell this  
4 Court how many cases you disposed of in 1971?

5 A No, sir, I could not.

6 Q How about 1972?

7 A Again, I could not. It would be impossible for  
8 me to tell you how many cases I disposed of  
9 without looking at the record.

10 Q Well, you have repeatedly referred to the weight  
11 of your docket, would it be more than, say, ten  
12 cases in 1972?

13 A Oh, I'm sure it was more than ten, certainly.

14 Q All right. Now --

15 MR. MITCHELL: Excuse me, Judge Meyers,  
16 for the technical aspects of the record, and  
17 to protect the record, and discharge my  
18 duties, I want to object to that last --  
19 those last two questions and answers solely  
20 and only because if they -- they appeared  
21 to be subject matters that are beyond the  
22 scope of the notices given to my client in  
23 this case.

24 THE MASTER: Objection is overruled.

25 Q Now, if I understand your testimony correctly,

1 Judge, it is that your judicial responsibilities  
2 picked up as the time went on, and that the  
3 number of your -- on the number of cases pending  
4 on your docket and disposed of on your docket,  
5 increased as the years went by, is that correct?

6 A Well, I would say that I would try for example,  
7 using as an example only, Mr. Flusche, one narcotics  
8 case and while the trial of that narcotics case  
9 was going on, they would make ten arrests of  
10 narcotics.

11 You see, I have in my district three points  
12 of entry from Mexico which are heavy traffic in  
13 drug matters and so I would try one case, and  
14 they would file ten, and there was just no way  
15 of catching up.

16 Q As a matter of fact, when you were removed from  
17 office, there was quite a number of narcotics  
18 cases pending in Starr County, isn't that correct,  
19 untried cases?

20 A I imagine so.

21 Q All right, now --

22 A One of those reasons, Mr. Flusche, might be, that  
23 you will recall that the district attorney resigned,  
24 Mr. Randall Nye, and he was -- and the governor  
25 refused to appoint a replacement, and I was without



1 a district attorney for a period of about a year,  
2 about one year where we were trying most civil  
3 cases.

4 Q That is an interesting suggestion, Judge.

5 Do you know why Randall Nye resigned, as a dis-  
6 trict attorney?

7 He was about to be indicted, wasn't he?

8 A I have no knowledge of that.

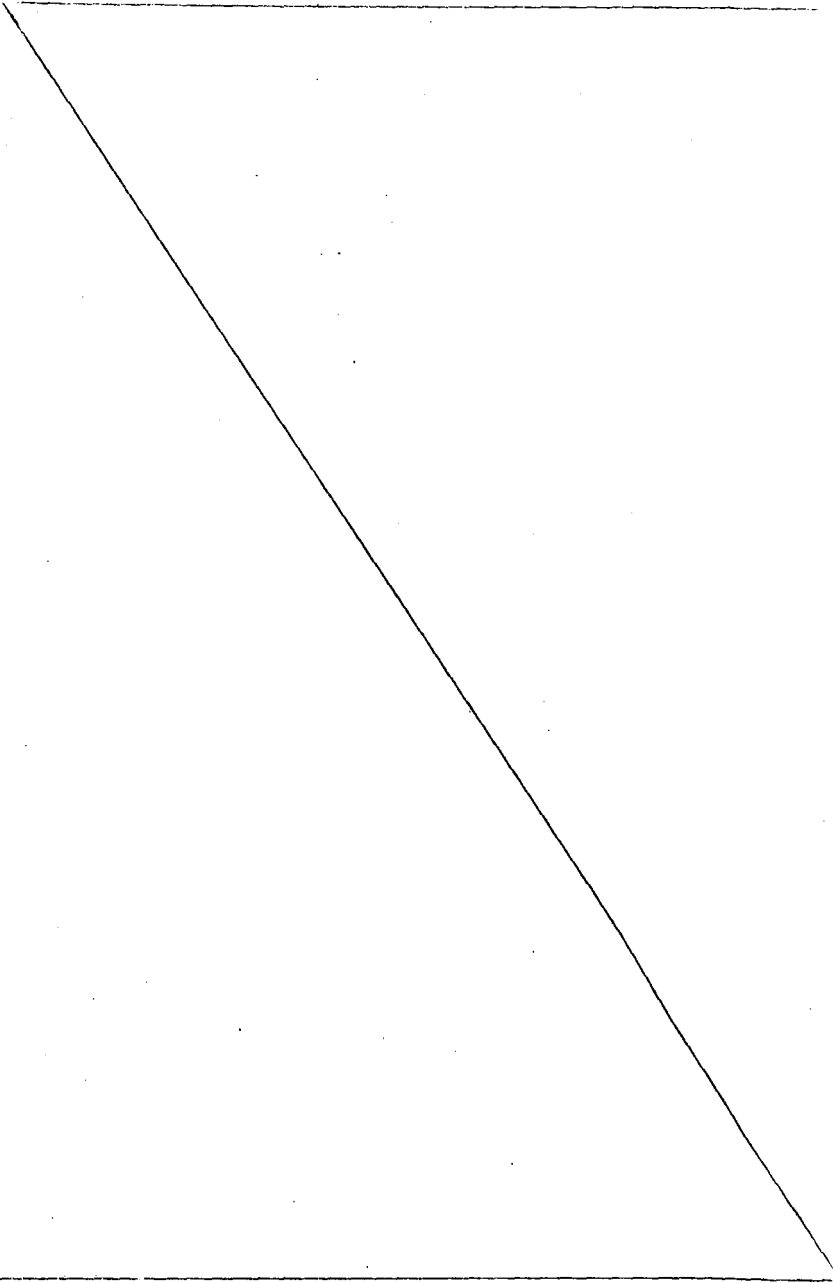
9 Q You don't know anything about the reasons that  
10 Randall Nye resigned as a district attorney?

11 A No, sir, I felt a little bit guilty, and I called  
12 him up one time because he was -- he didn't want  
13 to try a case or something and I pushed him a  
14 little too hard one day in court in San Diego and  
15 I lectured him on getting those cases before the  
16 court.

17 I thought he had taken offense to that and  
18 about a week later he came up with the -- called  
19 me up and said that he had already sent a letter  
20 to the governor where he was resigning and I  
21 asked him if it had anything to do with the  
22 dressing down that I gave him in open court in  
23 San Diego and he said no, he just felt that he  
24 could -- he had a chance for financial gain out-  
25 side of the office of district attorney, and he

1 felt that he couldn't turn it down.

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1 Q Let me ask you this question. Going back to this  
2 bank stock. Now, at the time that you received  
3 this bank stock, did you or did you not know that  
4 Manges versus Guerra was on the docket of your  
5 court?

6 A I did not know and it was not on the docket of  
7 my court.

8 Q Now, you continue to say that it was not on the  
9 docket, but it was filed in 1968 and it was still  
10 on the docket in 1974, wasn't it, under the same  
11 number?

12 A Well, it was transferred over to federal court  
13 and it was in federal court in litigation and it  
14 was settled in federal court and transferred back  
15 to my court for final disposition on January the  
16 6th, I believe, 1971.

17 Q Do you know the difference between a removal  
18 proceedings and allowing a case to remain dormant  
19 on the docket, don't you?

20 A Yes, sir.

21 Q Now, Manges versus Guerra, No. 9353 never was  
22 removed to federal court on the removal  
23 proceedings, was it?

24 A Well, that was done before I became a district  
25 judge and I --

1 Q Well, you have heard all of the testimony of all  
2 of the witnesses here. There was no such removal  
3 proceedings, was there?

4 A Well, the case was before Judge Garza in federal  
5 court. It has been heard there.

6 Q It was in bankruptcy court, wasn't it?

7 A Well, in federal court, either bankruptcy court  
8 or what have you, but it was Judge Garza who had  
9 that, I believe.

10 Q When did you first become aware after you took  
11 office that it was again an active case?

12 A When they started bringing me agreements by all  
13 parties to sign, to enter orders in the case.

14 Q I believe you have testified repeatedly that you  
15 never did sign any order except that it was  
16 agreed to by all the parties?

17 A That is correct.

18 Q All right. But, of course, the final accounting  
19 that was filed by Jim Bates in November of 1972  
20 wasn't agreed to by anybody, was it?

21 A That is correct and that was the reason why it was  
22 set down for hearing.

23 Q Now, I believe you have testified earlier that it  
24 was your opinion that the bank stock was worth  
25 about seven hundred and fifty dollars a share at

1 the time you received it?

2 A I don't remember, sir. It could be.

3 Q Well, how did you arrive at the conclusion that  
4 the ten shares of bank stock plus the six thousand  
5 nine hundred fifteen dollars; how did you come  
6 to that conclusion?

7 A We agreed upon ten shares of stock at the bank  
8 and the payment of the balance of that automobile  
9 and that was it.

10 Now, as a matter of fact, I believe the  
11 stock of the bank came down considerably shortly  
12 after I got the stock.

13 Q Do you still own those ten shares of bank stock?

14 A I do.

15 Q How much are they worth now?

16 A Well, I got a dividend of fifteen hundred dollars,  
17 I think just about a month ago.

18 Q A dividend of fifteen hundred dollars?

19 A Yes, sir. I believe that is what it was, about  
20 a month ago.

21 Q The exhibits in evidence here shows that the bank  
22 was recapitalized in 1973 and that each owner of  
23 ten shares of bank stock received seventy shares  
24 of bank stock; do you remember that?

25 A No, sir, I don't. It's possible. I don't

1 remember.

2 Q And at the time that the bank was recapitalized,  
3 you received only ten shares and Mr. Manges  
4 received the remaining sixty shares; do you  
5 remember that?

6 A No, sir, I don't.

7 Q Well, if the record shows that, that would be  
8 inconsistent with your testimony that the bank  
9 shares were a bona fide transaction with  
10 Mr. Manges, wouldn't it?

11 A The transaction was a bona fide transaction. I  
12 received a dividend, like I say, approximately  
13 thirty days ago. It has been deposited in my  
14 bank account, the First State Bank -- rather at  
15 the Bank of South Texas in Alice, Texas and the  
16 records will so reflect.

17 Q And your testimony here is that you have just  
18 recently received a dividend of fifteen hundred  
19 dollars and that that represents income on the  
20 ten shares of bank stock that you now own in the  
21 Rio Grande City, First State Bank and Trust  
22 Company?

23 A Yes, sir.

24 Q All right. Well, if the record shows that upon  
25 the recapitalization the stock split seven for one

1 and if the record further shows that you got only  
2 ten shares of stock at that time and Mr. Manges  
3 got sixty shares at that time, why would that be?  
4 How can you explain that?

5 A I could not, sir. I don't know.

6 Q The record shows that all the other shareholders  
7 received seventy shares of stock in return for  
8 their ten shares of stock?

9 A That's correct.

10 Q Except for you?

11 A Except for me?

12 Q Except for you?

13 A I would have to go back and check into that, sir.  
14 I might have some more shares coming. I wasn't  
15 aware of that.

16 MR. MITCHELL: May we have the record --  
17 reflect the record counsel refers to, Your  
18 Honor?

19 THE MASTER: I was getting ready to ask.  
20 You say the record reflects. I have a note  
21 here. What exhibits are you speaking of?

22 MR. FLUSCHE: Okay. Let me have the --

23 THE MASTER: What you're suggesting,  
24 I take it, is that there was a seven for one  
25 split in 19 -- you said '72 or '73.

1 Mr. Flusche, I am talking.

2 MR.FLUSCHE: Yes, sir.

3 THE MASTER: And you're suggesting and  
4 have said that the record reflects that he  
5 only got ten shares. I do want to know what  
6 record --

7 MR. FLUSCHE: Talking about Exhibit No.  
8 32.

9 THE MASTER: Yes, that is the minutes  
10 of the stockholders meeting of January 14th,  
11 1971. 33 is the minutes of January 13th,  
12 1972; and 34 is the minutes of January 11th,  
13 1973, and there is 36, which is a stockholders  
14 ledger book. That might reflect it.

15 MR. ODAM: Your Honor, I believe it's  
16 E-37. Let me, while Mr. Flusche is asking  
17 questions, identify specifically E-37.

18 THE MASTER: All right.

19 MR. MITCHELL: Pardon me. May I ask if  
20 counsel -- of counsel, Your Honor, if that  
21 series does not reflect a Xeroxed copy of  
22 Judge Carrillo's certificate of stock as  
23 originally issued?

24 MR. ODAM: One of those exhibits is --  
25 this is it, 35.



1 MR. FLUSCHE: Exhibit 35.

2 MR. MITCHELL: Thank you, Counsel.

3 Q (By Mr. Flusche) Now, the record shows, Judge,  
4 that at the time Mr. Garland Smith filed his motion  
5 to disqualify you, that he also filed a demand for  
6 admissions with you which you responded to, is  
7 that correct?

8 A Yes, sir.

9 Q Why did you respond to that demand for admissions?

10 A I received it. I didn't really have to respond  
11 to it, but I had nothing to hide, sir, so I  
12 responded to it.

13 Q You were not a party, were you?

14 A I was not a party to it.

15 Q And Rule 169 does not require a witness to  
16 respond to that sort of thing, does it?

17 A However, like I say, I had nothing to hide and  
18 so, I answered.

19 Q Could it be that your answer was designed to  
20 facilitate a decision to permit you to control  
21 the lawsuit to help Mr. Manges?

22 A No, sir.

1 Q That never was your intention, was it?

2 A No, sir.

3 Q But, of course, Mr. Manges hired Mr. Church out  
4 of San Antonio to come down and try to defend that  
5 motion, didn't he?

6 A I believe --

7 MR. MITCHELL: Wait a minute, excuse  
8 me, Counsel. Defend what motion?

9 MR. FLUSCHE: The motion to disqualify.

10 MR. MITCHELL: Not to defend it, to  
11 oppose it.

12 THE MASTER: Well, that's context,  
13 that is, of course, what he means.

14 MR. MITCHELL: I just want to be sure.

15 THE MASTER: Yes, sir.

16 A What I mean is, district judges, when motions  
17 are filed to disqualify them, they don't run  
18 out and hire a lawyer to defend them. They let  
19 the parties battle it out for themselves and  
20 whatever the outcome is, that is what it is.

21 We are not paid enough to have a fleet of  
22 attorneys following us around.

23 Q But, of course, what I'm suggesting is that  
24 your filing answers to those admissions or request  
25 for admissions, which you were not required to

1 respond to, under any of the rules, has the  
2 same effect of running out and hiring a lawyer  
3 to try to defend your position, doesn't it?

4 MR. MITCHELL: Of course, that is  
5 argumentative and we would object to it,  
6 Judge.

7 I would like to also make an inquiry,  
8 are we now being criticized because we did  
9 file an answer for the request for admis-  
10 sions? I agree we didn't have a duty to.

11 If I am being criticized, certainly  
12 that goes beyond the formal notice, Your  
13 Honor.

14 Q Judge Carrillo, you weren't represented at that  
15 time by Mr. Mitchell, were you?

16 A No, sir.

17 Q Now, you testified that at the time that the  
18 motion to disqualify was filed, that you didn't  
19 have too much experience on the bench.

20 Mr. Mitchell's questions on that subject  
21 would indicate that the motion was filed in 1971,  
22 but that is not correct, is it?

23 A I think it was filed in January of -- around  
24 there.

25 MR. MITCHELL: May I approach my client?

1 A I would have to see it, I don't remember the  
2 exact date.

3 MR. MITCHELL: Thank you, Judge.

4 Q Well, in response to the other questions I have  
5 indicated to you that -- well Exhibit E-40, the  
6 final report of the receiver was filed in Novem-  
7 ber of 1972. Do you recall that?

8 A No, I don't.

9 MR. MITCHELL: May I approach my  
10 client. Pardon me.

11 (Discussion off the record between Mr.  
12 Mitchell and the witness.)

13 (Exhibit E-40 handed to the witness.)

14 A All right, I have E-40 before me.

15 Q Now look at the file mark on E-40 and see when it  
16 was filed.

17 A It was filed -- the date is not quite clear,  
18 November, I think, 1972.

19 MR. MITCHELL: Pardon me, Your Honor,  
20 I thought Counsel had propounded the ques-  
21 tions to the witness about the filing date  
22 of the first motion to disqualify and E-40  
23 is the final accounting and as I understand  
24  
25

1           it, am I correct, Counsel, I thought you  
2           had asked him a question about the filing  
3           of the motion to disqualify. I am confused.

4           MR. FLUSCHE: I had asked him about  
5           the filing of the motion to disqualify, but --

6           Q What is the relationship to the motion to dis-  
7           qualify and E-40, do you know?

8           A Well, I believe that there was a question, they  
9           all didn't agree to this accounting and report  
10          and there was -- so it was set down for hearing  
11          and that is where they filed a motion to dis-  
12          qualify.

13          Q So that would have been in January of 1960 --  
14          or January of 1973, is that correct?

15          A I believe so. I believe so.

16          Q All right.

17          A Yes, sir.

18          Q All right, so then it is not true that at the  
19          time the motion to disqualify was filed, that  
20          you were just newly on the bench?

21                 MR. MITCHELL: Now, Your Honor, we are  
22                 going to object to that and Counsel is  
23                 not squaring with the record.

24                 The motion to disqualify was filed  
25                 earlier and he knows that. That document

1 E-40 was a document that was recirculated  
2 long after the motion to disqualify had  
3 been heard and may I request that we look  
4 at the motion to disqualify.

5 THE MASTER: It is supposed to be  
6 E-19.

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

8 THE MASTER: But certainly, rather than  
9 get out the date that the motion to dis-  
10 qualify was filed, in this backdoors way,  
11 let's go to the motion itself.

12 MR. MITCHELL: I think that's the way  
13 to do it. May I talk to my client, Your  
14 Honor?

15 (Discussion off the record between  
16 Mr. Mitchell and the witness.)

17  
18 Q Would you look at E-19 and look at the file  
19 mark on it?

20 A Yes, sir.

21 (Handed to the witness.)

22  
23 Q What date was that motion filed?

24 THE MASTER: Normally the certification  
25 of the clerk would show.

1 A That is what I am looking for, Your Honor. I  
2 can't find it.

3 MR. MITCHELL: And, Judge, it is  
4 further complicated by the fact that there  
5 are numerous Exhibits which contain their  
6 own file marks having been filed.

7 THE MASTER : Yes, yes.

8 MR. MITCHELL: And then brought  
9 together.

10 THE MASTER: Sure, I can imagine.

11 A Here it is, filed on the 10th day of January,  
12 1973. That is the only filing date that I find  
13 and it is attached to a letter on it's own Exhibit.

14 THE MASTER: Let me see it, please,  
15 Mr. Flusche, unless you are going to use it.

16 MR. FLUSCHE: No, sir.

17 (Handed to the Master.)

18 Q So it is not true that I have been trying to  
19 misrepresent the record as to the date on which  
20 that document was filed, is it?

21 A The record speaks for itself.

22 Q You're not even willing to say that it was filed  
23 on January the 10th of 1973?

24 A No, sir, that is what it says.  
25

1 Q All right.

2 A That is what it says.

3 Q All right, so at that time you had been on the  
4 bench two years and ten days?

5 A Two years and nine days.

6 Q All right, so you were no neophyte, just newly  
7 come to the bench at the time this motion was  
8 presented to you?

9 A Well, I don't claim to be -- I didn't claim to be  
10 the most experienced judge in the circuit.

11 Q Let me ask you this, let's talk about the grazing  
12 leases now.

13 A Yes, sir.

14 Q How many grazing leases did you have with Mr.  
15 Clinton Manges?

16 A One that was amended.

17 Q Now, how many acres was that first grazing lease?

18 A Twelve hundred acres I believe.

19 Q And what were the terms of that lease?

20 A One dollar per acre per year.

21 Q And what was the term of the lease?

22 A The agreement between us was that if he ever  
23 decided to sell or needed the property, we would  
24 have some time notice, I have forgotten what the  
25 notice was.



1 Q All right, but I believe you testified earlier  
2 that that lease was never reduced to writing?

3 A No, sir.

4 Q How long did that lease exist before Mr. Manges  
5 asked you to terminate it and to amend it to  
6 another lease?

7 A Not very long, because he sold that piece of  
8 property to Lloyd Bentsen, Senior, and he had  
9 other pastures available so we transferred to  
10 another pasture.

11 Q All right, now is this the occasion on which you  
12 leased five thousand acres of land from Mr.  
13 Manges?

14 A Yes, sir.

15 Q And what were the terms of that lease?

16 A The same, the same terms.

17 Q Can you tell the court approximately when these  
18 leases were entered into?

19 A I'm sorry, I don't remember the exact date, it  
20 has been a while.

21 MR. FLUSCHE: May I have just a moment,  
22 Your Honor?

23 THE MASTER: Yes, sir.

24 (Discussion off the record.)  
25

1 Q Judge Carrillo, I will hand you what has been  
2 admitted as Exhibit E-3 and ask you to look at  
3 that document and see if you can refresh your  
4 recollection as to when you entered into the  
5 lease with Mr. Manges.

6 (Handed to the witness.)  
7

8 A Sometime in the summer of 1971.  
9

1 Q (By Mr. Flusche) All right. And I believe that  
2 you said that five thousand acre lease was for a  
3 term of three years?

4 A Yes, sir.

5 Q And that the terms of the lease were for one dollar  
6 per acre payable at the end of three years?

7 A Yes, sir.

8 Q Now, is it also true that that lease was not  
9 reduced to writing?

10 A That's correct, sir.

11 Q And, so, after the expiration of one year, it  
12 could have been terminated at any time by  
13 Mr. Manges, could it not?

14 A At any time by notice that he was going to sell  
15 it or root plow it or what have you.

16 Q So, even without the statute of frauds, it could  
17 have been terminated at any time by Mr. Manges,  
18 is that true?

19 A Yes, sir.

20 Q All right. Now, what was the total amount that  
21 you had paid Mr. Manges for this grazing lease?

22 A I paid him one hundred heifers, certified  
23 Beefmaster heifers and five thousand dollars.

24 Q Do you have a cancelled check for that five  
25 thousand dollars?

1 A No, sir, I don't.

2 Q How did you pay it, in cash?

3 A I paid it in cash.

4 Q Let me ask you this: You had testified earlier  
5 that you were good friends with Mr. Clinton Manges  
6 in December of 1970 and that you remained good  
7 friends with Mr. Clinton Manges.

8 A To date.

9 Q To date.

10 I noticed that the six thousand dollar check  
11 that you have issued to Plains Machinery to  
12 renegotiate the contract on the purchase of the  
13 two D-8's was written on the Groce National Bank  
14 in San Antonio?

15 A Yes, sir.

16 Q That is a bank that is controlled by Mr. Manges,  
17 isn't it?

18 A Yes, sir.

19 Q And that is the only check in this record that is  
20 written on the Groce National Bank, isn't it?

21 A Yes, sir.

22 Q Did Mr. Manges furnish that six thousand dollars  
23 to you?

24 A No, sir.

25 Q How about the twelve thousand five hundred dollars

1 that Mr. Manges furnished to you on the Groce  
2 National -- or on the Rio Grande City bank in  
3 either April or May of this year?

4 A That is correct, sir. I sold him some certified  
5 bulls.

6 Q How many bulls did you sell him?

7 A Ten, I think it is.

8 Q Ten bulls?

9 A (Witness nods head yes.)

10 Q And were those Beefmasters?

11 A Yes, sir.

12 Q And did you sell him any cows?

13 A No, sir. I conveyed to him -- I gave him in  
14 payment of this lease a hundred heifers.

15 Q Was that all at about the same time?

16 A Approximately.

17 Q And you gave him the hundred heifers --

18 A That was payment on the grazing lease.

19 Q Of course, that was about four years after you  
20 entered into the grazing lease, wasn't it?

21 A Yes, sir.

22 Q How much are those heifers worth a head?

23 A Well, I entered into a contract with Terra Nova  
24 Cattle Company.

25 THE MASTER: Spell that.

1 THE WITNESS: T-E-R-R-A, N-O-V-A

2 Cattle Company -- to let them have the pick  
3 of the first one hundred bulls and the first  
4 one hundred heifers out of our herd for a  
5 hundred thousand dollars a year, a contract  
6 for five years. So, I am quite proud of my  
7 herd and the record will reflect that the  
8 cattle that I have bought and from the  
9 places I have bought them have been high-  
10 priced animals and I have developed my  
11 breeding and those folks have travelled  
12 throughout the state looking for such a  
13 contract and discovered that my herd was  
14 about the best that they could locate.

15 There was, by the way, a representative  
16 of the Texas Cattlemen's Association present  
17 when the transaction was made.

18 Q (By Mr. Flusche) Is it your testimony that you  
19 transferred one hundred bulls and one hundred  
20 heifers for a hundred thousand dollars per year  
21 for five years meaning that you did it for a half  
22 a million dollars?

23 A No, I haven't transferred anything. We have  
24 entered into a contract and they will come and  
25 make the selection as -- they will not take them

1 all at the same time. The calves will drop and  
2 they will come and pick fifteen or twenty or  
3 whatever they want. They will be taking them over  
4 the year. We just entered into a contract to  
5 that effect.

6 Q Are they to take these one hundred bulls and  
7 one hundred heifers over a period of five years?

8 A Over a period of -- it will be a yearly sale,  
9 over a period of five years.

10 Q Is the total consideration for that contract a  
11 half a million dollars?

12 A It will be at the end of the five years. It will  
13 be a hundred thousand dollars a year.

14 Q All right. Well, I will have to wait until  
15 some time later to do the arithmetic on that.

16 Now, a great deal has been made of the  
17 distinction between refusing yourself to hear the  
18 motion and refusing yourself from the case and  
19 if I understand you correctly, in your response  
20 to Mr. Pipkin's letter in May of this last --  
21 of this year, it was your view that you were not  
22 disqualified from hearing the case; isn't that  
23 correct?

24 A Could I see the letter, please?

25 Q (Whereupon, Mr. Flusche hands letter to Judge

1 Carrillo.)

2 MR. MITCHELL: What is the exhibit  
3 number?

4 THE WITNESS: This is Exhibit No. 3;  
5 also, RX-2 and XJ-2. There are several  
6 markings here. It states here, "In my  
7 opinion these facts did not disqualify me;  
8 however, when my qualification was challenged,  
9 I immediately and voluntarily recused myself  
10 and caused the administrative judge to  
11 assign me disqualification motion for hearing  
12 before another court."

13 Q (By Mr. Flusche) But you did not disqualify  
14 yourself from hearing the case. You disqualified  
15 yourself from hearing the motion.

16 A That is correct.

17 Q You did not disqualify yourself from hearing the  
18 case and you never have thought that you were  
19 disqualified from hearing the case, have you?

20 A I, to this very day -- I don't believe that any  
21 of this charges -- for one thing, I would have  
22 taken them -- when they accuse you of something  
23 like this, they have to come out and say you have  
24 got to disqualify yourself because you're a thief.  
25 You say yes, I will disqualify myself. That is



1 sort of an admission that you're a thief. When  
2 accusations like this are brought before me and  
3 I don't feel that I am guilty of them, I felt  
4 that another judge should pass on them.

5 Q And he did pass on it?

6 A He did pass on it.

7 Q And he found that you were disqualified?

8 A Yes, sir, but not entirely, insofar as this  
9 case was concerned in the manner like this.

10 Q But you never did sit on it again after --

11 A And since that very day, I have disqualified  
12 myself in every case involving Mr. Clinton Manges.

13 Q But you haven't had any opportunity to disqualify  
14 yourself in Manges versus Guerra, Cause No. 9353,  
15 have you?

16 A No, sir. When Judge Magus Smith ruled in that,  
17 that was the end of that.

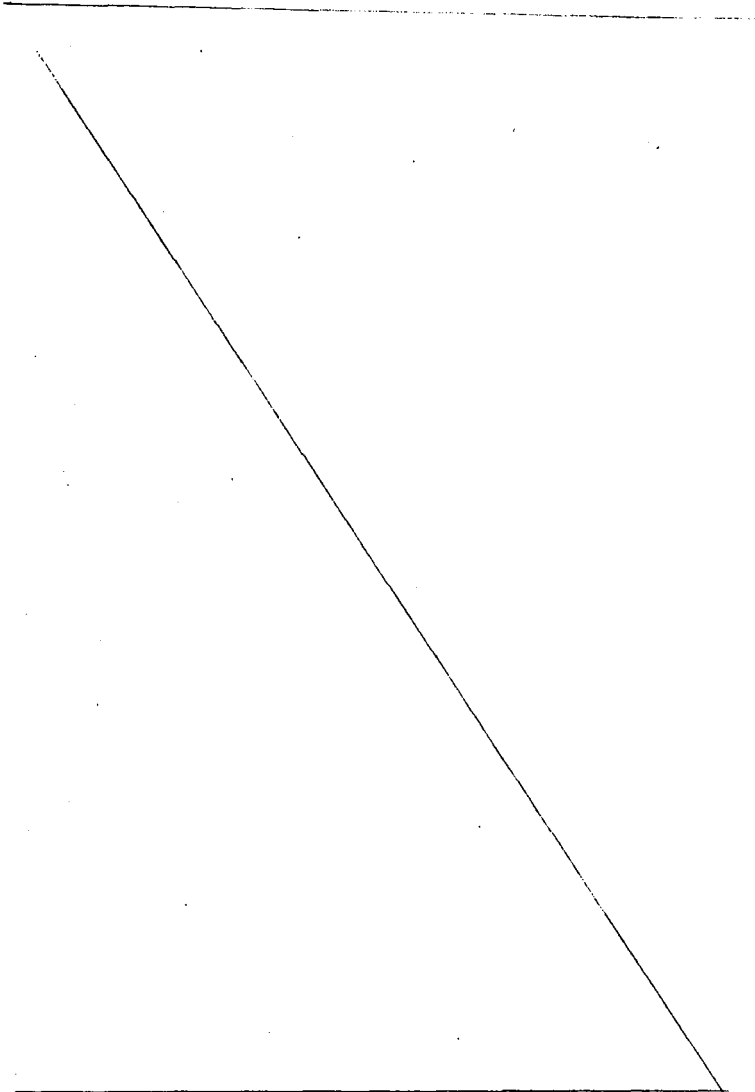
18 Q Now, there has been a great deal of testimony  
19 here about the political ways of life in Duval  
20 County. How does Mr. Clinton Manges fit into  
21 the political way of Duval County, the political  
22 way of life?

23 A You will have to ask him.

24 Q Well, he won't tell me because he has taken the  
25 Fifth Amendment. You don't know anything about

1           that, I suppose?

2           A    I know he took the Fifth Amendment, but like I  
3           say, I don't know what he is going to do.  
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1 Q All right, your counsel has made a great to-do  
2 about the Parr people coming in here and testify-  
3 ing against you as being an act of political  
4 recrimination for things that your father and  
5 brother did to the Parrs in federal court.

6 Now, tell what had the Carrillo people done  
7 in this courtroom. What has your brother done?

8 A My brother?

9 Q Yes.

10 MR. MITCHELL: You mean in the court-  
11 room?

12 MR. FLUSCHE: In the courtroom.

13 He took the Fifth Amendment.

14 A He took the Fifth Amendment.

15 Q Roberto Elizondo took the Fifth Amendment?

16 A Yes, sir.

17 Q Tomas Elizondo took the Fifth Amendment?

18 A Yes, sir.

19 Q Jose Saenz, your court clerk, took the Fifth  
20 Amendment?

21 A Yes, sir.

22 Q I don't know, did I say Roberto Elizondo?

23 A Yes, sir, I hope they change their mind and come  
24 in and testify.

25 Q Well, I hope they do, too.

1           But what is the political alignment of all  
2 of those witnesses who took the Fifth Amendment  
3 in this courtroom?

4       A Well, Mr. Roberto Elizondo and Mr. Tomas Elizondo  
5 are brothers of Luis Elizondo who was a member  
6 of the board of trustees which -- whom I removed  
7 from the school board in Benavides.

8       Q Now you are saying that Luis Elizondo is a Parr  
9 man?

10      A Yes, sir.

11      Q He worked for you a long time, didn't he?

12      A Luis Elizondo, no.

13      Q Luis Elizondo never worked for you?

14      A Never.

15      Q All right.

16      A No, sir.

17      Q Would you say Roberto Elizondo and Tomas Elizondo  
18 are political opponents of yours?

19      A No, I would not.

20      Q So the fact that they are the half-brothers of  
21 Luis Elizondo doesn't have anything to do with  
22 their political persuasion?

23      A I don't believe so.

24      Q What is the political alignment of Clinton Manges?

25      A I don't know.

1 Q You don't know?

2 A I don't know.

3 Q Well, is he an opponent?

4 A No, I would hope that he is politically aligned  
5 with me, to tell you the truth, and with the party  
6 that I represent but I can't tell you how -- what  
7 he is or what he is going to do.

8 Q Now, just for the clarification, what is the  
9 party that you represent? Who do you -- how is  
10 the party styled?

11 A It has been styled, they call it the Carrillo  
12 faction and that is all, the Carrillos and the  
13 Parris.

14 Q Okay, what is the old party?

15 A The old party, you might say that the Carrillos  
16 and the Parris are all members of the old party.

17 Q There were no -- you all were all in the same  
18 political bed, up until about March of this year,  
19 weren't you?

20 A Well, we have sort of been having a family  
21 squabble, you might say, that ends up any moment  
22 and reorganize again and get together.

23 Q So that remains a possibility, that the political --  
24 that the Carrillos and the Parris will realign?

25 A Certainly.

1 Q And there was never any suggestion that there  
2 was any dispute between the two factions prior  
3 to May of 1974, was there?

4 A May of 74 was when there was a split in the  
5 party.

6 Q Now, I take it that with regard to our allegations  
7 that you facilitated Roberto Elizondo to receive  
8 two hundred and twenty-five dollars a month out  
9 of the county funds while he was attending court  
10 reporting school in Houston, that you are going  
11 to decline to answer my questions on that sub-  
12 ject, is that correct?

13 MR. MITCHELL: Excuse me, Judge Carrillo,  
14 I am going to object to the question and  
15 ask that he not answer it, Your Honor, on  
16 the grounds that there has been no testimony  
17 solicited on direct examination of the  
18 witness and secondly, the inquiry goes beyond  
19 the proper scope of cross-examination.

20 I instruct my client to continue to  
21 invoke his rights under the State and Federal  
22 Constitution against self-incrimination as  
23 to it.

24 THE MASTER: Well, I understand that  
25 by asking this question you have now moved

1 from paragraph 2?

2 MR. FLUSCHE: Yes, sir.

3 THE MASTER: Have you done any briefing  
4 on this question?

5 MR. FLUSCHE: Yes, sir.

6 THE MASTER: What do you think the law  
7 is?

8 MR. FLUSCHE: Well, I think the law is  
9 that in the federal court, that you are  
10 limited to the -- I think that in all cross-  
11 examination in the federal court that you are  
12 limited to the scope of the direct examina-  
13 tion but the rule in Texas has never been  
14 that.

15 I think that the right to invoke the  
16 Fifth Amendment is dependent upon the  
17 right to cross-examination and in that con-  
18 nection, in Texas in a civil case when you  
19 take the witness stand, you open yourself  
20 to cross-examination on all issues.

21 I now refer to the case of Cresson  
22 versus Wortham, Carter Publishing Company.

23 THE MASTER: Mr. Mitchell, I do not  
24 recall precisely our conversation of yester-  
25 day. I think I recall the substance, however,

1 and that was that if I overruled the objec-  
2 tion you would simply have that as a point.

3 MR. MITCHELL: Yes.

4 THE MASTER: I'm going to overrule the  
5 objection.

6 MR. MITCHELL: Note our exception,  
7 Judge, and may I have a continuing objection  
8 to the entire line of testimony under what  
9 is that, Roman --

10 THE MASTER: It is either 3 or 4.

11 MR. MITCHELL: I'm looking for it, Judge.

12 THE MASTER : You may have that continu-  
13 ing objection.

14 (Discussion off the record between  
15 Mr. Mitchell and the witness.)

16  
17 MR. MITCHELL: And then, if it please  
18 the Court, I am going to request my client  
19 to plead the Fifth Amendment and have the  
20 Court instruct him as the questions are put  
21 to him to answer in the face of that plea  
22 of the Fifth Amendment so that the record  
23 is preserved on at least -- at least on the  
24 score.

25 THE MASTER: Well, I will tell you now



1           that I will -- with respect to this objection,  
2           that is that is was not gone into on direct.  
3           I will overrule the objection and instruct  
4           Judge Carrillo to answer each question.

5           I do not have to do it as each question  
6           is asked, do you think?

7           MR. MITCHELL: Well, I --

8           THE MASTER: I will just say for the  
9           record -- it will be deemed that I have  
10          instructed him to answer each question asked.

11          MR. MITCHELL: And may we have it  
12          reflect as the question is put to the wit-  
13          ness, the Court says answer the question?

14          THE MASTER: Rather than actually tak-  
15          ing the time to say it?

16          MR. MITCHELL: Yes, say I plead the  
17          Fifth Amendment and the Court instructions,  
18          may we have that understanding in the record?

19          THE MASTER: We can have that under-  
20          standing that except for this agreement,  
21          Judge Carrillo would decline to answer each  
22          and every question put to him with respect  
23          to paragraph 3.

24          MR. MITCHELL: That's right.

25          THE MASTER: And that I would instruct

1 him to answer.

2 MR. MITCHELL: Yes, sir, on the grounds  
3 that it would be -- on the Constitutional  
4 grounds that it would be violating his --

5 THE MASTER: His Fifth Amendment rights.

6 MR. MITCHELL: As well as the corres-  
7 ponding rights of the Texas Constitution.

8 THE MASTER: That is correct.

9  
10 (Discussion off the record.)

11 MR. MITCHELL: May we have a further  
12 agreement, Your Honor, that the structure  
13 of the plea would be in line with that,  
14 that it has been heretofore used by the  
15 witnesses.

16 THE MASTER: Why don't you get it once  
17 and read it so that -- but now certainly --

18  
19 (Discussion off the record between  
20 Mr. Mitchell and the witness.)

21 MR. MITCHELL: Excuse me, Judge Meyers.

22 THE MASTER: Certainly the record does  
23 not have to reflect the entire plea each  
24 time because we reached an earlier agreement.  
25 I invoke -- I respectfully decline to answer,

1 and that incorporates all of those reasons.

2 Now, if you want to read it now into  
3 the record for just once, for the record  
4 complete, that would be fine.

5 MR. MITCHELL: All right. That is  
6 very good, Judge. So that you understand,  
7 Mr. Reporter, what the court is saying, the  
8 full plea and then thereafter the understand-  
9 ing as the previous witnesses that I respect-  
10 fully decline, and that incorporates that  
11 full plea without the necessity to repeat  
12 it.

13 That would be that I respectfully decline  
14 to answer the question put to me on the  
15 grounds that the answer might tend to  
16 incriminate me under the Fifth Amendment  
17 of the United States Constitution and under  
18 the corresponding sections of the Texas  
19 Constitution, being Article 10, Section 1.

20 (Discussion off the record.)

21  
22 THE MASTER: All right. You may pro-  
23 ceed, Mr. Flusche.

24 MR. MITCHELL: Pardon me, may we have  
25 a separate extract made of the record on

1 this portion, Your Honor, and a place for  
2 the Court's signature on the questions all  
3 relating to this section, that being, Your  
4 Honor, to comply with certain other protec-  
5 tive rights, protective procedures that the  
6 plea or requirement to answer a question  
7 well then that plea has to be under the  
8 specific instructions of the Court for any  
9 subsequent plea of immunity or plea of  
10 incrimination and so forth.

11 THE MASTER: I don't understand what  
12 you are asking.

13 MR. MITCHELL: Just make up, if you  
14 would a separate -- the reporter can make  
15 up a separate package of these questions  
16 for a separate use.

17 In other words, just give me a copy  
18 and to provide a space for the date and  
19 the Court's signature to certify that it  
20 is actually -- that this actually occurred.

21 THE MASTER : That is for use somewhere  
22 else maybe.

23 MR. MITCHELL: Yes, sir, that's right.

24 THE MASTER: I'll be happy to do that.  
25

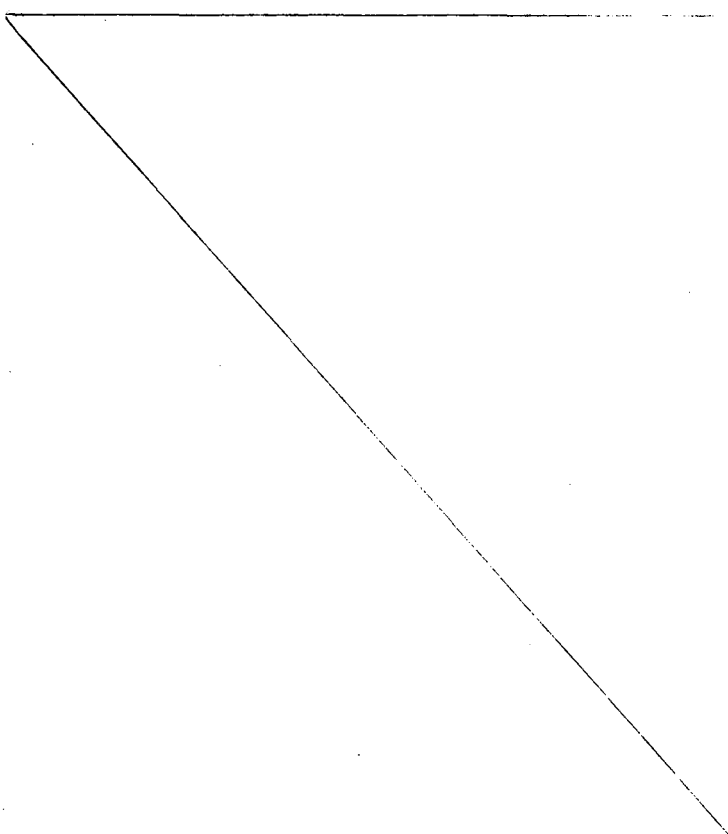
1 (Discussion off the record.)

2  
3 MR. MITCHELL: Thank you, Judge.

4 MR. ODAM: Is that in connection with  
5 use in these proceedings?

6 MR. MITCHELL: No, not these necessarily,  
7 Counsel, it is just in connection with use  
8 in any place that I find that I need them  
9 to use.

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CHATHAM & ASSOCIATES

COURT REPORTERS  
717 ANTELOPE - GUARANTY BANK PLAZA  
CORPUS CHRISTI, TEXAS 78401

1 THE MASTER: Are you ready to proceed?

2 MR. FLUSCHE: Yes, sir.

3 Q (By Mr. Flusche) Judge Carrillo, at the time we  
4 took your deposition in San Diego, I believe that  
5 when we asked you questions about Roberto  
6 Elizondo that you also took the Fifth Amendment,  
7 is that correct?

8 A I respectfully decline to answer the question put  
9 to me on the grounds that the answer might tend  
10 to incriminate me under the Fifth Amendment of  
11 the United States Constitution and under the  
12 corresponding sections of the Texas Constitution,  
13 being Article 10, Section 1.

14 THE MASTER: You are instructed to  
15 answer the question.

16 A Yes, sir.

17 Q And that was on the advice of counsel?

18 A I refuse to answer on the grounds that it might  
19 tend to incriminate me.

20 THE MASTER: You are instructed to  
21 answer the question.

22 A Yes, sir.

23 Q And when we put you on the witness stand in these  
24 proceedings under the Adverse Witness Rule, you  
25 took the Fifth Amendment on Roberto Elizondo?

1 A I refuse to answer on the grounds that it might  
2 tend to incriminate me.

3 THE MASTER: You are instructed to  
4 answer the question.

5 A Yes, sir.

6 Q Is that correct?

7 A I refuse to answer on the grounds that it might  
8 tend to incriminate me.

9 THE MASTER: You are instructed to  
10 answer the question.

11 A Yes.

12 Q And that was on the advice of counsel?

13 A I refuse to answer on the grounds that it might  
14 tend to incriminate me.

15 THE MASTER: You are instructed to  
16 answer the question.

17 A Yes, sir.

18 Q All right. Now, I am going to ask you how long  
19 have you known Roberto Elizondo?

20 A I refuse to answer on the grounds that it might  
21 tend to incriminate me.

22 THE MASTER: You are instructed to  
23 answer the question.

24 A About ten or fifteen years.

25 Q Is there any relationship between his family and

1 your family?

2 A I refuse to answer on the grounds that it might  
3 tend to incriminate me.

4 THE MASTER: You are instructed to  
5 answer the question.

6 A No.

7 Q All right. How old a man is Roberto Elizondo?

8 A I refuse to answer on the grounds that it might  
9 tend to incriminate me.

10 THE MASTER: You are instructed to  
11 answer the question.

12 A I don't know exactly, Mr. Flusche. I would imagine  
13 he is around -- I don't want to make him too old  
14 or too young. I would say around twenty-four or  
15 twenty-five; I don't know.

16 Q All right.

17 A I am not quite sure.

18 Q All right. You think he is around twenty-four  
19 or twenty-five now?

20 A I refuse to answer on the grounds that it might  
21 tend to incriminate me.

22 THE MASTER: You are instructed to  
23 answer the question.

24 A Possibly. He might be a little older. He might  
25 be a little -- I don't think he is any younger.



1 He might be a little older.

2 Q All right, sir. And when you took office as the  
3 judge of the 229th District, where was Roberto  
4 Elizondo employed at that time?

5 A I refuse to answer on the grounds that it might  
6 tend to incriminate me.

7 THE MASTER: You are instructed to  
8 answer the question.

9 A When I took office he was working for me, you  
10 know, as a -- he used to help us drive the  
11 circuit, and around the office. He was very much  
12 interested in the court reporting profession.

13 Q All right. Now, he was -- I take it from your  
14 profession that he was on the county payroll then,  
15 during the year 1971?

16 A I refuse to answer on the grounds that it might  
17 tend to incriminate me.

18 THE MASTER: You are instructed to  
19 answer the question.

20 A He was doing some work for me.

21 Q He was being paid by the county, is that correct?

22 A I refuse to answer on the grounds that it might  
23 tend to incriminate me.

24 THE MASTER: You are instructed to  
25 answer the question.

1 A I had difficulty, you will recall the testimony  
2 of Zenaida Montemayor of getting my staff placed  
3 directly under the payroll of the district judge.  
4 They had, with exception of my court reporter,  
5 they had my receptionist as a clerk over in the  
6 county clerk's office. They had Mr. Saenz as a  
7 clerk over at the county attorney's office. They  
8 had Mr. Elizondo, I think, working out of Precinct  
9 3.

10 Q Is that Roberto Elizondo?

11 A I refuse to answer on the grounds that it might  
12 tend to incriminate me.

13 THE MASTER: You are instructed to  
14 answer the question.

15 A Yes, sir.

16 THE MASTER: You used a name that we  
17 are familiar with, those of us who have been  
18 here, but not to this reporter, Montemayor.  
19 Would you spell that?

20 THE WITNESS: Mrs. Zenaida, Z-E-N-A-I-D-A,  
21 Montemayor, M-O-N-T-E-M-A-Y-O-R.

22 THE MASTER: That was used somewhat  
23 earlier, but I don't think you're familiar  
24 with that name, and I think it would help  
25 you rather than to have to find it in earlier

1 transcripts.

2  
3 (Whereupon, the Master was talking  
4 to the reporter.)

5  
6 THE MASTER: You may proceed,  
7 Mr. Flusche.

8 Q (By Mr. Flusche) At that time, was Thomas  
9 Elizondo also on the county payroll?

10 A I refuse to answer the question on the grounds  
11 that it might tend to incriminate me.

12 THE MASTER: You are instructed to  
13 answer the question.

14 A When I became a district judge?

15 Q Yes.

16 A Mr. Thomas Elizondo was working. He had just  
17 returned from Vietnam and he was working for  
18 Precinct 3 and I had asked him to become a bailiff  
19 when I became district judge because he had just  
20 returned from Vietnam and he was getting ready  
21 to leave town and go look for work somewhere else  
22 and I wanted him as my bailiff.

23 Q And when did he become your bailiff then?

24 A I refuse to answer on the grounds that it might  
25 tend to incriminate me.

1 THE MASTER: You are instructed to  
2 answer the question.

3 A When I became district judge.

4 Q Now, Jerry Parmer testified that on these various  
5 circuit rides that you would go on to the various  
6 counties in your district, that sometimes Thomas  
7 Elizondo would drive you on those circuit rides,  
8 is that correct?

9 A I refuse to answer on the grounds that it might  
10 tend to incriminate me.

11 THE MASTER: You are instructed to  
12 answer the question.

13 A Yes, sir.

14 Q Would you say that he did that frequently or  
15 infrequently?

16 A I refuse to answer on the grounds that it might  
17 tend to incriminate me.

18 THE MASTER: You are instructed to  
19 answer the question.

20 A Frequently.

21 Q Almost every time?

22 A I refuse to answer on the grounds that it might  
23 tend to incriminate me.

24 THE MASTER: You are instructed to  
25 answer the question.

1 A Yes, sir.

2 Q And would Roberto, would he accompany you on many  
3 of these trips?

4 A I refuse to answer on the grounds that it might  
5 tend to incriminate me.

6 THE MASTER: You are instructed to  
7 answer the question.

8 A Sometimes, yes, sir.

9 Q All right. Now, you say you became aware of  
10 Roberto's desire to become a court reporter during  
11 that first year that you were in office, is that  
12 correct?

13 A I refuse to answer on the grounds that it might  
14 tend to incriminate me.

15 THE MASTER: You are instructed to  
16 answer the question.

17 A He showed an interest in the job and in the  
18 courtroom procedures.

19 Q Do you recall Jerry Parmer testifying that you  
20 and he and Roberto took a trip to Plainview,  
21 Texas during that first year for the purpose of  
22 investigating the possibilities of sending  
23 Roberto to school at that location?

24 A I refuse to answer on the grounds that it might  
25 tend to incriminate me.

1 THE MASTER: You are instructed to  
2 answer the question.

3 A Yes, sir.

4 Q And do you recall when Roberto finally made his  
5 determination that he would indeed attend court  
6 reporting school?

7 A I refuse to answer on the grounds that it might  
8 tend to incriminate me.

9 THE MASTER: You are instructed to  
10 answer the question.

11 A No, I don't remember the exact date, Mr. Flusche.

12 Q Do you know of your own knowledge that he did  
13 attend court reporting school?

14 A I refuse to answer on the grounds that it might  
15 tend to incriminate me.

16 THE MASTER: You are instructed to  
17 answer the question.

18 A Yes, sir.

19 Q Because he has served in that capacity since he  
20 graduated from reporting school, is that correct?

21 A I refuse to answer on the grounds that it might  
22 tend to incriminate me.

23 THE MASTER: You are instructed to  
24 answer the question.

25 A Yes, sir.

1 Q All right. Now, you have heard testimony here  
2 and you have seen documents which show that  
3 Roberto Elizondo received from the County of Duval,  
4 from the Road and Bridge Funds as the result of  
5 a claim for payment each month, the sum of two  
6 hundred and twenty-five dollars from January the  
7 1st of 1972 until May of 1974, is that correct?

8 A I refuse to answer on the grounds that it might  
9 tend to incriminate me.

10 THE MASTER: You are instructed to  
11 answer the question.

12 A No, sir.

13 Q You don't know that?

14 A I refuse to answer on the grounds that it might  
15 tend to incriminate me.

16 THE MASTER: You are instructed to  
17 answer the question.

18 A I haven't seen the documents or recall the testimony  
19 insofar as Mr. Robert Elizondo is concerned.

20 Q All right. Do you hear any such testimony in the  
21 House Select Committee?

22 A I refuse to answer on the grounds that it might  
23 tend to incriminate me.

24 THE MASTER: You are instructed to  
25 answer the question.

1 A Yes, sir.

2 Q And you heard Mr. Roberto Elizondo himself admit  
3 that he received the sum of two hundred and  
4 twenty-five dollars per month while he was  
5 attending court reporting school?

6 A I refuse to answer on the grounds that it might  
7 tend to incriminate me.

8 THE MASTER: You are instructed to  
9 answer the question.

10 A I don't know that I was present when he testified  
11 or not, Mr. Flusche. I did not attend all of the  
12 meetings. I came down with the flu and I was  
13 gone from the hearings approximately a week and  
14 I do not remember whether -- I think he testified,  
15 but I don't know whether or not I was present  
16 during the time that he testified, part of the  
17 time that he testified or what.

18 MR. FLUSCHE: May we have just a  
19 minute, Your Honor, to find these exhibits?

20 THE MASTER: Yes.

21 Q (By Mr. Flusche) Judge, I will show you first --

22 THE MASTER: Excuse me, Mr. Mitchell  
23 stepped out briefly and I think you ought to  
24 wait.

25 MR. FLUSCHE: All right, sir.



1 THE MASTER: I thought you were going  
2 to hand him something. Why don't you hand  
3 him something?

4 MR. FLUSCHE: All right. I will hand  
5 him all of them. I am going to hand you --

6 THE MASTER: No, just hand it to him and  
7 then make the record later.

8 MR. FLUSCHE: All right.

9 THE MASTER: The record will reflect  
10 that during your absence Mr. Flusche handed  
11 Judge Carrillo certain documents and you  
12 can now tell him what you handed him for the  
13 record.

14 Q (By Mr. Flusche) Exhibits 43, 44 --

15 THE MASTER: Just make a record,  
16 Mr. Flusche, just as if -- just state I have  
17 handed you such and such and such and such  
18 and then ask your questions about them.

19 MR. MITCHELL: Thank you, Your Honor.

20 Q (By Mr. Flusche) I have handed you, Judge  
21 Carrillo, what appear to be Exhibits E-43, E-44,  
22 E-45, E-46, E-47, E-48, E-49 and E-50, and I will  
23 ask you to look at all of those documents. Can  
24 you tell the Court what those documents are?

25 A I refuse to answer on the grounds that it might

1           tend to incriminate me.

2                   THE MASTER: You are instructed to  
3           answer the question.

4       A    They seem to be claim for payment.

5                   MR. MITCHELL: Excuse me, Judge Carrillo.  
6           Don't guess. It seems you either know or  
7           don't know.

8                   THE WITNESS: I don't know.

9                   MR. MITCHELL: May I object, Your  
10          Honor, on the grounds it would be speculative.

11                   THE MASTER: There is no objection.

12                   His answer is now I don't know.

13       Q    (By Mr. Flusche) Let me ask you this: Those  
14          documents do not appear to be duplicates or  
15          photostatic copies of claims for payment against  
16          Duval County. You can't tell that from looking  
17          at the documents?

18       A    I refuse to answer on the grounds that it might  
19          tend to incriminate me.

20                   THE MASTER: You are instructed to  
21          answer the question.

22       A    Like I say, I don't know. They appear to be, but  
23          I don't know.

24       Q    Are you going to tell this court that this is  
25          the first time that you have ever seen a copy of

1 a claim for payment against Duval County?

2 MR. MITCHELL: He hasn't been asked  
3 that question, Your Honor.

4 THE MASTER: But he is being asked that  
5 question now.

6 A I refuse to answer on the grounds that it might  
7 tend to incriminate me.

8 THE MASTER: You are instructed to  
9 answer the question.

10 A No, sir.

11 Q You have seen many of those, haven't you?

12 A I refuse to answer on the grounds that it might  
13 tend to incriminate me.

14 THE MASTER: You are instructed to  
15 answer the question.

16 A I have seen some, yes, sir.

17 Q Just tell the Court what the purpose of a claim  
18 for payment in Duval County is, if you know?

19 A I refuse to answer on the grounds that it might  
20 tend to incriminate me.

21 THE MASTER: You are instructed to  
22 answer the question.

23 A Claim for payment?

24 Q It's used by people who are not on the regular  
25 payroll, isn't that correct?

1 A I refuse to answer on the grounds that it might  
2 tend to incriminate me.

3 THE MASTER: You are instructed to  
4 answer the question.

5 A As far as I know.

6 Q I believe that there has been testimony in this  
7 record that Jose Saenz is a clerk assigned to  
8 your office, is that correct?

9 A I refuse to answer on the grounds that it might  
10 tend to incriminate me.

11 THE MASTER: You are instructed to  
12 answer the question.

13 A Yes, sir.

14 Q How long has he been a clerk in your office?

15 A I refuse to answer on the grounds that it might  
16 tend to incriminate me.

17 THE MASTER: You are instructed to  
18 answer the question.

19 A Several years.

20 Q Since you became judge?

21 A I refuse to answer on the grounds that it might  
22 tend to incriminate me.

23 THE MASTER: You are instructed to  
24 answer the question.

25 A Yes, sir.

1 Q What are his duties?

2 A I refuse to answer on the grounds that it might  
3 tend to incriminate me.

4 THE MASTER: You are instructed to  
5 answer the question.

6 A Typist.

7 Q Is he also a notary public?

8 A I refuse to answer on the grounds that it might  
9 tend to incriminate me.

10 THE MASTER: You are instructed to  
11 answer the question.

12 A I don't know.

13 Q You don't know whether Jose Saenz is a notary  
14 public or not?

15 A I refuse to answer on the grounds that it might  
16 tend to incriminate me.

17 THE MASTER: You are instructed to  
18 answer the question.

19 A I don't know.

20 Q Let me ask you this: During the course of your  
21 employment, have you as the supervisor of Jose  
22 Saenz, have you had an opportunity to become  
23 acquainted with his signature?

24 A I refuse to answer on the grounds that it might  
25 tend to incriminate me.

1 THE MASTER: You are instructed to  
2 answer the question.

3 A Somewhat.

4 Q I will ask you to look at Exhibits 43 through 50  
5 and to state whether or not those exhibits purport  
6 to contain the signature of Jose Saenz as a  
7 notary public on the claims for payment?

8 A I refuse to answer on the grounds that it might  
9 tend to incriminate me.

10 THE MASTER: You are instructed to  
11 answer the question.

12 A They are all different. I can't say one way or  
13 the other.

14 Q You don't recognize any of them as being the  
15 notarization of Jose Saenz?

16 A I refuse to answer on the grounds that it might  
17 tend to incriminate me.

18 THE MASTER: You are instructed to  
19 answer the question.

20 A I cannot swear that this is the signature of  
21 Jose Saenz.

22 Q Let me ask you this: Are you familiar with the  
23 signature of Roberto Elizondo?

24 A I refuse to answer on the grounds that it might  
25 tend to incriminate me.

1 THE MASTER: You are instructed to  
2 answer the question.

3 A Not that well, sir.

4 Q You recall the testimony of Roberto Elizondo in  
5 the House Select Committee that he signed none of  
6 those claims for payment?

7 A I refuse to answer on the grounds that it might  
8 tend to incriminate me.

9 THE MASTER: You are instructed to  
10 answer the question.

11 A Again, I say that I don't remember whether or not  
12 I was at the hearing when he testified or not. I  
13 know that I was not at the hearing when Mr. Saenz  
14 testified because he came by the motel with his  
15 attorney to see me because I was down with the  
16 flu at the time Mr. Jose Saenz testified. And if  
17 it was right along at the same time, then, I  
18 wasn't at Roberto Elizondo's testimony, either.

19 Q All right. Let me ask you this: Now, let me ask  
20 you to look at E-54.

21 A Yes, sir.

22 Q Do you recall the testimony of Mr. Walter Meek  
23 with regard to the practice in his office in  
24 compiling the figures on that chart or on that  
25 exhibit?

1 A I refuse to answer on the grounds that it might  
2 tend to incriminate me.

3 THE MASTER: You are instructed to  
4 answer the question.

5 A Yes, sir.

6 Q That exhibit shows that for the period in question  
7 that Roberto Elizondo did indeed receive two  
8 hundred and twenty-five dollars a month for each  
9 month during the period alleged, isn't that  
10 correct?

11 MR. MITCHELL: Your Honor, he has been  
12 working all around these exhibits and now I  
13 am going to have to object because he has  
14 gone into the contents of it and I am going  
15 to object to 43, 44, 45, 46, 47, 48, 49, 50,  
16 and the continuing examination of counsel of  
17 this witness on the grounds that they are not  
18 properly authenticated. They would be  
19 hearsay. They are not the best evidence.  
20 They are beyond the scope of the formal and  
21 beyond the scope of the amended notice of  
22 hearing; no proper predicate has been laid  
23 for the introduction. This witness has no  
24 personal knowledge as to the authenticating  
25 predicates. It would be irrelevant and



1 immaterial because they relate to  
2 transactions prior to the present term and  
3 they relate to nonjudicial acts.

4 THE MASTER: Well, now, my notes -- we  
5 are talking about 43 through 50.

6 MR. MITCHELL: Yes, sir.

7 THE MASTER: My notes reflect that they  
8 were finally admitted into evidence. So,  
9 we are not talking about authentication.

10 MR. MITCHELL: I didn't know they were  
11 in evidence. I had no indication -- not  
12 that the record is not speaking -- the Court  
13 is not speaking to the record, but I don't  
14 recall the checks, for example, that counsel  
15 has with Roberto Elizondo's name on them,  
16 I don't recall those ever going in.

1 THE MASTER : Well, now, what are  
2 their numbers?

3 MR. FLUSCHE: E-53.

4 MR. MITCHELL: Well, that is --

5 MR. FLUSCHE: E-53, a series of eight  
6 checks.

7 MR. ODAM: Walter Meek.

8 THE MASTER: Yes, E-53 is in evidence.

9 MR. MITCHELL: Then, the record has  
10 to reflect -- would reflect my original  
11 objection to the Court's action on them,  
12 and we reassert them at this time.

13 THE MASTER: Well, they are overruled.  
14 Let's all keep in mind, when we get off this,  
15 because we don't want the record to reflect  
16 something that is improper.

17 MR. MITCHELL: Yes, and, Judge Meyers,  
18 the last objections would, of course, be in  
19 addition to the ones related to the privilege.

20 THE MASTER: Of course.

21 MR. ODAM: For my clarification, and  
22 I did step out of the room for just a  
23 moment, have instructions been given? They  
24 have not been given yet by the Master or  
25 have you on all of this testimony -- are

1 we operating under an instruction?

2 THE MASTER: Under all of this testi-  
3 mony it is being given after each question  
4 is asked, Judge Carrillo invokes his Fifth  
5 Amendment rights and I order him to answer  
6 the question.

7 MR. ODAM: Okay.

8 THE MASTER: Well, it has been stipu-  
9 lated that if we don't reach this agreement,  
10 he would, in fact, take the Fifth Amendment  
11 privilege and I would, in fact, order him  
12 to answer rather than having to do that and  
13 take the time to do that. We are agreed  
14 that that is being done.

15 MR. FLUSCHE: Is that true with regard  
16 to all of the questions that have been  
17 asked him with that agreement?

18 THE MASTER: With anything -- anything  
19 with respect to paragraph 3 and Roberto  
20 Elizondo, and the basis of it that he did  
21 not testify in his direct examination as  
22 to that paragraph.

23 MR. MITCHELL: That's correct, Your  
24 Honor.

25 THE MASTER: And that is the sole basis

1 of it.

2 MR. MITCHELL: And the privilege.

3 THE MASTER: Yes, that is what I meant.

4 MR. MITCHELL: That is right, Your

5 Honor.

6 THE MASTER: That is the basis of it,  
7 you clearly recognize he waives his privilege  
8 if he testifies on that paragraph. The  
9 difference is that I think he has waived it  
10 when he took the stand to testify at all.

11 MR. MITCHELL: All right, Your Honor.

12 THE MASTER: Under the Texas law.

13 Q (By Mr. Flusche:) Now, Judge, Carrillo, in  
14 addition to Exhibit 54, I have also handed you a  
15 series of some eight checks which are designated  
16 E-53.

17 A I refuse to answer on the grounds that it might  
18 tend to incriminate me.

19 THE MASTER: You are instructed to  
20 answer the question.

21 A Yes.

22 Q Do you recognize the signature of Mr. Walter Meek  
23 on those checks?

24 A I refuse to answer on the grounds that it might  
25 tend to incriminate me.

1 THE MASTER : You are instructed to  
2 answer the question.

3 A I am not that familiar with his signature.

4 Q Do those checks --

5 A I would imagine it does, but I am not familiar  
6 with it.

7 Q You get paid a certain amount of money each month  
8 by Duval County for being on the juvenile bench,  
9 do you not?

10 A I refuse to answer on the grounds that it might  
11 tend to incriminate me.

12 THE MASTER: You are instructed to  
13 answer the question.

14 A Yes, sir.

15 Q Do those checks appear to be the same kind of  
16 checks that appear when you get them from Duval  
17 County?

18 A I refuse to answer on the grounds that it might  
19 tend to incriminate me.

20 THE MASTER: You are instructed to  
21 answer the question.

22 A I don't see my checks. My instructions to the  
23 different counties are that they mail them directly  
24 to the bank for deposit for me.

25 Q All right. From looking at those checks, does it

1 appear that at least for eight months out of  
2 the period that we have alleged that Roberto  
3 received two hundred and twenty-five dollars from  
4 the county of Duval?

5 MR. MITCHELL: Well now, Your Honor,  
6 I will take objection to the form of that,  
7 in addition to my previous objections on  
8 the grounds that the checks are endorsed --  
9 not endorsed by Roberto Elizondo and it  
10 calls for hearsay, therefore, because it  
11 says, looking at these checks that he received.  
12 It would be a fact that is not in evidence.

13 THE MASTER: I don't think it is hear-  
14 say, I don't really think it is hearsay, but  
15 I think it could be objectionable.

16 MR. MITCHELL: No personal knowledge.

17 THE MASTER: I don't think he can draw  
18 that conclusion any better than I can, Mr.  
19 Fische.

20 MR. FLUSCHE: I will reframe the ques-  
21 tion.

22 THE MASTER: Let's be in recess for  
23 twenty minutes.

24 (Whereupon the hearing was in recess  
25

1 from 11:40 a.m. until 12:00 noon of the  
2 same day.)

3 THE MASTER: Are you all ready to go?

4 MR. MITCHELL: Yes, Your Honor.

5 THE MASTER: You may proceed, Mr.  
6 Flusche.

7 - - - - -

8  
9 EXAMINATION CONTINUED

10 BY MR. FLUSCHE:

11  
12 Q Now, Judge, would you say -- you have examined  
13 Exhibits that I have shown you, the application  
14 for claims for claimant, the cross-index card  
15 prepared in Mr. Meek's office and some eight  
16 checks reflecting the payment or reflecting at  
17 least a disbursement of county funds.

18 MR. MITCHELL: That's right.

19 Q Payable to the order of Roberto Elizondo. Would  
20 you say that those documents all taken together  
21 indicate that Roberto Elizondo did indeed receive  
22 two hundred and twenty-five dollars a month from  
23 the County of Duval?

24 MR. MITCHELL: Your Honor, we are going  
25 to object to that, that is totally out of

1 the personal knowledge of this witness and  
2 it would call for speculation and it would  
3 be hearsay.

4 THE MASTER: Well, I disagree with  
5 hearsay, but I am not sure what you are  
6 asking the witness.

7 Are you asking him to draw a conclusion  
8 from those Exhibits?

9 MR. MITCHELL: That's right.

10 MR. FLUSCHE: Yes, sir.

11 THE MASTER: Well, don't you have to  
12 show that he is in a better position to draw  
13 that conclusion than I am?

14 MR. MITCHELL: It invades the province  
15 of the Master.

16 THE MASTER: Well, not always.

17 MR. MITCHELL: I said that we would  
18 object -- pardon me, Your Honor.

19 THE MASTER: We would, there are con-  
20 clusions that experts can draw and obviously  
21 the Judge is an expert in the field of law.

22 MR. MITCHELL: We would add the objec-  
23 tion, Your Honor, that it would invade the  
24 province of the Master.

25 THE MASTER: I am sorry, I thought you



1                   were trying to explain something.

2                   MR. MITCHELL: I can take a hint, Your  
3                   Honor. I think that the Court's observa-  
4                   tions are correct. My objection was not  
5                   broad enough so I am adding the objection  
6                   that it calls for an invasion into the pro-  
7                   vince of the Master.

8                   THE MASTER: I sustain the objection.  
9                   Unless you say that he is in a better posi-  
10                  tion than the finder of fact to draw that  
11                  conclusion, that is the test as I understand  
12                  it.

13                 Q (By Mr. Flusche:) Do you know of your own per-  
14                  sonal knowledge whether Roberto Elizondo received  
15                  two hundred and twenty-five dollars a month from  
16                  the County of Duval?

17                 A I refuse to answer on the grounds that it might  
18                  tend to incriminate me.

19                  THE MASTER: You are instructed to  
20                  answer the question.

21                 A No, sir, I didn't see him receive them.

22                 Q Did you do anything to facilitate his receiving  
23                  two hundred and twenty-five dollars a month from  
24                  the county of Duval?

25                 A I refuse to answer on the grounds that it might

1           tend to incriminate me.

2                         THE MASTER: You are instructed to  
3                         answer the question.

4         A I used to leave letters that he typed or schedules  
5           or things like that for him, some type of work  
6           for him to do over the weekend.

7         Q Is it your testimony then that he was indeed  
8           employed by the county of Duval on the weekends  
9           while he was attending court reporting school?

10        A I refuse to answer on the grounds that it might  
11           tend to incriminate me.

12                        THE MASTE R: You are instructed to  
13                        answer the question.

14        A He was employe~~d~~ by me as the district judge to  
15           do so. I encouraged young men to go to school.

16        Q Did you pay him for the work that he did on the  
17           weekends out of your own personal account.

18        A I refuse to answer on the grounds that it might  
19           tend to incriminate me.

20                        THE MASTER: You are instructed to  
21                        answer the question.

22        A No, sir, he was supposed to be paid by the county.

23        Q All right, how do you know that?

24        A I refuse to answer on the grounds that it might  
25           tend to incriminate me.

1 THE MASTER: You are instructed to  
2 answer the question.

3 A He had -- he was working for me, before going to --  
4 to court reporting school. I was having trouble --  
5 as a matter of fact, the day that I became dis-  
6 trict judge, was the day that I hired the only  
7 applicant to come down to my neck of the woods  
8 to become a court reporter.

9 He was having family troubles. His family  
10 would not stay down in our country. I could not  
11 find court reporters. I was afraid that I was  
12 going to be left some day without a court reporter.

13 I figures that if I could get someone local  
14 to become a court reporter, that I would be able  
15 to keep someone on the job and keep them here.

16 Q So in other words, you encouraged Roberto Elizondo  
17 to go to court reporting school to facilitate  
18 that intention of yours to get some local person  
19 whom you were assured that you could keep, is  
20 that correct?

21 A I refuse to answer on the grounds that it might  
22 tend to incriminate me.

23 THE MASTER: You are instructed to  
24 answer the question.

25 A Well, someone that would be from the area who

1 would stay there, whose family and roots and  
2 wife and what have you were from the local area.

3 Q Did Roberto Elizondo tell you that he was having  
4 some financial difficulties that would prevent  
5 him from going to court reporting school?

6 A I refuse to answer on the grounds that it might  
7 tend to incriminate me.

8 the master: You are instructed to  
9 answer the question.

10 A Oh, yes, he comes from a very poor family.

11 Q Do you remember the testimony of Jerry Parmer  
12 that he formed the impression that you were  
13 personally assisting him financially, do you recall  
14 that testimony?

15 A I refuse to answer on the grounds that it might  
16 tend to incriminate me.

17 THE MASTER: You are instructed to  
18 answer the question.

19 A I do. I don't recall that I took it that way,  
20 that I was personally paying him, that I was  
21 personally taking an interest in the young man.  
22 I did, as I have taken a personal interest in  
23 many young men in the area to go to school.

24 Q All right, now based upon what you have said,  
25 I take it that he remained on the county payroll

1 after he went to court reporting school then,  
2 is that correct?

3 A I refuse to answer on the grounds that it might  
4 tend to incriminate me.

5 THE MASTER: You are instructed to  
6 answer the question.

7 A Yes, sir.

8 Q All right. The entire time that he was in court  
9 reporting school?

10 A I refuse to answer on the grounds that it might  
11 tend to incriminate me.

12 THE MASTER: You are instructed to  
13 answer the question.

14 A Yes, sir.

15 Q And you say that he earned this two hundred and  
16 twenty-five dollars a month by working for you on  
17 the weekends?

18 A I refuse to answer on the grounds that it might  
19 tend to incriminate me.

20 THE MASTER: You are instructed to  
21 answer the question.

22 A Yes, sir.  
23  
24  
25

1 Q Okay. How frequently would he work for you on  
2 the weekends?

3 A I refuse to answer on the grounds it might tend  
4 to incriminate me.

5 THE MASTER: You are instructed to  
6 answer the question.

7 A He used to come in just about every weekend.  
8 There were a few exceptions, but I believe that  
9 he came in just about every weekend.

10 Q Now, of course, there were at least one weekend  
11 out of every month that he did not come in to  
12 work for you, is that correct?

13 A I refuse to answer on the grounds that it might  
14 tend to incriminate me.

15 THE MASTER: You are instructed to  
16 answer the question.

17 A Not necessarily. You are talking about the time  
18 that he came to the National Guard?

19 Q Yes.

20 A Well, they get through after 5:00 o'clock in the  
21 afternoon and he could easily do -- if I had a  
22 letter or two for him to type --

23 Q So, what you're saying then is that on Saturday  
24 night whenever he would get through with the  
25 National Guard, that he would come in and type

1           some letters for you?

2           A    I refuse to answer on the grounds that it might  
3           tend to incriminate me.

4                         THE MASTER:  You are instructed to  
5           answer the question.

6           A    It could be.  I was not leaving a whole stack of  
7           work for him to do.  It was just some sort of work  
8           for him to do.

9           Q    Now, who would authorize the payment of the two  
10           hundred and twenty-five dollars per month to  
11           Roberto Elizondo?

12           A    I refuse to answer on the grounds that it might  
13           tend to incriminate me.

14                         THE MASTER:  You are instructed to  
15           answer the question.

16           A    The Commissioners Court.

17           Q    And did you have any conversation with the  
18           Commissioners Court to justify the payment of  
19           these two hundred and twenty-five dollars per  
20           month?

21           A    I never had any conversation with the Commissioners  
22           Court one way or the other.

23           Q    Well, how would the Commissioners Court know  
24           that he had done the work that he was claiming  
25           payment for?

1 A I refuse to answer on the grounds that it might  
2 tend to incriminate me.

3 THE MASTER: You are instructed to  
4 answer the question.

5 A The young man had been working for me there in  
6 my position of district judge and he still came in  
7 on holidays and what have you and they approved  
8 it.

9 Q All right. Now, do you recall the testimony of  
10 Zenaida Montemayor that you would occasionally  
11 remind Jose Saenz to type up the claim for  
12 payment on behalf of Roberto Elizondo?

13 A I refuse to answer on the grounds that it might  
14 tend to incriminate me.

15 THE MASTER: You are instructed to  
16 answer the question.

17 A I recall the testimony.

18 Q Is that correct? Would you occasionally do that?

19 A I refuse to answer on the grounds that it might  
20 tend to incriminate me.

21 THE MASTER: You are instructed to  
22 answer the question.

23 A No, sir.

24 Q You never did that?

25 A I refuse to answer on the grounds that it might



1           tend to incriminate me.

2                   THE MASTER: You are instructed to  
3                   answer the question.

4           A    No, sir.

5           Q    But the reason that he was receiving his money as  
6                   a result of claims for payment rather than being  
7                   on the regular payroll was because of the  
8                   difficulty you described earlier that tended the  
9                   personnel in your office; in other words, some  
10                  of them were paid out of the Road and Bridge Funds  
11                  and some of them were paid out of the countywide  
12                  funds and some of them --

13          A    I refuse to answer on the grounds that it might  
14                  tend to incriminate me.

15                   THE MASTER: You are instructed to  
16                   answer the question.

17          A    My bailiff was paid out of the Road and Bridge  
18                  Fund.

19          Q    What funds was Roberto Elizondo paid out of?

20          A    I refuse to answer on the grounds that it might  
21                  tend to incriminate me.

22                   THE MASTER: You are instructed to  
23                   answer the question.

24          A    I don't know.

25          Q    Can you look at the Exhibit No. E-54 and tell the

1 Court from that document what funds he was paid  
2 from?

3 A I refuse to answer on the grounds that it might  
4 tend to incriminate me.

5 THE MASTER: You are instructed to  
6 answer the question.

7 A Farm-to-market lateral road fund.

8 Q Now, Judge, moving to --

9 THE MASTER: Are you moving to another  
10 paragraph?

11 MR. FLUSCHE: Yes, sir.

12 THE MASTER: The record will reflect  
13 and correct me if I am wrong, that at this  
14 time Judge Carrillo will be answering  
15 questions concerning paragraphs other than  
16 Paragraph 3 and that he is no longer invoking  
17 his Fifth Amendment privileges and I am no  
18 longer instructing him to answer.

19 MR. MITCHELL: That is correct,  
20 Judge Meyers.

21 THE MASTER: Thank you.

22 MR. MITCHELL: What number --

23 THE MASTER: I interrupted too soon.  
24 He was about to say.

25 MR. FLUSCHE: No. 4.

1 THE MASTER: All right.

2 Q (By Mr. Flusche) Now, Judge Carrillo, on direct  
3 examination I believe that you testified that  
4 you knew Francisco Ruiz.

5 A Yes, sir.

6 Q That he was a county employee at the time you  
7 became a district judge?

8 A Yes, sir.

9 Q And that he worked on your ranch only on one  
10 occasion and then very briefly?

11 A Yes, sir.

12 Q Is that correct?

13 A As far as I can remember, yes, sir.

14 Q What sort of work did he do for the county?

15 A He was a welder.

16 Q All right. On the one occasion that he did work  
17 for you on your ranch, did he bring welding  
18 equipment with him?

19 A Yes, sir.

20 Q And was that county-owned welding equipment?

21 A I guess it was. He used to take it --

22 MR. MITCHELL: Excuse me. Pardon me,  
23 Judge Carrillo. Would you please not guess.  
24 You either know or you don't know. May I  
25 have my witness -- my client instructed,

1 Your Honor, in the difference between  
2 guessing and --

3 THE MASTER: I will let you instruct  
4 him.

5 MR. MITCHELL: May I?

6 THE WITNESS: I don't know.

7 MR. MITCHELL: Excuse me, Judge  
8 Carrillo. With the Court's permission, you  
9 will please not guess. You either know or  
10 you do not know and answer accordingly.

11 THE WITNESS: Yes.

12 MR. MITCHELL: Thank you, Judge Meyers.

13 Q (By Mr. Flusche) Well, now, on direct examination  
14 you testified that he took the county welding  
15 equipment home with him every weekend and that he  
16 did welding for everybody else, so, you have some  
17 knowledge of the source of that equipment, don't  
18 you?

19 A Well, I know that it was at his house on weekends  
20 and I know that it was at his house that one time  
21 that I came over to see him.

22 Q And that was county equipment?

23 A I don't know.

24 Q But you testified on direct examination that it  
25 was county equipment?

1 A I have just been instructed not to guess and I  
2 am not going to guess.

3 Q As far as you know, does he own any personal  
4 welding equipment?

5 A He was a welder before he became a county  
6 employee.

7 Q As far as you know, do you know whether or not  
8 he owns any personal welding equipment?

9 A I don't know.

10 Q All right. The import of your testimony on  
11 direct examination is that everybody in Duval  
12 County uses county equipment to perform little  
13 insignificant chores on private property, is that  
14 correct?

15 A Yes, sir.

16 Q And it's a custom of that area?

17 A Yes, sir.

18 Q On the one occasion that he did -- that he did do  
19 work on your ranch, what kind of equipment did he  
20 work on?

21 A I don't remember the exact -- my direct testimony  
22 was such that -- I am trying to think. I don't  
23 remember the exact work that he did except that  
24 I know that he did go to the ranch.

25 Q Do you recall his testimony in the case in chief

1 in which he testified that he went to your ranch,  
2 many, many times, perhaps as much as one, two  
3 and three times a month from the time that you  
4 assumed the duties of district judge until he  
5 went to work for the water district; you remember  
6 that testimony?

7 A Yes, sir.

8 Q And your testimony is that that is not correct?

9 A My testimony is that that is a lie.

10 Q That is a lie?

11 A Yes.

1 Q If he testified that he did work on the root  
2 plows and on the root rakes and on the D8 Cats,  
3 that that is a lie?

4 A Yes, sir.

5 Q His testimony that he received no compensation  
6 from you for the work that he performed on your  
7 ranch, is that a lie?

8 A My testimony is that he came over once and as  
9 I recall, as I can best recall, I paid him.

10 Q Do you recall how much you paid him on that occa-  
11 sion?

12 A No, sir, it wouldn't have been very much, ten  
13 dollars or something like that.

14 Q But you do agree that he was -- an employee of  
15 Duval County and on the Duval County payroll at  
16 the time he did the work for you?

17 A He was working for the county but he did this  
18 work on the weekend.

19 Q All right.

20 MR. FLUSCHE: Now, I'm going to move  
21 to paragraph 5 of the amended notice of  
22 formal proceedings.

23 Q There is an allegation that Oscar Sanchez did  
24 work for you on the -- on some ranch property  
25 owned by you and that he used heavy equipment

1 belonging to Duval County and fuel to operate  
2 such heavy equipment in order to facilitate the  
3 building of a dirt reservoir.

4 A Yes, sir.

5 Q And you recall the testimony of Oscar Sanchez  
6 in that regard?

7 A Yes, sir.

8 Q He testified that this labor was performed some-  
9 time after you became the district judge and to  
10 the best of his recollection, it occurred in  
11 1971.

12 Now, is it your testimony that he did not  
13 perform any such services for you after 1971,  
14 after you became the district judge?

15 A That is correct, sir.

16 Q Your rebuttal to that is that the series of  
17 pictures introduced by Mr. Mitchell to show that  
18 the work that he had performed on your ranch  
19 was at a time much earlier than 1971?

20 A It was not at my ranch, it was at Calvin North's  
21 ranch and it was done approximately in 1964,  
22 1965.

23 Q But, of course, you own the Calvin North ranch  
24 in 1971, didn't you?

25 A Yes, sir.



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Q What would the type of heavy equipment that a person would use in constructing a dirt reservoir?

A It all depends on the size.

Q Well, what size was this thing that you were using -- or that you were building?

A No, this was a very -- the reservoir that was built on -- well, we called it a reservoir, the water hole that was drilled or dug on the Calvin North ranch was a very small hole. It wasn't anything elaborate, it was just ten feet -- I mean ten yards by twenty yards or something like that. It wasn't very deep either, it was just to catch -- get the water that overflowed from the trough and keep it there.

Q To catch the overflow from the pump that was operated by the windmill?

A From the water trough, you filled the water trough and it overflows into this hole.

Q Well, the pictures show in 1964 that you were using a grade-all.

A Yes, sir.

Q To construct this?

A Yes, sir.

Q Would a grade-all be appropriate for this type of construction?

1 A Yes, sir.

2 Q And I believe that you said that that was a  
3 county-owned grade-all back in 1964?

4 A Again, I don't know what county -- what equipment  
5 was owned by either the county or by -- there  
6 was -- they had several construction companies,  
7 independent construction companies that were con-  
8 structing different roads and what have you and  
9 I believe even Mr. Sanchez testified to that or  
10 Mr. Zertuche, I don't now which one, and that put  
11 a doubt in my mind as to the ownership.

12 Q I believe Mr. Zertuch testified that he thought  
13 it was county-owned equipment.

14 A He thought it was, and I might think that it is,  
15 too, but I have been scolded a couple of times  
16 over here for guessing, so I'm not going to guess  
17 any more.

18 MR. MITCHELL: That's right, thank you.

19 Q Do you deny that Mr. Oscar Sanchez, after you  
20 became the district judge, used county-owned  
21 equipment and fuel to work on your ranch?

22 A Yes, sir.

23 Q On your property?

24 A Yes, sir, I do.

25

1 (Discussion off the record.)

2  
3 Q Let me ask you this, do you know whether or not  
4 Ramiro instructed Oscar Sanchez to do the work  
5 in digging the dirt reservoir on the North ranch?

6 A I know he did not.

7 Q You know he did not?

8 A He was not the county commissioner at the time.

9 Q I understand, who did instruct him to do the work  
10 on the North ranch back in 1964?

11 A It would have to have been Mr. Atlee Parr, he  
12 was the county commissioner at that time.

13 MR. MITCHELL: Now, Judge Carrillo --

14 THE WITNESS: All right.

15 MR. MITCHELL: May I remind you again,  
16 please.

17 THE WITNESS: All right.

18 MR. MITCHELL: That you are not to specu-  
19 late with facts. Thank you, Judge Meyers.

20 Q Let me ask you this, does Ramiro have any owner-  
21 ship in the Borjas Ranch?

22 A No, the Borjas Ranch is what I was given by my  
23 father and my mother when they partitioned the  
24 property that they owned, and the Borjas Ranch  
25 was given to me.

1 Q And is that all of the property now that is  
2 encompassed by what is known as the Borjas Ranch?

3 A Yes.

4 Q That was all given to you by your mother and  
5 father when they partitioned their property?

6 A I have bought some adjoining property to the  
7 Borjas Ranch, but the original Borjas Ranch, the  
8 fence lines, when you say Borjas Ranch, that was  
9 given to me by my parents.

10 Q How many acres are comprised in the original  
11 Borjas Ranch?

12 A The original Borjas Ranch was approximately, what  
13 I received, approximately seventeen hundred acres.

14 Q Seventeen hundred?

15 A Yes.

16 Q And when did your mother and father partition  
17 their property so as to distribute part of that  
18 estate?

19 A It was over a period of years, you know, it was  
20 through the gift laws, each individual can give  
21 another three thousand dollars per year, without  
22 having to pay a tax on it as a gift tax and so  
23 my father could give us three thousand dollars  
24 and my mother could give us three thousand dollars  
25 which is equivalent to six thousand dollars.

1 His auditors, lawyers and what have you worked it  
2 out to where they could convey three hundred  
3 acres to us in one year and three hundred acres  
4 to us in another year until finally the whole  
5 estate that my father and mother owned were con-  
6 veyed to the children and to the grandchildren.

7 Q Now, that would -- say, seventeen hundred acres,  
8 that would require some five or six years in  
9 order to do that.

10 A It was over a period of time.

11 Q And what year -- from what year to what year did  
12 they do that?

13 A I don't know the exact years, it was back in  
14 the 50's.

15 Q Okay, and when did you acquire the Calvin North  
16 ranch?

17 A There were three separate conveyances, the dates  
18 of which I am not -- I do not remember exactly.

19 Q I believe there has been testimony here that you  
20 owned the -- you owned about a hundred and sixty  
21 acres at the time the pictures were taken out  
22 there on the Calvin North ranch?

23 A Yes, sir.

24 Q And then the last deed was in 1968, is that cor-  
25 rect?

1 A Yes, sir.

2 Q Is that from Mrs. North?

3 A Mrs. North.

4 Q Mrs. North, executrix?

5 A That is right.

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1 Q Now, you testified that probably Mr. Atlee Parr  
2 instructed Oscar Sanchez to do the work on the  
3 Calvin North Ranch and you have testified with  
4 regard to certain customs in your part of the  
5 country. Was it customary and ordinary for the  
6 county commissioners in your part of the county  
7 to order county employees to do work on private  
8 ranches with county-owned equipment?

9 A Yes, sir, it's done today.

10 Q Is it customary and ordinary for the county to  
11 furnish district judges in your part of the  
12 country with a chauffeur?

13 A No, sir.

14 Q You're one of the few that has a chauffeur, is  
15 that correct?

16 A No, sir, I don't have a chauffeur.

17 Q You have a bailiff who drives you around the  
18 circuit?

19 A I have bailiffs who help me drive sometimes, but  
20 I like to do my own driving most of the time.

21 Q If, however, Oscar Sanchez did dig a reservoir  
22 for you after you took office as the district  
23 judge, according to your testimony there wouldn't  
24 be anything extraordinary about that in your  
25 part of the country?

1 MR. MITCHELL: We object on the  
2 grounds that it calls for speculation and  
3 guessing and conjecture and it's argumentative.

4 THE MASTER: I will overrule your objec-  
5 tion.

6 A Mr. Sanchez never worked on my ranch since I have  
7 become a district judge.

8 Q But according to your testimony, that if he did,  
9 there wouldn't be anything out of the ordinary,  
10 would there --

11 A No.

12 Q -- in your part of the country?

13 A No.

14 Q Because you all customarily use county equipment  
15 and county employees for your personal ranches?

16 A I don't.

17 Q But the other county officials down there do?

18 A Some do.

19 Q Mr. Atlee Parr did, didn't he?

20 A I don't know.

21 Q Okay.

22 THE MASTER: Are you now going to 5-A?

23 MR. FLUSCHE: Yes, sir.

24 THE MASTER: With respect to 5-A, we  
25 have the same agreement that we had with



1 respect to No. 3.

2 MR. MITCHELL: Yes, Your Honor, we do  
3 and I appreciate that.

4 THE MASTER: Do you understand that?  
5 Do it exactly the same way.

6  
7 (Instructions to reporter.)

8  
9 MR. MITCHELL: Judge, I don't have a  
10 copy of it.

11 THE MASTER: Well, I have just given  
12 one away. Here is a rough draft. I think  
13 this is the complete thing except for the  
14 heading, Mr. Mitchell. I think that is it.

15 MR. MITCHELL: I want it for my client.

16 Your Honor, might I also in this  
17 connection have the same part or structure  
18 the record as regards Judge Carrillo's plea  
19 of his Fifth Amendment right?

20 THE MASTER: That is what I meant.  
21 That is what I just said. Mr. Owen  
22 understood, didn't you?

23 THE REPORTER: Yes.

24 THE MASTER: He is declining to answer  
25 and I am instructing him to answer.

1 MR. MITCHELL: Thank you. May I  
2 approach my client?

3 THE MASTER: Yes, sir.

4 MR. MITCHELL: Off the record.  
5

6 (Whereupon, an off-the-record  
7 discussion was had.)  
8

9 MR. MITCHELL: Thank you, Judge Meyers.

10 THE MASTER: You may proceed,  
11 Mr. Flusche.

12 MR. FLUSCHE: You know, Your Honor, I  
13 think that the examiners are going to decline  
14 to ask Judge Carrillo questions on 5-A  
15 because of the probability that he may be  
16 granted some immunity in connection therewith  
17 and, so, I will pass on to No. 6.

18 THE MASTER: Would you give me back my  
19 two 5-A's, then?

20 MR. MITCHELL: Then, Your Honor, might  
21 I make note of the record at this point when  
22 I take him back I intend to ask him  
23 questions of it and I would like to have it  
24 with the understanding that it will be done  
25 to trigger the provisions of the rules in

1 the statute on the immunity questions.

2 THE MASTER: You intend to question  
3 him on 5-A?

4 MR. MITCHELL: Yes, sir.

5 THE MASTER: After you do that, then,  
6 they may want to ask him some questions  
7 themselves.

8 MR. MITCHELL: I just didn't want them  
9 to be put upon when I did it and give them  
10 ample notice.

11 MR. ODAM: Do I understand then,  
12 Mr. Mitchell is going to ask him a question  
13 and his witness take the Fifth Amendment  
14 and then Mr. Mitchell is going to ask the  
15 Master to instruct the witness to ask the  
16 client to answer the question?

17 MR. MITCHELL: No, I am going to ask  
18 him a question and he is going to answer it  
19 and I hope to invoke the provision of the  
20 statute where he is called upon to answer  
21 in these proceedings.

22 MR. ODAM: Not by instructions.

23 MR. MITCHELL: No.

24 THE MASTER: Well, you said not by  
25 instructions and I didn't know what you meant.

1 MR. ODAM: By instructions, Your  
2 Honor, I mean the procedure we were just  
3 getting ready to go into there. I understand  
4 Mr. Mitchell intends to ask his questions and  
5 his client voluntarily give the answers and  
6 therefore Mr. Mitchell thinks then, his  
7 client having answered the question  
8 Mr. Mitchell propounded to him, that he could  
9 then get an immunity later on.

10 MR. MITCHELL: Yes, Your Honor, 5-A  
11 is included in the notice of formal hearing  
12 and I am going to ask him about them with  
13 the understanding that he is being called  
14 upon to answer such matters as are contained  
15 in Roman V-A and I hope thereby to trigger  
16 the provisions of the immunity, yes.

17 Q (By Mr. Flusche) I believe on direct examination,  
18 Judge --

19 THE MASTER: What paragraph are we on?

20 MR. FLUSCHE: No. 6.

21 Q (By Mr. Flusche) -- that you testified that on  
22 this occasion you had a private contractor engaged  
23 to give you a turnkey job on a construction of a  
24 building which was located on your sister's  
25 property, is that correct?

1 A That is correct, sir.

2 Q And the building was owned by you?

3 A Yes, sir.

4 Q And the construction was done for your financial  
5 benefit?

6 A Yes, sir.

7 Q But that on that occasion that for some reason  
8 or another the private contractor did not perform  
9 in accordance with your expectations, so, you  
10 undertook to have this work done with a bunch of  
11 high school boys?

12 A No, sir, that was not my testimony. The work was  
13 being done by the contractor. It was on weekends  
14 and kids are always coming out to me trying to get  
15 me to help them out with the -- there is some kind  
16 of school program or something, a little pocket  
17 money, and I always hire over a year several  
18 youngsters and I suggested to the contractor that  
19 these kids be hired because I figured they needed  
20 help and I thought they were going slow, but they  
21 wouldn't pay them. So, I paid the kids and I  
22 brought them out. I said they want to go out and  
23 work that day. I went over there to see them at  
24 noon and I found that the older folks were  
25 putting the load on the younger school kids and

1 I didn't like that too much and then I came back --  
2 when I came back home, I saw the backhoe and I  
3 went over and talked to the people who were in  
4 charge of it and told me where the key was and I  
5 transported it over to the ranch.

6 Q Now, what was the name of the private contractor  
7 again?

8 A Alejos Ramirez.

9 Q Did he have the equipment out there to construct  
10 this ditch for this foundation?

11 A Oh, the ditch was already dug and all of the  
12 iron and the wire and everything that goes into  
13 the -- it was just the pouring of the concrete  
14 that was going to be done; the ditch and the --  
15 whatever it is that you do to it, and covered  
16 up with some kind of a plastic cover was there;  
17 everything was there. It was the pouring of the  
18 concrete that was going to take place.

19 Q So, the backhoe was used to transport the concrete  
20 to the site of the construction, is that correct?

21 A No, sir.

22 Q Let me rephrase that question. The backhoe was  
23 used to pour the concrete, is that correct?

24 A The backhoe was used to lift the gravel and the  
25 sand and it has a bucket and you lift it and you

1           pour it into the cement mixer and then from there  
2           it's mixed and it's taken by wheelbarrows to the  
3           site.

4           Q    Okay. Now, who operated the backhoe on this  
5           occasion?

6           A    Thomas Elizondo.

7           Q    And was he on the county payroll at the time?

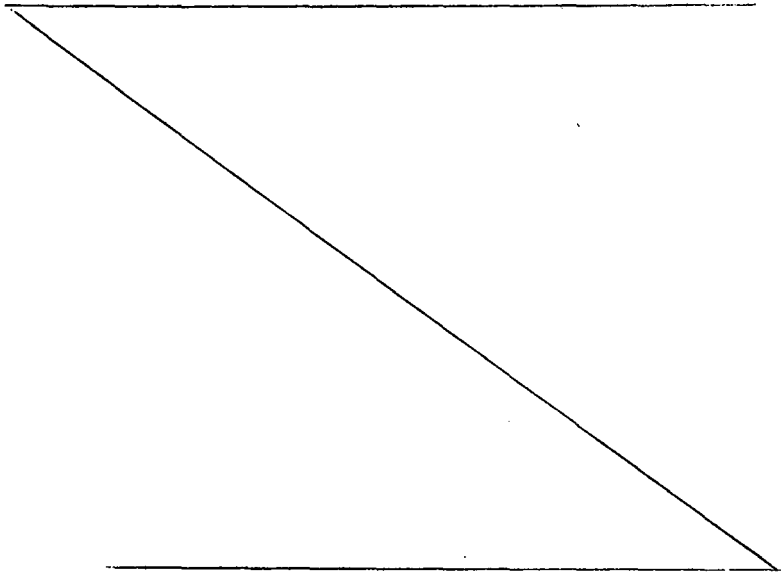
8           A    Yes, sir, but this was on a Saturday or a Sunday.  
9           I forget which.

10          Q    And the backhoe did belong to the water district?

11          A    It did.

12          Q    And what were the dimensions of that building that  
13          you were building?

14          A    Forty by forty, I believe.



1 Q All right, now, how long a period of time did  
2 Tomas Elizondo operate this back hoe for the  
3 purpose of making this concrete?

4 A Two or three hours.

5 Q And did he make enough to pour the whole slab?

6 A They had already poured -- by the time we took  
7 it over there, they were already more than half  
8 done.

9 You see, they were working early in the  
10 morning, we didn't get over there until the  
11 afternoon with it.

12 Q And so it was not until you -- until you deter-  
13 mined that the private contractor, Mr. Ramirez,  
14 was mistreating the youngsters, that you decided  
15 it should be done with county equipment?

16 A No, I went over there and I saw that they were  
17 putting the load on the school kids and I didn't  
18 particularly appreciate it and I came on back and  
19 I was talking about it and I had no intention  
20 of taking the back hoe or anything like that, it  
21 just happened that when we drove into town, I  
22 saw the back hoe and I saw that it was not being  
23 used. It was parked over there by the old city  
24 hall; that the idea came to me to take it over  
25 there to assist them with it.



1 Q All right, now, what sort of heavy equipment  
2 did Mr. Ramirez have for transporting the sand  
3 and gravel to the cement mixer?

4 A Shovels.

5 Q Shovels? So the high school kids were using  
6 the shovels and that is what disturbed you?

7 A Well, they were doing most of the work, yes, sir.

8 Q Well, do you recall the testimony of Ruben Chapa  
9 that it was his view that the back hoe remained  
10 out there all day long on that occasion?

11 A I recall Mr. Ruben Chapa's testimony that he  
12 came back in and he didn't know when it came back.

13 Q But, his testimony would be consistent with it's  
14 being out there in the morning, is that correct?

15 A The back hoe?

16 Q Yes.

17 A It was not there in the morning.

18 Q It was not there in the morning?

19 A No, sir.

20 Q What was the approximate date, according to your  
21 recollection that all of this took place?

22 A I don't remember the exact date, sir.

23 Q Well, does it comport with your recollection that  
24 it was in the latter part of 1973?

25 A That is when the construction began.

1 Q When did the -- when did the construction conclude  
2 on that building?

3 A 74.

4 Q Early 74?

5 A No, I don't remember exactly when, because there  
6 were different contractors that came in to do  
7 different work.

8 O What was the purpose of that building, what were  
9 you going to use it for?

10 A Drive-in grocery.

11 Q And is it located on Farm to Ranch -- or Farm  
12 and Ranch Road or Farm to Market Road?

13 A It is on Texas Highway 16 and the intersection  
14 of what we call the Borjas Road. It goes from  
15 the Borjas Ranch to Benavides.

16 Q Now, I believe you testified that you had a  
17 trailer which you used to transport it?

18 A Yes, sir.

19 Q But Mr. Chapa, I believe he testified that the  
20 truck and trailer was the property of Duval  
21 County, that transported the back hoe.

22 A I know he did.

23 Q And who drove the truck and trailer that trans-  
24 ported the back hoe to your property?

25 A I probably did.

1 Q It was not true that Tomas Elizondo did?

2 A Tomas Elizondo was with him, but like I say,  
3 whenever I am around, I like to drive. I don't  
4 like anybody else at the wheel.

5 Q Let me ask you this, Judge, there has been con-  
6 siderable testimony by people who have done work  
7 on your ranch that Patricio Garza was a permanent  
8 employee there and that Tomas Elizondo appeared  
9 to be the foreman of the ranch. Is that not  
10 correct?

11 A He appeared to be.

12 Q He appeared to be.

13 A He might have appeared to be, but he was not,  
14 and is not.

15 Q Is he -- is he regularly employed on the ranch?

16 A No.

17 MR. MITCHELL: Excuse me, I didn't  
18 understand who are you talking about,  
19 Patricio Garza or Elizondo?

20 A Tomas Elizondo.

21 MR. MITCHELL: I am sorry, did you  
22 understand the question?

23 THE WITNESS: Yes, sir.

24 Q Do you recall the testimony of Mrs. Zenaida  
25 Montemayor, you would occasionally instruct her

1 to call Roberto Elizondo and tell him there was  
2 going to be a roundup that weekend?

3 A That is possibly so, because everyone, when I  
4 have roundups, everyone likes to go.

5 Q And that was -- what is it that makes these  
6 roundups so facinating, why does everybody like  
7 to go?

8 A Well, we work about two or three hours and then  
9 we have a social.

10 Q You have a little pachango?

11 A A little pachanga, exactly.

12 Q A little beer and a little barbeque?

13 A We have a little beer and a little barbeque and  
14 we enjoy barbeques and we enjoy an outing.

15 THE MASTER: Would you spell that  
16 word, please.

17 THE WITNESS: P-A-C-H-A-N-G-A.

18 (Discussion off the record.)

19  
20 THE MASTER: Let's go on the record,  
21 the word you used is pachanga, it is a  
22 party or a get together?

23 MR. MITCHELL: I wanted to get it on  
24 the record, I wanted to know what we were  
25 having out there.

1 THE WITNESS: It is a get together or  
2 a party.

3 MR. MITCHELL: Yes, sir.

4 THE WITNESS: I might state that he  
5 stated pachango, and a chango is a monkey.

6 (Discussion off the record.)  
7

8 MR. PIPKIN: He just said you were  
9 monkeying around, Judge.

10 Q How many people would attend those roundups?

11 A To work or to visit?

12 Q Well, how many people would attend to work?

13 A About three or four.

14 MR. MITCHELL: Excuse me, Your Honor,  
15 I was wondering has he moved to another para-  
16 graph or am I -- I don't -- I know that I --  
17 I just don't know whether I can inter-relate  
18 it with any specific paragraph as to going  
19 out to the ranch for a roundup.

20 THE MASTER: I kind of lost track as  
21 to where we were, too.

22 MR. FLUSCHE: I am still on paragraph 6.

23 THE MASTER: I know, how does that  
24 relate to paragraph number 6?

25 MR. FLUSCHE: The use of county employees

1 in pursuit of his private business.

2 THE MASTER: I thought six was specifically --  
3 ally --

4 MR. MITCHELL: The back hoe.

5 THE MASTER: -- the back hoe.

6 MR. FLUSCHE: Well, of course, Tomas  
7 Elizondo was a county employee who was  
8 operating the back hoe.

9 THE MASTER: Well, let's move on.

10 Q (By Mr. Flusche:) I believe that you said in  
11 order to use this back hoe, that you approached  
12 a fellow by the name of Gregoria Garza.

13 A No.

14 Q Who did you approach?

15 A I'm glad you said Gregoria, I had forgotten his  
16 name. It was Gregoria Garcia.

17 Q Gregoria Garcia?

18 A Yes.

19 Q What is his position with the county?

20 A No, he was working for the water district at  
21 the time.

22 Q All right, but you did approach him to get the  
23 use of that back hoe?

24 A First, I went to Mr. Guadalupe Ruiz, and he  
25 was not at home, and then I went to both of

1 those men working for the water district and  
2 that operated this back hoe and then I went over  
3 to Mr. Gregoria Garcia and asked him if he would  
4 and I would pay him to go and operate that back  
5 hoe but he was busy doing something else and he  
6 said he couldn't go but why didn't I take it  
7 and the key was at the -- in the ashtray of the  
8 truck that was parked in front of Guadalupe  
9 Ruiz's home.

10 Now, we went over there to pick up the key  
11 and loaded the back hoe and we took it.

12 Q What is Mr. Guadalupe Ruiz's position?

13 A He also works for the water district and still  
14 does.

15 Q But he was not in any position of authority, he  
16 is just a laborer, isn't that correct?

17 A Well, he was in charge of the back hoe.

18 Q All right.

19 (Discussion off the record.)  
20

21 Q The sum and substance of your testimony here would  
22 be that you never have wrongfully appropriated  
23 the use of any county equipment to your own  
24 use and benefit?

25 A No, sir.

1 O Is that correct?

2 A That is correct, sir.

3 O How about a post hole digger that belongs to the  
4 county, have you ever used that item of equipment?

5 A No, sir, I have my own post hole digger.

6 MR. FLUSCHE: Let me see that picture.

7 MR. MITCHELL: I suppose the testimony  
8 now relates to the same Article, Your  
9 Honor. I don't --

10 MR FLUSCHE: The course of conduct,  
11 Your Honor.

12 MR. MITCHELL: I am hard out on the  
13 relevancy and I would like to object.

14 THE MASTER : Well, I don't know about  
15 course of conduct. Your objection, of  
16 course, is good in that there is no  
17 pleading.

18 MR. MITCHELL: That's right.

19 THE MASTER : And hence, no relevancy  
20 with respect to a post hole digger. Now --

21 MR. MITCHELL: And particularly in  
22 the face of the witness' answer that he  
23 owned his own, I don't think that --

24 THE MASTER: Well, you don't have to  
25 take an adverse witness' testimony.



1 MR. MITCHELL: That's true, Judge.

2 THE MASTER: You don't have to accent  
3 that.

4 MR. FLUSCHE: He has testified, Your  
5 Honor, that he never has used the post hole  
6 digger belonging to the county and I would  
7 just like to ask him two or three questions  
8 about that testimony.

9 THE MASTER: Well, I will let you go  
10 on a little bit, but I am pretty dubious  
11 about the admissibility of this.

12 MR. FLUSCHE: Would you mark this with  
13 the next appropriate Exhibit number?

14 (Marked for identification by the  
15 reporter as Exhibit E-180.)

16  
17 MR. MITCHELL: We would object to the  
18 introduction of E-180 in an attempt to  
19 impeach on a collateral matter.

20 THE MASTER: It hasn't been offered.

21 MR. MITCHELL: Well, he has handed it  
22 to me, Judge.

23 THE MASTER: It hasn't been identified  
24 by the witness as anything.

25 MR. MITCHELL: All right.

1 Q (By Mr. Flusche:) Judge, I will show you what  
2 has been marked as E-180 and ask you if you  
3 recognize the item of equipment that is depicted  
4 in that photograph?

5 A I am going to refuse to answer on the grounds  
6 that the answer might tend to incriminate me.  
7 I claim this right under the Fifth Amendment of  
8 the Constitution of the United States and under  
9 the Constitution of the State of Texas, Article 10,  
10 Section 1.

11 MR. MITCHELL: May I approach my client?

12 (Discussion off the record between Mr.  
13 Mitchell and the witness.)  
14

15 Q (By Mr. Flusche:) Do you know a fellow by the  
16 name of Eusebio Villarreal, do you know such a  
17 person?

18 A No, sir, not to my knowledge.

19 Q You are not acquainted with a fellow by that  
20 name who lives in Freer, Texas, at 410 Tipton?

21 A Could I consult with my attorney?

22 THE MASTER: Yes, sir.

23 (Discussion off the record between Mr.  
24 Mitchell and the witness.)  
25

1 MR. MITCHELL: Your Honor, my client  
2 has asked me, and I will, in his behalf,  
3 request the Court to ask Counsel if that  
4 question relates to the subject matter of  
5 E-180.

6 MR. FLUSCHE: It does.

7 MR. MITCHELL: We object to it on the  
8 ground that it is irrelevant and immaterial  
9 beyond the scope of any formal, informal  
10 hearing and we also, I'm going to instruct  
11 my client to invoke his -- and that he has  
12 a right to invoke, Your Honor, the Fifth --

13 THE MASTER: You are going to let me  
14 rule on the objection, aren't you?

15 MR. MITCHELL: Yes, Your Honor.

16 THE MASTER: Or are you going to have  
17 him invoke the Fifth before I rule?

18 MR. MITCHELL: Well, Your Honor, I will  
19 do whatever the Court orders me to do.

20 THE MASTER: If I rule in your favor,  
21 then you don't reach the question, do you?

22 MR. MITCHELL: That's right, Judge,  
23 that is right. I will withhold the --

24 THE MASTER: I am serious about the  
25 question of relevancy. Now, normally, --

1 the course of conduct is sometimes admissible  
2 but you're undertaking to prove, I assume,  
3 that he used this piece of equipment, which  
4 I take it is some sort of cost . . . digger  
5 and you think that proves that he used what  
6 else?

7 I mean, what does it prove that he  
8 used, the back hoe alleged in paragraph 6?  
9 He doesn't deny that, as I understand it,  
10 is that correct?

11 MR. MITCHELL: That is right, Judge,  
12 that is correct.

13 MR. FLUSCHE: Of course, he denies he  
14 used county equipment to transport it to the  
15 ranch and --

16 MR. MITCHELL: Excuse me, he is not  
17 charged with that, Judge. He is not charged  
18 with that, pardon me.

19 MR. FLUSCHE: I believe it was alleged,  
20 as --

21 MR. ODAM: Yes, he is.

22 MR. FLUSCHE: It was alleged that the  
23 back hoe was transported to the ranch on  
24 county owned truck and trailer.

25 THE MASTER: But you take the position

1 that use of a post hole digger proves that  
2 he transported the back hoe on county equip-  
3 ment?

4 MR. FLUSCHE: Let me ask you for  
5 instance, Judge, on the case of --

6 THE MASTER: You don't want to answer my  
7 question, huh?

8 MR. FLUSCHE: I didn't intend it that  
9 way.

10 MR. MITCHELL: I noticed that, Judge  
11 Meyers.

12 MR. FLUSCHE: That certainly was not  
13 my intention. It certainly crossed my mind  
14 and I thought I would put it out, but I  
15 don't think that -- no, it doesn't on the  
16 use of the truck and the trailer, but I  
17 think it does impeach on the use of the  
18 grade-all, the use of the labor of Oscar  
19 Sanchez in 1971.

20 If I may, I would be able to show,  
21 if I am permitted to pursue this line of  
22 questioning, I would be able to show that  
23 the Judge has used county equipment in  
24 1973 for his own private purposes and  
25 admits using it for the private purposes of

1 Calvin North in 1964, but he denies using  
2 it for his purposes in 1971.

3 I think that this is relevant to show  
4 that he probably did use county equipment  
5 in 1971 and the value of the services of a  
6 county laborer.

7 THE MASTER: I am still pretty doubtful.  
8 The trouble with course of conduct, you start  
9 trying two or three different lawsuits.

10 I know, for example, Mr. Flusche, that  
11 you can't prove that the Defendant ran a  
12 stop sign and thereby caused a collision by  
13 showing that he ran it the day before.

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

15 THE MASTER: Or even the day before  
16 that.

17 MR. FLUSCHE: Well, I think it is the  
18 same thing as motive, design and intention  
19 in a criminal case to show that a wrongful  
20 appropriation as an extraneous offense, to  
21 show that he probably had the intention to  
22 wrongfully appropriate it on the date that  
23 it is alleged.

24 MR. MITCHELL: But what difference is  
25 that if the -- I'm sorry, Judge, I will wait

1 for you to go ahead and call on me, if you --

2 THE MASTER: I'll be glad to hear from  
3 you.

4 MR. MITCHELL: First of all, the impeach-  
5 ment, all of this material, the matter is  
6 introduced for impeachment.

7 THE MASTER: Not at all, he said nothing  
8 about impeachment.

9 MR. MITCHELL: All right.

10 THE MASTER: It is in order to show  
11 course of conduct, motivation and intent  
12 is what he said.

13 MR. MITCHELL: Which is irrelevant and  
14 immaterial as the Court points out under the  
15 habit and custom rule, particularly where  
16 a witness in this case admits the use, habit  
17 and custom would be totally immaterial and  
18 irrelevant, particularly where it involves  
19 affidavits that are extraneous to the  
20 specifications and that is another problem  
21 that I have, Judge.

22 Although the comparison is loosely made  
23 under this procedure, in the civil cases we  
24 are not dealing with an ordinary civil case,  
25 we are dealing with more a quasi-criminal

1 case in that we have specific charges,  
2 paragraphs, specifications and we don't get  
3 the free flow here as we do in ordinary  
4 pleadings.

5 And I submit, Judge, that they are not  
6 admissible, they are totally extraneous.

7 MR. FLUSCHE: I think under the issue  
8 of impeachment, that it would be relevant  
9 to the question of his credibility when he  
10 testified that he did not use Oscar Sanchez  
11 in 1971.

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

14 THE MASTER : Now, I don't understand,  
15 is your proof going to show that Oscar  
16 Sanchez used this equipment?

17 MR. FLUSCHE: No, sir, another county  
18 employee.

19 THE MASTER : Well, then, I just don't  
20 see where it impeaches. The only question  
21 I have is course of conduct and I am going  
22 to sustain the objection.

23 MR. FLUSCHE: I think that completes  
24 my examination then on paragraph 6.

25 THE MASTER : You are free to make a



1 bill if you wish.

2 MR. MITCHELL: Well, I submit on cross-  
3 examination that the bill of exception is  
4 not the proper procedure but that the error,  
5 if it is an error, is on the restriction of  
6 the cross-examination.

7 The formal bill procedure is employed  
8 only when the witness is on direct examina-  
9 tion and the objection is made and sustained  
10 where the bill is employed, but where the  
11 witness is on cross, where counsel has him  
12 here there is no need to introduce into the  
13 record the data which has been excluded by  
14 the ruling because the complained error on  
15 the appeal is not what was included but  
16 improperly restricted on the scope of cross.

17 THE MASTER: I don't agree with that.  
18 I don't think that is the law.

19 MR. MITCHELL: It is.

20 MR. FLUSCHE: I think I am satisfied  
21 with the state of the record.

22 THE MASTER: All right, sir. Now, it  
23 is your turn, Mr. Odam?

24 MR. ODAM: Yes, sir.

25 THE MASTER: There is no point in

1 getting started, I don't suppose.

2 MR. MITCHELL: May I ask him which one  
3 he is going to get started on.

4 THE MASTER: Well, yes, you might --

5 MR. MITCHELL: <sup>SAVED</sup> May I have an indica-  
6 tion, Mr. Odam?

7 THE MASTER: I suppose he's going right  
8 down to 7.

9 MR. ODAM: I'm going to 7 and then the  
10 next one is 8 and the next one is 9 and  
11 then 10 and 11 and 12.

12 MR. MITCHELL: Thank you.

13 THE MASTER: All right, then this hear-  
14 ing is in recess until 8:30 in the morning.

15  
16 (Whereupon the hearing was in recess  
17 from 1:00 p.m. on December 9, 1975, until  
18 8:30 a.m. on December 10, 1975.)  
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