

**INQUIRY CONCERNING A JUDGE
NO. 5**

DECEMBER 11, 1975

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BEFORE THE
STATE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 5

DECEMBER 11, 1975

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

ORIGINAL

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C3745
V.21

1 THE MASTER: You may proceed, Mr. Odam.
2

3 - - - - -
4

5 O. P. CARRILLO
6

7 EXAMINATION CONTINUED

8 BY MR. ODAM:
9

10 Q Judge Carrillo, you were here when Cleofus
11 Gonzalez testified, I believe, were you not?

12 A Yes, sir.

13 Q Cleofus Gonzalez testified that he worked at
14 the Farm and Ranch Store, I believe that was his
15 testimony?

16 A Yes, sir.

17 Q Assuming that to be true, did you and your brother,
18 in behalf of the Farm and Ranch, employ him to
19 work at the Farm and Ranch Store?

20 A My brother ran the whole business of the Farm
21 and Ranch Store. I had nothing whatsoever to do
22 with the operation of the store.

23 Q Well, you were or are a partner in the Farm and
24 Ranch Store?

25 A Yes, sir, a partner but I didn't have time and

1 I did not spend any time whatsoever with the
2 operation of the store at all.

3 Q Was Cleofus -- was Cleofus Gonzalez employed by
4 the Farm and Ranch Store?

5 A Not to my knowledge.

6 Q He was not employed by the Farm and Ranch Store?

7 A Not to my knowledge -- in paragraph 7 through 12,
8 you have heard his testimony about filling out
9 certain slips while he was at the Farm and Ranch
10 Store, and also with respect to that paragraph,
11 and earlier once, he said he was at the Farm and
12 Ranch Store and did the work. As a matter of
13 fact he went into great detail about what he did.

14 If he was not employed by the Farm and
15 Ranch Store, could you please explain then why
16 he would be doing all of this work for the Farm
17 and Ranch Store.

18 MR. MITCHELL: Excuse me, Judge, I
19 don't see any relevancy and I'm going to
20 object to the specifications that Counsel
21 is making the inquiry about.

22 THE MASTER: Well, I don't --

23 MR. MITCHELL: As to what Cleofus
24 Gonzalez did at the Farm and Ranch.

25 THE MASTER: It relates to 5A. I

1 don't see how -- it may relate vaguely to
2 12 but it relates to 5A, doesn't it?

3 MR. ODAM: It relates to 5A but also,
4 of course, now in light of the examination
5 of the witness on direct examination, that
6 is that all of these pickup trucks, et cetera,
7 were at the Farm and Ranch Store and that
8 Mr. Gonzalez had this relationship with
9 these vehicles and Mr. Gonzalez rented,
10 apparently these vehicles to Mr. Couling.

11 THE MASTER: I will overrule the objec-
12 tion.

13 MR. MITCHELL: If the testimony, Your
14 Honor, is overruled on 5A, of course, then
15 we have renewed objections on the notice
16 and the --

17 THE MASTER: You have objections to
18 it's being filed.

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

20 THE MASTER: Yes, sir.

21 MR. MITCHELL: We do not intend to
22 waive that objection, that is right.

23 THE WITNESS: Are we on 5A, is that
24 what we are talking about?

25 THE MASTER: I think we are on several,

1 but go ahead with your examination.

2 THE WITNESS: Well, I would like to
3 know if I am on 5A.

4 MR. MITCHELL: We have a specific
5 reason, Judge Meyers.

6 THE MASTER: Oh, yes, you do, you
7 certainly do and you are entitled to that.

8 Well, that question certainly bears on
9 5A, yes, sir.

10 THE WITNESS: All right.

11 MR. MITCHELL: All right, Your Honor.

12 THE MASTER: In my view.

13 THE WITNESS: In that case, Your Honor,
14 I am going to refuse to -- decline to answer
15 any questions on the grounds that it might
16 tend to incriminate me. I claim this privi-
17 lege under the rights of the Constitution of
18 the United States and under the Constitution
19 of the State of Texas, Article 10, Section 1.

20 Q (By Mr. Odam:) Let's talk about it as it
21 relates to 7 through 12, for example, where Mr.
22 Gonzalez rented the personal vehicles at the
23 Farm and Ranch Store.

24 MR. MITCHELL: Your Honor, may I
25 inform my client that if he undertakes to

1 testify, as it relates to other areas, he
2 undoubtedly waives his rights under the
3 Fifth Amendment and also under the Miranda,
4 and the ink isn't even dry on that yet and
5 I would simply caution my client, Your
6 Honor, against answering any questions in
7 this area.

8 There is a procedure for Counsel to
9 simply ask the Court to order him to answer
10 the questions and then we can proceed from
11 there.

12 Q (By Mr. Odam:) Again, my question pertains to
13 questions 7 through 12 where you stated yesterday
14 that Mr. Gonzalez had rented all of these vehicles
15 to Benavides Implement and Hardware.

16 My question is, what salary or what money
17 did you pay or Farm and Ranch pay -- let's stop.
18 What salary did you pay to Mr. Gonzalez to rent
19 all of these personal vehicles?

20 A I had no dealings whatsoever with Mr. Gonzalez.

21 Q Now, all of the personal vehicles that were
22 either at your warehouse or there at the Farm
23 and Ranch Store location where the county warehouse
24 was, all of those vehicles, personal vehicles,
25 and I am not talking about the Farm and Ranch,

1 did you pay Mr. Gonzalez to be renting your
2 personal vehicles to Mr. Couling?

3 A I do not know that Mr. Gonzalez was renting them.

4 Q Well, I believe the testimony was yesterday that
5 Mr. Couling was giving you a check for personal
6 vehicles that had to be the vehicles at the Farm
7 and Ranch location.

8 A We are talking about personal vehicles and the
9 other equipment that Mr. Couling said that that
10 was the money he owed for equipment that had
11 been rented.

12 Now, I don't know what equipment that was,
13 except that he said that is all I had coming and
14 that is what I took.

15 Mr. Gonzalez didn't tell me anything,
16 because Mr. Gonzalez and I were not sneaking to
17 each other and I couldn't tell you at all.

18 Q On the personal vehicles, and vehicles that Mr.
19 Couling was allegedly paying you this money for
20 in paragraph 7 through 12 -- well, for example,
21 in paragraph 7 for a thousand and eight dollars,
22 paragraph 8 for a thousand and eighteen dollars
23 and paragraph 9 for a thousand and six dollars
24 and paragraph 10 for nine hundred and ninety-five
25 dollars for that equipment, is that equipment which

1 Mr. Couling received from the location of Farm
2 and Ranch Store or not? I'm just trying to pin
3 down what equipment that is.

4 A I know, Mr. Odam, the thing is that the equipment
5 was either at the Farm and Ranch or at my ware-
6 house.

7 Q Okay.

8 A And he rented it.

9 Q And from whom would he have rented that equipment?

10 A He would have rented it from me because it
11 belonged to me.

12 Q And did he just go out and get that equipment at
13 the warehouse?

14 A I don't know whether he went, like I say, I
15 cannot begin to speculate or testify that it
16 was either Mr. Cleofus Gonzalez or my brother
17 or somebody else: Pat Gonzalez or somebody else
18 except that he told me that he had rented this
19 equipment and he was paying me for it.

20 Q So it is your testimony it may have been Pat
21 Gonzalez that gave him permission to rent the
22 personal vehicles?

23 A I don't know who did.
24
25

1 Q It might have been Cleofus Gonzalez?

2 A It might have been.

3 Q Ramiro Carrillo?

4 A Might have been.

5 Q You recall Mr. Couling testified he didn't rent
6 any vehicles from any of those people?

7 A It could have been vehicles or equipment. I
8 remember his testimony, but I don't think he was
9 just going to bring me a thousand dollars and say
10 here it is.

11 Q You heard Cleofus Gonzalez testify around Page 1060,
12 that he took no fencing from the store, and the
13 only thing he took was nails.

14 I believe your testimony was he paid himself
15 and my question is, what would be your testimony
16 as to what you believe Cleofus Gonzalez took in
17 light of what he stated?

18 A I don't know what all he took. I do know he was
19 living very comfortably.

20 Q Was he living comfortably at the time you worked
21 for the Farm and Ranch Store?

22 A He was prospering.

23 Q Tell me in what way.

24 A He bought a pickup and some ranches and a station
25 wagon and he was building a warehouse at his

1 ranch.

2 Q Where did he get the money to prosper?

3 A I don't know. It might come out in Mr. Mitchell's
4 cross-examination of him.

5 Q I believe he has.

6 A No.

7 Q That is right, I am sorry, he waived the right
8 to cross him.

9 Cleofus Gonzalez's testimony at Page 1100,
10 that you came to the Farm and Ranch Store about
11 once a week is his testimony.

12 Assuming that to be true, how often would
13 you say you came into the Farm and Ranch Store?

14 MR. MITCHELL: Excuse me, a time frame.

15 THE MASTER: Yes.

16 Q The time frame I am referring to would be the
17 time frame from the time that you were first
18 elected in 1971 until the date -- the present date,
19 a four year period.

20 A I would say I would come in about once a month,
21 if that.

22 Q That would be true in 1971?

23 A All during that time. I used to sometimes go
24 around the back yard, just drive through there
25 and then drive out. I seldom came into the store.

1 Q Mentioning a time frame, I intended to ask you,
2 who was your opponent the first time you ran for
3 office?

4 A I ran unopposed.

5 Q The next time you ran for office was in 1974, is
6 that right?

7 A That is right.

8 Q Who was your opponent at that time?

9 A I was unopposed.

10 Q Were you unopposed in both the primary and general
11 election?

12 A Yes, sir.

13 Q Again, on Paragraph 7 through 12, and I do not --
14 or will not be repetitious.

15 On E-60 and E-61 on Paragraph 7, those were
16 the statements Mr. Gonzalez stated he filled out,
17 and on Paragraph 8, E-72 and E-73 and on
18 Paragraph 9, E-73 and E-74, Paragraph 10, E-78 and
19 E-79, Paragraph 12, E-91 and 92.

20 Do you recall Mr. Gonzalez's testimony that
21 no service was performed, that he said it was
22 something he was just told to make up?

23 MR. MITCHELL: I know of at least
24 three times it has been gone over and this is
25 repetitive.

1 MR. ODAM: I am just going to ask that
2 one question.

3 THE MASTER: Let me hear the question.

4 Q (By Mr. Odam) With respect to those services,
5 which were not performed, but made up by
6 Mr. Gonzalez, what is your explanation then, if
7 that were the case, on all these tickets?

8 A I have no knowledge whatsoever of the tickets
9 prepared by Mr. Gonzalez.

10 Q Mr. Couling stated he had been offered a job by
11 you back before he -- when he became tax
12 assessor.

13 Would that be true, that you offered him
14 that job before you went onto the school board?

15 A I don't recall offering him a job. I was running
16 against Atlee Parr at the time and Burt Harris.
17 There were three of us running in that election.
18 I don't remember offering him a job, because as
19 one out of seven trustees, I could not very well
20 do that unless I was going to take control of that
21 board. All of the other members, I could not
22 relate to and I might have told him I would
23 recommend him for a job if I got elected, but
24 when you try to ask for votes, you generally
25 promise a lot of things.

1 Q At Page 1602, he said you offered him a job.
2 Would it be your testimony you did not offer him
3 a job?

4 A I ran for the school board back in 1962, I
5 believe. I don't remember who all I talked to
6 and what all I said, but I don't recall having
7 offered him the job. I do know he ended up being
8 the tax collector and assessor.

9 Q I asked him also why he opened up the Benavides
10 Implement and Hardware on a long time basis, since
11 he testified that it had been opened only for
12 short periods of time. Do you recall those
13 questions?

14 A Yes, sir.

15 Q When I asked him why he opened it up on a longer
16 term basis, he said your brother Ramiro told him
17 to up the store so they could sell goods to the
18 county.

19 Do you have any explanation of that?

20 A No, sir, I have no explanation of why he opened
21 up the store.

22 Q Do you know why your brother told him to open up
23 the store to sell goods to the county?

24 A I have no knowledge of that.

25 Q He also testified at 1605 that his store,

1 Benavides Implement and Hardware, had no vehicles
2 to rent, the store had no vehicles.

3 What would be your testimony with respect to
4 what Mr. Couling said on that?

5 A I recall he said he had no vehicles or nothing to
6 rent and then he came right back and said he had
7 a dump truck and I don't know what else. He had
8 two different statements.

9 Q A dump truck?

10 A Yes, he said he had a dump truck.

11 Q On E-60 and E-61 on Paragraph 7, he testified
12 there was no work done on those, which is about
13 Page 1615.

14 A Could I see those exhibits, please?

15 Q Yes, sir. E-61 is a contract on fencing county
16 roads and he testified that his store didn't do
17 the work performed on that ticket.

18 A Yes, sir.

19 Q What would be your testimony with respect to the
20 statements made on those two tickets?

21 A I have no knowledge of these whatsoever, either
22 one of these exhibits.

23 Q Would that testimony be the same with respect
24 to all of the invoices?

25 Now, this is a series of invoices that

1 Mr. Gonzalez prepared and Mr. Couling testified
2 that none of the work was performed. Your
3 testimony is that you have no knowledge of any
4 of these in light of testimony of Mr. Gonzalez or
5 Mr. Couling?

6 A No, sir.

7 Q On Page 1630, Mr. Couling said that Mr. Ramiro
8 Carrillo brought him a county check and that he
9 said the purpose for this was to get you a check
10 of a like amount.

11 Assuming that to be true, what would be your
12 testimony with respect to that?

13 A I am not going to assume anything.

14 MR. MITCHELL: I am going to ask my
15 client not to assume a fact of anything as
16 to what Ramiro Carrillo --

17 THE MASTER: I didn't hear the question.

18 MR. ODAM: The question was, when I asked
19 Mr. Couling why he made out a check to Judge
20 Carrillo in the amount of one thousand eight
21 dollars, he said because Ramiro Carrillo
22 brought him the check and told him to make
23 out a check to Judge Carrillo in a like
24 amount.

25 MR. MITCHELL: Which is hearsay and we

1 object to that. It is hearsay to my client.

2 THE MASTER: And do what?

3 MR. ODAM: Assuming it was true, my
4 question was whether he would agree that did
5 or did not take place.

6 MR. MITCHELL: Why ask him if it did.
7 I can see that it is true, based upon the
8 assumption.

9 MR. ODAM: Let me strike the assumption
10 that it is true. That was his testimony.

11 Q (By Mr. Odam) His testimony was that your
12 brother brought him the county check in the
13 amount of one thousand eight dollars. He said
14 that was because Ramiro said to make out a check
15 in a like amount.

16 My question is: Did that, in fact, take
17 place?

18 A I don't know.

19 Q You have no knowledge of that taking place?

20 A I do not.

1 Q Assuming that it is true that it did take place
2 pursuant to the testimony that Mr. Couling gave,
3 why would he give him such instructions?

4 A I don't know.

5 O This was also true, I believe, with respect to
6 Exhibit E-69, which was a check in the amount
7 of a thousand and eighteen dollars which is
8 also in Exhibit Number E-151. He said that
9 when Ramiro Carrillo told him to make out a
10 check to you in the amount of a thousand eighteen
11 dollars, when he brought him the county check in
12 the like amount.

13 Now, assuming that to be true, why would he
14 tell him to make out a check in the like amount?

15 MR. MITCHELL: Judge, I'm going to
16 object to him questioning the witness on
17 that. We have denied each and every allega-
18 tion of Mr. Couling.

19 THE MASTFR: I don't see the point in
20 this. You can ask this witness to assume
21 and speculate why it might have been done
22 but he says he has no personal -- you can
23 certainly ask him about the event, and if
24 he has any personal knowledge of it.

25 But now when you ask him to assume, ask

1 him why would that have happened, I don't
2 think you can do that.

3 MR. MITCHELL: Yes, sir, that is --

4 MR. ODAM: Let me repeat the question.

5 MR. MITCHELL: That is non-sequitor.

6 THE MASTER: I don't know that it is
7 non-sequitor, it doesn't add anything
8 to the substance of the testimony in this
9 record.

10 MR. ODAM: Let me rephrase the ques-
11 tion, please.

12 Q (By Mr. Odam:) On check E-69, which is the
13 same as E-151, do you have any personal knowledge
14 about that event that was testified to, that is
15 that Ramiro Carrillo brought him, Mr. Couling,
16 in a like amount. Do you have any personal
17 knowledge that would shed any light on that event?

18 A I do not.

19 Q All right, check 152 and 153, these were checks
20 that pertain to the question I asked you yester-
21 day about the thousand and six dollar check from
22 the county and when there was a check to you for
23 seven hundred and three o six.

24 Mr. Couling's testimony was that these were
25 checks that were made out and he was instructed

1 by Ramiro Carrillo to make them out to O. P.
2 Carrillo.

3 Now my question is do you have any personal
4 knowledge about that event that Mr. Couling testi-
5 fied to?

6 A No, sir.

7 Q Again, his testimony at around page 1759, he
8 said the reason there was two checks was that
9 two days after he received the county check, that
10 you came by and you said you needed seven hundred
11 dollars so he made out this one for that payment.

12 Did you go by and tell him that you needed
13 the payment in the amount of seven hundred dollars?

14 A No, sir.

15 Q That Mr. Couling testified to?

16 A No, sir.

17 Q All right. Check E-153 is in the amount of
18 three hundred and six dollars. Mr. Couling said
19 again at page -- around page 1759 that he knew
20 that three hundred and six dollars was left from
21 the check that he got from the county and one day
22 you came around and you wanted a check for the
23 rest of the money.

24 Do you recall coming around and asking Mr.
25 Couling for a check for the rest of the money,

1 this is the testimony around page 1759?

2 A No, sir.

3 Q You didn't go around and ask him for the rest of
4 the money from the county check?

5 A No, sir.

6 Q All right. Check Number E-154, which pertains to
7 the check for nine hundred and ninety-five dollars,
8 the testimony around page 1768 Mr. Couling iden-
9 tified that check and Mr. Couling stated that
10 he personally handed you that check for nine hun-
11 dred and ninety-five dollars and he said that
12 this was for no services that were performed by
13 O. P. Carrillo.

14 Would it be your testimony that the services
15 performed, using that term broadly, would be the
16 rental of the trucks that you rented to him?

17 A And/or other equipment.

18 Q Or other equipment?

19 A Yes.

20 Q And then when Mr. Couling stated that nothing was
21 performed by you, the rental of trucks or services
22 or rentals of any equipment that that -- that is
23 just not right?

24 A My his own words to me it is not right.

25 Q What were his words to you?

1 A That he owed me that money for equipment that
2 he had rented for me.

3 Q Well, he testified here that he personally handed
4 you a check and that he said it was not for ser-
5 vices that were rendered at page 1768.

6 MR. MITCHELL: Excuse me, Your Honor,
7 I don't have any objection to him quibbling
8 back and forth all day. It is highly argu-
9 mentative and highly speculative.

10 The record is clear, Mr. Couling and
11 Mr. -- and Judge Carrillo disagree on basic
12 facts which I think this Master has before
13 him in the record eighty times to one.

14 I just don't believe that we have any
15 quarrel, if he wants to go between now and
16 the first of the year. My client can stand
17 there and deny these questions but it is
18 highly repetitive, Judge Meyers, and argu-
19 mentative.

20 MR. ODAM: Your Honor, I'm not seeking
21 to repeat on any matter in this record. I
22 just want the record to be clear that Mr.
23 Couling has stated these matters and I want
24 the record to show the denial of Judge
25 Carrillo on all of these matters.

1 THE MASTER: All right.

2 MR. ODAM: Perhaps we will come to an
3 area where they agree on one of these items,
4 but I do not want to proceed --

5 THE MASTER: All right, you may proceed.

6 MR. MITCHELL: I'm going to put him
7 on notice that I'm going to go right back
8 through all of these things with him when
9 we get him back.

10 THE MASTER: All right.

11 Q (By Mr. Odam:) On Exhibit E-155, that was a
12 check for a thousand and two hundred dollars on
13 page 1777. Mr. Coaling said as to why he made
14 out that check, that he stated every check that
15 he made out was because there was money coming
16 from the county previously to make out those
17 checks, it was not for work performed by O. P.
18 Carrillo or --

19 MR. MITCHELL: Now, wait a minute,
20 yesterday he stipulated that there wasn't
21 a -- he stipulated that under the Exhibits
22 154, 155 and 156 that there was not any
23 invoices and was none and now he is going
24 contrary to the stipulation that he agreed
25 to yesterday, that there were no invoices or

1 warrant, Your Honor, behind those.

2 THE MASTER: No, I thought he said not
3 in the record.

4 MR. ODAM: In the record, I said there
5 were not.

6 THE MASTER: You asked for a stipulation
7 that there were none and he refused to stipu-
8 late that but he stipulated that there were
9 none in evidence. Don't you remember that?

10 MR. MITCHELL: Yes, I do, Your Honor,
11 and, of course, the record will reflect that
12 they have had now an intensive investigation
13 going on down there since last April and I
14 imagine if they had found them, they would
15 be stacked up in here like everything else.

16 MR. ODAM: Your Honor, if he would make
17 a statement like that, I would also make
18 certain statements about the investigation
19 and about the extent of getting money and
20 proof into this record, but I will not do so.

21 THE MASTER: And the statement adds
22 nothing to the record, Mr. Mitchell.

23 MR. MITCHELL: Well pardon me, Judge,
24 I don't want the record to speak negatively
25 in the existence of these -- in other words,

1 I would like an affirmative determination,
2 if I have to subpoena someone that there
3 are no checks from Duval County, there are
4 no invoices signed on Benavides order blanks
5 and I think it is important for the record,
6 Judge Meyers, in view of the conspiratorial
7 count.

8 THE MASTER: It may well be, but what
9 I was saying to you is your statement about
10 the investigation is pure argument. It
11 adds nothing to the substantive evidence in
12 this record.

13 MR. MITCHELL: Well, I understand that,
14 Judge.

15 THE MASTER: And you may very well
16 want to subpoena, but you have called for
17 a stipulation from the Examiner that there
18 were no checks and he declined to stipulate.

19 MR. MITCHELL: I understand.

20 THE MASTER: He did stipulate that there
21 were no checks in this record.

22 MR. MITCHELL: I understand, Judge
23 Meyers.

24 THE MASTER: And further conversation
25 won't develop that.

1 MR. MITCHELL: I understand, Judge
2 Meyers, but I also understand that a person
3 reading the record, such as the Commission
4 or the Supreme Court, not having sat in the
5 courtroom while three people from the Attorney
6 General's office pawed through reams of
7 records from 9:30 one day until 11:00 when
8 this Court gave them an opportunity to do
9 so, that would be irrelevant.

10 I do know the search and the inquiry
11 and the diligence with which the records
12 have been searched, should be known by the
13 people upstairs and they are not sitting
14 here.

15 THE MASTER: That's right, but you have
16 to prove it in the record and not state it
17 because your statement is not proof.

18 MR. ODAM: I would rather not call the
19 attorney on the opposite side and put him
20 on the stand, I don't like to do that, but
21 I will.

22 Q (By Mr. Odam:) Now, the check for one thousand
23 two hundred dollars, this is E-155, when Mr.
24 Couling was asked why he made out that check for
25 one thousand two hundred dollars, he stated that

1 every check that he made out was because there
2 was money from the county previously received
3 for those checks.

4 A May I see that check please?

5 (Exhibit E-155 handed to the witness.)
6

7 THE WITNESS: All right, now on
8 check E-155, O. P. Carrillo payable to
9 O. P. Carrillo for twelve hundred dollars,
10 it is supposed to be a loan. Do you want me
11 to again explain this check?

12 Q Your explanation --

13 A I will be happy to.

14 Q Is that -- yes, please.

15 A All right. This was for money owed from the
16 water well rig. I went over to Mr. Couling and
17 I told him that they were not making the payments
18 on the rental on the water well rig, that I
19 either needed the money or I was going to get
20 the rig.

21 He did not know how much was owing or
22 totaling and he gave me twelve hundred dollars on
23 account, your might say, instead of a loan. It
24 was an advance on the money that he owed. But
25 he marked on there as a loan because it would be

1 deducted and paid back to him when the rental
2 was paid, and that is why the twelve hundred
3 dollars, that is what it is all about.

4 Q Isn't it a fact that that water well rig, you
5 got rid of that water well rig long before that
6 check was even written out?

7 A We haven't gotten rid of it to date. I am trying
8 to get it back.

9 Q You probably spoke to this yesterday, but my
10 question to you, and again I do not want to be
11 repetitious, but could you pinpoint who it was
12 that actually rented this water well rig to
13 Benavides Implement and Hardware? Was it you or
14 Ramiro or Cleofus or who?

15 A I have no recollection except that it was being
16 paid through them.

17 Q Now, on paragraph 12, this would pertain to the
18 testimony that Mr. Couling gave about the
19 Caterpillar, for example, he said that -- that
20 you had discussed with him getting money from
21 the county to make payments on the Caterpillars.

22 Now, my question to you is do you deny that
23 you ever had such a conversation with Mr. Couling?

24 A I do.

25 Q Now, with respect to Exhibit E-94, I will hand you

1 a copy that is in evidence and show a copy to
2 the Master of E-94. Can you identify that item,
3 please, for the record?

4 A It is a check, that's all I can say and I have
5 never seen it before.

6 Q And from whom is the check made out?

7 A The treasury of Duval County.

8 Q And what is the amount of money?

9 A One thousand six dollars.

10 Q Mr. Couling testified on this check that this was
11 one of the checks that was received, that ultimately
12 went for payment on this equipment, either
13 Caterpillars or root plows and now from the testimony
14 we have learned Massey-Ferguson.

15 My question is, do you have any personal
16 knowledge about this check coming from the county,
17 in view of Mr. Couling's testimony?

18 A Yes, sir.

19 Q Okay.

20 A I just noticed something here.

21 Q Great.

22 A It is impossible for this check to have gone
23 for the payment of the Caterpillar tractors.

24 Q And why?

25 A Because this check is dated the 12th day of

1 December, 1972, and the Caterpillar tractors had
2 not been bought at that time.

3 MR. MITCHELL: That is right.

4 Q That's right, and when was the check made out
5 for the payment on the Massey-Ferguson tractor --
6 on the Massey-Ferguson tractor?

7 A On that Massey-Ferguson tractor, that check, I
8 am again going to tell you that I have absolutely
9 and completely no recollection about that trans-
10 action whatsoever.

11 I can shed no light on it. I can again sit
12 here and visit with you as long as you want to,
13 sir, but I have no knowledge whatsoever about
14 that transaction.

15 Q All right, and the reason that I broaden the
16 question, not to be on the Caterpillars and not
17 only root plows, but the Massey-Ferguson is because
18 I believe on these particular checks that ques-
19 tion was asked of Mr. Mitchell on a thousand and
20 six dollars -- asked by Mr. Mitchell and it was
21 at that time Mr. Couling testified, and, of
22 course, the record will reflect what it was.

23 A Could I see that check?

24 MR. MITCHELL: Excuse me just a minute,

25 Judge Meyers. We are far afield from the

1 wording of the notice. I don't see a thing
2 in it to began with about any tractors nor
3 do I see anything about any bulldozers, the
4 record bespeaks my objection.

5 Now I'm going to object on the Massey-
6 Ferguson and I am not prepared to try a
7 Massey-Ferguson and if he is going to go
8 into it, I'm going to request a continuance
9 and an opportunity to prepare myself.

10 THE MASTER: Isn't this the same
11 Massey-Ferguson that was discussed at length,
12 Mr. Mitchell?

13 MR. MITCHELL: Yes, it is, Your Honor,
14 but it has been over my objection. And now
15 I understand he is going to go into it again.

16 I am just going to object to it, I am
17 not prepared on the Massey-Ferguson. The
18 only one that I know about is this contract
19 going back to 1964, I am just not prepared.

20 THE WITNESS: Could I --

21 THE MASTER: The objection is overruled.

22 THE WITNESS: Could I have a conference
23 with Mr. Mitchell, please, Your Honor?

24 THE MASTER: Yes, sir.

25 MR. MITCHELL: All right, may I have

1 some indication of which one of these forms
2 or which one of these specifications, Judge
3 Meyers, we are talking about. I have no
4 way in the world of defending that.

5 MR. ODAM: Paragraph 12, all of the
6 money from the county.

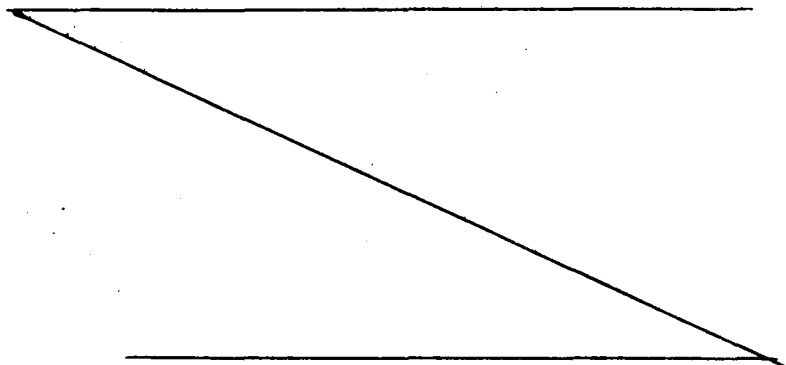
7 MR. MITCHELL: I have counted twenty-
8 seven thousand dollars that you have proven
9 under 12, Mr. Odam.

10 MR. ODAM: Twenty-seven thousand?

11 MR. MITCHELL: Twenty-five to twenty-
12 seven thousand.

13 MR. ODAM: Maybe I made an error if I
14 just out nineteen thousand in there.

15 (Whereupon discussion was had at the
16 witness stand between Mr. Mitchell and the
17 witness.)
18



1 Q I will ask you to examine E-97. At the same time
2 I will show a copy of this to the Master and ask
3 you if you can identify this item.

4 A This is a check from the treasurer of Duval County
5 for one thousand eighteen dollars ten cents.

6 Q What is the date?

7 A The 16th of January, 1973.

8 Q Again, the record can speak as to what Mr. Couling
9 testified to, but it was one of the checks that
10 went to the payment of equipment. This was in
11 January and we are now getting in a series of
12 checks applied to, first of all, payments on the
13 Caterpillars.

14 Assuming that is what he testified to, do
15 you have any personal knowledge of your discussions
16 with him -- strike that.

17 Did you have any conversation with Mr. Couling
18 about getting this particular check from the
19 county or this series of checks?

20 A No, sir, I did not have any conversation with him
21 whatsoever concerning this.

22 Q I show you what has been marked as E-100 and ask
23 you if you can identify it?

24 A It is a check from the treasurer of Duval County,
25 payable to Benavides Implement and Hardware for

1 one thousand fifteen dollars.

2 Q What is the date of that check?

3 A The 14th day of February, 1973.

4 MR. ODAM: And I show a copy of E-100
5 to the Master.

6 Q My question is, do you have any knowledge of this
7 check?

8 A No, sir.

9 Q Or about Mr. Couling's testimony that this was
10 going to pay for this equipment?

11 A No, sir.

12 Q I show you E-103. Can you identify that?

13 A It is a check from the treasurer of Duval County
14 to Benavides Implement and Hardware in the amount
15 of one thousand sixty-seven dollars seventy cents.

16 MR. ODAM: I show the Master a copy of
17 E-103.

18 MR. MITCHELL: We have gone back to 4
19 or 5, are we starting over again?

20 MR. ODAM: All of these checks pertain
21 to Paragraph 12.

22 THE MASTER: That is my understanding,
23 that we are on Paragraph 12.

24 MR. MITCHELL: Thank you, Mr. Odam.

25 Q (By Mr. Odam) This check from Duval County made

1 out to Benavides Implement and Hardware, what would
2 be your testimony with respect to this check?

3 A I have no knowledge of it.

4 Q And you would not have had a conversation about
5 obtaining this check from Duval County with
6 Mr. Couling?

7 A I would not.

8 Q I show you a check marked E-106 and ask you if
9 you can identify this item?

10 A It is a check from the treasurer of Duval County
11 payable to Benavides Implement and Hardware.

12 Q What is the date of that check?

13 A The 18th of April, 1973.

14 Q And what is the amount of money on that check?

15 A Nine hundred ninety-eight dollars.

16 Q And would you deny, also, -- well, strike that.

17 What would be your testimony with respect to
18 this particular check and obtaining this check from
19 Duval County?

20 A I have no knowledge of this check.

21 Q I will ask you to identify E-109.

22 A A check from the treasurer of Duval County, payable
23 to Benavides Implement and Hardware.

24 Q What is the amount of that?

25 A One thousand six dollars.

1 Q What is the date on this check?

2 A June, 1973.

3 Q Had you had a conversation with Mr. Couling to
4 obtain this check from Duval County to make the
5 payments on the Caterpillars?

6 A No, sir.

7 Q I show you E-112 and ask you if you can identify
8 E-112?

9 A It is a check from the treasurer of Duval County
10 to Benavides Implement and Hardware in the amount
11 of one thousand twenty dollars eighty-five cents.

12 Q What is the date on E-112?

13 A June, 1973.

14 Q Did you have any conversation with Mr. Couling
15 to obtain this check from Duval County to pay
16 for this equipment?

17 A No, sir, I did not. That is just about the same
18 day as E-109.

19 Q Yes.

20 I will ask you to identify E-115.

21 A It is a check from Duval County to Benavides
22 Implement and Hardware in the amount of one
23 thousand thirteen dollars thirty cents.

24 Q What is the date of that check?

25 A July, 1973.

1 Q And with respect to E-113, did you have a
2 conversation with Mr. Couling to obtain this
3 check from Duval County to make payments on the
4 Caterpillars?

5 A No, sir.

6 Q Identify E-118.

7 A It is a check from the treasurer of Duval County
8 payable to Benavides Implement and Hardware
9 Company in the amount of one thousand ninety-five
10 dollars.

11 Q What is the date of that?

12 A It is dated August, 1973.

13 Q This check, which is marked as E-118, did you
14 have a conversation with Mr. Couling to obtain
15 this check from Duval County?

16 A No, sir, I did not.

17 Q I show you E-121 and ask you to identify it.

18 A It is a check from the treasurer of Duval County
19 to Benavides Implement and Hardware in the amount
20 of one thousand ninety-six dollars fifty cents.

21 Q And dated what?

22 A October, 1973.

23 Q Did you have a conversation with Mr. Couling to
24 make arrangements for this check to be obtained
25 from Duval County?

1 A I did not.

2 MR. ODAM: May I have just one moment,
3 Your Honor.

4 THE MASTER: Yes.

5 Q (By Mr. Odam) I show you what has been marked
6 as E-124 and ask you if you can identify that.

7 A It is a check from the treasurer of Duval County
8 payable to Benavides Implement and Hardware in
9 the amount of fifteen hundred dollars.

10 Q What is the date of that?

11 A November, 1973.

12 Q And with respect to this particular exhibit,
13 E-124, did you have a conversation with Mr. Couling
14 about obtaining this particular check from Duval
15 County?

16 A No, sir, I did not.

17 Q Can you identify, please, sir, E-127?

18 A It is a check to Benavides Implement and Hardware
19 Company in the amount of fifteen hundred fifty
20 dollars, also in November, 1973.

21 Q Yes, sir. Did you have any conversation with
22 Mr. Couling about obtaining this check from Duval
23 County?

24 A No, sir, I did not.

25 Q Do you have any idea why Mr. Couling would have

1 obtained this particular check or the other checks
2 in this series I have asked about?

3 A No, sir, I do not.

4 Q Do you recall -- strike that.

5 I will ask you to identify E-130, please.

6 A Yes, sir. It is a check from the treasurer of
7 Duval County to Benavides Implement and Hardware
8 in the amount of one thousand dollars.

9 Q What is the date of that?

10 A December, 1973.

11 Q Did you have any conversation with Mr. Gonzalez --
12 correction, Mr. Couling, about obtaining this
13 particular check from Duval County?

14 A No, sir, I did not.

15 Q I will ask you to identify E-133, please.

16 A It is a check from the treasurer of Duval County
17 to Benavides Implement and Hardware Company in the
18 amount of fifteen hundred dollars and dated
19 January, 1974.

20 Q And I ask, of course, the same question with respect
21 to this exhibit.

22 Did you have a conversation with Mr. Couling
23 about obtaining this particular check?

24 A No, sir, I did not.

25 Q I will ask you to identify E-136, please.

1 A It is a check from Benavides Implement and
2 Hardware -- a check from the treasurer of Duval
3 County to Benavides Implement and Hardware in the
4 amount of fifteen hundred dollars dated February,
5 1974.

6 Q And with respect to this check, did you have any
7 conversation with Mr. Couling about obtaining of
8 this check from Duval County?

9 A No, sir, I did not.

10 Q The last check I show you is E-139. I will ask
11 you to identify it, please.

12 A A check in the amount of fifteen hundred dollars
13 from the treasurer of Duval County to Benavides
14 Implement and Hardware Company dated March, 1974.

15 Q And did you have a conversation with Mr. Couling
16 about the obtaining of that check?

17 A No, sir.

18 Q What is the date of that check?

19 A March, 1974.

20 Q I believe it was around this period of time that
21 the change of ownership comes and Mr. Couling
22 stopped making payments on the Caterpillars?

23 A No, sir, it was in May. He had defaulted in
24 December, January and February, I believe, or
25 maybe March, and I gave him a check for thirty-five

1 hundred dollars in January that also didn't appear
2 to go to make these payments.

3 During this period of time, E-139, 136 and
4 133, he was not making any payments.

5 Q Well, I show you what has been marked as E-163 and
6 also what has been marked as E-164-A. 163, you
7 are looking at, was the check Plains Machinery kept --
8 I mean notes receivable card, and 164-A is the
9 card that was kept in Amarillo.

10 I direct your attention to the payments
11 required for the months of December of 1973 and
12 January of 1974.

13 A Yes, sir.

14 Q Does it indicate when that check was received?

15 A 1-24-74, approximately the time I gave him the
16 thirty-five hundred dollars.

17 Q So the payments for December and January were
18 paid on January 24th?

19 A There is a check in evidence where I gave
20 Mr. Couling the thirty-five hundred dollars. He
21 only made a payment of three thousand and kept
22 five hundred.

23 Q How much were you paying Mr. Couling to pay for
24 those root plows?

25 A I forget the amount, but I think it was five

1 hundred dollars.

2 Q Five hundred dollars?

3 A I believe, I am not sure.

4 Q And the five hundred dollar payment on the root
5 plows, when did you begin those?

6 A These were already paid for by then.

7 Q The time of January, 1974?

8 A I believe so.

9 Q Do you recall Mr. Couling's testimony that with
10 respect to these root plows and the contracts,
11 E-161-A and E-161, that when he increased the
12 invoices going into the county to fifteen hundred
13 dollars, it was to obtain more money for the
14 root plows?

15 A Yes, sir, I recall it very clearly. He said that
16 was around September, 1974, and I had gone out
17 and told him to buy these root plows and he had
18 to increase the amount of the claim. It is the
19 truth and fact that the root plows were bought
20 in December, before he testified to that.

21 Q When were the root plows totally paid for?

22 A I believe it was before that time.

23 Q Before what time? I want to be sure I have it
24 right.

25 A Before --

1 Q The time that you --

2 A Before February, 1974.

3 Q Well, I will show you E-161-G and ask you if you
4 can identify that particular item.

5 A It is a check to B. D. Holt Company for two
6 thousand dollars. It says two months rent and it
7 is dated January 22nd, 1974.

8 Q And I show you E-161-H and ask you to identify
9 it.

10 A March 3rd, 1974, B. D. Holt Company, six hundred
11 thirty dollars, March 3rd, 1974.

12 Q March, 1974?

13 A Yes.

14 Q So at least we have either the last -- or a
15 payment to B. D. Holt in March, 1974?

16 A Yes.

17 Q So it could be payments were not totalled out on
18 the root plows?

19 A Well, as you are stating, the county checks and
20 my check, he had seven thousand dollars and he
21 did pay thirty-five hundred dollars, if he did
22 make that five hundred dollar payment; three
23 thousand to Plains Machinery and the other amount
24 to B. D. Holt, which is thirty-five hundred
25 dollars that I gave him and he still had fifteen

1 hundred to forty-five hundred out of Duval County.

2 Q With respect to the root plows, again, if you
3 could clarify as to why you and your brother
4 Ramiro were making the contract: for Benavides
5 Implement and Hardware to obtain the root plows
6 for you and rent them to Benavides Implement
7 and Hardware. As opposed to that, why didn't
8 you and Ramiro make out a contract to B. D. Holt
9 directly? In other words, why did Benavides
10 Implement and Hardware get involved in the root
11 plows?

12 A He wanted to do some work himself. He was going
13 to use them and also those root plows were going
14 to be rented out to the county, as you say, and
15 we certainly could not have done that through
16 the Farm and Ranch Supply, but that was not the
17 purpose.

18 Both Mr. Couling and myself were going to
19 use those root plows.

20 THE MASTER: Off the record.

21
22 (Whereupon, an off-the-record
23 discussion was had.)
24
25

1 THE MASTER: Back on the record now.

2 Q (By Mr. Odam:) I was asking Mr. Couling with
3 respect to a ticket that was made out for
4 December the 27th of 1972. I said what is your
5 testimony with respect to why you made that des-
6 cription out on the ticket and could you read
7 please, sir, the answer that he gave there on
8 page 1804.

9 Q "I was told by O. P. Carrillo that he had our-
10 chused two D-8 tractors and that I had to make
11 bills to Precinct Number 2 so he could pay the
12 rent for the tractors to Plains Machinery.

13 Q And what is your testimony with respect to what
14 he said there?

15 A Could I see the contract from Plains Machinery?

16 Q Yes, sir.

17 A When we bought the contract.

18 Q When you bought the contract or when he did?

19 A Both, well when he bought the contract.

20 THE MASTER: Excuse me, this is off
21 the record.

22 (Discussion off the record.)

23
24 (Handed to the witness.)

25

1 A All right, sir.

2 Q Now, my question went back to the response that
3 Mr. Couling gave to me as to why he made out the
4 tickets and the fact that you told him you were
5 going to purchase the two Cats, that were delivered
6 out to your property.

7 A Yes, sir, it is a lie that I told him that, for
8 one thing.

9 Q Now, you have examined E-180 and R-50, having done
10 so, can you --

11 A Yes, sir.

12 Q Does that --

13 A The contract is entered into December the 14th,
14 1972, for the first payment to be due January the
15 16th, 1973, and this check was --

16 MR. MITCHELL: Which one, Judge, please?

17 A Check number E-94, from the treasurer of Duval
18 County to Benavides Implement and Hardware, which
19 is the check there of December, 1972, which was
20 two days before the days before the purchase of
21 any bulldozers and a month before the first pay-
22 ment was due.

23 Q All right. What is the date of the county check
24 that you have there?

25 A December 12th, 1972.

1 Q I show you what has been marked as E-171 and ask
2 if you can identify that particular item?

3 A E-172-1?

4 Q Yes, sir.

5 A Massey-Ferguson Credit Corporation, twenty-nine
6 seventy-five, twenty-five, November, 1972, that
7 is a month also before this December check.

8 Q All right, and I again recall the exchange that
9 Mr. Mitchell had with Mr. Couling about the
10 thousand six dollar check, and that he referred
11 at that time to the Massey-Ferguson.

12 Would you -- would it be your testimony that
13 the thousand and six dollar check that you just
14 referred to, the R-94, was not taken from the
15 county to pay -- or to make that payment for the
16 Massey-Ferguson tractor?

17 A All right, now, I have no recollection of the
18 Massey-Ferguson tractor check. I don't know how
19 else to explain it to you, I have tried my best
20 to do so and I want to be very courteous to you
21 and to this Court and to this Master. But I
22 have no recollection, I cannot testify to some-
23 thing I do not remember.

24 Q Could you pin down as precisely as possible when
25 George Parr has the possession of the one or two

1 Caterpillars that you say would be the time that
2 the money would be coming out of the county and
3 you making those payments, when did he have this
4 Cat?

5 A I don't have the exact time, during the year 1973
6 and 74 that he had been -- that he had that one
7 bulldozer but he had that one bulldozer and root
8 plow and rake for -- I can't tell you what month
9 because he would send them back and then thirty
10 days later or ten days later he would come over
11 and pick them up and take them back again.

12 Q Do you recall Mr. Abel Ruiz's testimony?

13 A Yes, sir.

14 Q Beginning on page 1875 that when he worked out
15 on your ranch, he went out to work on the Cats
16 and that he saw two Caterpillars out on your
17 ranch?

18 A Yes, sir, they were there.

19 Q And that he had been replaced by this man, Mr.
20 Almaraz, that also testified?

21 A Almaraz?

22 Q Yes, sir.

23 A Mr. Ruiz was there for just about two months,
24 I think.

25 Q Do you recall Mr. Fidel Saenz's testimony that

1 he also saw two Caterpillars out on your ranch?

2 A Yes, sir, I saw them myself.

3 Q But you cannot pinpoint the time that George Parr
4 would have had these Caterpillars that would
5 create him having gotten money from the county?

6 A No, sir.

7 Q After you took over the contract, I believe you
8 stated that George Parr had the bulldozers then
9 and that is when you talked about when you --

10 A No, sir.

11 Q -- he wanted to get -- I'm sorry.

12 A I took over the contract and I had both bull-
13 dozers.

14 Q Did you ever loan either one to George Parr?

15 A And that is when George came over looking for
16 the bulldozers and that is when I explained to
17 him that Mr. Couling had nothing to do with them
18 any more, that I was the one that had the owner-
19 ship of all of that equipment.

20 Q Do you recall Mr. Fidel Saenz said at page 1890
21 that he did not work on the Cats on any other
22 land?

23 A That is correct.

24 Q And he also stated that you loaned one of the
25 Caterpillars to George Parr?

1 A That is correct, because Mr. Fidel Saenz stayed
2 on my payroll when the tractors were going. He
3 wasn't doing anything except drawing a check.

4 I paid him because I wanted to have him
5 available, that I had a contract with him come
6 rain or shine and he worked for a flat three
7 hundred dollars a month and the days he didn't
8 or couldn't go to work, he would get paid.

9 Q Of these gentlemen, who did you pay to go over
10 and work the bulldozers on Mr. Parr's ranch?

11 A Mr. Almaraz was the one that went over there
12 for a while when he took them the second time,
13 Mr. George Parr, that is precisely what I was
14 afraid of is that he paid the operators and
15 that is when they flat wrecked one of them, which
16 I was afraid of might happen because county
17 employees do not take care of equipment like your
18 own personal employees would.

19 Now that is the reason why it is costing
20 this money to get this bulldozer together.

21 Q At page 2061 Mr. Couling was specifically asked
22 by Mr. Mitchell whether or not he rented a truck
23 from you and he said that there was no truck which
24 you owned, which he rented from you.

25 A Yes, sir.

1 Q But your testimony is just the opposite, that you
2 must have rented one of these trucks and we went
3 through on that depreciation schedule the other
4 day.

5 A Trucks and equipment.

6 Q What equipment would there be other than trucks,
7 I'm sorry.

8 A I have tractors, I have -- if you will notice the
9 depreciation schedule on what I had, and the
10 things that had already been depreciated and
11 don't show up, you will notice I had a tremendous
12 amount of equipment. I am in that business.

13 Q Well, once Mr. Couling would have rented those
14 vehicles and equipment, et cetera, from you,
15 would he have in turn turned around and rented
16 them to someone else or was he in the business of
17 doing the work?

18 A To either the county, the school district, the
19 water district, to X, Y, Z, I don't know.

20 Q Of course, Mr. Couling stated on 2061 that he
21 had on no occasion taken any equipment available
22 from you and rented it for a fee to the county.

23 But it is your testimony that he must have
24 done that, is that right?

25 A I think with the immunity that you all gave him,

1 he will testify to anything that you ask him to.

2 Q You are saying that I asked him to testify to
3 that?

4 A You all, I'm referring to the Attorney General.

5 Q That the Attorney General --

6 A And the staff.

7 Q The Attorney General and his staff would have
8 asked him to testify to those facts?

9 A I say that he will do anything that you ask him
10 to do in turn for the fact that you all gave him
11 immunity and promised not to send him to the
12 penitentiary. I think he will do anything.

13 Q You mean that I, or members of the staff, asked
14 him to make up that story?

15 A I'm saying that the Attorney General or the
16 District Attorney, that he will do anything you
17 ask him to do.

18 When I say you, I'm talking about the
19 Attorney General's staff, I don't mean that you
20 personally or this young lady here or Max over
21 here personally would do it, but I say that
22 anything that he is asked to do in trade for
23 what he receives, he will go along.

24 Q Are you suggesting that we --

25 A I noticed in the newspaper where he just testified

1 in Brownsville that another man just came up to
2 his office and asked him to write a thirty-five
3 hundred dollar check and he wrote it and gave it
4 to him just because he told him he needed the
5 money.

6 Now, that wasn't me going over there, it
7 was somebody else that was going over there to
8 get some money.

9 Q Mr. Marvin Foster?

10 A Mr. Eunice Powell.

11 Q Mr. Eunice Powell?

12 A Yes, sir.

13 Q Are you suggesting that one of us or someone on
14 the Attorney General's staff that would suggest
15 to Mr. Couling that he make up all of this so
16 that he can get immunity?

17 A I'm suggesting that the Attorney General is out
18 to get me and the Carrillo family regardless of
19 what happens. That is exactly what I am suggest-
20 ing.

21 Q And you're suggesting that John Hill would have
22 told him to make up all of this story that we
23 have been sitting here going through?

24 A Or someone under his direction, yes, sir. If
25

1 you want to know the way I feel about it, that
2 is my feeling and I have some sort of facts that
3 go along to show why he took sides, why John
4 Hill took sides with Archer Parr, and if you want
5 me to testify to that I will.

6 Q Well, I opened up or you did that, I would be --
7 I don't know if it needs to go in the record now.

8 A Well, if I testify, I want it to go in the
9 record.

10 Q Well, it is -- I would like to know why you
11 think that we would have Mr. Couling make up
12 this story?

13 A All right, sir. Well, the fact that you gave him
14 immunity and the fact that you told him you are
15 going to drop the indictments against him and the
16 fact that you told him he would not go to the
17 penitentiary, that he could remain with his wife
18 and family, he wouldn't be put through any prose-
19 cution, having to go out and pay high priced
20 lawyers to defend him all over the county like
21 that. He made a pretty good trade.

22 Q So we told him to make up all of this?

23 A I'm not sayint that you told him, I'm saying that
24 he will do anything you ask him to do.

25 Q What do you think we asked him to do?

1 A I don't know.

2 Q You must think that John Hill asked him to do
3 something, or that we were instructed by John
4 Hill to ask him to do something.

5 A I say that the Attorney General and his staff
6 who was down there in Duval County is out to
7 completely get me and to destroy me and the
8 Carrillo family.

9 Q And that none of this --

10 A And it is shown by the fact that the Attorney
11 General and his task force over there has not
12 lifted one finger to go up against any of the
13 Parr faction, his bank, his water district, the
14 money that is owed by Mr. Atlee Parr, which she
15 confessed to was borrowing fifty thousand dollars,
16 the money that was taken by George Parr, the
17 money that was taken by Archer Parr and nothing
18 has been done except lately filed one lawsuit
19 against Archer Parr, who is in the penitentiary
20 up in Illinois somewhere because Mr. John Hill
21 and Mr. Archer Parr are buddy-buddies and I
22 know for a fact that they are because I have
23 seen them both together, separate and apart, and
24 heard the conversations.

25 Q And because that we went to the trouble for the

1 past four weeks to get all of this documentation
2 together for that reason.

3 A I don't know, I'm just talking about what Mr.
4 Couling would do.

5 Q All right, well --

6 A But again, I will offer to explain to you Mr.
7 John Hill's personal actions.

8 Q Do what, I'm sorry?

9 A I will be glad to testify as to Mr. John Hill's
10 personal actions and participation in siding with
11 Mr. Archer Parr, if you want me to about it.

12 Q Well, that probably would serve to clarify in my
13 own mind what I have been doing for the past
14 month, my motivation in doing it. Let me refer
15 then to the fact that --

16 MR. MITCHELL: We are going to object
17 to that remark, whatever it was, and move
18 to strike it, Judge.

19 THE MASTER: Sustained.

20 MR. MITCHELL: I don't know what it
21 was.

22 MR. ODAM: What I was going to say,
23 let's refer back specifically then to
24 paragraph -- summarize, if we could, your
25 testimony very briefly with paragraph --

1 with respect to paragraph 7.

2 Q All right, you have E-57, which is, I believe, the
3 county check for a thousand and eight dollars.

4 A Yes, sir.

5 MR. MITCHELL: Pardon me, Mr. Odam,
6 are we back on 7?

7 THE MASTER: Yes, sir.

8 MR. ODAM: Paragraph 7.

9 Q E-57 is a county check for a thousand and eight
10 dollars?

11 A Yes, sir.

12 Q And E-65 is a check from Mr. Couling to you for
13 a thousand and eight dollars?

14 A Yes, sir.

15 Q And to your own personal knowledge, there is no
16 connecting link between those two checks, they
17 just went over like that. (Indicating.)

18 A To my own personal knowledge, like that.

19 Q Now I will show you --

20 MR. MITCHELL: Judge, I don't care
21 about him going into it, and I will be here
22 until Christmas with him, but that is at
23 least seven times that I know that he has
24 gone over that.

25 Now, I'm going to object, unduly

1 repetitive.

2 THE MASTER: That's the first time you
3 objected. The last time you stood up and
4 said that you don't object to it but it is
5 repetitious. How can I rule on that?

6 MR. MITCHELL: Your Honor, I don't want
7 to be -- appear to be obstructing him in his
8 inquiry, but it is repetitive.

9 THE MASTER: I agree with you, Mr.
10 Mitchell. If it is leading to something else --

11 MR. MITCHELL: Pardon me, Your Honor,
12 it is now also irrelevant and immaterial
13 because under their own case, the conspiracy
14 is supposed to have occurred in May of 1971,
15 under 7, 8, 9 and 10, and under their own
16 case, the last one, that is the fifteen or
17 nineteen thousand dollar, that was supposed
18 to have occurred in December of 72. This
19 check is in April long before the ripoff of
20 the -- of the county for the diesel or the
21 Cats are supposed to have occurred and long
22 before the conspiracy.

23 Now, it becomes irrelevant and immaterial
24 under their own case, April of 71, so we
25 object on that grounds too, Judge Meyers.

1 THE MASTER: All right, are you through?

2 MR. MITCHELL: Yes, sir.

3 THE MASTER: Thank you. Mr. Odam, you
4 examined, as an example, Judge Carrillo on a
5 number of checks under paragraph 12, asking
6 him if he could identify each check and he
7 could not and if he ever discussed that
8 check with Mr. Couling, and he did not, that
9 is his testimony.

10 Now, you're asking him about checks
11 that covered, without unduly, if you do not
12 care to reveal the direction that this cross-
13 examination is taking, can you explain to me
14 how it is not repetitious.

15 MR. ODAM: Yes, sir. The purpose of
16 doing this was to ask the final question
17 with respect also to paragraph 12, and that
18 is the fact that we have covered up until
19 paragraph 12 a total amount of thirteen
20 thousand and one dollars, that was the total
21 amount of checks that have been covered, say,
22 in yesterday's testimony with the additional
23 checks in paragraph 12, of the county checks
24 there, which come to a total of eighteen
25 thousand eight hundred and five dollars,

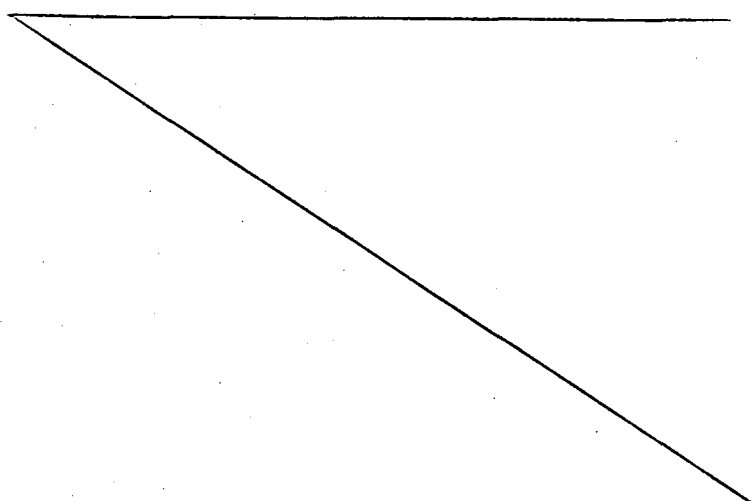
1 which totals for the total amount of checks
2 that we have into evidence, thirty-one
3 thousand eight hundred seven dollars and
4 fourteen cents.

5 Now, my last question to Mr. -- to
6 Judge Carrillo, which I can pose at this
7 time, is whether or not he had any agreement
8 with Mr. Gonzalez or Mr. Couling to obtain
9 thirteen thousand eight hundred and seven
10 dollars and fourteen cents which is the total
11 from paragraphs 7 through 12.

12 THE MASTER: And you ask him that
13 question now?

14 MR. ODAM: Yes, sir.

15 THE WITNESS: I did not.



1 MR. MITCHELL: Did he say last question,
2 Judge Meyers?

3 THE MASTER: I am sure that he --

4 MR. MITCHELL: I would not fuss if it
5 was not.

6 THE MASTER: No, that would be a person
7 in his glass house throwing stones.

8 MR. MITCHELL: That is right. I would
9 not fuss.

10 MR. ODAM: Your Honor, I have no
11 further questions of this witness with
12 respect to Paragraph 7 through 12.

13 Ms. Levatino has some other questions
14 and I would ask leave to let her ask questions
15 on that other article.

16 THE MASTER: Yes, that is fine.

17

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E X A M I N A T I O N

1
2
3 BY MS. LEVATINO:
4

5 Q Judge Carrillo, I am asking you questions on
6 Paragraph 1.

7 A Yes, ma'am.

8 Q Do you recall the testimony on Monday and
9 Tuesday where you testified Cleofus Gonzalez gave
10 the House Select Committee chits that were used
11 for welfare groceries?

12 A Yes, sir.

13 Q And you testified you had no opportunity to
14 examine them and you thought the chits were
15 reproduced in E-155, were those that were used.

16 A Yes, that was my impression.

17 Q Do you remember on Tuesday I handed you two chits
18 marked E-26 and E-27 and we compared those to the
19 ones reproduced in E-55 to agree that those two
20 introduced in the house were not in E-55?

21 A I don't believe they were.

22 MR. MITCHELL: Pardon me, this is most
23 critical. There is going to be questions --

24 THE WITNESS: All right, sir. Could I
25 say --

1 MR. MITCHELL: The question is the use
2 of the word believe.

3 THE WITNESS: I would have to compare
4 with the senate testimony and the chits.

5 Q (By Ms. Levatino) I will get the chits out and
6 you can go through them again, however, first, do
7 you remember when I asked you to look at each one
8 of these chits reproduced in E-55 and there were
9 certain markings on them and you said there were
10 not? We can do that again, if you desire.

11 A We had better do it, because I have testified a
12 lot.

13 THE MASTER: Would it move things if
14 we recess now?

15 Q (By Ms. Levatino) Could we do that during the
16 recess, Judge Carrillo?

17 A Sure.

18 MR. MITCHELL: I have Mr. Kirkland in
19 the hall and I would like to take him out of
20 order. I don't want to impose on the Attorney
21 General --

22 THE MASTER: Well, we have certainly done
23 that a lot and the problem is his subsequent
24 testimony on redirect may require the use of
25 Mr. Kirkland again.

1 MR. MITCHELL: That may be the case,
2 but if we can't get to him today, he is like
3 anyone else, he is on a tight schedule.

4 THE MASTER: This is a fair inquiry.
5 We thought we would be through this week, but
6 we may or may not.

7 MR. MITCHELL: I don't think so now.

8 THE MASTER: I don't either, because I
9 think Mr. Kirkland would be a day, at least.

10 MR. MITCHELL: That is right.

11 THE MASTER: And you also have a couple
12 of hours with Judge Carrillo.

13 MR. MITCHELL: Yes, and I also want
14 Mr. Pipkin and Mr. Gonzalez back.

15 THE MASTER: All right.

16 MR. MITCHELL: And now the question has
17 been put to my client about Terry Canales and
18 I will want Terry Canales and -- the question
19 was, why would you people take the Fifth
20 Amendment and --

21 THE MASTER: My laugh was not at you,
22 but only with you. You know, it is either
23 laugh or cry.

24 MR. MITCHELL: You are much too grown
25 to cry.

1 THE MASTER: That is right.

2 MR. MITCHELL: But I have on occasion.

3 No, it does not look like we are going
4 to be finished.

5 MR. PIPKIN: Does all of this have to
6 go into the record?

7 THE MASTER: No, it does not.

8 Off the record.

9

10 (Whereupon, an off-the-record
11 discussion was had.)

12

13 THE MASTER: We are now in recess for
14 about twenty minutes.

15

16 (Short recess taken.)

17

18 THE MASTER: Ms. Levatino, as I recall
19 at the break, you were prepared to cross-
20 examine Judge Carrillo on Paragraph 1 matters?

21

MS. LEVATINO: Yes, sir.

22

23

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E X A M I N A T I O N

(CONTINUED)

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4 BY MS. LEVATINO:

5
6 Q Judge Carrillo, we were discussing two of the
7 white handwritten slips we referred to as chits
8 introduced to the House Subcommittee and identified
9 as E-26 and E-27.

10 During the break, we examined them and
11 compared them with E-55. Do you now agree with
12 your testimony of yesterday that these two chits
13 were not among those reproduced in E-55?

14 A Yes, ma'am.

15 THE MASTER: When you say these two
16 chits --

17 MS. LEVATINO: E-26 and E-27, Your
18 Honor.

19 Q (By Ms. Levatino) E-26 and E-27 were not a part
20 of E-55?

21 A Yes, ma'am.

22 Q And then yesterday, we examined four of the
23 original claim jackets which are reproduced in
24 E-55 and you agreed the matters contained in
25 those were accurately reproduced in E-55 in terms

1 of each of those chits that appear in E-55?

2 A When you say they were reproduced, my contention
3 was originally they were not in there, I don't
4 know.

5 Q Do you agree E-55, with regard to those four claim
6 jackets, H-1 (2), H-1 (4), H-1 (23) and H-1 (24)
7 were reproduced in E-55?

8 A I believe so.

9 Q Okay. Now, I am handing you a set of what we have
10 been referring to as chits here. I would like to
11 have you look at those and can you identify those
12 in any way?

13 A One of them has an exhibit number. The rest do
14 not.

15 Q What does that exhibit number say?

16 A 87.

17 Q How many of them are there?

18 THE MASTER: For the record, is that
19 E-87 in this record or some other record?

20 MS. LEVATINO: It is not E-87 in this
21 record.

22 THE MASTER: Either E or R?

23 MS. LEVATINO: That is correct. It is
24 simply Exhibit 87.

25 Q (By Ms. Levatino) How many of them are there,

1 Judge Carrillo?

2 A Thirteen.

3 Q Now, yesterday and the day before, you testified
4 that you did not have an opportunity to examine
5 exhibits similar to this which were introduced in
6 the House Select Committee on impeachment, do you
7 recall that?

8 A Yes.

9 Q Do you recall, during that proceeding when you
10 were called to testify and Mr. Doyle handed you a
11 pack of chits during that proceeding?

12 A I am sorry, I was not called to testify. I did
13 not testify and Mr. Doyle never handed me anything
14 like this.

15 Q Let me read from --

16 MR. MITCHELL: Pardon me, Counsel.

17 Are you referring to the hearing before the
18 subcommittee or before the senate?

19 MS.LEVATINO: The House Committee on
20 Impeachment.

21 MR. MITCHELL: You understood the
22 question?

23 THE WITNESS: Yes, but I don't recall
24 testifying.

25 MR. MITCHELL: So the record will reflect,

1 we are not talking about the Senate hearing,
2 only the House. I am sorry to interrupt you,
3 MS. LEVATINO: That is all right.

4 Q (By Ms. Levatino) I would like to read from
5 Volume 15 of the transcript of the proceedings
6 before the House Committee on Impeachment, Page 43.
7 These are questions by Mr. Doyle.

8 "Mr. Reporter, would you please mark these
9 for introduction." And some chits were marked
10 Exhibit 87 for identification.

11 Then the question was "Mr. Carrillo, I am
12 going to hand you, and ask you to identify, what
13 has been marked as Exhibit 87, which appear to
14 be chits used in Duval County and of these, these
15 were used for payment by the county's welfare
16 fund?" And your answer was, "I respectfully
17 decline to answer."

18 Do you remember that?

19 A I think you are confusing me with my brother,
20 Ramiro.

21 Q The record does reflect that Exhibit 87 was
22 introduced into the House. I believe you testified
23 that the top package you have there has No. 87
24 on it?

25 A Yes.

1 Q Would you agree those were the chits introduced
2 in the House Committee as Exhibit 87?

3 A No, ma'am.

4 Q Would you agree those were not the chits contained
5 in the Senate Hearing in House Exhibit H-1 (4),
6 (11) and (23)?

7 A When my brother testified before the committee,
8 that was during the week I had the flu and I did
9 not attend the hearings and I don't know.

10 Q Well, I would like to show you again four claim
11 jackets, original claim jackets, which are
12 marked -- would you please take out of each one
13 of those jackets any chits which you find in there?

14 THE MASTER: Is there a way we could
15 handle that claim jacket by claim jacket so
16 that there is no intermixing?

17 MS. LEVATINO: Yes.

18 Q (By Ms. Levatino) The first one, H-1 (23),
19 Claim 2139, would you tell me how many chits were
20 in that?

21 A Fifteen.

22 MR. MITCHELL: Pardon me, which was
23 that claim number?

24 MS. LEVATINO: C-H-1 (23), which is
25 C-2139.

1 MR. MITCHELL: All right. C-2139, there
2 were fifteen chits?

3 THE MASTER: Yes, fifteen chits is what
4 the witness stated.

5 Q (By Ms. Levatino) And Claim H-1 (1), would you
6 tell me how many chits are in that jacket?

7 MR. MITCHELL: Pardon me, Counsel, they
8 are yellow and white. Do you want all of the
9 chits counted?

10 MS. LEVATINO: Yes, all of them.

11 MR. MITCHELL: The yellow and the white?

12 MS. LEVATINO: Yes.

13 THE WITNESS: Thirteen.
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1 Q Are there any more stuck in there? All right,
2 we will go on.

3 In A-3040 marked H-1-(14), would you count
4 the number of chits after you have put those
5 back in?

6 MR. MITCHELL: Pardon me, Counsel, I
7 don't want to interrupt you but --

8 THE MASTER: Is this on the record,
9 Mr. Mitchell?

10 MR. MITCHELL: Yes, sir.

11 THE MASTER: You're speaking so softly
12 that I couldn't hear you. I want to hear
13 you.

14 MR. MITCHELL: I'm sorry, Judge.

15 THE MASTER: Which is uncharacteristic.

16 MR. MITCHELL: There is a discrepancy
17 between what he said on my notes.

18 MS. LEVATINO: I understand.

19 MR. MITCHELL: I didn't want it to be
20 something that was --

21 MS. LEVATINO: All right.

22 THE WITNESS: Fifteen.

23 O And the final one is B-1541, also marked
24 H-1-(11).

25 A Thirteen.

1 Q All right, so you have counted just now again
2 this morning fifteen in one jacket.

3 MS. LEVATINO: And it is not necessary
4 to identify the jacket.

5 Q Fifteen in one jacket, fifteen in another jacket
6 and thirteen in the two remaining jackets.

7 You've also looked at, this morning, a series
8 of thirteen chits which are the first ones labeled
9 Exhibit 87, which is not Exhibit 87 in this record
10 and two other Exhibits labeled Exhibit 25 and 27 --
11 26 and 27, pardon me, which are not Exhibits in
12 this proceedings.

13 Is it still your testimony that the chits
14 introduced by Cleofus Gonzalez in the House Select
15 Committee on Impeachment are the same chits that
16 appeared inside the claim jackets marked in the
17 Senate as H-1-(2), H-1-(4), H-1-(11) and H-1-(23)?

18 A I don't know.

19 Q You don't know?

20 A I don't know whether they are the same ones or
21 not.

22 Q Would you agree that the chits which you just
23 went through and counted are not part or are
24 separate from the chits, the thirteen chits I
25 handed you this morning marked H-87 from another --

1 from -- committee 87 from another proceedings and
2 the two we looked at this morning marked
3 Exhibit 26 and 27, which are not a part of this
4 proceeding?

5 A We would have to compare them, I don't know.

6 Q Are you saying that the Exhibits -- that the
7 chits and the claim jackets may be reproductions
8 of those other chits?

9 A I'm not saying that you or anybody else did any-
10 thing with them. I'm saying that because of Mr.
11 Cleofus Gonzalez's testimony, that these chits
12 were destroyed, thrown away, with the exception
13 of the ones that he took home with him to use as
14 evidence in the future, and they are now turning
15 up in this packages here.

16 I am not saying you put them in here or
17 somebody else put them in here later on and that
18 they were the same ones that were reproduced.

19 I don't know, I'm just saying that Mr.
20 Cleofus Gonzalez, what he testified to at the
21 very first time, at the very first hearing, the
22 very first witness that ever testified against
23 me in any of this proceedings.

24 Q So it is your -- are you saying then, Judge, and
25 I want to be accurate in summarizing what you are

1 saying, that the chits represented or contained
2 in the four claim jackets which I have just listed,
3 and reproduced in Examiner's Exhibit 55, were not
4 chits duly kept -- were not part of claims duly
5 kept in the county auditor's office as testified
6 by Mr. Meek.

7 A I don't know the procedure that was followed. All
8 I know is that Cleofus Gonzalez's testimony was
9 that he would take these chits here or chips or
10 whatever you want to call them and then enter
11 them into one claim or one welfare order, what-
12 ever you want to refer to is, and then take these
13 ones, these chips and destroy them, throw them
14 away with the exception of the ones that he took
15 home and that this matter here was all that he
16 sent to the county commissioners court.

17
18 (Indicating.)

19 Q Were you here, Judge, when Cleofus Gonzalez
20 testified that -- that was his normal practice
21 and sometimes he attached those handwritten
22 materials, what we have been calling chits, to
23 the welfare forms when -- before Mr. Carrillo or
24 someone else picked them up. Were you here when
25 he testified to that?

1 A I was here when he testified, but I don't remem-
2 ber that.

3 Q You don't remember that testimony?

4 A I don't remember him saying that.

5 Q Okay. Judge, isn't it true that those sixty
6 chits are the chits which we have counted up to
7 today that are contained in those four claim
8 jackets reproduced in E-55 were written by you
9 after 1970, not to authorize welfare groceries,
10 but part -- as part of an ongoing procedure to
11 get false claims to pay for the -- the county to
12 pay for three hundred dollars a month worth of
13 groceries which you got and were used for your
14 benefit?

15 A That is not true.

16 MS. LEVATINO: We pass the witness.

17 MR. MITCHELL: Before I make a request,
18 Your Honor, there was some indication, I
19 counted the chits when they were first
20 introduced. There is a discrepancy against
21 mine and what has been counted today.

22 May I ask before the matter gets cold,
23 there might be some explanation. Either
24 I miscounted, I counted fourteen white
25 chits in C-1541, and the witness testified

1 that there were only thirteen, I believe.

2 Now, I'm not saying one way or the
3 other, I counted them the other day and I
4 counted fourteen in A-3040 and he testified
5 there was fifteen. I counted eleven in
6 A-2015, and four bank checks, for a total
7 of fifteen. The witness testified there is
8 only thirteen there today.

9 Now, I counted fifteen in C-2139 and
10 there are fifteen today. There hasn't been
11 any change in these Exhibits.

12 MS. LEVATINO: For the record, there
13 has been no change, and I certainly would
14 not represent to you that I have made any
15 changes, and I cannot tell you the discrep-
16 ancy either.

17 MR. MITCHELL: I am representing to the
18 Court that -- not representing to the
19 Court, Judge Meyers, I simply counted them
20 while the testimony was going, and it is
21 quite possible that I just simply miscounted
22 them.

23 THE MASTER: You didn't physical count
24 them?

25 MR. MITCHELL: Yes, sir.

1 THE MASTER: You didn't pull them out
2 yourself and count them?

3 MR. MITCHELL: Oh, yes, once they were
4 introduced I counted them and came up with
5 the total of white chits, yellow chits and
6 bank checks, and I also got the orders and
7 compared all of them and made an analysis.

8 But if I can just be satisfied that
9 what the witness testified today, for my
10 purposes of examination, I am satisfied.

11 THE MASTER: Well, how do you want to
12 do that?

13 MR. MITCHELL: I just wanted the
14 record to --

15 THE MASTER: I suppose the witness
16 doesn't have an explanation.

17 THE WITNESS: I just counted them,
18 Judge, that is all.

19 THE MASTER: That's what I thought.

20 MR. MITCHELL: Well --

21 THE MASTER: Maybe you can count them
22 during the recess and make some determina-
23 tion.

24 MR. MITCHELL: Okay. Because the
25 purpose of the cross will be, of course, to

1 tie in --

2 THE MASTER: I suppose you mean re-
3 direct?

4 MR. MITCHELL: Yes, re direct, Judge
5 Meyers, to show either non-relation of
6 them to the total amount of orders and so
7 it became important on --

8 THE MASTER: Yes, sir.

9 MR. MITCHELL: May I request of this
10 Court that we take -- that I be permitted to
11 postpone my re-direct of this witness and
12 take out of order Mr. Kirkland, who is the
13 preparer of the tax returns for Judge
14 Carrillo?

15 THE MASTER: Yes, you may step down.

16 MR. MITCHELL: May I step out and
17 call him?

18
19 - - - - -

20
21 O. D. KIRKLAND,
22 called as a witness, having been duly sworn, testi-
23 fied upon his oath as follows, to-wit:

24
25 EXAMINATION

1 BY MR. MITCHELL:

2
3 Q State your name for the record, please, Mr.
4 Kirkland.

5 A Oscar D. Kirkland.

6 Q Mr. Kirkland, what is your occupation, profession or
7 trade, please, sir?

8 A I am a certified public accountant.

9 Q And how long have you been a certified public
10 accountant?

11 A Since 1950.

12 Q And where do you -- where is your place of busi-
13 ness?

14 A In Alice, Texas.

15 Q And are you a member of the firm Kirkland and
16 Smith?

17 A Yes, sir.

18 Q Is that a partnership that presently exists for
19 the practice of the profession of accounting?

20 A Yes, it is.

21 Q And was that -- have you always been associated
22 with Kirkland and Smith, and if not, tell us who
23 else practiced with you, if you have, Mr.
24 Kirkland.

25 A I opened an office myself in 1955. In 1965 I

1 took in a partner, Hugh Land, and he was with
2 me for about three years and left.

3 Mr. Smith worked for me for four years,
4 and has been my partner now for the past three
5 years.

6 Q Your partnership, then, would have come into
7 existence along about 1973, am I correct?

8 A Yes.

9 Q All right, now you are --

10 MR. MITCHELL: Strike that. Your
11 Honor, may I have a stipulation that he is
12 qualified, otherwise I will undertake to
13 qualify him by education and experience.

14 MR. ODAM: So stipulated.

15 MR. MITCHELL: Thank you.

16 THE MASTER: Well, and I suppose you
17 say as an expert in the field of accountancy?

18 MR. MITCHELL: That's right, yes.

19 Q All right, Mr. Kirkland, having received the
20 cooperation of the Attorney General in his stipu-
21 lation that you are an accountant and a C.P.A.,
22 and an expert as such.

23 Now, let me ask you some questions preliminary
24 to establishing whether or not you have personal
25 knowledge touching on the matters about which I

1 want to inquire.

2 First of all, do you know Judge O. P.
3 Carrillo?

4 A Yes, sir.

5 Q Do you know the Carrillo family?

6 A Yes.

7 Q Have you -- what capacity do you know them in,
8 Mr. Kirkland?

9 A I have been doing their income tax work since
10 about 1959.

11 Q All right. Would it be fair to say that you
12 have been doing their income tax work from 1959
13 to date?

14 A Yes, sir.

15 Q And the answer to the question is their income
16 tax, let me see if I can establish for the
17 record who we are talking about.

18 First of all, Mr. Kirkland, have you done
19 Judge O. P. Carrillos' personal 1040 form for
20 that period of time?

21 A Yes.

22 Q That would be from 1960 -- I mean --

23 A 1969.

24 Q All right, to 1975, is that correct?

25 A Well, through 74.

1 Q Now, have you been responsible for putting
2 together, in the 1040 form, all sources of
3 income on Page 1 of his return for that period
4 of time?

5 A Yes, sir.

6 Q Let me ask you this: Into that return, that is
7 the 1040 form, have you also had an occasion to
8 put the data from the companion form 1065?

9 A Yes, this is the Farm and Ranch Store.

10 Q Now, I don't think there are going to be
11 accountants reading this record, so --

12 THE MASTER: Yes, I would suggest that
13 myself. It would be best to identify what
14 those form numbers mean.

15 Q What is a 1040 form?

16 A Individual income tax return.

17 Q It is an actual reporting return --

18 MR. MITCHELL: If I might be permitted
19 to lead, Your Honor.

20 THE MASTER: Yes.

21 Q -- for the taxes set out and the rate and payment,
22 if any, am I correct?

23 A Yes.

24 Q And the 1040 form is the sort of a form that
25 integrates various other types of reporting forms?

1 A Yes, it gathers them all together. The 1065 is
2 a partnership form.

3 A Yes, an information form.

4 Q And that is information carried forward to the
5 1040 form?

6 A There is no tax paid on it, no.

7 Q So on Judge Carrillo's 1040 form, if he had a
8 partnership with Rudolfo Couling or Cleofus
9 Gonzalez or his brother Ramiro, a 1065 form would
10 be filed and there would be a carry-over from the
11 1065 to the slot in the 1040, is that correct?

12 A Yes, the 1065 would not necessarily be carried on
13 the 1040 and would be identified by number only.

14 Q In addition, there are other reporting schedules
15 to the 1040 form, for example, a Schedule C would
16 be an income from trade or business and that would
17 be accompanying the 1040 form?

18 A Yes, income from business or profession.

19 Q So if Judge Carrillo had a partnership and if he
20 had a trailer business, you would have a 1040
21 form with a supporting Schedule C?

22 A Yes, that is correct.

23 Q This would be a detail of a carry-over or trade
24 or profit or loss from a trade or business owned
25 by the taxpayer?

- 1 A Yes, and it is attached to the 1040.
- 2 Q If there is a loss, it is carried over to the
3 1040?
- 4 A Yes.
- 5 Q And the Schedule C is attached to the 1040?
- 6 A Yes.
- 7 Q And the Schedule C forms the basis of allowing
8 for the computation for Social Security for
9 self-employed persons?
- 10 A Yes, that is correct.
- 11 Q And now, in addition, there are other forms, such
12 as fiduciary forms which form an input into the
13 1040?
- 14 A Yes.
- 15 Q And in this case, we know -- well, that Ramiro
16 Carrillo and brothers, what is that?
- 17 A It is reported as O. P. Carrillo, et al, income
18 received for distribution.
- 19 Q What method is employed by that; is there a
20 separate schedule?
- 21 A Yes.
- 22 Q What is that number?
- 23 A We didn't put that on a numbered schedule.
- 24 Q That was a supplementary schedule implemented
25 into the 1040?

1 A Yes.

2 Q And it was in effect a trust set up by Judge
3 Carrillo's father?

4 A Yes.

5 Q And a number of beneficiaries are named to that
6 trust?

7 A Yes.

8 Q And you, as an accountant, had the responsibility
9 to make up the income to the trust and allocate
10 that to the various beneficiaries?

11 A Yes.

12 Q And you would pick up that income from the trust
13 to the 1040 form of Judge Carrillo?

14 A Yes.

15 Q And that would be a coming together of the income
16 of Judge Carrillo from not only his wages and
17 salary, but would be income from the business as
18 well?

19 A Yes.

20 Q And also a Form 1065 for the reporting of his
21 partnership income?

22 A That is right.

23 Q And in this case, the amount of income allocated
24 to Judge Carrillo by reason of the simple trust
25 set up by his daddy, am I correct?

1 A That is correct.

2 Q Now, specifically, Mr. Kirkland, in this particular
3 case, there was a 1065 form prepared by you for
4 Judge Carrillo and his brother Ramiro Carrillo in
5 connection with the Farm and Ranch Store?

6 A That is right.

7 Q Do you have a recollection as to when the 1065
8 form, the first one, was carried and reported by
9 you?

10 A No, but I believe it was about 1965.

11 Q All right, sir.

12 MR. MITCHELL: May I mark this as a
13 start, Your Honor?

14 THE MASTER: Yes.

15 MR. MITCHELL: Would you mark this.

16

17 (Whereupon, the above-mentioned
18 document was marked Respondents' Exhibit
19 95 for identification.)

20

21 Q (By Mr. Mitchell) While you were testifying,
22 I reproduced, in a rough form on R-95 -- this
23 appears to be a chart that I will tell you I have
24 in my own handwriting prepared. It has O. P.
25 Carrillo, individual return on it.

1 A Yes.

2 Q And it shows a 1040 form for 1959, which I
3 believe you testified was when you commenced
4 preparing his 1040?

5 A Yes.

6 Q And in the next main column is R. Carrillo and
7 Brothers?

8 A Yes, sir.

9 Q And the testimony will be it was that you also
10 prepared that return?

11 A Yes.

12 Q And that is a 1065 return?

13 A No, that is the trust.

14 Q All right. I am sorry, that is the trust.

15 Let's see. If I write in here correctly --
16 am I writing trust in there, Mr. Kirkland?

17 A Yes.

18 MR. MITCHELL: Your Honor, I would like
19 to show this to counsel for the Examiner so
20 counsel can keep up with what I am doing.

21 May I?

22 THE MASTER: Yes.

23 MR. MITCHELL: I am asking the witness
24 to reconstruct the chart to show the years
25 involved, the basic return, the Farm and Ranch

1 tie-in and the R. Carrillo Brothers tie-in, and
2 the Zertuche tie-in, and others that may come up.

3 MR. ODAM: I have observed the chart
4 and would say that the only question that
5 arose on my examination of Judge Carrillo
6 pertained to certain checks for the years
7 '71, '72 and '73. Those are the years
8 pertaining to the First Amended Notice of
9 Formal Proceeding.

10 I object on the ground of relevancy and
11 urge the objection on the time standpoint to
12 go back into the years from the top back to
13 the bottom and all of the way across to
14 include Ramiro Carrillo and Brothers, plus
15 the Zertuche General Store. I would rather
16 we pinpoint to what was raised on cross-
17 examination.

18 MR. MITCHELL: The State is correct.
19 I don't intend to go into the returns beyond
20 the relevant years here, other than the
21 acquisition of property prior to 1971 that
22 may be depreciated out and because of the
23 sale of certain properties. I can't
24 obviously start in 1971, if property was
25 acquired, for example, in '65 or '64.

1 This is only relating to the
2 depreciation schedules as to those returns.

3 THE MASTER: And you are saying it is
4 relevant to get to the available requirement
5 for rental and other related aspects?

6 MR. MITCHELL: Yes.

7 THE MASTER: You are not going to go
8 into the income before that period?

9 MR. MITCHELL: It is not relevant. The
10 income I would ask about would be in 1970 --
11 no, '71, '72 and '73.

12 THE MASTER: Yes.

13 MR. MITCHELL: With that statement, I
14 would like to proceed.

15 THE MASTER: You may proceed.

16 MR. MITCHELL: I understand that if I
17 do get beyond that, he is going to stop me
18 if I do get beyond, because he is a good
19 lawyer and will bring that to my attention.

20 Q (By Mr. Mitchell) At any rate, Mr. Kirkland,
21 I hand you back R-95.

22 Now, the R. Carrillo Brothers trust, when
23 was the first year you recall preparing that?

24 A I believe 1959.

25 Q If I write began in that column opposite 1959, is

1 that correct?

2 A Yes.

3 Q Have you reported every year and prepared every
4 year this return since 1959 up to '74?

5 A Possibly in 1959, Willy Benson may have prepared
6 that. He was working with me in that year, if I
7 remember correctly.

8 Q But at any rate, it was prepared by your office?

9 A Yes, by my office.

10 Q And you tied that return in every year thereafter
11 to the 1040, have you not?

12 A Yes.

13 Q Ramiro Carrillo and Brothers, what type of
14 business is that generally?

15 A A Farm and Ranch, oil production, sales of caliche
16 from the ranch and some pasture leasing. That
17 pretty well covers it.

18 Q And any income from it would be picked up on
19 Judge Carrillo's 1040 form?

20 A Yes.

21 Q What is that?

22 A That is the partnership of O. P. Carrillo and
23 Ramiro Carrillo.

24 Q May I write that, O. P. and Ramiro Carrillo?

25 A Yes.

1 Q Now, that is written in under Farm and Ranch?

2 A Yes.

3 Q And that is reported on Form 1065?

4 A Yes.

5 Q Are there any other partners other than O. P. and
6 Ramiro Carrillo?

7 A No.

8 Q When was the first Form 1065 you prepared?

9 A I would have to go back and check.

10 Q Give us your best recollection.

11 A It would be in the early sixties.

12 Q And you have prepared that up to date?

13 A From the first return every year, yes, sir.

14 Q And there is a lock-in between the Farm and Ranch
15 and the 1040?

16 A Yes.

17 Q What was that?

18 A The sale and rental of farm equipment and supplies.

19 Q Did it, in addition to selling and renting of
20 farm equipment and supplies, did it sell
21 merchandise?

22 A Yes.

23 Q And generally --

24 MR. MITCHELL: Let me mark these.

25 Well, maybe they have already been marked.

1 Mr. Odam, did you cause the 1065 for
2 1972 and '73 to be introduced?

3 MR. ODAM: Yes, that is E-184, for the
4 1972 return and '73 is E-185 and the Form
5 1065, which is not in evidence, but which I
6 hand back to you -- correction, I will give
7 back to you the 1040 form for 1973.

8 MR. MITCHELL: Thank you.

9 MR. ODAM: That is the 1040 for 1973.

10 MR. MITCHELL: Thank you.

11 Q (By Mr. Mitchell) Mr. Kirkland, I hand you what
12 has been introduced into evidence as E-184 and
13 E-185 and ask you if you recognize those forms
14 for the partnership forms for the years indicated?

15 A Yes.

16 Q And is it your testimony they are signed by you,
17 are they not?

18 A Yes.

19 Q As a matter of fact, you were called the
20 preparer, are you not?

21 A Yes.

22 Q And the preparer declares, that if prepared --
23 and I am reading from E-184, "If prepared by any
24 other person, his declaration is based on all
25 information which he has knowledge of."

1 A Yes.

2 Q And that responsibility is to the preparer?

3 A Yes, that is right.

4 Q Let me ask you on the Farm and Ranch -- strike
5 that.

6 From the Farm and Ranch, and I am going to
7 ask you about three questions about the Zertuche
8 Store and Cleofus Gonzalez and how his relation
9 was there.

10 Did you prepare Arturo Zertuche's tax forms?

11 A For some years, yes.

12 Q The years would be 1970, '69 and '68, is that
13 correct? Did you prepare his forms for those
14 years?

15 A I believe so, but I would have to check. I don't
16 have the copies here.

17 Q Let me mark it -- am I marking the 1040 in 1970
18 slot and the 1040 in the 1969 slot and the 1040
19 in the 1968 slot under the Zertuche Store?

20 A Yes.

21 Q And the 1040's were prepared in those years?

22 A Yes.

23 Q And I hand you back R-95.

24 Let me ask you now about a few questions
25 on the preparation.

1 The raw data that goes into the 1040 form
2 and the trust and Farm and Ranch and O. P. and
3 Ramiro Carrillo return --

4 A Yes.

5 Q -- there was no pickup on the Zertuche, is that
6 correct?

7 A No.

8 Q That was the battle we had over in the federal
9 court, is that correct?

10 A Yes.

11 Q So forgetting the Zertuche completely --

12 A Yes.

13 Q -- tell us how you would go about putting together
14 Judge Carrillo's 1040 form.

15 A We would have to start --

16 Q Well, let me ask you --

17 A We would have to start with the trust and
18 partnership, those have to be prepared first.

19 Q That is to determine whether you have income to
20 carry to the 1040?

21 A Yes.

22 Q And once you got that, you take your 1040, and if
23 you had a wage and withholding, you would add that?

24 A Yes.

25 Q And that would be given to you on a W-2 form?

1 A Yes.

2 Q So you take that data and the data from the 1065 -

3 A Yes.

4 Q -- plus the trust data and enter that on wages
5 or salaries in the 1040 or from the business?

6 A Yes, from the trust, it goes on the same place
7 the 1065 does.

8 Q All right. Let's start, for example, on
9 depreciation schedules.

10 The depreciation schedules, those are in
11 Judge Carrillo's individual returns, is that
12 correct?

13 A Yes.

14 Q How would he get those checks to you -- when would
15 you get all the checks and supporting data that
16 constituted the input into those returns?

17 A They would usually bring them to me the latter
18 part of March or the first of April.

19 Q And they would be composed of -- would he bring
20 the checks to you?

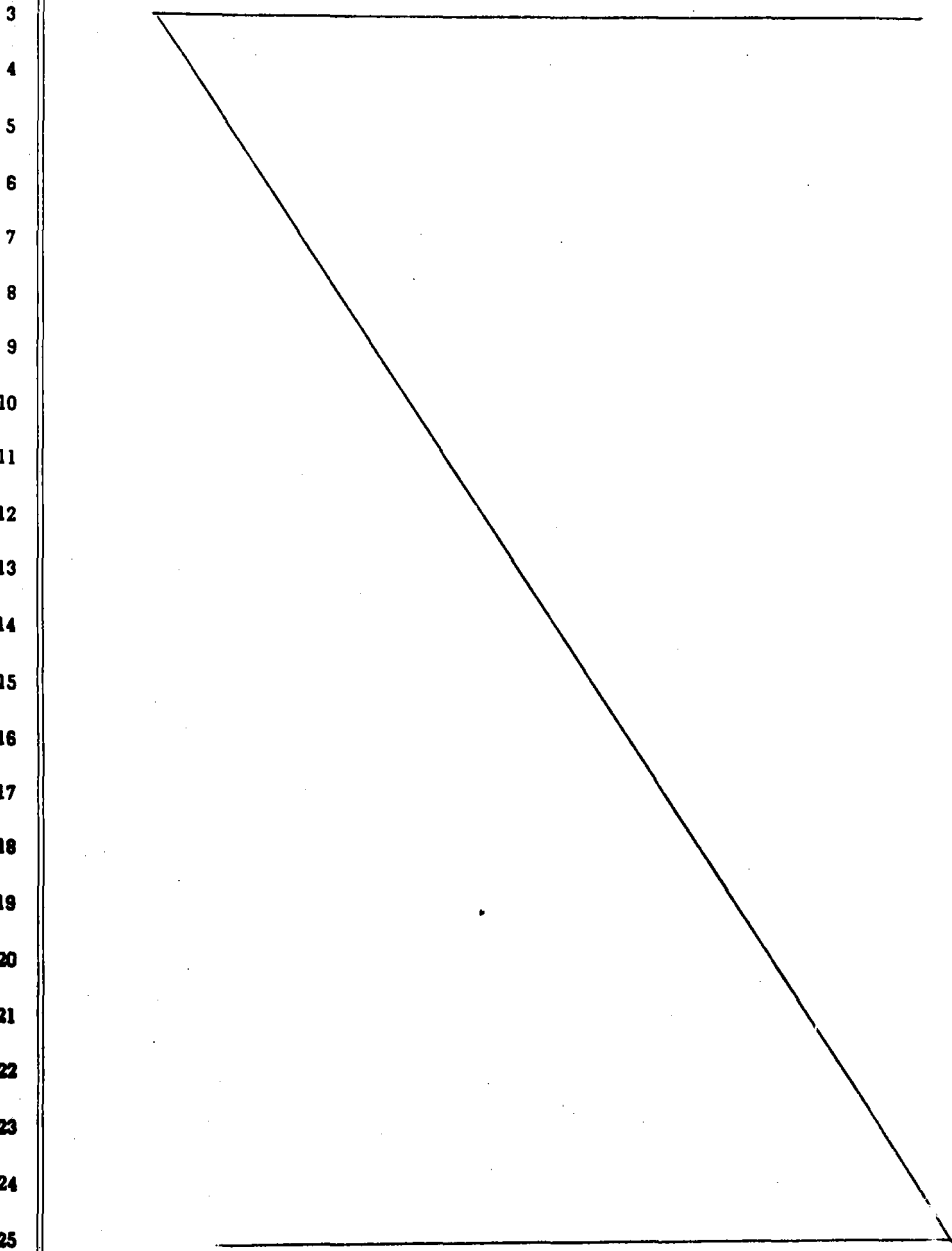
21 A Not necessarily -- on the expenses, yes, he would
22 bring me the checks, segregated in separate
23 envelopes as to the different type of expenses.

24 Q He has ranches and raises cattle?

25 A Yes.

1 Q And that would be reported under Schedule C?

2 A Yes.



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1 Q A schedule F?

2 A Yes.

3 Q And E would be a place where you reported the
4 income from the trust?

5 A Yes.

6 Q And the E would be the place where you would
7 report the income from the Farm and Ranch?

8 A Right.

9 Q All right, now, Mr. Kirkland, suppose that you
10 got a check that indicated he bought, let's say,
11 a pear burner or he bought a dozer or a station
12 wagon, what would you do with that? How would
13 that affect his return?

14 A I would put it on the depreciation schedule for
15 the Schedule F, farm income and expenses.

16 Q All right, the depreciation schedule was also
17 composed by you as it relates to the specific
18 type of income, isn't that correct?

19 A That is correct.

20 Q For example, if it were income, say, from Farm
21 and Ranch that -- of course, that depreciation
22 schedule will be found where?

23 A On Farm and Ranch partnership return.

24 Q And if it were a depreciation schedule that were
25 related to Judge Carrillo's own business, as

1 distinct from the Farm and Ranch, that would be --
2 that would appear where?

3 A That would appear on Schedule C, on his income
4 from the law practice.

5 Q And if the depreciation schedule, let's make one
6 up real quick, let's suppose that Judge Carrillo
7 bought a truck, to use in his business.

8 A Yes, sir.

9 Q And a check would indicate the down payment or
10 perhaps the purchase price, am I correct, and
11 you would set that up on the date of the year of
12 acquisition?

13 A Yes.

14 Q And would you use -- you would set the term of
15 the depreciation?

16 A Yes.

17 Q Three, five, ten years.

18 A Right.

19 Q Under the guidelines by -- published by the I.R.S.?

20 A Yes.

21 Q And then you would according to those guidelines,
22 you would deduct, would you not, the percentage,
23 whatever it would be? If it was three years, it
24 would be a third of the acquisition, and if it
25 were five years it would be a fifth of the

1 acquisition and if it were ten years it would
2 be a tenth of the acquisition, for that year
3 for income, would you not, Mr. Kirkland?

4 A That's right.

5 Q Even though a man, say, took in ten thousand
6 dollars off the operation of his own business,
7 if the depreciation for that year were twelve
8 thousand dollars plus he had labor, say, for
9 another five hundred or a thousand dollars, that --
10 of course, that operation would show a loss even
11 though he took in a lot of money.

12 A That's right.

13 Q And, of course, is that a proper legitimate way
14 of reporting that, Mr. Kirkland?

15 A That's right.

16 Q Then, when you tie in, that is tied in with
17 that loss into the 1040 form, that loss would,
18 of course, be deducted from other income that he
19 might have had, say, as a judge?

20 A It would netted out, yes.

21 Q The fact that a taxpayer would indicate a loss
22 on a Schedule C or Schedule E or Schedule F,
23 would not indicate he took no money in on a
24 given operation, for example, rent of equipment,
25 if the depreciat'on offset that rental income,

1 that operation would show a loss, is that cor-
2 rect?

3 A That is correct.

4 Q Now, let me ask you this, Mr. Kirkland. Assuming
5 that Judge Carrillo would purchase a piece of
6 equipment, say, in 63 and you selected under the
7 guidelines published by the bureau a three year
8 period of time for which to depreciate that
9 equipment, the last depreciation would be one-
10 third of the acquisition cost less the deprecia-
11 tion in 66?

12 A Yes.

13 Q Would there be any reason for you to carry that
14 item on the depreciation schedule in 67, 68, 69
15 and 70?

16 A We carried them quite often, in case they are
17 sold, later sold, disposed of.

18 Q Let me ask you --

19 A Or traded, we still have a record. We don't
20 continue charging depreciation on them, because
21 they have been depreciated out.

22 Q Do you in all instances carry the equipment on
23 a followup depreciation schedule, don't you quite
24 frequently just eliminate them?

25 A Quite frequently we just eliminate them.

1 A All right, let me ask you a question: If Judge
2 Carrillo -- do your records -- does your independ-
3 ent recollection reflect that Judge Carrillo
4 bought a drug store, the old Vallejo Building,
5 back in the early sixties?

6 A He bought some buildings. I wasn't sure just
7 which buildings they were.

8 Q How about drug store equipment, do you recall
9 that being picked up somewhere?

10 A No, I don't.

11 Q Do you remember the Vallejo sales acquisition?

12 A The building, yes.

13 Q And do you recall whether or not that there was
14 some personal property fixed into the building
15 itself?

16 A I don't recall any.

17 Q All right, let me ask you this, suppose he pur-
18 chased an item of personal property and it was
19 depreciated out in three years, and he sold it
20 in the fourth year. How was that reported?

21 Is that a long term gain, or is that an
22 ordinary income, how is that, once you recoup
23 the basis in the form of depreciation, how do
24 you report it?

25 A It was probably, very probably be ordinary income.

1 Q All right.

2 A And recaptured depreciation.

3 Q All right, so that if I looked at the return in
4 the fourth year, after the recaptured deprecia-
5 tion, it is your testimony that the proceeds from
6 the sale of that item of personal property upon
7 which the depreciation has been captured, would
8 show up under gross income?

9 A Under sales, yes.

10 Q Did you have a standing procedure for allocating
11 the income, that is the allocating, say, to
12 salaries, to long term capital gain, short term
13 capital gain, income from partnerships and so
14 forth, Mr. Kirkland, on Judge Carrillo's return?

15 A I don't quite follow you. Allocating the salaries?

16 Q No, allocation of sources of income.

17 A Yes.

18 Q You could identify generally a source of income
19 and make that carry over into the 1040?

20 A Yes, sir.

21 Q Did you have -- tell us whether or not you had
22 a standing rule as to items of income which could
23 not be identified.

24 A Yes.

25 Q Tell the Court what you would do with that, what

1 was your standing rule in the preparation of
2 those returns.

3 A I would go to the party involved, in this case,
4 O. P., and tell him that he had some unidentified
5 items of deposits and that if he couldn't prove
6 to me where those came from, I was going to put
7 them in as income for taxes.

8 Q Just ordinary income?

9 A Just ordinary income.

10 Q All right. First of all, would you have known
11 from the books and records, had there been a
12 partnership established in 1970 --

13 MR. MITCHELL: Strike that, that probably
14 is improper.

15 Q Was there anything in 1971, 72 or 73 indicating
16 a partnership relationship between Judge Carrillo,
17 Ramiro Carrillo and Rudolfo Couling in a business
18 known as Benavides Implement and Hardware?

19 A Not to my knowledge.

20 Q Has there ever been a 1065 form prepared by you,
21 in their behalf, for a partnership interest in
22 the Benavides Implement and Hardware?

23 A No.

24 Q As a matter of fact, do you know that is a
25 separate business owned by Mr. Couling, your know

1 that, don't you, Mr. Kirkland?

2 A I didn't even know it existed until recently.

3 Q All right. Did you -- do you recall from the
4 tax returns, and I am going to direct your atten-
5 tion to 71, 72 and 73, in that area.

6 MR. MITCHELL: Let me get to -- strike
7 that.

8 Q First of all, do you recall when you picked up
9 the two bulldozers under this Exhibit -- let me
10 give that to you, to refresh your recollection.

11 MR. MITCHELL: I am looking for Exhibit
12 R-50.

13 A I might have that in my copies.

14 Q All right, could you refer or tell the Court
15 when you picked up a D-8 tractor 36A43 and a
16 D-8 tractor 36A470, if you did?

17 THE MASTER: Mr. Mitchell, I have not
18 mentioned this to you in a long time in
19 this hearing, but you really are going at
20 a machine gun rate right now. I think Gene
21 is getting you, but he hasn't cried uncle
22 yet.

23 MR. MITCHELL: All right.

24 Q Do your records reflect when those were picked
25 up for depreciation purposes, let me hand you

1 this contract, Mr. Kirkland, it might help you,
2 Exhibit R-50.

3 A That is just an insurance policy right there.

4 Q Yes, you might not have picked it up, this is
5 dated 74, if you will notice.

6 A Yes.

7 Q May of 74. Do you know whether you have even
8 picked it up?

9 A I don't believe so.

10 Q All right, incidentally, I notice you have there --
11 may I take that? That is a depreciation schedule
12 for 1974 for Judge Carrillo, is that correct?

13 A That is just an extra blank I made up for bring-
14 ing forward for 1975. That doesn't have any
15 depreciation shown on it.

16 Q You haven't picked up then the two Caterpillars
17 tractors that are the subject matter -- you
18 wouldn't actually, if they were acquired in 74.

19 A Yes, they should have, but evidently they weren't
20 turned in.

21 Q All right.

22 (Discussion off the record.)
23

24 Q All right, let me ask you if I can take this out
25 of your file. This is -- is this an accurate

1 breakdown of the depreciation for his 1974?

2 A No, that is just a pro forma that I copied off
3 of 74 to use to bring forward for 75.

4 Q All right, now on R-30, he acquired -- the testi-
5 mony is he bought these two Caterpillars in May
6 of 74. When would you now pick those up and
7 start your depreciation?

8 A They should have been picked up in 74, but evi-
9 dently they weren't.

10 Q Well, it would be picked up for 1975 return, for
11 74, am I correct?

12 A They would be -- should have been picked up on
13 the 74 return.

14 Q All right.

15 A But evidently they weren't turned in. They
16 were put on a note and weren't turned in. You
17 see there was no --

18 Q All right.

19 A There was no down payment made on them, there
20 was just a note and evidently they weren't turned
21 in to me.

22 Q Is that usually the way you picked that up, if
23 your records don't reflect a down payment?

24 A Well, if I can find some payments, then I can
25 ask for the note.

1 Q All right.

2 A And determine the total cost.

3 Q All right, if you will -- if your books are going
4 to pick up, say, payment made in 74 -- or 75,
5 let's put it 75, then you go back and you set
6 those up on the depreciation, is that what you
7 would do?

8 A That's right.

9 Q Now, I notice this depreciation schedule, this
10 form 4562, Mr. Kirkland. It shows about twenty-
11 four pieces of equipment that Judge Carrillo has
12 personally that are depreciated, am I correct?

13 A Yes.

14 Q All right, now in addition to the -- to what he
15 would have personally, looking now at -- to the
16 Farm and Ranch, I notice R-72, 73, I am turning
17 now to 4562. Those depreciation schedules are
18 separate and apart from the ones he had individu-
19 ally, is that correct?

20 A Yes.

21 MR. ODAM: Your Honor, if I might,
22 I know that there is a confusion at times.
23 We talk about filling something out for 74,
24 for 73 and in asking or in answering the
25 questions, if he could clarify, are we

1 talking about an income tax return filed for
2 a particular year?

3 For example, I'm confused when you
4 talk about 74 returns, you are talking
5 about income for that year, or are you
6 talking about filled out in 74 for 73?

7 THE MASTER : Let's just state for the
8 record, and all of us followed the designa-
9 tion, you fill out on a form dated 1974 your
10 income tax usually between January and April
11 the 15th of 1975 because if you are on the
12 calendar year, it is due April 15th, 1975,
13 and I take it Judge Carrillo's was on a
14 calendar year.

15 THE WITNESS: All of the entities were
16 on a calendar year.

17 THE MASTER: All entities were on a
18 calendar year?

19 THE WITNESS: Yes.

20 THE MASTER : When you speak of the
21 1974 return or 1973 return, 1972 return,
22 you are speaking of a return that was pre-
23 pared and filed in the four months, four
24 and a half months of the year following?

25 THE WITNESS: Yes, sir.

1 THE MASTER: Unless an extension was
2 granted for some reason?

3 THE WITNESS: Yes, sir.

4 MR. ODAM: Your Honor, I have for example,
5 E-185 and in the top righthand corner it
6 says 1973. Are you looking at that?

7 THE MASTER: That was filed, presumably,
8 on or before April 15th, 1974.

9 THE WITNESS: April the 10th, 1974.

10 MR. MITCHELL: Down in the lower right-
11 hand corner, John, it indicates when Mr.
12 Kirkland filed it.

13 MR. ODAM: What I am saying, that it
14 states to be a 1973 return.

15 THE MASTER: And it reflects 1973
16 income, right?

17 THE WITNESS: Yes, sir.

18 MR. MITCHELL: But it was filed on
19 4-10-74.

20 MR. ODAM: But that is referred to
21 as the 73 return.

22 THE MASTER: That is correct.

23 MR. MITCHELL: Yes.

24 THE WITNESS: Right.

25 MR. ODAM: And also for the purpose of

1 the record, if in referring to these, if you
2 are referring to items which are in evidence,
3 if you could refer to them by Exhibit numbers
4 that might help also.

5 MR. MITCHELL: All right.

6 Q Well, going back to R-50, which is a contract
7 for the purchase of these two tractors, R-50
8 shows they were bought May 2nd of 1974.

9 A Yes.

10 Q You have not, as I understand it, picked up for
11 depreciation purposes these two items on the 1974
12 return which would be filed in 75?

13 A That's right.

14 MR. ODAM: What Exhibit number is that?

15 MR. MITCHELL: R-50.

16 MR. ODAM: No, I'm not talking about
17 that.

18 THE MASTER: The 74 return, is it an
19 Exhibit in this record?

20 MR. MITCHELL: It is not in this record.

21 THE MASTER: I thought not.

22 MR. MITCHELL: No, it isn't.

23 MR. ODAM: Is that it that you are
24 looking at there?

25 MR. MITCHELL: No, that is the Farm

1 and Ranch, John, which is Exhibit E-185.

2 It wouldn't be on the Farm and Ranch in any
3 event. It is a personal acquisition, is
4 that correct?

5 Q (By Mr. Mitchell:) Let me ask you this, Mr.
6 Kirkland, would you, in setting up a depreciation
7 schedule, set up a separate depreciation schedule
8 for partnership acquisitions from those for
9 O. P. Carrillo individual acquisitions?

10 A Yes.

11 Q And as a matter of fact, although --

12 THE MASTER: Well, excuse me, didn't
13 you -- then you have confused me. You had
14 referred to Exhibit E-185?

15 MR. MITCHELL: Yes.

16 THE MASTER: Now, it is the 1973 --

17 MR. MITCHELL: Partnership return.

18 THE MASTER: That's right, the partner-
19 ship return.

20 MR. MITCHELL: Right, that is right.

21 THE MASTER: And under our R-57 is it?

22 MR. MITCHELL: R-50.

23 THE MASTER: R-50, Judge Carrillo
24 acquired the tractors.

25 MR. MITCHELL: Right.

1 THE MASTER: In May of 1974?

2 MR. MITCHELL: Right.

3 THE MASTER: It would have nothing
4 conceivably to do with E-165?

5 MR. MITCHELL: That's right.

6 THE MASTER: I didn't understand why
7 you were asking about the two of them.

8 MR. MITCHELL: I thought Mr. Odam
9 asked a question as to whether or not it
10 would be picked up, that is the depreciation
11 of the tractors would be picked up on the
12 Farm and Ranch and my question to the witness
13 was there were separate depreciation schedules
14 for acquisitions made under the partnership,
15 am I correct?

16 THE WITNESS: Yes.

17 Q And from those made by the individual, that is,
18 say, O. P. Carrillo individually.

19 A That's right.

20 Q Now, if I further confuse you, I will ask you
21 this, the property reported under the 1040
22 individual form that is personal properties are
23 not the same as those acquired under the partner-
24 ship, is that correct?

25 A That is right.

1 Q And that there are joint acquisitions of O. P.
2 and Ramiro Carrillo that are carried on separate
3 depreciation schedules, am I correct?

4 A That's correct.

5 Q And acquisitions made by the O. P. Carrillo and
6 Ramiro Carrillo, they would be carried on that
7 depreciation, and, of course, that information
8 return reflects that depreciation?

9 A That's right.

10 Q And that depreciation deduction was made on the
11 income that would have been allocated to the
12 partnership before it was carried over to the
13 1040 form?

14 A That is correct.

15 Q On the other hand, the depreciation schedule that
16 attached to the 1040 would be direct deduction
17 against the business for which the acquisition
18 was employed?

19 A That's right.

20 MR. ODAM: Could I ask a question off
21 the record, please.

22 THE MASTER: Yes, sir.

23 (Discussion off the record.)
24
25

1 THE MASTER: Shall we go back on the
2 record? Are you ready to proceed with the
3 examination of this witness, Mr. Mitchell?

4 MR. MITCHELL: Yes, sir, I am ready to
5 continue, if I may be permitted, Your Honor.

6 THE MASTER: All right.

7 Q (By Mr. Mitchell:) Mr. Kirkland, there are cer-
8 tain checks in evidence and I am going to look
9 now to the original of some of those. They are
10 in series 151, 152, 153, 154, 155, and 156.

11 Let me ask you, please, sir, in connection
12 with making up the return for Judge Carrillo,
13 would you be given the -- would you have an occa-
14 sion to see the check -- a check made payable to
15 him, for example, E-156?

16 I will hand you E-156 which is a check dated
17 5-20-71. Would you ever have an occasion to even
18 look at the check?

19 A No.

20 Q If there were ever a question as to whether or
21 not an item, or how an item should be allocated,
22 would you -- what would you do, would you under-
23 take to contact Judge Carrillo on the matter?

24 A Yes.

25 Q And -- would you search out the check on those

1 events?

2 A No, not necessarily. These checks were not
3 Judge Carrillo's checks.

4 Q They are not. Well, they are payable --

5 A That's right, but we had no control over these
6 accounts at all.

7 Q All right.

8 A We would just go, and if he could -- if he
9 could show me what items were covered in these
10 deposits, and I could prove it to my satisfaction,
11 we would allocate them accordingly.

12 Q I see.

13 A Otherwise, if he didn't know, and I didn't know,
14 we put them down as income.

15 Q Ordinary income?

16 A Yes.

17 Q All right. Now, accompanying each check, of course,
18 would be a deposit slip to his account?

19 A The deposit slips were what we worked from.

20 Q And the deposit slips had the information of the
21 bank into which the item went, I suppose?

22 A Yes.

23 Q It would have the amount of the item?

24 A Yes.

25 Q The date of the item?

1 A Yes.

2 Q The date of the item?

3 A Yes.

4 Q The account against which the item was drawn, I
5 suppose?

6 A That was a problem. Quite often they would just
7 put down a check, one thousand dollars and if
8 we couldn't identify it, we would put it in as
9 income.

10 Q Okay. Go ahead, Mr. Kirkland.

11 A If we have a check, it says South Texas Auction
12 and Commission Company, that went in under the
13 cattle sales.

14 If we had a check from a coop, that went
15 under grain sales.

16 Q How about a check, say, for example, a store
17 counter, such as in 71 for a thousand dollars,
18 how would that be picked up?

19 A Just from the deposit slip.

20 Q Would it show as ordinary income?

21 A Probably, yes.

22 Q All right, how about, say, for example, like
23 E-157, it says tubing, would that be -- your
24 testimony would be the same, and that would be
25 picked up as an item of income of nine hundred

1 and eighty-two dollars?

2 A Yes, I would think so.

3 Q All right. Do you have any independent recollection of any of these that I'm showing you?

4 A No, I don't.

5 Q Do you recall an acquisition by Judge Carrillo
6 of a ranch, and a special treatment, if any,
7 that was given to the basis in that ranch, do you
8 recall?
9

10 A Yes, they brought me in the expenses for that
11 year, I believe, for two years in a row and it
12 seemed to me like there were -- the labor checks
13 were exceptionally high and I went back and went
14 through them and had -- I don't remember whether
15 it was Judge Carrillo or Mr. Saenz identify the
16 people to whom those checks were given.

17 If they were carpenters, welders, bulldozer
18 operators, such people as that, I removed them
19 from expense. That was not ranch labor, and set
20 them up as part of the cost of clearing land or
21 part of the cost of a store building which he
22 was constructing at that time.

23 Q You made those allocations accordingly on the
24 return?

25 A Yes, sir.

1 Q All right, now, Mr. Kirkland, do you recall the
2 entry on the books of a station wagon he acquired?
3 Do you remember when that station wagon was
4 entered on his personal books for depreciation
5 purposes?

6 A No, but I could look and see.

7 Q I wish you would.

8 MR. MITCHELL: For the purposes --
9 well, strike that, if he can turn to it.

10 A Do you remember what year --

11 Q I was going to suggest that you look at 70.

12 A All right.

13 Q Or 71.

14 A I have to go in -- this is a later -- this is an
15 older file, well this is a later file.

16 Q Well, it is in evidence as 183. Let me see if --
17 let me hand you that.

18 (Whereupon Exhibit E-183 was handed to
19 the witness.)
20

21 A This shows a 1972 Pontiac station wagon, Novem-
22 ber 13th, 1971.

23 Q All right, and it was picked up for depreciation
24 in 71?

25 A Yes.

1 Q And that would be two-twelfths of the acquisi-
2 tion for how long that you deducted that year,

3 A Three years.
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1 Q I notice for the depreciation of that year, the
2 4562 form accompanies that return, is that correct?

3 A Yes.

4 Q Mr. Kirkland, to the extent there might have been
5 items prior to three or five or ten years prior
6 to that return which were depreciated out, there
7 would be other personal property owned by Judge
8 Carrillo which was not subject to depreciation,
9 is that correct?

10 A Correct.

11 Q There has been some testimony in this record that
12 property owned by Judge Carrillo that was subject
13 to rental income -- let me ask you some questions
14 on that.

15 If there were a check that came in for
16 rental income and if so, where would it be put?

17 A On Schedule E.

18 Q Would you tie in that with the schedule filed on
19 the report or calculated the gross figure and make
20 the deduction on Schedule E?

21 A We would have a separate schedule for Schedule E
22 for depreciation if we could identify which
23 particular piece of property the income was from,
24 usually, we would put down rental of store
25 buildings and the income from them and the

1 depreciation from the stores would be charged
2 against that.

3 Q How about personal property; is that handled any
4 differently?

5 A Well, yes. Of course, as far as -- I don't
6 believe he had any other rental income other than
7 real property, however, he did have, I think, some
8 depreciation on personal property. He bought some
9 furniture for a rented house and we depreciated
10 that.

11 Q How about rental property through the Farm and
12 Ranch or the Zertuche Store account; how was that
13 handled?

14 A As income.

15 Q Ordinary income?

16 A Yes, they didn't have it segregated. It all came
17 in as income, however, we did have quite a bit of
18 rental expense where they leased this equipment
19 and turned around and sublet it and rented it out.

20 Q Some of that equipment was actually owned and leased
21 through the Farm and Ranch and leased through Farm
22 and Ranch and Zertuche?

23 A Yes.

24 Q And some of that was rented and re-rented?

25 A Correct.

1 Q So some of that equipment rented through Farm
2 and Ranch or through Judge Carrillo individually,
3 that was in turn rented by Judge Carrillo, is that
4 correct?

5 A By Farm and Ranch; however, I don't recall any time
6 Judge Carrillo rented something and re-rented it.

7 Q There would be no way I could look at the Farm and
8 Ranch or the individual return and identify that
9 other than as a cost for income, is that correct?
10 Let's say where the Farm and Ranch rented a
11 tractor, that it in turn had rented.

12 A As best I could, I picked that out and put it
13 under rent as expense. I believe there were one
14 or two years that they had a fairly large rent
15 expense and that was what that was.

16 Q When the tax return speaks of rent under expense,
17 Mr. Kirkland, so that we are accurate, it is not
18 rental of a building, is it, necessarily?

19 A Not necessarily, no.

20 Q It is your testimony that there was quite a bit
21 of rental expense on personal property rented to
22 other persons, is that correct?

23 A Yes.

24 Q Are you familiar with the method of doing business
25 adopted by the Farm and Ranch where the sales were

1 made to the county and so forth through the
2 Zertuche Store?

3 A Yes.

4 Q Can you tell us how that was reported?

5 A It was my understanding that the Zertuche General
6 Store would make a sale and they would buy it from
7 Farm and Ranch, sell and collect the money, and
8 then pay Farm and Ranch for it.

9 Q And Zertuche would report his own profits on a
10 Schedule C?

11 A Yes, he would make a profit on it.

12 Q And Farm and Ranch would not deal directly with
13 the county or the school district or other
14 governmental agencies?

15 A That is correct.

16 Q Do you know if that was done with the Benavides
17 Implement and Hardware Store?

18 A I was never acquainted with Benavides Implement
19 and Hardware.

20 Q Do you know there were transactions of rentals
21 through Farm and Ranch to Benavides Implement and
22 Hardware and rentals to other agencies and to the
23 county?

24 A I was not aware of that.

25 Q Do you recall items picked up from Duval County

1 to Farm and Ranch or reflected by Benavides
2 Implement and Hardware of Farm and Ranch
3 equipment?

4 A No, I was just given total figures for the year,
5 not broken down by different rent accounts.

6 Q No breakdown, for example --

7 A So much to one client and so much to another.

8 Q The total figures, were they identified by customer?

9 A No.

10 Q Do you know whether or not -- after -- well, say,
11 beginning in 1971, the Farm and Ranch followed the
12 general procedure of not selling directly to the
13 governmental agencies as it did through the
14 Zertuche Store?

15 A I don't know.

16 Q Do you recall picking up a cost of a -- doing
17 business -- rental payments made by Judge Carrillo
18 to Benavides Implement and Hardware for the
19 Caterpillar tractors, purchased by Benavides to
20 Plains Machinery?

21 A No, I did pick up some Caterpillar rental paid by
22 Judge Carrillo and I set it up as land cost.

23 Q That was part of that capitalization procedure
24 you mentioned?

25 A Yes.

1 Q So if I looked at the return for 1974 and Judge
2 Carrillo paid fifteen thousand dollar rent on
3 Caterpillars, assuming that, actually, you chose
4 to capitalize that and I would not be able to
5 find it in the return labeled rent on Caterpillars?

6 A No.

7 Q But I would be able to find that in the cost of
8 the land?

9 A In the working papers, yes.

10 Q And if the land cost one hundred thousand and
11 there was twenty thousand spent on the rental of
12 the dozers, the acquisition cost would be reflected
13 in one hundred and twenty thousand rather than
14 one hundred thousand?

15 A Correct.

16 Q And Uncle Sam gets his bite, because the spread
17 is the difference between one hundred and twenty
18 thousand and one hundred thousand, is that correct?

19 A Yes.

20 Q Is that a recommended way of handling that?

21 A Yes.

22 Q Rather than expensing out that bulldozer rental
23 separate and apart?

24 A Yes.

25 Q Am I correct?

1 A Yes.

2 Q And you are not adopting -- by adopting that
3 method, we are not hiding the income from the
4 expense item on a dozer, we are choosing to
5 capitalize it?

6 A That is right.

7 Q And as a matter of fact, do you recall, what was
8 the procedure followed here with the rental of
9 those tractors?

10 A Yes.

11 Q What was that?

12 A The method we have just described.

13 Q Okay.

14 A I would have to go back and check that to be
15 sure that we handled all of it that way, but I am
16 reasonably sure we did capitalize it.

17 Q Some of it might have been handled by expenses and
18 some by capitalization?

19 A Yes.

20 Q That is always a critical situation, as
21 capitalization versus expensing?

22 A Yes.

23 Q That is a current deduction, the expensing
24 method?

25 A Yes.

1 Q And capitalization is deferred?

2 A Yes, in case you sell it, you have more cost.

3 THE MASTER: I thought that with respect
4 to deep root plowing, that sort of improvement
5 to the land, the bureau preferred to add that
6 to the basis of the land rather than expense
7 it.

8 THE WITNESS: Yes, that is right.

9 THE MASTER: Thank you.

10 Q (By Mr. Mitchell) And the way, if the Court
11 wanted to make a determination of how much that
12 would be, would have to determine the purchase
13 price of the land and the difference between that
14 figure and how much was carried would be the
15 indication of that amount.

16 A We don't carry the cost of the land on the return
17 at all. The only time we use that is in case it
18 is sold.

19 Q At which time the longer or short term capital
20 gain would be entered as against the sale basis?

21 A Yes, and improvements.

22 Q And as increased by capitalization?

23 A Yes.

24 Q And decreased by depreciation?

25 A Yes.

1 THE MASTER: Do you want to break at
2 this time, Mr. Mitchell?

3 MR. MITCHELL: Yes, that is fine,
4 Judge.

5
6 (A short recess was taken.)
7

8 MR. MITCHELL: I offer R-95, which was
9 the sketch made up during the course of the
10 examination of this witness. It puts in
11 proper context the various forms.

12 I have nothing further in that regard.

13 MR. ODAM: I have no objection.

14 THE MASTER: R-95 is admitted.

15 MR. MITCHELL: Thank you, Judge.

16 Q (By Mr. Mitchell) Mr. Kirkland, I am going to
17 ask you about a check dated January, 1972. Do
18 you recall picking up an item of income for --
19 in the area -- there, is actually fifty-six
20 hundred to fifty-seven hundred dollars in an item
21 of that amount.

22 Would you mind checking your records on
23 that? The check would be in the area of fifty-six
24 hundred dollars.

25 A Five thousand six hundred fifty dollars.

1 Q When did you pick that up and what did you show
2 that as?

3 A It is interlined here. It was evidently not a
4 deposit.

5 Q All right, sir.

6 A It is five thousand six hundred fifty dollars and
7 I have it circled and marked fees. I have put it
8 in as professional fees collected by O. P. I
9 didn't know what type of income it was, but I felt
10 if he could not tell me what it was, then it was
11 taxable.

12 Q You carried it as gross income and it was picked
13 up as gross income that year?

14 A Yes.

15 Q And went into the calculation on the tax due, if
16 any, on that year?

17 A Yes.

18 Q Mr. Kirkland, the data that you used as an input
19 in these returns, as I understand your testimony,
20 that data does not segregate the source of the
21 income, is that correct?

22 A Not on the partnership. On the others, it is
23 segregated by types of income, not necessarily
24 the source, but by types.

25 Q By types, we mean whether it was ranch income?

1 A Yes, or cattle sales or oil runs or caliche sales.

2 Q And those categories are broken down in the 1040
3 form?

4 A Yes.

5 Q If Judge Carrillo had a check for seven hundred
6 dollars from Benavides Implement and Hardware,
7 which was rental income, there was no separation
8 in that category?

9 A Correct.

10 Q That would be picked up as ordinary income?

11 A Yes, I didn't have any marked that way as rental
12 income.

13 Q As ordinary income?

14 A Yes, I took them as ordinary income.

15 Q Did you find in 1971, '72 and '73, there were
16 sources of income unidentified and you put them
17 in as ordinary income?

18 A Yes.

19 MR. MITCHELL: I believe, Mr. Odam, you
20 had asked whether or not we had the '74 return,
21 did you not?

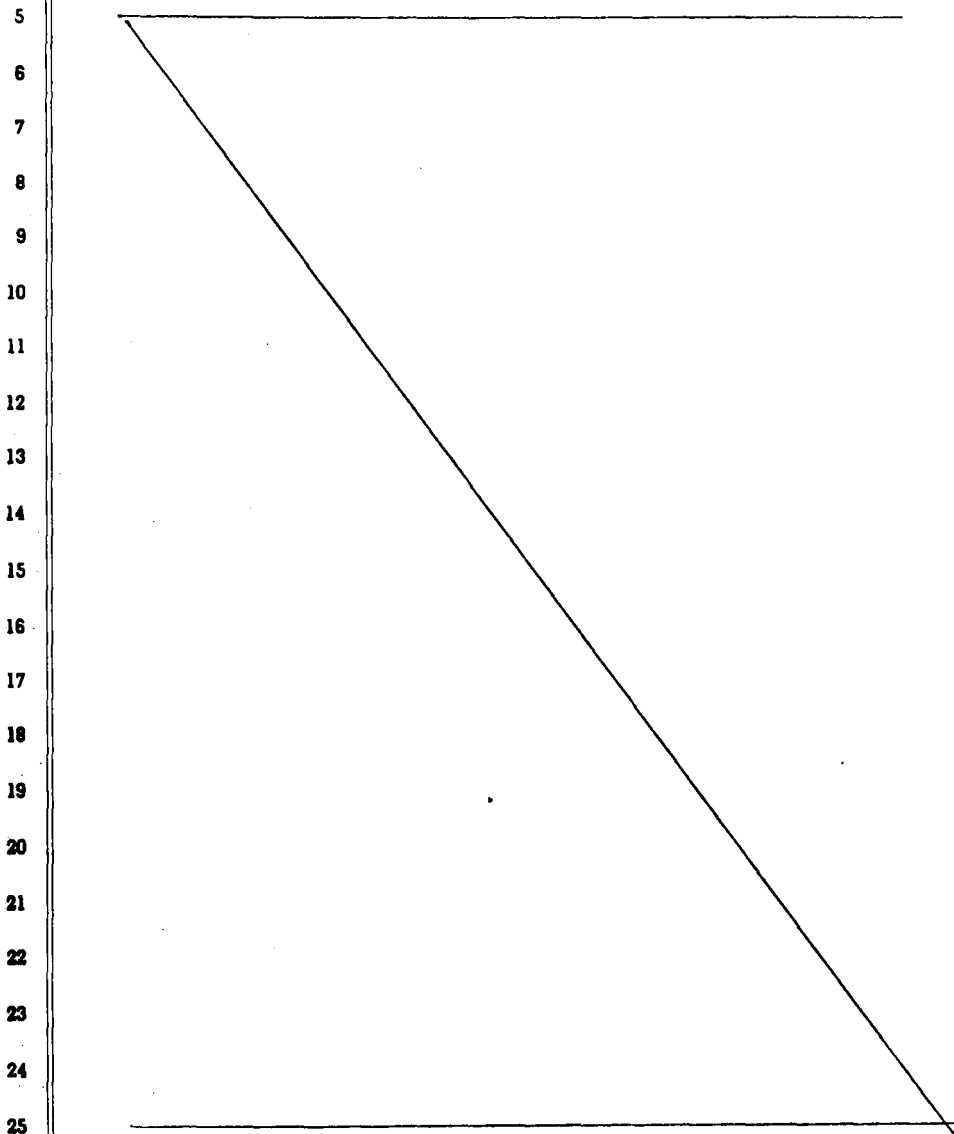
22 MR. ODAM: Yes, sir.

23 Q (By Mr. Mitchell) Do you have a copy of your
24 '74 return?

25 A I only have my file copy.

1 Q Does that show a depreciation schedule that
2 accompanies it?

3 A Yes, on the ranch. This is the rent property
4 here.



1 Q All right, you have actually two types of depre-
2 ciation schedules, don't you?

3 A Well, I did have three. I had one for rental
4 property, one for Farm and Ranch and one for his
5 office when he had an office.

6 Q All right, now this return, for example, now this
7 one is the 74, has examples of what types?

8 A It has depreciation on his rent property, and on
9 his Farm and Ranch equipment.

10 MR. MITCHELL: If Counsel would like,
11 Your Honor, I would have no objection to
12 taking this return, marking it, introducing
13 it with the understanding or request that
14 we could withdraw it and return it back to
15 Mr. Kirkland.

16 MR. ODAM: Yes, sir, I would like to do
17 that.

18 Q Would you mind giving me that return, Mr. Kirkland?

19 A I had an unpleasant experience with returns. The
20 government, they got all of my returns and kept
21 them for two years.

22 Q In this particular case?

23 A And I had -- I have about three files on some
24 of them.

25 THE MASTER: This is the 1974 1040

1 return?

2 MR. MITCHELL: Yes, sir, individual
3 return for O. P. Carrillo.

4 Q (By Mr. Mitchell:) All right, Mr. Kirkland, on
5 all Schedule F's, that would be the form deduc-
6 tions, et cetera, in the schedule F, that would
7 be a place for the inclusion of income from
8 farm activities, isn't that correct?

9 A Yes, sir.

10 Q Also, would it -- is it not a fact that on the
11 schedule F, there would be a place for a deduction
12 against that income?

13 A That's right.

14 Q That would include labor, repairs, insurance on
15 business property, used in connection with the
16 production of that income?

17 A Yes.

18 Q All of these various items, and so your return
19 does reflect those deductions, am I correct?

20 A Yes.

21 MR. MITCHELL: Your Honor, we, at the
22 request of Counsel, will offer R-96 under the
23 same agreement that we previously had, that
24 is to withdraw it and return it.

25 THE MASTER: Yes, in that connection,

1 if you will hang around after one o'clock,
2 Mr. Chatham here or Mr. Vernon will get that
3 copied and get it back to you today so you
4 won't have the same experience you had with
5 others.

6 THE WITNESS: Good.

7 MR. ODAM: We have no objection to
8 R-96.

9 THE MASTER : It is admitted.

10 (Whereupon Exhibit R-96 was admitted
11 into evidence.)

12 MR. MITCHELL: Your Honor, I have no
13 further questions of this witness, Judge
14 Meyers.

15 MR. ODAM: Your Honor, if I might
16 suggest, I would like to defer my cross-
17 examination of Mr. Kirkland perhaps if it
18 would be all right with Mr. Mitchell, so
19 that Mr. Mitchell could have his direct
20 examination of Mr. Pinkin.

21 THE MASTER: Yes, sir, that is -- Mr.
22 Kirkland, I am going to ask you to step down
23 and step outside.

24 I don't know whether you have been
25

1 instructed or not, do you understand that
2 this is a proceeding that is not a public
3 proceeding?

4 THE WITNESS: Yes, sir.

5 THE MASTER: All right, so you know
6 not to discuss your testimony?

7 THE WITNESS: Yes, sir.

8
9 (Discussion off the record.)

10 THE MASTER: Mr. Pipkin, you were earlier
11 sworn. I do not see the necessity to
12 administer the oath a second time, do you,
13 Mr. Mitchell?

14 MR. MITCHELL: No, sir.

15
16 - - - - -

17
18 MAURICE PIPKIN,
19 recalled as a witness, having been previously sworn,
20 testified upon his oath as follows, to-wit:

21
22 E X A M I N A T I O N

23
24 BY MR. MITCHELL:

25

1 MR. ODAM: Here is a copy of the
2 letter from Judge Carrillo.

3 MR. MITCHELL: Thank you, John.

4 Q (By Mr. Mitchell) Mr. Pipkin, this would go back
5 of that.

6 A Where do you want to put it?

7 Q Why don't we tie it in with the May letter.

8 A Okay.

9 Q And here -- all right, sir.

10 Would you state your name for the record,
11 please?

12 A Maurice Pipkin.

13 Q What is your occupation and profession?

14 A Executive director of the State Judicial
15 Qualifications Commission.

16 Q And you have been all the time for the present
17 inquiry into Judge No. 5?

18 A Correct.

19 Q I believe most of the time you have also been
20 present during the hearing here?

21 A Yes.

22 Q Let me direct your attention to the letter sent
23 the early part of this year, E-2 and R-1, dated
24 May 2nd, 1975, do you have that in front of you?

25 A I do.

1 Q That is, I believe, identified as the letter to
2 Judge Carrillo, as regards certain matters of
3 inquiry permitted under the preliminary
4 investigation section of our rules?

5 A Yes, that is correct.

6 Q Using that date of that exhibit, I want to ask you,
7 prior to that time, had you had occasion, as
8 executive director under the rules, to contact
9 Judge Carrillo concerning complaints made by
10 Judge Guerra?

11 A Judge Guerra contacted me on one occasion having
12 to do -- and I don't mind being corrected. I am
13 calling on my memory.

14 It had to do with an election contest in
15 Starr County in which I think one of his cousins
16 was involved. I believe it has to do with a
17 county commissioner race.

18 MR. ODAM: May I ask a question of
19 Mr. Mitchell?

20 THE MASTER: Yes.

21 MR. ODAM: What paragraph does this go
22 to, Paragraph 7?

23 MR. MITCHELL: Yes, plus the over-all
24 posture or attitude, I suppose, but that is
25 not a good word, but position of Judge

1 Carrillo.

2 First of all, the matter was closed out
3 and until we got it politically oriented and
4 Mr. Pipkin is the best witness to establish
5 those are the facts.

6 MR. ODAM: Well, I would object on the
7 grounds of relevancy to the merits. I think
8 Mr. Pipkin's testimony goes to matters raised
9 in the pleas in abatement and if it does at
10 all, as to -- it was discussed on the first
11 day of this hearing, I believe, and I think
12 it would be appropriate that these matters
13 not be raised at this point. It would be
14 relevant only in the matters of the pleas
15 in abatement.

16 MR. MITCHELL: And further, it is
17 offered as regards the motive of the witnesses,
18 the Chapas and the Sanchezes and the Ruizes
19 and the political division that occurred.

20 THE MASTER: There might be some
21 connection there. I don't remember specifically
22 the last question.

23 MR. MITCHELL: I had asked the witness,
24 because of the testimony previously introduced,
25 there had been some division and a

1 constitutional complaint concerning Judge
2 Carrillo and that, I believe, is substantiated
3 by Mr. Pipkin's testimony that he recalls
4 there being one made.

5 THE MASTER: That is certainly a
6 question created as to the credibility of
7 these two factions. Judge Carrillo has made
8 it pretty clear and the people who testified
9 against him made it clear that they are
10 political enemies and the inference is that
11 one might shade the truth to advance his
12 political side or really destroy the opponent
13 in the situation.

14 I hope you can be brief, but I believe
15 it comes in.

16 MR. MITCHELL: It is not a question of
17 adversity type proceedings. I am asking him
18 a negative count of what transpired. I don't
19 call him in a true adversary manner.

20 I hope to ask him some ten questions.

21 THE MASTER: Well --

22 MR. MITCHELL: Fifteen questions, Your
23 Honor.

24 THE MASTER: I will keep count.

25 MR. MITCHELL: At any rate, I will try

1 to relate them, Your Honor, and make them
2 relevant to it.

3 THE MASTER: All right.

4 Q (By Mr. Mitchell) Mr. Pipkin, you did contact
5 Judge Carrillo?

6 A I believe I corresponded in this matter and
7 received a response. I may have talked to him on
8 the telephone, but the reason Judge Carrillo sent
9 me a considerable amount of material including
10 copies of docket sheets and other claims which
11 satisfied me and the commission that this
12 particular complaint had the nature of being
13 partisan. It was not considered for any purpose.
14 The commission's determination was that that
15 particular claim had no merit.

16 Q And it dealt with an election contest that the
17 judge presided over involving one of the Guerra
18 candidates?

19 A Correct.

20 Q And when the letter of May 2nd was written, I
21 believe the input in that letter dealt with
22 further complaints by the Guerras and involved
23 the case Manges versus Guerra.

24 A We received no communication from the Guerras in
25 that situation. The complaint came to us through

1 Garland Smith.

2 Q And he has been identified as an attorney for one
3 of the Guerras?

4 A Yes.

5 Q And Garland Smith, his only connection with this
6 was the filing of a motion to disqualify the judge
7 and I believe the evidence indicates the judge
8 recused himself from that and a hearing was had on
9 that, is that correct?

10 A I have no knowledge of exactly how Smith was
11 involved in this thing, except it was determined
12 at that time.

13 Q But at any rate, Judge Carrillo did answer the
14 May 2nd, 1975 letter, which set out the subject
15 matter of the complaint of Garland Smith and that
16 letter speaks for itself, but there was a
17 statement that Judge Carrillo had received an
18 expensive gift and stock and a grazing lease.

19 A You are right.

20 Q And the judge took to explain that in a letter
21 to you?

22 A Right.

23 Q And I believe there was a further request that
24 he deliver up some tax returns to you, and I hand
25 you a letter dated May 8, 1975, on follow-up data.

1 A This has no connection whatsoever with the
2 complaint. You may or may not know, but we have
3 been appointed the custodian of all of the
4 fiduciary records of all district judges and
5 appellate judges and others required to submit
6 them under seal, their fiduciary records each year.
7 This appears because, on checking our records, it
8 appeared that Judge Carrillo had not submitted his
9 fiduciary records.

10 Q Then I won't offer it, but anyway, Judge Carrillo
11 did respond to that letter?

12 A Concerning the income tax?

13 Q Right.

14 A Yes, and let me add that they are sealed, they
15 have never become a part of this hearing. It is
16 still sealed.

17 Q Now, the next inquiry -- we have taken E-2 and R-1
18 and that brings us up to shortly after May 2nd,
19 1975, is that correct?

20 A That appears to be correct.

21 Q Can you, using that date, the May 2nd date, tell
22 us -- speak to the record as to what was the
23 next complaint or communication with Judge
24 Carrillo concerning the matters which subsequently
25 evolved into the Second Amended Notice of Formal

1 Proceedings?

2 A Do you mean the written communication?

3 THE MASTER: You mean First Amended,
4 do you not?

5 MR. MITCHELL: Judge Meyers is correct.

6 THE WITNESS: I will have to, if it is
7 permissible, to lay a predicate for that.

8 MR. MITCHELL: Yes. May he do so,
9 Your Honor?

10 THE MASTER: Yes.

11 THE WITNESS: You recall, I visited with
12 you briefly about the possibility of the
13 judge waiving the time element, fifteen days
14 notice, because I had the impression that
15 you and the judge were exceedingly unhappy
16 with the treatment you received before the
17 House Investigating Committee and that I
18 believe the impression I had that you felt
19 that it lacked a quorum and judicial quality
20 and so forth, so I talked to you about the
21 possibility of waiving your fifteen day
22 waiting period so we could do what we are
23 doing now and get ahead of the impeachment
24 proceedings so that we could carry out our
25 constitutional responsibility.

1 Q All right, at the time that you and I visited,
2 however, there had not been any notice of formal
3 hearing filed?

4 A That's right.

5 Q And that is Exhibit R- --

6 A At that time I might add, you seemed receptive
7 to the idea, particularly the idea of the Judi-
8 cial decorum that would take place in a situation
9 like this.

10 But you said that you couldn't make the deci-
11 sion, and that your client would have to make the
12 decision, that you had to talk to him.

13 Q Now, Mr. Pinckin, between the May 2nd letter and
14 the Judge's response, had the matter been disclosed?
15 What was the status of the matter as far as the
16 Commission is concerned, do you know?

17 A May 2nd?

18 Q After the receipt of the answer to the May 2nd,
19 1975, letter. I am wondering what generated the
20 interest, quite frankly, too -- and if you will
21 tell us --

22 A I don't mind telling you.

23 Q All right.

24 A The Commission came under a great deal of criti-
25 cism because our position was misrepresented.

1 Apparently some members of the House of Representa-
2 tive, and some members of the Legislature, and
3 newspaper people felt that we were fully conver-
4 sant with the charges that have been aired here
5 during this hearing.

6 Actually, we were not. We were never made
7 privy to this information. As a result --

8 And another thing, we are a creature of the
9 Legislature to a degree.

10 Q And certainly sensitive to any --

11 A Sensitive to what is going on.

12 Q Sure.

13 A In the Legislature, and we felt it would be per-
14 haps presumptuous to say to the Legislature, "You
15 don't have any business holding impeachment hear-
16 ings because that is our responsibility."

17 Q I understand. Now, Mr. Pipkin, not only are you
18 sensitive to the Legislature, but, of course,
19 the Legislature appropriates the money for the
20 Commission as well as the judiciary, doesn't it?

21 A That is part of our sensitivity.

22 Q I understand. I am a practical man, and I under-
23 stand that the Legislature at that particular time
24 had undertaken through the committee set up under
25 the House resolution 161, that is, in May of 1975,

1 an inquiry into Judge Carrillo's conduct, am I
2 correct?

3 A Correct.

4 Q All right, now, the notice of hearing that is the --
5 let me get this thing straight once, notice of
6 formal procedure then came when, do you know in
7 terms of time?

8 A Oh, well, I just --

9 Q There it is, July.

10 A That is what I was going to say, about the middle
11 of July is when this formal notice --

12 Q It included, of course, it speaks for itself,
13 and it went beyond the May 2nd matters, did it
14 not, Mr. Pinckin, or did it?

15 A Yes, it did.

16 Q All right, there was -- can you tell us the
17 input into the additional matters set out in
18 the notice of formal hearing above and beyond
19 the May 2nd letter, the input into the May 2nd --

20 A You mean input where we acquired these later
21 charges?

22 Q Right.

23 A I think the first knowledge that we had of this
24 information came from the record of the Select
25 Committee, the -- a copy of the record was sent

1 to us.

2 Q All right, that is the one that was adducing testi-
3 mony in Austin under the House simple resolution
4 161?

5 A Correct.

6 Q All right, now in addition now I believe at that
7 notice, there is the one labeled -- notice of
8 formal procedure R Exhibit 20 was itself super-
9 ceded by the one R 19-A, am I correct?

10 A Correct.

11 Q All right, now, the data contained in the first
12 amended notice of formal proceeding was -- which
13 was the last one that was filed as evidenced by
14 your letter in October of 1975, am I correct, Mr.
15 Pinckin?

16 A Yes.

17 Q Now, to the extent that there was an addition of
18 paragraphs, I believe, there was some changes on
19 it, over and beyond the notice of formal hearing,
20 which was the preceding document that is Roman
21 VIII through and including XIII were added, am
22 I correct?

23 A I believe you are.

24 Q Now, tell us the input --

25 THE MASTER: Excuse me, there is no XIII.

1 MR. MITCHELL: I'm sorry, Judge,
2 Roman XII, there is a paragraph 13, but it
3 is not a specification.

4 THE MASTER: That is correct.

5 A Let me explain to you if I may, leading up to
6 the input.

7 Q That's all I'm interested in.

8 MR. MITCHELL: If he can make a narra-
9 tive statement, I would appreciate it,
10 Judge, without even directing questions.

11 A We are without a staff, number one, for the pur-
12 pose of investigation. I have done that in a
13 limited way, for instance, when I first talked
14 to Judge Carrillo. That was in the capacity of
15 an investigator.

16 I have myself and my secretary who is also
17 the bookkeeper and everything else, but there are
18 just two of us.

19 As a consequence, we have to rely, and the
20 law provides that we can call upon any other agency
21 for assistance and they are supposed to provide
22 us with that assistance.

23 In the course of our business over the years,
24 we have called upon the Attorney General's office,
25 the Department of Public Safety, the Liquor

1 Control Board, the welfare people, and all
2 agencies.

3 So, when it appeared that we were going to
4 perhaps move forward with this hearing, that is
5 now taking place, we went immediately to the
6 Attorney General's office and asked them to
7 assist us.

8 Q And when was the first inquiry that you recall
9 with the Attorney General's office?

10 A Oh, we talked to the Attorney General's office
11 and had a conference with a member of the Attor-
12 ney General's office, none of these people, how-
13 ever, oh, I guess in April of this year.

14 Q And was this for the purpose of securing the
15 results of evidence being adduced?

16 A No.

17 Q At the House Select Committee or their investiga-
18 tion?

19 A No, we asked those people, we asked this gentle-
20 man, and I don't mind telling you his name,
21 his name is Hancock. And I had had some other
22 association with him, that we were particularly
23 interested in any information having to do with
24 the misconduct of Judge Carrillo and in particular
25 any other judges, generally speaking, because we

1 were interested in that sort of information.

2 Now, that was my first -- my first contact
3 on this matter with the Attorney General's office,
4 other than some -- other than some conversations
5 in passing with Mr. Flusche who has assisted us
6 from time to time.

7 Q Up to that April conversation with the Attorney
8 General, I believe you also received the trans-
9 cript of the House Select Committee on impeachment
10 under HS-161.

11 A At that time we had not.

12 Q When did you receive the transcript?

13 A That came a couple of months later.

14 Q All right. Were you --

15 A Or thereabouts, you know, I think the hearing
16 was about the first of June. Then, the time to
17 prepare to transcript, so I imagine it was around
18 the end of June before we had this transcript
19 from the House.

20 Q All right, and how much input was put into it,
21 what has now turned out to be the first amended
22 notice of formal proceedings from the Attorney
23 General, do you recall?

24 A We discussed the ramifications of this thing but
25 by that time the Attorney General was our lawyer

1 and subsequently became our Examiners. We stated
2 to them what we wanted and what we thought was
3 necessary and left it to them to prepare the
4 charge.

5 Q Mr. Pipkin, did you -- now, I will ask you, did
6 you have any conversations at all with members
7 of the Select Committee?

8 A The Vice Chairman called me while the hearings
9 were in progress and inquired of me whether or
10 not we were working on the Carrillo matter.

11 Q And that would have been Mr. Maloney?

12 A Yes, he called me on the phone and I didn't talk
13 to him at all, I mean in person.

14 Q All right, did you communicate to him the fact
15 that there was, in fact, a letter from your
16 office in the early part of May to him?

17 A I told this gentleman that we had received com-
18 plaints about Judge Carrillo and that we had
19 written, started the preliminary procedure which
20 consisted of this first letter.

21 Q All right, did you have any conversations with
22 Terry Canales, the Representative Terry Canales?

23 A The Representative Canales called me and the
24 gist of his inquiry was whether or not we were
25 going to do anything about Judge Carrillo, I

1 think was the term he used and , if so, when
2 the matter would be concluded.

3 He wanted to know -- he wanted to know how
4 rapidly we could operate?

5 I explained to him that we didn't remove
6 judges, that we held a hearing under the auspices
7 of the Commission and that the Commission would
8 recommend -- make a recommendation to the Supreme
9 Court if they felt such a recommendation was
10 necessary and that I just couldn't predict how
11 long it would take.

12 Q Do you recall in that conversation with Represen-
13 tative Canales whether or not he had introduced
14 or authored the bill, and introduced it, creating
15 the --

16 A I don't recall that that was discussed at all,
17 whether or not -- but I had heard rumors at
18 that time.

19 Q Can you tell us in point of time when that con-
20 versation was had, Mr. Pipkin?

21 A Late in May, I didn't keep a log of it, but late
22 in May sometime.

23 Q Did you have any conversation with the Speaker of
24 the House?

25 A The Legislature was in session at the time.

1 Q All right, did you have any conversation concern-
2 ing this matter of Judge Carrillo with the
3 Speaker of the House, Mr. Clayton?

4 A At what stage?

5 Q At any stage.

6 A Yes, I happened to be acquainted with Mr.
7 Clayton, because I had served with him, and I
8 went to see him when this matter was pending
9 and told him that I would appreciate his not
10 making public comments about the Commission not
11 carrying out their responsibilities because they
12 certainly weren't conversant and never were con-
13 versant with all of the testimony that went
14 before this Committee.

15 He sort of apologized and I haven't heard
16 anything back.

17 Q You indicated there might have been conversations
18 with the Speaker, were there others?

19 A No, that was the only one, that is why I asked
20 you.

21 Q As a matter of fact the Judicial Qualifications
22 Commission had, as early as -- the early part of
23 May, had taken the matter under observation, had
24 it not, Mr. Piskin?

25 A In fact -- in fact it was April the 15th, the

1 minutes reflect, when I was instructed to write
2 to the Judge and give him preliminary notice,
3 as you know is required in the rules of procedure.

4 Q And the document that evolved out of that April
5 meeting was the -- is the document that is in
6 evidence?

7 A That first letter.

8 Q Your first letter?

9 A Correct.

10 Q Now, have you had any conversations with Judge
11 Carrillo following your May letter to him as to
12 the subject matter of any of these inquires into
13 his conduct, of his office, Mr. Pipkin, do you
14 recall?

15 A I have visited with the Judge, is that what you
16 had reference to?

17 Q Yes.

18 A I visited with him in his office in San Diego.

19 Q Did you find on those occasions that he has
20 always been cordial and willing to discuss the
21 matters?

22 A He has always been cordial and gentlemanly and
23 willing to discuss the matters.

24 Q Is it a fair statement to say that all of the
25 data that forms the basis of the notice, that goes

1 above and beyond, without going into it, the
2 May letter, came from either the transcript of
3 the House Select Committee on impeachment, set up
4 under the House simple resolution 161 or the
5 Attorney General's office, Mr. Pipkin?

6 A That's correct.

7 Q Do you know whether there was a request through
8 you or initiated through you to abolish the
9 229th Judicial District, that is to introduce a
10 bill to abolish the 229th District Court? Do
11 you know anything about that?

12 A All I -- all I know anything about is an article
13 I read in the paper that seventy member of the
14 House had signed some sort of petition or instru-
15 ment or something with the ends in view of con-
16 sidering the abolishment of that court or attach-
17 ing it to another judicial district or something
18 like that.

19 Q Did you, as a matter of fact, talk to Senator
20 Traeger?

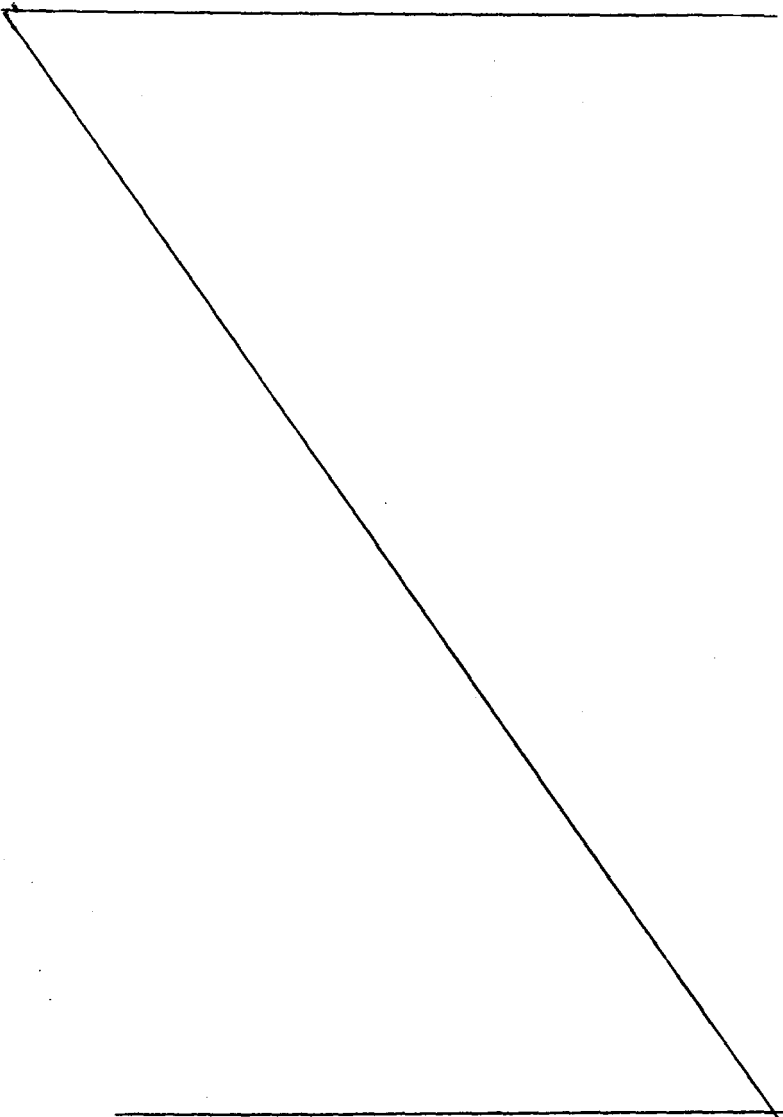
21 A Traeger, yes.

22 Q About how he would stand on the bill to abolish
23 Judge Carrillo's court?

24 A Yes, I did.

25 Q And when was that conversation?

1 A Oh, the best of my memory, I didn't talk to Judge
2 Traeger, I talked to a gentleman named Cline who,
3 incidentally, happened to be a boyhood friend of
4 mine, and I wasn't aware of it at the time.
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1 Q And who is Mr. Cline?

2 A Mr. Cline, I think, is administrative secretary
3 to Senator Treager.

4 Q When was that conversation?

5 A To the best of my memory, it must have been some
6 time in May.

7 Q He is actually the judge's senator, Senator
8 Treager is?

9 A I believe so.

10 Q Did you ask him whether or not he would be
11 amenable to drafting a bill to abolish Judge
12 Carrillo's court?

13 A No, as I recall, he said that Senator Treager,
14 in order to do that, that it was a senator's
15 policy to ask for a resolution from, first of all,
16 from all of the counties involved in the judicial
17 district and then from the counties that would be
18 added and possibly -- and that precluded, of
19 course, anything on the part of -- any activity on
20 the part of the senator, because obviously the
21 court in Duval wasn't going to pass any such
22 resolution.

23 MR. ODAM: I have not been keeping track,
24 but I think we might have run past fifteen
25 questions. I know we have run for at least

1 thirty minutes. I would pose the legal
2 objection as to relevancy.

3 We are sitting here talking about this
4 and I don't think it goes to the merits of
5 the case as to why we are here. For thirty
6 minutes we have not raised the point that was
7 raised thirty minutes ago and --

8 THE MASTER: On the political basis, yes.

9 MR. MITCHELL: Well, I was going to go --
10 I was going to ask about Terry Canales.

11 THE MASTER: Well, I don't mean to be
12 critical, but you have strayed from your
13 announced purpose.

14 Q (By Mr. Mitchell) Mr. Pipkin, in view of the
15 Court's comments, when Terry Canales and you had
16 a conversation, the essence of that conversation
17 was if you could not assure him immediately, he
18 would proceed to introduce the bill to impeach
19 Judge Carrillo, is that correct?

20 A Are you asking me to tell what I thought?

21 Q Yes, the import of the conversation with Terry
22 Canales, which he had with you.

23 A He didn't say anything about a resolution. His
24 inquiry was how rapidly we could proceed. I might
25 say that, as I recall, he wanted to know whether or

1 not the judge would be suspended from his duty
2 pending a hearing.

3 Q And you informed him that the Judicial
4 Qualifications Commission didn't suspend or remove
5 anyone?

6 A Yes.

7 Q And he offered House Resolution 161 under which
8 the committee proceeded to adduce testimony to
9 recommend to the House whether or not to recommend
10 such impeachment?

11 A He introduced the resolution, but I can't say what
12 compelled him to do so.

13 Q Well, in June, the House adopted those articles
14 and the judge was suspended?

15 A Correct.

16 Q And this is December and it has followed the usual
17 process since that period?

18 A Yes, this is a deliberative hearing, as we all
19 know, and we felt that since the people had voted
20 a constitutional amendment establishing this, we
21 had a priority over an 1870 constitution.

22 Q If you, as executive secretary with the commission
23 were not concerned about immediate action, why
24 would you see fit to go to Judge Carrillo's senator
25 to propose a bill to abolish the court?

1 A This was not a commission action. Let me put it
2 this way. The commission was concerned with the
3 good name and reputation of the judiciary. I
4 don't think it is argumentative to say that the
5 Duval County situation had been a thieftom
6 control by a monolithic organization. I never
7 thought, when Oscar introduced the bill, it was
8 the right thing to do. I am not blaming any
9 personalities, it was a system evolved over the
10 years.

11 Q You are talking about Oscar Carrillo?

12 A Yes.

13 Q At the time a member of the House of
14 Representatives?

15 A Yes, and I still feel that way and I told the
16 judge that. I feel if the court had not been
17 created, that we would not be sitting here today
18 in this hearing.

19 Q Well, that is true about any court in the State
20 of Texas, is that right?

21 A That is true, yes, but not of the locale.

22 Q At any rate, Terry Canales, you had a conversation
23 with him and Mr. Cline and Senator Treager in
24 Senator Treager's office and, of course, the
25 Attorney General, and would you say it was -- that

1 all of these folks were pretty anxious to get
2 this judge removed?

3 A Provided the facts indicated he should be removed.

4 MR. MITCHELL: No further questions.

5 Thank you.

6 MR. ODAM: We have no questions of this
7 witness.

8 THE MASTER: You are free to go.

9 MR. ODAM: We would call for cross-
10 examination, Mr. Kirkland.

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1 O. D. KIRKLAND,
2 recalled as a witness, having been previously sworn,
3 testified as follows, to-wit:
4

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

7 BY MR. ODAM:
8

9 Q Mr. Kirkland, I met you this morning, is that
10 correct?

11 A Yes.

12 Q And we have not met before that time?

13 A No, not to my recollection.

14 Q There has been admitted into evidence, and if I
15 am incorrect, I am sure Mr. Mitchell will correct
16 me on that, but there is in question a check for
17 one thousand and eight dollars, which is E-65, and
18 a check to Judge O. P. Carrillo for one thousand
19 eighteen dollars, seven hundred dollars on
20 Examiner's Exhibit E-75, Check 306, which is E-76,
21 a check for nine hundred ninety-five dollars,
22 which is marked as E-80.

23 All of these checks are made out by Benavides
24 Implement and Hardware and signed Rudolfo Couling
25 and made out to O. P. Carrillo personally.

1 My question to you, do you know whether or
2 not you have ever seen those checks, E-65 through
3 E-69, 75, 76 and 80?

4 A No, not until this morning.

5 Q You mean you have seen those this morning?

6 A Yes.

7 MR. MITCHELL: Counsel, I suggest you
8 hand him the checks.

9 THE WITNESS: They were checks I saw
10 this morning, but they may not be the ones
11 you are talking about.

12 Q Let me get those and show them to you.

13 For the purpose of my asking you that
14 question, your testimony was that you would not
15 see checks made out to O. P. Carrillo, but you
16 would only see deposit slips?

17 A Correct.

18 Q And do you know whether or not these amounts of
19 money, totalling four thousand twenty-seven dollars,
20 do you know whether or not those amounts of money
21 were turned in on the tax return for O. P. Carrillo
22 for 1971?

23 A I don't know. I would have to check.

24 Q What would help you decide whether they were or not?

25 A The only thing I know would be to go back through

1 the list of the deposits and see if they could
2 be identified there and tied in.

3 Q Well, would Judge Carrillo furnish to you the
4 deposit slips that would evidence those checks?

5 A He would furnish me a list of them. Anything in
6 question, I would ask for the deposit slips to see
7 if it could be identified.

8 Q Did you term all of that work papers?

9 A Yes.

10 MR. MITCHELL: Excuse me.

11 Your Honor, we have the deposit slips in
12 the filing cabinets in the hall. We will
13 make an endeavor to pull those.

14 THE MASTER: He was asking about that,
15 but he was asking for the slips of paper
16 furnished by Judge Carrillo containing a
17 summary as well.

18 THE WITNESS: Yes, that is what I have.

19 THE MASTER: That is what I thought you
20 were inquiring about.

21 MR. ODAM: Yes.

22 Q (By Mr. Odam) Do you have that summary with you
23 today?

24 A Yes.

25 Q Could I see that, please?

1 A For what year?

2 Q 1971, for the tax year 1971, that was turned in
3 in April, 1972, unless there was an extension.

4 A This one begins in 1972. I have the other one
5 here, I know, somewhere.

6 Here it is right here.

7 MR. MITCHELL: You are going to have to
8 talk out, Mr. Kirkland, I can't hear you.

9 THE WITNESS: This information here is
10 the summary he brought and here are deposits
11 with the First State Bank of San Diego and
12 what they are for. As you see, Duval, Duval,
13 State, State, those are all salary checks,
14 so we don't have to worry about those. All
15 I have to do is take these and pick them up.

16 Now, here is nine hundred and eighty-two
17 dollars, I picked that up as rent, and I didn't
18 know what else to do with it.

19 Q (By Mr. Odam) Okay.

20 A This is cattle sales, cotton, that seems to be the
21 only one in 1971 that is rent income.

22 MR. ODAM: Your Honor, it appears that
23 for the next four minutes, I would not be
24 able to complete the examination of Mr. Kirkland.
25 I would suggest that we go off the record --

1 THE MASTER: Well, first, what Mr. Odam
2 is about to suggest, and you will work with
3 Mr. Kirkland to get the papers you want to
4 cross-examine him about, is that correct?

5 MR. ODAM: Yes.

6 THE WITNESS: I think I found something
7 he might be interested in.

8 THE MASTER: All right.

9 Q (By Mr. Odam) What have you found?

10 A Here is a nine hundred eighty-two dollar check
11 deposited in the First State Bank of San Diego
12 and the First State Bank of Alice shows three
13 thousand three dollars worth of checks deposited.
14 Those are made up of possibly a number of checks.

15 Here is a thousand dollars and here is a
16 thousand and eight dollars, and this is more,
17 because -- here is nine hundred ninety-five
18 dollars.

19 Q Maybe those are the ones in question. The thousand
20 and eight dollars, what is the date of that check?

21 A I show it deposited the 16th of April.

22 Q April 16, 1971?

23 A Yes.

24 Q And where would you report this on the tax return?

25 A I reported this as rental income.

1 Q For the year 1971?

2 A Yes.

3 Q And this would be under the rent for farm income
4 or --

5 A No, other rent. I put it in as the buildings in
6 Benavides, because I didn't know what it was for.

7 Q I see.

8 A As rents income, but I didn't know what he was
9 renting. I put it together with all of the
10 buildings in Benavides so that we would have it
11 as income.

12 Q Okay.

13 MR. ODAM: Your Honor, these particular
14 checks, which perhaps he has identified,
15 which might be the thousand and eight dollar
16 check and the nine hundred ninety-five dollar
17 check, which might be the ones in question,
18 and then, of course, I would like to go over
19 with him these checks for the drilling rig
20 and the store counter and the loan on the rig
21 and see if we can identify what those are
22 for.

23 MR. MITCHELL: I know what the
24 suggestion is, but I would like to go back
25 into it and I suggest we can't do it this

1 afternoon.

2 THE MASTER: I don't think Mr. Odam
3 meant on the record this afternoon. I think
4 he meant with this man to try to get your
5 papers organized, or am I wrong?

6 MR. ODAM: You are correct and if
7 Mr. Mitchell and I could get with him
8 afterwards, then that would be fine.

9 MR. MITCHELL: I would suggest that
10 he pull what he needs out of the returns and
11 mark them.

12 I have no objection to them, so I can
13 have a copy, and Mr. Odam could have a copy
14 and I would like to study them, too.

15 THE MASTER: Very well. We will be in
16 recess until 8:30 tomorrow morning.

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18 (Whereupon, at 1:00 o'clock p.m. on
19 December 11, 1975, the hearing was in recess
20 until 8:30 a.m., December 12, 1975.)
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