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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS HOUSE OF REPRESENTATIVES
AUSTIN, TEXAS

IN THE MATTER OF THE REPORT OF THE
SELECT COMMITTEE ON IMPEACHMENT
HOUSE SIMPLE RESOLUTION NO. 161 -
JUDGE O. P. CARRILLO

VOLUME I

BE IT REMEMBERED that on Monday, August 4,
1975, at 10:00 o'clock a.m., the above entitled matter
came on for hearing before the HOUSE OF REPRESENTATIVES,
STATE OF TEXAS, the HONORABLE BILL CLAYTON, Speaker,
presiding, and the following proceedings were reported
by Hickman Reporting Service, 504 Travis Building,
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PROCEEDINGS

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3 SPEAKER CLAYTON: Pursuant to the provi-
4 sions of House Simple Resolution 221, 64th Legislature,
5 Regular Session, and under the authority of Article 15,
6 Section 1 of the Constitution of the State of Texas and
7 Article 5962, Revised Civil Statutes of the State of
8 Texas, I hereby call the House of Representatives to
9 order to consider the matters of impeachment.

10 The Clerk will call the roll of members.

11 (The Clerk called the roll.)

12 A quorum is present. The House and Gallery
13 will rise for the invocation to be given by Dr. Ralph
14 Smith, pastor of the Hyde Park Baptist Church here of
15 Austin.

16 (The invocation was given.)

17 SPEAKER CLAYTON: The Chair will now hear
18 excuse of absent members.

19 (Absence excuses were recognized.)

20 Members, if I might have your attention, as I
21 noted to you a moment ago, the proceedings of this
22 Special Session are being broadcast live. The Chair has
23 a few brief comments that he would like to make to this
24 body prior to getting into the business of the session,
25 so if I might have your attention.

1 MR. MORENO: Mr. Speaker—

2 SPEAKER CLAYTON: Mr. Moreno, I'll
3 recognize you for a motion as soon as we get into that
4 particular portion.

5 MR. MORENO: This will not be a motion,
6 Mr. Speaker. It's a parliamentary inquiry, and I think
7 it's a very important inquiry.

8 SPEAKER CLAYTON: State your inquiry,
9 Mr. Moreno.

10 MR. MORENO: Mr. Speaker, would you please
11 rephrase to this House under what authority we are con-
12 vened today, please.

13 SPEAKER CLAYTON: Yes, sir. I'd be
14 delighted to.

15 Pursuant to the provisions of House Simple
16 Resolution 221 of the 64th Legislature, Regular Session,
17 and under the authority of Article 15, Section 1 of the
18 Constitution of the State of Texas and Article 5962,
19 Revised Civil Statutes of the State.

20 MR. MORENO: All right. Mr. Speaker,
21 then what happened to House Simple Resolution No. 161
22 and 167?

23 SPEAKER CLAYTON: House Resolution 161
24 will be the resolution laid out for consideration before
25 this body, Mr. Moreno.

1 MR. MORENO: Mr. Speaker, I move a point
2 of order that we are improperly convened in view of the
3 fact that House Simple Resolution was the resolution
4 that commenced this impeachment proceedings, and now the
5 Chair has announced that we are meeting here pursuant
6 to H.S.R. 221.

7 SPEAKER CLAYTON: 221, Mr. Moreno, was
8 a resolution passed in the latter days of the session
9 that set out the procedure by which we would come back
10 into session when the Committee under House Simple
11 Resolution 161 filed its report.

12 The point of order is respectfully overruled.

13 MR. GARCIA: Parliamentary inquiry, Mr.
14 Speaker.

15 SPEAKER CLAYTON: State your inquiry, Mr.
16 Garcia.

17 MR. GARCIA: I understand that this House
18 is being convened under Article 5962 relating to impeach-
19 ment?

20 SPEAKER CLAYTON: That's correct, Mr.
21 Garcia.

22 MR. GARCIA: The inquiry I have, Mr.
23 Speaker, is because of the fact that this House con-
24 cluded its legislative business, and we are being
25 summoned back specifically to consider articles of

1 impeachment. On page 356 of the Black Statutes it pro-
2 vides the manner in which the House may be convened for
3 the purpose of impeachment. That is, one, by proclama-
4 tion of the Governor; number two, by proclamation of the
5 Speaker, which proclamation shall be made only when
6 petitioned in writing by not less than fifty members
7 of the House; and the third manner is by proclamation
8 in writing signed by a majority of the members of the
9 House.

10 There is also a provision that relates to the
11 notices being published in at least three daily news-
12 papers.

13 I would like to determine what mechanics were
14 followed by the House in calling us into session for
15 impeachment.

16 SPEAKER CLAYTON: Bring your point forward,
17 Mr. Garcia.

18 Mr. Garcia raises a point of order that the
19 proper procedures were not performed in calling the
20 session for the impeachment purposes.

21 Under Article 5962 it sets out two purposes
22 by which a session may be called, or three purposes,
23 three ways. These are ways that a session may be called
24 when we are not convened. The first part of that article
25 speaks to additional methods by which the House may call

1 itself back into session to consider impeachment pro-
2 ceedings, and pursuant to an Attorney General's ruling
3 when the Honorable Ralph Yarborough was Assistant Attorney
4 General of the State of Texas, and according to history
5 the precedent in the Ferguson case, the point of order
6 is respectfully overruled.

7 MR. SALEM: Mr. Speaker.

8 SPEAKER CLAYTON: For what purpose?

9 MR. SALEM: Mr. Speaker, this is a very
10 important mission that we've undertaken here today,
11 and I'd like to call for strict enforcement of the rules,
12 and those individuals that are not entitled to the
13 privilege of the floor that they be removed.

14 SPEAKER CLAYTON: Mr. Salem, strict
15 enforcement will be granted, and the Sergeant at Arms
16 has been instructed and enforcement will be carried out.

17 MR. SALEM: Mr. Speaker, it hasn't been
18 thus far. There are members of the committee who have
19 not been authorized to be on this floor simply because
20 they're members—or working for the committee. I feel
21 that they ought to be removed from the floor also.

22 SPEAKER CLAYTON: Okay. We'll take that
23 up in just a few minutes, Mr. Salem.

24 At this time the Sergeant will remove any
25 unauthorized personnel on the floor.

1 MR. SALEM: Now I have a parliamentary
2 inquiry, Mr. Speaker.

3 SPEAKER CLAYTON: State your inquiry, Mr.
4 Salem.

5 MR. SALEM: Mr. Speaker, on this booklet
6 that was sent out by the Committee on Impeachment, on
7 page 17 it says:

8 "Resolution: Impeachment action is
9 initiated in the House of Representatives by
10 the filing of a simple resolution calling
11 for the impeachment of a public official.
12 This was done in the instant case when
13 Representative Terry Canales filed H.S.R.
14 No. 161 with the Chief Clerk."

15 Now, my question is this: All I have to do, or
16 any member of the Legislature has to do, to bring articles
17 of impeachment or ask that an individual be impeached is
18 just to file a House Simple Resolution with the Chief
19 Clerk?

20 SPEAKER CLAYTON: No, sir, that is not
21 correct, Mr. Salem. That resolution has to be passed by
22 this body.

23 MR. SALEM: Well then, Mr. Speaker, the
24 resolution calling for the impeachment of Judge O. P.
25 Carrillo was not passed by this body. It was 161, and

1 it was referred— The Speaker has the prerogative of
2 referring it to any committee he wants to. The House
3 chose by another resolution to send it to a Select
4 Impeachment Committee.

5 Is this not correct?

6 SPEAKER CLAYTON: That is correct, Mr.
7 Salem.

8 MR. SALEM: Then when did the resolution
9 pass?

10 SPEAKER CLAYTON: The resolution has not
11 passed, Mr. Salem. That is what we will have under con-
12 sideration here today.

13 MR. SALEM: That's what I'm asking, Mr.
14 Speaker. All I have to do to bring impeachment pro-
15 ceedings against you or any member of this House or the
16 Senate is to go over there and file a House Simple
17 Resolution with the Chief Clerk and then what will
18 happen is exactly what happened in the Carrillo case,
19 and then we would reach this point in time.

20 SPEAKER CLAYTON: Not necessarily so,
21 Mr. Salem.

22 MR. SALEM: How would it be prevented,
23 Mr. Speaker?

24 SPEAKER CLAYTON: The House makes its
25 decision along with the committee.

1 MR. SALEM: But, Mr. Speaker, the House
2 hasn't had an opportunity to make a decision since the
3 proceedings started.

4 SPEAKER CLAYTON: Mr. Salem, the House
5 made a decision to appoint a Select Committee. The
6 House made its decision to refer this resolution to that
7 committee and asked that it report. The House also
8 passed a Resolution 221, which would call this body back
9 into session should that committee report. Had that
10 committee not found the desire to report this body would
11 not have been called back into session.

12 MR. SALEM: To further my parliamentary
13 inquiry, Mr. Speaker, and to take it one step further,
14 let us assume that we reach a point in time when you are
15 not Speaker of the House and most of the members who
16 are here are not serving in the Legislature. According
17 to what I have before me, all that an individual has to
18 do to put a man through what Judge Carrillo has gone
19 through in the committee or any committee would be to
20 introduce a House Simple Resolution. It is then up to
21 the Speaker of the House to send that resolution to any
22 committee that he might choose to send it to, and then
23 you would start the investigation and they would be
24 working on that resolution.

25 Is this not correct?

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SPEAKER CLAYTON: That is correct, Mr. Salem. That's been the rule since the beginning of our Constitution in 1876.

MR. SALEM: Well, what I'm asking to further my parliamentary inquiry is that what could possibly happen—and I don't address myself to whether an individual is guilty or not guilty—but an individual could be taken before any committee—the Committee on Agriculture if the Speaker of the House decided to send that impeachment resolution to them—and he would sit there for week in and week out, week in and week out, listening to testimony. The press would be carrying all of these things about the individual, and in effect, what would have been done, the man would have been destroyed in the press before he even had his day in court.

Is this not correct?

SPEAKER CLAYTON: That is an assumption, Mr. Salem. And we're not going to debate that issue. The issue before us is going to be the resolution.

MR. SALEM: Thank you, Mr. Speaker.

SPEAKER CLAYTON: Members of the House, if I might have your attention, before we proceed with our business.

Members of the House assembled here in this

1 unusual session, the third of its kind in the history
2 of this State, I would remind you that the price of
3 justice is not cheap, but the system works. The proof
4 of this is in the coming celebration of our 200th year
5 as a nation. Though trials and tribulations may sometimes
6 beset us, our faith in God and a government of the people
7 has carried us to even greater heights and will continue
8 to be our guidepost for tomorrow.

9 Our system of government requires that the
10 governed, or the people, must also govern. This is most
11 appropriately accomplished by those elected officials
12 closest to the people, the Legislators. But our system
13 divides the responsibilities among three branches, a
14 Legislative, Executive and Judicial branch, each perform-
15 ing proper functions. The Legislative branch makes the
16 law, the Judicial interprets, and the Executive imple-
17 ments. Within this system, the Legislature provides the
18 structure by which the other branches of government
19 accomplish their constitutional duties. However, some
20 would say that what we consider here today is a waste
21 of the taxpayers' money, not a legislative responsibility
22 and a matter that reeks of political revenge. But if a
23 government of the people continues to work, we must meet
24 our responsibility as set out in the Constitution and
25 the laws of this State.

1 House Simple Resolution 161 establishing a
2 Select Committee on Impeachment was proper in its intro-
3 duction and its passage by an overwhelming majority.
4 Now we must proceed with the committee's report, not to
5 decide guilt or innocence, but rather to carry out our
6 Constitutional mandate to assess to the satisfaction
7 of our own minds and consciences whether or not Articles
8 of Impeachment should be brought in the case of the
9 judge of the 229th Judicial District Court.

10 Time will note and history will record our
11 actions here today. To properly fulfill our role, we
12 must ensure that the cause of justice is accomplished,
13 and that no man's inalienable rights to life, liberty
14 and the pursuit of happiness are jeopardized nor sup-
15 pressed.

16 Your committee has worked hard; they have
17 furnished you with the needed information for the
18 deliberation of this matter. With the same type of
19 determination and dedication shown by you in the 64th
20 Regular Session, I am sure that the House will dispense
21 with its responsibility and we can be adjourned within
22 a few hours.

23 The Chair lays out how Simple Resolution
24 Number One. The Clerk will read the resolution.

25 MR. REYNOLDS: House Simple Resolution,

1 No. 1, by Evans:

2 "Resolved that the House of Representa-
3 tives of the 64th Legislature now convened
4 for the purpose of impeachment hereby pro-
5 vide that members of the House as provided
6 by Article 3, Section 24, of the Texas Con-
7 stitution receive during the impeachment
8 section per diem of \$30 for each day the
9 House is in session and a mileage allowance
10 in travel to and from the seat of government
11 at the same rate as prescribed by law for
12 employees of the State of Texas."

13 SPEAKER CLAYTON: Mr. Evans to explain his
14 resolution.

15 MR. EVANS: Mr. Speaker, Members, this is
16 just a simple resolution in accordance with the Con-
17 stitution whereby we get paid while we're here.

18 I move its adoption.

19 SPEAKER CLAYTON: Is there objection to
20 the adoption of the resolution? Is there objection?

21 The Chair hears none. The resolution is
22 adopted.

23 Mr. Hale for a motion.

24 MR. HALE: Mr. Speaker and Members of the
25 House, I move to suspend all necessary rules which would

1 specifically include Rule 9, Section 3; Rule 17, Section
2 5; Rule 9, Section 15, and any other rules necessary in
3 order to permit the staff of the House Select Committee
4 on Impeachment to sit here on the floor of the House
5 in order that they may work with and advise the members
6 of the committee during the debate of this House Simple
7 Resolution 161.

8 This is a procedure that we have always followed
9 on appropriation bills, on tax bills, and other compli-
10 cated matters. We have permitted the staff of the com-
11 mittee to be here on the floor in order to render expert
12 advice and guidance to the committee members and to the
13 members of the House if you want to talk to them about
14 anything. I think it would be very helpful for them to
15 be on the floor, and I move to suspend the rules in order
16 that this be done.

17 MR. SALEM: Mr. Speaker?

18 SPEAKER CLAYTON: Mr. Salem, for what
19 purpose?

20 MR. SALEM: Will the gentleman yield for
21 a question?

22 SPEAKER CLAYTON: Do you yield, Mr. Hale?

23 MR. HALE: I'll yield to the senator from
24 Nueces.

25 MR. SALEM: I appreciate it. Mr. Hale,

1 let me ask this question: In what capacity does Attorney
2 Terry Doyle sit on as a staff member of the committee?

3 MR. HALE: Mr. Doyle has been employed as
4 counsel for the House Select Committee on Impeachment.
5 He is on the payroll as the committee counsel. However,
6 Mr. Salem, for your information, your point of order a
7 moment ago does not apply to Mr. Doyle because he is a
8 former member of the House. He has the privileges of
9 the floor.

10 MR. SALEM: But we're not sitting here,
11 Mr. Hale, as a Legislature. We're sitting here as a
12 different committee completely, as I understand it,
13 for impeachment proceedings. But if he is hired to act
14 as counsel for the committee would he—and I need to ask
15 this question—would he be representing the committee
16 should this impeachment go to the Senate for impeachment?
17 Would he be prosecuting there?

18 MR. HALE: That decision has not yet been
19 made, Mr. Salem, but the committee would assume that a
20 Board of Managers, to be created by a subsequent resolution
21 of this House in the event articles of impeachment are
22 voted, would have the authority to employ a prosecuting
23 attorney, and the House Select Committee on Impeachment
24 assumed and would certainly recommend to that committee
25 that they employ Mr. Doyle since he has done the work on

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this committee report.

MR. SALEM: Mr. Hale, if they don't employ Mr. Doyle and use Mr. Doyle as a prosecuting attorney, why did the committee find it necessary to use Mr. Doyle as counsel for the committee when 95 per cent of the members of the committee are all attorneys? And I assume the staff members also.

MR. HALE: Well, it wasn't 95 per cent, Mr. Salem. It was eight out of the eleven, whatever that percentage is, were attorneys. The House Select Committee on Impeachment at its first meeting discussed the possibility of employing committee counsel. At that time in the interest of saving funds we decided, because of the fact that eight of the eleven members of the committee were lawyers, because of the fact that Mr. Johnson had been assigned by the Speaker as a consultant to the committee, and Mr. Johnson is a very able attorney, and by reason of the fact that the Legislative Council had several attorneys that the Speaker made available and the Council made available to our committee, we decided not to employ counsel until we reached a point where we were actually going to start drafting articles of impeachment. So as a result the committee did its own legal work through the aid of Mr. Johnson and the Legislative Council until pretty far along in our

1 committee proceedings.

2 When we reached the point where we wanted to
3 start actually drafting the language of Articles of
4 Impeachment, we decided at that time that the attorney
5 who would ultimately have the responsibility for prosecut-
6 ing this should be brought into the picture. And it was
7 at that time that the committee then decided to employ
8 committee counsel. We took applications for it; we
9 received several applications; and the committee was
10 unanimous in its vote to select Mr. Doyle for this pur-
11 pose, and so he was employed.

12 MR. SALEM: Well, Mr. Hale, since by what
13 you have written in this document and what the Speaker
14 has just said a while ago, that we are not here to decide
15 innocence or guilt, that we are merely here to decide
16 whether or not articles of impeachment should be held
17 against Judge Carrillo, and since Attorney Doyle will
18 more than likely be the prosecuting attorney in the
19 Senate, I think that it would be wrong to have him sitting
20 here with the rest of your staff acting in that capacity
21 on this floor at this time.

22 MR. HALE: Mr. Salem, are you familiar
23 with the grand jury system in Texas?

24 MR. SALEM: Fairly well, Mr. Hale.

25 MR. HALE: Did you ever hear of a grand

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jury meeting and discussing the matters of possible indictment without the district attorney or a member of his staff being present?

MR. SALEM: Well, but, Mr. Hale, you've said time and time again that your committee was acting much the same as a grand jury, but this is—

MR. HALE: That's true, and this House—

MR. SALEM: —but this is a different breed of cat here. We're not sitting here as a Legislature. It's completely different.

MR. HALE: Thank you for your comment, Mr. Salem. The House is sitting here also in the nature of a grand jury. The committee was functioning as a grand jury, a small grand jury, and the House is functioning as a large grand jury under Ferguson versus Maddox. Our function is judicial in character, and the only decision before this body is the same as a decision before a grand jury: Is there sufficient evidence to justify further legal proceedings. We do not find guilt or innocence. We simply say that there is or there is not enough evidence of wrongdoing to justify further legal proceedings. So under the statutes and court decisions in Texas, our function here today is largely that of a grand jury, and for that reason we felt that like a grand jury the district attorney or the

1 prosecuting attorney, if you please, in this case,
2 roughly comparable to a district attorney, should
3 certainly be a party to all of these proceedings and
4 know what the thinking of the House is because he will
5 be representing the House if it goes to a prosecution
6 in the Senate.

7 MR. SALEM: Mr. Hale, you see, I've got
8 to ask these questions so that I can learn a little
9 something. Now, since we are sitting in effect as a
10 grand jury—

11 SPEAKER CLAYTON: Mr. Laney calls a point
12 of order. The gentleman's time has expired. The point
13 of order is well taken and sustained.

14 MR. SALEM: I move to have the gentleman's
15 time extended.

16 SPEAKER CLAYTON: Mr. Salem moves that the
17 gentleman's time be extended. All those in favor of the
18 extension of the time will say "aye," all opposed, "no."

19 (The motion being put to a voice vote, failed.)

20 The gentleman's time is not extended.

21 Mr. Salem, do you want to speak against the
22 motion?

23 MR. SALEM: No, sir.

24 SPEAKER CLAYTON: The question then is on
25 this suspension of the rules to allow staff on the floor.

1 All those in favor will vote "aye," all those opposed
2 will vote "no." It's a record vote, the Clerk will ring
3 the bell.

4 Have all members voted?

5 There being 123 "ayes" and 12 "noes," the rules
6 are suspended.

7 (The motion, being put to a record vote, passed.)

8 The Chair lays out on committee report House
9 Simple Resolution 161. The Clerk will read the resolution.

10 MR. REYNOLDS: House Simple Resolution
11 No. 161, by Canales, providing—

12 SPEAKER CLAYTON: The following substitute.
13 The Clerk will read the substitute.

14 MR. REYNOLDS: Committee Substitute for
15 House Simple Resolution No. 161.

16 SPEAKER CLAYTON: The Chair recognizes
17 Mr. Hale for an explanation of the substitute to House
18 Simple Resolution 161.

19 MR. MORENO: Mr. Speaker?

20 SPEAKER CLAYTON: Mr. Moreno, for what
21 purpose?

22 MR. MORENO: Mr. Speaker, I raise a point
23 of order, and I cite Rule 17, Section 4; Rule 8, Section
24 32; Rule 8, Section 27, in that this resolution authorizes
25 an expenditure of money and does not contain a fiscal note

1 in accordance with the House rules.

2 SPEAKER CLAYTON: Mr. Moreno raises a
3 point of order pursuant to Rules 17, Section 4; Rule
4 8, 32; and Rule 8, 27. Rule 8, 27 refers to bills or
5 joint resolutions. Rule 8, 32 says that resolutions
6 shall take the same procedure as that set out in Rule
7 8, Section 27. And Rule 17, Section 4 talks about the
8 budget for a resolution, but House Resolution 161 does
9 not authorize the expenditure of funds. The authoriza-
10 tion for the expenditure of funds is found in Article
11 5962; therefore, the point of order is respectfully
12 overruled.

13 MR. MORENO: Mr. Speaker?

14 SPEAKER CLAYTON: Mr. Moreno, for what
15 purpose?

16 MR. MORENO: Parliamentary inquiry.

17 SPEAKER CLAYTON: State your inquiry,
18 Mr. Moreno.

19 MR. MORENO: Is it correct that I just
20 understood you that the resolution does not call for
21 the expenditure of money?

22 SPEAKER CLAYTON: That is correct.

23 MR. MORENO: I am reading here on House
24 Simple Resolution No. 167, on page 12—

25 SPEAKER CLAYTON: House Resolution 161 is

1 before the House, Mr. Moreno.

2 MR. MORENO: All right, sir.

3 SPEAKER CLAYTON: House 167 has already
4 been adopted.

5 MR. MORENO: All right. House Simple
6 Resolution No. 167 specifically says in line 12, and it
7 says that:

8 "This committee shall expend funds for
9 necessary expenses and employment of per-
10 sonnel, et cetera."

11 Doesn't 167 tie in with 161, Mr. Speaker?

12 SPEAKER CLAYTON: Every resolution stands
13 on its own, Mr. Moreno.

14 MR. MORENO: Mr. Speaker, then was also
15 your ruling that a House Simple Resolution is not the
16 same as a Joint Resolution and is treated differently?

17 SPEAKER CLAYTON: That is correct.

18 MR. MORENO: Does the Rule 8, Section 32
19 state as follows:

20 "All reports of simple and concurrent
21 resolutions shall follow and be made the same
22 thing as in all House bills."

23 SPEAKER CLAYTON: Except, Mr. Moreno, if
24 you'll continue to read, "except subject to such differ-
25 ences as may be otherwise authorized or directed herein."

1 MR. MORENO: Thank you, Mr. Speaker.

2 SPEAKER CLAYTON: And Section 27 makes
3 that direction.

4 MR. MORENO: Mr. Speaker, is it proper at
5 this time to be heard for a motion on this resolution?

6 SPEAKER CLAYTON: Not at this time. I'm
7 going to recognize Mr. Hale for an overview of the com-
8 mittee report. Then I'll recognize you, Mr. Moreno, for
9 a motion.

10 Mr. Hale.

11 PRESENTATION BY MR. HALE

12 MR. HALE: Mr. Speaker and Members of the
13 House, it becomes my responsibility as Chairman of the
14 Select Committee on Impeachment to open the debate on
15 H.S.R. 161 and to give you an overview of the work of
16 the committee and our committee report with respect to
17 this important and historic document.

18 We meet here today, as the Speaker pointed out,
19 under authority of House Simple Resolution 221 to consider
20 and act upon House Simple Resolution 161, requesting the
21 institution of impeachment charges against the Judge of
22 the 229th Judicial District of Texas.

23 The authority of the House to act upon this
24 resolution is contained in Article 15, Section 1, of the
25 Constitution of Texas which provides that the power of

1 impeachment shall be vested in the House of Representa-
2 tives. This constitutional authority is made more
3 precise and procedures are outlined in Articles 5961
4 and subsequent articles of Vernon's Annotated Civil
5 Statutes of the State of Texas, a series of statutes
6 enacted in 1917 by a rather farseeing legislature who
7 had just been through the ordeal of the impeachment of
8 a governor of Texas without any statutory guidelines.
9 And I want to publicly commend the members of that
10 legislature for the enactment of these detailed pro-
11 cedural statutes as having made our responsibilities
12 much easier.

13 The proposition before us today imposes upon
14 the House of Representatives a heavy responsibility and
15 a very solemn duty, and I know that each of you feel
16 as I do a keen sense of history as we attempt to meet
17 this challenge.

18 For more than a century and a half Texas has
19 been blessed with many great men serving in the judicial
20 branch of government. These men have maintained high
21 standards of courage, honesty and integrity. We, the
22 members of the House and the members of the Senate and
23 all people of Texas, are dedicated to the protection of
24 the honor of the judicial branch of the government.

25 MR. TRUAN: Mr. Speaker, will the

1 gentleman yield?

2 SPEAKER CLAYTON: Mr. Hale, will you yield?

3 MR. HALE: I would appreciate the gentleman
4 waiting until I've completed my remarks, and then I'll be
5 happy to yield.

6 SPEAKER CLAYTON: The gentleman doesn't
7 yield at this time, Mr. Truan.

8 MR. HALE: To do this we must leave nothing
9 undone in our efforts to uncover misconduct in any area
10 which would tarnish the reputation of the judiciary.

11 At the same time I know that each of you shares
12 my feeling and the feeling of your House Select Committee
13 on Impeachment that we should strive in everything we do
14 to protect any innocent from charges which are not well
15 founded in fact. That was the task and the challenge
16 before your Select Committee. That was the challenge
17 we attempted to meet over a period of more than two
18 months in which we have been working upon this very
19 thankless task.

20 The perimeters of our responsibility has been
21 well defined by the Supreme Court of Texas in a landmark
22 case rendered on July 12, 1924, styled Ferguson versus
23 Maddox, and with your permission so that you will under-
24 stand the nature of our responsibility here today, I
25 would like to quote briefly from the Supreme Court opinion.

1 "The sole function of the House and
2 Senate is not to compose the legislature
3 and to act together in the making of laws.
4 Each in the plainest language is given
5 separate plenary power and jurisdiction
6 in relation to matters of impeachment: the
7 Ho House, the power to impeach; that is, to
8 prefer charges; the Senate, the power to
9 try those charges. These powers are essen-
10 tially judicial in their nature. Their
11 proper exercise does not in the remotest
12 degree involve any legislative function.
13 In the matter of impeachment the House acts
14 somewhat in the capacity of a grand jury.
15 It investigates, hears witnesses, and
16 determines whether or not there is suf-
17 ficient ground to justify the presentment
18 of charges, and if so, it adopts appropriate
19 articles and prefers them before the Senate.
20 In doing these things the House is not
21 legislative, nor is it conducting an inves-
22 tigation in order that it may be in better
23 position to legislate. It is investigating
24 facts in order that it may determine whether
25 one of the people's servants has done an

1 official wrong, worthy of impeachment under
2 the principles and practices obtaining in
3 such cases, and if so to present the matter
4 for trial before the constituted tribunal.

5 All of this is judicial in character."

6 Thus the Supreme Court has defined the function
7 of this legislature, of this House of Representatives,
8 as being judicial in character rather than legislative.
9 Our responsibility is neither that of prosecutor nor
10 jury. Our sole function is to conduct an investigation
11 to determine whether or not there are sufficient grounds
12 to justify the presentment of charges, and if so, to
13 adopt appropriate articles of impeachment and represent
14 such articles for the consideration of the House of
15 Representatives.

16 In carrying out that heavy responsibility the
17 House followed the customary procedure that has been
18 followed for more than five hundred years in the Anglo-
19 Saxon jurisdiction, a procedure originated in the House
20 of Commons of the British Parliament, carried forward
21 into the House of Representatives of the United States
22 Congress, and embodied in every constitution that Texas
23 has had since the Constitution of 1845, the Constitution
24 of the Republic.

25 In following out that mandate the House decided

1 last May that we would proceed with this matter and the
2 method of procedure would be the appointment of a select
3 committee on impeachment, which was done under authority
4 of House Simple Resolution 161. The committee held its
5 organizational meeting on May 19, 1975, and commenced
6 public hearings the following day. At that time, as you
7 know, the Legislature was in session, and we had to have
8 our hearings at night. The burden became overwhelming
9 on the committee, and on May 27, the committee decided
10 to recess until the end of the regular session of the
11 Legislature, and we recessed until June the 3rd, 1975,
12 when we again commenced public hearings.

13 Those hearings were continued intermittently
14 until July 16, 1975, when the committee adopted the
15 articles of impeachment and a committee substitute for
16 H.S.R. 161. This substitute and the H.S.R. 161 was then
17 filed with the Chief Clerk on July 17, 1975, triggering
18 this session of the Legislature for impeachment purposes.

19 During our deliberations the Select Committee
20 held 21 meetings, in excess of 90 hours in committee
21 session. We heard 32 witnesses, involving approximately
22 70 hours of public hearings. We have a record which is
23 available to all of you of fifteen volumes of testimony
24 of all these witnesses which has been transcribed by our
25 committee reporter.

1 We also have introduced into evidence 166
2 documents which you have copies available over here for
3 your examination. We have set up some tables. There are
4 extra copies of the committee reports. There are
5 multiple copies of the fifteen volume statement of facts.
6 There are multiple copies of the 166 exhibits which are
7 there for the use of the members of this House.

8 The committee report, which was distributed to
9 you by mail to your home address, is this blue covered
10 booklet, and there are extra copies of that available
11 over here if any of you have misplaced your copy or you
12 left it at home; there are extra copies of it available
13 at the committee desk over to the right of where I speak.

14 You will find in Part V we have gone into a
15 detailed annotation of each Article of Impeachment, those
16 annotations being to the records which the committee
17 made in the statement of facts and the exhibits, so that
18 if you read the summary of the testimony and then you
19 want to read the exact words that the witness said, you
20 can go get the statement of facts and read exactly what
21 the witness said. The committee has made every attempt
22 to keep you, the members of the House, fully informed
23 of what we've been doing, and we tried to make available
24 to you everything that you would need to carry out your
25 heavy responsibilities in connection with the task before

1 us here today.

2 Throughout this procedure—and I want to
3 emphasize this—the committee has adopted the posture in
4 several areas of activity that I want to make clear to
5 you. Number one, the committee has never felt that it
6 was in the role of prosecutor. We did not feel that
7 during our committee hearings; we do not feel it today.
8 The House Select Committee is not appearing before you
9 today in the role of prosecutor of the Judge of the 229th
10 Judicial District. You assigned us a thankless task;
11 you told us by a Simple Resolution, you directed us to
12 hear the testimony, to prepare a report, and to give you
13 our findings. We have attempted to the best of our
14 ability to perform that task, and do it well. I, person-
15 ally, am proud of the work of this committee, and I want
16 to publicly commend the other ten members of the committee
17 for the diligent efforts that they put into the work of
18 the committee, and for the courage which they exercised
19 in carrying out this very pressure-packed responsibility
20 that you imposed upon us.

21 The second thing which the committee decided
22 initially was the fact that we wanted to be sure that the
23 rights of the accused was protected in every way possible,
24 consistent with the responsibility imposed upon us. Now,
25 the question may arise, "Why did you not permit cross

1 examination of witnesses?"

2 No grand jury permits cross examination of
3 witnesses. The purpose of cross examination is to test
4 the credibility of witnesses, to attempt to impeach their
5 testimony, to develop other areas. That is not the
6 function of a grand jury. That is the function of the
7 trial court, and we were not engaged in a trial in this
8 instance. We were simply there to determine whether or
9 not there were sufficient facts to justify recommending
10 articles of impeachment. We have carried out that
11 responsibility, and we present it to you here today on
12 the basis of our committee report.

13 Thirdly, the committee attempted in every way
14 possible to accord every possible consideration to
15 Judge Carrillo and to his attorney, Mr. Arthur Mitchell.
16 We invited them to sit in our hearings. Every bit of
17 testimony that was adduced before the committee was done
18 in public hearing, although that would not be true in a
19 grand jury proceeding. Any lawyer here will tell you,
20 if you're not familiar, that all grand jury proceedings
21 are conducted in secret. We threw our meetings open,
22 open to the public, open to Mr. Mitchell, open to Judge
23 Carrillo, and I think I'm correct in saying this, that
24 there was not a single iota of evidence ever introduced
25 before this Select Committee wherein either Judge Carrillo

1 or Mr. Mitchell, his attorney, or some representative
2 from Mr. Mitchell's office was not present. We gave to
3 Mr. Mitchell as attorney for Judge Carrillo a complete
4 copy set of the fifteen volume statement of facts. We
5 gave him photocopies of every exhibit that was intro-
6 duced before the committee, all free of charge. We made
7 the facilities of the committee available to him in
8 every way possible, consistent with the orderly trans-
9 action of our business and a timely presentation to you
10 of a report upon the nature of our deliberations.

11 Based upon that two months' work, the committee
12 voted eleven Articles of Impeachment, and these are con-
13 tained in the report of which you have a copy. Each of
14 those articles is annotated. As the report indicates,
15 some of these Articles of Impeachment were not unanimous
16 in the committee. I believe six of the eleven articles,
17 or perhaps seven, were unanimous. The votes are given
18 in the committee reports. You can read it for yourself.

19 But once the committee substitute was adopted,
20 the committee was unanimous in recommending adopting the
21 committee substitute, and the committee was unanimous in
22 reporting House Simple Resolution 161 back to the House.

23 As to our procedure here today, what we would
24 like to do is follow something along this line so that
25 you will understand how the proceedings will operate.

1 Following the brief overview of the committee report,
2 which I am now making to you, I would hope that the
3 Chair would recognize the vice-chairman of the committee,
4 Mr. Maloney, who will give you an overview of the eleven
5 Articles of Impeachment as contained in H.S.R. 161,
6 simply by way of explanation and broad overview of the
7 entire recommendation of the committee.

8 Following Mr. Maloney's presentation, we would
9 anticipate a motion would be made—and we would hope that
10 you would concur in this—that the Articles of Impeach-
11 ment be debated, considered, amended, and voted upon
12 article by article. That would give each of the articles
13 due deliberation before the House. If that motion is
14 carried then each member of the committee will have the
15 floor responsibility for explaining to you one of the
16 eleven Articles of Impeachment and attempting to answer
17 any questions which you have with respect to that.

18 At the conclusion of the House consideration
19 and debate upon all eleven articles, then at that point,
20 of course, the floor would be open for amendments. If
21 there are anyone who wants to add additional articles of
22 impeachment by way of amendment that would be in order
23 at that time, or any other motions concerning the entire
24 committee report.

25 Then, having worked through all articles, then

1 the committee substitute as amended would be up for
2 adoption, and if adopted then the vote would be on the
3 adoption of H.S.R. 161. That, in general, would be the
4 procedure as we envision it as members of your committee.

5 MR. TRUAN: Mr. Speaker, will the gentle-
6 man yield at this time?

7 SPEAKER CLAYTON: Mr. Hale, do you yield?

8 MR. HALE: As soon as I've completed my
9 remarks.

10 SPEAKER CLAYTON: As soon as the gentleman
11 has completed, Mr. Truan.

12 MR. HALE: Having said that, I have
13 explained to you the nature of the work of our committee.
14 Our committee feels that it has met its responsibility
15 which you imposed upon us. We have not prosecuted, we
16 have not judged; we have only searched for the truth,
17 for it's the truth as we see it that must be the basis
18 for any decisions which this House makes today or sub-
19 sequent days of this session concerning H.S.R. 161.

20 As chairman of this committee, I want to tell
21 you how proud I am again of the members of the committee.
22 None of the members of this committee sought this
23 assignment. None of them shirked the responsibility
24 when duty called and imposed this responsibility upon
25 them. Each member dedicated his talents and energies

1 in a way that more than justified in my opinion the
2 confidence of the Speaker in appointing him to this
3 committee.

4 I feel that our labors together, that we have
5 done a fair, impartial, and thorough job of fulfilling
6 the responsibilities of the committee and in that
7 process I hope that we have strengthened the House as
8 an institution in its public image.

9 And today we come to the moment of truth. The
10 House comes to the moment of truth, one which was faced
11 by the committee on July 16, 1975.

12 I can say to you, it's not an easy job, and
13 it won't be an easy job for you to vote on the matters
14 of gravity that we consider here this week, but I am
15 supremely confident that each of you will have the
16 courage to vote your convictions, whatever they be,
17 firm in the belief that right and justice will be
18 achieved thereby.

19 I would conclude my brief remarks by a
20 quotation from one of my favorite statesmen, a man who
21 in a sense was really a legend in his own time, Winston
22 Churchill, when he said at one time, "It's not enough
23 that we do our best. Sometimes we have to do what's
24 required."

25 What's required this week by the House of

1 Representatives and by each of you is a decision on the
2 matters which have been committed to our consideration,
3 and I know that each of you will search his conscience
4 and vote your conviction on these matters. That's all
5 we would ask of you; no one could ask any more. And we,
6 your Select Committee, feels that none of you could do
7 any less.

8 I thank you for your attention on this report.

9 MR. TRUAN: Mr. Speaker, will the gentle-
10 man yield?

11 SPEAKER CLAYTON: Do you yield, Mr. Hale?

12 The gentleman yields, Mr. Truan.

13 MR. TRUAN: Mr. Hale, during your delib-
14 erations and inquiring into this matter concerning Judge
15 Carrillo, did you ever ask the Judicial Qualifications
16 Commission to come before your committee?

17 MR. HALE: Mr. Truan, at the outset of
18 our proceedings, either at the organizational meeting
19 on May the 19th, or at the first meeting on May the 20th—
20 and I sometimes get a little hazy on exact dates—the
21 committee decided that we would attempt to find out what
22 information was available in other areas that had already
23 been developed that might be of some benefit to our
24 committee. In that process we made contact with the
25 Judicial Qualifications Commission. We made contact with

1 the Attorney General's office, and we made contact with
2 the U. S. District Attorney's office in Houston which is
3 the office prosecuting the federal indictment against
4 Judge Carrillo in the Corpus Christi Federal Court.

5 Each of those agencies indicated to us— Well,
6 let me take them one at a time.

7 The Judicial Qualifications Commission advised
8 us that they had no information that would be of any
9 value to the committee.

10 Number two, the Attorney General advised us
11 the same thing, that the work—

12 MR. TRUAN: Let me ask you this.

13 MR. HALE: Let me answer your question.

14 MR. TRUAN: I just ask about the Judicial
15 Qualifications Commission, Mr. Hale, because that's a
16 State commission. And I'm interested as a layman. I'm
17 not an attorney like you all, but I understood that we
18 had established the Judicial Qualifications Commission
19 for purposes such as this: to look into those matters
20 similar to what your committee has been looking into.
21 I'm not clear yet as to whether you did request the
22 Executive Director or other members of the Commission
23 to come before your committee to give you testimony,
24 sworn testimony, with respect to their work, or whether
25 you called on them to carry on their work in this area

1 so that they would carry out their mandate. As far as I
2 know they're supposed to be doing this kind of work.

3 MR. HALE: Mr. Truan, if you want to
4 drive from Corpus Christi to Austin there are a number
5 of ways you could come. You could go through Sinton
6 and Victoria to come up here. You could go through
7 Kenedy, Karnes City, Luling and Lockhart and come up
8 here. You could go through Karnes City and up to San
9 Antonio and come here. In any event, you would get from
10 Corpus Christi to Austin.

11 There are three ways outlined in the Constitu-
12 tion of Texas for the removal of a district judge, One
13 by the governor, one by the Supreme Court—

14 MR. TRUAN: I realize that, but you—

15 MR. HALE: Let me answer your question
16 now.

17 MR. TRUAN: You've answered my question—

18 MR. HALE: If you're going to yield to a
19 question, Mr. Truan, give me the courtesy of allowing
20 me to complete my answer.

21 MR. TRUAN: If you would just answer my
22 question, I do not want to monopolize the time because
23 you took a great deal of it, and if you're going to run
24 out of time and other members might wish to ask you
25 some questions. I'm just interested in the Judicial

1 Qualifications Commission.

2 MR. HALE: I answered your question on the
3 Judicial Qualifications Commission. We contacted them.
4 They said they had no evidence. Why should we waste our
5 time calling them as witnesses?

6 MR. TRUAN: Okay. Did I understand
7 correctly that members of your committee will be called
8 upon to the front mike to explain the various articles
9 and to give us a summary of why they're recommending
10 those particular articles?

11 MR. HALE: I hope that the House will
12 authorize us to do that, article by article. That is
13 our recommendation to the House.

14 MR. TRUAN: Did your committee recommend
15 that the witnesses, those key witnesses that you heard,
16 come before this body so that we could hear their testi-
17 mony and at the same time so that we would have an
18 opportunity to ask them some questions as members of your
19 committee did?

20 MR. HALE: No, sir. We did not make a
21 recommendation on that, but one of the procedures of
22 the House, as I see it, can play one of two ballgames
23 at this point, Mr. Truan. One ballgame would be to
24 go ahead and act on the basis of the committee report;
25 the report plus all of the transcript, the statement of

1 facts, all of the exhibits, the testimony which is
2 available to you, and to base your decision on that.
3 That is one ballgame.

4 A second ballgame would be for you to say,
5 "We want to discard what the committee did. We want to
6 hear the testimony ourselves." And if you want to do
7 that your proper procedure would be, I think, to move to
8 dissolve the House into a committee of the whole for the
9 purpose of hearing testimony.

10 Now, let me say, those are two different ball-
11 games. Our committee takes no stand on which way you
12 proceed on that. You can do it either way you want to.
13 If you go the first route I think we can conclude our
14 deliberations in two or three days; at the outside, this
15 week. If you use the second ballgame, I can tell you
16 from the experiences of our committee, you're going to
17 be here at least a month, maybe two months. But the
18 House can make that decision.

19 MR. TRUAN: Okay. But you will agree with
20 me that expediency is not always the best, especially
21 when it involves an individual who, if these articles of
22 impeachment were to pass and then of course were to be
23 tried and convicted that it would deprive an individual
24 of his office and of ever holding an office for that
25 matter, so we're not striving for expediency here, I hope.

1 MR. HALE: Keep in mind that what this
2 House does is not going to be the final decision. If
3 we vote articles of impeachment there will be a trial in
4 the Senate, and at that time the trial will be conducted
5 exactly as a district court would conduct it, with cross
6 examination of witnesses, with all of the attorneys and
7 everything, so that all rights will be protected at that
8 stage.

9 MR. TRUAN: Yes, but that, of course, is
10 the responsibility of the Senate. We have a responsibili-
11 ty likewise here as members of the House.

12 MR. HALE: You are so right.

13 MR. TRUAN: Did I understand correctly,
14 I was going to inquire of the Speaker, the method of
15 going about in getting witnesses to appear before us?
16 I would be interested in this because I think it would
17 give us a good benefit personally of the witnesses and
18 what they had to say before your committee. Do I under-
19 stand correctly, Mr. Hale, and if you wish, I would ask
20 the Speaker. Does it require a resolution or just a
21 motion?

22 SPEAKER CLAYTON: Mr. Truan, if you're
23 addressing that as a parliamentary inquiry, the Speaker
24 will answer it.

25 To accomplish the purpose for which you have

1 asked, it will require a motion of resolving the House
2 into a committee of a whole.

3 MR. TRUAN: What vote does that require,
4 sir?

5 SPEAKER CLAYTON: Simple majority.

6 MR. TRUAN: Thank you.

7 MR. VALE: Mr. Speaker, will the gentleman
8 yield for a question?

9 SPEAKER CLAYTON: Do you yield, Mr. Hale?

10 MR. HALE: Yield.

11 SPEAKER CLAYTON: The gentleman yields,
12 Mr. Vale.

13 MR. VALE: Mr. Hale, I noticed that in
14 your presentation you alluded to the fact that this
15 thirteen volumes of evidence and exhibits—

16 MR. HALE: Fifteen.

17 MR. VALE: Fifteen—are available and have
18 been available. Is that correct?

19 MR. HALE: Yes, sir. That is correct.

20 MR. VALE: Are you informed of the fact
21 that in order for them to have been available to members
22 like me that I had to come down here to Austin and check
23 those volumes out and that I was allowed to check them
24 out only two at a time?

25 MR. HALE: Well, we provided, Mr. Vale—

1 No, I wasn't aware of that. We did provide for the
2 Sergeant at Arms to require a check-out of those volumes.

3 MR. VALE: Yes, sir—

4 MR. HALE: Let me finish and explain the
5 situation on that. The committee debated among itself
6 at one of our meetings on whether or not we should
7 reproduce 150 copies of that big fifteen volume state-
8 ment of facts and mail one to every member of the House.
9 We talked to a number of members of the House—I did
10 and other members of the committee did—to sort of get
11 the feel of the House as to whether that was necessary.
12 I didn't find a single member that thought that was
13 necessary. So the committee finally decided that we
14 would reproduce only fifty copies of it, and we did.
15 We reproduced fifty copies, and we provided each member
16 of the committee with a copy, some to the State Library,
17 and then there are about 25 or 30 sets of those that we
18 put in the Sergeant at Arms office and notified each
19 one of you by mail that they were available there for
20 your inspection and your use.

21 MR. VALE: Let me ask you this: Have you
22 ever heard of a grand jury voting an indictment against
23 a person based upon a summary of evidence given to them,
24 rather than by listening to witnesses?

25 MR. HALE: Well, of course, a grand jury,

1 I'm not sure what basis a grand jury indicts. I've never
2 served on it, and all of their proceedings are secret.
3 So you never know for sure what goes on in a grand jury
4 room unless you're a member of that grand jury or the
5 district attorney. But they do call witnesses.

6 MR. VALE: That's right.

7 MR. HALE: And they hear the witnesses
8 in whatever numbers they feel is necessary to justify
9 an indictment. But they do not go into the depths of
10 it that a trial court does because if they did then you
11 would never have an acquittal in the trial court. If
12 the grand jury went into it in an extent of determining
13 guilt or innocence there would be no point in a trial
14 later on.

15 MR. VALE: I understand that. The reason
16 I asked that is, I find it very, very hard to reconcile
17 this, to listen to summary of testimony by other persons
18 telling me what witnesses have testified to.

19 MR. HALE: That's not what's in the
20 statement of facts. The statement of facts over here is
21 a transcript of the exact words, questions and answers,
22 and you can read what the witness says for yourself.

23 MR. VALE: That's right. Now, I have been
24 coming to Austin, and I've been reading those transcripts,
25 Mr. Hale, and I have been required to check them out two

1 at a time, see. They have been available, but they have
2 not been available, in my opinion, in the manner and the
3 method that they should have been, and as I recall, as
4 they were promised to have been made available, right
5 there from the front podium.

6 We were told that we would be furnished at our
7 home offices in our district offices a complete copy of
8 all the transcripts of all the testimony and exhibits
9 that came before the committee in sufficient time to
10 give us plenty of time to acquaint ourselves with those
11 facts so that we could come down here and then be pre-
12 pared after having read them or having had an adequate
13 opportunity to read them. There is a difference between
14 availability and an adequate availability to do things.
15 I just find it— Have you ascertained that those docu-
16 ments were available only two transcripts at a time?

17 MR. HALE: No, I wasn't aware of that.
18 The complete set was available. We put several sets in
19 the library where the complete set was available, and
20 of course, if you were working here the complete set is
21 available to you, Mr. Vale.

22 Let me say this: If you've read that entire
23 fifteen volume set of transcripts, or even two volumes
24 of it, I commend you for your diligence, and I hope every
25 member of the House has.

1 MR. VALE: I've read four of them.

2 MR. HALE: That's the only way we could do
3 that. The way you would like it done, we would have had
4 to have printed 150 copies of it and; after talking to
5 many members of the House, the committee felt like that
6 was an unnecessary expense, and we would not go to it.
7 I'm sorry if the complete record wasn't available to you.

8 Of course, I don't see how— You're not going
9 to read all fifteen volumes in one night anyway—

10 MR. VALE: I know that. It's taken me a
11 long time to read through about five or six of them and
12 I still haven't finished. I don't know of any person
13 in any position that is going to decide a matter as
14 important as whether to prefer these articles of impeach-
15 ment or not, to decide it on the basis of what people
16 are going to summarize to us what other witnesses have
17 said at a committee hearing.

18 MR. HALE: Then you should go read the
19 statement of facts now, Mr. Vale, and base your decision
20 on what the witnesses say, not what the committee says.

21 We don't want you to do anything on the basis
22 of what we say. We're not here as prosecutor; we're not
23 asking you to do anything. We were told by the House to
24 investigate this matter—

25 MR. VALE: I'm telling you, Mr. Hale—

1 MR. HALE: Let me finish.

2 We were told by the House to investigate this
3 matter and make a report, and we have done that with our
4 recommendation. Now it's in your hands. You do what
5 your conscience dictates.

6 MR. VALE: I'm going to do that. I'm
7 going to do exactly that. I'm just telling you that I
8 find it very hard to be called upon by you and by this
9 committee and the leadership of this House to come down
10 here to vote on something when those records that you're
11 mentioning have not been made available to us in the
12 manner that they should have been.

13 MR. HALE: Now, what is your question,
14 Mr. Vale?

15 MR. VALE: I'm making that statement to
16 you right now, Mr. Hale. I was asking you whether you
17 were aware of the fact—

18 MR. HALE: I was not aware of it.

19 MR. VALE: I want you to know that.

20 MR. HALE: Okay. Thank you.

21 Thank you, members of the House.

22 SPEAKER CLAYTON: Mr. Moreno, did you
23 have a motion?

24 The Chair recognizes you at this time.

25 MR. MORENO: Mr. Speaker, pursuant to

1 Rule 8, Section 13, I move to recommit H.S.R. 161 to the
2 Select Committee, and that this committee—that it be
3 recommitted and that this House instruct that this
4 procedure be turned over to the Judicial Qualifications
5 Commission, and I would like to be heard on my motion,
6 Mr. Speaker.

7 SPEAKER CLAYTON: The Chair recognizes
8 you on your motion, Mr. Moreno.

9 MR. MORENO: Parliamentary inquiry before
10 I start, Mr. Speaker.

11 SPEAKER CLAYTON: State your inquiry,
12 Mr. Moreno.

13 MR. MORENO: It is my understanding that
14 when a motion to recommit with instructions is fully
15 debatable and the whole proposition can be debated.
16 Am I correct or not, Mr. Speaker?

17 SPEAKER CLAYTON: That is correct, Mr.
18 Moreno.

19 MR. MORENO: Thank you.

20 MR. NABERS: Mr. Speaker?

21 SPEAKER CLAYTON: Mr. Nabers.

22 MR. NABERS: I raise a point of order
23 that that's not a proper motion for consideration.

24 SPEAKER CLAYTON: Bring your point of
25 order forward.

1 The point of order is withdrawn.

2 Proceed, Mr. Moreno.

3 MR. MORENO: Mr. Speaker, Members: As I
4 have stated I have been doing a lot of homework on my
5 rules. My motion is fully debatable. This is my purpose
6 of making it first of all. That means that the whole
7 proposition, which is the matter of impeachment, is
8 debatable before this floor.

9 As you recall, when we first introduced House
10 Simple Resolution 161, I told you that the Bar was
11 properly equipped to take care of this matter. Now,
12 my motion is very simple. It is to have this House
13 Simple Resolution go back to the committee, and that
14 this House instruct them that they recommend that this
15 procedure be handed over to the Judicial Qualifications
16 Commission.

17 Now, let me tell you my reasoning. All of us
18 are in accord that however long it takes us in this
19 House to either draft this impeachment resolution to the
20 Senate, that the Senate is going to take a great amount
21 of time in deliberating this issue. I'll venture to say
22 that it is going to take at least two months, and I'll
23 tell you, it might even go up to four months.

24 Please understand that the Senate, when it has
25 this particular impeachment procedure, that every witness

1 will be subject to cross examination. This is going to
2 take a great deal of time.

3 Now, let me tell you, the present Constitution
4 provides—

5 MR. BARRIENTOS: Mr. Speaker, could we
6 have some order please?

7 SPEAKER CLAYTON: Surely can, Mr. Barrien-
8 tos.

9 Members, let's have your attention. Mr. Moreno
10 is discussing his motion, and we'll not proceed until
11 we have order on the floor.

12 Members, as soon as we have a little order
13 we're going to proceed with the debate.

14 MR. BLAKE: Mr. Speaker, could I have a
15 parliamentary inquiry while we're getting the attention?

16 SPEAKER CLAYTON: State your inquiry,
17 Mr. Blake.

18 MR. BLAKE: If Mr. Moreno's motion should
19 carry, does that mean that we would go home today, by
20 noon?

21 SPEAKER CLAYTON: If that motion should
22 carry, this committee report would be re-referred.

23 MR. BLAKE: Thank you, Mr. Speaker.

24 SPEAKER CLAYTON: Proceed with your
25 discussion, Mr. Moreno.

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MR. MORENO: Thank you, Mr. Speaker.

Let me clarify some things that can happen in this impeachment procedure. The Judicial Qualification Act is presently in our Constitution. It is Article 5. This Commission was set up to do exactly what we are attempting to do, and that is to remove a district judge, or any judge for that matter, from office.

Now, for some of you that are disturbed that this man might be able to serve in another office, let me tell you what can happen if the Judicial Qualifications Commission does in fact find the judge who is in question guilty of some act or some crime. I can guarantee you this man is going to be disbarred. It's very simple. You cannot hold public office in this state if you have been found guilty of any crime involving moral turpitude. This man will not be eligible for office.

Now, we also have another section of the Constitution, Article 15, which says that the Supreme Court, the Texas Supreme Court, can remove a judge from office.

So now we're talking of two different procedures now in our Constitution that can eliminate what we are trying to do here and save the State of Texas a great deal of money.

Now, let me tell you another thing. Let's

1 assume that we go through this, and let's assume that the
2 Senate in fact impeaches the judge. The Judicial
3 Qualifications Commission is still obligated under the
4 Constitution to go ahead and proceed with this hearing.
5 And another thing, let me tell you, the Judicial
6 Qualifications Commission has set the date of September
7 the 10th, at 9:30, to commence deliberations on this
8 case.

9 The Texas Supreme Court is under mandate from
10 the Constitution to also take care of this matter, and
11 to in fact take whatever action it deems necessary to
12 take this man out of office.

13 We are going to be here for— Well, the Senate
14 is going to be here for a long time trying this man,
15 and it's going to cost the State of Texas a lot of money.

16 MR. HENDRICKS: Mr. Speaker, will the
17 gentleman yield?

18 MR. MORENO: In just a moment, Mr. Hendricks

19 SPEAKER CLAYTON: The gentleman doesn't
20 yield at this time, Mr. Hendricks.

21 MR. MORENO: That's all I'm trying to
22 tell you. I'm not attacking the committee; I'm not
23 attacking the House; I'm not saying anything. I say
24 that we have two other avenues that is going to save
25 the State a great deal of money, and I suggest that we

1 take either one, and it is going to reach the same
2 objective.

3 I'll yield, Mr. Speaker.

4 SPEAKER CLAYTON: The gentleman yields,
5 Mr. Hendricks.

6 MR. HENDRICKS: Mr. Moreno, can you advise
7 the House how many judges that the Judicial Qualification
8 has removed from the bench?

9 MR. MORENO: None, Mr. Hendricks.

10 MR. HENDRICKS: None?

11 MR. MORENO: None. Yes, sir.

12 MR. HENDRICKS: This is a procedure that
13 ends up eventually in the Supreme Court of Texas, is it
14 not?

15 MR. MORENO: I didn't hear your question.
16 I'm sorry.

17 MR. HENDRICKS: This is a procedure that
18 will eventually surely end up in the Supreme Court of
19 the State of Texas?

20 MR. MORENO: Yes, sir.

21 MR. HENDRICKS: Let me ask you this
22 question also: If the House votes to recommend impeach-
23 ment, what is the position of Judge Carrillo? Does he
24 stay on the bench?

25 MR. MORENO: No, sir. He is immediately

1 removed.

2 MR. HENDRICKS: All right. Let me ask
3 you this question: If we were to vote for your motion
4 and the Judicial Qualifications took this up over the
5 next several years, what is the position of Judge Carrillo?
6 Would he stay on the bench?

7 MR. MORENO: As far as I know, yes, sir.

8 MR. HENDRICKS: Thank you, Mr. Moreno.

9 MR. MORENO: Let me just further my answer
10 in that we do have a Supreme Court, as you well know,
11 Mr. Hendricks, and you know darned good and well like I
12 do as a practicing attorney, as a very learned attorney,
13 that the Supreme Court of Texas is not going to permit
14 a judge if he is guilty of some willfull act to remain
15 in office. Now you know of lawyere who've been disbarred
16 for lesser things than this, and the Judicial Qualifi-
17 cations Commission is under fire, the Texas Supreme
18 Court is under fire, and we're going to clean up this
19 mess one way or the other, but let me tell you, the
20 cheapest way to do it is through the procedure that is
21 outlined in the Constitution in Section 5 and Section 15.

22 That's all I'm saying, Mr. Hendricks.

23 MR. HENDRICKS: Mr. Moreno, let me ask
24 you this: When did the Judicial Qualifications start
25 their hearings on this matter?

1 MR. MORENO: As far as I understand it
2 was set for September the 10th.

3 MR. HENDRICKS: Their first hearing is
4 set for September the 10th?

5 MR. MORENO: Yes, sir.

6 MR. HENDRICKS: Are you advised that they
7 had complaints filed with them long before the House voted
8 this Simple Resolution on Impeachment?

9 MR. MORENO: Yes, sir. I have, and I know
10 of all the criticisms, Mr. Hendricks, that have been
11 levied against the Commission. I am in complete accord
12 with you that this Commission has not done its job. But
13 let me tell the Commission right now that they'd better
14 get to work and get this mess out of here because it's
15 going to be cheaper. They're sitting down there with an
16 appropriated amount of \$61,000 I understand, and they're
17 not doing anything. Let's do away with them, and if
18 nothing else, let's impeach them.

19 MR. HENDRICKS: Well, to reiterate then,
20 if we vote impeachment the judge is immediately removed,
21 but if we follow your motion, then the judge might possibly
22 be on the bench for the next several years while we're
23 waiting action by the Judicial Qualifications Commission.
24 Is that correct?

25 MR. MORENO: Yes, sir. Your assumption is

1 very correct. But again, Mr. Hendricks, again, let me
2 remind you that the judge is still an attorney and that
3 there are disbarment procedures, and it can last two
4 years, three years, ten years, whatever the case may be,
5 but I do not think that the State Bar is going to permit
6 such an issue to remain open for this long a time as you
7 say. I agree with you that there is that possibility.

8 MR. HENDRICKS: Thank you, Mr. Moreno.

9 MR. MORENO: Are there any more further
10 questions, Mr. Speaker? I would appreciate an "aye" vote
11 on my motion, and I request a record vote.

12 SPEAKER CLAYTON: Okay. Mr. Moreno moves
13 to recommit H.S.R. 161 to the Select Committee on Impeach-
14 ment, and at the same time instruct the committee to
15 refer all matters to the Judicial Qualifications Commis-
16 sion.

17 The Chair is going to recognize Mr. Chavez to
18 speak against the motion.

19 MR. CHAVEZ: Mr. Speaker, Members, I think
20 that the House of Representatives made a decision last
21 May when we voted for this article, and the appointment
22 of the committee. The committee conducted an investi-
23 gation, an exhaustive investigation in my opinion. I
24 presume that we could have stayed in session another
25 month or two and dug up more material. The committee

1 felt after the examination that they conducted, the
2 investigation, that there was ample evidence to warrant
3 presenting these Articles of Impeachment for your con-
4 sideration. I guess the easiest thing for us to have
5 done was to have turned our face and looked at the things
6 of wrongdoing that were alleged, the items of wrongdoing
7 that were presented to us by testimony and evidence, and
8 we could have said, "Well, this is too hot. a political
9 thing to handle, and just forget it."

10 MR. MORENO: Mr. Speaker?

11 SPEAKER CLAYTON: Mr. Moreno.

12 MR. MORENO: Mr. Speaker, I withdraw my
13 motion.

14 SPEAKER CLAYTON: All right. Mr. Moreno
15 withdraws his motion.

16 The Chair recognizes Mr. Garcia for a motion.

17 MR. GARCIA: Mr. Speaker, Members, I would
18 like to move that further consideration of H.S.R. No. 161
19 be postponed to a date certain, that is, November 3rd,
20 1975 at ten o'clock a.m., and I'd like to be heard on my
21 motion.

22 SPEAKER CLAYTON: The Chair recognizes
23 Mr. Garcia on his motion.

24 MR. GARCIA: Mr. Speaker, Members, I'll
25 attempt to be just as brief as possible. I recognize

1 that we are here this morning on a very significant matter.

2 As the Speaker stated in his address to the
3 House, this is only the third time in the history of the
4 State of Texas that the House has been assembled to
5 consider a matter of this magnitude. That is, the
6 impeachment of a State officer. All of us have been
7 subjected to considerable pressures with reference to
8 this proceeding, and the pressures have centered around
9 the fact that can we economically sustain to our con-
10 stituency why we are here to consider articles of impeach-
11 ment when there are other ways that this can be accomp-
12 lished.

13 I'm not going to speak to the merits of the
14 resolution, and I will not in any way attempt to impugn
15 that the committee did not do that which they were charged
16 to do. By majority vote this committee was created;
17 they have worked, and they have worked diligently, and
18 I'll not speak to the innocence or guilt of the man
19 whose impeachment is being sought by this action. But I
20 do think that because of the fact that in 1970 we created
21 a commission to specifically address itself to matters
22 of this type that we should not relieve them of that
23 responsibility.

24 When serving on the Appropriations Committee
25 during the 63rd session, there was some discussion with

1 reference to the activity of this commission, whether or
2 not there was justification for their existence, whether
3 or not money should be appropriated from State coffers
4 to sustain the actions of this commission. And there
5 was argument that they did fulfill a function, despite
6 the fact that there has been no sizable matter or matter
7 of significant merit considered by them at that time that
8 there was justification for their existence. And I feel
9 that what we should do is postpone the consideration of
10 these articles until the 3rd day of November.

11 We do two things. We let the Judicial Qualifi-
12 cations Commission know that we are not attempting to
13 resolve ourselves of the responsibility, or one of the
14 responsibilities, that is imposed upon us by the Con-
15 stitution. We don't run from that responsibility. We
16 put them on notice that we're going to sit back and
17 determine whether or not they are going to take the
18 initiative in this matter and do what they are charged
19 with doing, by law and by the Constitution.

20 We are also by this action letting the Supreme
21 Court know that we are aware that under another procedure,
22 and that is the affidavits of ten lawyers being presented
23 to the Supreme Court, that the Supreme Court is also
24 authorized to take action to remove a judge who is
25 accused of malfeasance in office.

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MR. SHERMAN: Mr. Speaker?

MR. GARCIA: I'll not yield, Mr. Speaker, until I've finished my remarks and then I will yield.

SPEAKER CLAYTON: The gentleman doesn't yield at this time, Mr. Sherman.

MR. GARCIA: It is not only the action that we are called upon to exercise today. And I've heard the discussion on the floor that if we dispose of this in three days it's not going to cost the taxpayers that much money. Well, gentlemen, we are merely the grand jury in this matter. We charge the Senate by our action today with proceeding with the trial of the case. There were eleven members on the Select Committee. There are 31 Senators, and I can assure you that those 31 Senators are going to make an indepth analytical determination of whether or not these witnesses are credible and should be believed and whether or not this judge should be impeached.

There are people who have said that this matter can be resolved in six days in the Senate. I say it cannot be resolved in six days. I question whether or not it can be resolved in thirty days. I question whether or not it can be resolved in sixty days. And we are going to have to explain to our constituency why we selected this route after this Legislature had spoken

1 and after the people of the State of Texas had spoken
2 with reference to the creation of a Judicial Qualifications
3 Commission.

4 The Judicial Qualifications Commission has only
5 involved itself in one severe action heretofore to my
6 knowledge, and that involved a district judge who when
7 he was tried or in the process of trial resigned from
8 office.

9 There are many who say that Judge Carrillo
10 should resign his post, and I have no fixed opinions as
11 to that. But there is much that can transpire between
12 now and November the 1st. I do not see any severe
13 emergency or any irreparable harm or damage that can
14 result to this State, to the 229th Judicial District, to
15 the image of this Legislature, and to our responsibility
16 to the people of the State of Texas by delaying this
17 action until November the 3rd.

18 I ask you to vote with me on this motion so
19 that we can go back to our homes and look upon those who
20 are charged also with the responsibility to do what we
21 are being asked to do today, and that is to police the
22 judiciary, to clean their own kitchen.

23 Someone made the comment that removing Judge
24 Carrillo from the situation which exists in the lower
25 country would be like taking one tick off of a cow.

1 They're contending that there is much to be done. Well,
2 I tell you gentlemen that by this impeachment action
3 we would be leveling our force, our strength, our control
4 at one man. The Judicial Qualifications Commission
5 would be speaking loud and clear, that the Legislature
6 by stepping back and letting us know that they expect
7 us to take action, expect us to clean up the judiciary
8 of this state, and I'm satisfied that they would do it.

9 So I ask, gentlemen, that you vote with me
10 on this motion to postpone. Let's wait and see what
11 they are going to do. They know that we want them to do
12 something. If by November the 1st they have done nothing
13 it will at least give us an opportunity to go over these
14 volumes of testimony that were taken by this committee.
15 Many of us have not read these volumes of testimony.
16 We have a responsibility to ourselves before we vote
17 articles of impeachment to at least know what the wit-
18 nesses said.

19 And now I will yield.

20 SPEAKER CLAYTON: The gentleman yields,
21 Mr. Sherman.

22 MR. SHERMAN: Mr. Garcia, what's magic
23 about November 3rd?

24 MR. GARCIA: I believe that it will give
25 the Judicial Qualifications Commission ample time to take

1 whatever action is necessary. If they can't get on this
2 case, appoint a master in chancery, get their facts into
3 their order, remove the judge if they find that there is
4 cause for it, then we can come back and do it.

5 MR. SHERMAN: Why not November 10th?

6 MR. GARCIA: November 10th would be fine.

7 I have no fixed date in mind, Mr. Sherman.

8 MR. SHERMAN: Mr. Garcia, you said that
9 we couldn't do this in one day, it's going to take about
10 six. That would put us here on election day for the
11 State Constitution and focus attention here rather than
12 at the polls on November 4th, wouldn't it?

13 MR. GARCIA: I would be glad to take a
14 substitute motion to make it November the 10th. Let's
15 see what the people think about that provision in the
16 Constitution that takes from the Legislature the right
17 to handle or hear impeachment matters on district judges.
18 Let's let them speak. I'd be glad to accept an amendment.

19 MR. HARRIS: Mr. Speaker, will the gentle-
20 man yield?

21 SPEAKER CLAYTON: Do you yield, Mr. Garcia?

22 MR. GARCIA: I will yield.

23 SPEAKER CLAYTON: The gentleman yields,
24 Mr. Harris.

25 MR. HARRIS: The gentleman from Fort Worth

1 raised the point that I think that all of us would do
2 well to bear in mind, would be on November the 4th we'll
3 be voting on the adoption of the Constitution proposed
4 by this group, will we not?

5 MR. GARCIA: That is correct.

6 MR. HARRIS: Mr. Garcia, how long do you
7 think it will take the Senate to try the guilt or
8 innocence of Judge Carrillo when they get started?

9 MR. GARCIA: Mr. Harris, the committee
10 spent something like a hundred hours of committee work.
11 They heard 35 witnesses. I understand that Mr. Mitchell—
12 and this is from newspaper accounts—that Mr. Mitchell
13 submitted something in excess of fifty subpoenas which
14 were not honored. That is an adversary proceeding over
15 there. There will be confrontation. There will be cross
16 examination. Our committee worked very hard and spent
17 considerable time, something like seventy-some-odd hours,
18 fourteen volumes of testimony. I don't think that I
19 would be far wrong by saying that bottom, two months.

20 MR. HARRIS: And do you have any thought
21 as to the cost of the trial by the Senate?

22 MR. GARCIA: I'd hate to venture a guess,
23 but I wouldn't want to justify the cost to my constituency.

24 MR. HARRIS: And during that two months
25 of the trial just prior to the time we vote on the

1 Constitution, we'll have quite a spectacle over in the
2 east end of the building, will we not?

3 MR. GARCIA: I didn't quite understand
4 that, Mr. Harris.

5 MR. HARRIS: During the two months that
6 the Senate will be trying Judge Carrillo, we'll have
7 quite a spectacle in the process over there, will we not?

8 MR. GARCIA: I'm sure that there will be
9 a spectacle. This is not something which happens every
10 day in the State of Texas.

11 MR. HARRIS: One of the Senators will be
12 turning us into pumpkins every night at midnight, and
13 every Senator will have a counsel, and the Watergate
14 prosecutor will be there, and there won't be very many
15 people thinking about whether or not Texas should adopt
16 a new Constitution in November in September of 1974 if
17 we hand it over to the Senate at this time will there?

18 MR. GARCIA: If we hand it over to the
19 Senate, say it took us four days here, Mr. Harris, by
20 the time it got over to the Senate, by the time they set
21 up their mechanics to start working on this case, they
22 could well be in the trial of the Carrillo impeachment
23 on the day that we are voting on the new Constitution.
24 That is correct.

25 MR. HARRIS: And that's November the 4th,

1 is it not?

2 MR. GARCIA: Yes, sir. That is correct.

3 MR. HARRIS: So, Mr. Garcia, you gave us
4 an opportunity to avoid spending hundreds of thousands
5 of dollars, avoiding the spectacle of having a trial at
6 the time when we should all be campaigning for the
7 adoption of the new Constitution. And you also give the
8 system an opportunity to work that would make it unneces-
9 sary for us to proceed farther. Is that not correct?

10 MR. GARCIA: That is correct, Mr. Harris.
11 I feel that it is a very realistic and reasonable approach
12 to the problem. I don't think that any of us if we voted
13 to postpone consideration of this would have to apologize
14 to anybody for delaying it. I think that there is reason
15 to put it in the hands of the Judicial Qualifications
16 Commission or possibly within that period of time ten
17 lawyers with guts—

18 SPEAKER CLAYTON: Mr. McDonald from Dallas
19 calls point of order. The gentleman's time has expired.
20 Point of order is well taken and sustained.

21 MR. HARRIS: Thank you, Mr. Garcia.

22 MR. GARCIA: If there is no objection from
23 the House, I'd like to amend the motion to make it the
24 10th of November which will be the following Monday, the
25 Monday after we vote on the Constitution.

1 SPEAKER CLAYTON: Is there objection?

2 The Chair hears none. So ordered.

3 The Chair recognizes Mr. Chavez to speak against
4 the motion, the postponement.

5 MR. HENDRICKS: Mr. Speaker?

6 SPEAKER CLAYTON: Mr. Hendricks.

7 MR. HENDRICKS: Will the gentleman yield
8 before he gets into his remarks?

9 SPEAKER CLAYTON: Will you yield, Mr.
10 Chavez?

11 MR. CHAVEZ: Yes.

12 SPEAKER CLAYTON: The gentleman yields,
13 Mr. Hendricks.

14 MR. HENDRICKS: Mr. Chavez, Mr. Garcia
15 said this delay wouldn't hurt anything. Are you advised
16 that there is two commissioners' courts now in Duval
17 County?

18 MR. CHAVEZ: Yes, sir, I sure am.

19 MR. HENDRICKS: Are you advised that the
20 people that work for the county down there have not been
21 paid since last April because of this chaotic situation?

22 MR. CHAVEZ: I sure am aware of that.

23 MR. HENDRICKS: Well, don't you think the
24 delay might hurt somebody?

25 MR. CHAVEZ: It will hurt those employees,

1 and a lot of other people.

2 MR. HENDRICKS: Thank you, sir.

3 MR. CLARK: Mr. Speaker, will the gentle-
4 man yield?

5 SPEAKER CLAYTON: Mr. Chavez, do you
6 yield to Mr. Clark?

7 The gentleman yields, Mr. Clark.

8 MR. CLARK: Mr. Chavez, how long has the
9 committee been in taking testimony and compiling the
10 records and so forth? You all started before the end
11 of the session, didn't you?

12 MR. CHAVEZ: We spent three evenings
13 during the session. Yes, sir.

14 MR. CLARK: Three evenings?

15 MR. CHAVEZ: Yes, sir.

16 MR. CLARK: And you've been at it fairly
17 regularly since the session was over with?

18 MR. CHAVEZ: Well, off and on.

19 MR. CLARK: Sir?

20 MR. CHAVEZ: Off and on.

21 MR. CLARK: Off and on. Now, you're
22 making a recommendation that we turn it over to the
23 Senate. You've heard the questions from the previous
24 Speaker. How long do you think it will take the Senate
25 over there to hear the case?

1 MR. CHAVEZ: I have no idea. I don't
2 think that we really ought to decide here, or whatever
3 we do, I don't think we ought to decide it on what the
4 Senate is going to do or not do. That is their business
5 over there.

6 MR. CLARK: In order for us to make a
7 reasonable decision that's in the best interest of the
8 citizens of this state, don't you think we ought to take
9 all of it into consideration?

10 MR. CHAVEZ: Well, I've seen some murder
11 trials that have taken months to try, but I've never
12 seen any judge or district attorney turn those people
13 loose just because it's going to take a long time to
14 try them.

15 MR. CLARK: A thirty man jury, how many
16 of those have you seen?

17 MR. CHAVEZ: I didn't set up the Consti-
18 tution.

19 MR. CLARK: You didn't set up the Con-
20 stitution. No, but the courts are set up. We do have
21 some other ways.

22 MR. CHAVEZ: We have some other ways to
23 do it, but the Judicial Qualifications Committee has not
24 done anything. They've had complaints there since 1972,
25 and they haven't done anything.

1 MR. CLARK: How long has it been in
2 existence? How long has the Judicial Qualifications
3 Commission been in existence? Isn't hasn't been too
4 long I know, a few years.

5 MR. CHAVEZ: I know they've been in exis-
6 tence since 1972 because they've heard complaints about
7 this man since then, and nothing has been done.

8 MR. CLARK: Have they had a lot of money
9 to do anything with?

10 MR. CHAVEZ: I beg your pardon?

11 MR. CLARK: Have they had a lot of money
12 to do anything with?

13 MR. CHAVEZ: I don't know. They've got
14 about sixty thousand a year.

15 MR. CLARK: Sixty thousand a year. Do
16 you think that is—

17 MR. CHAVEZ: We gave them another forty
18 thousand just a few months ago.

19 MR. CLARK: That's barely enough to keep
20 the office open. Isn't that right? Not much more than
21 pay the salaries down there? And you expect eleven men
22 to come over here and make a recommendation that we
23 150 people here today make a determination that's been
24 brought out of all of the testimony that you've taken
25 over there, for me to intelligently vote on making a

1 recommendation to the Senate that they give this con-
2 sideration over there of impeachment?

3 MR. CHAVEZ: I think that the committee
4 will make an adequate presentation for you to make your
5 consideration on the articles.

6 MR. CLARK: You've been two months over
7 doing it, and now the Senate is going over there and
8 start taking the testimony in a court hearing type of
9 situation and sit as a jury and determine in a few days,
10 you think each one of the Senators is going to determine
11 in a few days how they're ready to vote impeachment or
12 against impeachment?

13 MR. CHAVEZ: I have no idea what the
14 Senate is going to do.

15 MR. CLARK: I'm sure you don't. And that's
16 about the way of most everybody in this House today.
17 They're up here because they've been brought up here,
18 but as far as really knowing what's going to take place
19 and what should be done, they don't have because they
20 haven't been privy to the information only what they've
21 been reading in the papers.

22 Thank you.

23 MR. CHAVEZ: I don't think doing our duty
24 depends on how much time the Senate is going to take up
25 with this thing. At least that's my feeling on it.

1 Mr. Speaker, and Members, as I indicated earlier,
2 by postponing consideration of these articles is another
3 way of saying, "Well, we see the wrongdoing but we don't
4 want to face up to it. We don't want to handle it. Let
5 somebody else do it."

6 Mr. Garcia mentioned a while ago that if we
7 postponed it until November that a lot of things could
8 happen. Well, I think that there is a lot of truth and
9 a lot of merit in that statement. Probably some of the
10 things that could happen would be that the county employees
11 would not be paid; that perhaps other political enemies
12 of the judge could be removed; that another school could
13 lose its accreditation; that other people could be tried,
14 indicted, or convicted, summarily by this man. These
15 things could happen. Some of those things did happen.
16 And because some of those things did happen that's what
17 triggered this situation. Those matters were quite
18 evident in the testimony that we received from the various
19 witnesses.

20 The other thing, while I have not been personal-
21 ly told nor have I read it in the newspapers, but I under-
22 stand that some people that are opposed to our conducting
23 this session have mentioned the fact that it's too costly;
24 that it's going to cost a lot of money. Well, Article
25 5962 says that the members of the House when so convened

1 shall receive the same mileage and per diem pay as is
2 provided for members of the Legislature when in legis-
3 lative session. And the members of the committees of
4 the House when so convened and serving upon such com-
5 mittees when the House itself is not in session shall
6 receive the said per diem pay to be paid out of the
7 appropriation then existing.

8 So as I read this article is—

9 MR. TRUAN: Mr. Speaker, will the gentle-
10 man yield?

11 MR. CHAVEZ: Just let me finish this
12 particular statement.

13 SPEAKER CLAYTON: Not at this time, Mr.
14 Truan.

15 MR. CHAVEZ: On the per diem, as I read
16 the statute, if we postpone it until November the 3rd or
17 November the 10th, then every member of this House is
18 entitled to per diem, thirty dollars per diem until then,
19 and you can count the days up yourself and figure out
20 how much money the State is going to spend merely because
21 we postponed this action. So I don't understand that
22 postponing squares with the argument that we want to save
23 money.

24 I'll yield to Mr. Truan.

25 SPEAKER CLAYTON: The gentleman yields,

1 Mr. Truan.

2 MR. TRUAN: Thank you. Mr. Chavez, you
3 are a member of this committee that heard all the testi-
4 mony, and whatever way you voted on the various articles
5 you had the benefit of being there and questioning the
6 witnesses. I was there several times, and you were
7 indeed questioning witnesses with respect to their
8 testimony. The majority of us were not here. For all
9 practical purposes, the majority of the hearings took
10 place after the legislature ended its deliberations
11 during this session.

12 I for one feel, don't you agree, that we could
13 have some time to at least look through the information,
14 the testimony that has been compiled, that has not really
15 been made available to us.

16 I can appreciate the fact that you were there,
17 where the action was, but we were not, and yet we're
18 going to be called upon to vote on these matters.

19 MR. CHAVEZ: Mr. Truan, I suggest then
20 that you permit us to go forward and to present at least
21 the first article and listen to our presentation, and
22 if you don't think that our presentation is adequate
23 for you to make a proper determination on the article,
24 then at that time I think we can decide to postpone it
25 to receive more evidence or do something else. But you

1 don't know, and I don't know either, that the presenta-
2 tion that we make might be adequate to satisfy the
3 doubts of the members of the House. It might be and
4 then it might not be. But if it isn't, we can always
5 stop and postpone it until we can satisfy ourselves.

6 MR. TRUAN: Let me ask you this: If we
7 were to proceed under the rules that we're operating
8 with right now we're going to actually depend upon
9 members of the committee giving us this information and
10 receiving it really secondhand. Would you agree?

11 MR. CHAVEZ: Not really secondhand,
12 because we have the transcript; it's up here. At least
13 in my presentation I'm going to refer you to some pages
14 of that transcript which will be available to you.

15 MR. TRUAN: Yes, but for all practical
16 purposes this is not the same as reading it yourself.
17 Would you be amenable to changing the rules to get the
18 people that testified before your committee to testify
19 before our House meeting as a committee as a whole?

20 MR. CHAVEZ: No, I would not, because
21 we would be here another month, and I certainly am
22 sympathetic with the people who want to save the State
23 some money. It would just be too costly and too time
24 consuming, and it would just be a duplication of effort
25 in my opinion.

1 MR. TRUAN: But you will agree that this
2 is a very serious matter. And I recall your asking one
3 of the witnesses that whether they realized—and I'm sure
4 you realize—and seriousness of what will happen assuming
5 that the articles of impeachment are indeed adopted.

6 MR. CHAVEZ: It's a very serious matter,
7 Mr. Truan. I don't quarrel with you on that. But I
8 think that you have to understand that what we do here
9 today we're not going to be passing on the guilt or
10 innocence of the man. We're going to determine whether
11 or not there is some adequate evidence to merit his
12 facing trial in the Senate.

13 MR. TRUAN: I realize that, but we're
14 going to be called upon to vote here, and of course,
15 we can't wait until the Senate meets because we have to
16 take action first, and we have a responsibility, you
17 agree.

18 MR. CHAVEZ: We're charging him, is what
19 the effect of this thing is.

20 MR. TRUAN: You talk about money. I
21 haven't been made aware of how much budget the committee
22 spent, how much monies the committee has already spent.
23 Could you enlighten us on this matter?

24 MR. CHAVEZ: I have no idea, Mr. Truan.

25 MR. TRUAN: Would you be able to ask the

1 chairman there, since he is chairman of the committee,
2 to give you those figures?

3 MR. CHAVEZ: We don't have the actual
4 figures, Mr. Truan. I am advised that perhaps a rough
5 estimate would be in the neighborhood of approximately
6 \$30,000.

7 MR. TRUAN: \$30,000?

8 MR. CHAVEZ: Yes. That seems high to me,
9 but that's what I'm advised.

10 MR. TRUAN: Thank you.

11 MR. SHERMAN: Mr. Speaker, will the gentle-
12 man yield?

13 SPEAKER CLAYTON: Do you yield, Mr. Chavez?

14 The gentleman yields, Mr. Sherman.

15 MR. SHERMAN: Did I understand you correct-
16 ly that if we accept this motion that we will be entitled
17 to draw per diem even though we go home from now until
18 November 3rd?

19 MR. CHAVEZ: That's the way I read the
20 statute, Mr. Sherman.

21 MR. SHERMAN: Mr. Speaker, parliamentary
22 inquiry.

23 SPEAKER CLAYTON: Mr. Vale raises a point
24 of order. The gentleman's time has expired. The point
25 of order is well taken, and sustained.

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MR. SHERMAN: Parliamentary inquiry, Mr. Speaker.

SPEAKER CLAYTON: State your inquiry, Mr. Sherman.

MR. SHERMAN: The statement has been made that if we accept this postponement and go home that we would be entitled to draw thirty dollars per diem even though we are not here until the time that we take this up again. Is this correct?

SPEAKER CLAYTON: That is an interpretation of the statute, Mr. Sherman.

MR. SHERMAN: You may have just switched a lot of votes.

SPEAKER CLAYTON: Mr. Hendricks to speak against the resolution.

MR. HENDRICKS: Mr. Speaker and Members, could I have your attention just a moment, please. There has been a lot of discussion about how long it will take to try this in the Senate. Now, there is no way any of us can give you any idea of how long any trial will take. All we can do is go back to the one time the Senate has tried a district judge on impeachment charges, and that was the Price trial. We can give you the figures on that if you're interested in it.

That trial began on September the 10th. The

1 judgment in it was entered on September the 30th. That's
2 twenty days from the time the trial began until the final
3 judgment was entered, and it did involve a district
4 judge.

5 I will state this to you: It's my opinion that
6 this judge probably should have stepped down when federal
7 indictments were returned against him. There is no
8 article of impeachment concerning the federal indictments
9 in this case. That is strictly my opinion. But I think
10 he should have stepped down and waited on the judgment
11 of the federal courts.

12 As I say, that is my opinion. If you vote
13 impeachment, that does not remove him from the bench; it
14 merely suspends him from the bench until that trial can
15 be had in the Senate. It is my opinion that he should be
16 suspended until these charges are met in the Senate, and
17 I believe as responsible citizens of the state and members
18 of this House that it's our duty to get on with it.

19 Now if you want to leave this man on the bench
20 down there in Duval County with those people not being
21 paid since last April you should vote for this motion.
22 If not, I ask you to vote with me, and I move to table,
23 Mr. Speaker.

24 SPEAKER CLAYTON: Mr. Garcia to close on
25 his motion.

1 MR. GARCIA: Mr. Speaker, Members, I under-
2 stand that some of the membership is in a quandry with
3 reference to an inquiry which was made from the back
4 microphone, that in the event the motion to postpone
5 further consideration of these proceedings to November
6 the 10th does prevail, will the members continue receiving
7 their per diem.

8 I would urge that in the event the motion does
9 prevail that we should very seriously consider the filing
10 of a resolution suspending any per diem pay so that there
11 will not be any unjust enrichment on the part of any
12 members while this matter is pending, because I don't
13 feel that we should be sitting back home taking in thirty
14 dollars per diem when our entire effort is trying to save
15 our constituency the onerous expense of proceeding in this
16 fashion.

17 You know, Mr. Chavez said that the Judicial
18 Qualifications Commission has had this matter since 1972—

19 MR. DONALDSON: Mr. Speaker, will the
20 gentleman yield?

21 MR. GARCIA: I will not yield until I
22 finish.

23 SPEAKER CLAYTON: The gentleman doesn't
24 yield at this time, Mr. Donaldson.

25 MR. GARCIA: —that there have been

1 complaints pending before the Judicial Qualifications
2 Commission since 1972. Well, I might answer that by
3 stating that in the event these incidents were occurring
4 since 1972 we have had one prior legislative session,
5 that is the 63rd Legislature, when this matter could have
6 been submitted if things were that onerous down there in
7 Duval County.

8 Ladies and gentlemen, today is August the 4th.
9 What I'm asking you to do is to postpone consideration
10 until November. This is three months away. A time when
11 we should be out working for the passage of the new
12 Constitution, a time when we should not turn our State
13 Capitol into a circus, because you know what happens
14 during these trials, especially this one, that has
15 received the notoriety that it has. It will be tried in
16 the Senate in a circus atmosphere. Visualize if you will
17 every Senator having his own counsel. And you know and
18 I know because you served with our illustrious Senators
19 during the Constitutional Convention. They, not unlike
20 us, have some prima donna tendencies, and I can assure
21 you that everyone will be interrogating every witness to
22 the "nth" degree.

23 Are we talking about three weeks? We're talking
24 about three months. We're talking about a period of time
25 when we finish to the time that they finish transgressing

1 past the date that our Constitution is to be considered.

2 I ask you to put priorities where they belong.
3 I ask you to consider what you're about to do. Don't
4 take the easy way out. Take the most conscionable,
5 the most realistic, the way out that you will have no
6 trouble explaining to your constituency back home, that
7 we created a body to take care of these things and then
8 we swept them under the rug telling them that we were
9 not satisfied, that they had not taken sufficient action
10 to do away with what we considered to be a problem. I
11 think that the reasonable thing to do is to vote in favor
12 of this motion, and I ask for your vote. And I will yield.

13 SPEAKER CLAYTON: The gentleman yields,
14 Mr. Donaldson.

15 MR. DONALDSON: Mr. Garcia, I believe you
16 stated that we could be resolution suspend payment of the
17 per diem?

18 MR. GARCIA: We just got through passing
19 one authorizing the payment of thirty dollars a day a
20 moment ago.

21 MR. DONALDSON: Now, the statute says that
22 we will be paid that though. Can you suspend the imposi-
23 tion of that statute by resolution?

24 MR. GARCIA: If that is the interpretation
25 of the statute, then what is the necessity of passing the

1 resolution authorizing payment?

2 MR. KASTER: Mr. Speaker, will the gentle-
3 man yield?

4 MR. GARCIA: I will yield.

5 SPEAKER CLAYTON: The gentleman yields,
6 Mr. Kaster.

7 MR. KASTER: Mr. Garcia, the thing that
8 bothers me about your motion concerns 283 county employees
9 of Duval County whose average pay is approximately \$225
10 a month who have not been paid since April because of the
11 chaotic situation of two commissioners' courts being
12 there. The county depository has reverted the money back
13 to the county, said they would not honor any checks until
14 it's finally determined. Now this has been going on
15 since April, and these people have not been paid, and to
16 wait until November to just rock along is very detri-
17 mental to those people. And I also question how much is
18 the price of justice worth?

19 MR. GARCIA: Mr. Kaster, let me answer you.
20 Are you so naive as to believe that by our action in this
21 House in this impeachment proceeding on something that
22 has become a way of life in an area of Texas that by
23 removing one man you're going to relieve the plight of
24 two hundred and some-odd county employees?

25 MR. KASTER: I certainly do because the

1 governor would then the power to appoint a temporary
2 judge to try and straighten the situation out.

3 MR. GARCIA: Well, I understand that there
4 is seventeen Rangers down there, Mr. Kaster. And I had
5 always heard, ever since I was a little boy growing up
6 in this great state of Texas, "one riot, one Ranger," and
7 I can't understand what seventeen Rangers are doing down
8 in Duval County.

9 MR. KASTER: That has nothing to do with
10 the paychecks that these people are not receiving, Mr.
11 Garcia.

12 MR. GARCIA: There are courts of civil
13 appeals and there are supreme courts that could respond
14 to that problem. Up to this point, and this is from the
15 newspaper accounts, the court of civil appeals has
16 refused to overturn the actions of Judge Carrillo in the
17 removal of Judge Parr. The matter has been taken to the
18 Supreme Court, and the Supreme Court has refused to
19 intercede.

20 I don't know whether that answer your question.

21 MR. KASTER: And the people still aren't
22 getting paid.

23 MR. GARCIA: Are you assuring this House
24 and those two hundred and some-odd county employees down
25 in Duval County that if we vote articles of impeachment

1 that they're going to start receiving a paycheck? Is
2 that your guarantee?

3 MR. KASTER: That's quicker than waiting
4 until November the 3rd to start considering it. Yes, sir,
5 that's exactly what I'm telling you.

6 MR. GARCIA: I don't accept that, and I
7 think that you're engaging in an act to inflame the
8 passions of this House in an effort to move this thing
9 along when the most realistic thing to do would be to
10 delay it until November the 10th.

11 MR. KASTER: I'm not trying to inflame
12 anyone. I'm telling you exactly the testimony that we
13 heard, Mr. Garcia, that's in the bound volumes over
14 there.

15 MR. GARCIA: Do you have any other
16 questions, Mr. Kaster?

17 MR. KASTER: That was responding to your
18 statement that I'm inflaming the House.

19 MR. SALEM: Mr. Speaker, will the gentle-
20 man yield?

21 SPEAKER CLAYTON: The gentleman yields,
22 Mr. Salem.

23 MR. SALEM: Mr. Garcia, are you aware—
24 and I can't say exactly what date it was—but in the local
25 paper that is printed in Corpus Christi there was a

1 news story that these employees were now going to be
2 paid, that checks would be issued? Are you aware of that?

3 MR. GARCIA: I'm not aware of it.

4 MR. SALEM: I'm going to try to find out
5 the exact date, and perhaps I can get you the story on
6 it in just a little bit.

7 MR. GARCIA: Thank you.

8 Let me just say something in conclusion, Members.
9 If I may have your attention. I resent; I resent this
10 House being used to settle a political squabble. And I
11 don't think that anyone up to this point has denied that
12 that is exactly what is involved in the Carrillo-Parr-
13 Manges situation: a political squabble. If there were
14 any credibility to this situation possibly I might be
15 inclined to feel differently. But I do not feel differ-
16 ently. And I think that the Judicial Qualifications
17 Commission or the Supreme Court is well able to act on
18 this matter, and I say that we charge them with that
19 responsibility by voting to postpone further consideration
20 of these proceedings until November the 10th.

21 Mr. Speaker, I will ask for a record vote.

22 SPEAKER CLAYTON: Mr. Garcia moves that
23 postponement of further consideration of House Simple
24 Resolution 161 be until November 10, 1975. All those
25 in favor of postponement— Mr. Hendricks moved to table.

1 The question will occur on the motion to table. All
2 those in favor of the motion to table, vote "aye", all
3 those opposed, "no." It's a record vote. The Clerk will
4 ring the bell.

5 Have all members voted?

6 There being 118 "ayes" and 24 "noes", the motion
7 to table prevails.

8 The Chair recognizes Mr. Maloney, for an over-
9 view on the articles.

10 MR. MALONEY: Mr. Speaker, Members, it will
11 be my function before you today to go briefly over each
12 of the Articles of Impeachment that the committee has
13 voted out before you.

14 SPEAKER CLAYTON: Mr. Maloney, just a
15 minute.

16 Mr. Davis moves that the House stand recessed
17 until 1:45. Is there objection?

18 The Chair hears none, and accordingly the
19 House stands recessed until 1:45 p.m.

20 (Whereupon the luncheon recess was taken.)
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AFTERNOON SESSION

(The House of Representatives reconvened at 1:45 p.m., pursuant to the luncheon recess.)

SPEAKER CLAYTON: The House will come to order. The Chair recognizes Mr. Maloney for a continuation of an overview of the articles.

PRESENTATION BY MR. MALONEY

MR. MALONEY: Mr. Speaker, Fellow Members, it will be my function here before you this afternoon to go over the various Articles of Impeachment that the committee has voted out, with a short explanation and run-down as to the area that the article is intended to cover. I will not go into any great detail outlining what evidence actually supports it by which witnesses and which exhibits because it would be our intention that as each individual article is considered by the House that each of these articles would be fully debated. I simply want to give you some idea of the general area that is being covered by each of these articles.

If I may, I will proceed with the articles as they appear in numerical order. I want you to understand that these are not necessarily chronological, and that each article generally has some overlap with some other article, but I will try to confine my remarks to the

1 specific area in each article.

2 Article I deals with the question of whether
3 or not Judge Carrillo—and I will say at this time for
4 Mr. Salem's benefit, I will not yield since each of the
5 articles will be debated.

6 MR. SALEM: Mr. Speaker, will the gentleman
7 yield at all after he is through?

8 MR. MALONEY: Yes. I will answer any
9 questions you may have.

10 SPEAKER CLAYTON: The gentleman will
11 yield, Mr. Salem.

12 MR. MALONEY: Article I deals with the
13 question of whether or not Judge Carrillo obtained
14 groceries for his own use and benefit, these groceries
15 being paid for by the County of Duval.

16 The testimony that was developed before the
17 committee was that Duval County had a welfare system
18 that was created by the county and pretty much for the
19 use of each of the county commissioners. To keep this
20 in context you will need to know that O. P. Carrillo's
21 brother, Ramiro Carrillo, was the county commissioner
22 of Precinct 3 of Duval County.

23 SPEAKER CLAYTON: Just a minute, Mr.
24 Maloney.

25 We're going to have a little order before we

1 proceed.

2 Now, Members, if you would give your attention
3 to Mr. Maloney we'll be able to proceed right away into
4 the debate on article by article of these Articles of
5 Impeachment.

6 Proceed, Mr. Maloney.

7 MR. MALONEY: As I was saying, Ramiro
8 Carrillo, the brother of O. P. Carrillo, was and is
9 county commissioner of Precinct 3 of Duval County, which
10 includes the city of Benavides, which is the home town
11 of Judge Carrillo and his family.

12 The testimony that came before the committee
13 was that a store that is located in Benavides, which has
14 the name of The Cash Store, was the main supplier of
15 groceries in the area. The county used, to begin with,
16 a welfare system in which the commissioner or someone at
17 his direction would sign a little slip of paper that had
18 someone's name and an amount on it; the person would take
19 this slip to this Cash Store and receive in turn grocer-
20 ies or supplies from this store up to the amount that
21 was indicated on the slip.

22 Testimony before the committee indicated that
23 many of these slips that were presented to the Cash Store
24 were in the names of fictitious persons, and other parties
25 would take the slips in. At the end of the month The Cash

1 Store would total all of these slips and bill the county,
2 and the county would issue a warrant directly to The Cash
3 Store, paying for these groceries.

4 The slips that were introduced before the
5 committee were signed ostensibly by O. P. Carrillo with
6 his initials. It later developed that apparently this
7 was too difficult a system to manage, and O. P. Carrillo
8 was extended a line of credit at the Cash Store for
9 groceries. The line of credit extended up to \$300 a
10 month. In other words, the County of Duval would pay
11 \$300 a month for any groceries that were purchased at
12 the instance of O. P. Carrillo.

13 The testimony before the committee indicated
14 that the groceries that were bought for O. P. Carrillo
15 were bought by three persons: Roberto Elizondo, who was
16 the court reporter for Judge Carrillo; Tomas Elizondo,
17 who was the bailiff for Judge Carrillo; and Patricio
18 Garza, who was the ranch hand or ranch foreman for Judge
19 Carrillo on his ranch. These persons would come into the
20 Cash Store, order whatever groceries they desired, and
21 the proprietor of the Cash Store, Mrs. Lauro Yzaguirre,
22 would hold these slips until the end of the month. The
23 groceries were taken to Judge Carrillo's ranch. This was
24 admitted by the persons who purchased the groceries. The
25 groceries were used to feed the people who worked on the

1 ranch during roundup on the judge's ranch.

2 As I said, the judge's limit of credit was
3 \$300 to be paid by Duval County. On some months the
4 judge's bill would not total \$300; it would be somewhat
5 less. In that event any balance or any difference between
6 the \$300 and the amount of groceries actually purchased
7 would be credited toward the judge's next month's pur-
8 chases. If the judge or his agents had bought more than
9 \$300 worth of groceries, the judge or his agent would
10 come in at the end of the month and give a check for the
11 difference. And there are checks in the record that
12 indicate that this is what was being done.

13 This testimony comes mainly through an employee—
14 the employees of Judge Carrillo—and through Mrs.
15 Yazguirre.

16 So basically this is what this article deals
17 with, the fact that the Duval County was paying for the
18 personal groceries of Judge Carrillo.

19 Article II deals with items that the committee
20 felt reflected badly upon the judicial system of the
21 State of Texas. They deal with areas in which it was
22 felt that both the Constitution of this state and the
23 code of judicial ethics were violated by the actions of
24 Judge Carrillo in each of two instances in litigation
25 that was before him, and in actions that he took in the

1 comprisal of the Duval County Grand Jury and the members
2 of the Benavides Independent School District.

3 MR. WASHINGTON: Mr. Speaker.

4 SPEAKER CLAYTON: Mr. Washington.

5 MR. WASHINGTON: More a point of informa-
6 tion than a question. Would it be proper to ask ques-
7 tions as Mr. Maloney goes through his presentation as to
8 each of the separate articles?

9 SPEAKER CLAYTON: Mr. Washington, what
10 Mr. Maloney is attempting to do is to give an overview
11 of each of the articles. At the conclusion of his presen-
12 tation he is going to make a motion to divide the issues
13 to take up article by article. So each article then will
14 be debated in full length. Mr. Maloney will yield at the
15 end of his presentation if you would prefer to direct a
16 question to him, or if you would prefer, there are going
17 to be different members of the committee taking up differ-
18 ent articles, one by one, and you could direct questions
19 to them. So it will be your choice.

20 MR. WASHINGTON: Parliamentary inquiry.

21 SPEAKER CLAYTON: State your inquiry, Mr.
22 Washington.

23 MR. WASHINGTON: Will the committee member
24 assigned to discuss as it were to present each article do
25 so in the fashion that Mr. Maloney is doing now? I have

1 some factual questions on what evidence there is to
2 support the factual allegations that he's making now.

3 SPEAKER CLAYTON: Yes, sir. We hope that
4 is the way that they present it, Mr. Washington, and also
5 to give reference in the testimony to where they're taking
6 their information from.

7 MR. WASHINGTON: Thank you, sir.

8 MR. MALONEY: In Article II, Article II is
9 divided into four specific instances which the committee
10 felt justified an Article of Impeachment, any one of those
11 or all of those.

12 Subsection 1 deals with a case that came before
13 Judge Carrillo almost immediately after he had assumed
14 the bench in 1971. This case was styled "Clinton Manges
15 versus M. A. Guerra, et al." The question involved in
16 the case was concerning some property in Starr County
17 that belonged to a partnership called "M. A. Guerra and
18 Son." This partnership as its assets owned extensive
19 ranch holdings in Starr County as well as the controlling
20 interest of the First State Bank and Trust of Rio Grande
21 City in Starr County. Mr. Clinton Manges was the
22 petitioner or the plaintiff in this lawsuit in which he
23 wanted the court to approve an agreement by which he
24 would have the stock of the First State Bank and Trust
25 of Rio Grande City and clear title to all of the ranch

1 lands owned by M. A. Guerra and Son.

2 The issue was brought before the court in 1973,
3 in which it was moved that Judge Carrillo remove himself
4 from this case, recuse himself or disqualify himself
5 because he had financial ties with one of the litigants,
6 to-wit: Mr. Clinton Manges.

7 A hearing was held in which it was developed
8 three things that constituted financial ties between
9 Judge Carrillo and Mr. Clinton Manges.

10 Number one, Judge Carrillo had been elected to
11 the board of directors of the First State Bank of Rio
12 Grande City. He was, let me say, "given" ten shares of
13 stock which qualified him to be a director. At that time
14 the book value of such stock was \$750 a share or there-
15 abouts. No consideration was given for this stock unless
16 you accept the testimony of Mr. Manges and Judge Carrillo
17 in the trial that the consideration was a house in
18 Benavides in which Mr. Manges was to move his family.
19 This was a house that was located on a lot behind the
20 residence of Judge Carrillo. The house was a vacant
21 house, totally in shambles; would not have been suitable
22 for occupancy by any person. So the consideration for
23 the stock was to be this house, plus Mr. Manges gave a
24 check to an automobile company in excess of \$6900 to pay
25 for Judge Carrillo's Cadillac. This was done prior, just

1 prior to the judge taking the bench. So the judge at the
2 time that he was to rule on Mr. Manges' lawsuit was a
3 director of the bank due to the actions of Mr. Manges,
4 and had entered into transaction with the house with
5 Mr. Manges.

6 In addition, at the very time that the judge
7 was to rule on the lawsuit, the judge had accepted the
8 fact that he would be able to graze his cattle on Mr.
9 Manges' land, some five to six thousand acres of land.

10 The judge testified, and Mr. Manges testified,
11 that there was a gentlemen's agreement between them that
12 the judge would pay a thousand dollars per acre per year
13 for a period of three years—a dollar an acre for the
14 grazing lease—a total then of \$15,000 minimum over the
15 three year period.

16 It was never established whether Judge Carrillo
17 paid anything to Mr. Manges for this. But he was
18 accepting this benefit from Mr. Manges at the time that
19 this lawsuit was being considered.

20 The motion was made for the judge to disqualify
21 himself in accordance with the code of judicial ethics
22 because he had accepted a benefit from one of the liti-
23 gants in the case and certainly had close financial ties.
24 The judge refused to do so, and it took a hearing in 1973
25 by a visiting judge to finally disqualify Judge Carrillo.

1 In the second instance, the case of the State
2 of Texas on relation of Jose Nichols versus Archer Parr.
3 This was a case in which the ranch foreman, Mr. Jose
4 Nichols, the ranch foreman of the Duval County Ranch
5 Company, which is an entity owned by Clinton Manges,
6 filed a lawsuit to have County Judge Archer Parr removed
7 as county judge.

8 Now, at this particular time Judge Parr had
9 been convicted in federal court of perjury. The committee
10 did not take issue with the merits of whether or not
11 Judge Parr should be removed, there being a specific
12 statute which does allow someone to be removed if they
13 have been convicted by a petit jury. The question that
14 the committee considered the important question was
15 whether or not Judge Carrillo should hear the lawsuit
16 since it was established that the day before the lawsuit
17 was filed before Judge Carrillo, and Judge Carrillo
18 removed Judge Parr and put a person who is known to be
19 aligned with Judge Carrillo as county judge, pending
20 the outcome of the lawsuit, the question was whether
21 Judge Carrillo should be sitting in judgment against a
22 political opponent. The day before the lawsuit was filed
23 Judge Carrillo had stated publicly that he had split with
24 the Parr faction and now would be opposing them.

25 In other words, he had established that he was

1 politically aligned against the Parrs. Whether that is
2 good or bad, the committee felt that this certainly,
3 in the interest of the Code of Judicial Ethics, he should
4 have removed himself and had another judge hear the case.

5 That is number two.

6 Number three deals with the Constitution and
7 influence exerted upon the Duval County Grand Jury.
8 The Duval County Grand Jury was selected by Judge Carrillo
9 in February of this year; selected as the commissioners
10 to select the grand jury were people which Judge Carrillo
11 had a close political alliance. The people selected by
12 the grand jury commissioners were also people who had a
13 very close alliance with Judge Carrillo.

14 It was established by testimony of the secre-
15 tary of the grand jury that before the grand jury was
16 even sworn in that Mr. Manges had already decided who
17 was to be the foreman of the grand jury—once again Mr.
18 Jose Nichols, the foreman of the Duval County Ranch
19 Company, Mr. Manges' property—and who was to be the
20 secretary of the grand jury. And coincidentally, that
21 is exactly the way that it happened.

22 During the deliberations of the grand jury
23 there were questions raised as to whether or not the
24 grand jury was indicting people fast enough, and a
25 conference was held between Judge Carrillo and Mr. Manges

1 and Mr. Correa, the secretary of the grand jury, as to
2 why Mr. Correa was dragging his feet and not returning
3 indictments against the Parr people.

4 Now whether or not indictments needed to be
5 returned against the Parr people was not the issue that
6 was before our committee. The issue before us was the
7 propriety of outsiders, people not even connected with
8 the government of Duval County, and in addition, the
9 judge, questioning the actions and bringing to bear
10 political influence upon members of the grand jury to
11 return indictments. The committee felt that this was
12 certainly improper.

13 Section four had to do with Judge Carrillo's
14 successful attempt to control the Board of Trustees of
15 the Benavides Independent School District.

16 Now, the Benavides Independent School District
17 actually includes the town of Benavides and Freer, which
18 is the area in which Mr. Manges lives. But the way they
19 operate their school district down there is a little
20 different than I believe that any of us in the Legislature
21 would anticipate. They have two boards in the same school
22 district: one that runs the Benavides school and one that
23 runs the Freer school.

24 The testimony before the committee had to do
25 with the Benavides Independent School District. On the

1 same date that Jose Nichols, Mr. Manges' employee, had
2 filed the removal suit against Judge Parr, Mr. Nichols
3 also filed a removal suit against— I can't remember the
4 exact number—against four of the members of the Benavides
5 Independent School District. These were all "heard"—once
6 again I put "heard" in parenthesis—before Judge Carrillo
7 who issued an immediate order without hearing, removing
8 these four members of the Benavides Independent School
9 District.

10 As it would happen, the four members who were
11 removed were all Parr sympathizers. The relatives of
12 Judge Carrillo who were on the school board were not
13 removed. Another person who was not aligned with either
14 party, as I recall the testimony, was removed at that
15 time. At the time the judge removed these four people
16 he appointed four people who supposedly were all Carrillo
17 people. As it turned out one of them stated publicly
18 that he was a Parr person, and immediately upon his
19 having made that statement, he was removed and another
20 person substituted for him.

21 Once again, the merits of whether or not these
22 members of the Board of Trustees of the school district
23 should have been removed was not the issue that the
24 committee felt was important. It was the arbitrary manner
25 in which it was handled; that the political opponents

1 were removed and the political allies were left on the
2 school board until they could be joined by other political
3 allies of the Carrillo faction.

4 We felt that the way these four things were
5 handled reflected very badly upon the judicial system
6 of the State of Texas.

7 Article III deals with the diversion by Judge
8 Carrillo of the services of county employees to his
9 personal use and benefit.

10 The article sets out five instances in which
11 employees that were paid only by the county were used to
12 work on Judge Carrillo's ranch or in business entities
13 controlled and owned by Judge Carrillo.

14 Number one deals with a Cleofas Gonzalez. Mr.
15 Gonzalez was paid by the County of Duval to work in the
16 county shop. Now the county shop was in Benavides, and
17 it was on a piece of property that also included a
18 business entity of Judge Carrillo and his brother,
19 Commissioner Ramiro Carrillo, that was called the Farm
20 and Ranch Store, a retail outlet for farm and ranch
21 supplies and equipment.

22 Mr. Gonzalez though paid solely by Duval County,
23 his duties were to run the Farm and Ranch Store, which
24 under his own testimony was all that he did except on
25 occasion when he could do something and had occasion to

1 do something in the county shop which was on the same
2 premises. But by far the great majority of his work was
3 done for the Farm and Ranch Store and for the Zertuche
4 General Store, which we will get to later. These were all
5 entities owned by and controlled by Judge O. P. Carrillo
6 and his brother, Ramiro Carrillo.

7 Pat Gonzalez, who is now deceased so he was not
8 a witness before the committee, was a person who did the
9 same thing, who worked in the Farm and Ranch Store but
10 was paid by Duval County.

11 Francisco Ruiz, who was a witness before our
12 committee, testified that he was employed by and paid by
13 Duval County, but that on one specific occasion that he
14 spoke to before the committee, he was sent out to work
15 as a welder to repair certain equipment on Judge Carrillo's
16 ranch.

17 Oscar Sanchez, an employee of Duval County not
18 paid in any other manner by Judge Carrillo, was sent to
19 work on a reservoir on Judge O. P. Carrillo's ranch.

20 Patricio Garza, who had been paid on a contract
21 labor status rather than being actually on the payroll
22 of the county, was the person that I alluded to earlier
23 as the ranch hand for Judge Carrillo's ranch.

24 So Article III deals with specific instances
25 in which employees of the county were used to perform

1 services on Judge Carrillo's ranch or in one of his
2 business entities and were not paid otherwise than by
3 county funds.

4 Article IV, which is similar to Article III
5 except that Article IV directs itself to the improper
6 misapplication of county equipment by Judge Carrillo.
7 This involves five instances which were related to the
8 committee in which certain county equipment was used to
9 perform work on Judge Carrillo's ranch; the use of a
10 backhoe to construct a building on the ranch; the use
11 of equipment to construct the water reservoir that was
12 alluded to earlier; the use of a truck that was mounted
13 with a posthole digger in order to dig postholes to
14 fence Judge Carrillo's ranch; the use of the welding
15 equipment by the employee previously referred to to make
16 repairs of equipment on the Carrillo ranch; and the use
17 of various county trucks and equipment to haul equipment
18 back and forth between where it might be and the ranch.

19 So they are similar. One deals with services;
20 the other deals with equipment.

21 Article V, which constituted or took a great
22 deal of the committee's time, deals with a sham trans-
23 action that was set up so that the county officials—and
24 when it began Judge Carrillo was a county official. He
25 was county attorney before he was elected district judge—

1 constituted a continuing transaction so that the county
2 officials would not appear to be doing business with
3 the county entities that they represented. What was
4 done was, as I told you, Judge Carrillo and Ramiro
5 Carrillo were partners in an entity called the Farm and
6 Ranch Store. So since Judge Carrillo and Ramiro Carrillo
7 were county officials they could not by law do business
8 with the County of Duval. So what was done was a
9 fictitious company was set up. It was called the
10 Zertuche General Store.

11 The testimony before the committee and the
12 exhibits introduced before the committee indicated that
13 there was not a Zertuche General Store; that invoices
14 were created that had the name of the Zertuche General
15 Store but that no one else in Benavides knew where it
16 was located or had heard of it before, other than there
17 having been previously in Duval County a general store.

18 And what would happen was that the County of
19 Duval would be billed for equipment and supplies, the
20 rental of equipment, by Zertuche General Store, which
21 carried no inventory, owned no equipment, and when the
22 county then, or the water district, or the school district,
23 paid Zertuche General Store this warrant was deposited
24 in a bank account that was called "Zertuche General Store."
25 Almost immediately, and through the checks and statements

1 the pattern developed, and it continued from about 1967
2 through 1971, that as soon as this money was deposited
3 in the bank account of Zertuche General Store, it was
4 taken out and put in the Farm and Ranch Store or sent
5 to an entity that we later learned was a trust for Judge
6 Carrillo called "Ramiro Carrillo and Brothers," or was
7 paid to Ramiro Carrillo.

8 So that generally the Zertuche General Store
9 carried very close to a zero balance. The ostensible
10 owner of the Zertuche General Store was one Arturo
11 Zertuche, I believe a nephew of the Carrillos, and he
12 was to be the front man, but he directed none of the
13 operations of the Zertuche General Store. Its location,
14 if it had one, was the same location as the Farm and
15 Ranch Store.

16 It was testified to before the committee that
17 there were two billing entities in the Farm and Ranch
18 Store: one register that had to do with Zertuche General
19 Store, and the other that had to do with the Farm and
20 Ranch Store. All retail orders were placed through the
21 Farm and Ranch Store, but when the county was to be
22 billed it was sent through the Zertuche register.

23 Mr. Cleofas Gonzalez while working at the
24 Farm and Ranch Store handled all of these transactions.
25 He deposited the money into the Zertuche General Store

1 bank account; then using a check that had been pre-signed
2 by Arturo Zertuche, would take the money back out and
3 distribute it as directed by Ramiro Carrillo or O. P.
4 Carrillo.

5 So this was simply nothing more than a sham
6 that was to get around the statutes of this state which
7 prohibited a person from—an elected official or an
8 appointed official of a governmental entity—doing
9 business with the governmental entities they represent.

10 This same sham transaction, though it was not
11 considered from the technical standpoint, is the area in
12 which the U. S. Government has returned its indictment
13 against Arturo Zertuche, Ramiro Carrillo, and O. P.
14 Carrillo.

15 Article VI deals with the financial statement
16 filed by Judge Carrillo with the Secretary of State, which
17 is to disclose his financial interests as a state employee,
18 to-wit: a district judge.

19 In this financial statement Judge Carrillo did
20 not indicate that he had any interest in this trust which
21 we found to be called the "Ramiro Carrillo and Brothers
22 Trust." The trust income was reported by Judge Carrillo
23 on his income tax return, with him as trustee for this
24 trust. The returns that we were allowed to see indicated
25 that he had anywhere from six to eight thousand dollars

1 a year income from this trust, and it was a trust
2 constituted or for the benefit of various members of
3 the Carrillo family.

4 He did not indicate that he was a trustee of
5 this trust nor did he indicate that he had any interest
6 in the trust, all of which is required under the
7 Financial Disclosure.

8 Article VII was the question that one of the
9 witnesses, Cleofas Gonzalez, testified that as part of
10 his duties when he was working in the county shop for
11 Duval County was to fuel the county equipment from a
12 gasoline pump and a diesel pump located there in the
13 county yard. It was his testimony that Judge Carrillo
14 used this fuel for his personal use; his equipment was
15 brought in to be fueled; his automobiles were brought
16 in to be fueled, and that the cost of this fuel was then
17 paid by Duval County.

18 Article VIII deals with the question of whether
19 fictitious equipment was rented to Duval County. There
20 was testimony before the committee that bills were sent
21 to Duval County, to the Benavides Independent School
22 District, and to the Water Reclamation District, for
23 the rental of certain equipment. This rental was billed,
24 once again, through the Zertuche General Store; that
25 certain heavy equipment was to have been used by the

1 county, and rather than the county using its own equip-
2 ment, was to have rented it from Zertuche General Store.

3 The committee was unable to find that Zertuche
4 General Store ever owned any equipment whatsoever that
5 could have been rented to Duval County or the other
6 governmental entities, but that periodically he would
7 be simply told to bill the county for a certain amount
8 of money and classify the invoice as rental, and it would
9 be paid, and it was.

10 Article IX deals with the payment of county
11 funds to Arturo Zertuche. Once again, Arturo Zertuche
12 is the person who was the titular owner of the Zertuche
13 General Store. But during the time that the store was
14 supposedly in existence and was operating, the county
15 was also paying Mr. Arturo Zertuche \$225 a month for
16 some labor that he was supposed to be doing for the
17 County of Duval, which the committee could never deter-
18 mine was ever done nor what those duties were supposed
19 to have been.

20 In addition, at the time that the \$225 per
21 month was being paid, Mr. Zertuche was a student at
22 North Texas State University and was not even in Duval
23 County for any period that the committee was able to
24 ascertain.

25 I will come back to a sidelight on this, but

1 since this is so similar to the next two articles I will
2 move on to the next article.

3 Article X is the same scheme to pay someone
4 out of funds for Duval County for contract labor when
5 such person was not an employee of Duval County, and in
6 truth and in fact, did not render any labor or services
7 to Duval County.

8 Article X deals with one Roberto Elizondo, who
9 at this time was the court reporter for Judge Carrillo's
10 court. Roberto Elizondo has been the court reporter
11 since September of 1973, when he went on the payroll as
12 a court reporter having just finished a court reporting
13 school for some eighteen months in Houston. However,
14 during the eighteen months that Roberto Elizondo was in
15 court reporting school learning to be a court reporter,
16 the County of Duval issued a check to him once a month
17 for \$225 for some services that were supposedly rendered.

18 Now, Mr. Elizondo did testify before the com-
19 mittee, and he testified that the services that he per-
20 formed were on weekends he would come in from Houston,
21 some 250 miles from Duval County, and do some work in the
22 judge's office: answering mail, certain clerical things
23 on the weekend.

24 The committee heard testimony from the National
25 Guard that Mr. Roberto Elizondo was in the National Guard

1 at this time, and that on many of these weekends he was
2 actually in service with the National Guard, and it would
3 be almost inconceivable that he could have been doing
4 this work for Judge Carrillo.

5 In addition to that, the receptionist for
6 Judge Carrillo, Mrs. Montemayor who was receptionist
7 during this period when Roberto Elizondo was to be
8 receiving this money, testified that she did not at any
9 time see Roberto Elizondo doing any of this work for
10 the judge; that she worked up to the last time of day
11 on Friday as the judge's receptionist and knew what work
12 was to be done, and that come Monday morning that work
13 had not been done and still remained to be done; that
14 when there was any work to be done it was done by the
15 then court reporter of Judge Carrillo's court, Mr. Jerry
16 Parmer, who handled those clerical things for the judge.

17 So it was felt that this money being paid to
18 Roberto Elizondo was merely a supplement paid to him
19 while he was in court reporting school.

20 Article XI deals with the county funds being
21 paid, \$225 a month once again, to Patricio Garza, whom
22 all the testimony except Mr. Garza's own testimony,
23 indicated always had been the ranch hand or ranch
24 foreman of Judge Carrillo's ranch. No one had ever seen
25 him doing work for the county nor recalled him ever

1 working for the county. However, Mr. Garza himself
2 testified that he did work up until about eighteen months
3 ago—I guess it would be about twenty months ago now—for
4 the county, occasionally fixing flat tires.

5 You may have noticed that there is a duplication
6 somewhat with Mr. Garza in a previous article where the
7 article goes to whether or not Mr. Garza as a county
8 employee was diverted to work on the judge's ranch. This
9 is the converse of that because there is no middle ground.
10 Either Mr. Garza was an employee during that period or
11 he was not. If he was an employee, as he says he was,
12 then his services were diverted to the judge's ranch.
13 If he was not an employee, as the evidence seems to
14 indicate, then he should not have been being paid \$225
15 a month. So the committee simply closed the gap. It
16 must be one or the other; you can't have your cake and
17 eat it too.

18 Now, in regards to Article IX, X, and XI, you
19 need to know how these \$225 a month sums were paid. What
20 is called a "claim for labor" was filed once a month for
21 each of these persons. It was sent in, supposedly
22 notarized by each of these persons as a claim. They
23 swore that they did the work and that the sum was just,
24 due and owing to them. And then it was approved by the
25 county commissioner, Ramiro Carrillo.

1 The committee discovered that over this period
2 that none of these parties had ever signed any of these
3 claims for payment. All of these claims for payment were
4 signed by a notary public who works as a clerk in Judge
5 Carrillo's office, and that this notary public did he
6 himself sign all of these, and that no claim for payment
7 was given to him monthly; he just every month filled out
8 these claims and sent them in for payment and notarized
9 each of the signatures that he had signed, and that
10 probably he would continue to pay these forever until
11 somebody—and he in all fairness would not say Judge
12 Carrillo—told him to stop. So the committee in its
13 investigation found that not only were the services being
14 paid to people who were not entitled to them, but a fraud
15 on the whole system of notary publics was being perpetrated
16 by this clerk who worked full time in Judge Carrillo's
17 office. The claims for payment to Arturo Zertuche,
18 Patricio Garza, and Roberto Elizondo.

19 Now those are the articles that have been
20 presented before you.

21 The committee debated other areas that were
22 brought to our attention, but the committee had repeatedly
23 everytime they had some evidence from some source as to
24 misconduct, looked to see whether that testimony could
25 be substantiated by other evidence before we bring it

1 before this House.

2 We rejected those allegations of misconduct
3 which we could not substantiate or have the time to
4 substantiate. And we have only brought you those which
5 we feel are the cold, hard facts.

6 I will yield if there are any questions at
7 this point.

8 MR. SALEM: Mr. Speaker, will the gentle-
9 man yield?

10 SPEAKER CLAYTON: The gentleman yields,
11 Mr. Salem.

12 MR. SALEM: Mr. Maloney, I read the H.S.R.
13 No. 161, and I need you to help me to try to understand.
14 It says:

15 "Be it resolved by the House of Represen-
16 tatives that impeachment charges be preferred
17 against O. P. Carrillo, judge of the 229th
18 Judicial District of the State of Texas, and
19 the Senate of the State of Texas, for the
20 following cause:

21 He has been indicted by a grand jury of
22 the United States of America on multiple
23 counts for violation of federal income tax
24 laws."

25 Now, I have here the first three volumes of the

1 transcript of the proceedings, and it starts out, it
2 says here:

3 "Tonight I will introduce several wit-
4 nesses or at least several witnesses are
5 present available to the committee."

6 Those are the words of Mr. Canales. And then
7 he goes right into the allegations of these eleven
8 Articles of Impeachment, and I don't find any place in
9 the first three volumes of proceedings here where the
10 committee addressed itself to the alleged violations of
11 income tax evasion.

12 Now, at what point did the committee consider
13 that?

14 MR. MALONEY: We did consider that, Mr.
15 Salem, and since we felt that this was a matter that was
16 presently under litigation in the federal courts, the
17 income tax laws being federal laws, that that would be
18 left to the federal officials, and simply the fact that
19 a person is under indictment, to return an article of
20 impeachment for that fact and that fact only, would be
21 a travesty of justice, because the presumption of innocence
22 does attach, and we were not going to bring that and set
23 any type of precedent that a person would be able to have
24 a grand jury indict them and in effect by that very
25 indictment remove the person from office. The committee

1 did have this as an article before them, and the committee
2 voted to remove it.

3 MR. SALEM: Well, let me ask you this,
4 Counselor: You say here that he has been indicted by
5 a grand jury of the United States of America on multiple
6 counts for violation of federal income tax laws.

7 Do you feel that I would be in order to raise
8 a point of order against further consideration of these
9 eleven Articles of Impeachment in that they do not
10 address themselves top side or bottom to H.S.R. No. 161
11 for which the impeachment proceedings were called.

12 Would I be in order to do that?

13 MR. MALONEY: If your question is to me
14 as to whether or not you would be in order, the answer
15 is no. But I think it should be addressed to the Chair.

16 MR. SALEM: Well, do you feel that—and I
17 understand that the federal courts have not spoken to
18 whether the judge is guilty or not guilty. Do you feel
19 that you addressed yourself, or the committee addressed
20 themselves to this resolution in these eleven Articles
21 of Impeachment?

22 MR. MALONEY: Yes. But I don't feel that
23 the committee was limited by the scope of the original
24 resolution.

25 MR. SALEM: Let me ask you this, Counselor:

1 What if we bring these Articles of Impeachment, and we
2 send it to the Senate, and the Senate impeaches Judge
3 Carrillo, and then the federal courts try the man and
4 they say he is innocent of income tax evasion. Do we
5 then come back and try to unimpeach him?

6 MR. MALONEY: No. There is no article in
7 here that has anything to do with his income tax evasion.

8 MR. SALEM: All right. Do you not feel
9 that justice would have been better served if this man
10 was tried in the criminal courts rather than by the
11 Legislature?

12 MR. MALONEY: Are you asking my personal
13 opinion?

14 MR. SALEM: Yes, sir.

15 MR. MALONEY: No, that is not my personal
16 opinion. My personal opinion is that we have a duty to
17 oversee those state employees with which we're charged
18 with the responsibility of them fulfilling the conditions
19 of their employment. It is my feeling that Judge Carrillo
20 has not done that, and that he should be removed.

21 MR. SALEM: Mr. Speaker, so that I can
22 understand this a little bit more, I want to raise a
23 point of order against further consideration of these
24 Articles of Impeachment in that the Articles of Impeach-
25 ment do not address themselves to H.S.R. No. 161.

1 H.S.R. No. 161 addresses itself to an indict-
2 ment by a federal grand jury for alleged violations of
3 income tax.

4 SPEAKER CLAYTON: Mr. Salem, H.S.R. 161
5 addresses itself to impeachment, and H.S.R. No. 167 that
6 was passed by this body also sets out that the Select
7 Committee shall investigate charges, other charges,
8 brought against the judge. Therefore, the committee
9 substitute is within the purview of House Simple Resolu-
10 tion 161, and your point of order is respectfully over-
11 ruled.

12 MR. SALEM: Parliamentary inquiry, Mr.
13 Speaker.

14 SPEAKER CLAYTON: State your inquiry, Mr.
15 Salem.

16 MR. SALEM: Mr. Speaker, do we not have
17 H.S.R. No. 161 before us, and that's what we're working
18 on?

19 SPEAKER CLAYTON: That is correct.

20 MR. SALEM: And you still feel that H.S.R.
21 161 opens it up to anything that the committee wants to
22 open it up to?

23 SPEAKER CLAYTON: That was my ruling, Mr.
24 Salem.

25 MR. GARCIA: Mr. Speaker, will the gentleman

1 yield?

2 SPEAKER CLAYTON: The gentleman yields,
3 Mr. Garcia.

4 MR. GARCIA: Mr. Maloney, in following
5 you along as you explained generally each of these
6 articles, I note that in many instances the phrase is
7 used, "This testimony was uncontradicted." And my
8 inquiry is whether or not the witnesses who testified
9 in these matters were all witnesses who indicated a
10 willingness to come before the committee to testify?

11 MR. MALONEY: Yes, for some; no, for
12 others. We subpoenaed some.

13 MR. GARCIA: The greater majority of the
14 witnesses were witnesses which were made available to
15 the committee through the intercession or work of Mr.
16 Canales, the sponsor of the resolution. Is that not
17 correct?

18 MR. MALONEY: I wouldn't say the great
19 majority. Yes, there were some, and some of the witnesses,
20 very important witnesses.

21 MR. GARCIA: The reason I asked this is
22 because in the introductory remarks made by Mr. Canales
23 to the committee, he gives the committee just a brief
24 resume of what each witness is going to testify to, and
25 alludes to the fact that this was information related to

1 him prior to the hearings before the Select Committee.

2 Is that not correct?

3 MR. MALONEY: I cannot recall exactly what
4 he said. If the record shows that, I'm sure that is what
5 he said. But what Mr. Canales said or did not say carried
6 no weight with the committee. The committee was interested
7 in the evidence introduced before it.

8 MR. GARCIA: I understand this. All right,
9 now my next question is, with reference to the allegations
10 that address themselves to ownership, such as the ranch
11 of O. P. Carrillo, the Cadillac of O. P. Carrillo, the
12 Farm and Ranch Store owned by Ramiro Carrillo and O. P.
13 Carrillo, Zertuche General Store, I think you referred to
14 it as a sham contrived for the purpose of negotiating
15 the sale of certain items of personalty to the county
16 and attempting to circumvent the statutory law which
17 prevents contracting between the county official and the
18 county. Are there in the transcripts and statement of
19 facts any documentation that establish ownership, that is,
20 deeds and things of that type?

21 MR. MALONEY: Yes. Judge Carrillo's own
22 financial statements says he has one half interest in the
23 Farm and Ranch Store.

24 MR. GARCIA: Well, what I'm getting at,
25 are there any deeds that are part of the record?

1 MR. MALONEY: Any deeds?

2 MR. GARCIA: Deeds. Yes. In other words,
3 you speak of O. P. Carrillo's ranch. Is there a deed,
4 a copy of a deed, indicating that the ranch where these
5 witnesses allegedly worked was the ranch owned by O. P.
6 Carrillo?

7 MR. MALONEY: Not by deed. No.

8 MR. GARCIA: Are there any articles of
9 partnership? There are allegations that O. P. Carrillo
10 and Ramiro Carrillo were involved in a partnership. Are
11 there any articles of partnership which were introduced
12 into evidence and made a part of the transcript in the
13 hearings before the committee?

14 MR. MALONEY: Only the judge's own sworn
15 financial statement.

16 MR. GARCIA: Submitted to who?

17 MR. MALONEY: Submitted to the Secretary
18 of State, of this state.

19 MR. GARCIA: Now I note that with refer-
20 ence to—and I believe it was Zertuche General Store—
21 I think some of the contentions are that there were
22 certain items that— No, let me correct that. That there
23 were certain individuals that worked for Zertuche General
24 Store and the county, and I believe that the remarks or
25 the charge starts off that "while acting in the capacity

1 of a district judge," or something along those lines,
2 weren't a lot of these incidents, incidents that trans-
3 pired before he assumed the bench?

4 MR. MALONEY: Yes, some would have. The
5 Zertuche General Store instance, it was one that begun
6 while Judge Carrillo was county attorney and continued
7 after he became district judge.

8 MR. GARCIA: How far back did the committee
9 go in its investigation?

10 MR. MALONEY: I would say, for just a
11 general statement, probably 1967; not at our instance
12 but at the instance of Mr. Arthur Mitchell, Judge
13 Carrillo's attorney. He introduced evidence that was
14 pertaining to transactions that took place in 1967, and
15 1968, and this led the committee into going to times
16 that were before the judge actually assumed the bench.

17 MR. GARCIA: Now you have been a criminal
18 district attorney, have you not?

19 MR. MALONEY: Yes.

20 MR. GARCIA: You are aware that there are
21 certain statutes of limitations with reference to certain
22 criminal violations?

23 MR. MALONEY: Correct.

24 MR. GARCIA: And in many of these instances,
25 Mr. Maloney, actually the committee circumvented these

1 statutes of limitations and went behind a date when any
2 accusation would be barred by limitation could not be
3 filed, would it not?

4 MR. MALONEY: If you're just talking about
5 the statutes of limitation as to whether or not a person
6 could be prosecuted in a criminal case for these events
7 and transactions, you're correct. I do not believe
8 that this House is under any restriction as far as the
9 statute of limitations.

10 MR. GARCIA: No, nor am I contending this.
11 This was merely an inquiry to bring to light the fact
12 that a lot of these things that were enlisted from wit-
13 nesses with reference to alleged criminal violations
14 were in truth and in fact violations that if you attempted
15 to proceed criminally against any person, either the
16 county commissioner—some of these employees I think
17 admitted that they had been involved in criminal viola-
18 tions—those would be barred by limitation. That is, you
19 could not proceed against them criminally. Is that
20 correct?

21 MR. MALONEY: That's correct.

22 MR. GARCIA: Thank you.

23 MR. TRUAN: Mr. Speaker, will the gentle-
24 man yield?

25 SPEAKER CLAYTON: Do you yield, Mr. Maloney?

1 MR. MALONEY: I will yield.

2 SPEAKER CLAYTON: The gentleman yields,
3 Mr. Truan.

4 MR. TRUAN: Mr. Maloney, I realize there
5 will be members of the committee that will cover each
6 article in greater detail. If I may, I'd like to ask
7 you some general questions with respect to several of
8 the articles.

9 Relating to Article I, did you hear testimony
10 to the effect that anyone without any doubt testified
11 that Judge Carrillo had used the groceries for his own
12 use?

13 MR. MALONEY: I never heard anyone who
14 testified differently. We had a great deal of testimony
15 on that point, and all of the testimony was directed to
16 the fact that he did use it for his own use. There was
17 no contradictory testimony on that point.

18 MR. TRUAN: Did the committee have investi-
19 gators that went down to Duval County to substantiate
20 this testimony or verify it?

21 MR. MALONEY: I went down to Duval County.
22 I did not talk to anyone from the Cash Store at that time
23 for the reason that it was a Sunday and the store was not
24 open, but I would have had I been there.

25 MR. TRUAN: But you did not. You were not

1 an investigator as such for the committee?

2 MR. MALONEY: No. I went down for the
3 purpose of looking at some bank records so that we could
4 facilitate the work of the committee; since the committee
5 had subpoenaed voluminous records from the banks, it was
6 going to take weeks and weeks to get those records unless
7 we could be selective and tell the bank what it was that
8 we wanted. So my purpose in going down there, and those
9 who went with me, was to select those portions of the
10 records that we felt were pertinent to our investigation.

11 MR. TRUAN: How many other members went
12 with you to Duval County?

13 MR. MALONEY: I'm sorry, Mr. Truan.

14 MR. TRUAN: How many members of the
15 committee went with you to Duval County?

16 MR. MALONEY: Mr. Chavez, Mr. Kaster,
17 myself.

18 MR. TRUAN: Could you relate to us— You
19 were there during the daytime and then in the evening.
20 Did you have any sort of gathering with the witnesses?

21 MR. MALONEY: I spoke with Mr. Cleofas
22 Gonzalez, who had been a witness before the committee,
23 and I spoke with a Mr. Canales, who had been a witness
24 before the committee. I spoke with a Mr. Ruben Chapa,
25 who had been a witness before the committee.

1 MR. TRUAN: All of this took place when you
2 were officially convened or in a social gathering?

3 MR. MALONEY: No one was officially con-
4 vened. I was there in a social gathering. I would assume
5 that I would say that. I was not down there for any
6 other purpose other than asking directions as to where
7 this place was or that place was.

8 MR. TRUAN: I see. The people were not
9 really talking to you under oath as such?

10 MR. MALONEY: Absolutely not.

11 MR. TRUAN: I see. So for all practical
12 purposes what they were telling you could have been
13 hearsay?

14 MR. MALONEY: Easily. And nothing of what
15 they have told me has entered into any of my deliberations
16 on this matter other than what was sworn testimony.

17 MR. TRUAN: Did the committee have any
18 investigators that compiled information independently
19 of those witnesses that Representative Canales presented
20 to the committee?

21 MR. MALONEY: Well, I don't know what you
22 mean by an investigator. We did make use of the Depart-
23 ment of Public Safety with the Rangers to go and check
24 some numbers on some equipment. We did go into the bank
25 and look at these records on Judge Carrillo.

1 MR. TRUAN: Let me ask more specifically,
2 did the Rangers or anyone bring back information to the
3 effect that Judge Carrillo and his family had in effect
4 used the groceries for their own use?

5 MR. MALONEY: I'm sorry.

6 MR. TRUAN: Did any of the people that
7 you utilized, including amongst them you mentioned the
8 Texas Rangers, report to you in their findings that the
9 Carrillo family, Judge Carrillo's family, had in effect
10 used groceries for their own personal use?

11 MR. MALONEY: I don't believe that we
12 had any testimony or any indication from the Rangers
13 as regards the groceries.

14 MR. TRUAN: I see. With respect to
15 Article II, excuse my question as a layman; I'm not an
16 attorney, but relating to Judge Carrillo not disqualify-
17 ing himself on a case mentioned in Article II, could you
18 enlighten us as to whether whatever decision was reached
19 was it appealed?

20 MR. MALONEY: In which part of Article II?

21 MR. TRUAN: Article II, subsection 1,
22 relating to the relationship that Judge Carrillo had had
23 with Clinton Manges and the fact that he did not dis-
24 qualify himself.

25 MR. MALONEY: The disqualification hearing

1 was a hearing in the trial court. It was not, as I
2 understand it, an appeal matter. In fact, I believe
3 later Mr. Mitchell introduced a letter before the com-
4 mittee in which his allegation was that Judge Carrillo
5 had voluntarily excused himself, but it was found not
6 to be so since there was an absolute—since Judge Carrillo
7 had opposed the disqualification and an order was entered
8 against Judge Carrillo. To my knowledge it was never—
9 that order against Judge Carrillo was never appealed.

10 MR. TRUAN: I see. So the merits of the
11 case or how the judge ruled was not taken into considera-
12 tion by the committee?

13 MR. MALONEY: No. And I don't think that
14 it would have been properly so. The question was whether
15 or not the judge could be impartial in a matter in which
16 he had very strong financial ties; in fact, had borrowed
17 some three hundred to four hundred thousand dollars from
18 the bank controlled by Mr. Manges. What his ruling
19 would have been, whether it was perfectly just and
20 impartial, I don't know, and I would not be prepared to
21 pass on.

22 MR. TRUAN: The fact is in Article II,
23 Judge Carrillo is being incriminated because of the fact
24 that he had had previous business dealings with one of
25 the people involved in the case here, Mr. Manges.

1 MR. MALONEY: Not the dealings themselves,
2 Mr. Truan. A person certainly can have whatever dealings
3 they want, but if these dealings create such a situation
4 in which the judiciary is going to be looked at very
5 much askance because in ruling in a case in which you
6 have very strong financial ties yourself, it's no more
7 than you having to push your white button up here if it's a
8 case that involves your financial ties. I think that
9 it reflects with discredit upon our judiciary.

10 MR. TRUAN: Are you aware as to whether
11 this was reported to the Judicial Qualifications Commis-
12 sion?

13 MR. MALONEY: I am not aware of that. It
14 may have been; I don't know. I did have a conversation
15 with the Judicial Qualifications Commission after we had
16 had about a week of testimony, and as I think you know,
17 most of the work of the Judicial Qualifications Commission
18 is carried on in a confidential manner. At that point
19 all that I was informed was that they did not have any-
20 thing under investigation at that time.

21 MR. TRUAN: Further on under Article II
22 you make reference—or the committee rather—makes
23 reference to Judge Carrillo removing Judge Parr, and the
24 fact that at this time they had broken publicly their
25 political contact. Could you enlighten us as to why

1 Judge Carrillo removed Judge Parr as county judge?

2 MR. MALONEY: The allegation in the
3 removal suit was that he had been convicted of the
4 federal case of perjury, which I think gives him a
5 perfect right to, in my own opinion—I'm not expressing
6 a legal opinion; just my own opinion—gave him a right
7 to remove Judge Parr under the statutes of this state.

8 MR. TRUAN: But the committee is still
9 recommending that he be impeached because of that?

10 MR. MALONEY: Wait just a moment, Mr. Truan.
11 It was not the removal itself because the judge is
12 empowered to do that. It's when it came to the fact
13 issues that were going to be decided before the court,
14 and Judge Carrillo was publicly an opponent of Judge
15 Parr, that we felt it was highly improper for him
16 to be the fact finder in such a case.

17 Once again, we're not talking about the merits
18 as to whether or not Judge Parr should have been removed
19 or not have been removed. That is a matter that needs
20 to be litigated in the courts.

21 MR. TRUAN: I want you to understand that
22 it concerns me because I cannot differentiate—and maybe
23 it's because of my lack of legal training—but I had been
24 led to believe that Judge Carrillo had arbitrarily
25 removed Judge Parr from office because they're political

1 opponents. But I understand that Judge Parr had indeed
2 been not only indicted but convicted on a given offense
3 as you mentioned.

4 MR. MALONEY: That is correct.

5 MR. TRUAN: But the committee did not
6 consider that as perhaps being—

7 MR. MALONEY: We felt that the manner in
8 which Judge Carrillo handled his judicial function was
9 arbitrary and perhaps—not any perhaps; for sure—was not
10 the way that a district judge should sit in judgment on
11 a case; a case in which he is going to pass judgment
12 himself on a political foe, someone he has announced
13 publicly he is out to get. Now, I think that's wrong,
14 and I think you'd probably agree with me on that.

15 MR. TRUAN: Well, the committee, of course,
16 did not have any previous experience in dealing with
17 removing of judges. That's why some of us related to
18 the Judicial Qualifications Commission whom we assumed
19 would have those credentials.

20 Let me ask you further on Article II, you make
21 reference only to the fact that Judge Carrillo removed
22 four members of the Benavides Independent School District
23 without indicating why he removed them.

24 Why did Judge Carrillo remove those members?

25 MR. MALONEY: No, no. I didn't indicate

1 why he removed them. In the lawsuit itself there was
2 an indication. It was alleged in the petition of removal
3 that the school board members had acted improperly in
4 paying some very large attorneys' fees that were supposed
5 to be out of all proportion to the services performed by
6 the attorneys; that a former superintendent who was, I
7 believe, at the time serving time in the federal peniten-
8 tiary, was being paid, I believe, a thousand dollars a
9 month as a consultant; and the destruction of some school
10 records that the grand jury was investigating.

11 There is nothing in the record that indicates
12 that none of these things happened. In fact, it's
13 probably the contrary, that all three of these things
14 did happen and probably would give you just cause to
15 wonder what the school board was doing. But you'll
16 notice that he did not remove the school board. He only
17 removed his political opponents. Had he removed all of
18 the school board I would question in my mind whether it
19 was arbitrary, but when you only remove your opponents
20 and leave your friends on, who must be equally guilty
21 of improper conduct, I begin to smell a rat.

22 MR. TRUAN: Did the testimony before your
23 committee indicate that the other members that were not
24 removed had supported paying this former superintendent
25 who had already been indicted and convicted and by that

1 time supposedly he was already serving time? Did your
2 records indicate or testimony before your committee
3 indicate that the other members that were not removed
4 by Judge Carrillo had also supported?

5 MR. MALONEY: It could not be established
6 because, as you recall, the school board records had
7 been destroyed.

8 MR. TRUAN: Well, how can you say without
9 equivocation of the front mike that he did not remove
10 those other members when you cannot say for sure whether
11 those other members indeed supported the former super-
12 intendent or not?

13 MR. MALONEY: Your point is very well
14 taken. Neither could Judge Carrillo because the records
15 were destroyed. Then I began to wonder how he knew.

16 MR. TRUAN: Did Judge Carrillo testify
17 before your committee?

18 MR. MALONEY: No. He was offered the
19 opportunity. His attorney said that he would plead the
20 Fifth Amendment.

21 MR. TRUAN: Well, then how can you say that
22 Judge Carrillo could not?

23 MR. MALONEY: I beg your pardon?

24 MR. TRUAN: I'm sorry. How can you say
25 Judge Carrillo could not tell either?

1 MR. MALONEY: Because it was established
2 that there was no hearing, so basically if there was
3 anything for him to go on it must have been those things
4 that were in the pleadings. That was not in the pleadings.
5 The judge heard no evidence on this. And certainly if
6 he did hear evidence outside of court, this would have
7 been improper conduct.

8 MR. TRUAN: The various people mentioned
9 in Article III, page 53—

10 SPEAKER CLAYTON: Mr. Sherman calls point
11 of order. The gentleman's time has expired. The point
12 of order is well taken and sustained.

13 Mr. Truan, there will be individuals that will
14 be relating each of these articles if you want to ask
15 them these questions.

16 MR. TRUAN: Well, Mr. Speaker, we have a
17 train of thought here underway, on one of the articles,
18 but I thought perhaps I could continue. I'd like to ask
19 you if the members would allow me to continue my question—

20 SPEAKER CLAYTON: You're recognized for
21 that motion. Mr. Truan moves that the gentleman's time
22 be extended. Is there objection? All those in favor say
23 "aye"; all those opposed, "no."

24 (The motion, being put to a voice vote, failed.)

25 The gentleman's time is not extended.

1 MR. TRUAN: Thank you.

2 SPEAKER CLAYTON: The Chair recognizes
3 Mr. Chavez on Article I.

4 Just a minute. Mr. Maloney, do you have a
5 motion?

6 MR. WASHINGTON: Mr. Speaker?

7 SPEAKER CLAYTON: Mr. Washington, for what
8 purpose?

9 MR. WASHINGTON: Go ahead and let him make
10 his motion.

11 SPEAKER CLAYTON: All right. Mr. Maloney
12 for a motion.

13 MR. MALONEY: Mr. Speaker and Members, I
14 move that House Simple Resolution 161 as substituted be
15 considered article by article, and voted on article by
16 article.

17 SPEAKER CLAYTON: All right. Members,
18 you've heard the motion. Is there objection?

19 The Chair hearing none, it is so ordered.

20 Mr. Washington, for what purpose?

21 MR. WASHINGTON: Parliamentary inquiry,
22 Mr. Speaker.

23 SPEAKER CLAYTON: State your inquiry, Mr.
24 Washington.

25 MR. WASHINGTON: I know that the Speaker

1 ordinarily refrains from ruling on Constitutional ques-
2 tions, but inasmuch as there is a good add-mixture and
3 co-mingling of Constitutional authority as well as
4 Legislative authority, both by being here and as for our
5 purpose in being here, will the Speaker entertain points
6 of order based upon Constitutional grounds because of
7 the nature of these proceedings?

8 SPEAKER CLAYTON: I'm going to have to
9 look at each one of them as they come, Mr. Washington.

10 MR. WASHINGTON: Get ready, Mr. Speaker.

11 SPEAKER CLAYTON: I'm ready.

12 MR. WASHINGTON: I raise a point of order
13 against further consideration of House Simple Resolution
14 No. 161 in that it violates Article 2, Section 1, of the
15 Texas Constitution. It deals with the separation of
16 powers of the three co-equal branches of government.

17 SPEAKER CLAYTON: Bring your point forward,
18 Mr. Washington.

19 Mr. Washington, as in other points of order
20 raised on Constitutional issues, the Chair has not ruled,
21 and in this instance the Chair will follow that procedure,
22 and believing that the House has acted itself in the
23 passage of House Simple Resolution 167. Therefore, the
24 Chair will not rule on the point of order.

25 MR. WASHINGTON: Mr. Speaker?

1 SPEAKER CLAYTON: Mr. Washington.

2 MR. WASHINGTON: Parliamentary inquiry.

3 SPEAKER CLAYTON: State your inquiry,
4 Mr. Washington.

5 MR. WASHINGTON: Inasmuch as the 64th
6 Regular Session of the House has adjourned sine die,
7 are we here by constitutional or statutory authority?

8 SPEAKER CLAYTON: I'd say, Mr. Washington,
9 by constitutional, statutory, and resolution authority.

10 MR. WASHINGTON: Mr. Speaker, parliamentary
11 inquiry.

12 SPEAKER CLAYTON: State your inquiry,
13 Mr. Washington.

14 MR. WASHINGTON: Is the resolution by
15 which the Speaker determines that we are here a product
16 of the 64th Session, regular session, or of a special
17 session of the 64th Session of the Legislature?

18 SPEAKER CLAYTON: The 64th Regular Session.

19 MR. WASHINGTON: Parliamentary inquiry.

20 SPEAKER CLAYTON: State your inquiry,
21 Mr. Washington.

22 MR. WASHINGTON: If the Chair will not
23 rule on Constitutional questions, does that not then
24 limit any consideration of the improper use or exercise
25 of any authority by this body at this time to having

1 been waived as a result of not having been presented
2 prior to the time that the Speaker referred House Simple
3 Resolution 161 to the committee?

4 SPEAKER CLAYTON: Restate your question,
5 Mr. Washington. I didn't get the essence of it.

6 MR. WASHINGTON: If you're saying, Mr.
7 Speaker, that you won't rule on a Constitutional question
8 now, does that not mean that any question that could
9 have and should have been raised regarding either the
10 regularity of the proceedings or the resolution itself
11 would have been waived at the time that the resolution
12 was introduced and referred to committee?

13 What I'm suggesting is that if you won't rule
14 on a Constitutional question, then you don't reach the
15 merits of the proposition raised, Mr. Speaker, and if
16 there is an infirmity on invalidity in the process by
17 which we're here today, then if you won't rule on a
18 Constitutional issue, which is the only issue that can
19 be raised which is the broad parameter by which we
20 determine whether we're here rightfully or wrongfully,
21 and if you won't rule on such a question—

22 SPEAKER CLAYTON: I don't think the Speaker
23 has to rule on that, Mr. Washington. I think the courts
24 have ruled on that. It's a procedural matter. The
25 enjoining of the House was just thrown out by the federal

1 district judge just the other day, so I think that the
2 procedure so far as us being here is appropriate, or
3 action would have been taken there.

4 MR. WASHINGTON: But my point of order
5 doesn't go to whether we're here by proper authority.
6 The question that I raised is much more grave and severe.
7 It goes to the Constitution. I don't think that Judge
8 Brown in his memorandum opinion nor Judge Roberts in his
9 procurium opinion most recently ruled on the question
10 that I raised, and that is whether or not this violates
11 the separation of power.

12 As I understand Mr. Hale's proposition—and I
13 think it's probably an adequate one—is that Maddox versus
14 Ferguson is the landmark case on the question of the
15 legislative branch impeaching either the executive or
16 the judicial branches. But if you don't rule on the
17 question then it cannot be properly raised for considera-
18 tion here or it cannot be the proper predicate for later
19 proceedings pursuant to whatever we do here.

20 SPEAKER CLAYTON: Mr. Washington, I think
21 that you have preserved your point of order for future
22 use by my stating that the Chair would not rule on
23 Constitutional matters; is in essence the same as over-
24 ruling the point of order.

25 MR. WASHINGTON: Thank you, Mr. Speaker.

1 Mr. Speaker?

2 SPEAKER CLAYTON: Mr. Washington.

3 MR. WASHINGTON: May I raise additional
4 points of order against these proceedings?

5 SPEAKER CLAYTON: State your point, Mr.
6 Washington.

7 MR. WASHINGTON: I raise a point of order
8 that under Article 15, Section 6, sets out specifically
9 the Constitutional authority by which a district judge
10 of the State of Texas may be discharged of his respon-
11 sibility in office, and that the general principle of
12 constitutional and statutory construction of exclusio
13 alterias, "exclusio unis est inclusio alterias;" that is,
14 to include the specific excludes the general, and that
15 you may not consider the impeachment of a district judge
16 by any other procedure than that set out in the Consti-
17 tution. And although Section 2 deals with the trial of
18 impeachment in the Senate, I submit that this body may
19 not proceed inasmuch as Section 6 sets out the manner
20 of impeachment of a district judge of this state may be
21 by the Supreme Court of the State of Texas, and that the
22 inclusion of that specific provision, being more specific
23 than the general provision which has to do with impeach-
24 ment of high officers generally, is more specific, and
25 that that quoted language from the Latin which is a

1 general rule of statutory construction, and is not
2 constitutional; that is, to include the specific is to
3 exclude the general, must be used by this body in deter-
4 mining under what article, if any, impeachment proceedings
5 may take place; and therefore, since we are not pro-
6 ceeding pursuant to Article 15, Section 6, these pro-
7 ceedings are unconstitutional under our own Constitution.

8 SPEAKER CLAYTON: Mr. Washington, once
9 again the Chair takes the same position, and he will not
10 rule on constitutional matters but believes that this
11 question has already been settled by the Maddox versus
12 Ferguson case.

13 MR. WASHINGTON: Thank you, Mr. Speaker.

14 Please note my exception.

15 In light of the Maddox versus Ferguson case—
16 Well, before I get to that, I wish to raise the additional
17 and further point of order against further proceedings
18 herein under Article 15, Section 7, wherein it is stated
19 that:

20 "The Legislature shall provide by law for
21 the trial and removal from office of all offi-
22 cers of this state, the modes for which have
23 not been provided in this Constitution."

24 Since Mr. Hale takes the position that there
25 are three separate and distinct means by which the question

1 of impropriety on the part of a district judge may be
2 raised, since you have seen fit not to rule on the method
3 under Section 6 wherein the Supreme Court may remove a
4 district judge, I submit very respectfully, Mr. Speaker,
5 that Section 7 is also a method, and since the Legisla-
6 ture in its wisdom, or lack of it, has seen fit to
7 create by legislative authority a Judicial Qualifications
8 Commission, the Legislature has delegated its authority
9 over district judges to the Judicial Qualifications
10 Commission which has the sole and exclusive responsibility
11 for determining the qualifications and fitness of district
12 judges to hold office in this state, and therefore, since
13 we have delegated this authority pursuant to the consti-
14 tutional authority set out in Article 15, Section 7, we
15 have no right and indeed no power to proceed with these
16 proceedings.

17 SPEAKER CLAYTON: Mr. Washington, again
18 and along the same lines, we feel that this question has
19 been answered since three provisions have been set out
20 in the Constitution, that these have been answered in
21 the Maddox versus Ferguson case, and consequently, will
22 not rule on your point of order being a constitutional
23 matter.

24 MR. WASHINGTON: Thank you, Mr. Speaker.
25 And finally, on the question of Maddox versus

1 Ferguson, wherein not only does it speak to the question
2 that has been so eloquently addressed by our speaker as
3 regards the separation of power and the general authority
4 of the Legislature in this proceeding. The case among
5 other things stands for the proposition that the Consti-
6 tution of the State of Texas was then and is now too
7 vague and ambiguous a document by which reasonable notice
8 could be given to a person before whom charges are brought,
9 and that the Constitution does not set out the duties and
10 responsibilities such that a fair notice and warning is
11 given to an individual who may be subject to impeachment,
12 as is set out in Maddox versus Ferguson, and that there-
13 fore, the due process clause of the State Constitution
14 as well as of the Fifth and Fourteenth Amendments to the
15 United States Constitution is breached; that is, as
16 Maddox versus Ferguson points out. Due process at least
17 requires of Judge O. P. Carrillo that the document by
18 which he is charged and brought before this body for
19 impeachment, Article 15, must set out within its parameters
20 that conduct which is proscribed; that is, which is
21 prohibited. And since, as Maddox versus Ferguson, which
22 the Speaker has quoted, also stands for the proposition
23 that this Constitution is too vague and indefinite to be
24 that due process requirement, then it cannot be the
25 authority by which a district judge can be impeached

1 because it doesn't give that fair warning and notice that
2 is required in Maddox versus Ferguson.

3 For that reason, Mr. Speaker, I respectfully
4 urge that these proceedings are improper, that fair
5 notice is not given by Article 15 of the Texas Constitu-
6 tion, and that to proceed with Articles of Impeachment
7 against the Honorable O. P. Carrillo, District Judge,
8 would be a gross travesty of justice, would be improper
9 under the Texas Constitution as well as the Federal
10 Constitution, and would be a denial of the equal pro-
11 tection of the laws and the due process of law to him
12 and to every other district judge who is not put on
13 notice of what conduct is prohibited and subject to
14 impeachment.

15 For that reason I respectfully urge that you
16 grant my point of order and let us go home.

17 SPEAKER CLAYTON: Mr. Washington, the
18 Speaker again refuses to rule on a constitutional point,
19 but believes that many of these parameters which you have
20 suggested are set up or set out statutorily; also believes
21 that the federal courts in dismissing the cause of
22 enjoining the House did in fact believe that official
23 and proper notice had been given. Therefore, we note
24 your objection, but again, will not rule.

25 MR. WASHINGTON: Thank you, Mr. Speaker.

1 MR. COLEMAN: Mr. Speaker?

2 SPEAKER CLAYTON: Mr. Coleman, for what
3 purpose?

4 MR. COLEMAN: Parliamentary inquiry.

5 SPEAKER CLAYTON: State your inquiry, Mr.
6 Coleman.

7 MR. COLEMAN: I think this will be a little
8 easier. On the motion by Mr. Maloney that we just
9 recently passed, when we get in article by article con-
10 sideration, which was adopted by this body, when we get,
11 for example, to Article II or III where we have conduct
12 including but not limited to one or more of the following,
13 my question is this: Will we actually be considering
14 number one, number two, number three, or number four,
15 or will we be asked merely to vote "yes" or "no" on an
16 article? For example, if in Article II this body were
17 to determine that one of four allegations, I suppose
18 you'd call them, in Article II were true, would you then
19 be required to vote, or at least feel you had to vote
20 at least "aye" on Article II, yet you may not agree with
21 all the charges within Article II?

22 SPEAKER CLAYTON: Mr. Coleman, the pro-
23 cedure is as follows: Each article will be presented.
24 If you feel there are certain allegations or charges in
25 one of the articles that is not pertinent, that you feel

1 it is not true, you can offer an amendment to that
2 particular article to strike that particular point.
3 But the vote will be on the entire article. It can be
4 amended.

5 MR. COLEMAN: Everyone is capable of
6 offering amendments to delete or add?

7 SPEAKER CLAYTON: That is correct.

8 MR. COLEMAN: Thank you, Mr. Speaker.

9 MR. WASHINGTON: Mr. Speaker?

10 SPEAKER CLAYTON: Mr. Washington.

11 MR. WASHINGTON: I wish to raise the point
12 of order, and I'm not being dilatory and wasting the
13 House's time, but I'm sure Mr. Johnson will understand,
14 also Mr. Hale, what I'm doing.

15 I wish to raise the point of order that I have
16 raised four points of order: Articles 2, Section 1, of
17 the Texas Constitution; Article 15, Section 6; Article 15,
18 Section 7; and also the violation of the due process
19 clause of the State and Federal Constitution as well as
20 the equal protection clause of both of those documents.
21 My point of order is that the Speaker has not ruled on
22 my points of order.

23 SPEAKER CLAYTON: That's tough.

24 MR. WASHINGTON: I have to have a ruling.

25 SPEAKER CLAYTON: The Speaker has indicated

1 to you, Mr. Washington, that he would not consider
2 constitutional points, but has noted your objections
3 and noted your points of order, and has stated to you in
4 the first point that not ruling on the point has the
5 same effect as an overrule.

6 MR. WASHINGTON: But it doesn't, Mr.
7 Speaker. That's where I beg to differ with you. If you
8 will simply overrule that last point of order I think
9 my point will be made. But I have not gotten any affirma-
10 tive relief that I requested. So I come back now and
11 raise the point of order that you've not ruled on my
12 point of orders so that at least I will have preserved
13 for review by appropriate authorities if there be any,
14 and I don't know that there are any, but I've not been
15 an advocate at the microphone. I have not gotten an
16 adverse ruling from you, and I need an adverse ruling
17 to set the record straight. So if you'll merely overrule
18 my point of order that you have not ruled on my points
19 of order, which I think you can do.

20 SPEAKER CLAYTON: Mr. Washington raises
21 a point of order that the Speaker has not ruled on his
22 points of order. The point of order is well taken and
23 overruled.

24 MR. WASHINGTON: Thank you, Mr. Speaker.

25 MR. VALE: Mr. Speaker, parliamentary

1 inquiry.

2 SPEAKER CLAYTON: State your inquiry,
3 Mr. Vale.

4 MR. VALE: Am I led to believe that we
5 can offer additional language and verbage in sections
6 to this resolution?

7 SPEAKER CLAYTON: Yes. Amendments can be
8 offered, Mr. Vale.

9 MR. VALE: Is it limited to articles
10 and language relating only to this judge, or can it be
11 extended to other office holders?

12 SPEAKER CLAYTON: It has to be within the
13 confines of the resolution before us, Mr. Vale.

14 Mr. Vale, Mr. Whitehead has already asked that
15 question. He had some ideas.

16 The Chair recognizes Mr. Chavez for an explana-
17 tion of Article I.

18 PRESENTATION OF ARTICLE I

19 MR. CHAVEZ: Mr. Speaker and Members, it
20 becomes my duty on behalf of the Select Committee on
21 Impeachment to present for your consideration the first
22 proposed Article of Impeachment against the Honorable
23 O. P. Carrillo, Judge of the 229th Judicial District of
24 Texas.

25 You have been furnished a copy of the proposed

1 article. I believe the same to be self explanatory.
2 Substantially what it says is that O. P. Carrillo, as a
3 State District Judge, and because he held the office,
4 conspired with others but principally with his brother,
5 Ramiro Carrillo, a Duval County commissioner, to cause
6 county funds to be used in the payment of groceries for
7 his personal use and benefit when he was not lawfully
8 entitled to receive this benefit.

9 Permit me, Mr. Speaker and Members, to give you
10 a little background which will facilitate my presentation
11 of the evidence substantiating this article.

12 Duval County, as most counties, has had a
13 welfare program by which it provides funds for the pay-
14 ment of food for eligible recipients. Incredibly, Judge
15 Carrillo was an official that authorized food vouchers
16 for recipients.

17 I refer you to Exhibits No. 26 and 27, which
18 are copies of the small food vouchers which were initialed
19 by Judge Carrillo.

20 Recipients also received food authorization
21 from the county commissioner, Ramiro Carrillo, either
22 directly from him or through one of his precinct employees,
23 namely, Mr. Cleofas Gonzalez.

24 I would invite your attention to the transcript
25 of testimony in Volume I, page 52. Substantially the

1 transcript that I refer to you goes like this.

2 The witness was Cleofas Gonzalez, and he was
3 being asked about these food authorizations, and the
4 question to him was:

5 "How do they work?"

6 His answer:

7 "Well, a lot of people go in there
8 looking for Mr. Ramiro Carrillo, that
9 they need an order to buy some food
10 because something went wrong and they
11 didn't get their check or they don't
12 have no work, or people used to go to me
13 and then I would talk to Mr. Carrillo,
14 and if he gave me an okay I would give
15 them out an order."

16 "Question: You give out these white
17 slips to people?"

18 "Answer: No, sir. These white slips
19 were given to me by a store owner. At the
20 end of the month he would come and tell me.
21 O. P. went and got this merchandise and he
22 wants you to make orders to these names here."

23 "Question: Would you please go through
24 these slips..."

25 And they asked him about the slips. This

1 testimony comes from Cleofas Gonzalez who was an employee
2 of Precinct 3, which was the precinct of Ramiro Carrillo,
3 and who was one of the go-betweens so to speak that
4 handled these things for him.

5 Again, questioning him about these slips, it
6 says, the question was:

7 "Are you testifying here that these, or
8 some of these people on these slips which
9 have been okayed by Judge O. P. Carrillo do
10 not exist or do not live in that area?"

11 "Answer: I think that there are some
12 people that don't exist, like this Rita
13 Rodriguez. She exists but she lives in
14 Corpus Christi.

15 Permit me now to introduce you to Mrs. Lauro
16 Yzaguirre, who with her husband co-owns a grocery store
17 known as the Cash Store. The Cash Store is situated in
18 the town of Benavides where Judge Carrillo also resides.
19 Benavides is a small town with approximately 2500 inhab-
20 itants, lying southwest of the Duval County seat. There
21 is no bank in Benavides, and the Cash Store renders a
22 sort of banking service to its customers by cashing
23 their checks. It will become important to remember this
24 fact because of an apparent defense by Judge Carrillo
25 to this article of impeachment which I will explain later.

1 I invite your attention to Volume V, page 64
2 and 65, the testimony of Mrs. Lauro Yzaguirre under the
3 examination of Chairman Hale.

4 Mr. Yzaguirre testified that Commissioner
5 Ramiro Carrillo informed her that Judge O. P. Carrillo
6 was allowed a monthly budget of \$300 to be paid out of
7 county funds and used in payment of groceries obtained
8 by or for Judge Carrillo for his personal use and benefit.

9 The questioning of Mrs. Yzaguirre was:

10 "Did O. P. Carrillo himself ever come in
11 to pay his bill?"

12 "Answer: I haven't recalled for a long
13 time."

14 "Question: Do you recall if he ever did?"

15 "Answer: Sometimes he did if there was
16 a balance over what his budget was. That is
17 what was told to us, that he had a \$300
18 budget, and whatever balance he would pay
19 the difference, you know."

20 "Question: Who told you there was a
21 \$300 budget?"

22 "Answer: His brother, the commissioner,
23 Ramiro Carrillo."

24 Again, a question about the checks.

25 "What kind of checks were they? Were

1 they county checks or personal checks that
2 were used for payment of the groceries?"

3 "Answer: The difference was paid by
4 personal checks. If there was a difference,
5 you know, like I told you, the judge had a
6 \$300 budget. That is what we were made to
7 understand. If he had a balance of \$357,
8 three hundred and something, well, he paid
9 the difference. And then if he wouldn't
10 come, well, we would just put the balance
11 onto the next month."

12 "Question: So maybe you would get one
13 check for \$300 and that would be drawn on
14 the county, and then if it was \$357, you
15 would get a check from Judge Carrillo for
16 \$57?"

17 "Answer: If there was a difference,
18 and if he didn't come—sometimes he didn't
19 come at the end of the month—so all I would
20 do is credit his account for his \$300 from
21 his budget that was given to me by the county
22 check, and the balance, I put a balance there
23 to him."

24 "Question: Did you receive a check from
25 the county every month for \$300?"

1 "Answer: Well, included in that, you
2 know, like— You just saw one for \$700. It
3 was included in that. Not two separate checks.
4 One for \$700 and one for \$300, no."

5 This practice has occurred for the last year
6 and a half and specifically through March of 1975, which
7 includes Judge Carrillo's present term of office. This
8 period is evidenced by Mrs. Yzaguirre's testimony at
9 Volume V, page 84 and again at page 78 of Volume V.
10 Mrs. Yzaguirre testified that even now Judge Carrillo
11 has a balance owing of \$57 after receiving his \$300
12 monthly check.

13 And the questioning of Mrs. Yzaguirre goes
14 like this:

15 "Question: How long was he limited to
16 \$300? Does this go back some time or do you
17 know?"

18 "Answer: I guess."

19 "Question: Well, you're the bookkeeper."

20 "Answer: As far as I remember."

21 "Question: For as long as you remember?"

22 "Yes. He had \$300 a month. I'm the
23 bookkeeper. Before that my father-in-law
24 used to do all of that."

25 "Question: You have been the bookkeeper

1 the last year or so, year and a half?"

2 "Answer: Yes."

3 "Question: And so for the last year and
4 a half he has had the \$300 budget?"

5 "Answer: Yes. Up to that date."

6 And again, on page 78 of Volume V, asking about
7 the account of Judge Carrillo:

8 "Question: How much is the account of
9 Judge Carrillo now at your store? What is
10 the balance that he owes you?"

11 "Answer: Right now, like I tell you,
12 balance, \$57, because there was a credit
13 for \$300."

14 "He owes you \$57?"

15 "Yes."

16 Now, how did all this work? Well, Commissioner
17 Carrillo by virtue of his official office authorized
18 payment of expenditures for his precinct, including the
19 food money I've mentioned. While Judge Carrillo may not
20 have always gone grocery shopping himself, he did author-
21 ize personal employees and court employees to purchase
22 groceries in his name and charge them to his account.
23 Among those doing his grocery shopping were Patricio
24 Garza, Tomas Elizondo, and Roberto Elizondo, and this
25 can be seen in Volume V, pages 27, 28; Volume V, pages

1 148, 209, 211; admitted by all three of these people who
2 testified before the committee.

3 The testimony clearly shows that groceries
4 were picked up for the judge for his personal use and
5 that of his ranch hands. Those picking up the groceries
6 would accumulate the charge slips, and at the end of the
7 month would present them to Cleofas Gonzalez. Cleofas
8 Gonzalez would then launder the charge slips by making
9 up fictitious orders so that Commissioner Carrillo could
10 have the same approved for payment by the county.

11 This is questioning of Cleofas Gonzalez by
12 Chairman Hale:

13 "Those orders here which ostensibly
14 bear what appears to be an initial on it,
15 how did the judge profit from these?"

16 "Answer: Well, he got some groceries
17 from the store, and then at the end of the
18 month Mr. Yzaguirre, all that merchandise
19 came from the Cash Store at Benavides, Texas.
20 Mr. Yzaguirre would go at the end of the
21 month and tell me, 'Mr. Gonzalez, O. P. got
22 this merchandise and he said for me to just
23 bring this here and for you to make some
24 welfare orders.' And that's all. So I made
25 them. And I asked Ramiro Carrillo. He's the

1 one in charge of that welfare orders. I
2 asked him and he said, 'Okay, just make
3 them out, and whenever you get through
4 making them out, take them back to the
5 store.' So I would make out those welfare
6 orders; took them back to the store, and
7 the store owners would give them back to
8 Mr. Carrillo, and Mr. Carrillo would then
9 take them to commissioners' court and get
10 them approved."

11 On other occasions Cleofas Gonzalez would give
12 Mrs. Yzaguirre a list of fictitious names to be used to
13 account for the \$300 monthly allowance for Judge Carrillo's
14 groceries. This can be seen at Volume V, page 58, 61,
15 62, 91, 92, and 93.

16 You might wonder what would happen when he
17 exceeded his monthly budget. Well, then when that
18 occurred the judge would either pay it personally or
19 carry over the excess to be charged against the following
20 month's allowance. I mentioned that a while ago at
21 Volume V, page 65.

22 If he did not use all of his \$300 allowance
23 for any one month, then he would have a credit for that
24 amount for the following month, so you see, in one way
25 or another, Judge Carrillo used up his \$300 a month

1 allowance every month.

2 Judge Carrillo was only entitled to a monthly
3 one hundred dollars per month supplement pay from Duval
4 County. The entitlement to the grocery allowance was no
5 doubt a scheme designed to illegally have the judge
6 benefit at the county's expense. This scheme was facili-
7 tated by the judge's brother being a county commissioner,
8 and therefore, being in a position to approve the expendi-
9 tures in the manner designed by them.

10 Now, Judge Carrillo though often invited, did
11 not offer personal testimony, but through his counsel
12 Exhibit Carrillo 32 was offered. This exhibit consists
13 of some fifteen pages and are copies of checks made for
14 various amounts and cashed at the Cash Store. The judge's
15 counsel would imply that these checks paid for the
16 groceries bought on the judge's behalf. However, Mrs.
17 Yzaguirre denied this, saying the judge often cashed
18 checks at her store as did many other people because there
19 was no bank in Benavides to cash them. I refer you to
20 Volume XII, page 114 of the testimony.

21 Mrs. Yzaguirre admitted receiving checks for
22 payment of excess balances, and if you look at Carrillo
23 Exhibit No. 23 on page 4, there is a check which is No. 41B
24 dated March 15, 1974, payable to the Cash Store with a
25 memo notation reading, "Balance of March." This certainly

1 shows that the judge did carry balances from month to
2 month, and probably, as Mrs. Yzaguirre testified, for
3 the excess groceries that he took over and above the
4 monthly allowance he and his brother set him up for.

5 Most of the checks exhibited to us were for
6 even amounts, but as Mrs. Yzaguirre pointed out, most
7 of these checks were given for cash and not necessarily
8 in payment of merchandise.

9 Also note the frequency of the checks. You will
10 recall that I earlier mentioned a defense by the judge
11 through his lawyer's introduction of this exhibit. That
12 was it. It would appear that the mere introduction of
13 these checks does not totally obviate the facts of the
14 testimony of Mrs. Yzaguirre and Cleofas Gonzalez that a
15 scheme was formed by Judge O. P. Carrillo and his brother,
16 the county commissioner, whereby through the methods I
17 have described Judge Carrillo was able to get his grocer-
18 ies paid from money that was allocated for the poor and
19 the needy of Duval County, and whether it was county,
20 state or federal money, Judge Carrillo and his brother
21 through this scheme caused its misapplication and diverted
22 these funds from their intended use. Judge Carrillo
23 thereby received a benefit to which he was not lawfully
24 entitled to receive.

25 Therefore, Mr. Speaker and Members, the committee

1 was of the opinion that the judge's conduct was such as
2 to constitute an impeachable offense and accordingly
3 recommends that Article I of Impeachment be adopted and
4 preferred against Judge O. P. Carrillo.

5 MR. VALE: Mr. Speaker, will the gentleman
6 yield for a question?

7 SPEAKER CLAYTON: Do you yield, Mr. Chavez?
8 The gentleman yields, Mr. Vale.

9 MR. VALE: Mr. Chavez, did a Mr. Yzaguirre
10 appear before the committee?

11 MR. CHAVEZ: I didn't hear you.

12 MR. VALE: Did a Mr. Yzaguirre appear
13 before the committee; Mr. or Mrs. Yzaguirre?

14 MR. CHAVEZ: Both did.

15 MR. VALE: Did any of those parties need
16 an interpreter or did they testify in English?

17 MR. CHAVEZ: I think that Mr. Yzaguirre
18 had the benefit of an interpreter partially through his
19 testimony, but he was able to answer some questions.
20 Mrs. Yzaguirre did not require an interpreter.

21 MR. VALE: All right. Who was that
22 official interpreter? Or did the committee have one,
23 or whose word did they take for the interpretation?

24 MR. CHAVEZ: I think Mr. Salem was there
25 at one time and offered to interpret partially for his

1 part of his testimony, but as I said, he did not require
2 a full interpretation of everything he testified to.

3 MR. VALE: Was there ever an official
4 interpreter hired by the committee on the role to
5 officially translate truthfully everything that was—

6 MR. CHAVEZ: There was a young lady, Edna
7 Ramon, that was available and retained by the committee
8 for purposes of interpreting at such times as that occas-
9 ion arose.

10 MR. VALE: The question is— I don't want
11 to know if she was available. Did she actually interpret?

12 MR. CHAVEZ: She interpreted some for some
13 witnesses. Yes, sir.

14 MR. VALE: How about for these Yzaguirre
15 people?

16 MR. CHAVEZ: Mrs. Yzaguirre did not
17 require an interpreter.

18 MR. VALE: How about Mr. Yzaguirre? Did
19 she interpret for him?

20 MR. CHAVEZ: I don't remember.

21 I don't think that Ms. Ramon interpreted for
22 Mr. Yzaguirre. Mr. Salem happened to be in the room at
23 that time, and I think that the chairman invited Mr.
24 Salem to come forward to assist.

25 MR. VALE: Was Mr. Salem sworn to translate

1 truthfully?

2 MR. CHAVEZ: The Chairman declined to do
3 it inasmuch as he was a member of the House.

4 MR. VALE: Incidentally, Mr. Chavez, I
5 want you to know that I am well acquainted with Mrs.
6 Ramon, and she does not speak the Spanish language. She
7 was an employee of the Sergeant-at-Arm's office during
8 the last few days of the regular session, but she was not
9 acquainted nor fluent with the Spanish language.

10 Now, let me ask you some more questions.

11 This article says that the judge conspired
12 with others, and you have outlined some scheme or schemes
13 of which some results happened, but I want to know
14 specifically, who did the judge conspire with? And when
15 and where did that conspiracy take place?

16 MR. CHAVEZ: I would presume that the con-
17 spiracy took place—

18 MR. VALE: No. No, I don't want you to
19 presume. I want you to tell me which witness testified
20 before this committee where Judge Carrillo conspired
21 with what other person; where that conversation or that
22 conspiracy took place; what they did; and how they
23 furthered this conspiracy. I don't want any presumptions.

24 MR. CHAVEZ: Mr. Cleofas Gonzalez, a pre-
25 cinct employee of Ramiro Carrillo testified that he

1 assisted the judge and Ramiro Carrillo in handling these
2 food vouchers and taking fictitious names to Mrs.
3 Yzaguirre for purposes of using these to satisfy the
4 account of \$300, and to cover up the \$300 that Judge
5 Carrillo was taking.

6 MR. VALE: All right. But—

7 MR. CHAVEZ: Do you want me to finish
8 answering the question?

9 MR. VALE: Prior to the time that this
10 scheme was being carried out, prior to the time that this
11 conspiracy was being carried out, when these vouchers
12 were being signed and fictitious or non-existent or
13 persons named who were removed, some place, some time,
14 and somewhere the judge and other persons, just like you
15 say here, got together and conspired to deprive or to
16 have Duval County pay for these groceries for his personal
17 use and benefit. I want to know where that conspiracy
18 took place, the place?

19 MR. CHAVEZ: From the evidence that we
20 heard and the testimony, it can be safely presumed that
21 it took place in Duval County, Texas.

22 MR. VALE: Okay. It took place in Duval
23 County. Where specifically in Duval County? In what
24 office? In what office, in what city, and who was present?
25 And give me the name of the witness that testified to

1 those facts.

2 MR. CHAVEZ: Mr. Vale, I don't think—or
3 at least in my determination to vote for this article—
4 I don't think that it was necessary to have witnesses to
5 say, "I was there; I saw them conspiring," because the
6 people that conspired or the people that are guilty of
7 having committed this offense, I'm sure that they're not
8 going to come forward and admit it to you. Now, Judge
9 Carrillo was invited to testify. He declined to do so
10 as was his right. But the chain of circumstances as they
11 developed, the chain of circumstances as they developed,
12 prevailed, show that a conspiracy took place by virtue
13 of the fact that Ramiro Carrillo approved payment of
14 these expenditures as was his duty as the county commis-
15 sioner, and Cleofas Gonzalez testified that this thing
16 did occur. Mrs. Yzaguirre testified that Ramiro Carrillo
17 told her that the judge was entitled to a \$300 a month
18 budget from the County of Duval.

19 MR. VALE: Can't it be that the commissioner,
20 Ramiro Carrillo, would make a statement like that without
21 the judge knowing about it? Is that not possible?

22 MR. CHAVEZ: No, I doubt it.

23 MR. VALE: You doubt it?

24 MR. CHAVEZ: Yes, sir. I mean, the judge
25 received these groceries and he paid the balance of the

1 groceries after receiving credit for \$300. Why would
2 he pay a balance if he didn't know he'd already received
3 the \$300 allowance from the county?

4 MR. VALE: Okay. Let us agree that he
5 received all those groceries, and that he paid for all
6 those in excess. The question still remains, did he
7 conspire with others, which is what he stands charged
8 here.

9 MR. CHAVEZ: That's right.

10 MR. VALE: And if he conspired with
11 others, who did he conspire with?

12 MR. CHAVEZ: Ramiro Carrillo, Cleofas
13 Gonzalez—

14 MR. VALE: Okay. Where did that con-
15 spiracy take place?

16 MR. CHAVEZ: In Duval County, Texas.

17 MR. VALE: No. Couldn't it have happened
18 in some other place, in Corpus Christi? You know, you're
19 just presuming, Mr. Chavez, that a conspiracy took place,
20 and you're further presuming that it transpired in Duval
21 County. But the question is, which witness testified
22 that the judge, Carrillo, conspired with somebody else—
23 he can't conspire with himself—that he conspired with
24 somebody else to do this? Who was that other person,
25 where did that meeting take place, in what office, in

1 what ranch, what building, what street corner? And which
2 witness testified to those facts?

3 MR. CHAVEZ: The chain of circumstances
4 as developed by the testimony of Cleofas Gonzalez and
5 Mrs. Yzaguirre and the Elizondo brothers lends itself to
6 prove that a conspiracy did take place, and that the
7 conspiracy was carried out. I don't know where it took
8 place, it's not necessarily material, because we don't
9 have a jurisdictional question here, Mr. Vale.

10 MR. VALE: Let me tell you this: About a
11 week ago an accident happened at an intersection of St.
12 Mary's and Houston in San Antonio. By virtue of that
13 happening I could assume, the way you're saying, that the
14 two drivers had conspired to have an accident there
15 because the occurrence happened. This is what you're
16 telling us, that an occurrence happened and therefore a
17 conspiracy existed.

18 What is the definition that this committee used
19 for defining "conspiracy"? How did you all define this
20 conspiracy? What is a conspiracy?

21 MR. CHAVEZ: We did not have any definitions
22 set out with respect to any of the allegations here. The
23 committee, by examining the testimony that was received,
24 concluded that an agreement had been entered into between
25 Ramiro Carrillo and O. P. Carrillo whereby fictitious

1 names would be used to cover up for groceries that would
2 be purchased for the benefit of Judge Carrillo, used by
3 him and on his ranch.

4 MR. VALE: But, Mr. Chavez—

5 MR. CHAVEZ: And that this money, these
6 groceries, would be paid by Duval County, which payments
7 would be approved by Ramiro Carrillo. That was the agree-
8 ment; that was the conspiracy; that was what was carried
9 out.

10 MR. VALE: Okay. That was the agreement.

11 MR. CHAVEZ: That was what?

12 MR. VALE: That was the agreement. This
13 is what you've stated.

14 MR. CHAVEZ: That is the agreement that we—

15 MR. VALE: Which witness testified to the
16 fact that the judge had that agreement with the commissioner,
17 his brother, Ramiro Carrillo?

18 MR. CHAVEZ: Nobody came up and said, "I
19 saw them enter into an agreement." I've already told you
20 that.

21 MR. VALE: That's what I'm getting at.

22 MR. CHAVEZ: I told you, Mr. Vale, that
23 circumstances—the evidence may be circumstantial—but
24 nevertheless, it was all together which started off and
25 led to the conclusion by the committee that they had

1 agreed to do this and that they had carried out the
2 agreement to the detriment of the people of Duval County.

3 MR. VALE: Okay. This is what I'm getting
4 at. The only thing that you all have is that there was
5 a series of witnesses that came and testified to some
6 transactions that occurred that in some way tied the
7 commissioner and his brother. Is that not correct?

8 MR. CHAVEZ: That tie them up?

9 MR. VALE: That tied them up. You know,
10 you're saying that the judge would come forth and pay
11 whatever excess over the budget—

12 MR. CHAVEZ: Yes, sir.

13 MR. VALE: —of three hundred.

14 MR. CHAVEZ: Yes, sir.

15 MR. VALE: Therefore, you have a certain
16 set of circumstances or facts, and from those facts you
17 are telling us that the committee concluded that there
18 was a conspiracy. Is that not correct?

19 MR. CHAVEZ: Yes, sir.

20 MR. VALE: So there was a conclusion.

21 Now, how did this circumstantial evidence that
22 you all considered in effect, it was because you all
23 don't have a—

24 SPEAKER CLAYTON: Mr. Maloney calls a
25 point of order. The gentleman's time has expired. The

1 point of order is well taken and sustained.

2 MR. VALE: I move to extend the gentleman's
3 time, Mr. Speaker.

4 SPEAKER CLAYTON: Mr. Vale moves to extend
5 the gentleman's time. Is there objection?

6 All those in favor of the extension of time
7 say, "aye"; all opposed, "no."

8 Vote aye, vote no. Division vote.

9 Have all members voted?

10 There being 36 "ayes" and 64 "noes", one present
11 not voting, the motion to extend fails.

12 MR. TRUAN: Mr. Speaker, parliamentary
13 inquiry.

14 SPEAKER CLAYTON: State your inquiry, Mr.
15 Truan.

16 MR. TRUAN: We are operating under the rules
17 that we adopted at the beginning of the regular session
18 which limits the time to how long now?

19 SPEAKER CLAYTON: Twenty minutes opening
20 with one extension by a simple majority, second extension
21 by unanimous vote.

22 MR. TRUAN: I see. And do I gather that
23 the leadership of this House does not consider it necessary
24 to revise or change the rules so that we could have enough
25 time if there were enough members that wish to pursue the

1 questioning?

2 SPEAKER CLAYTON: Mr. Truan, the members
3 are deciding that issue as we come to it. If the majority
4 of the membership desired more time they would have voted
5 to extend the member's time.

6 MR. TRUAN: The committee that supported
7 this resolution did not offer any changes to the rules,
8 I gather. Is that correct?

9 SPEAKER CLAYTON: That is correct.

10 Does anyone want to speak against adoption of
11 Article I?

12 Mr. Vale to speak against the adoption of
13 Article I.

14 PRESENTATION AGAINST ARTICLE I

15 MR. VALE: Mr. Speaker, Members of the
16 House, I had not anticipated speaking against Article I
17 because I intended to try to debate this issue as fully
18 and as fairly as we could under the rules of the House.
19 However, the House under the rules saw fit not to extend
20 the time for Mr. Chavez so that we could have the benefit
21 of the thinking of the committee as represented by Mr.
22 Chavez here before us so that we could use that in making
23 a decision in our judgment of this matter.

24 But I want you all to know that I was impressed
25 by the fact that Mr. Chavez stated to us here from the

1 front mike that not one witness came before that committee
2 to testify to an overt act of a conspiracy between the
3 judge and others as to a conspiracy between the judge
4 and others to have this scheme implemented.

5 I will admit that under the evidence that they
6 have in the committee and the exhibits that they have
7 there that a certain scheme can be shown. But just
8 because a certain scheme can be shown, certain facts that
9 have occurred, does not lead us to the conclusion that a
10 conspiracy existed between two persons. In order to have
11 this proof, the evidence first, if it's circumstantial
12 evidence, the circumstantial evidence must be so strong
13 and must be so overriding as to allow no other reasonable
14 hypotheses to exist. In other words, reasonable persons
15 cannot come to any other conclusion based from the evidence
16 that they have before them.

17 What we have here is simply a scheme that has
18 existed down in Duval County where some groceries were
19 being paid, where the judge would come over and pay
20 something in excess of whatever the amount was over \$300.

21 Now, does that in itself show that prior to
22 that time Judge Carrillo conspired with other persons to
23 have all these things done? And if he conspired, who did
24 he conspire with, where did that conspiracy take place,
25 who was a party to it? None of those things have been

1 brought forth here to us for our consideration.

2 The only thing that has been brought forth is
3 this evidence of some payouts of some vouchers, some
4 groceries, and then the judge coming over and paying the
5 excess of over \$300.

6 Now, based upon that—

7 MR. HENDRICKS: Mr. Speaker?

8 SPEAKER CLAYTON: Mr. Hendricks.

9 MR. HENDRICKS: Will the gentleman yield?

10 MR. VALE: When I get through.

11 SPEAKER CLAYTON: When he gets through,
12 Mr. Hendricks.

13 MR. VALE: Based upon that they want us
14 to come here and to vote affirmatively on an article of
15 impeachment showing a conspiracy.

16 I tell you first that under that circumstantial
17 evidence that reasonable persons can differ as to whether
18 or not prior to the time that scheme was implemented
19 there had actually been an agreement or an overt act by
20 the judge and other persons in furtherance of this scheme
21 so as to have a conspiracy exist.

22 I asked Mr. Chavez, "What is the definition
23 that you all used to define "conspiracy?"

24 He wouldn't tell us. He said he didn't know.

25 I wanted to go further and ask him what their

1 definition was of circumstantial evidence so that we
2 could be also enlightened about that, but we did not have
3 time to get into it.

4 Be that as it may, it is a very, very serious
5 thing that we are about in voting articles of impeachment
6 on a public official of this state, and I say that in
7 order for us to be called upon to affirmatively cast our
8 vote, the proof and the evidence must be there. And
9 where we have an allegation of a conspiracy and we have
10 no proof, and we have the proponent of this article state
11 to this House that not one witness came forth before that
12 committee to testify about a conspiracy, about an agreement,
13 I say to you that we are not justified in voting affirma-
14 tively, and I ask you in all sincerity to please vote no.

15 I yield.

16 SPEAKER CLAYTON: The gentleman yields,
17 Mr. Hendricks.

18 MR. HENDRICKS: Mr. Vale, legally what
19 difference does it make where a conspiracy takes place?

20 MR. VALE: Legally, it doesn't make any
21 difference.

22 MR. HENDRICKS: All right. It doesn't make
23 a bit of difference where the conspiracy took place, does
24 it?

25 MR. VALE: As long as a conspiracy took

1 place.

2 MR. HENDRICKS: All right.

3 MR. VALE: As long as a conspiracy took
4 place.

5 MR. HENDRICKS: All right. Let's go a
6 little further than that. Are we operating under a
7 preponderance of evidence, or are we operating under
8 beyond a reasonable doubt, was this committee? Which
9 rule was it under?

10 MR. VALE: I would prefer myself to use
11 "beyond a reasonable doubt."

12 MR. HENDRICKS: I personally used it, and
13 I agree with you.

14 MR. VALE: All right. Now, but I think
15 that here we are on a preponderance of the evidence.

16 MR. HENDRICKS: All right. Let's examine—
17 Wouldn't you consider this as evidence of a conspiracy?

18 MR. VALE: Let me ask you something, Mr.
19 Hendricks.

20 MR. HENDRICKS: I'm asking the questions.

21 MR. VALE: Well, I'm going to answer your
22 question with a question. Does the mere fact that some-
23 thing conspired, does that prove conclusively that a
24 conspiracy existed? Does a mere fact that an automobile
25 accident happened at an intersection prove conclusively

1 that those persons conspired to have an accident?

2 MR. HENDRICKS: Not necessarily, but when
3 you've got an employee of someone that testifies, "Well,
4 this man told me to go over here and take these grocery
5 "chits" and get them signed;" Mrs. Yzaguirre comes in
6 and she testifies, "Yeah, Cleofas came over here and I
7 signed them. Nobody got the groceries. He took them
8 back." Cleofas Gonzalez says, "I took them to the
9 commissioners' court and they approved them for the
10 judge's and the commissioner's groceries and paid them."

11 Don't you think that's evidence of a conspiracy?

12 MR. VALE: No, sir. That does not prove
13 at all that prior to that time—

14 MR. HENDRICKS: Wouldn't you say that it
15 would be a fact question that should go to the jury?

16 MR. VALE: I don't think that it even comes
17 close to being a fact question, Mr. Hendricks, because
18 you can't prove that before those facts happened—

19 MR. HENDRICKS: Well, I operated under
20 "beyond a reasonable doubt," and I consider—

21 MR. VALE: You can't prove that because
22 those facts happened that prior to that time there had
23 been a conspiracy between those individuals to have those
24 things happen.

25 MR. HENDRICKS: Well, the judge wasn't

1 losing any weight he didn't look like.

2 MR. VALE: It would be a whole lot easier
3 just to make an allegation that this man took these
4 personal groceries for his own use and benefit. But
5 from that point to a conspiracy are two different things.
6 Now, we're not talking about an individual who is accused
7 here in the article of having taken these groceries for
8 his personal use and benefit. We're talking here about
9 an individual having conspired with somebody else, which
10 is an entirely different animal, and which, I am sure,
11 just like Mr. Chavez, he was not willing to admit that
12 that evidence had been brought before the committee.

13 We're talking about the conspiracy; not about
14 the fact that these groceries were taken to the judge's
15 ranch and used for his own personal use and benefit. He
16 is not charged with that offense in this article of
17 impeachment. He is charged with having conspired. And
18 I say to you that under the evidence that was presented
19 to the committee, under the evidence that has been
20 summarized to us here in this House by Mr. Chavez, that
21 there is not one iota of word of truth to it as to a
22 conspiracy, and ask you to vote no.

23 SPEAKER CLAYTON: Mr. Chavez to close on
24 the article.

25

CLOSING ARGUMENT FOR ARTICLE I

1
2 MR. CHAVEZ: One thing that I think we
3 ought to understand is that we're not trying the judge
4 here today. The nature of this proceeding is whether or
5 not there is probable cause for these charges to be made
6 against the judge and let him stand trial in the Senate.

7 Now, Mr. Vale says that we didn't mention
8 anything about an overt act. Well, let me—

9 MR. GARCIA: Will the gentleman yield?

10 SPEAKER CLAYTON: Do you yield, Mr. Chavez?

11 MR. CHAVEZ: Not at this time.

12 SPEAKER CLAYTON: Not at this time, Mr.
13 Garcia.

14 MR. CHAVEZ: Volume I, page 52, where
15 Cleofas Gonzalez was asked:

16 "Do you give out these white slips to people?"

17 "Answer: No, sir. No. These white slips
18 were given to me by a store owner. At the end
19 of the month he would come and tell me, 'O. P.
20 went and got this merchandise and he wants you
21 to make orders to these names here."

22 Okay. Again at Volume I, page 74, Chairman Hale
23 asked the question of Cleofas Gonzalez:

24 "These orders here, which ostensibly bear
25 what appears to be an initial on it, how did

1 the judge profit from these?"

2 "Answer: Well, he got some groceries from
3 the store and then at the end of the month Mr.
4 Yzaguirre—all that merchandise came from the
5 Cash Store at Benavides, Texas—and Mr. Yza-
6 guirre would go at the end of the month and
7 tell me, 'Mr. Gonzalez, O. P. got this mer-
8 chandise and he said for me just to bring this
9 here and for you to make some welfare orders.'
10 And that's all. So I made them. And I asked
11 Ramiro Carrillo—he's the one in charge of
12 that welfare orders—I asked him and he said,
13 'Okay. Just make them out, and whenever you
14 get through making them out, take them back
15 to the store.' So I would make those welfare
16 orders, took them back to the store, and the
17 store owners would give them back to Mr.
18 Carrillo, and Mr. Carrillo would take them
19 to the commissioners' court and get them
20 approved."

21 Again, the testimony of Mrs. Yzaguirre, Volume
22 V, page 55:

23 "Question: How do you get paid then?
24 When do you get paid by Judge Carrillo?"

25 "Answer: At the end of the month his

1 brother, the commissioner, brings a check and
2 pays for his and for Judge O. P. Carrillo."

3 "Is that a personal check or a check
4 drawn on the treasury of Duval County?"

5 "Most of the time it is by the county,
6 Duval County."

7 "County check."

8 "That's right."

9 Again, Volume V, page 64, inquiring about the
10 balance:

11 "If there was a balance," says Mrs.
12 Yzaguirre, "over what his budget was, that
13 is what was told to us, that he had a \$300
14 budget, and whatever balance he would pay the
15 difference, you know."

16 "Question: Who told you there was a
17 \$300 budget?"

18 "Answer: His brother, the commissioner,
19 Ramiro Carrillo."

20 Now, if you don't think that's circumstantial
21 enough, if you don't think that shows you there was a
22 conspiracy, I don't know what will. I've tried some
23 conspiracy cases myself, and I've never let any of my
24 co-conspirators go and admit that they engaged in a con-
25 spiracy, and I doubt that any lawyer does, and certainly

1 Mr. Mitchell didn't allow his client to testify, which
2 is his right, and I'm not saying that just because he
3 didn't testify that you ought to find against him. But
4 Commissioner Carrillo was invited to testify, and he took
5 the Fifth Amendment and declined after numerous questions.

6 MR. GARCIA: Mr. Speaker, I would like to
7 raise a point of order against the statements being made
8 by Mr. Chavez. He is not confining his remarks to the
9 charge at hand. He is going outside of the record,
10 certainly not being material in any way to what action
11 this House should take.

12 SPEAKER CLAYTON: The Chair was not advised
13 of the remarks, but the Chair would ask Mr. Chavez or
14 anyone else when addressing themselves to the Articles of
15 Impeachment that they stay within the confines of those
16 particular articles.

17 MR. GARCIA: Will the gentleman now yield,
18 Mr. Speaker?

19 MR. CHAVEZ: Yes, sir.

20 SPEAKER CLAYTON: The gentleman yields,
21 Mr. Garcia.

22 MR. GARCIA: I don't have the statement of
23 facts that you have there, Mr. Chavez, but last Friday I
24 received a blue-bound book dated July 23rd, 1975, the
25 "Report of the Select Committee on Impeachment," and if

1 you have a copy of it there, I'd like to invite your
2 attention to page 43.

3 MR. CHAVEZ: What page, sir?

4 MR. GARCIA: Page 43, third line, commenc-
5 ing with the words, "If the....."

6 "If the amount charged to O. P. Carrillo
7 in a particular month exceeded his \$300 allow-
8 ance, he either stopped by and paid the balance
9 or it was carried over to the next month, and
10 if it was less than his monthly allowance,
11 the balance carried over to the next month."

12 Now, do you recall there being testimony to that
13 effect?

14 MR. CHAVEZ: Yes, sir.

15 MR. GARCIA: By the witnesses?

16 MR. CHAVEZ: Yes, sir.

17 MR. GARCIA: Now do I understand that some-
18 one came in to the store— Might we have some order, Mr.
19 Speaker? If somebody would get the Speaker's attention,
20 I'd like to have a little order if we might. We're
21 debating a very important issue.

22 SPEAKER CLAYTON: Members, Mr. Garcia does
23 not have your attention. The House needs a little order
24 that you might hear him ask the questions and Mr. Chavez's
25 answer. This is a very pressing matter, one that needs

1 your undivided attention. We'll not proceed with the
2 debate until we do have order.

3 Okay, Mr. Garcia. You may proceed.

4 MR. GARCIA: I always admire the Speaker's
5 ability to get order at a given time.

6 Do I understand that there was testimony that
7 there was a \$300 allowance created for Judge Carrillo
8 for the purchase of groceries? Was that the testimony?

9 MR. CHAVEZ: Yes, sir.

10 MR. GARCIA: And did a witness testify
11 that this was information related by Ramiro Carrillo,
12 the county commissioner?

13 MR. CHAVEZ: Yes, sir.

14 MR. GARCIA: Did you or any member of your
15 committee, Mr. Chavez, go down to Duval County and
16 examine the minutes of commissioners' court to ascertain
17 whether or not an order was ever entered by commissioners'
18 court providing that Judge O. P. Carrillo as a salary
19 supplementation was to receive anything over and above
20 or in the nature of groceries?

21 MR. CHAVEZ: We did not go to check, but
22 when Commissioner Ramiro Carrillo was present we asked
23 him that question and he declined to answer it.

24 MR. GARCIA: Are you assuming that by his
25 silence there is no such order? Was that the assumption

1 engaged in by the committee?

2 MR. CHAVEZ: The financial statement which
3 Judge Carrillo filed with the Secretary of State reflects
4 that in addition to his state salary he only receives
5 a \$100 a month supplementary pay from Duval County, cash
6 payment.

7 MR. GARCIA: Where is a copy of this
8 financial statement that you speak of?

9 MR. HALE: In the record.

10 MR. GARCIA: I know it's in the record,
11 Mr. Hale, but I want to know where in the record it is.

12 MR. CHAVEZ: We'll get the financial
13 statements, Mr. Garcia.

14 MR. GARCIA: While they're getting that
15 for us, Mr. Chavez, did this witness testify—

16 MR. CHAVEZ: Did which witness?

17 MR. GARCIA: Well, whatever witness was
18 testifying that there was a \$300 a month allowance. I
19 don't know who the witness was. Who was it?

20 MR. CHAVEZ: Mrs. Lauro Yzaguirre.

21 MR. GARCIA: All right. When Mrs. Yzaguirre
22 testified that there was a \$300 allowance, do I under-
23 stand that she testified that if a given month the \$300
24 in groceries was not purchased that the deficit or the
25 residue was carried over to the following month?

1 MR. CHAVEZ: That's correct.

2 MR. GARCIA: And so the following month
3 Judge Carrillo might purchase \$400 worth of groceries.
4 Is that what you're saying?

5 MR. CHAVEZ: That's correct.

6 MR. GARCIA: All right. Now, why is it,
7 why is it that the witness testified that Judge Carrillo
8 when he went over \$300 would come in and personally pay
9 for those groceries? Was there ever an explanation as
10 to that? Why wasn't the overage charges against the next
11 month's purchases?

12 MR. CHAVEZ: On occasion, the witness
13 testified, the overage was charged against the following
14 month's allowance. On occasion the judge would come and
15 pay personally by his personal check.

16 MR. GARCIA: So do I understand that there
17 was a \$300 limit each month?

18 MR. CHAVEZ: That's correct.

19 MR. GARCIA: And that's what you and the
20 committee concluded was the result of a conspiracy between
21 Ramiro Carrillo and Judge O. P. Carrillo?

22 MR. CHAVEZ: That's correct.

23 MR. GARCIA: Was there any testimony, Mr.
24 Chavez, to the effect that these groceries which were
25 picked up either by the judge or someone who purportedly

1 worked for the judge were not delivered to someone other
2 than the judge?

3 MR. CHAVEZ: The witnesses testified, Mr.
4 Roberto and Tomas Elizondo, and Mr. Patricio Garza, that
5 they went to the store, purchased the groceries, signed
6 the judge's name, by them; that these groceries were
7 used at the ranch, Judge Carrillo's ranch. What they
8 were doing is that on weekends they would go to the ranch
9 and work, fix fences, do other things on the ranch, run
10 cattle, whatever they did, roundup, and that these
11 groceries were purchased because when they went out to
12 work on weekends they stayed out there all weekend and
13 they didn't go home, so these groceries were used to
14 feed the people out at the ranch, and that on occasion
15 the judge would have anywhere from fifteen, twenty,
16 twenty-five people out there at the ranch.

17 MR. GARCIA: You don't know whether or
18 not any of these people might be welfare recipients, do
19 you, Mr. Chavez?

20 MR. CHAVEZ: Well, it would not surprise
21 me if they were, Mr. Carrillo.

22 MR. GARCIA: Was there any evidence-- The
23 name is Garcia.

24 MR. CHAVEZ: It was not a matter that was
25 within our inquiry. We were not inquiring whether any

1 of the other people were doing anything improperly. We
2 were just investigating the judge.

3 MR. GARCIA: Do you have the financial
4 statement there?

5 MR. CHAVEZ: I'm trying to get them to
6 locate the testimony— There was some evidence, Mr.
7 Garcia, that was brought in which were copies of the
8 auditor's report showing the people that were paid
9 salaries and out of what funds they were paid, and in
10 that there was shown that Judge Carrillo was paid \$100
11 a month from the fund that was available for that partic-
12 ular thing. The auditor testified to that, Mr. Garcia.

13 MR. GARCIA: What was the \$100 a month
14 for?

15 MR. CHAVEZ: Supplementary pay for the
16 district judge from the County of Duval.

17 MR. GARCIA: That's on that financial
18 statement that Mr. Maloney spoke about as containing
19 information about ownership of ranches, existence of
20 partnerships, associations, et cetera?

21 MR. CHAVEZ: Well, you see, his salary as
22 reflected here on this financial statement for the
23 calendar year ending 1974 reflects that salary from his
24 judicial services amounted to \$23,605.52. In this
25 financial statement he included it all.

1 MR. GARCIA: Mr. Chavez, are you telling me
2 that the judge's statement indicates that he was receiving
3 as salary the sum of \$23,500 for his district judgeship?

4 MR. CHAVEZ: He shows \$23,605.52. He also
5 shows income from law practice, bank, oil royalties
6 and partnerships, directors fees—

7 MR. GARCIA: I'm not interested in that.
8 I'm talking about his judicial salary. The reason I
9 ask is because in the 63rd session, as I recall, we
10 increased all district judges' salaries from state monies
11 to 25,000.

12 MR. CHAVEZ: I think Mr. Maloney mentioned
13 something about this statement not being quite accurate.
14 That may be. I don't know.

15 MR. GARCIA: You say that Maloney says
16 that the statement was not quite accurate?

17 MR. CHAVEZ: I'm just reading to you what
18 he wrote down and sent to the Secretary of State, Mr.
19 Garcia.

20 MR. GARCIA: Is that the financial state-
21 ment you were speaking about?

22 MR. CHAVEZ: Well, this is a financial
23 statement from the judge showing his salary as a district
24 judge.

25 MR. GARCIA: You don't have a copy, do you?

1 MR. CHAVEZ: I don't have a copy here.

2 MR. HALE: It is in the exhibits, 67.

3 MR. GARCIA: Mr. Chavez, the ranch that
4 has been spoken of as being the ranch where county
5 employees were supposed to have worked, where was it
6 located?

7 MR. CHAVEZ: Most of it was in Duval
8 County.

9 MR. GARCIA: Is that his place of residence?

10 MR. CHAVEZ: That is his place of residence.
11 Yes.

12 MR. GARCIA: Is in Duval County?

13 MR. CHAVEZ: Yes, sir. It shows he's
14 got some 5,684 acres in Duval County.

15 MR. GARCIA: Now, let me ask this one
16 question in conclusion. All of these incidents that
17 you've spoken about involving groceries, when did they
18 take place?

19 MR. CHAVEZ: They took place during the
20 time that he was the judge, which would be since 1971
21 up through March of 1975.

22 MR. GARCIA: I want more specifics on
23 that. You say since the time he was judge—

24 MR. CHAVEZ: I can read you all the months
25 in those years, Mr. Garcia.

1 MR. GARCIA: Are you telling me that
2 every month during the year 1971, and during the year
3 1972, and during the years '73, '74, and through March
4 of '75, each month there was at least \$300 worth of
5 groceries delivered to O. P. Carrillo, district judge
6 of the 229th Judicial District, under a conspiracy? Is
7 this what you're saying?

8 MR. CHAVEZ: That's the testimony that
9 was presented to us.

10 MR. WASHINGTON: Mr. Speaker?

11 SPEAKER CLAYTON: Mr. Washington.

12 MR. WASHINGTON: Will the gentleman yield
13 for a question?

14 SPEAKER CLAYTON: Do you yield, Mr. Chavez?

15 The gentleman yields, Mr. Washington.

16 MR. WASHINGTON: Mr. Chavez, my primary
17 concern at this point has not to do with the merits of
18 the considered—the committee deliberations and your
19 ultimate findings and report, sir, but let me ask you
20 several questions dealing with the procedural aspect of
21 the committee hearings.

22 In your organization, or as the work of the
23 committee evolved, were there members of the committee
24 who ultimately took the role of questioning the witnesses
25 that appeared in an adversarial nature?

1 MR. CHAVEZ: I don't know whether I can
2 answer that truthfully, Mr. Washington. I know that
3 when we started off, I wasn't too convinced that a lot
4 of this testimony might be accurate, and I, you might
5 say, took after some of the witnesses a little bit,
6 attempting to in my own mind, satisfy their credibility
7 and to try and satisfy myself as to how they would stand
8 up under cross examination, and I'm not authorized to
9 speak for the other members, but I think Mr. Hendricks
10 did the same thing. In other words, we kind of took the
11 position first that "this man is innocent and if you are
12 alleging wrongdoing, by gosh, you show us."

13 MR. WASHINGTON: Yes, sir. You, of course,
14 have heard the old adage, Mr. Chavez, that the lawyer
15 who represents himself represents a fool, and I think
16 that that would largely be true that if a person sits
17 in a judicial or decision making authority it's very
18 difficult to maintain that relationship that allows for
19 the adversarial process by the person who ultimately
20 must make the decision. Would you agree with that
21 general principle, sir?

22 MR. CHAVEZ: I don't know, Mr. Washington.
23 It could go one way or the other. I listened to the
24 testimony and I concluded in my own mind—

25 MR. WASHINGTON: Once you start making up

1 your mind about the testimony before you ultimately
2 reached any conclusion, did you find it difficult to
3 maintain the same adversarial nature that you did at
4 the beginning of the proceedings at which time you've
5 indicated you gave to this man the presumption of
6 innocence?

7 MR. CHAVEZ: I did not make up my mind
8 during the time that we conducted those hearings, Mr.
9 Washington.

10 MR. WASHINGTON: Are you suggesting then
11 that in your opinion you maintained the same degree of
12 neutrality and addressed the witnesses with the same
13 vigor throughout the proceedings?

14 MR. CHAVEZ: I attempted to do so, as far
15 as I could do, Mr. Washington.

16 MR. WASHINGTON: All right. What part,
17 if any, in relation to the committee's work product
18 did Representative Canales play?

19 MR. CHAVEZ: Mr. Canales initially pre-
20 sented witnesses, summarized what they were going to
21 testify to, and made certain inquiries of some of the
22 witnesses, and then turned the witness over to the com-
23 mittee, and then we proceeded to interrogate the wit-
24 nesses.

25 MR. WASHINGTON: In the nature of a

1 judicial or quasi-judicial proceeding then, sir, would
2 you suggest that Mr. Canales took upon himself the role
3 of the prosecutor; that is, one who would vouch for the
4 truth and veracity of the witnesses that he proffered?

5 MR. CHAVEZ: I don't know that he took
6 that position, Mr. Washington, because here was a
7 situation that the committee members had not conducted
8 an investigation themselves; had not interrogated any
9 of the witnesses, and frankly, we didn't know what the
10 heck we were getting into. Mr. Canales apparently had
11 spoken with the witnesses, knew something of the evidence
12 or testimony that they would give, and summarized it,
13 and did question them, and from that we just took off
14 after the witness and proceeded to investigate the wit-
15 ness. One thing led to another.

16 MR. WASHINGTON: All right. Would you
17 suggest then that as regards a comparison, a fair com-
18 parison, with what we know of the judicial process, the
19 witnesses presented were Mr. Canales' witnesses, and that
20 when the committee members would begin this interrogation
21 of the witnesses, other than their ability to perceive
22 and ask questions based upon the witness' direct examina-
23 tion, the committee members were shooting in the blind,
24 so to speak?

25 MR. CHAVEZ: That would be a fairly

Pad 3

1 accurate statement.

2 MR. WASHINGTON: All right. As we know
3 and understand the judicial process, Mr. Chavez, was
4 there a setting off of issues? Was there an advocate
5 for the proposition that the witness stood for, and
6 ultimately Mr. Canales, and was there a distinct and
7 decided difference and a setting off in opposition to
8 the position that the witness took on each issue?

9 SPEAKER CLAYTON: Mr. Edwards calls a
10 point of order. The gentleman's time has expired. The
11 point of order is well taken and sustained.

12 MR. WASHINGTON: Mr. Speaker?

13 SPEAKER CLAYTON: Mr. Washington.

14 MR. WASHINGTON: Because I think that the
15 question, the line of questioning, goes so very gravely
16 in my mind to the procedural aspect of this entire matter,
17 I move that the gentleman's time be extended so that
18 these questions may be answered for all of us.

19 SPEAKER CLAYTON: Mr. Washington moves
20 the gentleman's time be extended. Is there objection?

21 All those in favor of the extension of time
22 say "aye." All opposed, "No."

23 Vote aye, vote no. Division vote, members.

24 Have all members voted?

25 There being 65 "ayes" and 53 "noes," the

1 gentleman's time is extended.

2 MR. WASHINGTON: Thank you, Mr. Speaker,
3 and Members.

4 SPEAKER CLAYTON: Proceed, Mr. Washington.

5 MR. WASHINGTON: Thank you, Mr. Speaker.

6 What I'm getting at, Mel, is ultimately the
7 House has delegated to that committee the responsibility
8 of looking at the testimony because it's an insurmountable
9 task for all of us to do it.

10 MR. CHAVEZ: That's correct.

11 MR. WASHINGTON: Ultimately we will be
12 called upon to make a decision based upon factual
13 allegations. We've not heard the testimony. We end up
14 being a jury without having heard the testimony.

15 MR. CHAVEZ: No, you're not going to be
16 a fact finder, Mr. Washington. And as you know, in
17 grand jury proceedings the only thing they need to be
18 familiar with is whether or not there is probable cause
19 to warrant charging the individual. That's what we're
20 doing here. The fact finders are going to be across the
21 hall.

22 MR. WASHINGTON: I understand that. You
23 miss my point. Would you not agree with me, sir, that
24 a grand jury determines probable cause from the factual
25 allegations presented to it?

1 MR. CHAVEZ: Yes, sir.

2 MR. WASHINGTON: If I charged that this
3 room has a gold carpet on it, you would have to see the
4 gold carpet in order to make that decision if that is
5 the decision to be made by you, wouldn't you, sir?

6 MR. CHAVEZ: All right.

7 MR. WASHINGTON: All right. Now, I'm not
8 suggesting that we're the ultimate fact finders, but what
9 I'm suggesting is, you have presented to us articles of
10 impeachment which have as their basis factual allegations.

11 MR. CHAVEZ: Yes, sir.

12 MR. WASHINGTON: None of which we have had
13 the privilege of hearing. You would agree?

14 MR. CHAVEZ: Well, I read some portions
15 of the testimony which substantiate the article that I
16 presented to you.

17 MR. WASHINGTON: Surely. But you must
18 admit that these are very difficult times. We are talking
19 about, for the purpose of an analogy, of a grand jury of
20 twelve delegating to a committee of the grand jury of
21 perhaps two or three the responsibility of listening to
22 the witnesses, of looking at the factual data, and docu-
23 ments supporting the allegations, and then ultimately
24 coming back with a true bill or no bill based upon that
25 committee's report.

1 MR. CHAVEZ: That's correct.

2 MR. WASHINGTON: I'm not arguing or
3 differing with you about the procedure, but necessarily
4 in my opinion I must weight very carefully—it's not
5 an attack upon what you and your committee have done
6 with regards to the proceedings—but the responsibility
7 is ultimately mine, and I intend for this one vote to
8 make sure that I am convinced by whatever manner or
9 measure is available to me, and that's the reason I
10 asked the question. I'm not here to chub you.

11 MR. CHAVEZ: I know. I understand, Mr.
12 Washington.

13 MR. WASHINGTON: All right. Now, was
14 there, in your opinion, in your deliberations someone
15 or some persons who represented the setting off of
16 issues as you and I know and understand it; that is, an
17 adversary proceeding?

18 MR. CHAVEZ: I don't think that there was
19 an adversary proceeding, Mr. Washington. I would have
20 to say that in my opinion there was not.

21 MR. WASHINGTON: All right. So questions
22 that are very important, not only as to what a witness
23 says but the manner in which they say it, and the truth
24 and veracity of the witness, in your opinion, were they
25 questioned?

1 MR. CHAVEZ: Yes.

2 MR. WASHINGTON: Who vouched for, other
3 than Representative Canales, the truth and veracity of
4 each witness that testified before the committee?

5 MR. CHAVEZ: I think that each committee
6 member formed their own opinion based upon their demeanor
7 and the testimony that they gave.

8 MR. WASHINGTON: All right. If you believe,
9 as I think most advocates of the judicial system do, sir,
10 that the cross examination of the witness is the only true
11 means of arriving at the truth, was there in fact cross
12 examination of the witnesses who testified before your
13 committee?

14 MR. CHAVEZ: Yes, sir. Now, that's why
15 I told you a while ago that I didn't know whether I could
16 truthfully answer that question. There was not really,
17 at least as pertains to this particular article. Mr.
18 Mitchell did not cross examine any of these witnesses.

19 I'm sorry. That's correct. Mr. Gonzalez was
20 recalled. Cleofas Gonzalez was recalled, and Mr. Mitchell
21 did cross examine him. But when I say that the adversary
22 atmosphere wasn't there initially, I think that there was
23 and I think that there wasn't. I think the committee
24 members were trying to get the facts out of these people.
25 But at the same time I know that in many of the questions

1 that I asked I tried to pin these people down and pin-
2 point questions on matters that I thought were important
3 to my determination with respect to each of the allegations
4 that were being made.

5 MR. WASHINGTON: I agree with you from my
6 analysis and my cursory examination of the transcripts,
7 I believe that to be true, but as you know as an advocate
8 of the Bar there is also another side to that, and that's
9 the nature of my inquiry. Was there in your opinion a
10 serious attempt by any member of the committee, and if so,
11 please name that person, to determine the truth and
12 credibility of the witness, not based upon what they were
13 saying, Mr. Chavez, before the truth or falsity of the
14 statement, but the general demeanor and reputation of
15 the witness as to whether they could be impeached by
16 other means?

17 MR. CHAVEZ: We only tested their credibili-
18 ty, Mr. Washington, by witnessing their demeanor before
19 the committee and the testimony that they gave us. And
20 that was all.

21 MR. WASHINGTON: In other words, no attempt
22 was made, to your knowledge, by the committee to deter-
23 mine if any of the witnesses had been previously con-
24 victed of a felony?

25 MR. CHAVEZ: That's not our job, but I

1 think that some people were asked.

2 MR. WASHINGTON: I disagree with you on
3 whether or not it's your job. If you're going to believe
4 someone then their credibility is in question, Mr. Chavez.
5 And if their credibility is in question the statutes of
6 this state indicate that a person's credibility may be
7 challenged by showing that they've been previously con-
8 victed of a felony or misdemeanor involving moral turpi-
9 tude.

10 MR. CHAVEZ: If I recollect, Mr. Washington,
11 I think that that question was posed to several of the
12 witnessès.

13 MR. WASHINGTON: I see.

14 MR. CHAVEZ: And their answer was that
15 they had not been previously convicted of a felony.

16 MR. WASHINGTON: All right, sir. One
17 final question. Did the committee in its wisdom inspect
18 the minutes and records of the county commission of Duval
19 County to ascertain whether or not the allegations made
20 about the \$300 in grocery allowance and the other allow-
21 ances for goods and services and/or equipment had been
22 approved or ratified by the county commission as a means
23 of supplementing the judge's salary?

24 MR. CHAVEZ: No, sir, Mr. Washington. And
25 as a member of the committee I would not have gone down

1 to look at the minutes or at the pay vouchers for this
2 reason. The testimony that was given to us was this:
3 that he would come by or his employees would come by,
4 purchase the groceries. The lady would type up the list
5 on her adding machine; somebody would sign the slip,
6 "O. P. Carrillo by Tomas Elizondo, Roberto Elizondo;"
7 the lady would keep these there for the month. At the
8 end of the month they would take these, either Cleofas
9 or Ramiro Carrillo or somebody would bring a list of
10 fictitious names, and they would use the names, give so
11 much money to each one of the names so that they would
12 total \$300. This was submitted to the county commissioner;
13 he would take them and they would be included in the total
14 check that the county sent to the Cash Store for the
15 payment of those groceries and groceries given to eligible
16 recipients.

17 MR. WASHINGTON: Yes, sir. I understand
18 the allegations. But do I understand, or am I misstating
19 the facts when I say that basically, without all of the
20 niceties, your allegations charge the misuse of county
21 funds by the appropriation through an indirect means of
22 money, goods and services, and equipment that belonged to
23 Duval County to the use and benefit of O. P. Carrillo.

24 MR. CHAVEZ: Not equipment, but the grocer-
25 ies, yes.

1 MR. WASHINGTON: All right. Now, let me
2 ask you again since you didn't answer my question. Do'
3 you know, or did the committee ascertain, whether there
4 had ever been an approval or ratification of this or
5 any other alternative means of such an allowance for
6 groceries, for equipment, for good and services, or
7 otherwise, by the county commission of Duval County for
8 the use and benefit of O. P. Carrillo as a means of
9 supplementing his salary as a district judge?

10 MR. CHAVEZ: Only to the extent that that
11 question was posed to county commissioner, Ramiro Carrillo,
12 which he declined to answer.

13 MR. WASHINGTON: So your answer then is
14 that the committee— You don't know personally and the
15 committee did not ascertain whether or not the money
16 paid was paid with the approval of the county commission
17 as a means of supplementing the judge's salary?

18 MR. CHAVEZ: Well, if it was, Mr. Washing-
19 ton, I don't think that it is reflected in his financial
20 statement that he filed or in the testimony of the county
21 auditor who testified.

22 MR. WASHINGTON: I understand that.

23 MR. CHAVEZ: The county auditor testified
24 that the only thing that he was entitled to was \$100 a
25 month.

1 MR. WASHINGTON: I understand that, Mr.
2 Chavez, but we're not here on the basis of conjecture
3 on your part. Your statement is that the committee did
4 not ascertain whether or not there was a presence or
5 the absence of a ratification of such a means of supple-
6 menting the judge's salary, did you?

7 I take it by your silence that your answer is
8 no.

9 MR. CHAVEZ: We did not attempt to go
10 forward to look at the county commission minutes, Mr.
11 Washington, to verify whether that was an approved item
12 during a regular meeting of the county court.

13 MR. WASHINGTON: All right. So may I
14 take it then that when you ask us to vote for this
15 article of impeachment, you do so without knowledge of
16 whether the county commission of Duval County had approved
17 the means that you designed as being criminal, as being
18 misappropriation of funds? You don't know whether the
19 county commission of Duval County had approved and
20 ratified that means of supplementation of the judge's
21 salary as the Harris County commission approved and
22 ratified the payment of some \$13,000 to this district
23 judge, do you, sir?

24 MR. CHAVEZ: No, sir, I don't, Mr. Washing-
25 ton, because the county auditor was asked the extent of

side 2
1 the supplement paid that the county had approved for
2 Judge Carrillo, and it was \$100 a month. The circumstan-
3 tial evidence that was developed by virtue of the testi-
4 money of the various witnesses clearly indicates, at
5 least to me it does, that this was a scheme designed by
6 the judge and his brother, the county commissioner, and
7 this was enough. And I might just add that indirectly
8 I recall—and I don't even remember who told me this—
9 that this had been an agreement between the county judge
10 and the county commissioner and perhaps another county
11 commissioner, and I think that another county commissioner
12 has been indicted—

13 SPEAKER CLAYTON: Mr. Canales calls a
14 point of order. The gentleman's time has expired. The
15 point of order is well taken and sustained.

16 MR. WASHINGTON: Mr. Speaker?

17 SPEAKER CLAYTON: Mr. Washington.

18 MR. WASHINGTON: Parliamentary inquiry.

19 SPEAKER CLAYTON: State your inquiry, Mr.
20 Washington.

21 MR. WASHINGTON: By what burden of proof
22 will we ultimately measure the truth or falsity of these
23 allegations when we vote on them? Is it by preponderance
24 of the evidence or beyond a reasonable doubt in the mind
25 of each member?

1 SPEAKER CLAYTON: I think that will have
2 to be the decision of each member, Mr. Washington.

3 MR. WASHINGTON: Parliamentary inquiry.

4 SPEAKER CLAYTON: State your inquiry,
5 Mr. Washington.

6 MR. WASHINGTON: Since Mr. Chavez has
7 alluded to what is known in law as circumstantial evidence,
8 and since the test for the truth or falsity of circum-
9 stantial evidence is whether the evidence to be believed
10 excludes every other reasonable hypothesis except the
11 proposition cited; that is, whether or not Mr. Chavez
12 is to sustain the burden since he has placed it upon
13 himself, that measure of evidence, circumstantial
14 evidence, may the members then consider the general
15 test of circumstantial evidence which is that in order
16 to convict or make a decision based upon circumstantial
17 evidence, it is not enough that the circumstances render
18 probable the desired result but they must exclude every
19 other reasonable hypothesis except the defendant's guilt,
20 and that the circumstances taken on a whole must beyond
21 a reasonable doubt and to a moral certainty show that
22 that person and no other person is guilty of the offense
23 charged?

24 SPEAKER CLAYTON: Mr. Washington, that
25 may be the test to the Senate. I think each member of

1 this body is going to have to make its mind up in its
2 own way, whether or not to vote on the articles of impeach-
3 ment.

4 MR. WASHINGTON: One further parliamentary
5 inquiry.

6 SPEAKER CLAYTON: State your inquiry.

7 MR. WASHINGTON: Is our basis whether
8 there is probable cause of the truth or falsity of the
9 allegation made? We can't just shoot in the dark, Mr.
10 Speaker, on a hunch, on a notion. I think that due
11 process and our laws require more than that. What is
12 the measure by which ultimately these members, lay and
13 lawyer alike, may make that decision that is very
14 important to some people? That is, what is the measure
15 by which we determine whether there is probable cause
16 that Article I should be sent to the Senate for a vote?

17 SPEAKER CLAYTON: Mr. Washington, I don't
18 know that anyone could answer that question for you. I
19 think that after the study of the committee report and
20 after hearing the article debated and after looking at
21 the documents and transcripts of the hearings, that each
22 individual member is going to have to make that deter-
23 mination for himself.

24 MR. WASHINGTON: Mr. Speaker, then in that
25 regard I would like to raise a point of order against

1 further consideration of these proceedings, in that the
2 special committee appointed by the Speaker has had
3 pursuant to the resolution creating that authority the
4 delegation of a non-delegable duty. That is, it is the
5 duty of this House to consider and vote upon the articles
6 of impeachment. And I think that if we're going to
7 resort to mere whim and if members are going to be
8 required to speculate on a result without having heard
9 the testimony—not that I would question the truth or
10 veracity of any other member—but it's obvious each time
11 a member gets up there that his presentation is made on
12 judgments, his own, and not mine, and that I'm called
13 upon at this time to make a very important decision
14 without having any guide or standard by which I may
15 measure not only the judgments of these other persons
16 but ultimately the conduct of the person in question.

17 SPEAKER CLAYTON: Mr. Washington, this is
18 a committee report, similar but yet different to what
19 we consider after—in any session of the Legislature—
20 where a committee makes its report. The members have to
21 weigh the fact of the committee report, and the committee
22 itself is the ones that hears the testimony and comes to
23 the conclusion of what is best to present to the House.

24 This is exactly what this committee did, and
25 through its report the members are to weigh in their own

1 minds whether or not they feel that the report is proper
2 and whether or not it should receive affirmative or
3 negative vote.

4 MR. WASHINGTON: Mr. Speaker, I agree with
5 you, and I'm not chubbing and I'm not contesting the
6 committee report, you know, but contrary to what anybody
7 else may believe, we're going to do this right or we're
8 not going to do it at all. I suggest to you that that
9 is not enough of a standard by which a person sitting
10 out here, whether they've heard the presentation or not,
11 may determine whether they're doing the right thing;
12 that is, not whether we're in a hurry to go home, but
13 whether or not justice will be done. And I submit that
14 there must be at least a determination that there's
15 probable cause, that the truth or falsity of the committee
16 report as respects Article I does or does not exist.
17 And if we don't have that mere semblance of judicial
18 proceedings since we're sitting as a quasi-judicial body,
19 then this whole procedure is a mockery.

20 SPEAKER CLAYTON: Mr. Garcia.

21 MR. GARCIA: Mr. Speaker?

22 SPEAKER CLAYTON: For what purpose?

23 MR. GARCIA: To follow up on Craig
24 Washington's contentions, I think that we've been working
25 since approximately ten o'clock this morning, and I think

1 it might be a good time for this committee to go back
2 into session and determine what guidelines this House is
3 to follow. I think that Representative Washington has
4 raised a very valid point because I've had members walk
5 up to my desk and say, "What are we bound by? What
6 instructions are we to get? What must we expect this
7 committee to submit to us to satisfy us that articles
8 of impeachment should be returned?"

9 I think that Representative Hale, being an
10 excellent lawyer and he having several on the committee,
11 I think that he and these other lawyers can get together
12 and come up with a good, solid instruction as to the
13 burden that must be discharged by the committee, so that
14 those members who then may not be interested in the
15 outcome of this thing and they're going to vote merely
16 because they like the particular individual who is
17 presenting one of the articles, can at least have some
18 guidelines to be bound by. And I believe that it's time
19 that this was delineated for the benefit of the member-
20 ship. Whim and fancy is not enough in this case, Mr.
21 Speaker.

22 SPEAKER CLAYTON: Mr. Garcia, this burden
23 again, I must remind you, falls on each individual member
24 of this House. These decisions must be made individually,
25 and it is not the responsibility of the committee to do

1 anything other than to make its report to the House,
2 which they are doing.

3 MR. GARCIA: Mr. Speaker, that would be
4 tantamount to telling a grand jury that, "I'm not going
5 to tell you what you must demand of the district attorney's
6 office in the presentation of the case."

7 Those on this side of the House can vote "aye"
8 for impeachment because they like the man who's presenting
9 it. Those of this side may establish other restrictive
10 guidelines that they're going to be bound by. And I don't
11 think that it was the intention of the framers of our
12 Constitution when they inserted the matter of impeachment
13 therein that it should be a fancy or a whimsical thing
14 when something that is serious and something that all of
15 us must be bound by.

16 MR. DONALDSON: Mr. Speaker, point of order.
17 Point of information.

18 SPEAKER CLAYTON: State your point of
19 information.

20 MR. DONALDSON: For what purpose has Mr.
21 Garcia been recognized?

22 SPEAKER CLAYTON: For parliamentary inquiry,
23 Mr. Donaldson.

24 MR. DONALDSON: I make a point of order
25 that his statements are not in the nature of a parliamentary

1 inquiry.

2 SPEAKER CLAYTON: Mr. Donaldson, the
3 Speaker is not going to engage in a debate with Mr.
4 Garcia on the issues that he raises, once again, stating
5 that each member of this House knows their own Consti-
6 tutional rights and responsibilities and duties they're
7 under, and it shall be up to them to make up their
8 decision as to how they vote on this committee report.

9 So, Mr. Garcia, I'm just not going to enter
10 into debate with you on it.

11 MR. GARCIA: Yes, sir. It's not my
12 intention to debate the Speaker nor to be disrespectful,
13 but I was hoping that the record in this proceeding
14 would speak out that there was some instruction given
15 specifically to those members who are not lawyers and
16 who wouldn't know probable cause if it walked up and
17 slapped them in the face, Mr. Speaker.

18 SPEAKER CLAYTON: Mr. Garcia, I think it
19 should also be noted—and I believe and I hope that the
20 members realize this—that this body is not making on a
21 vote of articles of impeachment a statement of innocence
22 or guilt, but merely suggesting if the articles pass that
23 there should be cause for trial. If they feel that there
24 is not cause for trial then they should vote "no" but
25 they are not voting on innocence or guilt.

1 The question now is on the adoption of Article I.
2 All those in favor of the adoption of Article I will
3 vote "aye". All those opposed will vote "no". It's a
4 record vote. The Clerk will ring the bell.

5 Have all members voted?

6 There being 123 "ayes", 19 "nays", two present
7 not voting, Article I is adopted.

8 The Chair recognizes Mr. Hendricks for an
9 explanation of Article II.

10
11 PRESENTATION OF ARTICLE II

12 MR. HENDRICKS: Mr. Speaker and Members,
13 Article II has four parts in it, and it does concern the
14 Manges-Guerra case and the Parr case, the Duval County
15 grand jury, and the Benavides Independent School District.

16 The first part of Article II concerns the case,
17 Clinton Manges versus M. A. Guerra, and that was a case
18 originally filed in the 229th District Court, I believe,
19 in 1968. This was prior to the time that Judge Carrillo
20 took office. Well, between '68, the time this case was
21 filed, and to date, Mr. Manges has gained control of the
22 First State Bank and Trust Company of Rio Grande City,
23 of course the Duval County ranch, and many, many holdings.

24 The Cuerras testified before our committee.
25 Mr. Guerra and, I believe, his family owned some land in

1 Duval and surrounding counties, and this case involved
2 a transaction with Mr. Manges in which he was purchasing
3 the land. The suit involved a suit to try to set aside
4 the purchase.

5 As I say, Mr. Guerra did testify. He gave us
6 his side of the story, and we did have before us under
7 subpoena Clinton Manges—who I assume was Clinton Manges
8 even though he took the Fifth Amendment when we asked
9 him his name and whether he was married and so on and
10 so forth.

11 Well, the facts of the case really do not make
12 too much difference because what this article is based on
13 is whether or not, when this case came before Judge
14 Carrillo, he should have tried it or disqualified himself
15 from trying the case.

16 Judge Carrillo through Mr. Manges acquired
17 ten shares of stock in the bank of which Mr. Manges was
18 president. These ten shares were estimated to be valued
19 at some \$750 a share. He was named to the board of
20 directors. We have a check in the amount of \$6,915.55
21 over here if you want to look at it. It is a photostatic
22 copy. We could not get the original check, and I'll tell
23 you that. That check is signed by Clinton Manges. It's
24 made out to a Cadillac dealer, and it's marked "For O.P.'s
25 Cadillac."

1 In this transaction there was also a deal made
2 whereby the judge could graze his cattle on some several
3 thousand acres of land that Mr. Manges acquired, although
4 there was testimony that there was to be consideration
5 passed of this. There was no testimony that any consider-
6 ation ever passed.

7 Well, all of these things transpired. Yet the
8 judge after a motion being filed to disqualify him from
9 sitting in the case, he refused to disqualify himself,
10 and he confirmed this purchase.

11 Now, all of these exhibits are over here. I'm
12 not going into detail on them. You can all read. You
13 can check— Bob Vale can't get but two volumes at a time.
14 Of course, I don't know how he can read but one volume
15 at a time. But you can come over here and read them.
16 I can quote the page number to you if you would like to
17 read it. I can show you this check.

18 But anyway, I think the crux of the matter is
19 when it went before Judge Smith on the matter of dis-
20 qualification. Judge Magus F. Smith heard the dis-
21 qualification hearing, and this is his determination of
22 the case, disqualifying Judge Carrillo from the case.

23 He stated:

24 "I don't see how a person in that pre-
25 dicament could possibly render an impartial

1 judgment."

2 Gentlemen, of course, I tend to place judges a
3 little above the ordinary cut, and I would like to see
4 them remain there. There are certain rules that they
5 have to go by; there are certain rules of conduct; there
6 are rules of ethics of the American Bar Association.
7 They have to be looked up to by the public. And when
8 you've got a personal friend, someone that you have this
9 many business dealings with and you refuse to disqualify
10 yourself in a case in which he has such a strong financial
11 interest, then you're violating not only the law but
12 the canons of ethics. You're destroying yourself in the
13 public's image.

14 The second part of Article II involves a case
15 just recently tried in which Judge O. P. Carrillo removed
16 Archer Parr from the county court bench down here in
17 Duval County.

18 Well, there is not a member of this committee,
19 as we heard this, that did not think that Judge Parr
20 shouldn't be removed from the bench. There's no question
21 about that. But here you've got a judge that has openly
22 fought the man. He stated in the papers that they're
23 enemies. They've openly split. And there's a motion
24 filed to disqualify from hearing that case, and he will
25 not disqualify himself. He not only sits and hears the

1 case, he takes it away from the jury and renders an
2 instructed verdict. He didn't even let the case go to
3 the jury.

4 Well, it is not the fact that the man was
5 removed from the bench. I want to make that clear. It's
6 the fact that he's the man that did it. He should have
7 taken himself off of the bench and removed himself and
8 let some disinterested judge come in and try the case.

9 MR. COLEMAN: Mr. Speaker?

10 SPEAKER CLAYTON: Mr. Coleman.

11 MR. COLEMAN: Will the gentleman yield?

12 SPEAKER CLAYTON: The gentleman yields,
13 Mr. Coleman.

14 MR. COLEMAN: Mr. Hendricks, my question
15 in regards to Article II, and one of the things that's
16 bothered me when I just heard the overview given by Mr.
17 Maloney and subsequently when you talked about subsections
18 number one and two, let me ask you this question: What
19 is the population of Duval County? Did you all have that
20 information in the committee?

21 MR. HENDRICKS: I do not have— It's a
22 small county, but I do not have the information, Ron.

23 MR. COLEMAN: How many district judges
24 serve that county?

25 MR. HENDRICKS: The 229th covers three

1 counties down there, and it is under-populated, is my
2 understanding.

3 MR. COLEMAN: I'm sorry. I couldn't quite
4 hear you.

5 MR. HENDRICKS: There is not population
6 enough in all three counties to actually justify a
7 court, but it does serve three counties. I believe
8 that's Starr, Jim Wells and Duval, if I'm not mistaken.

9 MR. COLEMAN: That one district court
10 then serves Duval County exclusively?

11 MR. HENDRICKS: Right.

12 MR. COLEMAN: Mr. Hendricks, you're from
13 a county that's not maybe real, real large, and mine's
14 not gigantic by any means. When we talk about political
15 differences perhaps between groups or between an indivi-
16 dual and a judge, first of all, I think we've got to come
17 to one premise, and that is that we do elect judges;
18 they are in the business of politics in the state of Texas.
19 We even, during the Constitutional Convention, we elected,
20 this body sitting as a convention, elected to keep them
21 political; that is, to keep them elected. I'm just
22 wondering whether or not in terms of articles of impeach-
23 ment we might not, by agreeing that these are reasons
24 for articles of impeachment, I'm wondering if we might
25 not be overstepping our bounds to some extent. I understand

1 recusing and disqualifying oneself is critical and
2 important to the fair administration of justice in this
3 state, but at the same time when you talk about a county
4 that's not real large, a county where naturally there
5 are those who are for and against a judge even at election
6 time, it seems to me that to recuse and disqualify
7 oneself in every instance would hinder the administration
8 of justice, and I just think that maybe we might be
9 overstepping our bounds, and in fact, by this particular
10 portion of Article II, the first two that you've just
11 gone over, it seems to me that quite possibly we've
12 gotten into an area that we shouldn't be getting into,
13 based on political reasons, and that bothers me. I'm
14 fearful about voting for such articles, such an article,
15 that would contain these specific provisions.

16 I was just wondering how you would—

17 MR. HENDRICKS: Ron, I could agree with
18 you to a certain extent. I mean, certainly a judge
19 couldn't disqualify himself just because he has a cup
20 of coffee with a man or he's known him all his life,
21 this, that, and the other. But when you reach the point,
22 as we have here, in which you serve on a bank board with
23 a man, there's been a check issued to a Cadillac dealer
24 marked "For O. P.'s Cadillac," you're grazing your cattle
25 on his land, and the intertwining of other testimony

1 throughout the entire committee— Then, the Parr matter,
2 and as I say, this has been done and it's all for the
3 good, but this man shouldn't have done it. But it's not
4 our— We're not trying the judge at all. That's not our
5 job. Our job is to say whether or not there is enough
6 evidence to send the matter across the ball and let the
7 Senate try it. That's not our job at all. We're acting
8 in a grand jury capacity, and in my opinion, probably
9 on preponderance of the evidence. That's what a grand
10 jury would act on is preponderance of the evidence.

11 MR. COLEMAN: Bob, I completely agree
12 with that statement that you just made about our function.
13 That's what bothers me to a large extent about number one
14 and two. We're talking about disqualifications of
15 judges, disqualifying themselves. And it seems to me
16 that that is an area which, of course, I think we'd all
17 agree the Judicial Qualifications Commission as set up
18 in the Constitution of the State of Texas is more
19 qualified to handle than are we. That becomes a problem
20 that I'm having with this article, mainly because we're
21 talking about the judge doing something in a strictly
22 judicial function that may or may not have a bearing on
23 a case. I think you and I could probably both in our
24 practice, Bob, cite instances where we thought it would
25 be wise or hopefully on one side or the other as attorneys

1 or litigants in a case it would be wise for a judge to
2 disqualify himself but he doesn't, yet we don't bring
3 articles of impeachment against him for that reason.
4 Indeed, the solution that attorneys would use, I would
5 think, in this state would be to send such things to
6 the Judicial Qualifications Commission if it appeared
7 that there was an abuse of this authority. And I'm just
8 saying to you that I understand our function, but to
9 ask in articles of impeachment a judge to even assume
10 that there's probable cause to believe— Number one in
11 there, the case of Manges versus Guerra, that has strong,
12 in my mind, strong implications that there was wrong-
13 doing on the part of a judge, but particularly, in the
14 second one, Nichols versus Parr, just from what I've
15 been told there, the fact that the man publicly splits
16 from the party, is not, in my mind, in and of itself
17 sufficient— If you understand what I'm getting to, Bob—

18 MR. HENDRICKS: Let me make two more point,
19 one of them concerning the Guerra trial. Let me go back
20 and reiterate what Judge Smith said, who heard this, and
21 we have that transcript over here too if you'd like to
22 read it, the entire proceeding on the disqualification
23 hearing concerning the Manges case.

24 He went through all of it. He saw all of the
25 investments. But this is his statement, a finding of fact

1 in that case, is that that man cannot possibly render
2 an impartial verdict with all of these financial ties
3 with that man. That's what Judge Smith said; not me.
4 It's not what the committee said. This is a finding of
5 the fact by another district judge, an impartial judge.

6 MR. COLEMAN: What about on Nichols?

7 MR. HENDRICKS: Then let me go to the
8 Nichols versus Parr case. Do you know who Nichols is,
9 Jose Nichols?

10 MR. COLEMAN: Yes, sir.

11 MR. HENDRICKS: He's the foreman of the
12 grand jury, the present grand jury. Do you know who he
13 works for?

14 MR. COLEMAN: Duval County Cattle Company.
15 Is that right?

16 MR. HENDRICKS: Yes. He is Clinton
17 Manges' foreman of the Duval County Cattle Company. He's
18 also foreman of the grand jury. Well, he's the one that
19 sued Parr.

20 MR. COLEMAN: He's the one what?

21 MR. HENDRICKS: He's the one that brought
22 the suit against Parr to put him off the bench.

23 As I say, I have no quarrel with the outcome
24 of that lawsuit. My quarrel with the fact is that the
25 judge should have put a disinterested judge on the bench

1 and let him try it. He certainly should not have
2 rendered an instructed verdict and took the matter away
3 from the jury. He should have let a jury decide it.

4 MR. COLEMAN: Well, Bob, there's exactly
5 the kind of point I'm getting to. You say he should not
6 have rendered an instructed verdict. That goes behind,
7 that's the veil, that goes behind what the court's
8 function is. And I don't know that that is proper for
9 this body in considering articles of impeachment to con-
10 sider. That's the only point I'm making. It's something
11 that concerns me.

12 MR. HENDRICKS: Well, I can agree with that,
13 and maybe we disagree, but as I say, this all makes up
14 Article II, and if you will let me go on before my time
15 runs out, I would like to complete the article.

16 All right. The third part of Article II con-
17 cerns the membership of the grand jury itself. Now,
18 this grand jury was impaneled in February of this year,
19 and the grand jury commissioners, appointed by Judge
20 Carrillo, were Roberto Elizondo, who is the judge's
21 court reporter, Morris Ashby, and Manuel Amaya. Ashby
22 is the executive vice president of the Duval County
23 Ranch Company, and of course, he's employed by Clinton
24 Manges, and Manuel Amaya is an immediate past employee
25 of Clinton Manges and the Duval County Ranch Company.

1 Well, they selected a grand jury, and seven
2 of those twelve members are either directly related by
3 blood to the judge or they are employed by Clinton
4 Manges; the foreman is Jose Nichols, his foreman. Well,
5 that in itself is not enough to say, "Well, he influenced
6 the membership of it," but you can go further, and you
7 take the testimony of Aurelio Correa, who was the
8 superintendent of the schools, I believe in Freer. I
9 could be mistaken there. It's in the transcript. He's
10 the secretary of the grand jury, and he came in and told
11 his story to us about a meeting prior to the first
12 meeting or even the announcement of the grand jury, in
13 which he met with Clinton Manges and Mr. Amaya, and at
14 that time he was told by Mr. Manges just what this
15 grand jury was going to consider, what they were going
16 to investigate, who was going to be foreman of it, and
17 that he was going to be secretary of it.

18 Well, all of you know that a grand jury is,
19 under our law, a secret thing that makes investigations
20 in secret. Their proceedings are secret and certainly
21 should not be flaunted out in public. There's no way
22 that if the makeup of this grand jury was not influenced
23 by Mr. Manges or Judge Carrillo that they would even
24 have knowledge of who was going to be secretary, who
25 was going to be foreman.

1 They went further in a conversation, and that's
2 recorded in Volume XIV over here, when the point was
3 raised that, "Well, maybe some of our own people might
4 get in trouble," and Manges was quoted as making the
5 statement, "These people that we feel we can grant
6 immunity to, we will grant immunity to."

7 This all goes to violating the entire grand
8 jury process, and nothing—there's been no indictments
9 come out of the grand jury except enemies of Judge
10 Carrillo, to my knowledge or to the knowledge of the
11 committee. There may have been, but even so, even if
12 they've been a good grand jury, the way it was made up
13 violated every law that we've got.

14 Going to the fourth article or fourth part of
15 Article II—

16 MR. VALE: Mr. Speaker, will the gentleman
17 yield for questions on this specific section?

18 MR. HENDRICKS: I'll yield when I finish
19 my remarks.

20 SPEAKER CLAYTON: The gentleman will yield
21 when he finishes his remarks, Mr. Vale.

22 MR. HENDRICKS: Going to the fourth part
23 of Article II, concerns the Benavides Independent School
24 District. Of course, Judge Carrillo lives in Benavides.
25 And it alleges that the judge conspired with others to

1 dominate and control the Benavides Independent School
2 District by arbitrarily suspending and removing from
3 office his political opponents. Of course, we have
4 testimony. He, on March 18th, 1975, after he publicly
5 announced he split with Parr, there was a suit filed
6 in which four members of the Benavides School District
7 were automatically removed by a stroke of his pen.
8 There was no hearing granted to these people. The
9 hearing was set up later, but it was postponed and post-
10 poned until the time ran the law, and they had no chance
11 to really go into the court system and decide whether
12 or not they were disqualified or not.

13 The appointments he made on this were Morris
14 Ashby again, Pete Hunter, Lionel Garza, and Bill Ham.
15 All right. Three of them stayed on there for a while,
16 but Bill Ham made a statement to the Corpus Christi
17 paper that he was a Parr supporter. Well, the next day,
18 Bill Ham was removed from the school board, and there
19 was an appointment made in his place.

20 Well, all of these things intertwine with each
21 other to show what power has been grabbed or is trying
22 to be grabbed, and we're the only ones that can do
23 something about it. Here's a man that right now has
24 the grand jury his control. There's a new one today
25 that he's impaneling in Duval County. I'm anxious to see

1 what the makeup of it is.

2 The Benavides School District right there; he's
3 removed who he didn't want on the board. They threw out
4 something about they had paid two attorneys too much
5 money, but these attorneys were never indicted. There
6 was nothing ever said about it, but he did get his
7 enemies off of that. And they split with the school
8 board there. That goes back publicly because there was
9 a lady by the name of Parr wanted to run for the school
10 board, and D. C. Chapa, the judge's father, wanted to
11 run too. And he thought that Mrs. Parr ought to quit
12 and she wouldn't. And that caused a split there.

13 But all of this testimony is intertwined, it
14 it is real confusing. We sat up here for two months
15 and listened to it.

16 And let me say this: When I went into this
17 thing, I went in as a defense attorney. I am a defense
18 attorney. It's been 23 or 24 years since I've been a
19 district attorney, and my leanings are that way. I went
20 in on the judge's side, and if there had been any way
21 in the world that I could have voted to help the man I
22 would have. But, gentlemen, the testimony is here, and
23 we're the only ones that can do anything about it.

24 If you let the Judicial Qualifications Commis-
25 sion do something, it may be three years from now, and

1 then he can turn around and run for office again.

2 But I think we should let the Senate try this.
3 I think it's a matter that they should try.

4 Mr. Speaker, I'll yield.

5 SPEAKER CLAYTON: The gentleman yields,
6 Mr. Vale.

7 MR. VALE: Mr. Hendricks, would it be
8 accurate to say that down in Duval County you pretty well
9 have two political camps, and just about everybody down
10 there is on one side or the other?

11 MR. HENDRICKS: Well, I would fairly say
12 that would be an accurate statement, from what I've heard.

13 MR. VALE: All right. Then if we have
14 the situation that you have a district judge down there
15 and—

16 MR. HENDRICKS: You know, we've got two
17 camps up in my area. There are Democrats and Republicans.

18 MR. VALE: Well, I was going to get to
19 those too later, you know, just talking about them too,
20 Mr. Hendricks.

21 But in this subsection two of Article II, you
22 know, where apparently there is this article of impeach-
23 ment based upon the fact that the judge failed and refused
24 to disqualify himself in a case where his political
25 opponent was involved on the other side. Being that we

1 have to know the area down there, that it is a political
2 camp with everybody on one side or the other, now we
3 have a situation here where your committee, this committee,
4 says we should recommend articles of impeachment because
5 the judge decided not to disqualify himself in a case
6 where his political opponent was on one side.

7 What is going to be required of a district
8 judge to do in a case where his political ally, just
9 like Mr. Manges, is on one side?

10 Now, the reason that I say that, Mr. Hendricks,
11 is because we're coming down here to a situation that it
12 is going to be impossible for any district judge down
13 there in Duval County, in Starr County, to sit in judg-
14 ment on any case because every person that is going to
15 come before that judge that resides in that district is
16 going to be either a political opponent or his political
17 ally.

18 MR. HENDRICKS: Is that a question? Do
19 you want to know the solution to it?

20 MR. VALE: Yes.

21 MR. HENDRICKS: We can abolish that court.

22 MR. VALE: That's right. We should never
23 have created it in the first place.

24 MR. HENDRICKS: I'll agree with that.

25 MR. VALE: All right. Now, but that's the

1 point we're coming to here. You know, if articles of
2 impeachment are going to be preferred on the basis that
3 a judge refuses to disqualify himself because a political
4 opponent is on one side, down there in this district
5 you are going to have a judge that is going to be unable
6 to preside in any case that comes up because it's going
7 to be a political ally or a political opponent on every
8 case.

9 MR. HENDRICKS: Well, now, are you making
10 a speech or asking a question?

11 MR. VALE: I'm asking, is that not a fact?

12 MR. HENDRICKS: If you want to make a
13 speech or talk against why don't you come down here.

14 MR. VALE: Is that not a fact?

15 MR. HENDRICKS: No, it's not a fact. If
16 that judge cannot hold himself up above anything that
17 will influence his verdict, he does not need to be
18 sitting on the bench. And I'm not going to turn my
19 back on it, and I do not ask these House members to turn
20 their back on it and say, "Well, that's Duval County.
21 Let's just forget about it and go on." That's what
22 we've done for so long, so many years. And if we don't
23 do something about it now it will never be done.

24 MR. VALE: The next question is this:
25 Is failure to disqualify oneself from hearing a case,

1 is, that sufficient grounds for impeachment in and of
2 itself?

3 MR. HENDRICKS: Probably not, in and of
4 itself. I've seen it happen when I was personally as
5 an advocate in that court— Let me answer your question,
6 please, sir.

7 I've seen the times that I thought a judge
8 should disqualify himself and he didn't, and I disagreed
9 with him. But not when it happens on this magnitude.
10 I couldn't tie them up financially with a man like
11 Clinton Manges. I don't think we've got anybody up
12 there in Collin County that's got that much money anyway.

13 MR. VALE: But the question then is, Mr.
14 Hendricks, have there been many other occasions in this
15 state where a judge has failed to disqualify himself
16 in a case coming up before him, and the remedy in that
17 situation in the past has not been to impeach that judge
18 but rather for those litigants to appeal that case and
19 have a ruling on that point and settle it out rather
20 than impeaching the man.

21 Now, I want to talk about this other section
22 three, where the committee accuses the judge of con-
23 spiring with others to improperly influence the member-
24 ship and proceedings of the grand jury.

25 Now, in order to justify the allegation of

1 improper influence of membership, your committee here
2 states that what the judge did is he appointed three
3 friends of his as grand jury commissioners. He appointed
4 his court reporter, the executive vice president—

5 MR. HENDRICKS: Bob, if you want to ask
6 me a question, ask me a question.

7 Let me move along here. If you want to speak
8 against this—

9 Members of the House, in order to save time,
10 I move adoption of Article II, and I yield the floor.
11 If Mr. Vale wants to talk against it he can come on down
12 here and talk against it.

13 SPEAKER CLAYTON: Mr. Garcia, Mr. Vale,
14 do either one of you want to speak against this?

15 The Chair recognizes Mr. Garcia in opposition
16 to Article II.

17
18 PRESENTATION AGAINST ARTICLE II

19 MR. GARCIA: Mr. Speaker, Members, I'll
20 try and be just as brief as I possibly can because I
21 think that Representative Vale and Representative Coleman
22 touched upon the very points that Texas jurisprudence
23 speaks to with reference to judges.

24 There have been literally hundreds of cases
25 where someone has questioned the right or propriety of

1 a judge to sit in judgment of a particular case, and the
2 remedy has not been impeachment. It has been a motion
3 to disqualify; it has been an action such as was held
4 in this particular case.

5 I think that it might be of interest to you
6 members to know that in 1971 was when Judge Carrillo
7 allegedly took office. It was in 1973 when Judge Magus
8 Smith heard the case. Judge Magus Smith found that the
9 judge was not qualified to sit in the case because of
10 having a, quote, "pecuniary interest," and I am satisfied
11 that he did in truth and in fact have a pecuniary interest.
12 Judge Magus Smith sat the actions of the judge aside,
13 which is the normal procedure that is followed. The
14 lawbook is replete with situations exactly as this,
15 situations where judges have presided in cases where the
16 litigants have been related to him within the third
17 lineal group degree of consanguinity or affinity, where
18 they have had an interest as a stockholder in a corpora-
19 tion that is a party litigant. But the action has not
20 been to impeach. The action has been to go the appeal
21 route and have the judgment of that judge set aside.

22 Judges are quite zealous when they attempt to
23 impress the general public that they can sit in matters
24 of this type without having an interest. But in many
25 instances it is not sufficient because appellate courts

1 say that they should have disqualified themselves, and
2 that is exactly what happened in this case.

3 Now, if there had been any impropriety in
4 this matter, if there had been a violation of the canon
5 of judicial ethics of sufficient magnitude, then the
6 proper committee would have taken action against Judge
7 Carrillo.

8 I think that they have thrown this into this
9 particular proceeding, but I don't think that it is fair
10 to ask this House to return an article of impeachment
11 based on this.

12 Now, let's talk about the grand jury. And this
13 is one of the sub-charges that they have on Article II.
14 And the only thing that is required with reference to
15 the appointment of jury commissioners is that the district
16 judge appoint three commissioners; that they be intelli-
17 gent citizens of the county; that they be qualified
18 jurors in the county; that they have no suit in said
19 court which requires intervention of a jury; that they
20 be resident of different portions of the county; and
21 the same person shall not act as jury commissioner more
22 than once in the same year.

23 Now there is nothing in this particular rule
24 that says that a judge cannot appoint a friend to act as
25 grand jury commissioner. There is nothing in this rule

1 that says that a judge cannot appoint an ally. And I
2 know of no judge—and I've been practicing law 24 years—
3 who goes out and seeks an enemy to sit as a grand jury
4 commissioner.

5 It goes further and states what the duties of
6 the grand jury commissioners are. It says that "they
7 shall select not less," once the commissioners have been
8 appointed, "that they will select not less than fifteen
9 or more than twenty persons from the citizens of different
10 portions of the county to be summoned as grand jurors
11 for the next term of court."

12 We had a situation in Bexar County that occurred
13 rather recently where a judge appointed his daughter to
14 act as grand jury commissioner. Now, there is no one
15 closer to a judge than one's blood and kin. But to say
16 that Judge Carrillo should be impeached on this basis
17 would be to say that the judge in our county should be
18 impeached because he named his daughter as a grand jury
19 commissioner.

20 And we don't have to go as far as Bexar County.
21 Right here in Travis County the judge appointed three
22 commissioners. One of the commissioners—I'm sorry.
23 Five commissioners. One of the commissioners appointed
24 himself. One of the grand jury commissioners appointed
25 himself to sit as a grand juror. The other commissioner

1 appointed his wife. The third commissioner appointed
2 himself. Out of the five, four of them either appointed
3 themselves or a member of their family. And there is
4 not one case, one case in the state of Texas, and not
5 one case in any jurisdiction in the United States, that
6 says that this is illegal.

7 It may smack of something improper, but it is
8 not illegal.

9 Gentlemen, we can run roughshod in this impeach-
10 ment proceeding, and we can go right down the line and
11 return each article of impeachment as has been requested
12 by this committee. But I think that we have a duty to
13 ourselves to show some credibility in our actions today
14 and in the days to come; that we should not accept all
15 of the contentions of this committee as being worthy
16 of returning an article; that they must be impeachable
17 offenses. And I submit, gentlemen, that this is not
18 an impeachable offense, and I ask you to vote "no" on
19 this particular article.

20 SPEAKER CLAYTON: Mr. Hendricks to close.
21
22
23
24
25

1 office. We can't do it. But do we have enough evidence
2 to send it across the hall? I say we do. And that's
3 what I say we should do with it. I move adoption of
4 Article II, Mr. Speaker.

5 SPEAKER CLAYTON: Okay, Members. The
6 question now is on the adoption of Article II. All those
7 in favor of the adoption of Article II will vote "aye,"
8 all those opposed will vote "no." It's a record vote.
9 The Clerk will ring the bell.

10 Show Mr. Washington voting "no."

11 Show Mr. Denson voting "aye."

12 Have all members voted?

13 Show Mr. Waters voting "aye."

14 Have all members voted?

15 There being 118 "ayes" and 27 "noes," Article
16 II is adopted.

17 Members, we're going to be adjourning shortly.
18 We're going to take advantage of the rain outside and try
19 to see if we can let it stop while Mr. Laney presents
20 Article III.

PRESENTATION OF ARTICLE III

1
2 MR. LANEY: Mr. Speaker, Members, this
3 Article III has to do with the district judge of the
4 229th diverting services of government employees to his
5 personal benefit when not entitled to receive these
6 services.

7 Included in this there was testimony by Cleofas
8 Gonzalez that he worked for the Farm and Ranch Store
9 which is owned by O. P. Carrillo and others.

10 MR. SHERMAN: Mr. Speaker, parliamentary
11 inquiry.

12 SPEAKER CLAYTON: State your inquiry,
13 Mr. Sherman.

14 MR. SHERMAN: Before we go further, this
15 House now has voted two articles of impeachment. They
16 are contained within a resolution. Nevertheless, we
17 have voted two articles whether or not we vote any
18 others. Does the constitutional provision which relieves
19 the judge of his duties now go into effect or do we have
20 to adopt the entire resolution even if only these two
21 are in it?

22 SPEAKER CLAYTON: The substitute is not
23 yet adopted, Mr. Sherman.

24 MR. SHERMAN: We have to adopt the resolu-
25 tion then, even though we have adopted two articles of

1 impeachment?

2 SPEAKER CLAYTON: That is correct.

3 Proceed, Mr. Laney.

4 MR. LANEY: Okay. Before the committee,
5 Cleofas Gonzalez testified that he was employed by—or
6 was paid by the county but worked in the Farm and Ranch
7 Store, which was a retail outlet for farm and ranch
8 supplies.

9 Also, Pat Gonzalez, until his death sometime
10 in 1973, also worked at the Farm and Ranch Store, was
11 paid entirely by county funds.

12 Francisco Ruiz was employed by Duval County
13 and worked on Judge Carrillo's ranch.

14 Also Oscar Sanchez was employed by Duval County,
15 was a paid employee by Duval County, and did work on
16 O. P. Carrillo's ranch in the form of constructing a
17 water reservoir.

18 Patricio Garza, we had testimony that he was
19 employed by Duval County and worked on O. P. Carrillo's
20 ranch as a cook.

21 We had testimony by Octavio Hinojosa, the
22 assistant county auditor of Duval County, that substantia-
23 ted the fact that these people were employed by Duval
24 County, were paid by Duval County, and in the record we
25 have warrants that show that these people were in fact

1 paid by Duval County.

2 We had testimony by Cleofas Gonzalez that he
3 did in fact work for Farm and Ranch Store and was paid
4 in fact by the county. He also testified that Pat
5 Gonzalez, who died in 1973, worked for—was paid by the
6 county and worked for O. P. Carrillo.

7 We had testimony by Ruben Chapa that Pat
8 Gonzalez worked for the Farm and Ranch Store which was
9 owned by the Carrillos, O. P. Carrillo; that he testified
10 that Pat Gonzalez worked there. So that was collaborated
11 there.

12 We had testimony by Francisco Ruiz himself that
13 he did in fact receive a check from the county, was paid
14 in full by the county, and did do work on the ranch. He
15 testified that sometimes O. P. Carrillo's brother would
16 tell him to go to the ranch and do the work and sometimes
17 O. P. himself would tell him to go do the work. When
18 asked if he was ever paid by the judge himself, he said,
19 "No."

20 Mr. Octavio Hinojosa testified that all of
21 these people that I've mentioned before were in fact
22 paid by county warrants, and that was the only source of
23 income he knew they had.

24 Also Patricio Carza under questioning said he
25 had been working on O. P. Carrillo's ranch.

1 Mr. Speaker, if there's no questions, I move
2 adoption of this article.

3 SPEAKER CLAYTON: Anyone to speak against
4 Article III?

5 If not, the question is on the passage of
6 Article III. All those in favor will vote "aye," all
7 those opposed will vote "no." It's a record vote. The
8 Clerk will ring the bell.

9 Have all members voted?

10 Show Mr. Waters voting "aye."

11 There being 127 "ayes," 15 "noes," two present
12 not voting, Article III is adopted.

13 Mr. Laney stopped the rain.

14 Mr. Sullivan moves that the House stand
15 recessed until nine a.m. in the morning.

16 Is there objection?

17 The Chair hears none. The House accordingly
18 stands recessed until nine a.m.

19 (Whereupon, the House of Representatives was
20 recessed, to reconvene at nine o'clock a.m., on Tuesday,
21 August 5, 1975.)