

IN THE MATTER OF  
REPRESENTATIVE CHARLES C. DIGGS, JR.

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REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany H. Res. 378]



JULY 19, 1979.—Referred to the House Calendar and ordered to be  
printed

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(II)

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 96-  
1st Session } 351 VOL. II

IN THE MATTER OF  
REPRESENTATIVE CHARLES C. DIGGS, JR.

JULY 19, 1979.—Referred to the House Calendar and ordered to be printed

Mr. BENNETT, from the Committee on Standards of Official Conduct,  
submitted the following

REPORT

[To accompany H. Res. 378]

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, ]

v. ]

Criminal No. 78-142

CHARLES C. DIGGS, JR., ]

Defendant. ]

Washington, D.C.

September 27, 1978

The above-entitled matter came on for further  
hearing at 9:35 o'clock a.m. before:

HONORABLE OLIVER GASCH  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:

JOHN KOTELLY, ESQUIRE  
ERIC MARCY, ESQUIRE

ON BEHALF OF THE DEFENDANT:

DAVID POVICH, ESQUIRE  
ROBERT WATKINS, ESQUIRE  
BERNARD CARL, ESQUIRE

-ooo-

REGIS GRIFFEY  
Official Court Reporter

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1 THE COURT: Well, I see no reason why he  
2 shouldn't go into it if he wants to.

3 MR. POVICH: Okay.

4 MR. WATKINS: May I be heard?

5 MR. POVICH: That is fine.

6 THE COURT: When I have ruled in your favor,  
7 you don't want to dis-persuade me; do you?

8 MR. WATKINS: No, I don't.

9 THE COURT: Sometimes that happens, you know.

10 MR. WATKINS: I know that, Your Honor. Thank  
11 you, sir.

12 (In open court.)

13 THE DEPUTY CLERK: Bring in the jury, Your  
14 Honor?

15 THE COURT: Yes.

16 (Whereupon, the jury resumed their seats in  
17 the jury box and the following proceedings  
18 were had in open court:)

19 THE COURT: You may proceed.

20 MR. KOTELLY: The Government's first witness  
21 is John Lawler.

22 Whereupon,

23 JOHN LAWLER

24 was called as a witness by and on behalf of the Govern-  
25 ment and after having been first duly sworn was

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1 examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. KOTELLY:

4 Q Would you please state your full name for  
5 the record?

6 A My name is John Lawler.

7 Q Mr. Lawler, where are you presently  
8 employed?

9 A I am a certified public accountant, employed  
10 by the Office of the Clerk in the United States House  
11 of Representatives. My job is the Chief of the Office  
12 of Finance.

13 Q How long have you been employed at the United  
14 States House of Representatives?

15 A Since January of 1972.

16 Q And since that time, to the present, what  
17 positions have you held in the House of Representatives?

18 A I have been employed in the Office of the  
19 Clerk in the Equipment Service, the Office Supply  
20 Service or the Stationery Store, and then the Finance  
21 Office, taking the last position in January of 1975.

22 Q And were you made the Chief of the Office of  
23 Finance at that time?

24 A Yes, sir.

25 Q What, generally, are your duties as Chief of

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1 the Office of Finance?

2 A Our office handles financial accountability  
3 for the United States House of Representatives, disburses  
4 all of the funds, including payroll and the non-  
5 personnel expenditures, in addition we budget for the  
6 funds of the United States House of Representatives.

7 My particular position is administrative,  
8 serving as the Chief of that office. Part of the office  
9 is also associated with providing the personnel records  
10 for the employees of the House.

11 Q How many persons do you have working for you  
12 in the Office of Management of Finance?

13 A 60.

14 Q Mr. Lawler, you have indicated that you have,  
15 your office has some connection with the payroll; is  
16 that correct?

17 A Yes, sir.

18 Q What type of records or documents do you make  
19 or maintain as part of that function?

20 A Our office maintains all the original source  
21 documents that are, in a sense, a request to pay  
22 employees, down to the accounting records that are  
23 given to the United States Treasury accounting for those  
24 funds that are paid.

25 Q Could you state to the jury the types of

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1 records these are?

2 A Yes. In the area of personnel pay, it would  
3 include the request for us to disburse funds to an  
4 employee. That form is called the payroll authorization  
5 form, and all other related personnel papers to  
6 effectuate an appointment, these would include your  
7 papers such as a tax statement, mailing addresses, your  
8 health benefits, retirement and life insurance forms.

9 The other related copies include summaries of  
10 financial information for each particular Congressman  
11 so that we know that we are within their allowed budget.  
12 Other records would include those transmitted to the  
13 United States Treasury inasmuch as we actually write the  
14 checks at the House of Representatives, so there are  
15 summary documents, check numbers and those types of  
16 accounting documents.

17 Q What status or regulations govern the  
18 operations of the Office of Finance?

19 A We operate under regulations that have the  
20 effect of law that are promulgated by the Committee on  
21 the House of Administration, a committee comprised of  
22 members of Congress. Other applicable codes, statutes  
23 may also come into play.

24 Q The regulations from the House office, the  
25 House Committee on Administration relate to what as far

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1 as the functioning of the Office of Finance?

2 A These are the regulations that specifically  
3 establish an expense allowance or set a fund that a  
4 member may have to spend, and some of the rules and  
5 regulations or parameters surrounding that allowance.

6 Q Mr. Lawler, are you familiar with the Clerk-  
7 hire allowance?

8 A Yes.

9 Q What is the Clerk-hire allowance?

10 A The Clerk-hire allowance is a description of a  
11 set of funds that each member of Congress has available  
12 to pay his employees in the discharge of their official  
13 duties.

14 Q And these employees, is there any limitation  
15 as to where they can be located as far as their  
16 employment is concerned?

17 A The regulations, again this Committee on  
18 House Administration established that the employees are  
19 to perform their services in the Member's district or  
20 their state.

21 Q Are there any limitations regarding the  
22 employee's salaries regarding the Clerk-hire allowance?

23 A The limitation on the Clerk-hire allowance is  
24 one of a dollar amount. That is, the member of Congress  
25 cannot exceed so many dollars in a given month, as well

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1 as a personal ceiling on any individual staff member.

2 Q Is there any limitation as to the number of  
3 employees that a Congressman can employ for his official  
4 duties?

5 A Yes. The current level for each member of  
6 Congress is no more than 18 employees on the staff at  
7 one time.

8 Q And have there been other numbers increasing  
9 in years than 18?

10 A Yes. The allowances have been a rather  
11 dynamic set of allowances. They change over the course  
12 of time. It was increased to 18 from a prior level of  
13 16, I believe, in 1973.

14 Q Mr. Lawler, were you familiar with the  
15 operation of the Office Finance prior to your taking  
16 charge in January of 1975?

17 A Yes, in that we have had numerous requests  
18 to do studies on the allowances, and particularly in  
19 the area of budgeting, going back over to review the  
20 financial trends of spending in the House.

21 Q Are you familiar with the use of the Clerk-  
22 hire allowance from January of 1973 through the end of  
23 December of 1976?

24 A Yes.

25 Q Mr. Lawler, could you state to the jury

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1 exactly how an individual staff employee's salary would  
2 be generated?

3 A Yes. The actual employment of each staff  
4 member in the House of Representatives is at the  
5 discretion of the individual member of Congress. So, our  
6 office, the Finance Office, is a disbursing office  
7 handling only the accountability of the funds and the  
8 generation of the checks, the directives that we receive  
9 in order to know who to pay and how much money and out  
10 of whose account that the funds should be taken from  
11 are given to us in a form called the Payroll Authoriza-  
12 tion Form. This is signed by the appointing authority,  
13 and in the case of employees serving on a Member's  
14 staff, it would be the signature of the Congressman.

15 Committee chairmen, likewise, will sign off  
16 on their responsibility; Senators Committee Chairman.  
17 This form, together with the other personnel papers that  
18 establish the deductions for the employee, again  
19 referring back to the W-4 statements, for Federal with-  
20 holding, life insurance or retirement, other personnel  
21 benefits, mailing address, home address, things of this  
22 sort, are received by our office in the Cannon Building.  
23 This is the procedure that is followed then for a full  
24 appointment. That is, somebody that has not been on the  
25 staff before and they are merely making a change. These

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1 papers -- then the employment, plus each employee's  
2 individual papers are reviewed by the Personnel Section  
3 and we go back to look at prior service, benefits they  
4 may have had at another agency and so forth. They may  
5 or may not have had something in this area.

6 After we determine the prior benefits  
7 available, and the salary of the staff person to insure  
8 that he is not receiving a level of pay greater than  
9 that established by law, the forms then go to our Payroll  
10 Department.

11 In the Payroll Department, the appointment form  
12 of the member is reviewed where we are ensuring at this  
13 point that the limitation on the number of people, as  
14 well as the dollar limitation for the Member, is not  
15 exceeded by that particular appointment.

16 Our payroll system is one that is automated,  
17 so information is then added or entered into a computer.  
18 The information will remain the same month after month  
19 or pay period after pay period until we effectuate a  
20 change to the system.

21 After this information is entered into the  
22 payroll system these original documents are returned to  
23 a personnel file section still within the Office of  
24 Finance in the Cannon Building.

25 Q After the original appointment of an employee

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1 or person on the staff, what if any changes can be made  
2 in that individual's salary?

3 A Once an employee is appointed as a staff  
4 person, changes may be made any time in rate of pay,  
5 again assuming that it is within the prescribed limita-  
6 tions. Rates of pay are governed by the Member of  
7 Congress. Other personnel information, that could be  
8 changed, would include tax withholding and the address  
9 information. Certain type of benefit information may  
10 not be changed once elected, but that again is on the  
11 employee's side. It is not something that is determined  
12 by the hiring Member.

13 Q In order to change a salary, what type of  
14 form has to be submitted to the Office of Finance?

15 A The same form, the Payroll Authorization Form,  
16 and there is another box that tells you what acts need  
17 to be taken. Instead of checking "appointment", in the  
18 event it was a salary change, the box electing salary  
19 change would be marked. The form is dated, received by  
20 our office and is also one that requires a signature of  
21 the Member of Congress.

22 Q And what, if any, forms would have to be  
23 submitted regarding a termination of an employee?

24 A It is the same form, multipurpose form, really  
25 a Payroll Authorization Form, and again another election

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area that says, "termination".

Q The procedures that you have described have been for the employment of the personal staff of a Member of Congress.

Is there any difference in the procedures followed for an employee of a Committee?

A No, sir, not in the actual appointment. In the -- or at the end of the month, a certain summary, information that would be produced regarding the Congressional payroll is sent out to the appointing authorities. In the case of the Committee, that summary also had to be approved by another committee, the Committee on House Administration.

Q Now, the Clerk-hire allowance for each individual congressmen, did it vary from congressman to congressman?

A The Clerk-hire allowance in terms of both dollars and numbers of persons was constant throughout this area.

Q As far as each member of Congress?

A Right.

Q Would the Congressman's salary itself be part of the Clerk-hire allowance?

A No. The funds paid each member of Congress for their salary is a distinct operation, separate from

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this.

Q As far as staff members on a Committee, where would those funds for the payment of staff members come from?

A The allowance, itself, that a Committee has to pay for its staff is established by what we call a "resolution" each year.

Monies are specifically earmarked for the use by committees rather than by members. So, what we really have are three kinds of pools of money that can pay the employee as far as members of Congress or the committee chairmen are concerned.

One pool of funds, which we are calling the Clerk-hire funds, pay the individual staffs. The committees have two separate pools of funds. One term is just called standing committee employees, and another term, investigating committee employees, but they are employees of the committees of the House of Representatives.

Q Who is authorized to sign the Payroll Authorization Forms for committee staff members?

A The chairman of that committee is the authorizing official.

Q Mr. Lawler, regarding the Payroll Authorization Form itself, to your knowledge were there any changes

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any in the form, the printed form between the beginning of 1973 and the end of 1976?

A No, the form remained the same.

Q Are you familiar with that form?

A Yes, sir.

MR. KOTELLY: Your Honor, the Government has an exhibit which it has not premarked, and asks that it now be marked as Government Exhibit 63 for identification.

THE DEPUTY CLERK: Government's Exhibit 63 marked.

THE COURT: Has counsel seen it?

MR. KOTELLY: I don't believe so. We just got it late last night.

THE COURT: Allright. Show it to him.

BY MR. KOTELLY:

Q Mr. Lawler, I show you what has been marked as Government's Exhibit 63 for identification and ask you if you can identify the form?

A It is an enlarged facsimile of the Payroll Authorization Form used by us for the appointments.

Q How accurate is this enlarged chart?

A It appears to be identical.

MR. KOTELLY: Your Honor, at this time we would ask to have moved into evidence Government's Exhibit

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No. 63.

THE COURT: Do you wish to be heard, Mr. Povich?

MR. POVICH: No, Your Honor.

THE COURT: It will be received.

THE DEPUTY CLERK: Government's Exhibit No. 63 received in evidence.

(Whereupon, Government's Exhibit No. 63 was received into Evidence.)

BY MR. KOTELLY:

Q I would ask permission to put the chart on the board so that Mr. Lawler can demonstrate to the jury exactly what the form requires to be filled out.

THE COURT: Yes.

Locate the board in such a way that it is visible to the defense and to the jury, if possible.

MR. KOTELLY: Can everyone see?

BY MR. KOTELLY:

Q Mr. Lawler, I would ask you at this time to step down to Government's Exhibit 63.

Can it be seen by everyone now?

Mr. Lawler, I ask you to take this pointer and indicate to the jury the boxes that have to be filled out in order to perpetuate either appointment change of salary, or termination of an employee.

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1 A Okay.

2 Q Speak in a loud voice toward the jury, please.

3 A In an appointment, an appointment requires  
4 several bits of information. So, we will discuss that  
5 first. Changes are relatively straight forward.

6 Our office would need the employee's name, the  
7 social security number, what office or committee or,  
8 in other words which group of money that we need to  
9 charge this appointment to. The effective date of the  
10 appointment. This form may be received at any point  
11 during a month or the case of an appointment, salary  
12 change or termination. But the effective date could have  
13 a date prior to receipt. As an example, we could receive  
14 one of these appointing somebody September 15th. They  
15 would have to be serving prior to the effective date of  
16 the receipt of the form.

17 The type of action in smaller print here is  
18 "appointment, salary adjustment, termination." The  
19 latter two, I will discuss in a moment. The position  
20 title is usually designated by the appointing authority.  
21 It would not necessarily be an integral part of an  
22 appointment, however the gross annual salary is the  
23 rate of pay in annual terms, and the House of  
24 Representatives pays on a monthly basis. This particular  
25 area refers to the appointment of a committee employee.

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1 We talked about first there being a group of funds that  
2 Members had available to themselves for congressional  
3 appointment. That is, working on the personal staff,  
4 and then two groups of funds available if employees were  
5 serving at the pleasure of a Committee.

6 One box elects standing committee. The other  
7 box, special or select committee. Again, it is just  
8 telling us which particular set of funds the employee's  
9 salary is to be charged to. One of the two areas must  
10 be elected if this is a committee appointment. There  
11 wouldn't be no election if the employee were serving on  
12 the congressional staff of the individual Member. The  
13 form is dated. This particular area is for the signature  
14 of the appointing authority. Again, either the  
15 Congressman or committee chairman. This is the district  
16 and state representation. If the appointment were for  
17 the investigating staff of the committee, that is an  
18 election where I am indicating by the pointer, the  
19 appointment would also have to be approved by one other  
20 House committee, the Committee on Administration. The  
21 information at the bottom is internal for use by the  
22 Office Finance. Once this information, then, an appoint-  
23 ment is in the system, in our payroll system, we know  
24 the employee name and social security number and so forth  
25 So, the election of the other two do not require as many

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1 blocks to be filled out.

2 In the case of a salary adjustment, it is  
3 important that we have the employee name and the social  
4 security number, although the social security number  
5 wouldn't be required, because we know which office they  
6 are working for, so we could identify them in the case  
7 of a salary change. Next we need to know the effective  
8 date of the salary change, and again this is at the  
9 option of the appointing authority. It can come at any  
10 time. He or she may wish to change the salary. And  
11 lastly, the signature of the appointing authority.

12 If this particular employer were serving on  
13 more than one payroll, we would also need to know which  
14 office they are referring to that the salary should be  
15 changed. In the case of a termination, again the  
16 employee name, so we know who to terminate, social  
17 security number again is helpful, but not required, so  
18 we are sure we've got the right person. And the  
19 effective date of termination and the authorization or  
20 Payroll Authorization Form is signed by the appointing  
21 authority.

22 Q Thank you. You may resume your seat, please.

23 Mr. Lawler, in your explanation you made  
24 reference to certain information that was needed if an  
25 employee was on more than one payroll.

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Could you explain exactly what you meant by being on more than one payroll?

A Yes. Even though an employee is an employee of the United States House of Representatives, there are in a sense 439 different members of Congress, including the delegates and residence commissioner and also committees that they can be paid from. An employee may serve on more than one payroll. That is, could be on the payroll of two congressmen or in some cases certain positions on a committee and that of a congressman.

Q Are there any regulations or rules which relate to the way that the payment is made if an employee is on more than one payroll?

A There are no such rules about the method of payment, although the combined salary rates of both offices cannot exceed what a person can be paid from one office. There is a maximum limitation of pay that is on the employee, and the sum of his payments cannot exceed that maximum.

You have also indicated that either the Member of Congress or a chairman of a committee must sign the Payroll Authorization Form.

Do the regulations or rules of the Office of Finance allow that duty to be delegated to someone else by the Member?

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1 A The rules and regulations are again established  
2 by the Committee on House Administration and in our  
3 administering of the rules it is required that the  
4 members' signature be there.

5 Q Mr. Lawler, do you have any functions in the  
6 Office of Finance relating to the actual payment of a  
7 salary to employees?

8 A Yes. Our office, based on the information  
9 received from the payroll appointing forms and other  
10 personnel information actually generates the paycheck  
11 for each employee.

12 Q Was that true from the period of, beginning  
13 1973 through the end of 1976?

14 A Yes, sir.

15 Q Could you tell the jury, step by step, exactly  
16 what is done to initiate the payment of a check for an  
17 employee?

18 A Yes. When this information on appointment is  
19 entered by our payroll department into the computer  
20 system, approximately five days before the end of the  
21 month all the checks are written by the computer.

22 It is an in-house computer facility located  
23 in a building that is an annex of the House of  
24 Representatives.

25 After these checks are printed one of my

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1 staff members, together with a signature that will go  
2 over the signature plate, will affix the signature to  
3 the check, goes over to the in-house computer facility  
4 and all the checks are bursed or cut and signed.

5 These checks then were physically brought  
6 back to our office, usually under the accompaniment of  
7 a police escort, and in our office are then divided.

8 In the time period that you referred to, after  
9 1973 and prior to March of 1977, I believe, the check  
10 addresses were sorted so that all the checks would be  
11 by office code and whether or not they would be outside  
12 our mail system or inside our mail system. These two  
13 mail systems, I refer to one, the outside mail is an  
14 address that is away from our House Office Building.  
15 The inside mail refers to an address of room numbers in  
16 several of the House buildings.

17 After the checks were sorted, manually inserted  
18 in the envelopes and then sealed by machine we would  
19 call the House Postmaster's Office who would come to  
20 our office in the Cannon House Office Building and  
21 physically pick up those checks that were designated  
22 outside or inside mail.

23 In the case of checks that may be going to  
24 banks, and there were four or five financial institutions  
25 at that time. These were also sorted and they were

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personally picked up by the banking people.

Q What banks were there that would pick up these checks for the employees during the period 1973 through the end of 1976?

A There were, again as I recall, five financial institutions. The Riggs Bank, the National Capitol Bank, the National Bank of Washington and the American Security and Trust Company and the Credit Union at the House of Representatives.

Q Mr. Lawler, again regarding the Payroll Authorization Form, did the submission of a Payroll Authorization Form to you relate to any other month than the one it was submitted to you for?

A Only in effect future months, but could not relate to prior months.

In other words, when the Payroll Authorization Forms came in with an effective date of say September 1st, that will continue to generate an action in October, November and so forth until we receive another form changing that action.

Q If you received more than one Payroll Authorization Form for one particular employee in one particular position, how would you treat that?

A The office would be contacted. Now, this -- I am assuming are two Payroll Authorization Forms for

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the same position and the same office, not separate  
offices?

Q Correct.

A The office would be contacted and determined  
when it superseded the other. Usually, in these cases  
the latter appointment or the latter action is the one  
that would take precedence.

Q Mr. Lawler, if during the period of 1973  
through the end of 1976, if a member of Congress did not  
use the entire Clerk-hire allowance for that month, what  
would happen to the monies that were left over?

A Only one-twelfth of his annual allowance is  
available in any one month. If a balance existed at  
the end of the month it could not be used in succeeding  
months. Two and a half years later, any of these resid-  
ual funds, in accordance with normal Treasury procedures,  
were returned to the United States Treasury.

Q During that period of 1973 through the end of  
1976, the amount of money stated on the Payroll  
Authorization Form, for what purposes was that amount  
stated based on the regulations of the House Committee  
on Administration?

A Could I have you repeat the question, please?

Q Let me rephrase it.

The amount of salary indicated on a Payroll

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1 Authorization Form submitted to you and for what  
2 purpose was that amount of money, each month that was  
3 generated because of that Payroll Authorization, what  
4 could that money be used for?

5 MR. POVICH: Objection. May we come to the  
6 Bench?

7 THE COURT: Yes.

8 (At the Bench.)

9 MR. POVICH: Your Honor, it is my understanding  
10 that he is now going to testify as to what -- how  
11 certain money may be used.

12 MR. KOTELLY: No. I asked what was it for.

13 MR. POVICH: What it is for?

14 THE COURT: What kind of an answer do you  
15 expect?

16 MR. KOTELLY: For the employee.

17 THE COURT: That is a proper question. All  
18 right.

19 (In open court.)

20 BY MR. KOTELLY:

21 Q Mr. Lawler, let me repeat the question:

22 Regarding the salary amounts listed on the  
23 Payroll Authorization Form what allowable purpose would  
24 that be for the amount listed on the Payroll  
25 Authorization Form?

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1           A       It was payment for compensation to employees  
2 for their performance of official duties.

3           Q       Mr. Lawler, so far as the -- well, strike that  
4 question.

5                   Mr. Lawler, have you been subpoenaed to bring  
6 with you certain documents that are in your care,  
7 custody and control of the Office of Finance?

8           A       Yes.

9           Q       And have you turned over copies of such  
10 documents to the Government?

11          A       Yes.

12          Q       What type of documents have you prepared and  
13 given to the Government?

14          A       Copies of original documents from the indivi-  
15 dual personnel file folders relating to an appointment,  
16 salary changes, and termination of employees and  
17 certain summaries, including numbers and dollar amounts  
18 of disbursements made for salary payments.

19          Q       Were you specifically requested to bring with  
20 you Payroll Authorizations for an employee named  
21 Jean Stultz?

22          A       Yes.

23          Q       And the Payroll Authorization Forms that you  
24 turned over apply to what type of employment for  
25 Ms. Stultz, what positions, if you know?

000024



1           A     Appointments both at a committee employee  
2 position and at the congressional office level.

3           MR. KOTELLY: Your Honor, the Government has  
4 premarked as Government's Exhibit 1-A through 1-L --

5           THE DEPUTY CLERK: Government's 1-A through  
6 1-L marked for identification.

7                     (Whereupon, Government's  
8                     Exhibits Nos. 1-A through 1-L  
9                     was marked for identification.)

10          THE COURT: For the record, have they been  
11 made available to defense counsel?

12          MR. KOTELLY: They have been previously made  
13 available, yes, sir, Your Honor.

14 BY MR. KOTELLY:

15          Q     Mr. Lawler, while defense counsel is looking at  
16 the exhibits, let me ask you another series of questions.

17                     Was there any way to change an employee's  
18 salary other than through the Payroll Authorization?

19          A     Yes. Each year, usually in October and in this  
20 time period it was October of each respective year, the  
21 Government's cost of living could be passed on to the  
22 employees. However, it was optional for members or  
23 committee chairmen to authorize that increase.

24          Q     What type of forms would be submitted regarding  
25 the cost of living changes?

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3 A The change could be effectuated by the Payroll  
4 Authorization Form.

5 However, it was more common to submit a blanket  
6 form wherein the appointing authority elected either to  
7 give it the cost of living, that is to all of their  
8 employees, some or none.

9 Q Mr. Lawler, I show you what has been marked  
10 as Government's Exhibit 1-A through 1-L and ask if you  
11 can identify those documents.

12 A Yes.

13 Q How do you identify Government's Exhibit 1-A  
14 through 1-L for identification?

15 A The Exhibit 1-A through 1-L is identified by  
16 my initial on the back of the form.

17 Q What is Government's Exhibit 1-A through 1-L?

18 A Exhibit 1-A through 1-L is an exact copy of the  
19 original Payroll Authorization Form appointing or  
20 changing salary or other payroll action on Jean Stultz  
21 by Congressman Charles Diggs.

22 Q For what position is that?

23 A This is for a position on the congressional  
24 staff. The position title has been listed as:  
25 Legislative Secretary.

Q And for what time periods does Government's  
Exhibit 1-A through 1-L encompass?

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1           A       Government's Exhibit 1-A has an effective  
2 date of October 13th, 1972. Government's Exhibit 1-L,  
3 the last exhibit, has an effective date of August 31st,  
4 1976.

5           Q       What action was taken on exhibit, Government's  
6 Exhibit 1-L?

7           A       1-L is a termination.

8           Q       Have you compared Government's Exhibit 1-A  
9 through 1-L with the original documents which you have  
10 testified are in your custody?

11          A       Yes.

12          Q       How do they compare?

13          A       They are identical.

14          Q       Mr. Lawler, were you also requested to obtain  
15 information regarding the Treasury checks that were  
16 issued for Jean Stultz as a result of the Payroll  
17 Authorization 1-A through 1-L for identification being  
18 submitted to the Office of Finance?

19          A       Yes.

20          Q       What type of information did you have in your  
21 care, custody and control that would reflect such  
22 information?

23          A       Our office provided the employees under my  
24 direct supervision, and myself provided summaries for  
25 the employee including rates of pay and the check

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1 number from original payroll journals of the House.

2 Q And were these prepared under your direction  
3 and supervision and at your request?

4 A Yes.

5 MR. KOTELLY: Government's Exhibit 2 for  
6 identification, Your Honor.

7 THE DEPUTY CLERK: Government's Exhibit 2  
8 marked for identification.

9 (Whereupon, Government's  
10 Exhibit No. 2 was marked for  
11 identification.)

12 BY MR. KOTELLY:

13 Q Mr. Lawler, I ask you to look at Government's  
14 Exhibit No. 2 for identification and ask you if you can  
15 identify that document?

16 A Yes.

17 Q How do you identify it?

18 A By my personal initial and date on the back.

19 Q What is Government's Exhibit 2 for identifica-  
20 tion?

21 A Government's Exhibit 2 is a summary of United  
22 States Treasury check numbers and amounts issued to  
23 Jean G. Stultz between August of 1976 and September,  
24 1974.

25 Q And for what position would that relate to?

000028

1           A       For the positions authorized by the Payroll  
2 Authorization Forms in the earlier exhibit.

3           Q       Government's Exhibit 1-A through 1-L, you are  
4 referring to?

5           A       Yes, sir.

6           MR. KOTELLY: Government's Exhibit 4-A through  
7 4-E for identification, Your Honor.

8           THE DEPUTY CLERK: Government's Exhibit 4-A  
9 through 4-E marked for identification.

10                   (Whereupon, Government's

11                   Exhibit No. 4-A through 4-E

12                   was marked for identification.)

13 BY MR. KOTELLY:

14           Q       Mr. Lawler, I show you Government's Exhibit  
15 4-A through 4-E for identification and ask if you can  
16 identify those documents?

17           A       Yes.

18           Q       How do you identify those?

19           A       By my initial and date on the back of each  
20 copy.

21           Q       What is Government's Exhibit 4-A through 4-E  
22 for identification?

23           A       Exhibit 4-A through 4-E are copies of original  
24 Payroll Authorization Forms appointing, or otherwise  
25 effectuating some payroll action for Jean G. Stultz on

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1 the District of Columbia committee.

2 Q During the period, what period of time did  
3 those Payroll Authorizations relate to?

4 A Government Exhibit 4-A has an effective date  
5 of April 1st, 1973, and Government Exhibit 4-E has an  
6 effective date of September 30th, 1974.

7 Q During that period of time do you have  
8 knowledge as to who was the chairman of the House  
9 Committee on the District of Columbia?

10 A Yes.

11 Q Who was that?

12 A Congressman Charles Diggs.

13 Q Have you had an opportunity to compare  
14 Government's Exhibit 4-A through 4-E with the originals  
15 that are in your care, custody and control?

16 A Yes.

17 Q How do they compare?

18 A They are identical copies.

19 Q Regarding the employment of Jean Stultz on  
20 the District of Columbia Committee, did you cause to  
21 have a summary made as to the payments by check to her  
22 for those duties?

23 A Yes.

24 Q From what records did you obtain the  
25 information?

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1           A       The summaries were prepared from Payroll  
2 Journals of the House.

3           Q       Did you have an opportunity to compare that  
4 with any of the documents?

5           A       Yes.

6           Q       How did it compare?

7           A       They agreed.

8           MR. KOTELLY: Government's Exhibit 5 for  
9 identification.

10          THE DEPUTY CLERK: Government's Exhibit 5  
11 marked for identification.

12                   (Whereupon, Government's  
13 Exhibit No. 5 was marked for  
14 identification.)

15          THE COURT: All right.

16          BY MR. KOTELLY:

17          Q       Mr. Lawler, I show you Government's Exhibit  
18 No. 5 for identification and ask if you can identify it?

19          A       Yes.

20          Q       How do you identify it?

21          A       By my initial and date on the back of the  
22 form.

23          Q       What is Government's Exhibit 5 for identifica-  
24 tion?

25          A       Government's Exhibit 5 is the original summary

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prepared by our office on United States Treasury checks issued to Jean G. Stultz, paid from funds of the Committee on the District of Columbia indicating the date, dollar amount and Treasury check number.

Q Mr. Lawler, I believe on Government's Exhibit 5 for identification that there is one date for which there was no information furnished; is that correct?

A Yes. On Exhibit 5, the disbursement for January, 1974 in our payroll journal was not legible.

Q Were you able to determine independently as to whether, in fact, a check was disbursed on that date?

A Yes. A check was issued for January, 1974 by other accounting records in our office.

Q Regarding the salary as to Jean Stultz on the District of Columbia Committee --

A Yes.

Q -- Mr. Lawler, were you also subpoenaed to bring with you any copies of these cost of living increases for Jean Stultz as to her employment either on the District of Columbia Committee or her employment for Congressman Diggs?

A Yes.

Q As to the employment on the District of Columbia Committee, were you able to find any cost of

000032



living information?

A The original form that authorized the cost of living increase in October, we could not locate.

Q Did you independently try to ascertain as to whether there was any cost of living increase for Jean Stultz as far as her employment with the District of Columbia Committee?

A Yes. We were able to ascertain by other accounting records a salary increase effective in October.

Q Of what year?

A 1973.

Q And what type of records were you able to produce to reflect an increase with the -- for the cost of living?

A A monthly payroll summary, as well as a document from the computer facility showing us what cost of living or salary increases have been updated that particular month.

MR. KOTELLY: Your Honor, as our next exhibit I would ask to have marked for identification 4-F and G.

THE COURT: All right.

THE DEPUTY CLERK: Government's Exhibit 4-F and 4-G marked for identification.

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(Whereupon, Government's  
Exhibits Nos. 4-F and 4-G were  
marked for identification.)

BY MR. KOTELLY:

Q Mr. Lawler, I show you what has now been  
marked as Government's Exhibit 4-F and 4-G for identifi-  
cation and ask you if you can identify those documents?

A Yes.

Q How do you identify them?

A By my initial and date on the back of each  
one.

Q What are those documents?

A Government's Exhibit 4-F and 4-G are payroll,  
or copies of payroll change confirmation forms.

These are documents that are received by our  
office during that particular time period assuring us  
that the changes that we wanted in the computer system  
regarding payroll had been made.

Q And for what dates did the Government Exhibits  
4-F and 4-G for identification apply to?

A Government Exhibit 4-G is confirming certain  
payroll changes. The document is dated October 31st,  
1973, and information on the document would refer to  
any changes in the month of October in '73.

Government's Exhibit 4-F has the effective

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date confirming changes, dated June 29th, 1973. In the absence of any documents in between it would indicate the information stayed the same.

Q And to what employee and what position did these two documents relate to?

A Government's Exhibit 4-F and 4-G both relate to Jean G. Stultz as to her employment on the District of Columbia Commission.

Q And what salary changes is reflected in those documents?

A There is a salary change reflected. Government Exhibit 4-G is confirming a salary increase of \$14,000, rather -- not an increase, but a new salary rate of \$14,667.18, from a previous salary of an annual rate of \$14,000. \$14,000 is confirmed by Government's Exhibit 4-F.

Q And from your having reviewed the documents how was the change reflected in 4-G effectuated, if you know?

A Under normal procedures it would have been from a single form signed by Chairman Diggs of that committee authorizing increases for the month of October, probably related to the cost of living.

Q Would that have been the proper frame. That a cost of living change would have occurred?

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1           A     Yes, in 1973 that change took place in  
2  
3           October.

4                   MR. KOTELLY: Government's Exhibit 3-A through  
5           3-N, Your Honor.

6                   THE DEPUTY CLERK: Government's 3-A through  
7           3-N marked for identification.

8                                   (Whereupon, Government's  
9                                   Exhibits Nos. 3-A through 3-N  
10                                  were marked for identifica-  
11                                  tion.)

12                   MR. KOTELLY: And 6-A through 6-F for  
13           identification, Your Honor.

14                   THE DEPUTY CLERK: 6-A through 6-F, Govern-  
15           ment's Exhibits marked for identification.

16                                   (Whereupon, Government's  
17                                   Exhibits Nos. 6-A through 6-F  
18                                  were marked for identifica-  
19                                  tion.)

20           BY MR. KOTELLY:

21                   Q     Mr. Lawler, I would like you to look at  
22           Government's Exhibit 3-A through 3-N and merely ask  
23           you the form of the document. I ask if you can identify  
24           the form of the document?

25                   A     3-A through 3-N? Yes.

                  Q     And do you recognize the form of those

000036

documents?

A Yes. Government's Exhibit 3-A through 3-N are original Treasury checks issued by our office.

Q How do you identify them as being issued by your office?

A Our checking account number symbol is in the upper right corner, the facsimile signature for the authority to sign the paycheck, as well as other format on the check, including the color is that of the United States House of Representatives paycheck.

Q In the regular course of business in the Office of Finance, what documents would have caused you to create those Treasury checks, Government's Exhibits 3-A through 3-N?

A The Payroll Authorization Form.

Q In the ordinary course of business what would have been done with 3-A through 3-N after the Office of Finance had created the Treasury checks?

A They would be distributed to the recipients.

Q When you say "distributed to the recipients," are you referring to your testimony earlier as to how they were distributed?

A Yes. We would have signed the checks, inserted them in the Finance Office, and also sorted them according to the inside or outside mailing, then

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they would have been picked up by the House Postmaster.

Q I show you Government's Exhibit 6-A through 6-F for identification and ask you as to the form of those documents, whether you can identify them?

A Yes.

Q What are Government's Exhibits --

A Government's Exhibits 6-A through 6-F are original Treasury checks of the House of Representatives paid for salary.

Q And do you identify them in the same manner as Government's Exhibit 3 for identification?

A Yes, including the Treasury check symbol number.

Q And as to their distribution, would that also be in the same ordinary course of business as documents you refer to in Government's Exhibit 3?

A Yes.

MR. KOTELLY: Government's Exhibit 7-A through 7-R for identification.

THE DEPUTY CLERK: Government's Exhibit 7-A through 7-R marked for identification.

(Whereupon, Government's Exhibits 7-A through 7-R were marked for identification.)

BY MR. KOTELLY:

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Q Mr. Lawler, were you also subpoenaed to bring with you certain documents in your care, custody, and control as to an employee, Felix R. Matlock?

A Yes.

Q What type of documents did you turn over to the Government pursuant to that subpoena?

A Copies of all of the documents pertaining to the appointment, salary changes, including Payroll Authorization Forms, and personnel related papers and summaries of Treasury check numbers.

Q I show you Government's Exhibit 7-A through 7-R for identification and ask you if you can identify those documents?

A Yes, I can identify the documents.

Q How can you identify them?

A By my initial and date on the back of each copy.

Q What are Government's Exhibit 7-A through 7-R for identification?

A Exhibits 7-A through 7-R are Payroll Authorization Forms relating to the employment of Felix R. Matlock on the congressional payroll of Congressman Charles Diggs.

Q What time period is covered by Government's Exhibits 7-A through 7-R for identification?

000039

1           A     Government's Exhibit 7-A, the effective  
2 date is January 1, 1973. The last document, Government's  
3 Exhibit 7-R, the effective date is January 1, 1977.

4           Q     What type of action is on the first and last  
5 document?

6           A     Government's Exhibit 7-R is a salary adjustment

7           Q     And the Government's Exhibit 7-A?

8           A     Also a salary adjustment.

9           MR. KOTELLY: Government's Exhibit No. 8 for  
10 identification.

11           THE DEPUTY CLERK: Government's Exhibit 8  
12 marked for identification.

13                               (Whereupon, Government's  
14 Exhibit No. 8 was marked for  
15 identification.)

16 BY MR. KOTELLY:

17           Q     Mr. Lawler, I show you Government's Exhibit 8  
18 for identification and ask you if you can identify that  
19 document.

20           A     Yes.

21           Q     How do you identify it?

22           A     By my initials and date on the back of each  
23 copy.

24           Q     What is Government's Exhibit 8 for identifica-  
25 tion?

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1 A Government's Exhibit 8 is a copy of a summary,  
2 schedule of United States Treasury checks issued to  
3 Felix R. Matlock from January, 1972 to May 30th, 1977.

4 Q And the information on Government Exhibit 8  
5 for identification, where did that come from?

6 A These were prepared by my staff at my -- under  
7 my supervision and myself from original payroll journals  
8 of the House.

9 Q Have you checked it for accuracy?

10 A Yes.

11 Q How does it compare with the journals of the  
12 House?

13 A It is identical.

14 Q Mr. Lawler, I believe there is one date in  
15 1976 that there is no information on. Do you see that  
16 on Government's Exhibit No. 8?

17 A Government Exhibit 8? In May of 1976 we were  
18 not able to ascertain the check number.

19 Q Were you able to determine as to whether a  
20 check was, in fact, issued for that month?

21 A Yes.

22 Q Was one issued?

23 A Yes.

24 Q How would the amount correspond to other  
25 months that are reflected on either side on that summary?

000041

1 A It was the same dollar amount as the month  
2 preceding and the month following. This information was  
3 obtained from other accounting records in the payroll  
4 confirmations in our office.

5 Q I believe I failed to ask you on Government's  
6 Exhibit 7-A through 7-R, regarding the Payroll  
7 Authorization of Felix Matlock, did you have any occasion  
8 to compare that with the original documents in your care,  
9 custody, and control?

10 A Yes.

11 Q How do they compare?

12 A They are identical.

13 MR. KOTELLY: Government's Exhibit 9-A through  
14 9-I for identification.

15 THE DEPUTY CLERK: Government's Exhibit 9-A  
16 through 9-I marked for identification.

17 (Whereupon, Government's  
18 Exhibits Nos. 9-A through 9-I  
19 were marked for identifica-  
20 tion.)

21 BY MR. KOTELLY:

22 Q Mr. Lawler, I show you Government's Exhibit  
23 9-A through 9-I for identification and ask if you can  
24 identify these documents as to the form of the document?

25 A Yes.

000042

Q What are Government's Exhibits 9-A through 9-I?

A The Exhibit 9-A through 9-I are original Treasury checks issued by our office for salary purposes.

Q For whom were they issued?

A The checks are made payable to Felix R. Matlock.

Q What would have caused the issuance of those particular salary checks, Government's Exhibits 9-A through 9-I?

A The Payroll Authorization Forms.

Q That you have previously identified?

A Yes.

MR. KOTELLY: Government's 10-A through 10-P for identification.

THE DEPUTY CLERK: Government's Exhibit 10-A through 10-P marked for identification.

(Whereupon, Government's Exhibits Nos. 10-A through 10-P were marked for identification.)

BY MR. KOTELLY:

Q Mr. Lawler, I show you Government's Exhibit 10-A through 10-P for identification and ask you if you can identify those documents?

000043

1 A Yes, I can identify those documents.

2 Q How do you identify them?

3 A By my initial and date on the back of each  
4 copy.

5 Q What are those exhibits for identification?

6 A Government Exhibit 10-A through 10-P are  
7 copies of original Payroll Authorization Forms.

8 Q Who did they relate to?

9 A Ofield Dukes.

10 Q For what position?

11 A Otherwise, changing salaries.

12 Q What do they pertain to?

13 A On the congressional role of Congressman  
14 Charles C. Diggs.

15 Q Were copies of this document submitted to the  
16 Government pursuant to a subpoena for those documents?

17 A Yes.

18 Q Have you had an opportunity to compare them  
19 with the original documents in your care, custody and  
20 control?

21 A I have.

22 Q How do they compare?

23 A Government's Exhibit 10-A through 10-P are  
24 identical to the original Payroll Authorization Forms.

25 Q Mr. Lawler, were you further requested as to

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the employee, Ofield Dukes, to make a summary of the actual salary check which were paid to Mr. Dukes?

A Yes, sir.

Q Was such a summary prepared?

A Yes..

Q I show you Government's Exhibit -- that is Government's Exhibit 11 for identification.

THE DEPUTY CLERK: Government's Exhibit 11 marked for identification.

(Whereupon, Government's Exhibit No. 11 was marked for identification.)

BY MR. KOTELLY:

Q I show you Government's Exhibit 11 marked for identification and ask you if you can identify that.

A Yes.

Q How do you identify it?

A By my initial and date on the back of each copy.

Q What does that document relate to?

A Government Exhibit 11 is the originally prepared summary of Treasury check numbers and applicable months of payment for payroll checks issued to Ofield Dukes between April of 1973 and December of 1977.

Q Have you compared that for accuracy with the

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original documentation at the Office of Finance?

A Yes.

Q How does it compare?

A The information is identical to the payroll journals of the House.

MR. KOTELLY: 12-A through 12-R, Your Honor, for identification.

THE DEPUTY CLERK: Government's Exhibit 12-A through 12-R marked for identification.

(Whereupon, Government's Exhibits Nos. 12-A through 12-R were marked for identification.)

BY MR. KOTELLY:

Q Mr. Lawler, I show you what has been marked as Government's Exhibit 12-A through 12-R and I ask you as to the form of those documents, whether you can identify them?

A Yes, I can identify them.

Q And what are those exhibits?

A Exhibits 12-A through 12-K are original United States Treasury checks issued on behalf of the House of Representatives from our office for salary purposes.

Q And who are they paid to?

000046

1 A The checks are made payable to Ofield Dukes.

2 Q What would have caused the issuance of those  
3 Treasury checks?

4 A Again, the Payroll Authorization Forms.

5 Q That you have previously identified?

6 A Yes.

7 Q I believe, Mr. Lawler, in identifying these  
8 that you have indicated the last one was 12-R. I would  
9 ask you to look --

10 THE DEPUTY CLERK: He said "K".

11 BY MR. KOTELLY:

12 Q I asked you to look at Government's Exhibit  
13 12-R and ask you if you can also identify that.

14 A Yes. Exhibit 12-R is an original Treasury  
15 check issued by our office for salary purposes. It is  
16 made payable to Ofield Dukes.

17 MR. KOTELLY: Your Honor, next Government  
18 Exhibits 13-A through G for identification.

19 THE DEPUTY CLERK: 13-A through 13-G marked  
20 for identification.

21 (Whereupon, Government's  
22 Exhibits Nos. 13-A through  
23 13-G was marked for identifi-  
24 cation.)  
25

000047

1 BY MR. KOTELLY:

2 Q Mr. Lawler, were you also subpoenaed to bring  
3 and turn over to the Government any records relating  
4 to Jeralee Richmond?

5 A Yes.

6 Q What type of documents did you turn over to  
7 the Government?

8 A Copies of the contents of the personnel file  
9 folder containing personnel information and Payroll  
10 Authorization Forms, related summaries, scheduling our  
11 Treasury checks.

12 Q I show you Government's Exhibit 13-A through  
13 13-G for identification and ask if you can identify  
14 those documents?

15 A Yes.

16 Q How do you identify them?

17 A By my initial and date on the back of each  
18 form.

19 Q What are Government's Exhibits 13 for  
20 identification?

21 A Exhibit 13-A through 13-G are copies of  
22 original payroll authorization forms pertaining to the  
23 employment action on Jeralee G. Richmond for the office  
24 of Congressman Charles C. Diggs.

25 Q For what period of time do they relate?

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1 A Exhibit 13-A has an effective date of July 1,  
2 1974.

3 Q What type of action was that?

4 A That was an appointment. Government's Exhibit  
5 13-G is a salary adjustment effective June 1st, 1977.

6 Q What type of action was that? I am sorry.  
7 You already indicated --

8 A Salary adjustment.

9 MR. KOTELLY: Government's Exhibit 14.

10 THE DEPUTY CLERK: 14 marked for identification  
11 (Whereupon, Government's  
12 Exhibit No. 14 was marked for  
13 identification.)

14 BY MR. KOTELLY:

15 Q Mr. Lawler, as to Government's Exhibit 13,  
16 did you compare those with the original documents in  
17 your care, custody and control?

18 A Yes.

19 Q How did they compare?

20 A They are identical to the original forms.

21 Q I next show you Government's Exhibit 14 for  
22 identification and ask you if you can identify that  
23 document?

24 A Yes.

25 Q How do you identify it?

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1 A By my initial and date on the back of the  
2 form.

3 Q What is Government's Exhibit 14 for  
4 identification?

5 A Exhibit 14 is a schedule prepared by our office  
6 of the United States Treasury chest issued to Jeralee  
7 Richmond.

8 Q For what period of time?

9 A 1974, July of '74 through May of '77.

10 Q And have you compared that for accuracy with  
11 the documents at the Office of Finance?

12 A Yes, I have.

13 Q How did they compare?

14 A It was identical with the exception of the  
15 clerical errors, which I have noted on the board. The  
16 information is now corrected. It represents the same  
17 information as the payroll journals of the House.

18 MR. KOTELLY: Government's Exhibits 15-A  
19 through M, Your Honor, for identification.

20 THE DEPUTY CLERK: Government's Exhibit 15-A  
21 through M marked for identification.

22 (Whereupon, Government's  
23 Exhibit No. 15 was marked for  
24 identification.)

25 BY MR. KOTELLY:

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Q Mr. Lawler, I show you Government's Exhibit 14-A through M for identification and ask you if you can identify those documents?

THE COURT: Ladies and gentlemen, do you think it is getting kind of warm in this courtroom?

(Jury nodding heads affirmatively.)

THE COURT: See if we can get a little air conditioning. Go ahead.

BY MR. KOTELLY:

Q Mr. Lawler, can you identify the form, those documents?

A Yes.

Q What are those documents?

A Exhibits 15-A through 15-M are original Treasury checks issued on the House of Representatives by our office for salary purposes.

Q To whom are these documents issued?

A The checks were made payable to Jeralee Richmond.

Q What, if any documentation caused the issuance or the creation of those checks by the Office of Finance.

A Again the Payroll Authorization Form.

Q That you have already identified?

A Yes.

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1 MR. KOTELLY: Government's Exhibit 16-A  
2 through 16-T for identification.

3 THE DEPUTY CLERK: Government's Exhibit 16-A  
4 through 16-T marked for identification.

5 (Whereupon, Government's  
6 Exhibits Nos. 16-A through  
7 16-T were marked for  
8 identification.)

9 BY MR. KOTELLY:

10 Q Mr. Lawler, I show you Government's Exhibit  
11 16-A through 16-T for identification and ask you if  
12 you can identify that?

13 A Yes, I can identify that.

14 Q What are those Government's Exhibits 16-A  
15 through 16-T, I believe?

16 A 16-A through 16-T are copies of original  
17 Payroll Authorization Forms appointing or otherwise  
18 effectuating salary changes on George G. Johnson to the  
19 congressional role of Congressman Charles C. Diggs.

20 Q Were you subpoenaed and did you turn over  
21 those copies to the Government?

22 A Yes.

23 Q Have you compared those with the original  
24 documents in your care, custody and control?

25 A Yes. They are identical to the original form.

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MR. KOTELLY: Your Honor, Government's

Exhibit 17.

THE DEPUTY CLERK: Government's 17 marked for identification.

(Whereupon, Government's Exhibit No. 17 was marked for identification.)

BY MR. KOTELLY:

Q Mr. Lawler, I show you Government's Exhibit 17 for identification and ask you if you can identify that document?

A Yes.

Q How can you identify it?

A By my initial and date on the back of the form.

Q What is Government's Exhibit 17 for identification?

A Exhibit 17 is a summary, similar to the other ones of United States Treasury checks issued to George G. Johnson, including dollar amount and check number for the period July, 1973 through December of 1974.

Q For what position does that Government Exhibit 17 relate to?

A It pertains to appointment to the congressional

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1 payroll.

2 Q Of whom?

3 A Of Congressman Charles Diggs.

4 Q Have you compared that document with the  
5 original documents under your care, custody and control  
6 for accuracy?

7 A Yes.

8 Q How does it compare?

9 A It is identical to the information contained  
10 in the payroll journals of the House.

11 MR. KOTELLY: Your Honor, Government's  
12 Exhibit 18-A through 18-H for identification.

13 THE DEPUTY CLERK: Government's Exhibit 18-A  
14 through H marked for identification.

15 (Whereupon, Government's  
16 Exhibits 18-A through 18-H  
17 was marked for identification.)

18 BY MR. KOTELLY:

19 Q Mr. Lawler, I show you Government's Exhibit  
20 18-A through H for identification and ask you if you  
21 can identify that document?

22 A Yes, I can identify the document.

23 Q How do you identify them?

24 A 18-A through 18-H are original Treasury  
25 checks issued on the House of Representatives by our

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office for salary purposes or, they are identified again by an exact format of our checks, including our checking account or symbol number.

Q What payee are on those checks?

A The checks are made payable to George G. Johnson.

Q And pursuant to what documents would those checks have been issued, Government's Exhibit 18?

A The Payroll Authorization Forms.

Q That you have just identified?

A Yes.

Q Mr. Lawler, as to the printing of these actual -- of the checks, themselves, you have indicated after they are issued or printed by the Office of Finance that they are sorted; is that correct?

A Yes. The actual printing takes place at the in-house computer facility, which is not a part of my office, but it is an office within the United States House of Representatives.

Q Are you familiar with any coding of designation on the Treasury checks, themselves, for purposes of sorting these documents?

A Yes.

Q And as far as checks that are to be mailed in the United States Postal Service what type of a code or

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designation would appear on the Treasury checks?

A During the time period that those checks were printed a numerical code was used to designate the mailing sequence. A code seven designated to our office and the outside mail address, again the checks were manually sorted by our office, so people recognizing a seven would put those in a pile for the outside mail.

Q Where would this number appear?

A On the salary checks during that time period it appeared in the lower left side of the paychecks.

MR. KOTELLY: May I have your indulgence for one moment?

THE COURT: Yes.

BY MR. KOTELLY:

Q Mr. Lawler, were you also subpoenaed to bring with you any cost of living changes for the staff of Congressman Charles Diggs during the period 1973 through the end of 1976?

A Yes.

Q Did you turn over such documents to the Government?

A Yes. we submitted copies of the original documents.

MR. KOTELLY: I would ask these be marked as Government's Exhibits Nos. 19-A through E. Your Honor.

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They have not been premarked.

THE DEPUTY CLERK: Government's Exhibit 19-A through 19-E marked for identification.

(Whereupon, Government's Exhibits 19-A through 19-E were marked for identification)

THE COURT: Will this be a convenient time to take a ten-minute break?

MR. KOTELLY: Yes, Your Honor.

THE COURT: Ten minute break, ladies and gentlemen. The same admonition I have given you all along. Even if I don't give it, it still applies throughout the trial. Do not discuss the case among yourselves or let anybody talk to you about it and do not talk to anybody about it.

(Whereupon, at 3:05 o'clock p.m. a short recess was taken at the conclusion of which the following proceedings were had at 3:15 o'clock p.m.)

THE COURT: Bring in the jury.

(Defendant present in open court.)

(Whereupon, the jury resumed their seats in the jury box and the following proceedings were had in open court:)

THE COURT: You may proceed.

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1 MR. KOTELLY: Thank you, Your Honor.

2 BY MR. KOTELLY:

3 Q Mr. Lawler, I show you Government's Exhibit  
4 19-A through E for identification and ask you if you can  
5 identify those documents?

6 A Yes.

7 Q How do you identify them?

8 A By my initial and date on the back of the form.

9 Q What are Government's Exhibit 19-A through  
10 19-E?

11 A Exhibit 19-A through 19-E are copies of forms  
12 that Congressman Diggs used in granting the pay  
13 comparability increases in October, the years 1977 back  
14 through 1973. This form is the one when we referred to  
15 earlier that was the other form that could be used to  
16 change a salary in addition to the Payroll Authorization  
17 Form.

18 Q Mr. Lawler, have you had an opportunity to  
19 compare Government's Exhibit 19-A through 19-E with the  
20 originals?

21 A Yes.

22 Q How do they compare?

23 A The copies are identical to the originals.

24 MR. KOTELLY: Your Honor, at this time we  
25 would move Government's Exhibits 19-A through 19-E into

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evidence.

THE COURT: Does counsel wish to be heard?

MR. POVICH: Which ones? Are those the only ones you are moving in at this time? Could I see them?

THE COURT: If you do object come to the Bench.

MR. POVICH: No, Your Honor, I would just like to look at them for a moment.

Your Honor, can we come to the Bench?

THE COURT: Yes.

(At the Bench.)

MR. POVICH: Your Honor, what disturbs me about this is first, 19-A says, "all employees" but 19-B, for instance, says "all employees on my payroll as of September 30, '76, with the exception of those which included Payroll Authorization Forms are attached are granted" and I don't know whether any were attached or not.

MR. KOTELLY: Your Honor, if there were Payroll Authorization Forms submitted, they would be in evidence here now.

MR. POVICH: Are you saying there were none attached?

MR. KOTELLY: All of these which were attached are part of the exhibits that have already been in --

MR. POVICH: John, can you answer my question?

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Were there any attached to this?

MR. KOTELLY: I don't know.

MR. POVICH: I think before this goes in as representing a situation, Your Honor, where with the form speaks of attachments or possible attachments, there should be some information as to whether there were or were not any attachments.

MR. KOTELLY: Your Honor, as I just explained if there were attachments they would be Payroll Authorization Forms, which are in evidence as to the employees we are interested in, if they have Payroll Authorization Forms attached that had some other employers we are not interested in. We submit it is irrelevant whether they were attached or not attached.

MR. POVICH: My problem, Your Honor, is just to be perfectly blunt about it, it says, "Authorization for a payroll increase." There are two sections for it. One, it says, "all employees."

THE COURT: Yes.

MR. POVICH: Which is checked in some instances. The other says: "All employees whose authorization forms are attached." Now, I don't know whether these --

THE COURT: Perhaps your witness can explain that. I think that is admissible as such. I think it

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ought to be explained.

MR. KOTELLY: Yes, I will do so.

THE COURT: All right. I will receive it.

(In open court.)

THE COURT: I will receive it.

THE DEPUTY CLERK: 19-A through E received in evidence.

(Whereupon, Government's Exhibits 19-A through 19-E were received into Evidence.)

BY MR. KOTELLY:

O Mr. Lawler, I first show you which has now been admitted into evidence as Government's 19-A, and ask you to state what is that document, specifically?

A Government's Exhibit 19-A is a copy of a form that has been completed with the name Charles C. Diggs, Jr., as the congressional name, 13th District of Michigan, and there are four elections possible on this form.

What this form does is each October, to prevent having to submit 15 or 16 separate forms to raise somebody's salary for a cost of living or pay comparability, one form may elect a combination of those. The various combinations include all employees on my payroll as of a certain date gets the

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comparability increase.

All employees on my payroll with certain exceptions gets the increase. Only those papers whose Payroll Authorization Forms are attached will get the increase, and the last option is paraphrased as none of the employees will get the pay increase.

This particular form, Government Exhibit 19-A, the election is that "all employees of my payroll as of September 30th, 1977 be granted the 7.05 percent increase effective October 1st, 1977." A parenthetical enclosure follows, is on the form: "No additional payroll authorization forms need to be submitted."

Q I show you Government's Exhibit 19-B and ask you if you would specifically relate what that document is?

A Government's Exhibit 19-B, again is a copy of an original document that provides the same aforementioned four options for the payroll comparability increase.

This particular one pertains to the October pay period, 1976. It is signed by Congressman Charles C. Diggs, Jr. relating to the congressional payroll and the option that is elected by this form, Exhibit 19-B is, "All employees on my payroll as of September 30th, 1976, with the exception of those completed Payroll

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Authorization Forms are attached, are to be granted the pay raise based on the sliding scale effective October 1st, 1976."

Q Mr. Lawler, upon receipt of a document like 19-B, what procedures would be followed by the Office of Finance in changing the salaries for cost of living?

A Only those salaries for which Payroll Authorization Forms were not attached, only those particular salaries would get the pay comparability increase October 1st.

Q And upon review of a personnel file, if there was no Payroll Authorization Form in that file for a staff member or of Congressman Diggs for the effective date of that document, what would that mean to you in the Office of Finance?

A That would indicate that they did in fact receive the pay raise October 1st.

Q Of what year?

A For Exhibit 19-B, October 1st, 1976.

Q And if a Payroll Authorization Form did appear in the personnel file of the particular employee for Congressman Diggs that was effective date October 1st, 1976, what would that reflect?

A It would supersede any action on this particular document, and we would have whatever action

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had been indicated. In the event of a salary change, the Payroll Authorization Form could have actually given an employee a greater increase than the cost of living, or the member, or appointing authority could have held the member back at their salary level that existed in September. Either of those options was available.

Q Mr. Lawler, I will show you again what you previously identified as Government's Exhibit 7-A through 7-R for identification relating to Felix R. Matlock, and I would ask you to look and see whether there is any Payroll Authorization Form effective October 1, 1976?

A There is no form in Exhibit 7-A through 7-R that pertain to any salary action for October of 1976.

Q Mr. Lawler, were you requested to turn over any documentation which would reflect as to whether or not Mr. Matlock received a cost of living increase for October, 1976?

A Yes, we were.

MR. KOTELLY: Government's Exhibit 7-S, a new document, Your Honor.

THE DEPUTY CLERK: Government's Exhibit 7-S marked for identification.

(Whereupon, Government's Exhibit No. 7-S was marked for identification.)

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BY MR. KOTELLY:

Q Mr. Lawler, I show you Government's Exhibit 7-S for identification and ask if you can identify that document?

A Yes.

Q How do you identify it?

A By my initial and date on the back of the form.

Q What is Government's Exhibit 7-S for identification?

A Exhibit 7-S is a copy of a document generated by the computer confirming to our office that a cost of living took place. The sentence on the top of the form is an annual pay raise confirmation sheet. It is dated October 20th, 1976.

Q When would it be effective?

A October 1st, 1976 and the effective date is confirmed on this document.

Q Have you had an opportunity to compare that with the original document under your care, custody and control?

A Yes.

Q How does it compare?

A It compares to the original document for Felix Matlock on the congressional payroll of Charles

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Diggs.

MR. KOTELLY: Your Honor, at this time we would move Government's Exhibit 7-S into Evidence.

THE COURT: Do you wish to be heard on that, sir?

MR. POVICH: No, Your Honor.

THE COURT: Received.

THE DEPUTY CLERK: Government's Exhibit 7-S received.

(Whereupon, Government's Exhibit No. 7-S was received into Evidence.)

BY MR. KOTELLY:

Q Mr. Lawler, Government's Exhibit 7-S, which is now admitted into evidence, what does that reflect as far as the salary of Mr. Matlock?

A Exhibit 7-S reflects an increase effective October 1st from an annual salary rate of \$37,000 per year to \$39,600 per year.

Q Also I would show you again what has been admitted into evidence as Government's Exhibit 19-C, D, E, and ask you if you would relate to the jury what those three documents reflect?

A Again, Government's Exhibit 19-C, D, and E are the standard forms to make the election regarding pay

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comparability in October of each year. Exhibit 19-C pertains to Congressman Charles C. Diggs, Jr. It is signed and is electing this option: "Only those employees whose Payroll Authorization Forms are attached herewith are to be granted a salary adjustment as indicated thereon."

Exhibit 19-B is the same form. This pertains to 1974 and the option that is exercised on this form is the same: "Only those employees whose Payroll Authorization Forms are attached herewith are to be granted the salary adjustment as indicated thereon." This form 19-B is pertaining to Congressman Charles C. Diggs. The last exhibit 19-C relating to pay comparability and elects the following option: "Only those employees whose Payroll Authorization Forms are attached herewith are to be granted the salary adjustments indicated thereon."

And again pertaining to the congressional payroll of Congressman Charles C. Diggs.

Q Mr. Lawler, as to Government's Exhibit 19-C, D, and E, as to the effective dates on each of those documents, if you were to look in the personnel file of an employee of Congressman Diggs and found a Payroll Authorization effective on the date of each of those instruments, what would that effect?

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1           A     The Payroll Authorization Form would supersede  
2 this particular form.

3           Q     What would happen to the salary of that  
4 individual?

5           A     Again, the salary could remain the same, could  
6 be lowered, or it could be raised to a level greater  
7 than what the pay comparability was.

8           Q     And if there was no Payroll Authorization Form  
9 effective on the dates of those exhibits in the personnel  
10 file of a staff member of Congressman Diggs, what would  
11 that reflect?

12          A     That would indicate that the pay comparability  
13 for 1975, this is October, October of '74 and October of  
14 '73 were granted to the employees.

15          Q     Were or were not if there was no Payroll  
16 Authorization Forms in the files --

17          A     I am sorry. In this particular election, if  
18 there was the Payroll Authorization Form they received  
19 the pay comparability increase.

20          Q     If there was no Payroll Authorization Form?

21          A     They did not.

22               MR. KOTELLY: Your Honor, may we approach the  
23 Bench at this time?

24               THE COURT: Yes.

25               (At the Bench.)

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MR. KOTELLY: Your Honor, at this time I am going to move into evidence all the Payroll Authorization Forms and summaries and any payroll change information that has been identified by Mr. Lawler. Since there is such a bulk, I did at least enumerate the exhibit numbers.

THE COURT: Have you seen these?

MR. POVICH: Yes.

MR. KOTELLY: I did not know whether Mr. Povich had any objection or not.

MR. POVICH: May I examine him on them?

THE COURT: You want to examine the forms or examine him?

MR. POVICH: I would like to examine him, briefly.

THE COURT: All right, briefly.

You are going to have a full opportunity to examine him on cross examination, of course.

MR. POVICH: Do you want to wait until after I've finished?

MR. KOTELLY: As to Jean Stultz I would like to have the testimony regarding the Payroll Authorization and how they interrelate as to the committee and as to the personal staff, Your Honor.

THE COURT: You have some more questions of

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him?

MR. KOTELLY: That would have been my next line, then going into a totally different area for a short period.

THE COURT: I just want to move along as rapidly as possible. How extensive of an examination do you wish at this time?

MR. POVICH: It should not be too long.

THE COURT: I think the official records are admissible.

MR. POVICH: I think I ought to see. My concern will just take a couple of questions.

MR. KOTELLY: Are they relating to admissibility?

MR. POVICH: Yes.

THE COURT: All right, a couple of questions.

(In open court.)

VOIR DIRE EXAMINATION

BY MR. POVICH:

Q I just have a couple of preliminary questions. I don't want to delay this matter.

You testified, I believe, that Exhibit 14 is a list that you made of Treasury checks which had been issued to Jeralee Richmond; is that correct?

A Yes.

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Q And the inclusive dates that you were given on that list were what?

A The dates included on this list, which I testified to earlier, was July of '74 through May of '77.

Q Fine. And then you were shown a set of checks for Jeralee Richmond, which were marked 15-A through, what?

A 15-A through 15-M.

Q What were the dates of the checks, the inclusive days of the checks that you were given?

A 15-A, if these are in chronological order, is dated July 31, 1974. The last exhibit, 15-M --

THE COURT: Would you give that date again?

THE WITNESS: July 31, 1974. And 15-M is July 30th, 1976.

BY MR. POVICH:

Q Well, was the list that you were given go far beyond the checks you were given, date-wise? It goes into 1977; doesn't it?

A Yes.

Q You don't have checks there for that?

A No, the checks are again, if they are chronological, let me review the Exhibit 15-A, to be sure that the last date is July 30th of '76.

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3           The most recent date on the original Treasury  
4 check in the Exhibit 15-A through 15-M is July 30th of  
5 '76.

6           Q     So you don't have any checks then for the  
7 rest of these checks which you have listed in to May of  
8 '77, I think is the last you have?

9           A     That is correct.

10          Q     All right. Now, let me show you Exhibit 13-A  
11 through G, which I believe you testified were the  
12 Payroll Authorization Forms of Jeralee Richmond; is that  
13 correct?

14          A     Yes.

15          Q     What is the date of the last Payroll  
16 Authorization Form?

17          A     The last Payroll Authorization Form, Exhibit  
18 13-G, is an effective date of June 1, 1977, for a salary  
19 adjustment.

20          Q     All right. But that isn't reflected on your  
21 list and you have no checks at all there for 1977; is  
22 that right?

23          A     Right, and the exhibits -- there are no 1977  
24 checks.

25               MR. POVICH: Your Honor, with that on the  
26 record let me get one more.

27 BY MR. POVICH:

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Q Do you know why we have this?

MR. KOTELLY: Your Honor, I am going to object unless the question is to his immediate knowledge.

MR. POVICH: Yes.

MR. KOTELLY: I object to the form of the question that Mr. Povich is starting.

BY MR. POVICH:

Q Do you have any information as to why you do not have all the checks for the ones that you have listed and Payroll Authorization Forms? Why they don't all match up?

A The care and custody of the original Treasury checks, after they are issued and cleared are not in the control of the Office of Finance. These are maintained by the United States Treasury Department.

These checks, the originals were not provided by our office after they were cashed. The dating of the subpoenas, as far as copies of Payroll Authorization Forms would probably answer that question. Again, I would want to look back to the exact date of the documents but they were provided throughout many different times in 1977 into 1978. What could have happened then was that this subpoena was one that was received prior to providing this information.

Q No, I am sorry. I don't want you to try to

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2 explain it. I just wondered, essentially then you have  
3 not been given then the checks, or the actual checks  
4 for the ones which have been listed and which would  
5 relate to the Payroll Authorization Forms; is that  
6 correct? You don't have them here in front of you?

7 A The list of checks generated is greater than  
8 the number of checks, but the checks that are here  
9 pertain to some of those listed on the schedule.

10 MR. POVICH: That is all, Your Honor. I just  
11 want to point out the listing went beyond the checks  
12 that were available and the Payroll Authorization Forms  
13 as well goes beyond the checks.

14 MR. KOTELLY: I submit that has nothing to  
15 do with the admissibility of the payroll --

16 THE COURT: Do you offer these into evidence?

17 MR. KOTELLY: Yes.

18 THE COURT: They will be received.

19 MR. POVICH: We have the same problem with  
20 Matlock. I don't want --

21 THE COURT: You may come to the Bench.

22 (At the Bench.)

23 MR. KOTELLY: The question is: Are these  
24 documents admissible?

25 THE COURT: The Court feels they are  
admissible. Now, there may be additional documents

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that either of you want to bring out. I don't know.

MR. POVICH: The problem, Your Honor, is what I am trying to do is keep it clear, because the poor jury sits over there. They hear a person saying, "Here is a list of documents. Here is a bunch of checks. Here are Payroll Authorization Forms." They assume they are all going to match up. I simply want to indicate on the record that the listings, although where you have the check, obviously is Mr. Kotelly's list and the listings go beyond into 1978.

THE COURT: I understand. I don't think that goes to admissibility.

MR. POVICH: Well, --

THE COURT: It may go to weight. You can't argue that. As far as the documents are concerned, it is admissible.

MR. KOTELLY: On the record --

THE COURT: Wait a minute. I have ruled on it. We don't have colloquys.

MR. KOTELLY: I am sorry.

THE COURT: The Court has ruled on the admissibility of certain documents. You offered them. It is the Clerk's duty to pronounce that to the reporter.

MR. KOTELLY: I didn't ask for the admissibility

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of the checks yet. We don't feel --

THE COURT: What have you offered?

MR. KOTELLY: Merely the Payroll Authorization Forms and the summaries relating to all five employees. Mrs. Stultz, Mr. Matlock, Mr. Dukes, Mr. Johnson and Ms. Richmond.

THE COURT: They will be received.

MR. POVICH: 13-A through 13-G and Government's 14 --

MR. KOTELLY: I have offered the Payroll Authorization and summaries for all five employees, Your Honor, that has been identified by Mr. Lawler.

THE COURT: All right.

MR. KOTELLY: Mr. Povich only wished to examine as to certain ones of those documents, Your Honor.

MR. POVICH: I am sorry, Your Honor, my problem -- could you tell me the exhibit numbers you are putting into evidence so that I may have a record of them?

THE COURT: Yes.

THE DEPUTY CLERK: Government's Exhibit 1-A through 1-L received in evidence. Government's Exhibit 2, Government's Exhibit 4-A through 4-E, Government's Exhibit 5, 4-F, 4-G, 8, 10-A through 10-P, 11, 16-A through 16-T, 17, 7-A through 7-R, Government's exhibits

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received in evidence.

THE COURT: You are offering those exhibits?

MR. KOTELLY: Yes, Your Honor.

THE COURT: The Court has received them.

(In open court.)

BY MR. KOTELLY:

Q If the Court will indulge me one moment.

Mr. Lawler, I return to you now Exhibits which have been admitted into evidence, Government's 1-A through 1-L, 4-A through 4-F, which relate -- you have identified them relating to Ms. Jean Stultz; correct?

A Yes, that is correct.

Q The Government's Exhibit in series of number one relate to her employment on the Committee or on the personal staff?

A Exhibit 1 relates to employment on the congressional staff. Exhibits 4 to employment in the District of Columbia Committee.

Q Mr. Lawler, in looking at those documents, do they reflect as to whether Mrs. Stultz was on both payrolls at the same time?

A Yes, sir. There seems to be some concurrence, multiple employment.

MR. LAWLER: I would ask you to relate to the jury the history of the employment of Mrs. Stultz

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as to whether she was on a single payroll or on both payrolls. I would ask you to relate the dates, effective dates and annual salary reflected on the Payroll Authorization for each position.

THE COURT: I think you had better break that question down. First, as to whether she was on more than one payroll than the dates on which she was on more than one payroll.

MR. KOTELLY: Certainly, Your Honor.

BY MR. KOTELLY:

Q So, Mr. Lawler, can you indicate to the jury the periods of time that Mrs. Stultz was on both payrolls?

THE COURT: He has not said that, or has he?

MR. KOTELLY: He has testified that there was a period --

THE COURT: Is that your testimony, she was on more than one payroll?

THE WITNESS: Yes.

BY MR. KOTELLY:

Q All right. Now, the dates she was on more than one payroll.

A From October 1, 1973 there doesn't indicate the total employment, but rather when Jean Stultz was being paid out of the congressional appointment funds

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and the committee funds. October 1, 1973 through July 31, 1974. That was the inclusive period. The rest of the appointment papers pertained to separate appointments as to congressional payroll and the committee payroll.

Q That was October 1 of 1973 to what was it, Mr. Lawler, I am sorry.

A There is a lot of forms. October 1 of 1973 to July of 1974.

Q During that period of time from October of 1973 through July of 1974 could you indicate to the jury her annual salary as to the staff salary and to the committee salary?

A Yes. Effective October 10th, 1972, Jean Stultz was appointed to the congressional payroll of Congressman Diggs at an annual salary rate of \$11,000 effective January 1, 1973.

There was a salary increase at an annual rate to \$11,565.40, effective February 1st, 1973. A new annual rate of \$14,000, effective March 31st, 1973. Jean Stultz was terminated from the congressional payroll of Congressman Charles Diggs.

We have an appointment at that time effective April 1st of 1973 appointed at \$14,000 per year to the District of Columbia committee.

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May 1st, 1974 the salary was raised to an annual rate of \$17,500 still on the District of Columbia Committee.

Q I am sorry. Mr. Lawler, what was the date of that last document?

A May 1st, 1974.

Q Was that during the period of time that she was on both payrolls?

A Yes.

THE COURT: Just a minute. Didn't you say as of March 31 she was terminated from congressional status?

THE WITNESS: Right. She was then reappointed integrating now two separate sets of authorities. Now one as committee and one as congressional. October 1st, 1973 she was again reappointed to the congressional staff at an annual salary of \$19,000.

BY MR. KOTELLY:

Q As of October --

A I am sorry.

Q As of October of 1973, what was her position as to the committee?

A She was receiving an annual salary rate of \$14,000 per year.

Q As of October, 1973?

A Yes. That was based on her April, 1973

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2 appointment to the committee. Jean Stultz was now on two  
3 payrolls. One at an annual rate of \$14,000, which is  
4 charged to the District of Columbia Committee. The  
5 other annual rate being charged to the congressional  
6 staff was \$19,000. That was effective October 1 of '73.

7 I will follow these in chronological order.  
8 It will be easier to understand. Effective May 1st,  
9 1974 Jean Stultz' salary was raised on the congressional  
10 -- I am sorry -- was adjusted on the congressional  
11 payroll to an annual rate of \$16,210. Effective that  
12 same date, May 1st, 1974 on the Committee, the salary  
13 rate went to \$17,500. July 31st, 1974 Jean Stultz was  
14 terminated from the congressional position. There is a  
15 note on the Payroll Authorization Form indicating from  
16 Congressional Payroll Office the same date, July 31st of  
17 '74 is the effective date Jean Stultz was transferred  
18 to the standing committee. That is not a different  
19 committee, now. It is just the other set of funds that  
20 committees have available that still pertains to an  
21 appointment to a committee under the District of  
22 Columbia.

23 Q And her annual salary rate at that time?

24 A The salary rate is not indicated on this form.  
25 The transfer on this particular one, just indicating the  
transfer effective July 31st, to switch to another

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pool of money, actually took a new appointment form.

This is effective August 1st, 1974 on the District of Columbia Committee at an annual rate of \$36,000.

September 30th, 1974, terminated from the District of Columbia Committee. October 31st, 1974 appointed on the congressional staff of Congressman Charles C. Diggs at an annual rate of \$35,574.46.

October 1st, 1975 a salary change on the congressional role to an annual salary rate of \$37,355.

April 1st --

THE COURT: What payroll is that?

THE WITNESS: This is on the congressional payroll.

THE COURT: All right.

THE WITNESS: Still on the congressional payroll, a salary adjustment for Jean Stultz effective April 1st, 1976. The new annual salary rate is \$22,700.

On July 1st of 1976 the salary rate was increased for Jean Stultz on the congressional payroll to \$37,355.

THE COURT: Is that '76?

THE WITNESS: July 1st of 1976.

Two months later effective date of August 31st, 1976 a termination of Jean Stultz from the congressional payroll.

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BY MR. KOTELLY:

Q Mr. Lawler, in addition to the Clerk-hire allowance, are congressmen in general allowed other allowances for official expenses during the time period of January, 1973 through the end of 1976?

A Yes.

Q What type of allowances in addition to Clerk-hire were the congressmen allowed?

A The other allowances are funds of money for non-personnel type of expenses. Since 1973, and the allowances have changed and have been adjusted from time to time, but they would include those types of expenses necessary in fulfilling congressional duties, including travel for the member, for the staff, postage, stationery supplies, expenses in the District Office, rental of District Office space, a constituent communication or newsletter allowance, telephone in Washington, D.C. and the District for toll charges and the service contracts, the purchase of office equipment and the leasing of electrical, mechanical equipment and computers.

Q Were these all separate allowances or a single allowance?

A They were separate allowances, separately stated in those time periods.

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Q Also separately stated as to purposes of these allowances?

A Yes, sir, with the exception of some allowances. Certain ones are specifically earmarked such as travel. That, of course, is for travel. When we talk about the stationery store allowance and the allowances for expenses in the District Office, those funds could have been used to buy stationery. This would be an example of two separate funds, but both were for the purpose of buying stationery.

Q Mr. Lawler, you referred to the allowances for a member of Congress. Was there the same or different allowances for the Committee assignment?

A Committees are handled differently. Rather than having specifically enumerated groups of money that are like expense accounts to spend from, there is one dollar amount and any official duty or official expense of that committee would then be paid from the group of monies.

Q In referring just to the time period of 1973 to the end of 1976, you indicated that one of the allowances was for the official expenses in the District, the member of the District; is that correct?

A Yes, that is correct.

Q How were those funds from the allowances

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obtained by the member of Congress during that time period I referred to earlier?

A All of the disbursements out of this non-personnel set of accounts that we are talking about took place on a standard form signed by a member. In the vernacular of accountants it is referred to as a voucher. We have a voucher pertaining to that type of an allowance.

The Congressman would sign the voucher and the dollar amounts that varied quarterly, that particular allowance, they start reimbursements every three months on a quarterly basis. In the allowance that was for expenses in the District, they would just sign the voucher with a certification as to the reimbursement and get a check made payable to them. No other receipts or supporting documentation were required to be submitted with a voucher on that particular allowance.

Q How frequently would this allowance be paid?

A The allowance was available quarterly. In any given calendar year they could ask for the three-quarters or four-quarters if they wished, or ask for the quarterly allowance for the first quarter in the first quarter. It was not possible to obtain future quarter allowances, however.

Q And in a particular quarter, again this time

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period of 1973 through 1976, when during the quarter could a member of Congress request reimbursement for his official office expenses?

A Any time during the quarter.

Q And as to the maximum amount allowed in that quarter, at what point in time during the quarter could he ask for it?

A I am sorry.

Q As to the maximum allowable voucher expenditure reimbursement during the quarter, at what point in time could the member ask for the reimbursement?

A Well, again, it was at any time during the quarter.

Q Was there any regulation or requirement as to the relationship between the reimbursement and the actual monies expended?

A The only relationship would exist in the certification language, which is the regulation surrounding that allowance, and paraphrasing the use of the form, again this is going back. The members certified that he was entitled to reimbursement for official office expenses incurred in his District Office.

Q What, if any, documents were submitted to you in order to obtain the quarterly allowance for the District Office expenses?

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1           A     Only the one single request for the allowance  
2 we called the voucher.

3           Q     And upon the receipt of the voucher, what, if  
4 anything, would the Office of Finance do?

5           A     Our office, in the area of, again the non-  
6 personnel checks, handles the total accountability upon  
7 receipt of the voucher would be audited by the Audit  
8 Department under my control, and then a United States  
9 Treasury check on a similar format to those produced  
10 earlier would be generated by our office and sent to  
11 the recipient.

12          Q     What, if any records were maintained or made  
13 by the Office of Finance which would relate to the  
14 payment of reimbursement for the District Office expenses?

15          A     In addition to the original voucher requesting  
16 the payment, our office maintains a summary account,  
17 summary account card indicating the payments that were  
18 made, certain other related schedules for transmitting  
19 Treasury check numbers.

20          Q     Were you subpoenaed to produce such a document  
21 for the vouchers for District Office expenses for  
22 Charles C. Diggs?

23          A     Yes.

24          Q     Did you furnish these documents to the Govern-  
25 ment?

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1           A     Our office provided copies of the original  
2 documents.

3           MR. KOTELLY: Your Honor, Government's Exhibit  
4 20 and 21-A through 21-F for identification.

5           THE DEPUTY CLERK: Government's Exhibits 20  
6 and 21-A through 21-F marked for identification.

7                     (Whereupon, Government's  
8 Exhibits 20, 21-A through  
9 21-F were marked for  
10 identification.)

11 BY MR. KOTELLY:

12           Q     Mr. Lawler, I show you what has been marked  
13 as Government's Exhibit 20 for identification and ask if  
14 you can identify that document?

15           A     Yes.

16           Q     How do you identify it?

17           A     My initial and date on the back of the copy.

18           Q     What is Government's Exhibit 20 for identifica-  
19 tion?

20           A     Exhibit 20 is a copy of the account cards  
21 maintained by our office summarizing some of these  
22 non-personal expenditures. This particular allowance is  
23 for the official expenses in the District Office.

24           Q     For what period of time does that document  
25 represent?

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1 A There are payments listed here from December  
2 31st of 1969 through December 31st of 1976.

3 Q And who does it relate to?

4 A Congressman Charles Diggs.

5 Q What information is reflected on that document?  
6 What type of information?

7 A We indicate the quarterly period for which  
8 the reimbursement applies, which particular fiscal year,  
9 and appropriation account that it pertains to and that  
10 is an internal bit of accounting information for our  
11 office. The dollar amount of the check, the date paid  
12 and the United States Treasury check number.

13 Q Have you compared that with the original  
14 documents in your care, custody and control?

15 A Yes.

16 Q And how does it compare?

17 A They agree.

18 Q I show you Government's Exhibit 21-A through  
19 21-F for identification and ask you if you can identify  
20 those documents?

21 A Yes, I can identify the documents.

22 Q How do you identify them?

23 A By my initial and date on the back of each  
24 copy.

25 Q What are Government's Exhibit 21-A through F?

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1           A       21-A through 21-F are copies of that request  
2 document I referred to, the voucher, for reimbursement  
3 for the official expenses in the District Office.

4           Q       What period of time did those documents cover?

5           A       Exhibits 21-A and B refer to the third and  
6 fourth quarter of the calendar year '75.

7                   Exhibits 21-C through 21-F refer to the four  
8 calendar quarters in 1976.

9           Q       Have you compared Government's Exhibits 21-A  
10 through F with the original documents under your care,  
11 custody and control?

12          A       Yes.

13          Q       How do they compare?

14          A       They are identical.

15                   MR. KOTELLY: Your Honor, at this time the  
16 Government would move into evidence the documents,  
17 Government's Exhibit 21, 21-A through F.

18                   THE COURT: Mr. Povich, do you wish to be  
19 heard?

20                   MR. POVICH: No objection.

21                   THE COURT: They will be received.

22                   THE DEPUTY CLERK: Government's Exhibits 20,  
23 21-A through F received in evidence.

24                               (Whereupon, Government's  
25 Exhibits 20, 21-A through F

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were received ~~into~~ Evidence.)

MR. KOTELLY: Your Honor, for identification  
Government's Exhibits 22-A, B, C, D, and F.

**THE DEPUTY CLERK:** Marked for identification.

(Whereupon, Government's Exhibits Nos. 22-A, B, C, D and F were marked for identification.)

BY MR. KOTELLY:

Q I show you Government's Exhibits 22-A through D and F and ask if you can identify the form of those documents?

**A     Yes, I can.**

Q And as to the form, what are these documents?

A        These are original Treasury checks drawn on the United States House of Representatives and prepared by our office that pertain to nonpersonnel type of expenditures. It is identified by format and our checking account symbol number.

Q And those Treasury checks are payable to whom?

A Charles C. Diggs, Jr., on each exhibit.

Q Mr. Lawler, I would ask you to compare Government's Exhibits 22, those five Treasury checks, with Government's Exhibit 20, which have been admitted into evidence, and ask you if you can identify the

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1 Treasury checks as to the purpose for which they were  
2 issued?

3 A Yes, I can.

4 Q As to Government's Exhibit 22-A for identifica-  
5 tion, what was the purpose of that Treasury check?

6 A 22-A is the original check representing a  
7 disbursement to Charles C. Diggs, Jr. in the amount of  
8 \$500. It was issued July 24th of 1975. It represents  
9 reimbursement for official expenses in the District  
10 Office.

11 Q For what quarter, what year?

12 A For the calendar quarter ending September  
13 30th, 1975.

14 Q Government's Exhibit 22-B for identification,  
15 can you ascertain what the purpose of that Treasury  
16 check was?

17 A This original check was issued to Charles C.  
18 Diggs, Jr., in the amount of \$500 on November 24th, 1975  
19 for the quarterly allowances expenses in the District  
20 Office for the last quarter of '75, the one ending  
21 December 31st.

22 Q Government's Exhibit 22-C for identification.  
23 Can you identify for what purpose that Treasury check  
24 was issued?

25 A The original Treasury check, Exhibit 22-C,

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1 payable to Charles C. Diggs, Jr., in the amount of \$500  
2 represents reimbursement for the official office  
3 expenses incurred in the congressional district for the  
4 quarter ending March 31, 1976. This check was issued  
5 January 21st of '76.

6 Q Exhibit 22-D for identification. Can you  
7 determine for what purpose that Treasury check was  
8 issued?

9 A Exhibit 22-D, again the original Treasury  
10 check payable to Charles C. Diggs, Jr. in the amount of  
11 \$500 was issued May 5th, 1976 for the quarterly period  
12 ending June 30th, 1976.

13 Q And Government's Exhibit 22-F for identifica-  
14 tion. Can you identify for what purpose that check was  
15 issued?

16 A 22-F, again, is our original Treasury check  
17 in the amount of \$500 payable to Charles C. Diggs,  
18 Jr., dated October 2nd, 1976, for the fourth calendar  
19 quarter of 1976.

20 Q Mr. Lawler, is it correct that there is no  
21 check among those exhibits which relate to the third  
22 calendar quarter of 1976?

23 A That is correct.

24 Q And do your documents reflect as to whether  
25 in fact a check was issued for the third calendar

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1 quarter for the calendar year 1976?

2 A Yes, sir. Our financial records indicate a  
3 payment, July 6th, 1976 in the amount of \$500 for the  
4 third calendar quarter on Treasury Check No. 70320086.

5 Q What exhibit are you referring to that has  
6 that information?

7 A Exhibit 20. It is the summary of the  
8 congressional office account payments.

9 Q Thank you.

10 Mr. Lawler, as to the last two quarters of  
11 1975 and the four quarters of 1976, do you know what  
12 the maximum allowable for District Office expenses was  
13 for the allowance?

14 A Yes. It was \$500 per calendar quarter or  
15 \$2,000 per year.

16 Q After the checks were made up by the Office of  
17 Finance, what, if anything, was done with them?

18 A The checks -- when they were made up by our  
19 office, were inserted in an envelope together with a  
20 copy of the voucher to be returned to the payee. The  
21 envelope was addressed to the payee's address indicated  
22 on the voucher.

23 In the event of an inside mailing, the check  
24 was just dropped into the inside mailbox. It was an  
25 outside mail check, it was dropped in the outside mail

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1 distribution box.

2 Q Mr. Lawler, the checks that were issued to  
3 pay for District Office expenses were made out to the  
4 member of Congress; is that correct?

5 A Yes.

6 Q Were there any other allowances that a check  
7 was made out directly to the member of Congress, again  
8 during that period of 1973 through the end of 1976?

9 A Yes. During this time there were several  
10 allowances that were on a reimbursement basis, where a  
11 member may incur the expense and then be reimbursed  
12 for. One other allowance that the check could be made  
13 payable directly to the member without regard to any  
14 other expenditures. One of the allowances I indicated  
15 was the stationery allowance. That allowance in its  
16 entirety in any unused balances from any prior years  
17 can be withdrawn, personally, by the member of Congress.  
18 Other allowances that were of the reimbursable type  
19 include travel where the member or the staff would incur  
20 the travel expenses directly and then be reimbursed for  
21 it.

22 And the District telephone account, where the  
23 bills were paid by the congressional office and the  
24 member sought reimbursement through our office.

25 Q Regarding a district telephone bill, what if

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1 any proper documents were required for that allowance?

2 A With that particular allowance our office  
3 requires supporting documentation, canceled checks,  
4 copies of canceled checks, that the telephone bill was  
5 paid or any other supporting evidence that in fact the  
6 telephone bill in the District had been paid. This  
7 particular allowance is differentiated from the  
8 Washington telephone allowance. This will just be  
9 the telephone charges incurred in the District.

10 Q And, as to the member of Congress' personal  
11 salary, would it come out of any of these other  
12 allowances that you have explained?

13 A No.

14 Q During the period 1975 through 1976 when you  
15 were in charge of the Office of Finance, do you have  
16 any knowledge as to what the salary was for a member  
17 of Congress during that period of time?

18 A The salary rates changed during that period.  
19 The present amount?

20 Q I was asking for 1975, 1976 for that period.

21 A Yes, as I recall it was forty-two five, then  
22 it increased during that time period to another level,  
23 and increased to the present level.

24 MR. KOTELLY: If the Court will indulge me a  
25 moment, Your Honor.

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1 THE COURT: Yes.

2 MR. KOTELLY: No further questions, Your  
3 Honor.

4 THE COURT: Mr. Povich.

5 CROSS EXAMINATION

6 BY MR. POVICH:

7 Q Mr. Lawler, Mr. Kotelly has addressed all of  
8 his questions to you to the period of 1973, '74, '75 and  
9 '76. Did there come a time in January, January 3rd,  
10 1977 in which it was possible within the rules that  
11 you are speaking of, for a member to transfer out of  
12 Clerk-hire allowance a sum of totaling say, \$15,000  
13 into other accounts?

14 MR. KOTELLY: Your Honor, I object on the  
15 grounds that this is outside the scope of direct  
16 examination.

17 THE COURT: I will permit Mr. Povich to go  
18 into it.

19 MR. POVICH: Pardon?

20 THE COURT: I said that I would permit you to  
21 go into it.

22 THE WITNESS: Yes, the regulations --

23 BY MR. POVICH:

24 Q The answer is "yes". Okay. Maybe I can do it  
25 very quickly.

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1           The regulations would permit, would it not,  
2 \$12,000 would be removed from Clerk-hire and put into  
3 what is called "commuter expenses funds"; is that  
4 correct?

5           A     The funds weren't actually moved, but they had  
6 a computer allowance of up to \$12,000, or for saying  
7 \$12,000 Clerk-hire.

8           Q     \$12,000 out of Clerk-hire put it into commuter  
9 funds?

10          A     Yes.

11          Q     And in addition you could take \$3,000 out of  
12 Clerk-hire and put it into leasing the equipment; could  
13 you not?

14          A     Yes.

15          Q     And from those two funds you could transfer  
16 into the other fund; is that correct?

17          A     Yes, effective January 3rd of '77.

18          Q     Fine. Thank you.

19                So, in effect the restriction on transferabil-  
20 ity as of that time really was substantially reduced  
21 by reason of this means of funneling money out of  
22 Clerk-hire and into the other expenses through these  
23 two specific funds?

24          A     Yes.

25          Q     You say that the restrictions that your office

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1 is concerned with, when a Congressman authorized pay-  
2 ments of funds for an employee, were whether or not  
3 that authorization exceeded the amount that he was  
4 allowed for Clerk-hire funds; is that correct?

5 A Yes.

6 Q And whether or not that the hiring of that  
7 person exceeded the number of persons that he'd have,  
8 isn't that correct?

9 A Yes.

10 Q That essentially when the authorization came  
11 in is what your office was concerned with, to make sure  
12 that the total authorization for Clerk-hiring was not  
13 exceeded and the number of people he was entitled to  
14 was unauthorized?

15 A Yes.

16 Q Have you had an opportunity to look at  
17 Mr. Diggs' allowances during that period of time to  
18 determine whether or not Mr. Diggs on any occasion from  
19 '73 through '77 exceeded the amount of his Clerk-hire?

20 A Yes, we have.

21 Q And did he?

22 A No, our study indicated that he did not.

23 Q Did he ever exceed the number of people he was  
24 entitled to hire?

25 A No, he did not.

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1 Q I believe you addressed yourself, briefly, to  
2 the matter of how a check is caused to be mailed. You  
3 talked about inside mail or outside mail; is that  
4 correct?

5 A Yes.

6 Q Essentially, without getting too detailed,  
7 inside mail was mail that was delivered not through the  
8 United States Post Office in the sense it was mailed  
9 in and went out through the Post Office, but was  
10 delivered by a system within the Government, more or  
11 less; isn't that correct?

12 A That is my understanding, but not under my  
13 control.

14 Q In addition to those items of mail, there were  
15 items that were deposited in banks that never went into  
16 the mail at all? For instance, the five banks you  
17 spoke of, Riggs, American Security, First National Bank,  
18 et cetera?

19 A Yes.

20 Q Now, did the congressman -- Let me ask you  
21 this:

22 What was the authorization that determined  
23 whether the check went into the United States mails in  
24 the sense that we know them, mails, the outside mail, or  
25 went into the inside mail, or was automatically deposited

000100

1 to a checking account? What authorization effectuated  
2 that?

3 A It was the employee's election on either  
4 personal affidavit or some other means.

5 Q Is that what happened in this case and the  
6 individuals with respect to Congressman Diggs, and I am  
7 specifically speaking of Mrs. Richmond and Mr. Johnson,  
8 the employees' authorization form that indicated where  
9 they wanted the check mailed?

10 A Yes. As far as I can recall in all three  
11 personnel files information it was the employee's  
12 election as to mailing.

13 Q Does the Congressman have any control or say  
14 with respect to that matter?

15 A No.

16 Q Some employees like not to have it mailed  
17 through the outside mail; isn't that correct?

18 A Yes.

19 MR. POVICH: Your Honor, indulge me for one  
20 moment.

21 THE COURT: Yes.

22 BY MR. POVICH:

23 Q One last question, Mr. Lawler, with respect  
24 to this form you were not concerned, were you, with the  
25 salary which the Congressman set for a particular

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1 employee as long as it did not exceed the maximum; isn't  
2 that correct?

3 A That is correct.

4 Q Nor were you concerned with the position or  
5 job title which was assigned there if any, indeed, was  
6 assigned; is that correct?

7 A Yes.

8 Q Just one last thing:

9 You mentioned a stationery allowance. A  
10 stationery allowance was an allowance during this  
11 period of time, 1973, '4, '5 and '6 of approximately  
12 how much money?

13 A It ranged from \$3,500 to the present level of  
14 \$6,500 per calendar year, per session.

15 Q Do you know what I mean by the term "cash out"  
16 or "withdrawal cash"?

17 A Withdrawal of stationery funds.

18 Q What did that mean with respect to that  
19 particular allowance?

20 A The withdrawal on the stationery allowance  
21 meant that the member had elected to take a portion of  
22 his allowance out, or unused balance from prior years.  
23 So, we would just simply write a check for a dollar  
24 amount.

25 Q It was perfectly all right, he could draw that

000102

1 down and you would pay it to him by check; isn't that  
2 correct?

3 A Yes, there is nothing wrong with that at all.

4 Q If he wanted to he could come in and make  
5 charges against the allowance?

6 A Yes.

7 Q If he wanted to draw down the entire by cash  
8 pay-out, cash to me, it was perfectly all right to do  
9 so?

10 A Yes.

11 Q Indeed, the rules allowed, did they not, that  
12 money go to him if he resigned or in the event of his  
13 death to his widow or his estate?

14 A Yes. This was established by law in regards  
15 to the estate. I do recall members after they left  
16 Congress, or as they were leaving withdrawing their  
17 stationery allowance.

18 Q By a check to cash, that was perfectly law-  
19 ful as well?

20 A Yes.

21 Q Thank you.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY MR. KOTELLY:

25 Q Regarding the stationery allowance, if a

000103

1 member of Congress drew down the entire amount of his  
2 allowance for the calendar year, what, if anything,  
3 could that member do regarding charges, additional  
4 stationery expenses on his allowance?

5 A He would have to have a balance in the  
6 stationery balance in order to charge supplies against.  
7 So, if a member withdrew all of the balance in this  
8 stationery allowance, he would have to make a subsequent  
9 deposit in order to charge.

10 Q Is it correct that as to the stationery  
11 allowance there was no requirement as to how the money  
12 would be used if it was drawn out?

13 A That is correct.

14 Q Is that true of any other allowance that you  
15 have referred to in your testimony?

16 A The other allowances were reimbursements of a  
17 type.

18 Q So, is it correct then that the stationery  
19 allowance is the only allowance that is unquestioned as  
20 to what the use of the money was for?

21 A Yes.

22 Q Regarding the decision as to whether a check  
23 would be mailed or delivered, Mr. Lawler, delivered  
24 internally, if an employee was living in a district  
25 far from the Washington, D.C. area, what means did the

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Office of Finance have of getting such checks to the employee? What means?

A Our only means was what the employee elected on the address form. If they elected outside mail, we of course put it in the outside mail. If they elected inside mail, that would be beyond the scope of how we would know the check would get to them.

Q Did the Office of Finance or House of Representatives have any facility of personally delivering checks in far-reaching districts in the United States?

A That is at least not in the Office of Finance, we didn't.

Q Regarding the Clerk-hire allowance, you testified as to a change that occurred in January, January 3rd, 1977 on as to their being able to transfer funds out of the Clerk-hire allowance?

A Yes.

Q Did I misstate the date, or --

A No, January 3rd of '77.

Q The changes in the use of the Clerk-hire allowance were they, to your knowledge, made retroactive from periods before January 3rd, 1977?

A No. It is not possible to use unused Clerk-hire funds of any preceding month, even.

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Q This period of 1973 to the end of 1976, as far as the Clerk-hire allowance was concerned, could it be used in any other manner other than the payment to employees for their official salary?

MR. POVICH: Objection, Your Honor. Can we approach the Bench?

THE COURT: I will permit the question.

MR. POVICH: How the funds were to be used? The Clerk-hire funds?

THE COURT: Prior to the change in the law.

MR. POVICH: Well, Your Honor, if you are asking this man for an opinion --

THE COURT: I am not asking him anything. I am just permitting the Government to ask him about how Clerk-hire funds can be used prior to the change which you brought up.

MR. POVICH: I didn't say how it could be used. I said: "How they could be transferred."

THE COURT: You may be heard at the Bench.

(At the Bench.)

MR. POVICH: My understanding of the question is how certain funds were to be used once disbursed. I believe that is outside his competency, Your Honor.

THE COURT: State your question. Let it be

000106

clear.

MR. KOTELLY: The question is, prior in the period of '73 to '76 for what purpose could the Clerk-hire allowance be used, for the years prior? I thought it was disbursed for a purpose.

MR. POVICH: Your Honor, I think if you asked this person whether or not it was within his competence of how they were to be used he would say: That is not a matter within his competence. That is a matter for the Committee on House Administration.

MR. KOTELLY: As to Clerk-hire allowance?

MR. POVICH: Yes.

MR. KOTELLY: That is the first time I have ever heard such a statement. I don't believe it is true. In fact, but even if it was, the Clerk-hire allowance has a stated purpose for what it was for, and I wanted to make clear exactly what that purpose was according to the regulations.

THE COURT: I will permit the question.

(In open court.)

BY MR. KOTELLY:

Q I will repeat the question.

During the period 1973 through 1976, based on the regulations of the Committee on Administration in the House of Representatives, for what purpose could

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1 the Clerk-hire allowance be used?

2 A The regulations stated that it was for the  
3 disbursement to employees for the performance of  
4 official duties.

5 MR. KOTELLY: Thank you. I have no further  
6 questions.

7 THE COURT: Recross?

8 RECROSS EXAMINATION

9 BY MR. POVICH:

10 Q One last question. Would you tell me,  
11 Mr. Lawler, would a congressman even know whether a check  
12 of an employee was to be mailed or not?

13 A No, not under usual circumstances.

14 Q Is there any indication in this case, after  
15 your review of the records, with respect to Congressman  
16 Diggs and the employees with which we are concerned  
17 that he knew whether or not the employee had elected  
18 to have his checks mailed or not?

19 A There is nothing in the personnel file folders  
20 that would indicate that he would have that knowledge.

21 Q Under normal circumstances that is a matter  
22 personal to the employee to which the Congressman  
23 normally would not be privy; isn't that correct?

24 A That is correct.

25 Q And there is nothing to prevent the employee

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from designating anyone in the District of Columbia or elsewhere from receiving the mail; is that correct, the check in the mail for within the inside mail?

A The address is totally at the election of the employee.

MR. POVICH: Thank you.

MR. KOTELLY: Nothing further, Your Honor.

THE COURT: May the witness be excused, gentlemen?

MR. KOTELLY: No objection, Your Honor.

MR. POVICH: Yes, he may be excused.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. MARCY: I call Elmo Boydston.

THE COURT: Would any member of the jury like a recess at this point? If so, just raise your hand.

All right, we will take a brief recess.

(Whereupon, at 4:35 p.m. a short recess was taken at the conclusion of which the following proceedings were had at 4:45 p.m.:)

(Defendant present in open court.)

THE COURT: Mr. Marcy, how long do you anticipate this interrogation to last?

MR. MARCY: The next two witnesses will be five minutes, at the most.

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MR. POVICH: Do you have any indication of how late you want to stay?

THE DEPUTY CLERK: Bring in the jury, Your Honor?

THE COURT: All right.

(Whereupon, the jury resumed their seats in the jury box and the following proceedings were had in open court;)

Whereupon,

ELMO BOYDSTON

was called as a witness by and on behalf of the Government and, having first been duly sworn was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MARCY:

Q Mr. Boydston, in a loud voice would you please tell us your full name?

A Elmo Boydston.

Q Where do you live?

A Upper Marlboro, Maryland.

Q And what is your job?

A Assistant Postmaster to the United States House of Representatives.

Q Would you briefly describe what your duties are as Assistant Postmaster of the House of Representa-

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tives?

A Making sure that the mail is safely delivered, dispatched and collected on time.

Q Does one of your duties include picking up mail from the Office of Finance in the House of Representatives?

A Yes.

Q What type of mail do you typically pick up from the Office of Finance?

A Just general, I would assume, vouchers throughout the month, at the end of each month we have a payday which we are paid at the last day of each month.

Q What type of mail do you pick up when you pick up for payday?

A Outside checks are most generally picked up the night before, which is dispatched directly to the Washington, D.C. Post Office for separation. Inside mail checks are picked up the following day at 10:00 o'clock and are dispatched on our 2:00 o'clock mail delivery.

Q On the outside mail, would you describe what your office does with it?

A When we receive -- are you referring to any mail or just mail from the Finance Office?

Q I will refer to the mail from the Finance

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Office, outside the Treasury.

A Outside of the Payroll Check Section?

Q Yes.

A The Finance Office, Mr. Lawler or one of his assistants calls and I dispatch an employee over there immediately. We bring them back. We put them in mail sacks addressed to our superintendent on the first dispatch, leaving the House Post Office and we turn them over to the United States Postal Service.

Q Do you have any means of delivering outside mail out of -- do you have any means of delivering any mail outside of the House of Representatives?

A No, sir.

MR. MARCY: I have no further questions, Your Honor.

THE COURT: Mr. Povich?

MR. POVICH: Cross examination will be by Mr. Watkins.

#### CROSS EXAMINATION

BY MR. WATKINS:

Q You said your job was Assistant Postmaster, is that right?

A Of the House of Representatives, that is correct.

Q You are not an employee of the United States

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Mail Service; are you?

A That is correct.

Q You are an employee of the House of Representatives?

A Of the House of Representatives.

Q And so your duties are for the House of Representatives and not at all for the United States Postal Service?

A That is correct, sir.

Q Now, Mr. Boydston, from whom do you take directions about how to perform your duties?

A Directly, the House Postmaster.

Q From the House Postmaster, and have you ever had any direction from Congressman Charles Diggs as to how to deliver any mail?

A No, sir.

Q Have you ever had any direction from Congressman Charles Diggs on where to deliver any mail?

A One time back when he became Chairman, yes, sir. He asked that all mail addressed as Chairman go to the Committee, not his congressional Michigan seat.

Q Did you ever have any other direction from him with regard to mail delivery outside of the District of Columbia?

A No, sir.

000113

Q Have you ever had any directions from Congressman Charles Diggs with regard to delivery mail to persons known as Jeralee Richmond, Felix Matlock?

A The names do not ring a bell to me.

Q You don't take any direction about where to deliver the mail from Congressman Diggs; is that correct?

A That is correct. Well, if he instructs all mail for -- as Chairman, yes. It will go to the Committee, not to his congressional office; right.

Q Let me clear this up.

Do you take any instructions from Congressman Diggs to deliver any mail to the United States Post Office?

A No.

MR. WATKINS: Thank you, Mr. Boydston.

THE COURT: Anything else?

MR. MARCY: Just one question, Your Honor.

#### REDIRECT EXAMINATION

BY MR. MARCY:

Q This is more on the line of direct. Mr. Boydston, the methods that you described of picking up mail, was that the same as the description that you gave -- did that apply from 1973 through 1977?

A Yes.

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MR. MARCY: I have no further questions, Your Honor.

THE COURT: Anything else?

MR. MARCY: No, Your Honor. We ask the witness be excused.

THE COURT: Mr. Watkins?

MR. WATKINS: Nothing further, Your Honor.

THE COURT: You may be excused.

Thank you.

(Witness excused.)

MR. MARCY: I call Charles Hopson.

Whereupon,

CHARLES T. HOPSON

was called as a witness by and on behalf of the Government and, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MARCY:

Q Mr. Hopson, will you please give us your full name?

A Charles T. Hopson.

Q Where do you live, Mr. Hopson?

A 7835 16th Street, Northwest.

Q Where do you work?

A The City Post Office, Washington, D.C.

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Q How long have you worked for the Postal Service?

A 19 years.

Q What is your present position with the Postal Service?

A Superintendent of Government Mails.

Q Would you briefly describe what your responsibilities are as superintendent of Government Mails?

A My section delivers and checks all of the mail for all of the Government agencies, including the White House, the Senate, and House.

Q You do collect mail from the United States House of Representatives?

A Yes, we do.

Q Would you describe how you collect the mail from the House of Representatives?

A We have carriers who go to the House platform at the House platform post office and picks up the mail.

Q Who do they get the mail from at the House Post Office?

A From the crew that works in the mail room, the House Post Office.

Q Where do they take that mail?

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1 A To the Main Post Office in Washington, D.C.

2 Q Okay. Where is that located in Washington?

3 A North Capitol and Massachusetts Avenue.

4 Q To your knowledge has that been a procedure  
5 for the last four or five years?

6 A Yes. Yes, it has.

7 MR. MARCY: I have no further questions, Your  
8 Honor.

9 THE COURT: Mr. Watkins?

10 MR. WATKINS: No questions, Your Honor.

11 THE COURT: Thank you, you are excused.

12 MR. KOTELLY: I can Jean Stultz, Your Honor.

13 THE COURT: Counsel, come to the Bench.

14 (At the Bench.)

15 THE COURT: How long do you think Ms. Stultz'  
16 examination will take?

17 MR. KOTELLY: This will be a lengthy witness,  
18 Your Honor. I imagine about an hour and a half.

19 THE COURT: I think under the circumstances  
20 that we will recess. It is now five minutes of five,  
21 according to the clock, and this is the jury's first  
22 day. They have been down here since about 9:30, so I  
23 think we will start up with the witness tomorrow morning.

24 Mr. Patterson, what do we have on tomorrow?

25 THE DEPUTY CLERK: We have five or six matters,

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Your Honor.

THE COURT: Any of them lengthy?

THE DEPUTY CLERK: No, sir. All of them are brief.

THE COURT: I hate to put any more burdens on you, but can you check with counsel and see if you can't get them in here a little early, at least promptly?

THE DEPUTY CLERK: I will try to do the best I can.

THE COURT: We will see you at 9:35 and try to push the preliminaries along. I don't think any of them require any particular expenditure of time. Usually we are just checking on the people on probation and see how they are getting along. So, let's say 9:30 tomorrow morning.

MR. POVICH: Thank you for adjourning today. I am exhausted.

(In open court.)

THE COURT: Ms. Stultz, it is five minutes of five. We think we will recess at this point. Be here tomorrow at 9:30, please.

JEAN STULTZ: Yes.

THE COURT: Thank you.

Ladies and gentlemen, I recognize this is your

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first day and I don't want to take advantage of the fact that you all are here and we might hear another witness, but I am willing to excuse you for the day. Your usual admonition: Do not talk about the case among yourselves. Do not let anybody talk to you about it, and do not talk to anybody about it. You are excused until tomorrow morning at 9:30. The Marshal will bring you here so that we can start promptly. All right.

(Whereupon, the jury retired from the courtroom and the following proceedings were had out of their hearing and presence:)

THE COURT: Gentlemen, is there anything that either of you wish to bring to the Court's attention at this time?

MR. KOTELLY: No, Your Honor.

MR. POVICH: No, sir.

THE COURT: Nothing?

MR. POVICH: Nothing.

THE COURT: Thank you very much.

(Whereupon, at 5:00 o'clock p.m. hearing in the above-entitled matter was recessed to reconvene at 9:30 o'clock a.m. on Thursday, September 28th, 1978.)

CERTIFIED: \_\_\_\_\_ OFFICIAL REPORTER

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P R O C E E D I N G S

THE DEPUTY CLERK: May I call the case on trial, Your Honor?

THE COURT: Yes, sir.

THE DEPUTY CLERK: Criminal case 78-142, the case of the United States of America v. Charles Diggs.

For the Government, Mr. John Kotelly and Eric Marcy.

For the Defendant, Mr. David Povich, Robert Watkins and Bernard Carl.

(Defendant present in open court.)

MR. POVICH: Good morning, Your Honor.

THE COURT: Good morning, gentlemen.

Are counsel ready to proceed?

MR. KOTELLY: The Government is ready.

MR. POVICH: We are ready, Your Honor.

THE COURT: Bring in the jury.

(Whereupon, the jury resumed their seats in the jury box and the following proceedings were had in open court:)

THE COURT: Good morning, ladies and gentlemen.

THE JURY: Good morning.

THE COURT: You may proceed.

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MR. KOTELLY: Your Honor, the Government's  
next witness will be Melvin Chrisman.

Whereupon,

MELVIN CHRISMAN

was called as a witness by and on behalf of the  
Government and, having first been duly sworn was  
examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOTELLY:

Q Would you please state your name for the  
record?

A Melvin L. Chrisman.

Q Mr. Chrisman, where are you presently  
employed?

A At the Riggs National Bank in Washington,  
D.C.

Q How long have you been employed at the Riggs  
National Bank?

A Since June of 1946.

Q What is your present position?

A Senior vice-president, cashier.

Q How long have you held that position?

A For two years and five months.

Q What are your present duties as senior vice-  
president and cashier?

000122

1 A As cashier of the National Bank I have some  
2 legal responsibilities among other responsibilities of  
3 care and control of the assets and records of the bank.

4 Q Mr. Chrisman, were you previously subpoenaed  
5 and requested to bring to Court certain money orders  
6 and cashier's checks in the care, custody and control  
7 of yourself?

8 A Yes.

9 Q As an officer of the Riggs National Bank?

10 A Yes.

11 Q During the period of 1973 through the end of  
12 1976 did Riggs National Bank sell money orders and  
13 cashier checks?

14 A Yes, we did.

15 Q How were they designated?

16 A I don't understand what you mean by "How were  
17 they designated".

18 Q Did they have the name of the bank on the  
19 money order and cashier's checks?

20 A All bank money orders and bank cashier's  
21 checks showed the name Riggs National Bank.

Q Would you state to the jury during that  
period of time how money orders and cashier checks were  
sold by the Riggs National Bank?

A Yes. Cashier checks were sold when a

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customer came in and asked for one, gave us the information as to the payee of the check. One of our employees would type the check up, take payment for the check, get it signed by an officer, and deliver it to the customer.

In the case of money orders the customer merely came in and asked for a money order in the dollar amount that he wanted. That amount was coded on the check and the check was handed to the customer in blank.

Q These cashier checks and money orders, were they paid for at the time they were given to the customer?

A Yes. They were always paid for at the time that they were delivered.

Q Would the name of the customer appear on either of those documents?

A On the cashier's check it would not appear on there. On the money order it might appear if the customer chose to sign it after he purchased it.

Q But as far as the bank is concerned, would the bank put the name of the customer on the money order?

A They would not.

Q What, if any copies of these documents would you give to the customer?

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1 A On a cashier's check, just give the original  
2 check to the customer. In the case of money orders they  
3 get a file copy for their own records.

4 Q Mr. Chrisman, is there a regular procedure  
5 that is set by the Riggs National Bank regarding the  
6 return of these cashier's checks and money orders after  
7 they have been sold to a customer?

8 A Well, when a customer negotiates them, like  
9 any other check, eventually gets back to the payment  
10 system and paid by the bank and filed.

11 Q What, if any indications are there on these  
12 cashier checks or money orders as to the amount of the  
13 documents, what, if any?

14 A On a cashier's check the amount is typed in  
15 by the bank employee. It is also cut in on a check  
16 writing machine. In the case of money orders it is  
17 just checked in on the writing machine.

18 Q This would reflect the amount?

19 A The amount of the check, yes.

20 Q The amount -- would the bank place anywhere  
21 else on the money order or cashier's check the amount  
22 of the document?

23 A Not on a money order. On a cashier's check  
24 it would be typed in by the bank employee who issued  
25 it.

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Q After the document has been sold to a customer, does the Riggs Bank or to your knowledge, the banking practices of other banks, place on the documents the amount of the instrument?

A Well, again in a case of a cashier's check it is filled cut in its entirety. And in the case of money orders, the amount is cut in.

Q Mr. Chrisman, I am referring to after the bank has sold the documents. At some later time, according to banking practices, is there any indication put on the money order or cashier's check?

A In a case of a cashier's check it is usually delivered to the payee, and eventually endorsed and redeposited.

In the case of money orders, the individual who purchased it may sign it, date it and deliver it to and fill in the payee line and deliver it to someone.

Q The documents that you have previously turned over to the Court, from their appearance were they handled in the normal banking practices?

A Yes.

MR. KOTELLY: Your Honor, for identification, Government's Exhibit 45-A through 45-Z. 46-A through 46-G.

THE DEPUTY CLERK: Government's Exhibits 46-A

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through 46-G, 45-A through 45-Z marked for identification.

(Whereupon, Government's Exhibits 45-A through 45-Z and 46-A through 46-G were marked for identification.)

BY MR. KOTELLY:

Q Mr. Chrisman, while defense counsel is still looking at those documents. Does the bank have any identifying numbers on cashier's checks or money orders?

A Yes. The cut shows the dollar amount, shows the branch designation.

Q How about as to numerical sequence?

A Our branches are numbered numerically.

Q I am referring to the instrument, themselves, the money orders and the cashier's checks before --

A Well, money orders are brought from the check printers in sequential numbers and they are kept in the bank vault sequentially and delivered out to the various branches, and we keep a record of who has which blocks of numbers.

Q Is there a practice at the Riggs Bank regarding the dating of money orders and cashier's checks?

A Yes. The tellers that issue them are

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supposed to put a rubber date stamp in the position of the date.

Q How about the cashier's checks?

A That is typed in. That check is filled out entirely.

Q Mr. Chrisman, I show you Government's Exhibits 45-A through 45-Z and ask if you can identify those documents?

A Yes, they are all microfilm or photostatic copies of money orders that the bank sold.

Q Are those the documents that you produced in court last week?

A Yes.

Q Mr. Chrisman, I also show you Government's Exhibit 46-A through 46-G and ask if you can identify those documents?

A Yes. These are the microfilm or Xerox copies of cashier's checks sold by the bank.

Q Are those documents the documents that you turned over to the Court last week?

A Yes.

Q Mr. Chrisman, in addition to those documents were you also subpoenaed to bring with you several additional cashier's checks and money orders?

A Yes, I was.

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Q Were you subpoenaed to bring a cashier's check dated October 1, 1975, cashier check No. 442441?

A Yes.

Q Have you brought that document with you?

A Yes, I have it here.

Q Also cashier's check dated December 5, 1973, No. 247548.

A Yes, I have that.

MR. KOTELLY: Your Honor, I ask that they be marked Government's Exhibits 46-H and I.

THE COURT: All right.

THE DEPUTY CLERK: Government's Exhibits 46-H and 46-I marked for identification.

(Whereupon, Government's Exhibits Nos. 46-H and 46-I were marked for identification.)

BY MR. KOTELLY:

Q Mr. Chrisman, while defense counsel is looking at those documents I ask you, were you also subpoenaed to bring with you a money order purchased December 5, 1973, No. 689522?

A Yes.

Q Have you brought that with you?

A Yes, I have.

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Q Were you also subpoenaed to bring a money order purchased on December 5, 1973 which is either No. 689521 or 689523 in the amount of \$51.06?

A I have it. It is numbered 689523, and I have that here.

Q Is it in the amount of \$51.06?

A Yes.

MR. KOTELLY: Your Honor, I would ask that these two be marked as Government's Exhibit 45-AA and BB

THE COURT: Very well.

THE DEPUTY CLERK: 45-AA and 45-BB marked for identification.

(Whereupon, Government's Exhibits Nos. 45-AA and 45-BB were marked for identification.)

MR. POVICH: I am sorry, Your Honor, we have not seen those.

MR. KOTELLY: They have been brought for the first time to court, Your Honor.

THE COURT: All right.

BY MR. KOTELLY:

Q Mr. Chrisman, I return to you, Exhibits 45-AA and 45-BB, 46-H and I, and ask you if those documents were kept in the ordinary course of business

by the Riggs National Bank?

A Yes, they were.

Q And those documents were under your care, custody and control?

A That is correct.

Q At the time that the cashier's checks or money orders are cut, you have indicated that there is a cutting stamp that prints the amount of money on the cashier's checks and money orders; is that correct?

A That is right.

Q Besides the amount of money, is there any other identifying mark placed on these instruments?

A Yes. The words of Riggs National Bank of Washington, D.C., and the branch number, 16 or 18 appears to be the two branch numbers on these documents.

Q To your knowledge, do you know which are branches 16 and 18?

A 16 is our Southeast office and 18 is the L'enfant Plaza office.

Q Does Riggs National Bank stamp or mark the items when they are returned to the bank after they have been negotiated in the ordinary course of business?

A When they are presented for payment there is a paid stamp placed on the face of the check bearing

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the date that it was paid.

Q Mr. Chrisman, on some of the documents you have turned over, the Riggs stamp partially obliterates the amount of the money from the plate that they were printed on. Is there another location on that document which you could tell the amount of the money order or cashier's check?

A Yes. On a cashier's check the amount has been typed in at the time it was sold. In both the cashier's check and the money order the amount is microencoded in the lower right-hand corner of the check before it is processed.

Q Mr. Chrisman, as far as the identifying money order numbers and cashier's check numbers that you have indicated were printed, is there any practice as to when these money orders and cashier's checks are sold, as to the sequence of numbers on the documents?

A No. When we get our check supply order from the check printer they go to the warehouse. When a branch needs a new supply they are drawn from the warehouse and shipped to the branches so they get blocks of numbers at the time they need them.

Q As far as each branch, when it receives a block of numbers, is there any practice within the bank as to how they are sold as far as the identifying numbers

000132

on the money orders or the cashier's checks?

A They are supposed to tell, of course, the earliest numbers first in sequence and then report in every night of their sales as to the numbers that have been sold.

Q I also show you, return you to Government's Exhibit 45-Q, R and S, and ask you if these documents were negotiated at the Riggs National Bank?

A Well, yes and no. They were originally sold to apparently Jean Stultz. She apparently turned them back in on the date that she purchased them and asked for three additional ones in exactly the same amount.

Q So that those documents were not --

A They were never actually delivered to the purchaser. They were canceled by the bank and it is so indicated.

Q Mr. Chrisman, I would next show you and identify, ask Your Honor that they be marked as Exhibits 24-A, B and N. They have been premarked.

THE DEPUTY CLERK: Government's Exhibit 24-N, 24-B and 24-A marked for identification.

(Whereupon, Government's Exhibits 24-N, 24-B and 24-A were marked for identification.)

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BY MR. KOTELLY:

Q Mr. Chrisman, I show you Government's Exhibit 24-A, B, and N and ask you if you can identify those documents?

A Yes. These are microfilm copies of checks of Jean Stultz. She had a checking account at the Riggs National Bank and these are checks that she drew for cash and negotiated at the bank.

Q Were those microfilm copies previously provided by the Riggs Bank?

A Yes.

Q Now, Mr. Chrisman, is there any way, any indication made by Riggs Bank on those documents which would reflect as to how they were negotiated?

A Yes. There is a teller stamp on the face of each of the three of them, which is indicative they were negotiated at a teller's window and purchased or payment of something.

Q Would there be any identifying marks which would reflect as to whether those checks were deposited or in payment of any loans or any other such bills at the Riggs National Bank?

A Well, there is no indication on the face of any of these checks as to what they were used for, but the fact that they were cashed by a teller means that

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the customer either received cash or received -- made a payment on a note or received some document in return for this check.

Q When you say "some documents in return," would that mean money orders or cashier's checks?

A Either a cashier's check or money order.

Q Mr. Chrisman, while defense counsel are looking at the next group of documents as to checks drawn on a checking account at the Riggs National Bank, what documents do you maintain at the bank regarding the actual checks themselves?

A Well, we maintain for five years photostatic copies or microfilm records of all checks paid by the bank on the checking account. We maintain the signature cards on the account. We maintain the monthly statements on microfilm, and the deposit tickets for five years.

MR. KOTELLY: Your Honor, I ask that these which have been premarked 24-C through M, O through S, I would ask that they be marked.

THE DEPUTY CLERK: You say 24-C through 24-O?

MR. KOTELLY: C through M and then O through S.

THE DEPUTY CLERK: Government's Exhibits

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24-C through M and O through S marked for identification.

(Whereupon, Government's Exhibits 24-C through M and O through S were marked for identification.)

BY MR. KOTELLY:

Q Mr. Chrisman, I also show you Government's Exhibits 24-C through M and O through S and ask you if you can identify as to whether these documents were negotiated at the Riggs National Bank?

A Yes. These are original checks of Jean Stultz on her account at the Riggs National Bank and they all bear a Riggs teller's stamp which would indicate that they were negotiated at the bank.

Q And when you indicate that they were negotiated, can you tell from that earlier stamp as to the manner that they were negotiated?

A They were cashed at a teller's window, either branch 16 or Branch 18.

Q And do the branch numbers appear on those checks?

A It appears on the teller's stamp.

Q Where, on each of those checks does the teller stamp appear?

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A On the left-hand side of the check. The tellers validate the stamp in this manner.

MR. KOTELLY: Your Honor, I would ask to identify what has already been premarked as Government's Exhibit 22-A, 22-B and 51-B. I am sorry, 22 series have already been identified yesterday.

THE COURT: All right.

THE DEPUTY CLERK: That is correct.

BY MR. KOTELLY:

Q Mr. Chrisman, I will show you first Government's Exhibit 22-A and 22-D, which were identified yesterday as voucher checks and ask you if you can identify whether those two instruments were handled at the Riggs National Bank?

A Yes. They both bear Riggs National teller stamps, Branch 18.

Q Would they indicate the same as you previously mentioned that they were negotiated at the teller's window?

A Yes. negotiated at the teller's window.

Q I show you 51-E, which is a Bank of the Commonwealth cashier's check and ask you if you can identify that, whether that was negotiated at the Riggs Bank?

A Yes. It also bears the Riggs teller stamp.

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1 It is indicative of the -- of it being negotiated by  
2 the teller.

3 MR. KOTELLY: If the Court will indulge me.

4 No further questions, Your Honor.

5 THE COURT: Mr. Povich?

6 MR. POVICH: Give me a moment, Your Honor.

7 CROSS EXAMINATION

8 BY MR. POVICH:

9 Q You were shown some canceled money orders  
10 that had been canceled that bear the name of Jean  
11 Stultz, and I believe you testified that they were given  
12 back to the bank and she would have been credited that.  
13 Did you indicate what, if anything, was done with the  
14 money?

15 A She purchased three additional money orders  
16 in the next sequential numbers for the same amount as  
17 these three.

18 THE COURT: Were you shown those checks?

19 THE WITNESS: I wasn't looking at them that  
20 closely. I don't know whether I did or not. I presume  
21 they are.

22 BY MR. POVICH:

23 Q And these were 175, 176 and 177, 178 and 179  
24 and 180; is that correct?

25 A I believe so.

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Q Now, are the checks, are they always, I believe you testified that sometimes the checks were not sequential, because they were divided up among the banks; is that correct?

A Well, each bank gets a block of numbers and that branch sells its numbers sequentially, but if Branch A gets a block of numbers in earlier, sells them faster than Branch B, the bank could be paying them out of sequence.

But, we keep records to that effect.

Q Do you receive subpoenas for this information?

A Yes.

Q How many subpoenas did you receive from the Government for the production of documents in this case?

A Oh, let's see. One, two, three, four, five, I believe it is five is what I seem to have here, five or six.

Q Would you hand to me the subpoenas which you received?

MR. KOTELLY: Your Honor --

THE WITNESS: You will give these back, I trust. This appears to be all.

BY MR. POVICH:

Q These are all the subpoenas?

A There are other documents attached to them.

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Q Well, were the documents attached to these subpoenas?

A No. They are just there. I've put them there. Do you want to look just at the subpoenas?

Q I don't want to mess up your records. If you could just set aside the subpoenas you received from the Government in connection with this.

A I think this is it. That is the ones I have in this file of Congressman Diggs.

Q Now, in connection with the receipts of these subpoenas, did you on occasion find that some of the subpoenaed information really had nothing to do with this case and therefore you did not produce it?

A Yes.

MR. KOTELLY: Objection, Your Honor.

A subpoena calls for documents to be produced. A witness cannot decide what is relevant and irrelevant.

THE COURT: Sustained.

BY MR. POVICH:

Q Well, would it be fair to say, Mr. Chrisman, that there are documents which are called for in the subpoena which were not turned over to the Government?

MR. KOTELLY: I have to object to that on the grounds of relevancy, what is and isn't turned over to the Government. It is what documents are in

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evidence. If Mr. Povich wishes to put documents in evidence, we have no objection to that.

THE COURT: Counsel, come to the Bench.

(At the Bench.)

THE COURT: What are you trying to do?

MR. POVICH: It is important, especially with the next witness that we ascertain the extent of the Government's production of documents with respect to her accounts and transactions. The completeness of the information which they have with respect to that, it is very important, I think it is simply going through the subpoena, what documents were produced, not simply what was turned over and not introduced into evidence, documents which were available, and it is a simple -- Your Honor, I don't mean to cause a problem. The simplest way to do that is, of course, to get the subpoenas. These should be filed as part of the Court's record and there shouldn't be any problem. I just want to make sure if there is something called for here that was not turned over that I don't want to charge the Government with having. That is all.

THE COURT: Well, the Government is interested only in the evidence as relevant to the charge in this indictment, and if something else comes up, the Government isn't required to produce that and

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say, "Well, that is not relevant to this case."

MR. POVICH: I am not suggesting for a moment they are required to produce something that isn't relevant. I just want to make sure something that was called for was turned over to the Government, something that was not, then we know the reason why. Otherwise, I could take these subpoenas and say, "Yes, this material is relevant to the Government, the material called for here."

MR. KOTELLY: May I be heard?

Your Honor, the Government would submit that these subpoenas are totally irrelevant to the issues of the trial of this case. Documents turned over to the subpoena have to be admitted into evidence. The subpoenas themselves are not evidence of anything. The Government has requested certain documents. It can receive certain documents and ask that certain be marked and certain ones not be marked. I would submit that this has nothing to do with the issues in this case and Mr. Povich is trying to create some new issue.

I would submit part of the subpoenas are Grand Jury subpoenas and not trial subpoenas, and clearly have nothing to do with the production of evidence at trial, which is the issue here.

MR. POVICH: Are you suggesting that

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information you obtain at trial is not during the course of the Grand Jury investigation, is not relevant to the trial?

MR. KOTELLY: Only if it is admissible in evidence at trial is it relevant.

THE COURT: I am going to have to ask you gentlemen to stop having colloquy between yourselves and address the Court.

MR. POVICH: I will stop here. I will simply have him identify the fact that these were the subpoenas issued and responded to them and introduce the documents.

(In open court.)

BY MR. POVICH:

Q I don't wish to belabor it, is it fair to say the documents which you have handed me are the subpoenas which you received on behalf of the Riggs Bank and in response thereto you produced the documents called for?

A Yes.

MR. POVICH: Your Honor, may I just have them marked for identification purposes?

THE COURT: All right.

MR. POVICH: Defendant's Exhibit --

THE WITNESS: You have to count them again. I

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think there are six.

MR. POVICH: Thank you. I have no further questions, Your Honor.

THE COURT: Anything else?

MR. KOTELLY: Nothing further, Your Honor.

THE COURT: Thank you, Mr. Chrisman. You may be excused.

(Witness excused.)

MR. KOTELLY: The Government would call Jean Stultz, Your Honor.

THE DEPUTY CLERK: Defendant's Exhibits 1 through 6 marked for identification.

(Whereupon, Defendant's Exhibit No. 1 was marked for identification.)

Whereupon,

JEAN AUDREY GILLETTE STULTZ was called as a witness by and on behalf of the Government and having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOTELLY:

Q Would you please state your name for the record?

A Jean Audrey Gillette Stultz.

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Q And, Ms. Stultz, where do you presently live?

A In the State of New Jersey.

Q How long have you lived in New Jersey?

A Two years.

Q Prior to that, where did you live?

A In Washington, D.C.

Q How long have you lived in the Washington, D.C. area?

A All my life, approximately 45 years until moving to New Jersey.

Q Mrs. Stultz, do you know an individual known as Charles C. Diggs, Jr.?

A I would like to address the Court, please.

Q Mrs. Stultz, just answer the question.

A Yes.

THE COURT: Do you know Mr. Diggs?

THE WITNESS: Yes, I do.

BY MR. KOTELLY:

Q All right. And how do you know Mr. Diggs?

A As a former employee.

Q How long were you an employee of Mr. Diggs?

A Approximately four years.

Q The person that you know as Charles C. Diggs, Jr., do you see him here today in court?

A Yes, I do.

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Q Would you point him out, identify him,  
please?

A Mr. Diggs, sitting at the table.

MR. KOTELLY: Is there any objection to the  
identification?

MR. POVICH: No.

MR. WATKINS: No.

BY MR. KOTELLY:

Q Mrs. Stultz, in what capacity were you  
employed by Mr. Diggs?

A As his office manager.

Q Where were you located when you were the  
office manager?

A In the congressional office.

Q Where?

A In the House of Representatives.

Q In Washington, D.C.?

A Yes, sir.

Q Prior to that time, Mrs. Stultz, could you  
indicate briefly to the jury your educational background  
and your working experience before you began to work  
for Congressman Diggs?

A I am a high school graduate. I have taken a  
few college courses. I have worked as a secretary,  
executive secretary, for federal agencies and private

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concerns.

Q When did you first meet Mr. Diggs?

A In July of 1972.

Q Where was that?

A In Miami, Florida.

Q Where were you working at that time?

A With the Democratic National Committee.

Q And did you have any conversation with Mr. Diggs at that time?

A Yes, I did.

Q How much later was it that you went to work for Mr. Diggs?

A Approximately three months, in October of 1972.

Q When you first began to work for Mr. Diggs, what was your position?

A I went on board with Mr. Diggs as a legislative assistant.

Q What was your starting salary?

A \$11,000 a year.

Q When was it that you actually started, what date was that?

A In October of 1972.

Q How long did you remain as a legislative assistant?

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A Three to four months, approximately four months.

Q And then what position did you attain?

A His personal secretary.

Q And was there any change in your salary at that time?

A Yes, sir.

Q What was your changed salary?

A \$14,000, maybe fourteen and some.

Q Per year?

A Yes, sir.

Q Did you also obtain any additional duties in working for Mr. Diggs besides being his personal secretary?

A I'm not sure I understand.

Q Let me rephrase that question.

First of all, as to your position as Mr. Diggs' personal secretary, what were your duties?

A I was responsible for his appointment calendar. I took care of all of his personal affairs.

MR. WATKINS: Your Honor, I am sorry, Mr. Kotelly. May we approach the Bench?

THE COURT: Yes.

(At the Bench.)

MR. WATKINS: I was informed by Mrs. Stultz'

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lawyer, when she called me on Saturday that Mrs. Stultz was attempting to assert a constitutional right when she asked to address the Bench, that was the problem when she asked to address the Bench, the Court, and I am informing the Court of this. I think we ought to have a voir dire of some kind out of the presence of the jury as to why.

Mrs. Roundtree is Mrs. Stultz' lawyer. She is here in the courtroom and she is the person that advised me.

THE COURT: Mrs. Roundtree knows how to bring such matters to the attention of the Court.

MR. WATKINS: I think that is something that ought to be addressed at some stage before something happens that cannot be repaired.

THE COURT: Do you happen to know what the basis of the assertion of the constitutional privilege is?

MR. WATKINS: I don't know. I have a suspicion, but I don't know what the basis is. Your Honor, I think Mrs. Roundtree might know. I think that she is probably the person that ought to handle this matter.

THE COURT: All right.

(In open court.)

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THE COURT: Ladies and gentlemen of the jury,  
you may step into the juryroom, briefly.

(Whereupon, at 11:35 a.m. the jury retired  
to the juryroom and the following proceedings  
were had out of their hearing and presence:)

THE COURT: Call Mrs. Roundtree.

THE DEPUTY CLERK: Ms. Roundtree.

MS. ROUNDTREE: Yes.

THE COURT: You may come to the Bench,  
Ms. Roundtree.

(At the Bench.)

THE COURT: Good morning. The Court has been  
advised that you wish to make a representation on  
behalf of Mrs. Stultz?

MS. ROUNDTREE: Yes, I do, Your Honor.

I spoke with Mrs. Stultz this morning. She  
inquired of me if I had received from the Government an  
assurance of immunity for her, and I advised her that  
other than the oral representation I was to receive a  
letter, a memorandum some two weeks ago and I had not  
received it, and I advised her that she does have  
certain constitutional rights, that her testimony  
certainly will incriminate her and that I thought that  
should be brought to the attention of the Court so that  
she might be advised, formally on the record of this.

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Her testimony certainly involves her, Your Honor. She would be totally convicted on what she says from this stand as to what she has represented to me.

THE COURT: Of course I don't know the nature of her testimony. I haven't had access to her --

MS. ROUNDTREE: I understand that, Your Honor.

THE COURT: -- Grand Jury testimony or whatever.

What is the situation?

MR. KOTELLY: Your Honor, at the time that Mrs. Stultz first came to the Grand Jury to testify she was advised of her rights. She indicated she wished to waive her rights, which she did under oath and testified fully and freely at the Grand Jury.

A week or two ago Ms. Roundtree did come to our offices with Mrs. Stultz and asked us as to the testimony at trial whether we intended to prosecute Mrs. Stultz based on her testimony. We advised Ms. Roundtree at that time we certainly would not intend to prosecute her, and she had our word that she would not be prosecuted for her testimony.

Ms. Roundtree was concerned if anything happened to Mr. Marcy or to myself that there would be nothing on the record that would reflect that the Government has told Ms. Roundtree, told Mrs. Stultz that

she would not be prosecuted for her testimony relating to her employment with Congressman Diggs as far as the salary was concerned, which is the only issue that we can see that she has any concern on.

Ms. Roundtree said she would be satisfied with our representations, also that she would like a memorandum in writing in order to effectuate that.

I was under the impression, I told Ms. Roundtree as soon as this trial was over we would give her a memorandum. Obviously, her understanding is different, that she expected one immediately. If I had realized that, of course I would have provided her with a memorandum, immediately. But I would submit that my formal representation is binding on the United States Government that we will not prosecute Mrs. Stultz for any of her testimony regarding payroll practices during her employment with Congressman Diggs.

MS. ROUNDTREE: With that being on this record, I am satisfied.

THE COURT: All right.

MS. ROUNDTREE: I am most satisfied. I am more satisfied than I would be with a memorandum, with it on the record. I thank the Court.

THE COURT: Thank you, Ms. Roundtree.

MS. ROUNDTREE: All right. I request the

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Court relate that to Mrs. Stultz. May that be done in the witness room.

THE COURT: Would you please relate that to Mrs. Stultz?

MS. ROUNDTREE: Yes. Thank you.

(In open court.)

THE COURT: You may bring in the jury.

(Whereupon, the jury resumed their seats in the jury box and the following proceedings were had in open court:)

THE COURT: You may resume the stand, Mrs. Stultz.

DIRECT EXAMINATION -CONTINUED

BY MR. KOTELLY:

Q Mrs. Stultz, would you state to the jury what your duties were as personal secretary to Congressman Diggs?

A I maintained the Congressman's appointments, calendar. I took dictation. I spoke with his constituents and also handled his personal affairs.

Q For how long a period of time did you do that?

A From when was it? From the time I received the appointment as secretary, February of '73 until I left in August of '76.

Q You indicated that you handled some of the

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Congrssman's financial matters; is that correct?

A That is correct.

Q And what specifically -- what type of records of Congressman Diggs did you handle regarding financial matters?

A His personal -- his bills and his accounts, not just personal bills, but also the office expenses of bills and accounts, the Congressman's personal bills.

Q To your knowledge did the Congressman have any personal checking accounts during that period of time?

A Yes, he did.

Q How many checking accounts did he have?

A Mainly one at the House Sergeant at Arms Bank.

Q What, if anything, do your duties include regarding the Congressman's checking account at the Sergeant at Arms?

A I would make deposits into that account as instructed by him, and I would pay his creditors from his, you know, checks that were drawn on that account.

Q And what, if anything, did you do regarding the making up of checks from the personal checking account of Congressman Diggs?

A Usually I would draw checks -- I would prepare checks to those creditors that the Congressman would

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indicate he wanted to pay for that particular month, or whatever, present these checks to the Congressman for signature and then would mail them to the creditor.

Q Did you have authority to sign the Congressman's name to any of his personal checks?

A No, I did not.

Q And did you ever do so?

A No, I did not.

Q Mrs. Stultz, you also indicated that you were the office manager for Congressman Diggs; is that correct?

A That is correct.

Q And at what time did you assume that duty?

A I don't remember the exact date, but it was when Mrs. -- his former administrative assistant, who is now deceased, Ms. Dorothy Quarker was moved to the House District Committee Staff.

Q Could you spell Ms. Quarker's name for the record?

A Dorothy, D-o-r-o-t-h-y, Quarker, Q-u-a-r-k-e-r.

Q Could you give us some indication as to when this occurred?

A I would guess it was around April or May of '73.

Q Is it at that time that Ms. Quarker went over

to the District Committee that you took over the office manager's responsibilities; is that correct?

A That is correct.

Q What additional duties did you have as office manager?

A I was responsible for the operation of the office, supervision of the staff, and at the same time I maintained a secretarial function for a good portion of the time.

Q Did you receive any increase in salary when you assumed the additional duties as the office manager?

A I can't remember exactly. I did receive an increase in salary, but I can't remember whether it was exactly at that point or later.

Q Now, Ms. Stultz, during the time that you were the office manager and personal secretary of Congressman Diggs, was this on a committee or as to his personal staff?

A It was his congressional staff, not the committee staff. I was located in the congressional office.

Q Did you have offices in the committee for the District of Columbia suite of offices?

A No, I did not.

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Q Mrs. Stultz, were you ever on the payroll for the House of Representatives, committee on the District of Columbia?

A Yes, I was.

Q How do you have knowledge of that?

A I was told that I was going on the District Committee payroll. Sometimes I would be on the District Committee payroll and sometimes I would be on the congressional office payroll.

Q Who told you this?

A The Congressman would tell me that I was being switched from one payroll to the other.

Q What, if any duties did you have regarding the Committee on the District of Columbia?

A Well, at one time I was -- I don't remember exactly when I was supposed to be liaison, a liaison person between the District Committee Office and the congressional staff, but as far as having actual duties or specific assignments, I didn't have any.

Q Did you have any liaison functions between the District Committee and the congressional staff?

A None that I could particularly identify other than talking with the staff, occasionally.

Q Mrs. Stultz, did the Congressman indicate to you why he was putting you on the Committee staff?

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A I don't recall any specific reason.

Q Now, Mrs. Stultz, did there come a time when you were on both the Committee staff and the congressional staff of Congressman Diggs at the same time?

A Yes, there was.

Q When did that occur?

A The best of my recollection it was about -- it was in 1973, I believe, late.

Q Could you tell the jury what, if any conversations, you had with the Congressman, Congressman Diggs prior to the time that you were put on both payrolls?

A Well, the Congressman called me in his office one afternoon. It was just one day. It was just two of us in the office, and he said that there was certain items, certain bills that needed to be paid, and he wanted to increase my salary and the increase, he would tell me what bills should be used for.

Q What response, if any, did you have when he made this suggestion?

A I objected to it. I told the Congressman I didn't think it was legal. I don't want to get into that.

Q What did the Congressman respond to that, if anything?

A His response was that an employee could do

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whatever she wanted or whatever the employee wanted with their salary.

Q And what happened in that conversation after that?

A I finally agreed. We discussed it more. I don't remember what was said, but I finally said, "All right, I will do it." And I said, "I don't want to do this for long." He said, "It will only be for a couple of months."

Q At that time, Mrs. Stultz, were you aware of any financial problems or difficulties of the Congressman?

A Yes, I was very much aware.

Q What was his financial condition at that time?

A Well, he was delinquent in most of his charge accounts or bills or whatever they may have been, and since I handled those accounts I was often in contact with his creditors. I should say were in contact with me about payment of the bills.

Q Now, you have indicated that these were the conversations that preceded your being put on the payrolls of both the Committee and the Congressman's staff; is that correct?

A Yes.

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Q And what, if anything, occurred when you began receiving checks from both the Committee and the congressional staff?

A Well, both of my checks I had sent directly to my bank account.

Q Where was that?

A At the Riggs National, the checks that I had been receiving all along, my own salary, around \$800 something a month, the supplemental check or the check, the additional check that I got, that also went straight to my checking account and that was somewhere around \$1,200 a month. That was the check that was used for whatever purposes the Congressman indicated to me.

Q What, if any documents would you receive from the Riggs National Bank to reflect your salary?

A From the Riggs National Bank I simply receive a deposit slip that my check had been deposited in my account. Attached to that was -- I am not sure that came from Riggs, but I did get each month a salary statement indicating my amount of taxes, that kind of thing.

Q During the time you were on both the Congressional payroll and the staff payroll, how many deposit tickets would you receive each month from Riggs Bank?

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A I received two.

Q Now, Mrs. Stultz, did there come a time when you were no longer on the payroll of both the Committee and the personal staff, congressional staff?

A Yes.

Q What, if anything, occurred during that period of time regarding your salary, itself?

A My salary was substantially increased, almost to a figure, or at least to a figure to cover the total amount that I was receiving in the two checks. In fact, my salary went almost to the maximum, I believe.

Q What was the maximum? What was your salary that you recall receiving?

A It was in the area of \$35,000 a year. I don't remember the exact figure.

Q Mrs. Stultz, of the money which you received each month from the House of Representatives, what portion of that money did you consider to be your own to spend as you wish?

A The portion that I knew was mine in the beginning. It was very easy. The portion that I knew was my own salary, the \$800 and some.

Q And do you know what the gross annual salary would have been that would have reflected that \$800 and some figure?

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A \$14,000 -- \$14,000 and something.

Q Did you, during the time that you were employed by Congressman Diggs, did you have increased this portion of the salary that you used for yourself for your own purposes?

A Yes, at one point, and again I can't recall the date without seeing some documents, but at one point I recall my salary went to, oh I believe \$19,000 -- \$17,000, \$19,000. I am not sure just which, and when it became one check with my increase and the overage it was very difficult for me to determine what my take home should have been. I used to call the Finance Office to try to get some indication from them what the take-home would have been at whatever salary I was at that point. And they wouldn't give me the information. They wanted to know why did I want to know. Of course, I didn't feel I should tell them so I simply had to assume based on my best accounting.

Q Could you indicate to the jury what portion of your salary you considered your own at the time that you received an increase from either \$17,000 or \$19,000?

A Oh, gosh. I just can't remember what portion. I do know at one point the Congressman was getting approximately -- the overage was around \$800 and some a month after I got an increase, but I don't

know what salary that was.

Q Mrs. Stultz, after you first began this procedure with the -- with Congressman Diggs when you were first put on both of the payrolls, was there a practice, uniform practice as to how it was determined what was to be done with the overage in your salary checks?

A Yes. Each month I made a listing of all of the Congressman's accounts that I had in my possession from his creditors. Some he would bring into the office and hand me.

Each month I made a itemized list and at whatever time the Congressman was ready to review the list, usually around the first of the month, we would go over this list and the Congressman would indicate to me which bills on that list he wanted paid.

I would indicate to him the amount that I had, what we referred to as the special account, which was the overage of my own salary, and he would point out also which bills were to be paid from that fund.

Q During that time were bills being paid out of Congressman Diggs personal checking account also?

A Yes. At one point -- initially they were being paid from both.

Q And you have indicated "initially". Did that

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change at some later time?

A Well, there was a period of time when the Congressman was not receiving a salary because of some arrangement that he had with the House Finance Office. The last six months, I think of an election year he was able to draw on his salary in advance.

In other words, something like an 18-month salary within the 24-month period which left him the last six months with the Congress with no income. It was at that point that -- in most instances, I believe, he stopped writing checks on his account. Maybe occasionally a check would be written, but as a routine business, no.

Q After the Congressman indicated to you which bills were to be paid, did you have a regular practice as to what you did after that?

A Yes. I would know what amount, as I said I would know what amount was in the special fund, which was incidentally my own bank account. I would go to the Riggs Bank and write a check for cash and at the same time purchase a money order or certified check, come back to the office, prepare the money orders, attach them either to a letter or to a stub from the bill and mail them to the creditors.

Q And whose name would appear as the person

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paying the money order or cashier's check?

A The Congressman's name would appear.

Q Who would place that name on the money order or cashier's check?

A I did.

Q Now, Mrs. Stultz, you have indicated that you would go to the Riggs National Bank. What branch would you go to cash this check?

A Most of the time I went to the L'enfant Branch. Occasionally, I would go to the Southeast Branch which was closer to my home.

Q Was there any reason for going to one or to the other?

A None other than I may pick up the money orders in the morning on my way into work and stop at the Southeast Branch.

Q You have also indicated that you would purchase money orders or cashier's checks. Was there some reason for purchasing one or the other?

A Well, there was really two reasons:

First of all, money orders cannot be purchased in more than \$300. So, if the bill to be paid was more than \$300 I might get two money orders or the -- certain creditors at times would not accept any form of payment other than a cashier's check, or if it was more

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expedient to purchase the cashier's check I would do that.

Q Now, Mrs. Stultz, as to the -- you have indicated that you did get -- let me ask you this:

Mrs. Stultz, as far as the money orders, what, if any records did you keep after these money orders were purchased and sent to the creditor?

A I kept the customer copy of the money order.

Q Where did you keep those?

A Well, I had a file drawer that was marked "Personal Accounts" for the Congressman, and I usually had a file for each of his creditors, and the money order would be in the appropriate creditor's file.

Q As to the cashier's checks, what, if any, records did you maintain regarding those?

A I often made Xerox copies of the cashier's check. If I remember correctly, we didn't get a customer copy.

Q What would you do with the Xerox copy of the check?

A I would file it the very same way as I did the money order.

Q You also indicated that sometimes you sent letters to the creditors?

A Yes.

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Q Did you maintain any records of those letters that you sent?

A Yes. Yes, I did in the same file.

Q What type of record as to letters?

A The letter that I would send to the creditor would usually be attached in some way with the file -- I am sorry, with the money order. An indication would be made. I would place it in the file.

Q The record that you would keep, would it be a copy of the original letter?

A Yes.

Q These files that you are referring to, where, physically, were they located?

A They were physically located near my desk, but within the suite of offices of the Congressman.

Q Who had access to those files?

A I did.

Q Was that true up to the time that you left the employment of Congressman Diggs?

A Yes. It was a secured file.

Q At the time that you left Congressman Diggs, did you turn these files over to anyone?

A I just sort of left them. I gave Ms. McDaniel the key. She had the key. Beyond that there was no assignment made on my part.

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Q But did you take any of these records with you at the time that you left the employment of Congressman Diggs?

A No. No. They were all left within the Congressman's office.

Q Mrs. Stultz, was there any other way that you would pay for creditors of Congressman Diggs other than the money orders or cashier checks?

A And the Congressman's checks.

Q Any other way besides those three manners?

A Occasionally there would be the House Reimbursements, checks for allowances.

Q I mean as far as the money out of your special account, was there any way that you paid other than by money order or cashier's check?

A No. No.

Q You never used your own personal checks?

A Yes, I did.

Q Could you indicate on what occasion you would use your own personal check?

A If it was an occasion where a bill was extremely pressing, the creditor may be threatening to sue or the Congressman may have been away and I couldn't reach him, I would pay the bill with my personal check.

Q The bills that you paid with your personal

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check, did you receive them later in your monthly statement?

A Yes, I did.

Q What did you do with those checks after you received them?

A I kept them with the rest of my own checks.

Q Did you later turn them over to anyone?

A Yes. I turned them over to the prosecutor's office on request.

MR. KOTELLY: Your Honor, I would ask to have identified Government's Exhibit 23-A through 23-KK which have been pre-marked.

THE DEPUTY CLERK: Government's Exhibits 23-A through 23-KK marked for identification.

(Whereupon, Government's Exhibits 23-A through 23-GG were marked for identification.)

MR. KOTELLY: I misread Mr. Marcy's writing. It is GG, not KK. the last exhibit is 23-GG.

THE COURT: All right.

THE DEPUTY CLERK: That is correct. 23-GG.

BY MR. KOTELLY:

Q Mrs. Stultz, I show you Government's Exhibit 23-A through 23-GG and ask if you can identify those

documents? Can you identify those documents?

A Yes, I can.

Q How do you identify them?

A I recognize them as my own checks. They carry my signature and they are imprinted with my name.

Q What are these documents, 23-A through 23-GG?

A They are my personal checks that I have written out to various creditors of the Congressman to pay his bills.

Q Are those the same documents that you would receive in your monthly statements from the Riggs National Bank?

A Yes, they are.

Q Have you altered the face of those checks in any way since the time that you received them in your monthly statements?

A The face of the checks? No.

MR. KOTELLY: Your Honor, at this time we move Government's Exhibits 23-A through 23-GG into evidence.

THE COURT: Counsel wish to be heard?

MR. POVICH: No objection.

THE COURT: Received.

THE DEPUTY CLERK: Government's Exhibits 23-A through 23-GG received in evidence.

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(Whereupon, Government's

Exhibits 23-A through 23-GG were  
received into Evidence.)

BY MR. KOTELLY:

Q Mrs. Stultz, I would ask you, taking those Government exhibits that are now in evidence, 23-A through GG, I would ask you to indicate to the jury each of those instruments as to who the payee was, the date, the amount, and the purpose of each one of those checks.

A February 3rd. The date of this check is dated February 3rd, 1975 in the amount of \$456. The payee is Perpetual Building and Loan Association. The purpose of the check, to the best of my recollection, was to pay the mortgage on his home, 322 Second Street, Washington.

The second check is dated August 6th, 1975 to Perpetual Federal Savings and Loan in the amount of \$521. It indicates one payment for 322 Second Street, Southeast.

The next check is dated September 1st, 1975 in the amount of \$204.21 made payable to Riggs National Bank. I had made in the memo, I have indicated account number 062-62327 (Diggs). I cannot recall which creditor it is by the account number.

Q Do you know whether Congressman Diggs had any

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obligations to the Riggs National Bank?

A He had a -- what do you call it? A Riggs Line Account at the Riggs National Bank.

Q Do you know whether he used the Riggs Line Account to draw on any credit it might have had at the Riggs Bank?

A Yes. I believe he did use it. I am sure he did. I don't know how many times, but he did.

The next check is dated 2/27/76 for \$147.68 made payable to the Riggs Bank. The memo shows CCD, account number 06262327.

The next check is dated November 18, 1974 to Citizen's Bank of Maryland in the amount of \$102. Account number 624-60711 C. C. Diggs, which is the memo.

Q What was the purpose of that check?

A As best I can recall this was his car payment.

Q An automobile loan?

A Automobile loan.

The next check is October 11th, 1974, \$157.21, to Inker Finance. The memo on the check reads, "Account of Charles C. Diggs, Jr." To my knowledge this was a personal finance loan the Congressman had.

The next one is dated October 11, 1974, \$267 made payable to Industrial Credit Corporation. The

000172

memo on the check reads, "For account of Charles C. Diggs, Jr." This was also, to the best of my knowledge, a personal loan the Congressman had.

This next check is November 30th, 1974 in the amount of \$185, the First National Bank of Washington, account number 00017671. The First National Bank of Washington, I believe, was a personal loan that the Congressman had.

This second check dated February 3rd, 1975 to the First National Bank of Washington in the amount of \$119, account number 0017671, C. C. Diggs, Jr., is my notation, which I think was also this personal loan.

The next check is dated September 1, 1975, \$294 to the First National Bank of Washington. The memo shows, "Account number 00176771 in parentheses, C.D. Diggs."

Q What was the purpose of that check?

A That was my way of letting myself know that it was his bill, not my own bill, not a bill of my own.

Q What was the date of the check?

A I am sorry. I think this was a personal loan at First National. November 24th, 1975.

A check in the amount of \$57 to the First National Bank of Washington. I think this was also a personal loan.

000173

November 30th, 1974 a check for \$121.40, account number 1767615, and I have also indicated -- C.C. Diggs, Jr., October 10th payment. City National Bank I believe is in Detroit, and if I can recall this was also for a car payment for another loan.

The next check is February 27th, 1976, \$492.72. The memo reads -- I am sorry. It is payable to City National Bank. The memo on the check reads, "For Charles C. Diggs, Jr." I again think this is an auto loan. The next check is November 5th, 1974 for \$183.98. The National Bank of Washington. Account number in the memo shows 017421842, and to the best of my recollection, this is a personal loan, a bank loan.

March 10th, 1975, \$467.96, the National Bank of Washington. My memo shows, "C. C. Diggs account." This is in payment of a personal loan.

June 9th, 1975, \$484, National Bank of Washington. Account number 017421842. I believe this was a personal loan.

October 15th, 1974, \$260.56, Metropolitan Life Insurance Company. My notation on the check reads: "C.C.D. insurance/three policies." This is for the Congressman's personal life insurance and I believe it may have also been for one of his children.

November 26th, 1974, \$322.50, Metropolitan

000174

Life. The memo on the check reads, "Policy number 740423920E2." This is for payment on a life insurance policy.

Q Of whom or on behalf of whom?

A On behalf of the Congressman. I couldn't say it is his, personally.

March 28th, 1975, \$121.72. The memo reads, "Account No. 3498316-3." The payee is Geico. To the best of my recollection this is probably the car insurance, his automobile insurance.

May 7th, 1974, \$18.20 payable to Delmar and Company. My notation on the check reads, "Mrs. Diggs' funeral bill." I am sorry. "Mrs. Diggs' flower bill."

The next check is dated June 10th, 1974 in the amount of \$31.25 to the Wayne County Democratic Committee. The notation on the check reads: "Congressman Charles C. Diggs, Jr., Wayne, C.D.C. program ad."

Q What was the purpose of that check, if you recall?

A As best I can recall they were having a political function of some kind and the Congressman purchased air space in their program.

The next check is June 20th, 1974 made payable to George Bennett, \$151. The memo on the check reads, "Charles C. Diggs, Jr., rent balance on Mac Avenue."

000175

Q What was the purpose of that check?

A This was, as I can recall, an advance payment. The Mac avenue office rent was not totally paid by the House of Representatives. The Congressman had to pay a portion of that each month.

Q Do you remember what portion the Congressman had to pay each month?

A I believe it was \$25 each month.

Q All right.

A June 20th, 1974 in the amount of \$100 payable to the Friends of Urban Alliance. The memo reads, "For Congressman Charles C. Diggs, Jr." I don't recall this organization at all.

The next check is June 20th, 1974, \$141.45, payable to Brazleton Florists. The memo reads, "Account of Congressman Charles C. Diggs, Jr." Brazleton Florists, to the best of my recollection is a floral shop in Detroit where the Congressman maintains an account.

Q Do you personally buy any flowers and charge Brazleton Florists?

A Personally, no.

The next check is July 1, 1974, paid to the order of Charles C. Diggs, Jr., in the amount of \$900, and it bears just my signature. There is no memo.

000176



The next check is dated 30 July '74 for \$17 made payable to the District of Columbia, Chapter of Hillsdale College Alumni. There is no memo on the check. To the best of my recollection this was a contribution by the Congressman's wife.

October 31st, 1974, \$300 to Liberty Loan. The memo reads, "C.C.D. account No. 9030."

Q Do you know the purpose of that check?

A In payment of his personal loan.

February 3rd, 1975, Detroit Edison Company, \$47.55. The memo reads, "For Congressman Charles C. Diggs, Jr." This check was in payment for the electric bill probably at the Woodward Avenue or Mac Avenue office.

Q In Detroit?

A In Detroit, yes.

March 28th, 1975, \$59.67 payable to the Detroit Edison Company. The memo shows the account number, and this is also in payment for the electric bill at one of the district offices.

April 7th, 1975, \$5, D.C. Treasurer. The memo reads, "C.C.D. transfer title." As best I can recall this is when he transferred the title of his car from -- maybe from Detroit to Washington registration. I am not really sure.

000177

1           The next check is the 20th of June, 1975 in  
2 the amount of \$5 paid to Money's Worth. The memo  
3 reads: "One year's subscription." This was a monthly  
4 publication of some kind the Congressman subscribed to.

5           The next check is dated September 5th, 1975  
6 in the amount of \$25 to American Express. It shows  
7 the American Express account number, 0862060795. This  
8 check is in payment for a bill to American Express that  
9 the Congressman had. The last check is June 5th, 1976.  
10 I am sorry, is January 5th, 1976 in the amount of \$20  
11 payable to Central Charge Service for account number --  
12 the memo reads, "For Account No. 281438697, Charles C.  
13 Diggs, Jr." This was in payment of the Congressman's  
14 personal Central Charge account.

15           Q     Mrs. Stultz, you have indicated that you  
16 were the one who handled the bills from various  
17 creditors of Congressman Diggs.

18           To your knowledge, did you ever write any of  
19 your personal checks, Government's Exhibits 23-A through  
20 GG in which there was -- in which the check was not  
21 credited on future statements that you received from  
22 creditors?

23           A     Not to my knowledge, no.

24           Q     Mrs. Stultz, you have also indicated that when  
25 you purchased various money orders and cashier's checks

000178

at the Riggs Bank that you would write a check for cash in which to purchase these documents; is that correct?

A That is correct.

Q Did you have occasion to go through your personal checks to pull these, the various checks you believed were the checks to cash that were in payment of money orders and cashier's checks?

A Yes, I did.

Q Mrs. Stultz, I would show you Government's Exhibit 24.

THE COURT: May I interrupt you a moment? Would this be a good time for counsel to take a recess?

MR. KOTELLY: Absolutely, Your Honor.

THE COURT: All right.

(Whereupon, at 11:20 o'clock a.m. a short recess was taken at the conclusion of which the following proceedings were had:)

(Whereupon, the jury resumed their seats in the jury box and the following proceedings were had in open court:)

THE DEPUTY CLERK: You may retake the stand, ma'am.

DIRECT EXAMINATION CONTINUED

BY MR. KOTELLY:

Q Mrs. Stultz, I now show you Government's

000179

Exhibit 24-C through M, O through S, and ask you if you can identify those documents?

A Yes, I can.

Q How do you identify them?

A They are my personal checks. They carry my signature and also imprinted in most cases with my name.

Q Did you receive those documents back in your monthly statements from Riggs?

A Yes, I did.

Q What did you do with each of those checks that you have in your hand when you first received them?

I am sorry. When you first made them out, what did you do with those documents?

A I used them to pay the Congressman's bills, made to the creditors of the Congressman. Oh, I am sorry. Wait a minute. The majority of the checks are made out to cash. These are the checks I would have cashed to purchase money orders, certified checks, whatever.

Q Mrs. Stultz, you said the majority. Do you see any in there that are not made out to cash?

A Yes. There is one made out to Riggs National Bank, but I am pretty certain this was one that was drawn from the special funds which was used to purchase money orders and certified checks.

000180

Q When you received these in your monthly statements from Riggs National Bank, what did you do with those checks, the Government's Exhibit 23 Series?

A When I received them in my monthly statement from Riggs Bank?

Q Yes.

A I retained them in my possession until I was requested to turn them over to the prosecutor's office.

Q Mrs. Stultz, were you able to find all of your checks you had written to buy money orders and buy cashier's checks?

A No, I don't believe I was, no.

Q I show you Government's Exhibit 24-A, B, and 24-N and ask if you can identify these documents?

A Yes, I can. These are also copies of my personal check, which bear my signature and imprinted with my name.

Q What do they represent?

A These represent cash withdrawals from my checking account.

Q Do you remember what, if anything, you did with the originals of those documents when you first made them out?

A I would take, to the best of my recollection, the original of this document was carried to one of

the Riggs' branches, cashed for the amount of cash and the money orders or certified checks or whatever was purchased.

Q That would be true for each of those three checks, copies of checks?

A Yes, sir.

Q Mrs. Stultz, as to Government's Exhibit 23-A through 23-GG, which you previously identified, your personal checks to creditors and Government's Exhibit 24-A through S for identification, where did the money come from that was used for each of these checks for payment?

A From my salary from the House of Representatives.

Q Thank you.

Your Honor, at this time the Government would also move into Evidence -- strike that, Your Honor.

Mrs. Stultz, I again show you Government's Exhibit 24-A through S. I would ask you to look at the backs of two of those documents, 24-D and 24-L.

A Yes.

Q Do you have those two checks, 24-D and 24-L?

A Yes.

Q I would ask you to look at the back of those checks and ask you if you can identify the writing on

the back of those checks? First of all, is that your writing?

A On the backs of these checks?

Q Yes, ma'am.

A No. Well, on 24-L, this appears to be the bank teller's notation.

Q 24-D, is that your writing on the back of that document?

A 24-D appears to be my writing.

Q What does that reflect?

A It shows a cashier's check number, 247913.

Q Thank you.

Your Honor, at this time we would move into evidence Exhibits 24-A through 24-S, I believe is the last number.

THE COURT: Mr. Povich, do you wish to be heard?

MR. POVICH: No objection.

THE COURT: Received.

THE DEPUTY CLERK: Government's Exhibits 24-A through S received in evidence.

(Whereupon, Government's Exhibits 24-A through S were received into Evidence.)

MR. KOTELLY: Your Honor, I have a series of

000183

exhibits ad seriatim. I ask to be identified as 25-A, B, 26-A and B, 27-A and B. We will start with those, Your Honor.

THE DEPUTY CLERK: Government's 25-A, B, 26-A, 26-B, 27-A, and 27-B marked for identification.

(Whereupon, Government's Exhibits Nos. 25-A, 25-B, 26-A, 26-B, 27-A, 27-B were marked for identification.)

BY MR. KOTELLY:

Q Mrs. Stultz, I show you Government's Exhibit 25-A for identification and ask you if you can identify that document?

A Yes, I can.

Q How do you identify it?

A I recognize it as a copy of a letter that I wrote, and I also recognize the notation on the bottom, which is my handwriting.

Q What is Government's Exhibit 25-A for identification?

A It is a letter addressed to -- it is a letter addressed to Mr. Joseph Daniel Clipper indicating payment of a bill incurred by the Congressman.

Q Who prepared the original of that document?

A I did.

000184



Q Who was the original sent to?

A The original was sent to Mr. Joseph Daniel Clipper.

Q Does the letter or your notation reflect as to any attachments that were also sent to Mr. Clipper?

A Yes.

Q What was sent?

A A cashier's check in the amount of \$1,000 was sent to Mr. Clipper.

Q Is there any identification of the cashier's check by number or any other indicia on that letter or your memoranda?

A Yes, my notation shows, "Cashier's check 2473421 dated 11/2/73 in the amount of \$1,000, Riggs National Bank in parens, SEPR, which means Southeast Branch, payable to Daniel Clipper."

Q When did you put that notation on Government's Exhibit 25-A for identification?

A At the time I mailed this letter or sent this letter.

Q I show you Government's Exhibit 25-B for identification and ask you if you can identify that document?

A Yes, sir, I can.

Q How do you identify it?

000185

1           A       I identify it by the number on the cashier's  
2 check, which is the same number that is reflected on my  
3 note on the letter, copy of the letter.

4           Q       And the cashier's check is made payable to  
5 whom?

6           A       It is made payable to Daniel Clipper in the  
7 amount of \$1,000.

8           Q       Who purchased the original of that cashier's  
9 check?

10          A       I did.

11          Q       From what funds?

12          A       From the overage in my salary.

13          Q       I now show you Government's Exhibit 26-A and  
14 B and ask if you can identify those documents?

15               THE COURT: The number of those, sir?

16               MR. KOTELLY: 26-A and B, Your Honor.

17               THE COURT: All right.

18               THE WITNESS: I recognize this as a letter  
19 I would have typed as a copy -- I am sorry, a copy of a  
20 letter that I would have typed which bears also my name  
21 at the bottom, and --

22 BY MR. KOTELLY:

23          Q       To whom was the original of that document  
24 sent?

25          A       It was sent to Mr. John Y. Cannard, who is

000186

1 the public relations manager for Michigan Bell in  
2 Detroit.

3 Q Did you have financial dealings with Michigan  
4 Bell Telephone during that time that you were employed  
5 by Congressman Diggs?

6 A Yes, sir.

7 Q What type of financial dealings did you have  
8 with Michigan Bell?

9 A Mr. Cannard was the representative for  
10 Michigan Bell and Michigan Bell supplied the telephone  
11 service to our district offices.

12 Q Does the letter, 26, the copy of the letter,  
13 26-A, does it reflect any attachments to be sent with  
14 the original to Michigan Bell Telephone?

15 A Yes. It shows an enclosure of a check in the  
16 amount of \$450, an enclosure of a cashier's check in  
17 the amount of \$250.

18 Q I ask you to look at 26-B and ask you if you  
19 can identify that document?

20 A This appears to be the two checks referred to  
21 on the copy of the letter. There is a cashier's check  
22 -- I am sorry, two payments. A cashier's check in the  
23 amount of \$250 and there is a treasury check from the  
24 House of Representatives in the amount of \$450.

25 Q The Treasury check is made out to whom?

000187

1 A Charles C. Diggs, Jr.

2 Q The cashier's check is from what bank?

3 A From the Riggs National Bank of Washington.

4 Q Who purchased that cashier's check?

5 A I would say I did.

6 Q With what funds?

7 A From the special account funds.

8 Q I show you Government's Exhibit 27-A and  
9 27-B and ask you if you can identify those documents?

10 A Yes, I can.

11 Q How do you identify 27-A?

12 A 27-A is a copy of a letter that I sent to  
13 Mr. Armstead Barnett who operates a catering service in  
14 the Washington area. It also carries my name as a  
15 signator.

16 Q What was the purpose of sending the original  
17 to Mr. Barnett of 27-A?

18 A It was in payment of the Congressman's bill for  
19 catering service, for a reception at the Rayburn  
20 Building.

21 Q Does that document reflect the form of  
22 payment?

23 A Yes, it does. It shows an enclosure of a  
24 cashier's check, No. 247548 in the amount of \$525.

25 Q Do you know who purchased that cashier's check?

000188

1 A I would say I did.

2 Q From what funds?

3 A From the special funds in my account.

4 MR. KOTELLY: Your Honor, I would ask next  
5 that Government's Exhibit 28 be marked for identifica-  
6 tion, 30-A, 30-B, 31-A, 31-B.

7 THE DEPUTY CLERK: Government's Exhibits 28,  
8 30-A, 30-B and 31-A and B marked for identification.

9 (Whereupon, Government's  
10 Exhibits No. 28, 30-A, 30-B,  
11 31-A and B were marked for  
12 identification.)

13 BY MR. KOTELLY:

14 Q I am sorry, Mrs. Stultz.

15 As to Government's Exhibit 27, I believe you  
16 identified A, but can you identify B, also?

17 A Yes, sir.

18 Q How do you identify it?

19 A This is a bill. I identified it as a bill  
20 from Barnett Catering, and I identified it primarily by  
21 my handwriting, which has a number of notes just  
22 squibble squabble figures on the bottom.

23 Q What do your squibble squabble notes reflect,  
24 if you know?

25 A One of the notes I know reads, Gandel's \$115.6

000189

1 which is the amount that was due to Gandel Liquors for  
2 the alcohol for this reception.

3 Q For whose reception? Who paid for this  
4 reception?

5 A The Congressman.

6 Q I show you now Government's Exhibit 28 for  
7 identification and ask you if you can identify that  
8 document?

9 A Yes, I can.

10 Q How do you identify it?

11 A I recognize my own handwriting on the money  
12 order, which is --

13 Q Is that an original money order or --

14 A I am sorry, a copy of a money order.

15 Q Who purchased that money order?

16 A I purchased it.

17 Q From what funds?

18 A From the special account funds.

19 Q And the money order was made payable to  
20 whom?

21 A To Gandel Liquors.

22 Q That is the Gandel Liquor you just referred  
23 to; is that correct?

24 A That is right.

25 Q I show you Government's Exhibits 45-AA,

000190

1 previously identified by the Riggs National Bank, and  
2 ask you if you can identify this document?

3 THE DEPUTY CLERK: You said 45-AA?

4 MR. KOTELLY: AA.

5 THE DEPUTY CLERK: It is a new one.

6 MR. KOTELLY: Yes.

7 BY MR. KOTELLY:

8 Q Can you identify it? What is it?

9 A This appears to be a Xerox copy of the same  
10 money order for \$115. I identified my writing on it,  
11 also.

12 Q And the same as what you have just referred  
13 to?

14 A The same as Exhibit 28.

15 Q All right.

16 A Gandel Liquors.

17 Q I also show you Government's Exhibit 45-BB,  
18 which was originally identified by Riggs National Bank  
19 and ask you if you can identify that document?

20 A I can identify that by my handwriting. The  
21 document is made out to "Call Carl."

22 Q What is that document?

23 A It is a document in the amount of \$51 and  
24 appears to be six cents.

25 Q Do you recall purchasing that money order?

000191

1           A     I don't, specifically recall purchasing this  
2 money order, but I would say that I did.

3           Q     Do you recall having made any payments to  
4 Call Carl's?

5           A     Yes, I do.

6           Q     For what purpose?

7           A     For -- I think it was a tune-up or some  
8 repair work done on the Congressman's car.

9           Q     Where would the funds have come from to pay  
10 for that, for Call Carl?

11          A     Based on the money order, the funds would have  
12 come out of my account.

13          Q     I next show you Government's Exhibit 30-A,  
14 30-B for identification and ask you if you can identify  
15 that document?

16          A     Yes, I can.

17          Q     How do you identify it?

18          A     There is a notation on the bottom of this  
19 document, which I recognize as my handwriting.

20          Q     And 30-B, can you identify that document?

21          A     There is also a notation on this document, on  
22 30-B that shows my handwriting.

23          Q     And 30-B relates to what?

24          A     30-B is a cashier's check in the amount of  
25 \$900 made payable to the House Majority.



1 Q Who is the House Majority?

2 A The House Majority is the printing service  
3 for the Democratic members of the House.

4 Q What, if any financial dealings did you have  
5 with the House Majority?

6 A They would often write newsletters, letters,  
7 invitations, whatever the Congressman might request of  
8 them.

9 Q Who purchased Government's Exhibit 30-B?

10 A I am pretty certain I did.

11 Q From what fund would you have purchased that?

12 A More than likely from the special account  
13 funds.

14 Q What would the purpose have been of purchasing  
15 that particular cashier's check?

16 A The purpose would have been to pay a portion  
17 of the bill from the House Majority for printing  
18 services.

19 Q I next show you Government's Exhibits 31-A and  
20 B for identification.

21 First as to 31-A, can you identify that?

22 A 31-A is the customer's receipt, customer's  
23 copy of the Detroit -- a Detroit Edison bill for electric  
24 service in the Woodward office.

25 Q Can you identify that document in any way?

000193

1 A Yes. It has my notation in my handwriting.  
2 Q What does that -- when was that notation  
3 placed on that document?  
4 A At the time this bill was paid.  
5 Q What does that notation reflect?  
6 A I reads: "Paid money order No. 791185, dated  
7 3/6/74, mailed 4/1/74, \$13.59."  
8 Q I am sorry. I have lost track of my numbering.  
9 A That was 31-A I identified.  
10 Q Can you identify 31-B?  
11 A 31-B is a money order made payable to  
12 Detroit Edison Company in the amount of \$13.59.  
13 Q Can you identify that money order?  
14 A Yes, my handwritten date is on this money  
15 order.  
16 Q Can you also identify it in any other way  
17 in connection with Government's 30-A?  
18 A It shows 31-A. It is the same money order.  
19 It is money order No. 791185, which is reflected upon --  
20 in my notes on Exhibit 31-A.  
21 Q Who purchased the money order, the original of  
22 the money order 31-B?  
23 A I would have purchased this money order.  
24 Q From what funds?  
25 A From the special account funds, I believe.

1 MR. KOTELLY: I next ask to be marked for  
2 identification, which has been premarked, 32-F, G, H,  
3 I, J, K, L.

4 THE DEPUTY CLERK: 32-F, G, H, I, J, K, and  
5 32-L, Government's Exhibits, marked for identification.

6 (Whereupon, Government's  
7 Exhibits Nos. 32-F, G, H, I,  
8 J, K, and L were marked for  
9 identification.)

10 BY MR. KOTELLY:

11 Q I first show you Government's Exhibit 32-F,  
12 G, and H for identification. As to the two documents,  
13 32-F, can you identify that document?

14 A Yes, I can.

15 Q How do you identify it?

16 A It carries a notation on the bottom in my  
17 handwriting.

18 Q What is that document?

19 A Money order totaling \$101.86 deposited 8/16/  
20 74.

Q And that is the writing in your own hand?

A In my own hand.

Q I would ask you to look at the two attached  
documents and ask you if you can identify those based  
on 32-F?

000195

1           A     32-G is a receipt from the House Stationery  
2 Account which indicates \$101.86 was deposited into the  
3 account.

4           Q     Does it also reflect the form of that payment?

5           A     Yes. It shows a money order for \$100 and a  
6 money order of \$1.86.

7           Q     I ask you to look at 32-H and ask if you can  
8 identify that based on the earlier documents?

9           A     32-H is a money order showing the House  
10 Stationery account number 108 in the amount of \$100.

11          Q     Who is that made to?

12          A     Made payable to the House Stationery account,  
13 No. 108.

14          Q     Can you identify who purchased the original  
15 of that money order?

16          A     I would say that I did.

17          Q     From what funds?

18          A     In all probability from the House -- I am  
19 sorry, from the special account funds.

20          Q     I show you 32-I and 32-J for identification.  
21 First as to 32-I for identification. Can you identify  
22 that document?

23          A     32-I, I can identify based on my own hand-  
24 writing.

25          Q     What is that document?

000196

1 A It is a bill from the Rod Miller Incorporated  
2 in Silver Spring, Maryland.

3 Q Did you have any financial dealings with  
4 Rod Miller?

5 A I did in regards to the Congressman. Some  
6 work he was doing in the Congressman's home.

7 Q Can you identify the attached document which  
8 would be 32 -- you will have to help me.

9 A J.

10 Q J. Thank you.

11 A I think this is J.

12 Q Can you identify it based on the preceding  
13 document, which is attached to it?

14 A Well, the preceding document indicates that  
15 a money order -- I am sorry, -- the preceding document  
16 encircles the amount of \$164.99 with my notation that  
17 says, "Paid 8/16/74, money order plus \$1 cash." The  
18 exhibit, 32-J is a money order in the amount of \$164,  
19 which I recognize as one that I would have purchased.

20 Q At what time would you have put the notation  
21 on 32-I for identification?

22 A At the time the bill was paid.

23 Q And from what funds would Rod Miller, the  
24 money order to Rod Miller have been paid?

25 A I would say from the special account funds.

000197

1 Q I show you Government's Exhibit 32-K and 32-L  
2 for identification. As to 32-K, can you identify that  
3 document?

4 A Yes, I can.

5 Q How do you identify it?

6 A It carries a notation in my own handwriting  
7 on the bottom which reads, "Paid 8/16/74, money order  
8 for \$73."

9 Q To whom would that have been paid?

10 A This was paid to the Government Printing  
11 Office, to the public printer.

12 Q For what purpose would a payment have been  
13 made to the public printer?

14 A They did some printing on -- what was it? A  
15 brochure, newsletter, something for the movie Sounder.

16 Q Who had requested the Government Printing  
17 Office to print that?

18 A The Congressman.

19 Q Can you also identify the attached document?

20 A The attached document is a money order in the  
21 amount of \$72 in payment of this bill.

22 Q Can you identify who would have purchased  
23 that money order?

24 A I believe I would have purchased it.

25 Q With what funds?

1 A From the special account funds.

2 MR. KOTELLY: Your Honor, I next ask to have  
3 identified 33-A, C, D and E, which have been premarked.

4 THE COURT: All right.

5 THE DEPUTY CLERK: Government's 33-A, C, D,  
6 and E marked for identification.

7 (Whereupon, Government's  
8 Exhibits Nos. 33-A, C, D and  
9 E were marked for identifica-  
10 tion.)

11 BY MR. KOTELLY:

12 Q I first show you and ask only that you look at  
13 the top, 33-A for identification, and ask you if you can  
14 identify that document?

15 A Yes, this document also bears a notation in my  
16 own handwriting.

17 Q What is that document?

18 A What is the document?

19 Q Yes, what is it?

20 A It is a money order in the amount of \$24 made  
21 payable to the Continental Society.

22 Q Do you recall purchasing any money order for  
23 the Continental Society?

24 A I seem to recall purchasing a money order or  
25 I think the Congressman was paying admission of one of

000199

1 his constituents or two of his constituents to the  
2 Ebony Fashion Flair sometime --

3 Q What would you have done with the money order  
4 after you purchased it, if you know?

5 A Other than making this notation on it, I don't  
6 really recall whether I mailed it or what happened to  
7 it.

8 Q From what funds would you have purchased this  
9 money order to the Continental Society?

10 A I think I certainly would have probably  
11 purchased it from the special account funds.

12 Q I show you 33-C, D and E and ask you if you  
13 can identify those documents?

14 A Yes, I can.

15 Q How do you identify them?

16 A These documents all carry my own handwriting.

17 Q What are those documents?

18 A They are three money orders all made payable  
19 to the National Capitol Bank of Washington, all of  
20 which carry my handwriting showing the payee and the  
21 account numbers.

22 Q Who purchased those documents, the original  
23 documents?

24 A I purchased these documents.

25 Q From what funds?

000200



1 A From the special account funds.

2 MR. KOTELLY: Your Honor, next 33-F, G, 34-A  
3 through H.

4 THE DEPUTY CLERK: 33-F, G, 34-A through H  
5 marked for identification.

6 (Whereupon, Government's  
7 Exhibits Nos. 33-F, G, 34-A  
8 through H were marked for  
9 identification.)

10 BY MR. KOTELLY:

11 Q I show you Government's Exhibits 33-F and G.  
12 As to 33-F, for identification, can you identify that  
13 document?

14 A Yes. This is a mailogram from a creditor and  
15 it carries a notation in my own handwriting, \$267 money  
16 order mailed 9/13/74.

17 Q From whom was the mailogram?

18 A The mailogram was from Industrial Credit in  
19 St. Paul, Minnesota.

20 Q Did you have any financial contact with  
21 Industrial Credit?

22 A Oh, yes, yes.

23 Q For what purpose?

24 A The Congressman had an account with them and  
25 I received a number of these. I paid the bills and I

000201

1 also spoke with Mr. Greene or someone by phone.

2 Q Please keep your voice up a little. Don't  
3 trail off.

4 Can you identify the attached document?

5 A The attached document is a money order in the  
6 amount of \$267 and a payment to Industrial Credit  
7 Corporation, which I would say that I purchased.

8 Q And from what funds would that have been  
9 purchased?

10 A From the special money in the Riggs account.

11 Q I next show you Government's Exhibit 34-A  
12 for identification and ask you if you can identify that  
13 Xerox copy?

14 A Yes, this is a -- these are both Xerox copies  
15 of money orders purchased from Riggs National Bank.

16 One made payable to Central United Methodist  
17 Church, \$119, and the other one a handwritten notation  
18 made payable to the Multi-Tech Company for \$48. This  
19 is a Xerox of money orders that I mailed to an employee  
20 in the Detroit office.

21 Q And the originals of those money orders, who  
22 purchased those if you know?

23 A I would have purchased these.

24 Q You indicated that there was a handwritten  
25 notation as to Multi-Tech. Whose writing is that?

000202

1 A My writing.

2 Q Does that appear to be an original writing or  
3 a Xerox copy of your writing?

4 A This appears to be a Xerox copy of my writing.

5 Q And you indicated there was a notation on  
6 that document at the bottom, also in handwriting?

7 A Wait a minute. Could you repeat your first  
8 question, I am not --

9 Q As to the term "Multi-Tech", you said that  
10 it was your handwriting?

11 A Yes.

12 Q And was that a Xerox of your handwriting or  
13 is that an original writing on top of the Xerox?

14 A No, Multi-Tech appears to be an original on  
15 top of the Xerox copy.

16 Q And as to the notation at the bottom, whose  
17 handwriting is that?

18 A That is mine.

19 Q And does that appear to be a Xerox of your  
20 writing or the original of your writing?

21 A The notation at the bottom appears to be a  
22 Xerox of my writing.

23 Q At what point in time would you have made  
24 those notations?

25 A January 2nd, 1975.

000206

1 Q Do you recall the purposes of sending money  
2 orders to the Methodist Church and also to Multi-Tech  
3 Corporation?

4 A Yes. The Congressman had sponsored a housing  
5 conference at the church facilities and Multi-Tech  
6 supplied the loudspeaker and typing service, I believe.

7 Q Did you attend that conference?

8 A Yes, I did.

9 Q I ask you next to look at Government's Exhibit  
10 34-B and 34-C for identification and ask you if you can  
11 identify that document?

12 A 34-B is a disconnect notice or a bill from  
13 Detroit Edison for electric services at the Woodward  
14 office. I can identify it from my own handwriting,  
15 which indicates that payment in the amount of \$87.31 is  
16 circled. My handwriting says, "Mailed 1/2/75."

17 Q Can you also identify the second document on  
18 that page?

19 A The second document is a money order in the  
20 amount of \$87.31, which is referred to in the exhibit  
21 34-B.

22 Q Who is that made payable to?

23 A It is made payable to Detroit Edison Company.

24 Q Who would have purchased the original of that  
25 money order?

000204

1 A I would have purchased this.

2 Q From what funds?

3 A From the special account funds.

4 Q And what was the purpose of paying for that  
5 electrical bill?

6 A Well, as I said there was a disconnect notice  
7 for the electric services in the Woodward office.

8 Q I next show you Government's Exhibit 34-D, E  
9 and F for identification.

10 As to 34-D for identification, can you identi-  
11 fy that document?

12 A Yes, I can.

13 Q How did you identify it?

14 A I recognize my own signature on this document.

15 Q What is 34-D for identification?

16 A 34-D is a letter to Barnett Caterers enclosing  
17 payment in the amount, total amount of \$502, which was  
18 a catering service ordered by the Congressman.

19 Q Does the letter reflect the form of payment?

20 A Yes. It reflects Money Order No. 229178, and  
21 I believe that is \$300. Another money order, 229179 for  
\$177.60, and a check in the amount -- Check No. 6-559 in  
the amount of \$25.

Q Can you identify by the form of that check  
number the personal check number, whose checking account

000205

1 that would be?

2 A This would be the Congressman's personal check.

3 Q I ask you to look at Government's Exhibit  
4 34-E and F for identification and ask you if you can  
5 identify that based on 34-D for identification?

6 A Yes.

7 34-E is a money order made payable to Barnett  
8 Caterers in the amount of \$300, and 34-F is a money  
9 order made payable to Barnett Caterers in the amount of  
10 \$177.60 and these -- I am sorry, copies of money orders,  
11 both carry the same numbers that are identified in the  
12 letter.

13 Q Who would have purchased those money orders?

14 A I would have purchased these money orders.

15 Q From what funds?

16 A From my bank account, special account funds.

17 Q I next show you 34-G and 34-H for identifica-  
18 tion and ask you if you can identify those documents,  
19 first 34-G for identification?

20 A Yes. 34-G also is a letter that I wrote to  
21 Lee's Flower and Card Shop in Washington, D.C. and  
22 carries my signature.

23 Q For what purpose was the original of that  
24 letter?

25 A This letter was the cover letter for the

000206

1 money order, which is paying the cost of flowers ordered  
2 by the Congressman and billed -- this one happened to  
3 have been billed to my account.

4 Q To your account at Lee's Flowers?

5 A Yes, because Mr. Lee wouldn't accept any more  
6 from the Congressman.

7 Q Keep your voice up.

8 A That was the only way that Mr. Lee would have  
9 a bill, would accept the order by phone for the  
10 flowers. He would not accept any more from the  
11 Congressman, directly.

12 Q Now, can you identify the attached document?

13 A Yes.

14 Q How do you identify that?

15 A This is a money order referred to in the  
16 amount of \$32, which is referred to in my letter to  
17 the Lee Florist.

18 Q Who would have purchased that money order?

19 A I purchased this money order.

20 Q From what funds?

21 A From the special account funds.

22 MR. KOTELLY: Your Honor, next 36-A and B for  
23 identification which have been premarked.

24 THE DEPUTY CLERK: Government's 36-A and B  
25 marked for identification.

000207

(Whereupon, Government's  
Exhibit No. 36-A and B were  
marked for identification.)

BY MR. KOTELLY:

Q Mrs. Stultz, I show you Government's Exhibit  
36-A for identification and ask you if you can identify  
that document?

A Yes, I can.

Q How do you identify it?

A I recognize my own handwriting. I also  
recognize it as a ledger sheet which I kept for the  
Congressman's account at the National Bank of Washington,  
which reflects his payments, the balance due, and the  
amount paid, the check numbers, et cetera.

Q What were the purposes of payments to the  
National Bank of Washington?

A As far as I know this was a personal loan  
incurred by the Congressman.

Q How would that document, 36-A for identifica-  
tion, how did you maintain and record things in that  
document?

A As I made payments to the National Bank of  
Washington I would indicate the amount of payment and  
the form of payment, either the check number, money  
order, cashier's check number.

000208



1 Q Mrs. Stultz, I direct your attention to an  
2 entry in October of 1975 and ask you if you see that  
3 entry?

4 A Yes, I do.

5 Q And that entry is in whose handwriting?

6 A My handwriting.

7 Q What does that -- first of all, what is the  
8 specific date of that entry?

9 A October 1, 1975.

10 Q When would you have made that entry?

11 A Most likely October 1st, 1975.

12 Q Does that entry reflect the total amount of  
13 money of a payment to the National Bank of Washington?

14 A Yes.

15 Q What is that total?

16 A \$483.98.

17 Q Does it reflect a form of payment?

18 A Yes. It shows cashier's check No. 442441,  
19 and I have indicated "Riggs," which means I purchased  
20 it at Riggs and C.C.D check, which means the  
21 Congressman's personal check number 7-51, and that would  
22 lead me to believe that the two amounts were a total  
23 of \$483.98.

24 Q Again, Mrs. Stultz, keep your voice up.

25 A Looking at my notes it would lead me to

000209

1 believe that the cashier's check and the Congressman's  
2 check would total \$483.98.

3 Q I next show you Government's Exhibit No. 36-B  
4 for identification and ask you if you can identify that  
5 document?

6 A This is Congressman Diggs' personal check in  
7 the amount of \$39.98 made payable to the National Bank  
8 of Washington. I can identify this because all of the  
9 writing on the check with the exception of the  
10 Congressman's signature is my own.

11 Q How does that relate to the entry of October  
12 1st, 1975 on your ledger, Government's Exhibit 36-A, I  
13 believe?

14 A My ledger notation for October 1st, 1975 shows  
15 C.C.D., check no. 751, Exhibit 36-B, I am sorry, in the  
16 amount of -- no, it doesn't show an amount.

17 Exhibit 36-B is check No. 7-51, the Congress-  
18 man's check.

19 Q I would also ask you to look at Government's  
20 Exhibit 46-H for identification, which was previously  
21 identified by an officer of the Riggs Bank. I ask you,  
22 based on your ledger of 36-A as to whether you can  
23 identify the cashier's check?

24 A Yes, I can. I recognize my own handwriting  
25 at the bottom of this check, which reflects the account

000210

1 number of the Congressman's bill at the National Bank of  
2 Washington. This check is in the amount of \$444 dated  
3 October 1st of '75, and it is the same number, 442441,  
4 that is reflected on my ledger sheet.

5 MR. KOTELLY: I would next ask to have  
6 identified 37-A, B and C for identification.

7 THE DEPUTY CLERK: Government's 37-A and B --

8 MR. KOTELLY: And C.

9 THE DEPUTY CLERK: And C marked for  
10 identification.

11 (Whereupon, Government's  
12 Exhibits Nos. 37-A, B and C  
13 were marked for identifica-  
14 tion.)

15 BY MR. KOTELLY:

16 Q Mrs. Stultz, I show you Government's Exhibit  
17 37-A, B and C for identification.

18 As 237-A, I would ask you if you can identify  
19 that document?

20 A Yes. 37-A is an invoice or a statement of  
21 account from the House Recording Studio. I can identify  
22 this as based on a notation in my own handwriting. I  
23 am sorry, a copy of the original.

24 Q Please keep your voice up. The notation is  
in your own handwriting?

000211

1 A That is correct.

2 Q Is it an original or a Xerox of your own  
3 handwriting, if you can tell?

4 A The notation appears to be an original.

5 Q Can you identify the attached documents?

6 A The attached documents are two money orders.  
7 37-C is a money order to the House Recording Studio  
8 amounting to \$12. 37-B is a money order to the House  
9 Recording Studio in the amount of \$300. The notation  
10 on 37-A, I have encircled the balance due, which is  
11 \$312.25, and I have written paid \$312, 3-16-76.

12 Q How does that compare with the two attached  
13 copies of money orders?

14 A With the exception of 25 cents it pays this  
15 bill in full.

16 Q How would it relate to your handwritten  
17 notation?

18 A There is a little arrow pointing to the money  
19 orders on my notation as these two money orders I used  
20 to pay this bill.

21 Q Who would have purchased those money orders?

22 A I would have purchased the money orders.

23 Q From what funds?

24 A From the special account funds.

25 Q What financial dealings did you have with the

000212

1 House Recording Studio?

2 A Personally?

3 Q Of any kind.

4 A I just handled the Congressman's account with  
5 them. He had tapes or whatever they did, whatever they  
6 did down there, it was the Congressman's bill and I was  
7 paying it.

8 Q Did you have any personal dealings with the  
9 House Recording Studio as far as personal obligations,  
10 personal financial obligations?

11 A My own?

12 Q Yes.

13 A No, sir.

14 Q Mrs. Stultz, as to the cashier's checks and  
15 money orders that you have just been identifying, what,  
16 upon each occasion, what would you have done with the  
17 original of the cashier's check and the money orders?

18 A The money orders, I would place a customer  
19 copy of the money order in the accounts file and main-  
20 tain a file for each of his creditors.

21 The cashier's check, I don't believe we got a  
customer's copy of them. In most cases I Xeroxed those  
and put a copy in the file

22 Q But the originals, who would they be sent to?

23 A The originals, I would -- on the money orders

000213

1 I would have to make out the amount. I would have to --  
2 I am sorry. I have to add the payee's name to the  
3 money orders because the money orders were being  
4 purchased and I would attach them to the bill of the  
5 company or prepare a letter and mail them.

6 Q As far as the payments of these cashier's  
7 checks and money orders, you also would receive later  
8 documents from these various creditors as to accounts,  
9 is that correct?

10 A Monthly statement, yes.

11 Q Was there ever any occasion that a later  
12 monthly statement would not reflect a payment if you  
13 had sent a cashier's check or a money order?

14 A I can't recall any.

15 THE COURT: Would this be a convenient time to  
16 recess for lunch? I just forgot that the Marshals are  
17 prepared to take the jury to lunch.

18 MR. KOTELLY: It certainly would be a fine  
19 time.

20 THE COURT: Now, ladies and gentlemen of the  
21 jury, we are trying to coordinate this mid-day meal so  
22 that you won't have to be kept waiting to get your  
23 lunch, and the Marshals have just notified the Court  
24 that they are prepared to take you to lunch. So, we  
25 will recess at this time for lunch and remember what I

000214

1 previously told you.

2 Do not discuss the case among yourselves.  
3 Do not let anybody talk to you about it, and do not  
4 talk to anybody about it. You are excused for lunch at  
5 this time.

6 Mr. Marshal, do you have any idea as to how  
7 long lunch will probably take?

8 THE DEPUTY MARSHAL: An hour and a half.

9 THE COURT: All right. Be back at 2:00  
10 o'clock. They will bring you back as soon as you are  
11 through.

12 Thank you.

13 (Whereupon, the jury retired from the courtroom  
14 for the luncheon recess, and the following  
15 proceedings were had:)

16 THE COURT: Would counsel come to the Bench,  
17 please?

18 (At the Bench.)

19 THE COURT: I was thinking of the time for  
20 the people who supplied food to this courthouse to be  
21 out of service, but nevertheless, that is the way  
22 things are. The Marshal is doing the best he can to  
23 expedite service of lunch at a hotel to the jury. Can  
24 you gentlemen give me any idea as to how much more of  
25 this witness you have?

000215

1 MR. KOTELLY: A half hour.

2 THE COURT: Half hour. And with cross, do you  
3 have any notion about that at this time?

4 MR. POVICH: I would think I would take about  
5 an equal amount of time that they have taken on direct.

6 THE COURT: All right. It will be about  
7 2:00 o'clock, gentlemen.

8 (Whereupon, at 12:30 o'clock p.m. the  
9 luncheon recess was taken at the conclusion  
10 of which the following proceedings were had:)



AFTERNOON SESSION

2:00 o'clock p.m.

THE COURT: Counsel, come to the Bench, please.

Is that the man?

THE DEPUTY CLERK: I think it is No. 12.

THE COURT: One of the jurors, you gentlemen may remember him as the fellow who said he had pins in his knees and needed a special exercise machine. He apparently has had a further problem. His wife had an adverse reaction from penicillin and the Marshal has recommended that he be excused.

Since we have six alternates I am inclined to excuse him. I just want to tell you gentlemen.

MR. WATKINS: Certainly, Your Honor.

THE COURT: They say he is suffering from this knee situation. He can't keep up with the rest of them when they walk around and things like that.

MR. POVICH: Has he asked to be excused, Your Honor?

THE COURT: He has as far as I can make out. I haven't talked to him, but the Marshals tell me that he thinks he ought to be excused.

MR. WATKINS: Would you -- I am sorry --

MR. POVICH: Your Honor, would you mind

000217

1 inquiring as to whether or not he would like to be  
2 excused?

3 THE COURT: Sure.

4 Would you ask Mr. Johnson to come in?

5 I take it he is the one. I am not sure that  
6 he is the one.

7 MR. POVICH: But, I will recognize him.

8 THE COURT: Mr. Reed, is this Mr. Johnson, is  
9 he the gentleman?

10 THE DEPUTY MARSHAL: Yes, sir.

11 THE COURT: Mr. Johnson, Mr. Reed, who is the  
12 Marshal in charge of the detail tells me that you are  
13 having some problems with your knees and your wife had  
14 an adverse reaction from penicillin.

15 THE JUROR JOHNSON: Yes, sir.

16 THE COURT: Would you like to be excused?

17 THE JUROR JOHNSON: Yes, sir. I am worried  
18 about her, because she is there by herself. She is on  
19 my mind. My mind is not here.

20 THE COURT: Well, we want your mind to be  
21 here.

22 THE JUROR JOHNSON: Well, it is not.

23 MR. WATKINS: I think he ought to be excused.

24 THE COURT: Okay. You are excused. Tell the  
25 jury lounge that you have been excused.

000218

1 THE JUROR JOHNSON: Yes, sir.

2 THE COURT: I would tell them also that I  
3 recommend you be relieved from further responsibility  
4 to serve as a juror at this time. You may be selected  
5 at some time in the future.

6 THE JUROR JOHNSON: Yes, sir.

7 THE COURT: But I authorize you to be excused  
8 you from further jury service at this time.

9 THE JUROR JOHNSON: Yes, sir.

10 THE DEPUTY CLERK: Mr. Johnson.

11 THE COURT: I am reminded that I should tell  
12 you, do not talk to anybody about this case.

13 THE JUROR JOHNSON: Yes, sir.

14 THE COURT: Your wife or anybody else. Just  
15 keep it entirely to yourself, particularly do not talk  
16 to the press about it.

17 THE JUROR JOHNSON: Yes, sir.

18 THE COURT: A lot of people may be asking you  
19 what happened. Just don't tell them anything.

20 THE JUROR JOHNSON: Yes, sir.

21 THE COURT: All right. Thank you.

22 MR. WATKINS: Your Honor, would you propose  
2 replacing him with Alternate 1?

23 THE COURT: Yes. Alternate 1 -- I don't know  
24 who Alternate 1 is.

000219

1 THE DEPUTY CLERK: Ursulyn Alexander.

2 MR. WATKINS: Thank you, Your Honor.

3 THE COURT: Bring in the jury.

4 (Whereupon, the jury resumed their seats in  
5 the jury box and the following proceedings were  
6 had in open court:)

7 THE COURT: Would Juror No. 1, Alternate  
8 Juror No. 1, Mrs. Alexander, please take the position  
9 in the back row vacated by Juror No. 12, and you may  
10 move up so that you become Juror Alternate No. 1 and  
11 Alternate No. 2 and Alternate No. 2, No. 3.

12 THE DEPUTY CLERK: Yes.

13 THE COURT: Who is Alternate No. 3?

14 A JUROR: I am sixth.

15 THE DEPUTY CLERK: Ms. Porter, you became  
16 Alternate No. 2.

17 THE COURT: The Court excused Juror No. 12.  
18 You may remember the gentleman had an operation on his  
19 knee. His knee was bothering him. He found out this  
20 morning that his wife had an adverse reaction to  
21 penicillin, so the Court excused him. That is why we  
22 had to shift.

23 All right.

24 Call the witness, Mr. Patterson.

25 You may proceed.

000220

1 MR. KOTELLY: Thank you, Your Honor.

2 BY MR. KOTELLY:

3 Q Mrs. Stultz, during the period of October,  
4 1973 to the early part of 1976, how many checking  
5 accounts did you, personally, have?

6 A I actually only had one at the Riggs Bank.  
7 At one time there were two. They were both at Riggs.  
8 One was the 843 overdraft account, and the other was  
9 just a straight checking.

10 Q For how long a period did you have these two  
11 separate checking accounts?

12 A I had the straight account from the beginning,  
13 in early '70 or '72. I had just the regular checking  
14 from the time I opened my checking account with Riggs.  
15 I don't remember when that was, and then I believe in  
16 I don't remember the date, but whenever I applied for the  
17 843, which was the overdraft privilege, I then had two  
18 separate account numbers.

19 Q Did they overlap in time as to when you had  
20 these accounts?

A Yes. Yes.

Q For how long a period of time did they overlap  
on these two separate accounts?

A I don't really remember. It may have been  
until I left. I know it is now only one account. At

000221

1 one point it was consolidated and just one account.

2 Q And your payroll checks from the House of  
3 Representatives, where would they go?

4 A That went into the regular. That is right.  
5 That went into the regular account. The first account  
6 I had.

7 Q Now, you have referred to a special account.  
8 Was that a separate banking account?

9 A No.

10 Q Where did you keep the funds?

11 A That was just a term that was used between the  
12 Congressman and myself to identify the excess money from  
13 my paycheck.

14 Q Where were those funds being kept?

15 A In my personal checking account.

16 Q Along with your own personal funds?

17 A Right.

18 Q Mrs. Stultz, I show you Government's Exhibits  
19 45-K, R and F for identification, which have been  
20 previously identified by an officer of the Riggs National  
21 Bank.

22 I would ask you if you can identify any of the  
23 writing on those documents?

24 A Yes, I can.

25 Q Whose writing can you identify?

000222

1 A My own.

2 Q What is written in your own handwriting on  
3 those documents?

4 A My signature, Jean Stultz on each one.

5 Q Do you recall the incident that you placed  
6 your name on these three documents?

7 First of all, what are those documents?

8 A One appears to be a money order for \$177.

9 THE DEPUTY CLERK: Which number is that?

10 MR. KOTELLY: Please give us the exhibit number  
11 on the back.

12 THE WITNESS: 45-R.

13 THE DEPUTY CLERK: Thank you.

14 THE WITNESS: \$177, and it shows a canceled  
15 stamp across the front. The other is a money order --  
16 I am sorry, this is Exhibit 45-K, a money order in the  
17 amount of \$300, which shows canceled. There is no  
18 payee on either of those.

19 The next, 45-S is a money order for it looks  
like \$37. It is not clear, which is also stamped,  
"Canceled." There is no payee made out.

Q Do you recall the circumstances that you  
signed and had canceled any money orders?

21 A I can't actually remember these.

22 Q Mrs. Stultz, you have identified this morning

000223

1 a number of personal checks that you made payments to  
2 creditors as well as to copies of money orders and  
3 cashier's checks from the Riggs Bank which you have  
4 identified as having been purchased by you.

5 At whose direction did you make the payments  
6 of those personal checks, cashier's checks and money  
7 orders?

8 A These payments were always made at the  
9 direction of Congressman Diggs.

10 Q What, if any discretion did you have as to  
11 whether or not to pay any of these creditors?

12 A Towards the end of my tenure there, late '75,  
13 early '76, the accounts had gotten into such a drastic  
14 state, many of the creditors were threatening to sue.  
15 I was on the phone constantly with creditors. There  
16 may have been a few times when knowing the situation of  
17 the bill, knowing that it was pending I would have paid  
18 the bill knowing that also there was money in the special  
19 account with my own check.

20 Q If the Congressman directed a payment, what,  
21 if any, discretion did you have as to whether or not to  
22 pay that?

23 A I had none. I followed his directions.

24 Q How did you view the money in this special  
25 account?

000224



1 A Pardon me?

2 Q How did you view this money that was -- as

3 A As his money.

4 Q Did you consider it as his money?

5 A It was his money, yes.

6 Q During this period of time of October of '73  
7 through March of 1976, what was your own financial  
8 condition?

9 A I had bills like everybody else.  
10 I am not sure I understand.

11 Q Were you financially comfortable during those  
12 periods of time?

13 A I had to work. I needed to work. I had a  
14 child that I was supporting, and I had my own expenses.  
15 I was maintaining my own home. I had just purchased a  
16 new car. I had sufficient bills, more than enough.

17 Q Now, Mrs. Stultz, you have testified that  
18 this arrangement began in October of 1973. How long  
19 did it continue that you continued to pay monies on the  
20 Congressman's behalf out of the special account?

21 A If I can recall correctly, it was either  
through March or April of '76.

22 Q During that period of time how frequently were  
23 you receiving a salary check?

24 A I received a salary check every month.

000225

1 Q Were there any occasions that a month would go  
2 by where no monies would be paid out of the special  
3 account on behalf of the Congressman?

4 A Only one. On those occasions then with the  
5 Congressman's permission I was permitted to keep the  
6 money to cover my tax liability.

7 Q On how many occasions did that happen?

8 A Let's see. '74, '75, at least three times,  
9 at the end of each tax year. '74, '75, '76 I would say.

10 Q Mrs. Stultz, you have indicated earlier that  
11 you purchased cashier's checks and money orders with  
12 checks to cash which you have identified here in court.  
13 Were there any occasions when the check to cash that you  
14 took to the Riggs Bank was cashed that you did not use  
15 all the money to purchase money orders and cashier's  
16 checks?

17 A Yes, there were.

18 Q Could you indicate to the jury the type of  
19 situation in which that might occur or would occur?

20 A I can recall one time the Congressman was  
21 leaving town on a trip. I don't know whether it was out  
22 of the country or what, but on that type of an occasion,  
23 on that kind of thing I would bring -- I would cash a  
24 check for cash, maybe purchase a certain amount of  
25 money orders and bring cash back to him, the balance in

000226

1 cash to him.

2 Q Could you indicate to us how many times you  
3 can recall this occurring?

4 A It is difficult to say. At least -- I don't  
5 know. It is difficult to say. Three, four, five times.

6 Q Were there any occasions that you would write  
7 a check to cash without purchasing any money orders or  
8 cashier's checks?

9 A I recall once, one particular check that --  
10 let me be sure that I understand your question, that I  
11 would bring the entire amount of money back to the  
12 Congressman, is that what you are asking?

13 Q Yes, and was there such an occasion?

14 A It is hard to remember. The full amount, I  
15 can't remember.

16 Q All right. Mrs. Stultz, during the time that  
17 you had discussions with the Congressman about paying  
18 the Congressman's bills, did you send the Congressman  
19 any type of memorandum or inquiries during the time  
20 you were working for him?

21 A Oh, yes. Sometimes on certain bills I would  
make little notes on the bills or little memos to him  
to ask for directions whether the bills should be paid,  
how it should be paid or how much, whatever.

22 Q Was there a set procedure that the Congressman

000227

1 had to notify you when you sent him these inquiries as  
2 to which bills were to be paid and not paid?

3 A Well, there was a procedure that we followed,  
4 monthly. I made an itemized listing of all of the  
5 accounts that were due, and I would list the creditor,  
6 the amounts, the balance due, and the amount of payment  
7 that was due. If the bill was then exceptionally in a  
8 delinquent state I would make some notation, a blue star  
9 asterisk, or something in red to call it to his  
10 attention. Additionally, if there was a bill that had  
11 come in from a creditor that needed special attention  
12 I might make a special notation on that and give it to  
13 him in the daily work file.

14 Q Was there any manner that the Congressman would  
15 indicate to you that he would approve or disprove of the  
16 payment?

17 A Yes. On the itemization, which we went  
18 through monthly, the Congressman would review it and he  
19 would make a checkmark or star or write "Okay", or some  
20 indication to me that that bill should be paid that  
21 month.

22 MR. KOTELLY: Your Honor, I would ask that  
23 the premarked Exhibit 38-A, B and C be marked for  
24 identification.

25 THE DEPUTY CLERK: Government's Exhibits 38-A,

000228

1 B and C are marked for identification.

2 (Whereupon, Government's  
3 Exhibits Nos. 38-A, B, and  
4 C were marked for identifica-  
5 tion.)

6 BY MR. KOTELLY:

7 Q Mrs. Stultz, I show you Government's  
8 Exhibit 38-A, B and C for identification and ask you if  
9 you can identify those documents?

10 A Yes, I can.

11 Q How do you identify them?

12 A All right. Exhibit 38-A is a note in my  
13 handwriting which reads, "Do you want me to pay this  
14 from the special account? Can send check tomorrow.  
15 Stultz."

16 Exhibit 38-C is the copy, the customer's  
17 copy of GEICO, a GEICO bill which is automobile insurance  
18 bill, or was.

19 The 38-B is a copy of the cancellation notice  
20 of his automobile insurance, also it shows a check,  
21 my personal check with my signature in the amount of  
22 \$121.72 to GEICO. There is also a notation on the same  
23 form in my handwriting saying, "Mailed 3/28/75", with  
24 my initials.

25 Q Mrs. Stultz, the item you have identified as

000229

1 being your writing, which is 38-A for identification,  
2 does it have anyone else's writing on that document  
3 besides your own?

4 A Yes, it has.

5 Q Do you recognize the writing?

6 A Yes, I do.

7 Q Whose writing is that?

8 A It is the Congressman's writing.

9 Q What does it indicate?

10 A It says, "Okay."

11 O Mrs. Stultz, what would that type of message  
12 and the "Okay" mean to you as part of the work that  
13 you were doing for the Congressman?

14 A It means I should pay GEICO the amount shown  
15 on their bill from my personal checking account, from  
16 the special account.

17 Q Now, I again show you Government's Exhibit  
18 23-S, which is admitted into evidence, which you have  
19 previously seen and I ask you how that compares with  
20 the Xerox copy, 38-C, for identification?

21 A This is the original check made to GEICO in  
22 the amount of \$121.72 that bears my signature.

23 MR. KOTELLY: Your Honor, I would ask that  
24 Government's Exhibit 40 for identification be marked.  
25 It has been premarked.

000230

1 THE DEPUTY CLERK: Government's Exhibit 40  
2 marked for identification.

3 BY MR. KOTELLY:

4 Q Mrs. Stultz, I show you Government's Exhibit  
5 40 for identification and ask you if you can identify  
6 that document?

7 A Yes, I can.

8 Q How do you identify it?

9 A I recognize my own handwriting.

10 Q What is Government's Exhibit 40 for identifi-  
11 cation?

12 A It is a very informal memo that passed from  
13 me to the Congressman.

14 Q What does it relate to?

15 A It relates to the payment of bills, a couple  
16 of bills.

17 Q What creditor are these bills owing to?

18 A It relates to the payment of the Citizen's  
19 National Bank bill, and it also relates to -- it is  
20 requesting, advising the Congressman that I had talked  
21 with the bank and that there was a payment due for  
22 January and February totaling \$492.72. There is  
23 another note saying that Riggs Bank called, payments  
24 are supposed to be due for February and January,  
25 \$73.84 per month, for a total of \$147.68. I say, "Please

000231

1 advise. Shall I pay from special account?"

2 "Can pay City National total of \$492.72 and  
3 Riggs, total of \$147.68 which would bring both of  
4 these accounts up to date. Please advise."

5 Congressman circled the first one from  
6 City National Bank, the first note is numbered one.  
7 The second note, in reference to Riggs Bank is number  
8 4. The Congressman in his own handwriting has circled  
9 one and four and written on the bottom, "Okay."

10 Q Are there any notations of your own on that  
11 document?

12 A In my own handwriting, I have circled "Riggs  
13 Bank", and drawn a line down to where I had written  
14 "Check No. 891-J-S", which means it was my own check  
15 dated 2/27/76 in the amount of \$147.68.

16 I have also circled "City National", and drawn  
17 a line through a note further down which reads "Check  
18 No. 892-JS, \$492.72, 2/27/76."

19 Q That is all in your own handwriting?

20 A Yes.

21 Q I again show you Government's Exhibit 23-D  
22 and 23-M, which have been admitted into evidence and  
23 ask you if you can compare those two documents, those  
24 two personal checks of yours with the notations on  
25 Government's Exhibit 40?

000232



1 A Yes, sir, I can.

2 Q How do they compare?

3 A Check No. 20 -- I am sorry. Government's  
4 Exhibit 23-M is in the amount of \$492.72, which is  
5 Check No. 892, which I refer to on this memo.

6 Q Does the amount and the check number  
7 correspond?

8 A The amount and the check number corresponds.

9 Q Regarding your other personal check, how  
10 does that correspond with the other notation?

11 A My memorandum, my notes on the memo -- I am  
12 sorry, makes reference to "Check No. 891", in the  
13 amount of \$147.68. I had had this as check 891 in the  
14 amount of \$146.68, and my signature --

15 Q And the check number, the amount and the  
16 payee, how does that correspond from your check with  
17 the notation on Government's Exhibit 40?

18 A Exactly. They are exact.

19 MR. KOTELLY: I ask that this be marked as  
20 Government's Exhibit 39, Your Honor.

21 THE DEPUTY CLERK: Government's Exhibit 39  
22 marked for identification.

23 BY MR. KOTELLY:

24 Q Mrs. Stultz, I show you Government's Exhibit  
25 39 for identification and ask you if you can identify

000233

1 that document?

2 A Yes, I can.

3 Q How do you identify it?

4 A This is a bill, appears to be a Detroit bill.  
5 I am pretty sure it is, for the Woodward Avenue office  
6 in Detroit. I can identify it through my handwriting.

7 Q What does your handwriting reflect?

8 A It reflects "Next payment of \$59.67 made with  
9 my own check, Check No. 517, March 28th, 1975," mailed  
10 three days later.

11 Q I show you Government's Exhibit 23-CC, which  
12 has been previously admitted into evidence, which is  
13 your personal check which you have identified and ask  
14 you if you can relate your personal check with  
15 Government's Exhibit 39?

16 A Yes. I would say this is the check that was  
17 used to pay the bills.

18 Q Whose bill would that have been?

19 A The Congressman's.

20 Q Mrs. Stultz, in connection with your work for  
21 Congressman Diggs, did any of your duties involve  
22 preparation of payroll authorization forms?

23 A Yes, they did.

24 Q What were your duties as far as the prepara-  
25 tion of such forms?

000234

1       A       On the instruction of the Congressman I would  
2 prepare the payroll authorization form and submit it  
3 to the Congressman for signature, and then submit  
4 them to the Finance Office. Each month the Congressman  
5 would ask me to come in and we would review the payroll.  
6 He would indicate to me if he wanted to make any changes  
7 in the payroll, such as adding an employee, adjusting  
8 an employee's salary, or removing an employee from the  
9 payroll.

10           He would then tell me what changes he wanted  
11 made, and I would have to go back to my desk and make  
12 what we call our projection for the month. The payroll  
13 would have to be submitted by, I believe it was the  
14 20th of the month.

15           In addition to that, we were governed by a  
16 maximum amount of money that could be used or spent on  
17 gross salaries per month. We were under a limitation  
18 as to the number of employees on the payroll, which I  
19 think at that time was 16, maybe it had gone to 18.  
20 So, if it meant that he wanted to adjust, if we were at  
21 the maximum of our 19,000 whatever, if he wanted to  
22 increase an employee's salary, and if we were at the  
23 maximum number of employees and had used the full  
24 allotment the month before, it would mean decreasing  
25 another employee's salary or removing an employee from

000235

1 the payroll. There had to be an adjustment with other  
2 employee's salary to increase someone else's if we were  
3 using our full allowance per month. So, after doing a  
4 projection based on the instructions from the Congress-  
5 man as to what changes he would want to make in the  
6 payroll, I would go back to his office. He would  
7 approve the projection. He would approve the increase  
8 or whatever, as long as I stayed within the maximum  
9 amount allowable. I would then prepare the payroll  
10 authorization forms that for any changes that were  
11 necessary.

12 By that, I mean any adjustment in salaries or  
13 any removal from the payroll, or any new employees. I  
14 would present these, again to the Congressman and he  
15 would sign them, then I would forward them to the  
16 House Finance Office.

17 Q During the time that you were the office  
18 manager for Congressman Diggs' staff, did anyone else  
19 have the duty of preparing these payroll authorization  
20 forms?

21 A Not after I had assumed the responsibility.  
22 It was mine, continuously.

23 Q Who would sign each of these payroll  
24 authorization forms?

25 A For the most part the Congressman, and I say

000236

1 that because I can recall, I think three that I may  
2 have signed, myself.

3 Q And whose payroll authorizations can you  
4 recall signing, if you can recall?

5 A I remember signing one for an employee in the  
6 Detroit office who was sort of like a part-time  
7 employee, and I guess the Congressman, I think was out  
8 of town, Robbie McCoy, I believe, and there may have  
9 been a couple of other times. I think I remember just  
10 before I left signing one of my own, returning my salary  
11 to normal, to the normal figure.

12 Q What was the normal figure?

13 A I am sorry. To a lower figure, I should say.

14 Q Do you recall whether you ever signed any  
15 payroll authorization forms relating to a Felix  
16 Matlock?

17 A I do not recall signing one for Felix Matlock,  
18 no.

19 Q Do you recall ever signing a payroll authori-  
20 zation form for Ofield Dukes?

21 A I do not recall signing one for Mr. Dukes.

22 Q Do you recall signing any payroll authoriza-  
23 tion form for Jeralee Richmond?

24 A I don't recall signing any for Ms. Richmond,  
25 either.

000237

1 Q Do you recall signing any payroll authoriza-  
2 tion for George Johnson?

3 A No, sir.

4 Q Other than the one payroll authorization you  
5 may have signed for yourself, can you recall any other  
6 occasions when you would have signed a payroll authori-  
7 zation on your own behalf?

8 A On my own behalf?

9 Q Can you think of anything more than one  
10 possible occasion?

11 A No.

12 Q Mrs. Stultz, as far as your own salary, did  
13 you have any discussions with the Congressman about any  
14 possible raises for yourself?

15 A Yes, I did at one point.

16 Q Approximately when was that?

17 A Oh, I am trying to remember. I think it may  
18 have been when he was reviewing salaries, which he would  
19 often do around the beginning of the year. So, it may  
20 have been around the beginning of '74. I am not  
21 absolutely sure on the date, but he did not -- he said  
22 to me that I was not getting an increase at that time,  
23 and he would take care of me later, and I did not get  
24 a salary increase.

25 Q During the time that you were the office

000238

1 manager, can you recall when the last time was that you  
2 did receive a pay increase?

3 A Do you mean a merit increase?

4 Q Yes.

5 A Um, let's see. 14 -- I can't remember the  
6 dates, sir. I can't remember the dates.

7 Q Do you remember the last amount?

8 A I am trying to remember the amount. I seem to  
9 believe I went from \$14,000 to somewhere between \$17,000  
10 and \$19,000. I am not sure. \$17,500 or \$19,500. I am  
11 not really sure, and then I went into that inflated  
12 salary business up to about thirty-some, and before I  
13 left my salary came back to \$23,000.

14 Q Mrs. Stultz, do you know an individual named  
15 Felix Matlock?

16 A Yes, I do.

17 Q How long have you known Mr. Matlock?

18 A Ever since I started working for the  
19 Congressman in '72.

20 Q How do you know Felix Matlock?

21 A I know him as an employee in the Congressman's  
22 Detroit District Office.

23 Q How frequently did you have contact with  
24 Mr. Matlock?

25 A When I first started working it was rather

000239

1 infrequent, maybe a couple of times a week.

2 After I became office manager it was on an  
3 average of no less than once a day.

4 Q What was the purpose of your contact with  
5 Mr. Matlock?

6 A Well, my responsibility as office manager  
7 as outlined to me is also to have supervisory respon-  
8 sibilities over the District Offices.

9 Mr. Matlock was more or less the senior  
10 person in the District Offices and he was my contact in  
11 the Woodward office. We would discuss congressional  
12 business and the day-to-day activities, personnel  
13 problems, and later the payment of bills.

14 Q You indicated that Mr. Matlock was the senior  
15 person in the District Office. Are you referring to  
16 senior in terms of seniority or position in the District  
17 Office?

18 A Well, maybe that wasn't the correct term. I  
19 considered him senior in terms of position. I had more  
20 dealings with him than with anyone else in that  
21 office.

22 Q During the time that you were office manager  
23 how many offices did you have in the congressional  
24 district in Detroit?

25 A Two. The Mack office was established later,

000240



1 but when I first became office manager there was one  
2 office on Woodward Avenue then later the Congressman  
3 opened a second office on Mack Avenue.

4 Q Were there any expenses involving the operation  
5 of those offices in Detroit?

6 A Yes, there were.

7 Q What type of expenses?

8 A Well, there was the electric bill, the electric  
9 service that had to be paid. There were bills from  
10 Michigan Gas and Light, I think for the light service.  
11 And there were other bills for general maintenance,  
12 One-Stop- Block and to the sign company, and there were  
13 the rents, particularly on the Mack Avenue office.

14 Q And, the rents, referring to Mack Avenue, was  
15 how much?

16 A If I remember correctly, I think it was  
17 \$75 a month, but because we were above the allowance  
18 that the House of Representatives would give for rent,  
19 they only paid, I believe, \$50 a month for it and  
20 consequently the Congressman had to pay the additional  
21 \$25 a month.

22 Q Mrs. Stultz, during the time that you were  
office manager, do you have knowledge as to how these  
bills were paid for expenses in the District Office?

A Well, do you mean by mail or from funds?

000241

1 Q I am asking, do you have knowledge?

2 A Yes, I have knowledge as to how they were  
3 paid.

4 Q Could you tell the jury how these bills were  
5 paid during the period of time that you were the office  
6 manager?

7 A Well, the bills would be forwarded down to the  
8 Washington office. I would present them to the  
9 Congressman and the very early beginning, in the early  
10 days I should say, the Congressman would often write  
11 his own checks to pay these bills.

12 Q Do you recall during what period of time that  
13 was?

14 A The first time, my first year as office  
15 manager, I should say, '73, '74 maybe. Later, the bills  
16 -- well, the bills continued to be sent down from the  
17 Detroit office, but later I would pay the bills.  
18 I might pay them from the special account or I might  
19 instruct Mr. Matlock from Detroit to pay the bills and/  
20 or to purchase money orders and send to me, and I would  
21 send the bills out to the company.

22 Q Could you tell the jury how it came about  
23 that Mr. Matlock would pay the bills?

24 A On instructions from the Congressman I would  
25 call Mr. Matlock and advise him which bills were to be

000242

1 paid and how much. I mean how many money orders to  
2 purchase or how many money orders to purchase and what  
3 he should do with the money orders.

4 Q During the period of 1973 and 1974, how  
5 frequently do you recall Mr. Matlock having to pay these  
6 expenses?

7 A Once -- I cannot recall the dates when  
8 Mr. Matlock began to pay them on a regular basis, but  
9 once it started on a regular basis it continued until  
10 after I left. Well, I can't say after. It continued  
11 until I left.

12 Q Now, do you have any idea at all when  
13 Mr. Matlock began paying bills on a regular basis?

14 A Let's see. October of '75. I just -- possibly  
15 -- let's see, what is it? I left in '75. Possibly mid-  
16 I am sorry, I left in '76 -- possibly mid-'75.

17 Q Prior to that, though, prior to Mr.  
18 Matlock regularly paying these expenses, were there  
19 occasions when Mr. Matlock would pay the expenses?

20 A Yes. Yes, there were occasions every now and  
21 then where Mr. Matlock's salary would be increased and  
22 I would be instructed to advise him which bills or what  
23 to do with the increase in his salary.

24 Q At whose direction was Mr. Matlock's salary  
25 increased?

000243

1           A       At the Congressman's instructions.

2           Q       How was it increased?

3           A       The Congressman would tell me what amounts he  
4 wanted, either what amounts he wanted to pay Mr. Matlock  
5 or what he had in mind that I should do with my payroll  
6 projection to try to determine if I could get him off to  
7 a certain net amount. After I did this figuring, I  
8 would go back to the Congressman. If he approved a  
9 payroll authorization form he signed it and I sent it to  
10 Finance and that was the instrument to which the  
11 adjustment was made.

12          Q       You have indicated that sometime in 1975  
13 Mr. Matlock began to regularly pay the District Office  
14 expenses; is that correct?

15          A       Yes.

16          Q       Could you state to the jury how that occurred?

17          A       Well, the Congressman -- during one of our  
18 reviews of the payroll the Congressman had proposed to  
19 me that an employee's salary be increased for the  
20 purpose of paying bills and he suggested another  
21 employee in one of the District Offices, and I said to  
22 him that I didn't think that employee was a good idea.  
23 He wanted to know why and I said, because the employee  
24 was a member of the Bar and I didn't think he would be  
25 amenable to that kind of a suggestion. At that point

000244

1 the Congressman asked me, well, who did I have in  
2 mind, and I said, "Well, I don't have anybody in mind,  
3 but I think the most loyal employee on the staff is  
4 Mr. Matlock. He thought about it and he said, "Well,  
5 see what you can work out to increase Mr. Matlock's  
6 salary." I don't remember to what figure.

7 Q What did you do after that conversation?

8 A I again went back, did a payroll projection  
9 which meant juggling other salaries or numbers of  
10 employees. After I worked it out I brought it back to  
11 the Congressman. He okayed it. I prepared a payroll  
12 authorization form based on the figures that he had  
13 okayed and he signed it and we submitted it -- I sub-  
14 mitted it to Finance.

15 Q After Mr. Matlock began regularly paying the  
16 District Office expenses, was there a set procedure as  
17 to which expenses Mr. Matlock should pay?

18 A Yes.

19 Q Would you relate that to the jury?

20 A Yes. I called Mr. Matlock and I informed  
21 him that he would be receiving an additional amount in  
22 his paycheck and that he was to call me once he received  
23 his paycheck and I would give him further instructions  
24 as to how it should be disbursed, which is exactly what  
25 happened.

000245

1           The only difference is -- Well, I guess there  
2 was no difference. I was about to say Mr. Matlock,  
3 the extra amount that he received was not the total  
4 amount that he used because he was permitted to take his  
5 six percent, I believe, off of the additional salary for  
6 his taxes.

7           Q     Who would instruct Mr. Matlock as to what  
8 expenses to pay?

9           A     The actual instructions to Mr. Matlock came  
10 from me, but I got those instructions from the Congress-  
11 man.

12          Q     And was there any specific way, manner of  
13 payment in which Mr. Matlock was to pay these expenses?

14          A     Yes. Yes. He was to purchase money orders  
15 and forward -- well, some of the money orders to me.  
16 Depending on where the bills were, he would pay the  
17 bill directly, and then the others he might send to  
18 me and I would pay the bill, but in any case I always  
19 received the customer copy of the money orders and he  
20 also was instructed to, since he was paying the Congress  
21 man's bill, that the money orders should reflect the  
22 Congressman's name.

23          Q     Was there any reason for using money orders  
24 or cashier's checks to your knowledge?

25          A     Well, when we first got -- you mean with

000246

1 Mr. Matlock?

2 Q With Mr. Matlock.

3 A That was the preferred payment as far as I  
4 was concerned, and I just gave Mr. Matlock the same  
5 instructions that I had had.

6 Q Was there any reason why you had that as the  
7 preferred method of payment?

8 A Well, we have to go back to the first  
9 conversation between me and the Congressman when my  
10 salary was inflated and it was at that point that the  
11 Congressman -- well, when I got the first check the  
12 Congressman instructed me to use money orders, to  
13 purchase money orders, and he also instructed me not to  
14 make a listing. And one thing I remember most clearly  
15 about it, he said he was going to make a politician out  
16 of me yet. So, because of those instructions when I  
17 talked with Mr. Matlock I just on my own followed through  
18 and asked Mr. Matlock to purchase money orders.

19 Q Mrs. Stultz, were there any expenses that  
20 Mr. Matlock was to pay that were not directly related  
21 to the operating and maintaining of the District  
22 Offices, themselves?

23 A Um, one that I can think of that is probably  
24 not related to the operation of the office would be the  
25 radio program, WJLB-Radio Program, and maybe the House

000247

1 Recording Studio, and I don't know whether Mr. Matlock --  
2 well, I don't know. I don't know whether he paid any  
3 House of Diggs. I can't recall whether he made any of  
4 those, but if he did they would not be related, but  
5 that is all I can think of.

6 Q Besides the two District Offices that you  
7 referred to, was there any other office in Detroit for  
8 Congressman Diggs' congressional services?

9 A Not to my knowledge. Oh, I am sorry. We did  
10 have the mobile van which was considered an office, but  
11 it was a mobile office.

12 Q Were there any expenses involved in having  
13 the mobile office?

14 A Yes. There was an expense of 100 -- I think  
15 it was \$100 and maybe some change a month, which was  
16 over and above the amount that the Congress paid for  
17 the leasing of that van.

18 Q Who would pay for that expense?

19 A The Congressman.

20 Q Who actually paid it?

21 A I believe most of those payments were made  
22 through Mr. Matlock.

23 Q At whose direction?

24 A The Congressman's direction to me and mine to  
25 Mr. Matlock.

000248



1 Q As far as payments to WJLB or the House  
2 Recording Studio were paid by Mr. Matlock and at whose  
3 directions were they made?

4 A The same way from the Congressman to me to  
5 Mr. Matlock.

6 Q Are you familiar with an insurance company  
7 named North Carolina Mutual?

8 A Yes, somewhat.

9 Q How are you familiar with that insurance  
10 company?

11 A I believe the Congressman had a small insurance  
12 policy. It was originally in the name of some other  
13 smaller company, I think that was absorbed by North  
14 Carolina Mutual.

15 Q Do you know as to how the premiums were paid  
16 to North Carolina Mutual if any were paid?

17 A From what I can remember about that, I think  
18 it was only paid once a year, and I just can't remember  
19 really how that was paid.

20 Q Ms. Stultz, do you know an individual named  
21 Ofield Dukes?

22 A Yes, I do.

23 Q When did you first meet Mr. Dukes?

24 A After I began working for the Congressman. I  
25 don't remember the exact time.

000249

1 Q How do you know Ofield Dukes?

2 A Ofield Dukes was placed on the payroll of the  
3 Congressman's office, I believe in the capacity of  
4 consultant of some kind to the Congressman.

5 Q Do you remember what period of time Mr. Dukes  
6 was an employee for the Congressman?

7 A I don't remember the exact period of time.  
8 It was -- I am sure for at least a year prior to my  
9 leaving.

10 Q Was Mr. Dukes a regular employee of the  
11 Congressman?

12 A He was on the payroll each month if that is  
13 what you mean.

14 Q Yes.

15 A Yes.

16 Q Do you know if that was Mr. Dukes' full-time  
17 work?

18 A No. I believe he worked with the Congressman  
19 in a consultant capacity. Mr. Dukes had his own  
20 business in Washington.

21 Q Mrs. Stultz, do you remember what Mr. Dukes'  
22 salary was during the time he was employed with the  
23 Congressman?

24 A Yes. I remember that he started at \$12,000 a  
25 year.

000250

1 Q Were there any occasions when Mr. Dukes'  
2 salary was increased?

3 A Yes, there were.

4 Q What were the circumstances surrounding any  
5 increase in Mr. Dukes' salary?

6 A Mr. Dukes' salary was increased when he was  
7 asked to make payments of certain bills. He would  
8 usually be advised prior to the increase and told of  
9 the bills that needed to be paid, and through our  
10 normal procedure of payroll authorization form, the  
11 Congressman would increase his salary to whatever figure  
12 was necessary. Mr. Dukes, in turn, would pay the bill.

13 Q What type of bills would Mr. Dukes be  
14 requested to pay?

15 A Mr. Dukes paid, I recall he paid WJLB, which  
16 I think is the radio program, and I remember his making  
17 a reasonably large payment to the House Recording  
18 Studio. He also paid a couple of the Michigan Chronicle  
19 bills, I believe.

20 Q What is the Michigan Chronicle?

21 A The Michigan Chronicle was a newspaper, a  
22 black run newspaper in Detroit.

23 Q What were the reasons for payments to the  
24 Michigan Chronicle, if you know?

25 A Well, I know that the Congressman had several

000251

1 ads, the congressional staff had ads, and I don't know  
2 what else had been placed in the Chronicle. Now,  
3 whether the payments were entirely for those or not, I  
4 cannot say, but we did have a Michigan Chronicle bill.

5 MR. KOTELLY: Your Honor, Government's  
6 Exhibit 54 for identification.

7 THE DEPUTY CLERK: Government's 54 marked for  
8 identification.

9 (Whereupon, Government's  
10 Exhibit No. 54 was marked  
11 for identification.)

12 BY MR. KOTELLY:

13 Q Mrs. Stultz, I show you Government's Exhibit  
14 54 for identification and ask you if you can identify  
15 that document?

16 A Yes, I can.

17 Q How can you identify it?

18 A There is a notation on the document in my own  
19 handwriting.

20 Q What does your notation relate to?

21 A The notation relates to the payment of the  
22 bill by O. D., which means Ofield Dukes, in the amount  
23 of \$924.

24 Q When would you have made that notation?

25 A The date is also part of the notation,

000252

1 December 2nd, 1975.

2 Q And the notation is one on what type of  
3 document?

4 A It is on a statement of charges from the  
5 Michigan Chronicle.

6 Q Do you recall making that notation?

7 A I don't specifically recall making this  
8 notation, but it is mine.

9 Q Did you have a regular course of conduct as  
10 far as maintaining documents and records to make such  
11 notations?

12 A Whenever a bill was made, was paid, I tried  
13 to make some kind of notation on the bill, especially  
14 if I didn't have a form of payment, a copy of a form of  
15 payment to attach like a money order or certified check,  
16 or whatever.

17 Q Do you recall any discussions with Mr. Dukes  
18 regarding the payment of any Michigan Chronicle bills?

19 A I can't say I recall a specific instruction  
20 about a Michigan Chronicle bill, but I can recall  
21 generally talking with Mr. Dukes about payment of bills,  
22 but I cannot say this bill is any one particular right  
23 now.

24 Q You also referred to the payment by Mr. Dukes  
25 of the bill to WJLB. Would you relate to the jury what,

000253

1 if anything, you recall regarding that payment?

2 A That one stands out a little more, because of  
3 the series of events that took place around that bill.  
4 There was a bill that was in question about, I think the  
5 radio program had gone on the air. It was a Sunday  
6 morning radio show, also, and there was a question about  
7 a bill, this payment.

8 Q Please continue. That they owed -- the House  
9 of Diggs owed the radio show, I believe it was, and in  
10 any case something generated my having to talk to the  
11 Congressman about it, the payment of the bill, and he  
12 instructed me to get in touch with WJLB. I remember  
13 calling there talking with one of their people who gave  
14 me an explanation of the bill and then I had to call --  
15 oh, that is right. During the time of the merger,  
16 because I had to call the Stenson Funeral Home and I  
17 talked with someone there.

18 Q What merger are you referring to?

19 A The merger between the House of Diggs and  
20 Stenson's Funeral Home.

21 Q When would that have been?

22 A I believe it was in late, towards the end of  
23 1975.

24 Q So, you made some inquiry regarding this bill;  
25 is that correct?

000254

1           A     Yes.

2           Q     Did you have any conversations with the  
3 Congressman about this House of Diggs bill?

4           A     Yes, I did. I don't remember exactly what  
5 took place between -- in our conversation, but I do  
6 remember that he told me to call the radio station and  
7 get it straightened out, which I did, which then led me  
8 to call Stenson's Funeral Home. It wasn't Diggs, then  
9 it was Stenson's Funderal Home at which time I -- whom-  
10 ever I talked with told me then --

11          Q     Without getting into this conversation, what,  
12 if anything, did you tell the Congressman after you  
13 made these inquiries?

14          A     Well, I told him that I had talked to both  
15 of these people and that the Stenson people weren't  
16 going to pay the bill.

17          Q     What, if anything, occurred after that  
18 conversation?

19          A     I was instructed to see --

20          Q     By whom?

21          A     By the Congressman -- Ofield Dukes and Ofield  
22 Dukes paid the bill.

23          Q     What did you do?

24          A     I went through my normal process advising  
25 Mr. Dukes and informing Mr. Dukes that this bill was to

000255

1 be paid by him.

2 MR. KOTELLY: Government's Exhibit 58 and 57-A  
3 for identification, Your Honor. They have been pre-  
4 marked.

5 THE DEPUTY CLERK: Government's Exhibit 58 and  
6 57-A marked for identification.

7 (Whereupon, Government's  
8 Exhibit No. 58 and 57-A were  
9 marked for identification.)

10 BY MR. KOTELLY:

11 Q Mrs. Stultz, I show you the Government's  
12 Exhibit 58 for identification and ask you if you can  
13 identify that document?

14 A Yes. Yes, I can.

15 Q How do you identify it?

16 A Well, first of all I recognize my own hand-  
17 writing. Secondly, the memo itself jogs my memory.  
18 This, I believe, is a memo which generated that whole  
19 conversation between me and WJLB and somebody at  
20 Stenson's place. There was the question about the  
21 Sunday morning show versus payment of the evening show,  
22 and this memo relates to that.

23 Q And the writing that you have on that docu-  
24 ment in your own hand, what does that writing relate  
25 to?

000256



1           A     It relates to -- it is a question I am asking  
2 Mr. Diggs concerning this bill. It relates to the  
3 House of Diggs.

4           MR. KOTELLY: Your Honor, I believe a  
5 spectator is having some difficulty.

6           THE COURT: The jury may retire to the jury-  
7 room.

8           (Whereupon, at 3:00 o'clock p.m. the jury  
9 retired to the juryroom and the following  
10 proceedings were had:)

11          THE WITNESS: It is my daughter.

12          THE COURT: Adjourn court.

13          THE DEPUTY CLERK: Would the spectators  
14 please leave the courtroom.

15          THE COURT: Do you want to go to your  
16 daughter?

17          THE WITNESS: Yes, I do.

18          MR. POVICH: May we approach the Bench?

19          (At the Bench.)

20          MR. POVICH: Your Honor, Mr. Kotelly advises  
me, he thinks that it should be a half hour more, and  
I don't really wish to cross examine the woman who has  
just experienced that with her daughter. I think the  
examination is going to be very difficult, I should say,  
and I think some of the jurors know that this woman's

000257

1 daughter --

2 THE COURT: They couldn't very well. They  
3 were out of the room.

4 MR. POVICH: The witness said, "That is my  
5 daughter," to the reporter during the time a couple of  
6 them were standing there at the door. Under the  
7 circumstances I know you want to move ahead, but I think  
8 under these unusual circumstances I would like to  
9 adjourn and let her take care of her child and perhaps  
10 let things settle down.

11 THE COURT: Let's check it out after they have  
12 gotten her down to the nurse's station.

13 MR. POVICH: I think the record should reflect,  
14 Your Honor, apparently what has happened is that  
15 Mrs. Stultz' daughter has suffered a seizure of some  
16 sort, and is now --

17 THE COURT: She fainted. I don't know what  
18 the cause of it was.

19 (Whereupon, at 3:05 o'clock p.m. a short  
20 recess was taken at the conclusion of which  
21 the following proceedings were had at 3:10  
22 o'clock p.m.):

23 (At the Bench.)

24 THE COURT: I am informed by the Marshal  
25 that they are taking this girl to the hospital and the

000258

1 mother wants to go with her and I see no reason why I  
2 should turn her down.

3 MR. POVICH: I don't either, Your Honor.

4 THE COURT: So, I think what we had better  
5 do under the circumstances is to adjourn the case for  
6 the day unless you have somebody else that you can put  
7 on at this time.

8 MR. KOTELLY: We do have witnesses we have  
9 available that could be put on, whatever Your Honor  
10 wishes.

11 THE COURT: Well, it is not unusual to take a  
12 witness off in the middle of testimony. We all do that  
13 often for doctors. This is an unusual circumstance,  
14 but I think under the circumstances I better allow the  
15 mother to accompany the daughter to the hospital and  
16 resume with that witness tomorrow morning with what-  
17 ever you have.

18 MR. POVICH: Your Honor, could I make this  
19 suggestion to the Court? Since the two witnesses, I  
20 believe, are out-of-town witnesses, just custodians of  
records, to suggest to the jury that we are taking them  
out of turn because they are from out-of-town.

THE COURT: How do you gentlemen feel about  
the Court making any explanation to the jury as to the  
cause of the interruption?

000259

1 I personally doubt that they know anything  
2 about it, but jurors are just like anybody else and are  
3 curious as to what happens.

4 MR. POVICH: Well, I will think out loud for  
5 a moment, Your Honor, without committing myself. I  
6 suggest perhaps under the circumstances that you could  
7 say that one of the members in the audience felt  
8 badly, became ill, and they had to clear the courtroom  
9 and we now have two out-of-town witnesses who should  
10 be taken care of. We have two out-of-town witnesses  
11 who we could perhaps get on quickly today and be  
12 finished with them and so we will interrupt the  
13 proceedings now and continue with Mrs. Stultz tomorrow.

14 THE COURT: Is that all right with you?

15 MR. KOTELLY: Sure.

16 THE COURT: Is that all right?

17 MR. POVICH: Okay.

18 MR. WATKINS: Sure.

19 THE COURT: Who do you have?

20 MR. MARCY: The custodian of the Bank of the  
21 Commonwealth and from the National Bank of Detroit.

22 THE COURT: Mr. Miller, would you be good  
23 enough to tell the lady that she may accompany her  
24 daughter?

25 MR. MILLER: Of course, I will.

000260

1 THE COURT: She will go on tomorrow morning.

2 THE DEPUTY CLERK: 9:30?

3 THE COURT: 9:30.

4 Bring in the jury.

5 (Whereupon, at 3:15 o'clock p.m. the jury  
6 resumed their seats in the jury box and the  
7 following proceedings were had in open court:)

8 THE COURT: Ladies and gentlemen, a brief  
9 word of explanation. One of the spectators became ill  
10 and had to be sent to the hospital, and I have been  
11 informed by way of program for the rest of the afternoon  
12 that the Government has two out-of-town witnesses that  
13 they would like to put on at this time, so we will  
14 interrupt the testimony of Mrs. Stultz and hear these  
15 out-of-town witnesses at this time.

16 Mrs. Stultz will resume tomorrow morning.

17 All right. You may proceed.

18 MR. MARCY: The Government would call Linda  
19 Allen.

20 Whereupon,

2 LINDA ALLEN

3 was called as a witness by and on behalf of the Govern-  
4 ment and, having first been duly sworn, was examined and  
5 testified as follows:

000261

DIRECT EXAMINATION

BY MR. MARCY:

Q Would you please state your full name?

A Linda Jean Allen.

Q Where do you live?

A In Detroit, Michigan.

Q Who do you work for?

A The Bank of the Commonwealth.

Q What is your job with the Bank of the Commonwealth?

A Secretary, custodian and legal research representative.

Q Could you indicate to us what your responsibilities are in that job?

A Yes. As legal research representative I answer subpoenas, summons and estate inquiries.

Q Are you familiar with the operation of the Bank of the Commonwealth?

A Yes, I am.

Q Are you familiar in the manner in which the Bank of the Commonwealth issues money orders?

A Yes, I am.

Q Would you briefly describe to the ladies and gentlemen of the jury how the Bank of the Commonwealth issues a personal money order?

000262

1 A A personal money order can be purchased by a  
2 customer walking off the street as long as they have  
3 negotiable funds.

4 Okay, cash, a check, okay. Funds that we  
5 know are good.

6 A money order cannot be issued for any more  
7 than \$250, and we cut the amount of the money order  
8 across the face of the check.

9 Q When you say "cut the amount", is that with a  
10 check-writing machine?

11 A Yes, it is.

12 Q When you sell a money order does it have any  
13 other information that is entered by the bank except  
14 for the amount of the money order?

15 A No, only the amount.

16 Q When they are issued they are in blank, other-  
17 wise?

18 A Yes, they are.

19 Q Would you describe how cashier's checks are  
20 issued by the Bank of the Commonwealth?

21 A A customer has to have negotiable funds,  
22 cash or a check or funds that we know are good.

23 He has to fill out a cashier's check or  
24 requisition giving his name, address and the amount of  
25 the check, and then we prepare a cashier's check for

000263

1 him.

2 The bank types in all of the information, the  
3 date, the amount and authorization signer. They put  
4 the remitter's name on the check, that is the person  
5 purchasing the check, and they type in who it is payable  
6 to.

7 Q After a money order or cashier's check is  
8 negotiated, where does it return?

9 A It returns back to the bank that it was  
10 purchased from.

11 MR. MARCY: Your Honor, could I have these  
12 marked as Government's Exhibit 50-A through 50-KK?  
13 They have already been premarked.

14 THE DEPUTY CLERK: What are the numbers, again  
15 sir?

16 MR. MARCY: 50-A through 50-KK.

17 THE DEPUTY CLERK: Government's Exhibits  
18 50-A through KK marked for identification.

19 (Whereupon, Government's  
20 Exhibits Nos. 50-A through  
21 50-KK were marked for  
identification.)

22 BY MR. MARCY:

23 Q Ms. Allen, are you here in response to a  
24 subpoena that was served on your bank?  
25

000264



1 A Yes, I am.

2 Q And you produced certain records today?

3 A Yes.

4 Q Let me show you what has been marked as  
5 Government's Exhibit 50-A through 50-KK and ask you if  
6 you can identify those?

7 A Yes, I can.

8 Q How is it that you can identify those?

9 A Well, on the top of them they have the Bank of  
10 the Commonwealth and then at the bottom they have our  
11 account number, ABA No. 720, giving the area of Detroit,  
12 Michigan, and then our ABA No. 31. That is the Bank of  
13 the Commonwealth number.

14 Q What are those exhibits, Government's 50-A  
15 through 50-KK?

16 A The Bank of Commonwealth's personal money  
17 orders. Yes, they are all the Bank of the Commonwealth  
18 money orders.

19 Q All right. Are those money orders all the  
20 original negotiated copies --

A Yes, they are.

Q -- of the original, negotiated originals?

MR. MARCY: Your Honor, could I have these  
21 marked as Government's Exhibit 51-A through 51-D?  
22 They have also been premarked.

000265

1 THE DEPUTY CLERK: Government's Exhibit 51-A  
2 through D marked for identification.

3 (Whereupon, Government's  
4 Exhibits 51-A through 51-D  
5 were marked for identifica-  
6 tion.)

7 BY MR. MARCY:

8 Q Showing you what has been marked as Govern-  
9 ment's Exhibits 51-A through 51-D, would you describe  
10 what those are?

11 A These are Bank of the Commonwealth cashier  
12 checks, the original part of the negotiable instrument  
13 itself.

14 Q Okay. How is it that you are able to identify  
15 those?

16 A It has the Bank of the Commonwealth's name  
17 written across it and has our ABA number giving the  
18 area of the bank number.

19 Q All of these exhibits, both 50 and 51 are in  
20 your care, custody and control?

21 A Yes.

22 MR. MARCY: I have no further questions, Your  
23 Honor.

24 THE COURT: Any questions, gentlemen?

25 MR. WATKINS: I have a few, Your Honor.

000260

CROSS EXAMINATION

BY MR. WATKINS:

Q Ms. Allen, is it?

A Yes.

Q Ms. Allen, did you appear here under subpoena?

A Yes, I did.

Q And were you required to produce the documents that you identified under subpoena?

A Yes.

Q Was it a single subpoena or more than one subpoena?

A A -- okay, the information that I brought with me was answering one subpoena.

Q One subpoena. Did you have any other subpoenas to the Bank of the Commonwealth that you answered?

A Do I have any more subpoenas from the Bank of the Commonwealth I answered pertaining to this case?

Q Yes, ma'am.

A No. That is the only one I received. That is the only one I received that I am answering.

Q Do you know whether the bank received the other subpoenas in connection with this case?

A I don't know, personally, because it would be served at our legal department, not me. It would be

000267

served on the legal department and from there it would be forwarded on to various areas, if they want.

Q I am sorry. Are you through?

A I was through.

Q Do you have any reason to believe that there were any other subpoenas served on the Bank of the Commonwealth?

A No, I don't.

MR. MARCY: I object because she said she doesn't know.

THE WITNESS: No, I don't.

BY MR. WATKINS:

Q Ma'am, do you have a copy of the subpoena with you?

A Yes, I do.

Q May I see it?

Ms. Allen, while you are looking through your -- I will wait.

Now, Ms. Allen, I notice you have a very thick file. Is that a result of some correspondence you have had with the United States Attorney about this case?

A I have one letter, okay, that I received from the attorney, okay. It was a postponement. Originally I was served with a subpoena in June, then a letter I received it was postponed until September.

Q Did you have a telephone conversation with the United States Attorney in this case?

000268

A Only as far as if they would be needing me to appear, make arrangements. I talked also with -- I am not sure if this was the United States Attorney or somebody in his office asking us to mail the records instead of bringing them, okay, originally back in June.

Q I see.

So, you have had no conversations at all with the United States Attorney about this case and about the subpoenas that you have produced; is that correct?

A Other than this morning, okay, in his office.

Q Other than this morning.

A I just gave him my background, name, where I was employed and so on.

Q Fine. Thank you.

Now, Ms. Allen, you mentioned that in the processing of cashier's checks you require the name and address of the person purchasing the cashier's checks; is that correct?

A Correct.

Q With regard to money orders, I take it you do not require the person purchasing the money order's name and address; is that right?

A That is correct.

MR. WATKINS: Fine, thank you. Thank you, Ms. Allen. I have no further questions.

THE COURT: Anything else, Mr. Marcy?

000269

MR. MARCY: Just one question, Your Honor, on the cashier's check.

REDIRECT EXAMINATION

BY MR. MARCY:

Q On the cashier's check, is it the name of the purchaser that you have?

A Yes, the person that is purchasing the cashier's check.

Q Is there any identification that is asked for or do you just accept the application?

A You just accept the application.

MR. MARCY: I have no further questions, Your Honor.

THE COURT: Anything else, Mr. Watkins?

MR. WATKINS: No, Your Honor.

THE COURT: May the witness be excused?

MR. MARCY: Yes.

THE COURT: Thank you. You may be excused.

(Witness excused.)

MR. MARCY: Your Honor, the Government would call Shirley Alfano.

Whereupon,

SHIRLEY ALFANO

was called as a witness by and on behalf of the Government and, having first been duly sworn, was examined and testified as follows:

000270

DIRECT EXAMINATION

BY MR. MARCY:

Q Would you please state your full name?

A Shirley Alfano.

Q Where do you work?

A The National Bank of Detroit.

Q Where do you live?

A In Madison Heights.

Q Is that in Michigan?

A In Michigan.

Q What are your responsibilities with the National Bank of Detroit?

A Supervisor in charge of our official check section, which we do the bookkeeping and reconcilements on official instruments of the bank, like cashier's checks, money orders and certified checks.

Q Would you briefly outline the process in which the National Bank of Detroit issues personal money orders?

A Well, a customer goes into one of our branch offices and purchases a money order and on our money orders they are issued in amounts up to \$500, and the customer gets the money order and a receipt and a registered copy of this money order is sent to my department.

Q What sort of information does the bank put on the front of a personal money order that is sold?

000271

A Well, it says, "Personal Money Order, National Bank of Detroit", and it has our bank numbers on there and the account number of the money order.

Q What is the information that is put on the money order when it is purchased?

A It is the value, amount that was purchased.

Q Is anything else put on, the payee or the person buying it?

A Not the customer, but the payee, purchaser's name.

Q After the money orders are negotiated, do they eventually return to your bank?

A Right.

Q Would you briefly describe how cashier's checks are issued by the National Bank of Detroit?

A A cashier's check, a requisition is filled out by the customer with the date on it, the dollar amount, the person that it is being made payable to, and the remitter, which is the purchaser, and that is also given to the customer along with a file copy and registered copy then is sent to my department.

Q After a cashier's check is negotiated, does it come back to your office?

A Yes, it does.

MR. MARCY: Your Honor, could I have these marked

000272



as Government's Exhibit 47-A through N?

THE DEPUTY CLERK: Government's Exhibit 47-A through -- you say 47-N?

MR. MARCY: Yes.

THE DEPUTY CLERK: N like in Nancy marked for identification.

(Whereupon, Government's Exhibit Nos. 47-A through 47-N were marked for identification.)

BY MR. MARCY:

Q Showing you what has been marked as Government's Exhibit 47-A through N, can you identify those?

A Yes, these are personal money orders that were issued by the National Bank of Detroit.

Q How can you tell that they were issued by the National Bank of Detroit?

A It has our bank name on it. It has our ABA routing numbers, our bank numbers, and our account number on there.

Q Okay. Are those all microfilmed copies?

A Yes, they are.

Q Can you explain what the difference is between 47-A through E, and 47-F through M?

A They were microfilmed on different machines. One was microfilmed by our bookkeeping department and the other copies were from microfilm records from our microfilm

000273

department.

Q Do you have any policy in the National Bank of Detroit of how long you keep the original cashier's checks and money orders?

A Right. Since July 1st of 1972 we keep money orders, the originals, two years, and we keep the microfilm for seven years, and the cashier's checks, our originals are kept for ten years and also have them on microfilm.

MR. MARCY: Your Honor, could I have these marked as Government's Exhibit 48-A through 48-S?

THE DEPUTY CLERK: 48-A through 48-S, Government's exhibits marked for identification.

(Whereupon, Government's

Exhibits 48-A through 48-S were marked for identification.)

BY MR. MARCY:

Q Showing you what has been marked as Government's Exhibit 48-A through S, can you identify these?

A Yes. These are personal money orders issued by the National Bank of Detroit.

Q Are those originals?

A Yes, they are original copies.

Q How is it that you can identify those?

A Well, they have our bank name on there. They have our bank number, and also our account number.

000274

MR. MARCY: Your Honor, could I have Exhibit 48-F-1 and F-2 marked for identification? I don't believe these appear on the Court's exhibit list.

THE COURT: All right.

THE DEPUTY CLERK: Government's Exhibit 48-F-1 and F-2 marked for identification.

(Whereupon, Government's Exhibit Nos. 48-F-1 and F-2 were marked for identification.)

BY MR. MARCY:

Q Showing you what has been marked as Government's Exhibit 48-F-1 and F-2, can you identify those?

A Yes. They are personal money orders issued by the National Bank of Detroit.

Q Okay. Did you bring those down today?

A Yes, I did.

Q Okay.

MR. MARCY: Your Honor, could I have Government's Exhibit 49 marked for identification?

THE COURT: Yes.

THE DEPUTY CLERK: Government's Exhibit 49 marked for identification.

(Whereupon, Government's Exhibit No. 49 was marked for identification.)

000275

BY MR. MARCY:

Q Showing you Government's Exhibit 49, can you identify that?

A Yes. That is a cashier's check issued by the National Bank of Detroit.

Q Can you identify it because of the same reason you told us before?

A Yes. It has our bank name on it and our bank number.

Q Would you describe how money orders are sold? That is, can you describe how groups of money orders are sold?

A Each teller is given a certain -- each branch is assigned certain serial number of money orders, and when a customer comes in they purchase money orders and we only issue them in amounts up to \$500 and then a teller, you know, cuts it in for the amount that the purchaser wants to purchase the money order for.

Q Okay. Are the money orders usually sold sequentially?

MR. WATKINS: Objection. Leading.

THE WITNESS: Yes.

THE COURT: Overruled.

BY MR. MARCY:

Q Is there any way to determine when a money order

000276

is sold?

A Yes. We have records of what our branches keep, a record of the serial numbers on the dollar amounts and the dates that they were sold.

Q Okay. Have you been able to determine when Government's Exhibit 48-C through F and F-1 and F-2 were purchased?

A Yes, sir.

Q Showing you 48-C through F and F-1 and F-2, when were those money orders purchased?

A Okay. I can't tell from the dates on these. I do have a list of the numbers with the dates that they actually were issued.

Q Where is that list?

A I have it right here.

MR. MARCY: Your Honor, could I have this marked as Government's Exhibit No. 66?

THE COURT: Yes.

THE DEPUTY CLERK: Government's Exhibit 66 marked for identification.

(Whereupon, Government's

Exhibit No. 66 was marked for identification.)

BY MR. MARCY:

Q Let me start off with showing you Government's

000277

Exhibit No. 48-J through 48-O. What are the serial numbers on those?

A 37873085, 86, 87, 88, 89 and 90.

Q Were you able to determine when those were sold?

A No. We just know the date that they were paid, but, you know, if we have to we just have the customer's date on here because we don't date the money orders.

Q But did you go back to your other records and learn when these were sold?

A Are those the same ones on that list there?

Q Showing you what has been marked as Government's Exhibit 66.

A These were the ones that we determined from our branch 26 that they were purchased on November 1st of '76.

Q That is 48-J through 48-O?

A Right.

Q Showing you what has been marked as 48-C through 48-F, and F-1 and F-2, can you identify those?

A Yes. They were all purchased at our branch 26 on September 10th, 1976.

Q Are all of those exhibits sequential, and could you give us the first and last numbers if they are?

A Right. They are No. 7871344 through 1349.

Q Two exhibits which you have just referred to that are sequential, and Government's Exhibits 48-C through 48-F

are originals, and the next two, 48-F-1 and F-2 are micro-film copies.

Can you explain why some of those are originals and some are microfilm?

A Okay. While we do keep the originals for two years and unless, you know, we are not -- and we keep the film for seven years, and for 48 and 49 we were unable to obtain the original copies because they were just destroyed, recently.

Q What is the date on F-1 and F-2, 48-F-1 and F-2?

A September 11th is what the customer wrote on there.

Q Of what year?

A 1976.

MR. MARCY: I have no further questions, Your Honor.

THE COURT: Mr. Watkins?

CROSS EXAMINATION

BY MR. POVICH:

Q Ms. Alfano, did you receive a subpoena to appear here?

A Yes, I did.

Q Do you need these? Can I look at them?

A All right.

Q Do you have some other correspondence concerning

000279

your appearance here today?

A This one.

Q Now, as I understand it, if you don't have copies of the original at least you have copies of the microfilm of checks; is that correct, for anything that would go back to 1973?

A Right.

Q Money orders or cashier's checks?

A Right. Cashier's checks we keep the originals for ten years and money orders we keep the originals for two years and microfilm for seven years.

Q Did you conduct the search in this case to retrieve either the originals or copies of the money orders or cashier's checks?

A Yes.

Q You did it yourself?

A Yes.

Q Were you asked to do it sequentially so you would pick up checks on both sides of the numbers?

A No.

Q How were you asked to do it?

MR. KOTELLY: I object until he finds out who is asking what, and whether this is hearsay or not.

MR. POVICH: Just tell us what you were asked by the United States Attorney's Office to do.

000280



MR. KOTELLY: I object to hearsay.

THE COURT: Overruled.

THE WITNESS: We were furnished with dates and the serial numbers on these checks, on the money orders and cashier's checks.

BY MR. POVICH:

Q Specific dates and the serial numbers. In other words, they told you they would like a copy from your file of a certain money order, of a certain date with a certain serial number?

A Right.

Q And those are the ones that you provided?

A Right.

Q Now, was this information given to you in the subpoena?

A Yes.

Q All right. Now, in that subpoena it indicated in addition for some people the name of the payee and the amount; is that correct?

MR. KOTELLY: I request, if Mr. Povich is going to refer to documents that at least he have them marked.

THE COURT: Yes.

MR. POVICH: I am sorry, Your Honor.

THE DEPUTY CLERK: Defendant's Exhibit 8 marked for identification.

000281

1 That is Defendant's Exhibit 7, the first group  
2 should have been one through seven instead of six, Madam  
3 Reporter. And Defendant's Exhibit No. 9 marked for identi-  
4 fication and Defendant's Exhibit No. 10 marked for identi-  
5 fication.

6 (Whereupon, Defendant's Exhibits  
7 Nos. 1 through 10 were marked  
8 for identification.)

9 MR. KOTELLY: Your Honor, may we approach the  
10 Bench regarding these documents?

11 THE COURT: Yes.

12 (At the Bench.)

13 MR. KOTELLY: Your Honor, these documents that  
14 are being marked, we strenuously object to the material as  
15 to anything regarding our correspondence with the bank or  
16 regarding the subpoenas that the bank was issued by the  
17 Court in order to produce certain documents. I submit it is  
18 not material to any issue in this case as to what the Govern-  
19 ment requested. It is only material as to what is allowed  
20 in evidence as far as the documents, themselves, from the  
21 custodians and that this whole line of questioning, not only  
22 as to this custodian but as to the earlier custodians, I  
23 submit is improper.

24 THE COURT: What are you trying to prove?

25 MR. POVICH: I want to find out, Your Honor, what

000282

was received but not put in evidence. I may want to look at it. She may have it. I mean, it seems to me I am entitled to that if a subpoena to appear -- I mean if they subpoenaed a document I ought to see what it is.

MR. KOTELLY: Your Honor, may I respond?

THE COURT: Yes.

MR. KOTELLY: The Government would submit that the requirement of turning over, you know, the documents had been complied with as far as Mr. Povich as to anything that relates to the issues in this case, or any of the parties in this case. Mr. Povich is free to subpoena anything he wishes to.

THE COURT: I am inclined to agree, Mr. Povich.

MR. POVICH: I would also, Your Honor, like to indicate that certain documents here were subpoenaed in an attempt, I assume, to find whether or not there are other documents existing in and around this sequence -- number sequence for the ones which were produced, and if there are no documents, I would like the record to reflect that or if those documents don't reflect to this case I would like the record to reflect it.

THE COURT: Well, they can produce in evidence only those which relate to this case. I don't see the materiality of the documents that don't relate to this case.

MR. POVICH: It would show, Your Honor, other

000283

documents which I suggest could well be material.

THE COURT: No. I think you are entitled to what relates to this case and that only.

MR. POVICH: Well, Your Honor, let me give you an example. On August 18, 1978 in response to the subpoena, Mr. Marcy says after reviewing the materials you had sent to us we had determined that some of them will not be required in the trial and we are therefore returning them to you. These include the original money orders. I have one, two, three, four, five, six and also copies of money orders one, two, three, four, five, six and also copies of money orders one, two, three, four, five and six. Now, I would like to find out what they were.

THE COURT: Those money orders relate to this case?

MR. MARCY: No, Your Honor.

THE COURT: They are not material then.

I have ruled.

(In open court.)

THE COURT: You may proceed.

BY MR. POVICH:

Q Ms. Alfano, we essentially have what you provided today, copies of money orders and cashier's checks; isn't that correct?

A Right.

000284

Q The money orders all contain the name, the name of Mr. Diggs as a payee.

A I am sorry.

Q That is the purchaser, I believe is what is on the money order?

A Yes, they do.

Q And his name appears there. We have one cashier's check, is that all you provided?

A Right.

Q His name appears on the cashier's check as well?

A Right, as the name of the remitter which is the purchaser.

Q The purchaser. Can you purchase a cashier's check in blank?

In other words, with nothing on it except the amount?

A No.

Q So, for the purposes here there is no difference insofar as the information on the check between the cashier's check and the money order; is that correct?

A The only difference is that one, the bank fills in the payee and, you know, the remitter's name and the money order the customer fills it in.

Q Right, but after it was filled in by whoever filled it in, it all came out to be the same person; did

000285

they not?

A Right.

MR. POVICH: I have no further questions.

THE COURT: Anything else?

MR. MARCY: Just one question, Your Honor.

REDIRECT EXAMINATION

BY MR. MARCY:

Q With money orders there is -- they are sold in blank?

A Right.

Q Cashier's checks, all of the information is put on by the bank?

A Right.

Q From the information supplied by the purchaser?

A Right.

MR. MARCY: I have no further questions, Your Honor.

THE COURT: Anything else, gentlemen?

MR. POVICH: No. Thank you, Your Honor.

THE COURT: All right. May the witness be excused?

MR. MARCY: Yes, Your Honor.

THE COURT: You may be finally excused. Thank you.

THE WITNESS: Thank you.

(Witness excused.)

000286

THE COURT: Gentlemen, please approach the Bench.

(At the Bench.)

THE COURT: Anything else you can put on this afternoon?

MR. KOTELLY: We could put another witness on, but it is not a short witness. We do not have another short witness. We have Mr. Matlock who will be somewhat extensive.

THE COURT: I would prefer to have you go at least until 5:00 because you are going to miss Monday, you know.

MR. KOTELLY: If Your Honor wishes I am certainly prepared to go forward.

MR. POVICH: Your Honor, Mr. Matlock is going to take a lot longer than an hour.

THE COURT: I understand that, but I just don't like to have a gap in time. We lost some time with the incident.

MR. POVICH: I mean by the time you finish with your examination of Mr. Matlock and our cross examination of Mr. Matlock, which I think is going to be equally as long as the direct examination then going back to Mrs. Stultz, I would have no objection continuing if it were a shorter witness or somebody else, or if you want to read some stipulations. Do you have some stipulations that we have stipulated?

Have they been signed?

000287

MR. MARCY: I don't know if they've been signed.  
I gave them to Mr. Watkins.

MR. POVICH: Your Honor, we could read the stipulation. I am just reluctant to put on a major witness in the middle of a major witness.

MR. KOTELLY: It would cause some confusion.

THE COURT: All right.

Now, since I told them what I told them, I am somewhat troubled about the Court making a statement that is a partial explanation only. A witness is always called upon to state the truth, the whole truth and nothing but the truth.

Now, I stated that a spectator became ill and we are putting on two out-of-town witnesses to fill up the time. I have always followed the practice, certainly since I have been a Judge of telling a jury what they could be told. They will find it out anyhow, but I personally don't want the jury to feel that I have short-changed them. So, I think I will just tell them that the reason we haven't been able to resume with Mrs. Stultz is that the witness who -- the person who became ill is related to her.

MR. POVICH: Your Honor, I think that generates an unnecessary amount of sympathy for the witness under these circumstances.

THE COURT: Well, the witness isn't on trial.

000288



MR. POVICH: Well, Your Honor, I have said how I feel about it.

THE COURT: All right.

(In open court.)

THE COURT: Ladies and gentlemen of the jury, we are going to recess at this point. Since you have been sequestered, I think you have a right to know that we are adjourning early because I want to get this case over with as soon as possible, bearing in mind of course the interest of justice.

This spectator who became ill was related to the witness, and for that reason I excused the witness, because the spectator was taken to the hospital. That is the reason why the witness has not been recalled at this point.

We have no other short witnesses that you can hear this afternoon. I thought you were entitled to that explanation, so we will resume tomorrow morning at 9:30. Thank you.

Remember what I have told you. Do not discuss the case among yourselves. Do not let anybody talk to you about it, and do not talk to anybody about it. 9:30 tomorrow morning.

(Whereupon, at 4:00 o'clock p.m. the jury left the courtroom and the following proceedings were had:)

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THE COURT: Counsel, come to the Bench.

(At the Bench.)

THE COURT: Gentlemen, is there anything you wish to bring to my attention at this point?

MR. WATKINS: No, Your Honor, not really.

MR. POVICH: No, sir.

THE COURT: Mr. Kotelly?

MR. KOTELLY: No, sir.

THE COURT: All right. We will resume with Mrs. Stultz then at 9:30 tomorrow morning. Do we have any 9:30's?

THE DEPUTY CLERK: Just one arraignment, Robert Oswald.

THE COURT: Oh, yes, the ICC case.

All right. Tomorrow morning at 9:30 a.m.

(In open court.)

THE DEPUTY MARSHAL: All rise.

(Whereupon, at 4:00 o'clock p.m. the above-entitled matter was recessed to reconvene at 9:30 o'clock a.m. on 9/29/78.)

CERTIFIED: \_\_\_\_\_ OFFICIAL REPORTER

000290

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, ]

v. ]

Criminal No. 78-142

CHARLES C. DIGGS, JR., ]

Defendant. ]

Washington, D.C.

September 29, 1978

The above-entitled matter came on for further  
hearing at 9:30 o'clock a.m. before:

HONORABLE OLIVER GASCH  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:

JOHN KOTELLY, ESQUIRE  
ERIC MARCY, ESQUIRE

ON BEHALF OF THE DEFENDANT:

DAVID POVICH, ESQUIRE  
ROBERT WATKINS, ESQUIRE  
BERNARD CARL, ESQUIRE

-oOo-

JUDITH B. MOORE, CSP  
Official Court Reporter

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P R O C E E D I N G S

THE CLERK: Crininal case 78-142, case of  
United Stases of America versus Charles Diggs. For the  
Government Mr. John Kotelly, Mr. Eric Marcy. For the  
Defendant Mr. David Povich, Mr. Robert Watkins, Mr. Bernard  
Carl.

MR. KOTELLY: Government is ready to proceed,  
Your Honor.

MR. POVICH: Defendant is ready, Your Honor.

THE COURT: Bring in the witness, please.

Good morning, Mrs. Stultz. I hope your daughter's  
condition has stabilized.

THE WITNESS: Yes, sir. Thank you. She is.

THE COURT: You may bring in the jury.

(The jury returned to the courtroom.)

THE COURT: Good morning, ladies and gentlemen.

Counsel may proceed.

Whereupon,

JEAN STULTZ

resumed the witness stand, and having been previously sworn  
was further examined and testified as follows:

DIRECT EXAMINATION RESUMED

BY MR. KOTELLY:

Q Mrs. Stultz, when we ended yesterday you were  
testifying regarding payments made by Ofield Dukes to

000292

WJLB. Do you recall that?

A Yes, sir.

MR. KOTELLY: Your Honor, I believe I already had marked 58 and 57-A for identification.

BY MR. KOTELLY:

Q Mrs. Stultz, I show you Government's Exhibit No. 58 for identification and ask you if you can identify that document.

A Yes, I can.

Q How do you identify it?

A I recognize my own handwriting on the document.

Q As far as the printed matter on that document, do you also recognize that?

A Yes, I do.

Q What is Government's Exhibit No. 58 for identification?

A It's a memorandum to me from Mr. Dukes referring a bill from radio station WJLB.

Q And the bill from WJLB was in reference to what, if you know, Mrs. Stultz?

A It had to be in reference to the radio program.

Q I would also show you Government's Exhibit 57-A for identification and ask you if you can identify that document?

A Yes, sir.

000293

1 Q How do you identify it?

2 A It also bears my own handwriting, notes in my own  
3 handwriting.

4 Q Do you recognize the printed form and typing on  
5 that document?

6 A Yes, I do. This is a bill from WJLB radio station  
7 in Detroit.

8 Q The 57-A is addressed to whom?

9 A 57-A is addressed to Ofield Dukes & Associates,  
10 the National Press Building in Washington.

11 Q Mrs. Stultz, when did you first receive Government's  
12 Exhibit 57-A for identification?

13 A In the prosecutor's office?

14 Q No. During the time that you were working for  
15 Congressman Diggs.

16 A Oh, I see what you're saying. This bill was  
17 forwarded to me from Mr. Dukes.

18 Q Did it accompany anything?

19 A With this memorandum.

20 Q Now, after you received Mr. Dukes' memorandum  
21 and that accompanying bill, what did you do with the memoran-  
22 dum and bill?

23 A I placed a note on the memorandum which reads:

24 "To Mr. Diggs, Shouldn't this bill go to HOD".  
25 which was our abbreviation for House of Diggs.

000294

1 Q Mrs. Stultz, why did you put that comment on the  
2 memorandum and send it to Congressman Diggs?

3 A Based on the context of the note, the memorandum,  
4 which says, from Mr. Dukes, which says:

5 "I have received in the mail the enclosed bill  
6 from WJLB. There must be a mistake. The enclosed bill,  
7 I think, is from the Sunday night program. Unless there  
8 is a change I am to pay for the new Sunday morning  
9 program" -- I am sorry -- "the new Sunday morning show.  
10 Please let me know if there is something new that I  
11 should know."

12 Q Mrs. Stultz, are you familiar with the Sunday night  
13 program Mr. Dukes is referring to?

14 A Somewhat familiar. I have never heard the program  
15 but I know that it was on on Sunday nights.

16 Q Do you know whose program was on Sunday night  
17 during that time period on WJLB?

18 A To the best of my knowledge it was the House of  
19 Diggs radio show.

20 Q Mrs. Stultz, after you put the note on Mr. Duke's  
21 memorandum what happened after that?

22 A The note was put -- placed on the Congressman's  
23 desk and I waited for a response.

24 Q Did you have any conversations with Congressman  
25 Diggs regarding the memorandum and the bill?

000295

1           A     The only conversation I can recall is I was  
2 instructed to check it out.

3           Q     And did you check it out?

4           A     Yes, with the radio station.

5           Q     With whom did you check it out?

6           A     I believe it was someone at WJLB. I think it was  
7 Mr. Kotee.

8           Q     Do you remember how to spell his name?

9           A     I'm not sure it's correct. I spelled it K-o-t-e-e.

10          Q     Did you talk with anyone else outside of the  
11 Congressional office about that bill?

12          A     Yes. After speaking with Mr. Kotee I talked with  
13 someone at the -- at that point I talked to someone at the  
14 Stenson Funeral Parlor.

15          Q     After having checked it out as you have stated,  
16 did you have any further conversations with Congressman Diggs?

17          A     Yes. I mentioned to the Congressman what I had  
18 learned in my conversation with the person at Stenson's  
19 Funeral Home.

20          Q     What did you tell Congressman Diggs about the  
21 bill after checking it out?

22          A     That the person at Stenson had said to me that  
23 they would pay --

24               THE COURT: What did you tell Mr. Diggs?

25               THE WITNESS: This is what I told Mr. Diggs.

000296



1 THE COURT: All right. Go ahead.

2 THE WITNESS: I told Mr. Diggs that I had learned  
3 from the person at Stenson's Funeral Parlor that they would  
4 pay the I think it was the November bill and any bills after  
5 that, but they would not pay any bills that had been incurred  
6 prior to the merger.

7 BY MR. KOTELLY:

8 Q And the bill in question that Mr. Dukes had sent  
9 you, was that before or after the merger, did that bill  
10 relate to?

11 A This bill relates to before the merger. Yes. This  
12 is an October bill.

13 Q What, if anything, did Congressman Diggs tell you  
14 after you informed him that Stenson would not pay the bill?

15 A To check with Mr. Dukes.

16 Q Do you recall any conversations with Mr. Dukes  
17 about that HJLB bill?

18 A I cannot really honestly recall any conversation  
19 about it.

20 Q Do either Government's Exhibits 57-A or 58 have  
21 any notations regarding payment of the bill?

22 A Yes. Exhibit 57-A, which is the bill, has a  
23 notation in my handwriting that says, "This is the HOD bill  
24 paid by O.D.", which is the initials for Ofield Dukes,  
25 "12/10/75 check." I have also encircled the amount

000297

1 \$224.40 and have made an additional note, "Paid by O.D.,  
2 12/2/75."

3 Q Mrs. Stultz, yesterday you also referred to a bill  
4 paid by Mr. Dukes for the House recording studio. Do you  
5 recall that testimony?

6 A Yes, I recall that.

7 Q Could you relate to the jury exactly what occurred  
8 that caused Mr. Dukes to pay the House recording studio bill?

9 A We had received the bill, the Congressman's office  
10 had received the bill from the House recording studio for  
11 recording services there. That bill, as I recall, was in the  
12 area of \$1,100. Attached to the bill was a memorandum from  
13 the House recording studio indicating that the Congressman's  
14 charges were in excess of \$750 and based on the House  
15 recording regulations they could no longer give -- extend  
16 recording services until the bill was paid.

17 Q Did you have any conversations with the Congressman  
18 regarding that particular bill?

19 A I'm not sure that there was actual conversation.  
20 I may have made him aware of it simply by note. I don't  
21 recall an actual conversation at that point.

22 Q Did you make any inquiries about the House  
23 recording studio bill?

24 A Oh, I'm sorry. Yes, I did. I did have conversa-  
25 tion. Now that refreshes my memory.

000298

1 I did have conversation because the Congressman  
2 instructed me to find out -- first he wanted to see the bill  
3 and I showed him the bill and he questioned one item on it  
4 which was -- I don't remember exactly what it was right now,  
5 but he asked me to check on it. And I called the House  
6 recording studio and got an explanation as to what that one  
charge was about.

8 He also wanted to know what were the charges for that  
9 particular month and I remember separating that month's  
10 charges from the previous month's and then explained this to  
11 him and then he indicated to me that I should get in touch  
12 with Ofield and make arrangements to have it taken care of.

14 Q Do you recall any conversations that you had with  
15 Mr. Dukes?

16 A Verbatim, no. I do know that I contacted Mr. Dukes  
17 and explained to him the amount of that bill and there was  
18 some comment to Mr. Dukes about the size of it and in any case  
19 Mr. Dukes indicated that he would take care of it.

20 Q To your knowledge was that House recording studio  
bill paid?

21 A Yes, it was.

22 Q Do you have any knowledge as to how it was paid?

23 A It was paid by Mr. Dukes with his check.

24 Q Now, Mrs. Stultz, regarding these expenses that you  
25 have testified about, House recording studio, WJLB and

000293

1 Michigan Chronicle which you testified about yesterday, was  
2 there any manner in which Mr. Dukes was reimbursed?

3 A Yes. Mr. Dukes was reimbursed through an increase  
4 in his salary on the payroll.

5 Q Could you tell the jury how this occurred?

6 A The same as every month when we went over the bills.  
7 The Congressman was made aware by me, based on the listing  
8 of the bills that were due and we would discuss whose salary  
9 could be increased and to what amount. I did a projection to  
10 let the Congressman know how much an employee's salary could  
11 go up to pay whatever he had in mind to pay. After the  
12 Congressman approved it I would go through the normal  
13 procedure of making out the Payroll Authorization Form, have  
14 the Congressman sign it and submit it.

15 Q And after these expenses you have testified  
16 regarding Mr. Dukes, do you know if he was reimbursed for  
17 each of these expenses?

18 A Yes, he was.

19 Q Mrs. Stultz, do you know an individual named  
20 Jeralee Richmond?

21 A Yes, I do.

22 Q How do you know Jeralee Richmond?

23 A My first contact with Mrs. Richmond was when she  
24 was an employee with the House of Diggs Funeral Home and  
25 then later I met her when she came down to Washington.

000300

1 Q Do you recall when you first had contact with  
2 Mrs. Richmond?

3 A I can't absolutely recall the date.

4 Q Would you recall which year it was?

5 A At House of Diggs, I guess it would have must  
6 have been around '74.

7 Q Did you have contact with Mrs. Richmond after you  
8 first met her or talked to her?

9 A I'm not sure I understand your question.

10 Q After you first had contact with Mrs. Richmond  
11 and became aware of her, did you have later contacts with  
12 her?

13 A Yes, I did. We talked on the telephone and then  
14 she -- at one point she came down to Washington.

15 Q How frequently during the period of 1974, 1975  
16 did you have contact with Mrs. Richmond?

17 A By telephone it was not -- initially it wasn't too  
18 often, maybe a couple of times a month. Later after she was  
19 placed on the Congressional payroll I had a good bit more  
20 contact with her on a more regular basis.

21 Q What was the purpose of your contacts with  
22 Mrs. Richmond?

23 A Well, my first contacts with Mrs. Richmond regarded  
24 whatever was happening at the House of Diggs because there  
25 was no Congressional work that she was doing, to my knowledge.

000301

1 After, I think, around late '75 or maybe early '76 there was  
2 some plans of having her work and after the merger there  
3 were some plans of having her work in the Congressional  
4 offices, one of the Congressional offices.

5 Then my contact became more contact with her.

6 Q And these later contacts were about what matters?

7 A One in particular I can remember.

8 Q Without specifics, what general type of matters?

9 A There were both House of Diggs and Congressional  
10 matters at sometime.

11 Q You mentioned the merger just a few moments ago.  
12 What merger were you referring to?

13 A The merger between the Diggs -- House of Diggs  
14 Funeral Home and the Stenson Funeral Home.

15 Q Mrs. Stultz, did there come a time when Jeralee  
16 Richmond was placed on the Congressman's Congressional staff?

17 A Yes, yes.

18 Q Do you recall when that was?

19 A The exact date I don't recall. Again, I believe  
20 this was in -- let's see. The merger took place, I think,  
21 in '75. It was probably in early '75 or late '74. I'm not  
22 sure.

23 Q Would there be any documents which would refresh  
24 your recollection as to when Jeralee Richmond was put on the  
25 payroll?

000302

1 A The Payroll Authorization Form would.

2 MR. KOTELLY: Your Honor's indulgence for a  
3 moment.

4 THE COURT: Yes.

5 BY MR. KOTELLY:

6 Q Mrs. Stultz, I show you 13-A through 13-G which  
7 previously have been identified as Payroll Authorization  
8 Forms and ask you if that would refresh your recollection as  
9 to when Jeralee Richmond began work.

10 A Yes, sir.

11 Q Could you tell the jury, based on your refreshed  
12 recollection, as to when that was?

13 A July 1, 1974.

14 Q Could you tell the jury how it came to be that  
15 Jeralee Richmond was placed on the Congressional payroll in  
16 July of 1974?

17 A Yes. The Congressman instructed me to -- I'm not  
18 sure whether to mail Jeralee the appointment form, that  
19 employment appointment form, application forms, or to give  
20 them to him, but in any case Jeralee Richmond was supplied  
21 a set of the appointment forms which she completed, and at  
22 the time I made out the payroll authorizations one was made  
23 for her placing her on the payroll with the Congressman's  
24 signature. Also at that time Mrs. Richmond was not  
25 physically located in the Congressional office. She was still

000303

1 with the House of Diggs.

2 Q Now, Mrs. Stultz, after having placed Mrs. Richmond  
3 on the payroll were there any increases immediately after  
4 that for Mrs. Richmond?

5 A Yes. I believe it was either her next check -- I  
6 think it was either a second or third check. I'm not sure  
7 which. She did receive an increase in salary and this was  
8 because the Congressman told me that he owed her some back  
9 pay and, of course, I didn't question that. I just followed  
10 his instructions and increased her salary.

11 Q Do you recall how you were able to increase  
12 Mrs. Richmond's salary?

13 A Through our normal procedure, going through the  
14 projection for the payroll, making the necessary adjustments  
15 where possible, completing the Payroll Authorization Forms,  
16 having the Congressman sign it and submit it. That was the  
17 standard practice.

18 Q As to Jeralee Richmond, do you recall what type of  
19 adjustments that you had to make to give her the increased  
20 salary?

21 A It had to be an upward adjustment.

22 Q But do you recall any adjustments in the rest of the  
23 staff in order to give this upward adjustment to Jeralee  
24 Richmond?

25 A I don't remember specifically what other employees

000304



1 may have been affected, but in order to increase her salary  
2 another employee's salary would have had to be either  
3 reduced or an employee would have had to be removed from the  
4 payroll.

5 Q Mrs. Stultz, do you recall how long it was for how  
6 long a period that Mrs. Richmond's salary was increased to pay  
7 for the money owed by Congressman Diggs?

8 A I can't recall. I would have to refer to the  
9 documents. I cannot recall right now.

10 Q Now, Mrs. Stultz, do you know an individual named  
11 George Johnson?

12 A Yes, sir.

13 Q How long have you known George Johnson?

14 A Let's see. I believe I first met Mr. Johnson in  
15 maybe late -- I believe it was in '74, in 1974, probably  
16 around the beginning of the year.

17 Q How did you first have contact with Mr. Johnson?

18 A My first contact with him came about around tax  
19 time when I was instructed to prepare listings of the  
20 Congressman's tax liabilities, his contributions and that  
21 kind of thing that could be listed on his income tax, and then  
22 I first met Mr. Johnson who instructed me just what he was,  
23 the information that he needed to prepare the Congressman's  
24 taxes.

25 Q Who is George Johnson?

000305

1 A He is an accountant. He is an accountant in  
2 Detroit.

3 Q Do you know Mr. Johnson's business relationship with  
4 Mr. Diggs, if there was one, during that period when you first  
5 met him?

6 A I knew him as being the Congressman's accountant.

7 Q How frequently did you have contact with Mr. Johnson  
8 after you first met him?

9 A I guess after I first met him I was probably in  
10 touch with him at least two or three times a week because I  
11 needed his guidance on preparing material for the Congressman's  
12 taxes.

13 Q Did you have any contacts with Mr. Johnson  
14 regarding any legislative matters or any matters relating  
15 to the business of Congressman Diggs?

16 A Not legislative matters, no, sir. My contact with  
17 him was strictly concerning the Congressman's taxes.

18 Q Mrs. Stultz, did there come a time when Mr. Johnson  
19 was placed on Congressman Diggs' congressional staff?

20 A Yes, there was.

21 Q Would you state to the jury the circumstances  
22 surrounding Mr. Johnson being placed on the staff?

23 A Well, the Congressman was incurring bills with  
24 Mr. Johnson, and apparently the bills were not -- they were  
25 coming in and they weren't being paid as Mr. Johnson wanted

000306

1 them. So the Congressman, in doing one of our monthly  
2 payroll reviews, instructed me to work out a projection to  
3 see where Mr. Johnson could go on the payroll. And I remember  
4 he said, "See if I can cut the spill down."

5 I followed the Congressman's instructions. I don't  
6 remember what figure he told me to place him on at, but in  
7 any case I made the necessary adjustments and we worked some-  
8 thing out in the payroll and Mr. Johnson was placed on the  
9 Congressional office payroll.

10 Q Was there any variation in Mr. George Johnson's  
11 salary after he was placed on the staff?

12 A I'm pretty sure there were fluctuations in his  
13 salary. Mr. Johnson and two other employees' salaries -- one  
14 other employee's specifically -- salaries would fluctuate.  
15 If the Congressman needed to add another person or make  
16 an adjustment on somebody else's salary it was usually  
17 Mr. Johnson's salary that would fluctuate or the other  
18 employee's.

19 Q For how long a period did Mr. Johnson remain on  
20 the Congressional staff?

21 A I would say at least a year. There again I can't  
22 quote the exact dates, but I would say at least a year.

23 Q Would there be any documents which would refresh  
your recollection as to the period of time Mr. Johnson was  
on the staff?

000307

1           A     The only documents that I could go by were the  
2 Payroll Authorization Forms.

3           MR. KOTELLY:   Would the Court indulge me one  
4 moment?

5           THE COURT:   Yes.

6 BY MR. KOTELLY:

7           Q     Mrs. Stultz, I show you what's been entered into  
8 evidence 16-A through 16-T and ask you if that can refresh  
9 your recollection as to when Mr. Johnson started and termin-  
10 ated his employment with the Congressman?

11          A     Yes.

12          Q     Mrs. Stultz, I would ask you now that your  
13 recollection has been refreshed as to what period of time  
14 did Mr. Johnson work for Congressman Diggs on his staff?

15          A     From July 1, 1973 to I believe December of 1974.

16          Q     During that period of time that Mr. Johnson was  
17 on the Congressional staff, do you know whether Mr. Johnson  
18 had any offices in the District Office of Congressman Diggs  
19 in Detroit?

20          A     Not to my knowledge.

21          Q     Did he ever have any office space at your offices  
22 here in Washington, D.C.?

23          A     No, sir.

24          Q     During that period of time, did you discuss with  
25 Mr. Johnson any Congressional matters?

000308

1 A No, sir.

2 Q Do you recall how it occurred that Mr. Johnson  
3 was terminated from Congressman Diggs' employment?

4 A Mr. Johnson, through his own request in conversation  
5 with me --

6 MR. POVICH: Objection.

7 BY MR. KOTELLY:

8 Q Without going into the conversation itself,  
9 Mrs. Stultz, it was through Mr. Johnson that -- Well, who  
10 requested the termination of Mr. Johnson?

11 MR. POVICH: Objection, Your Honor.

12 THE COURT: Overruled.

13 BY MR. KOTELLY:

14 Q Who requested the termination of Mr. Johnson?

15 A Mr. Johnson requested it himself.

16 Q Thank you, Mrs. Stultz.

17 Mrs. Stultz, yesterday you testified regarding the  
18 payment of expenses at the District Office in Detroit. Were  
19 there any methods of obtaining reimbursement for expenses  
20 paid in the District Office?

21 A Yes.

22 Q How were these reimbursements obtained?

23 A The House of Representatives has a standard  
24 procedure. They give an allowance, but at the time I left  
25 I think it was \$500 a quarter for reimbursement of district

000309

1 office expenses.

2 Q What procedure would you follow?

3 A During each quarter I would submit a voucher to the  
4 House Finance Office for the maximum amount allowable for  
5 the district office expenses and the Congressman would be  
6 reimbursed for those expenses through a check.

7 Q What kind of a check?

8 A It's a U.S. Treasury check.

9 Q Who was that check made out to?

10 A The check was made out to the Congressman.

11 Q Do you recall the amount of the quarterly allowance  
12 that you would ask for?

13 A Towards the end of my time in the office the amount  
14 was \$500. Prior when I first went on board I think it was  
15 a lesser amount. I don't remember exactly.

16 Q Who would sign these requests or these vouchers  
17 for the reimbursement of district office expenses?

18 A The request for reimbursement may either have been  
19 signed by the Congressman or myself.

20 Q Mrs. Stultz, I show you what is in evidence as  
21 Government's Exhibit 21-A through 21-F which are United States  
22 vouchers and ask you if you can identify each of those  
23 documents.

24 A Yes, sir.

25 Q How can you identify them?

000310

1 A I recognize them as being the voucher forms that's  
2 used for reimbursement of House district office expenses.  
3 And I also recognize my signature as well as the Congressman's  
4 signature.

5 Q Could you indicate on each one of those exhibits  
6 which one is the Congressman's signature and which one is  
7 your writing?

8 A All right. Exhibit 21-A the Congressman has signed  
9 it. Do I need to identify it further?

10 Q No.

11 21-B?

12 A 21-B carries the Congressman's name which I signed.  
13 21-C carries the Congressman's name which I  
14 recognize as my writing.

15 21-D is the Congressman's own signature.

16 21-E is the Congressman's own signature.

17 21-F is the Congressman's signature.

18 Q And as to each of these documents, 21-A through  
19 21-F, were these vouchers -- who were these vouchers  
20 prepared by?

21 A They were prepared by me.

22 Q And submitted to whom after signature?

23 A Submitted to the House Finance Office.

24 Q Mrs. Stultz, did you have a regular practice in the  
25 Congressman's office regarding the obtaining of any checks as

000311

1 reimbursement for the vouchers that were submitted, 21-A  
2 through 21-F?

3 A Yes. Each quarter those vouchers were routinely  
4 submitted.

5 Q What, if anything, was returned back to the office  
6 of Congressman Diggs after those vouchers were submitted?

7 A A check usually in the full amount allowable was  
8 issued in the Congressman's name and the check would either  
9 come by mail or I would pick it up at the time I submitted  
10 the voucher, and the check would be given to the Congressman.

11 Q To your personal knowledge what, if anything, was  
12 done with these checks that were given to the Congressman  
13 as reimbursement for the district office expenses?

14 A In most instances the Congressman would endorse  
15 them and ask me to cash them and I would return the cash to  
16 him. In some instances he would simply take the check and  
17 keep it himself, and I don't know what would have happened  
18 to the money on that.

19 Q During the time you were the office manager for  
20 Congressman Diggs, did you receive any cash money from  
21 Congressman Diggs to pay for any office expenses?

22 A I don't recall receiving any cash money, no.

23 Q Mrs. Stultz, I show you Government's Exhibit 22-A  
24 and 22-D and ask you to look at the front and the back and  
25 ask you if you can identify those documents?

000312



1 A Yes.

2 Q Do you recognize any of the handwriting on either  
3 of those documents?

4 A Yes. On the back of both documents I recognize the  
5 endorsements.

6 Q As to 21-A for identification, whose writing do  
7 you recognize on there?

8 A 22-A?

9 Q I'm sorry. 22-A.

10 A The Congressman has signed it, and then I recognize  
11 under that my signature with my bank account number.

12 Q And 22-D for identification, whose signatures appear  
13 on that?

14 A The Congressman's signature appears first and my  
15 signature appears next.

16 MR. KOTELLY: Your Honor, there are a number of  
17 payroll forms that I wish to show Mrs. Stultz to ask her to  
18 identify the signature on them. They are not going to be in  
19 order.

20 THE COURT: All right.

21 BY MR. KOTELLY:

22 Q Mrs. Stultz, I show you each one of these documents  
23 and ask you if you can identify the signature on each of these  
24 documents, Government's Exhibit 1-E in evidence, Payroll  
25 Authorization Form for Jean Stultz.

000313

1 A This is the Congressman's signature.  
2 Q And the effective date on that document?  
3 A October 1, 1973.  
4 Q 1-F in evidence, can you identify the signature on  
5 that?  
6 A The Congressman's signature.  
7 Q The effective date and the employee?  
8 A May 1, 1974 and it's my -- I am the employee.  
9 Q 1-H in evidence, whose signature appears on that  
10 document?  
11 A This is also the Congressman's signature. The  
12 effective date is October 1, 1974 . I am the employee.  
13 Q 1-I in evidence, whose signature appears on that  
14 document?  
15 A The Congressman's signature appears on this one.  
16 October 1, '75 is the date, and I am the employee.  
17 Q 4-D in evidence, whose signature appears on that  
18 document?  
19 A The Congressman's signature also appears on this  
20 one.  
21 Q The effective date and the employee, please?  
22 A August 1, 1974. The employee is Jean Stultz.  
23 Q And 7-L in evidence, whose signature appears on  
24 that document?  
25 A The Congressman's signature appears on this document

000314

1 The date is August 1, 1975. Felix Matlock is the employee.

2 Q 7-M in evidence, whose signature appears on that  
3 document?

4 A Congressman Diggs' signature appears. September 1,  
5 1975 is the date and Felix Matlock is the employee.

6 Q 7-O in evidence, whose signature appears on that  
7 document?

8 A Congressman Diggs' signature. November 1, 1975;  
9 Felix Matlock is the employee.

10 Q 7-Q in evidence, whose signature appears on that?

11 A Congressman Charles C. Diggs, March 1, 1976.  
12 Felix Matlock.

13 Q 10-N in evidence, whose signature appears on that  
14 document?

15 A Congressman Diggs' signature appears, November 1,  
16 1975. Ofield Dukes.

17 Q 10-O in evidence, whose signature appears?

18 A Congressman Diggs' signature. December 1, 1975.  
19 Ofield Dukes.

20 Q 13-A in evidence, whose signature appears on that?

21 A Congressman Diggs' signature, July 1, 1974.  
22 Jeralee Richmond is the employee.

23 Q 13-C, whose signature appears on that document?

24 A Congressman Diggs' signature, August 1, 1974.  
25 Jeralee Richmond is the employee.

000315

1 Q 13-E in evidence, whose signature appears on that  
2 document?

3 A Congressman Diggs' signature, January 1, 1975.  
4 Jeralee Richmond.

5 Q 16-A in evidence, whose signature appears on that?

6 A Congressman Diggs' signature. July 1, 1973.  
7 George Johnson.

8 Q 16-C in evidence, whose signature appears on that?

9 A This is Congressman Diggs' signature. The date is  
10 9/1/73. George Johnson.

11 Q 16-E in evidence, whose signature?

12 A Congressman Diggs' signature, November 1, 1973.  
13 George Johnson.

14 Q 16-F in evidence, whose signature?

15 A Congressman Diggs' signature, December 1, 1973.  
16 George Johnson.

17 Q 16-G in evidence, whose signature is that?

18 A Congressman Diggs' signature, January 1, 1974.  
19 George Johnson.

20 Q 16-P in evidence, whose signature?

21 A Congressman Diggs' signature, September 1, 1974.  
22 George Johnson.

23 Q 16-R in evidence, whose signature?

24 A Congressman Diggs' signature, November 1, '74.  
25 George Johnson.

000316

1 Q Mrs. Stultz, you have testified regarding paying  
2 for expenses of Mr. Diggs out of the special account. Were  
3 there any occasions when you spent your own money for  
4 Congressman Diggs that was not from the special account?

5 A A loan. I made a loan for him.

6 Q Would you relate to the jury the circumstances  
7 surrounding the loan for Congressman Diggs'?

8 A The Congressman had what I suppose was a second  
9 trust or some kind of trust with the persons whom I believe  
10 he purchased his house from and for a couple of years the  
11 first -- I think the first couple of years I was there he used  
12 to just pay the interest. I would call these people and they  
13 would give him permission to just pay the interest on the  
14 loan rather than the full principal. However, this particular  
15 year the Congressman instructed me to call the lady and get  
16 permission for him to pay the interest and she said that she  
17 could not permit that.

18 Q Without getting into the conversation of any  
19 individuals, tell us what happened.

20 A All right. It wasn't allowed, so I had to contact  
21 the officer at the bank. Apparently this had been turned over  
22 to the bank and it was at the point of foreclosure. The bank  
23 had said they would not hold up any longer. It was \$1,500  
24 that needed to be paid to stop the foreclosure on his house  
25 and we sat down and talked about it and couldn't think --

000317

1 Q Who is "we"?

2 A The Congressman and I talked about it trying to  
3 think of some sources to get this money. It was in that  
4 conversation that I said to him, "Let me see what I can do."  
5 I called a person at the bank where he had one of his loans.  
6 This person and I had built up a pretty good rapport based  
7 on my contact with his loan and I asked her if I could make  
8 a loan. I needed it right away. So, she said to come down.  
9 She told me a person to talk with at the bank.

10 I went down that morning at 10:00. I applied for  
11 \$1,000 loan. Around 2:00 that afternoon I picked up the  
12 money, came back, and the Congressman knew that I had the  
13 money.

14 In the interim before I picked up the money the  
15 Congressman was very much aware of this. He knew that I had  
16 made application for the loan because he asked me a couple of  
17 times had I heard from the bank.

18 Q During what time period was this, Mrs. Stultz?

19 A I believe that loan was made November or December  
20 of '75 -- yes, '75.

21 Q From what bank did you obtain this loan?

22 A From Union -- let's see. I think it's Union  
23 First on G Street between 13th and 14th.

24 Q Was it known as Union First at that time?

25 A I don't know. They merged with Union Trust and I ar

000318

1 trying to think. It had another name before it was Union  
2 Trust. I can't remember.

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000319

1 trying to think. It had another name before it was  
2 Union Trust. I can't remember.

3 Q What were the terms of repayment of your  
4 personal loan, how long a period?

5 A Six months.

6 Q Ms. Stultz, in what form did you receive this  
7 \$1,000 from Union First?

8 A I received it from them in a check.

9 Q What did you do with it?

10 A I went up there to their outdoor teller and  
11 cashed the check right then.

12 Q What did you do after you cashed the check?

13 A I came back to the office and I let the  
14 Congressman know I had the money but I would not turn  
15 the money over to him because someone was coming in the  
16 office later that day to pick up the payment.

17 Q Do you remember what you did with the \$1,000  
18 in cash?

19 A I purchased money orders to make the payment  
20 along with other money.

21 Q What did you do with these money orders that  
22 you purchased with the \$1,000 loan?

23 A Turned them over to the gentleman that came to  
24 pick up the total \$1,500.

25 Q Do you recall who that gentleman was?

000320



1 A Yes. Mr. Clarence Robinson.

2 Q Mrs. Stultz, did you have any discussions with  
3 Congressman Diggs about the repayment of this loan?

4 A Yes, I did.

5 Q What arrangements, if any, did you make with  
6 Congressman Diggs?

7 A That he would pay the loan each month; that  
8 it would come from the special account money which he  
9 agreed to; and that's what was done. That was taken  
10 into consideration each month when we went over the  
11 special accounts or when we went over the accounts, I  
12 should say. However, the last payment I think the  
13 Congressman asked me to call the bank and see if I could  
14 call the bank and just pay the interest, and I refused.  
15 I said, "No, this was my credit and I would not do it  
16 that way." So, I ended up paying that last one myself,  
17 but I was reimbursed for it.

18 Q Do you recall how you were reimbursed for the  
19 last payment on your loan?

20 A Yes. Mr. -- from the extra monies or from the  
21 special account monies that Mr. Matlock had.

22 Q What form of payments did you receive?

23 A In a money order from Mr. Matlock.

24 Q I show you Government's Exhibit 50-N for  
25 identification which was identified yesterday as a money

000321

1 order from the Bank of the Commonwealth and ask you if  
2 you can identify that document?

3 A Yes, I can.

4 Q How do you identify it?

5 A Well, it's made payable to me and it also  
6 carries my endorsement on the back.

7 Q From whom did you receive that money order?

8 A From Mr. Matlock.

9 Q In what amount?

10 A \$177.

11 Q How did that corrolate with the final payment  
12 on your loan?

13 A This was the final payment on my loan.

14 Q Ms. Stultz, other than this loan that you have  
15 just testified about, were you repaid for any of the  
16 other monies that you spent out of this special account  
17 on behalf of Mr. Diggs?

18 A No, sir.

19 Q Ms. Stultz, I show you Government's Exhibit  
20 No. 51-B for identification which was identified  
21 yesterday as a cashier's check in the Bank of the  
22 Commonwealth and ask you if you can identify that  
23 document?

24 A Yes, sir. This document carries my endorsement  
25 on the back.

000322

1 Q What is that document?

2 A It's a money order made payable to me for  
3 \$288.59. Mr. Matlock's name is the remitter.

4 Q Do you recall what, if anything, you did with  
5 that cashier's check?

6 A Just looking at this check right now. I can't  
7 recall. I am sorry.

8 Q To your knowledge, was that for you personally?

9 A No, not to my knowledge.

10 Q What was it to be used for, for what general  
11 purpose?

12 A I can't really recall right now. I am sorry.  
13 I just cannot recall at the moment.

14 Q You cannot recall what the general purpose  
15 was rather than a specific purpose?

16 MR. POVICH: Objection, Your Honor. She said  
17 she can't recall.

18 THE COURT: It is a new question. Overruled.

19 THE WITNESS: The general purpose I would say  
20 was to cover some kind of expense or a bill but which  
21 one specifically, I could not remember.

BY MR. KOTELLY:

22 Q Some expense or bill for whom?

23 A For the Congressman.

24 Q Ms. Stultz, I am going to show you a number of

000323

1 money orders and cashier's checks that I wish you just  
2 to identify, if possible, the writing on these documents.

3 I show you Government's Exhibit 48-F for  
4 identification which is a money order from the National  
5 Bank of Detroit and ask you if you can identify any of  
6 the writing on that document?

7 A I recognize this as the Congressman's writing  
8 on the face of the document.

9 Q What portion of the writing on the face?

10 A I recognize all of the handwriting, the date,  
11 the name of the payee and the signature of the purchaser.

12 Q Who is the name of the payee on that document?

13 A Ruth Rox.

14 Q Who is Ruth Rox?

15 A Ruth Rox is an employee with the Congressman's  
16 office in Detroit.

17 Q I show you 48-E and ask you if you can  
18 identify the writing on that document?

19 A Yes, sir. I recognize all of this as being  
20 the Congressman's writing.

21 Q Who is the payee on that money order?

22 A The payee is Ruth Rox.

23 Q I show you 48-F(1) for identification, another  
24 money order, and ask you if you can identify the writing  
25 on that document?

000324

1 A Yes. It's also the Congressman's writing and  
2 the payee is Ruth Rox.

3 Q I show you 48-F(2) for identification, another  
4 money order, and ask you if you can identify the writing  
5 on that document?

6 A The date and the signature of the purchaser  
7 are the Congressman. The payee's writing appears not to  
8 be the Congressman's.

9 Q What is the name of the payee on that document?

10 A The payee is Ruth Rox.

11 Q I next show you 48-O, another money order,  
12 from the National Bank of Detroit and ask you if you can  
13 identify any of the writing on that document?

14 A The signature on it, the signature of the  
15 purchaser, is the Congressman's. I cannot identify the  
16 other writing.

17 Q Who is the payee on that money order?

18 A The payee is Lorraine McDaniels.

19 Q Who is Lorraine McDaniels?

20 A At the time I left the office she was the  
21 Congressman's secretary.

22 Q I show you Government's Exhibit No. 49. It is  
23 a cashier's check. I ask you if you can identify any  
24 writing on the front or back?

25 A Yes. I recognize the Congressman's signature

000325

1 on the back and it's made payable to the House  
2 Recording Studio.

3 Q I also show you Government's Exhibit No. 51-C  
4 which is a cashier's check from the Bank of the  
5 Commonwealth and ask you if you can identify any of the  
6 writing on that document?

7 A Yes, sir. I recognize the endorsement on the  
8 back as the Congressman's signature.

9 MR. KOTELLY: Will the Court indulge me one  
10 moment?

11 THE COURT: Yes.

12 BY MR. KOTELLY:

13 Q Ms. Stultz, I show you 21-B which is a  
14 treasury chest and ask you if you can identify any  
15 handwriting on that document?

16 A Yes, sir. This is the Congressman's signature

17 Q Where does it appear?

18 A On the back of the document.

19 Q I show you 23-Y which is in evidence, which  
20 you previously identified as your personal checks, and  
21 ask you if anyone other than your writing appears on  
22 that document?

23 A The Congressman's signature appears as the  
24 endorser on the back.

25 Q And the payee on that personal check is to?

000326

1 A Charles C. Diggs, Jr.

2 Q And the amount of that check?

3 A \$900.

4 Q Ms. Stultz, did there come a time when you  
5 stopped paying for the Congressman's bills out of the  
6 special account?

7 A Yes, sir.

8 Q When did that occur?

9 A I believe it was March or April of '76. Yes,  
10 it was either March or April.

11 Q What were the circumstances in which this  
12 arrangement was ended?

13 A At my own insistence I told the Congressman I  
14 no longer wanted to be a part of that. I was having  
15 difficulty with my taxes. I didn't like the arrangement  
16 to begin with, which was only supposed to last a couple  
17 of months.

18 Q Did you have any conversations with the  
19 Congressman at that time about the end of the arrangement?

20 A Well, I had mentioned this a couple of times  
21 before and he had just sort of waved me off, but at this  
22 point I was very insistent and I said I would not go  
23 through with it any more, and he agreed. He agreed.

24 We talked about it, what figure I would set my  
25 salary, and I said I would set it at the same figure

000327

1 where my counterpart's salary was over on the District  
2 Committee, which was around \$23,000 then.

3 Q What had your salary been immediately prior to  
4 your reducing your salary?

5 A It was the maximum allowed, which was around  
6 \$35,000.

7 Q Would there be any documents which would  
8 reflect your recollection as to the exact amount?

9 A It would have to be the payroll authorization  
10 forms.

11 Q I show you what's been introduced in evidence  
12 1-A through 1-L, payroll authorization forms, and ask  
13 you if that would refresh your recollection as to what  
14 your salary was immediately prior to the reduction?

15 A Yes, it would.

16 Q Could you tell the jury what your salary was  
17 immediately prior to the reduction?

18 A \$37,000.

19 Q And after the reduction?

20 A \$22,000.

21 Q After the reduction to your salary what, if  
22 any, changes were there in your duties working for  
23 Congressman Diggs?

24 A There were no changes in my duties.

25 Q Did you subsequently terminate your employment

000328



1 with Congressman Diggs?

2 A Yes, I did.

3 Q When was that?

4 A August 30, 1976.

5 O Would you tell the ladies and gentlemen of the  
6 jury what caused you to terminate your employment with  
7 Congressman Diggs?

8 A Well, it was an accumulation of things. The  
9 condition in the office with the personnel problems were  
10 increasing. It was no longer, I felt, a pleasant place  
11 to work.

12 There was particularly a big blowup between  
13 myself and a staffer in Detroit which was sort of the  
14 turning point and that very day I said to the  
15 Congressman, which I believe this was in May, I said to  
16 the Congressman that I was leaving. It may have been  
17 in April, but I said I was leaving and he waved me off  
18 again and a few days later I came in and I gave him my  
19 letter of resignation.

20 It was at this point that I suppose he  
21 believed I really meant to go and he asked me if I would  
22 have lunch, asked me to have lunch with him, and we  
23 discussed some alternatives. Initially I said, "I'll  
24 come in and work part-time," until he can find an  
25 adequate, you know, replacement or until he can make

000329

1 other arrangements and that never took place. However,  
2 later he asked me if I would consider -- I'm sorry.

3 In that same conversation he asked me if I  
4 would give up -- if I wanted to give up the office  
5 management position; would I consider going back to a  
6 position of his secretary, which I rejected that. He  
7 wanted to know why and my reasoning was because  
8 Ms. McDaniels was doing what I felt a good job, and in  
9 addition she had a child to support, a young kid, and  
10 that would not take me out of the immediate setting of  
11 the office.

12 After some more conversation and discussion  
13 he then asked me if I would stay on until after the  
14 primary, which was in August, and I agreed to stay the  
15 additional three months.

16 Q Then when did you leave?

17 A I left August 30, 1976.

18 Q Was there a replacement that was on the staff  
19 at the time -- your replacement on the staff at the time  
20 that you left in August?

21 A Yes. Mr. Randall Robinson, and I think he  
22 came on like a month before I left. He came on probably  
23 in July, July 1st.

24 Q Ms. Stultz, after you were reduced to around  
25 \$22,000, were there any later increases in your salary?

000330

1           A     My last two paychecks were increased, and  
2 again, with the permission of the Congressman, and this  
3 was to cover any tax liabilities that I may have  
4 incurred that year as a result of the inflated salary.

5           Q     Do you remember what your salary was increased  
6 to?

7           A     It was increased to the maximum, which I  
8 believe was \$37,000.

9           Q     For how many months?

10          A     For two months, the months of July and August.

11          Q     And the money that you received in your final  
12 two paychecks?

13          A     Was my own.

14          Q     Ms. Stultz, did you have any conversations with  
15 anyone on the staff regarding your payment of expenses  
16 for Congressman Diggs?

17          A     I'm trying to remember whether I had any  
18 conversation. It was pretty well common knowledge by  
19 most of the staffers in the office that I handled his  
20 accounts. I am not sure whether I related that portion  
to Randall Robinson or not.

21          Q     Ms. Stultz, during the period of time that you  
22 were the office manager and paying for the expenses of  
Congressman Diggs out of your special accounts, would  
you tell the jury why you did it?

000331

1           A       Well, when the idea was first proposed to me  
2 I must admit I didn't feel too secure in the position.  
3 I felt that it was almost -- you might almost say a  
4 condition of employment. I received no threats but it  
5 was by sort of innuendo. I received a warning previously  
6 from the Congressman on some other matters concerning  
7 my relationship with some of his family members and he  
8 talked like I didn't have too much choice if I wanted  
9 to retain my position there, and I needed the job.

10           MR. KOTELLY: The Court will indulge me one  
11 moment?

12           THE COURT: Yes.

13           MR. KOTELLY: No further questions, Your  
14 Honor.

15           THE COURT: Mr. Povich?

16           MR. POVICH: May we approach the Bench?

17           THE COURT: Yes.

18           (Bench conference.)

19           MR. POVICH: Could we take a mid-morning  
20 break?

21           THE COURT: In another 15 minutes we will  
22 knock off.

23           (In open court.)  
24  
25

000332

CROSS EXAMINATION

BY MR. POVICH:

Q Ms. Stultz, my name is David Povich. I represent Congressman Diggs, as you know.

At the beginning of your testimony Mr. Kotelly asked you when you first met Congressman Diggs.

A That's right.

Q I believe you said that it was at the Democratic National Committee in Miami; is that correct?

A At their convention.

Q And were you employed at that time by the Committee?

A Yes, I was.

Q You had a position, I think, in the Minorities Division?

A Yes, sir.

Q Was that an area that interested you, that concerned you, whether it was a division of the DNC?

A It certainly was.

Q As opposed to say some other position of the Democratic National Committee?

A I can't say that. That was the area in which I was employed. That was the area in which I was offered a position of employment. I did not have a choice.

000333

1 Q You didn't have any special interest in that  
2 connection?

3 A I did have a special interest. I am a  
4 minority; however, I was not offered a position in any  
5 other division of the Committee.

6 Q No. I was just suggesting or asking you  
7 whether or not you had an interest in minority rights  
8 and therefore you were involved and were employed by the  
9 Minority Division of DNC as opposed to some other  
10 division.

11 A My employment was not based on my interest in  
12 minorities. My employment was based on my need for  
13 employment.

14 Q I see. What was your salary at that time?

15 A As I recall I began with the Committee at  
16 \$10,000 a year.

17 Q Was that job to terminate after the convention?

18 A It was an odd job of arrangement. It was not  
19 a termination. They had what they call a Voters  
20 Registration Division and I went with that unit.

21 Q How long was that job to continue?

22 A I was with them from July until October when  
23 I took employment in the Congressman's office.

24 Q Well, I am just trying to inquire, did the  
25 job end or did you just -- Could you have stayed there

000334

1 and simply sought other employment if you wanted to?

2 A What do you mean, with the Voters Registration  
3 Division?

4 Q Yes.

5 A To my knowledge the job was ending. I think  
6 they were abandoning the division.

7 Q How did you happen to first learn of the job  
8 with the Congressman, that there was an opening or he  
9 was looking for someone?

10 A The Congressman proposed the idea to me in  
11 Miami.

12 Q Where you accepted that?

13 A It was not an actual offer of employment. It  
14 was simply a conversation with the Congressman -- we had  
15 been to a social gathering of some kind. There were  
16 numerous social activities and I remember the Congressman  
17 saying to me, "You think you are hot stuff," and I said,  
18 "What do you mean?" He said, "I've been watching the  
19 way you run the office. Do you think you can run my  
20 office in the same way?" I said, "I don't know." And  
21 he says, "We'll see," and that was the end of that.

22 After I came back to Washington in October I  
23 received a call from his administrative assistant to  
24 come over for an interview.

25 Q That was Ms. Corker?

000335

1 A Ms. Corker.

2 Q Dorothy Corker?

3 A Yes. There had been some other contact with  
4 him in the interim, another employee of the Committee  
5 whom he knew personally, I understand also; he talked  
6 with him prior to asking me to come over for an inter-  
7 view.

8 Q Had you considered going with someone else,  
9 some other congressman or representative on the Hill at  
10 the time?

11 A I had considered going with anybody I could  
12 get a position with.

13 Q Had you an offer or were you considering going  
14 with Congressman A. Rangle's office?

15 A I had not had an offer. I had -- The  
16 suggestion had been made to me by another member of  
17 Congress that if I -- that there was a position in  
18 Mr. Rangle's office, and if they submit my name to the  
19 Congressmen, which would I prefer, and I said I would  
20 prefer working with Mr. Diggs.

21 Q Why was that?

22 A I had met Mr. Diggs at the convention. I had  
23 met Ms. Corker. I knew of Mr. Diggs' activities in  
24 African affairs. I was not that knowledgeable about it,  
25 but Mr. Diggs also had seniority in the House. I felt

000336



1 it would be a more secure position in his office.

2 Incidentally, I had met Mr. Diggs once before,  
3 maybe a year before when I went to his office with  
4 Mr. News who was Director of the Minorities Division.

5 Q There came a time when you did discuss  
6 employment in his office; is that correct?

7 A That's correct.

8 Q In the end of 19 -- was it '72?

9 A In October of '72.

10 Q What was your position at that time?

11 A I went on board as a legislative assistant.

12 Q And your salary was what?

13 A \$11,000.

14 Q As a legislative assistant, what essentially  
15 were your duties?

16 A Mr. Povich, I really can't tell you because  
17 I know nothing about legislation. I had been given a  
18 choice when I first went over of what -- I thought it  
19 was a choice. There were two positions open, as I  
20 understood from Ms. Corker, as her secretary or the  
21 legislative position secretary. I opted for her  
22 secretary's position, which was an area of employment  
23 that I knew; however, when I was appointed I was  
24 appointed as a leg. assistant and I made it known to  
25 her I knew nothing about legislation.

000337

1 Q She was the one that hired you more or less;  
2 was she not?

3 A I can't say that. She was the one that I had  
4 my contact with.

5 Q You reported to her; is that correct?

6 A That's right.

7 Q How long did you continue to report to her?

8 A The whole time I was in that position as leg.  
9 assistant.

10 Q How long was that?

11 A From October to I think it was February of '73.

12 Q During that time from October to February of  
13 '73 did you stay in that job?

14 A Yes, I did.

15 Q Did it --

16 A Wait a minute. Yes, that's right.

17 Q Did the job title really have anything to do  
18 with what you were doing?

19 A I guess if I had performed it, it would have  
20 had something to do with it because I was doing nothing  
21 else at that point, sort of floundering.

22 Q Well, were you trying to learn the work?

23 A I was trying to learn the work.

24 Q Were you succeeding?

25 A No. I had no guidance.

000338

1 Q Did there come a time as a result that you  
2 think that you took over another position and assumed  
3 other responsibilities?

4 A At the time during a conference in the  
5 Congressman's office between himself, Dorothy Corker  
6 and myself, the Congressman proposed that he wanted  
7 to make me his secretary. I was elated, and I remember  
8 saying to him, you know, I felt very good about it  
9 because I really didn't know anything about legislation  
10 and I knew that I had not been performing in that  
11 position.

12 Q What had prompted that? Was Mrs. Corker  
13 leaving?

14 A No. That was prompted by Ms. Stillelt's  
15 resignation.

16 Q Had she been the secretary?

17 A Yes, she had.

18 Q How long had she been the secretary?

19 A I have no idea. I understand it was 13 years  
20 but I cannot say that's absolutely true.

21 Q When you assumed the position of his secretary  
22 when was that approximately?

23 A Approximately February of '73.

24 Q Did you have any pay increase or adjustment as  
25 a result of that?

000339

1 A Yes, sir. My salary went to \$14,000.

2 Q Was Ms Corker still the office manager at  
3 that time?

4 A Yes, she was.

5 Q Did there come a time when she assumed other  
6 responsibilities?

7 A Yes. She assumed the position of, I believe,  
8 chief of staff or some provision on the House District  
9 Committee.

10 Q And she left her position on the Congressman's  
11 staff itself?

12 A Well, she physically moved to the House  
13 District Committee Offices. I don't know what her  
14 actual arrangements were.

15 Q Did she continue to have a lot of contact  
16 with the office?

17 A Oh, yes.

18 Q What type of contact would that be?

19 A Well, quite a while she continued to handle  
20 the payroll because I didn't assume payroll responsi-  
21 bilities for several months afterwards, and she was  
22 over constantly with the Congressman. About what, I  
23 don't know.

24 Q She also worked with respect to running the  
25 District House Committee?

000340

1 A Ms. Corker was back and forth.

2 Q Where were her offices located?

3 A To my knowledge she had them in both places.  
4 She had an office in the District Committee Office and  
5 she retained her office in the Congressional suite of  
6 offices.

7 Q Now, you said that you assumed the responsi-  
8 bility of his personal secretary in February of 1973?

9 A To the best of my recollection, yes.

10 Q What duties did that include?

11 A Handling his appointment calendars, talking  
12 with his constituents, writing his letters, taking his  
13 dictation, sitting in on meetings with him when asked  
14 to, handling his personal accounts, talking with his  
15 creditors, making out his checks for payment of his  
16 bills and whatever I was instructed to do as his  
17 secretary.

18 Q What was the Congressman's position at that  
19 time in the Congress of the United States in addition to  
20 being the representative from the 13th District of  
21 Detroit.

22 A In, I believe it was January of '73 he took  
23 over chairmanship of the House District Committee. He  
24 was also a member of the African Affairs Subcommittee  
25 and Foreign Affairs Committee.

000341

1 Q Did he subsequently assume the chairmanship  
2 of that committee as well, the Subcommittee on African  
3 Affairs?

4 A I believe he still retains the chairmanship  
5 of that; doesn't he? I think he was chairman then.  
6 I am not really sure. I can't remember that far back.  
7 I think he was -- let me see. Yes, I think he did  
8 subsequently. I don't remember whether he assumed the  
9 chairmanship or whether he was already chairman.

10 Q When you began to handle his personal affairs  
11 who had handled those insofar as paying his bills and  
12 expenses as his personal secretary, who had handled that  
13 before you?

14 A To the best of my knowledge Ms. Stillett did.

15 Q Well, did you more or less pick up on the  
16 procedures which she had initiated or had handled or  
17 had really initiated in the office for handling his  
18 affairs?

19 A I picked up on procedures that had, I'm  
20 pretty sure, had been handled by Ms. Stillet. She had  
21 never explained them to me, but I had access to her  
22 file drawer when she left and I followed the same  
23 procedure.

24 Q That was a procedure whereby with respect to  
25 the payment of bills that you would list the bills which

000342

1 were outstanding that she had done: is that correct?

2 A That's correct.

3 Q Would you sit down with the Congressman and  
4 you would decide or he would decide with you which bills  
5 had to be paid or should be paid?

6 A That's right.

7 Q That was the same procedure she had followed?

8 A I assume she had followed it.

9 Q Well, you saw the list in the file; did you  
10 not?

11 A Yes, but again I say she never instructed me  
12 but there was such a list and I followed that same  
13 procedure.

14 Q And that had gone on, that list. This was  
15 now in February of '73 but there were lists like that  
16 in the files, his personal files, that had gone back  
17 say, to 1971; had they not?

18 A I don't know how far back it had gone, sir.

19 Q Were there a lot of personal files with respect  
20 to those payments of expenses which she had which you  
21 assumed?

22 A There were personal files but I don't know  
23 how far back the list went.

24 Q It was not your purpose, was it, to change  
25 the situation at all, was it?

000343

1 A No.

2 Q What you intended to do was simply follow  
3 the procedures which she had outlined until he told  
4 you differently; is that right?

5 A Which is what I did until he suggested that I  
6 make up a newer, more complete type of form which  
7 carried basically the same kind of information, but  
8 more.

9 Q Now, the list that you made up, that was  
10 simply a list of the amount of bills that he had out-  
11 standing; isn't that correct?

12 A It was a list of each creditor that I knew of  
13 that he owed. It was the amount, the balance due, the  
14 total amount due. , It listed the amount of each payment  
15 that was due. The total amount may have been \$500;  
16 the payment per month may have been \$25; and they were  
17 itemized by date.

18 Q Would it be fair to say that he had a lot of  
19 payments on larger obligations that he had to meet  
20 every month? Do you understand what I am saying?

21 A No.

22 Q That he was making monthly payments on  
23 larger obligations and that you were trying to keep  
24 track of those loans, personal loans?

25 A He had a number of obligations, large and

000344



1 small. I am not sure I understand your question.

2 Q Well, I am saying that many of the bills  
3 were part payment bills.

4 A Yes.

5 Q In other words, he would pay monthly on a  
6 larger bill which was outstanding.

7 A Right. He would pay monthly on whatever bills  
8 he chose to pay on, whether it was a large bill or a  
9 small bill.

10 Q Were there times he couldn't make all of the  
11 payments?

12 A Oh, yes.

13 Q Was that from the first exposure you had to  
14 the situation?

15 A He never paid every bill on the list every  
16 month.

17 Q He wasn't able to do that?

18 A I don't know whether he was able or not. He  
19 didn't.

20 Q Well, you were in charge of his finances.  
21 From the information that you had did he seem to have the  
22 money available to make those payments?

23 A I wrote his checks based on what he indicated  
24 he wanted to pay. I did not know and it was late in my  
25 time there -- I did not know what the balance was in his

000345

1 bank account.

2 Q Did he not keep a running balance in his  
3 checkbook?

4 A I did not know what his resources were.

5 Q Did he ever indicate to you that he was  
6 having difficulty paying a certain bill and therefore  
7 he would prefer not to have to pay that month?

8 A He didn't have to indicate, Mr. Povich. The  
9 creditors indicated to me.

10 Q Well, would it be fair to say that he was  
11 having difficulty meeting his obligations?

12 A Well, it would be fair to say he didn't meet  
13 them. I can't say he was having difficulty. I didn't  
14 know what his situation was or why he didn't meet them,  
15 but he did not meet them.

16 Q By the way, these lists that you saw, have  
17 you seen them since the initial list, the lists that  
18 were there when you first came into the office in  
19 1973? Have you seen them recently?

20 A Recently, no.

21 Q Were you ever shown those lists?

22 A Since I left his employment?

23 Q Yes.

24 A No, no. I have not seen them.

25 Q You haven't seen any of those?

000346

1 A No, I haven't.

2 Q The prosecutor hasn't shown you any of the  
3 lists?

4 A I don't recall him showing me any.

5 Q Has he shown you any of your lists?

6 A That's what we are talking about, my list,  
7 the list I prepared.

8 Q You don't recall? He has never shown you any  
9 of those?

10 A Not to my knowledge, no. I don't recall.

11 Q Do you know if they still exist or not?

12 A I don't know. I asked him. I told him about  
13 them.

14 Q I see.

15 What about the other financial records that  
16 you had, Ms. Stultz? Had you been able to go over those  
17 during the period of time that you were his personal  
18 secretary?

19 A What other financial records?

20 Do you mean the folders for each of his  
21 creditors?

22 Q Well, I mean all these records that have been  
23 introduced here in the courtroom.

24 A Oh, I have seen those.

25 Q Well, do you know where those records were

000347

1 obtained?

2 A To the best of my knowledge, some of those  
3 I recognize as records that were in my file in the  
4 Congressman's office.

5 Q Would you have any reason to believe that the  
6 files which were there during the period that you were  
7 there and when you left are still there?

8 A There is one document in particular that I  
9 remember having that I have not seen.

10 Q Has not been shown to you?

11 A It has not been shown to me.

12 Q But from what you were able to ascertain, you  
13 have seen creditors' files; have you not?

14 A I have looked through -- let's see. I have  
15 seen creditors' files. I have not -- I can't recall--  
16 I have looked through one or two.

17 Q Ms. Stultz, I am simply trying to ascertain  
18 whether or not, even though this is a matter now in  
19 1978, the files that you were working with are still  
20 here, are still available, haven't been destroyed; that  
21 these records came from all of these files that you  
22 said you worked with.

23 A Yes.

24 Q Is that true?

25 A That's right.

000348

1 Q In fact, the only records that you have  
2 located are some of your own personal checks; isn't that  
3 right?

4 A Pardon me?

5 Q The only records that you had difficulty  
6 locating were some copies of your own personal checks;  
7 were they not, about five months?

8 A I did not locate those records, sir.

9 The only ones I was asked to submit were my  
10 own personal checks, some of which I have not found.

11 Q I see. But I am saying that the only records  
12 that you have been unable to find really are the ones  
13 relating to our own personal checks; that everything  
14 else that essentially you were working with during that  
15 period of time the Government has or you have seen or  
16 that's available?

17 A I can assume the Government has everything  
18 else. I have not seen everything the Government has.

19 Q But you have gone through the creditors'  
20 files and you have taken out the payments you made with  
21 money orders and you have the Xerox copies and you have  
22 your correspondence and you have all the information  
23 that was in each of the individual files?

24 A I did not personally go through those files.  
25 I did not personally take those things out.

000349

1           The items that I identified today are items  
2 from the files that I had access to when I was employed  
3 with the Congressman.

4           Q     Again you have no reason to believe that they  
5 are still not all available?

6           A     I have no reason to believe that.

7           Q     Now, in February, 1973, when you began to work  
8 as his personal secretary, he at that time was also  
9 chairman of the House District Committee; was he not?

10          A     Yes, I believe he was.

11          Q     That occurred in January of 1973, the  
12 beginning of the year?

13          A     To my knowledge, yes.

14          Q     Can you give us some indication of what kind  
15 of an event that was in the office?

16               MR. KOTELLY: Your Honor, I am going to  
17 object. May we approach the Bench?

18               THE COURT: Yes.

19               (Bench conference.)

20               MR. KOTELLY: Your Honor, based on Mr. Povich's  
21 opening statement it appears that Mr. Povich is going to  
22 start getting into what was going on in the District  
23 Committee. I don't know if he's going to go into the  
24 Congressman's positions and everything there, but I at  
25 this time would object to Mr. Povich putting into the

000350

1 Government's case his affirmative defense regarding any  
2 activities going on in the District Committee.

3 Your Honor ruled that the defense could not  
4 properly go into their affirmative defense in the  
5 Government's case in the Bobby Baker case, and that was  
6 upheld by the Court of Appeals, and I would submit that  
7 that is the area that Mr. Povich is now going into, his  
8 affirmative defense as he outlined it in his opening  
9 statement, and we would object to his going into those  
10 areas as to the activities going on in the District  
11 Committee.

12 This witness testified that she did not  
13 actually do work for the District Committee.

14 THE COURT: I'm inclined to agree with that,  
15 Mr. Povich. This is the second time you have referred  
16 to the fact that he was chairman of the House District  
17 Committee. You said it the first time, but you  
18 certainly don't need to keep asking that question.

19 MR. POVICH: Your Honor, if the Government  
20 wishes to announce in open court that it was perfectly  
21 lawful for her, as his personal secretary, to be on the  
22 salary as secretary to him as chairman of the House  
23 District Committee and that there was nothing improper,  
24 that there was nothing unlawful and there was no adverse  
25 inference --

000351

1 THE COURT: Let's get down to brass tacks,  
2 Mr. Povich. You can question her about what the  
3 Government brought out, but you cannot bring out your  
4 affirmative defense through her at this time.

5 MR. POVICH: Your Honor, I am simply trying to  
6 show that it was perfectly proper for her to be paid as  
7 secretary to the Chairman of the House District  
8 Committee, particularly during 1973 and 1974, because of  
9 his activities as a congressman on the House District  
10 Committee.

11 The Government asked her -- she says, well,  
12 there was no -- "I was liaison, but there wasn't any-  
13 thing."

14 I have the right to cross examine her about  
15 that. I have the right to find out what she was doing.

16 THE COURT: I think you do, too.

17 MR. POVICH: I want to find out what they  
18 were doing with that office in the House District  
19 Committee in 1973.

20 THE COURT: To the extent she had knowledge,  
21 you may inquire.

22 MR. POVICH: Your Honor, the question is  
23 what was the Congressman doing. She worked for the  
24 Congressman. The question is what was he doing. She  
25 was his secretary. It's not just what she was doing.

000352



1 THE COURT: To the extent that she knows she  
2 may be asked to respond.

3 MR. POVICH: Fine.

4 THE COURT: All right.

5 (Open court.)

6 BY MR. POVICH:

7 Q In 1973 you were on the payroll of the House  
8 District Committee; is that correct?

9 A I believe so.. At one time I was on both  
10 payrolls, yes.

11 Q Well, but wasn't your job description at one  
12 point was secretary to the Chairman of the House  
13 District Committee; is that right?

14 A It may have been.

15 Q And Mr. Diggs was the Chairman of the House  
16 District Committee?

17 A Yes.

18 Q In 1973 was he concerned with the House  
19 District Committee?

20 A Oh, yes.

21 Q Can you tell me the type of work that he was  
22 doing on the House District Committee in 1973?

23 MR. KOTELLY: Your Honor, I object unless  
24 this is related to Mrs. Stultz' employment.

25 MR. POVICH: Yes, Your Honor.

000353

1 THE COURT: To the extent she knows she may  
2 testify.

3 MR. POVICH: The inference has been it is  
4 improper.

5 MR. KOTELLY: I object to this argument.

6 THE COURT: The Court has ruled to the extent  
7 the witness has personal knowledge of what Mr. Diggs  
8 was doing on the House District Committee she may  
9 testify.

10 MR. POVICH: Thank you.

11 THE WITNESS: To my knowledge, at that time  
12 they were trying to get Home Rule legislation, but  
13 beyond that I cannot say what was going on in the  
14 House District Committee.

15 BY MR. POVICH:

16 Q Just try to get Home Rule legislation through?

17 A It had not passed in '73, sir.

18 Q Well, I mean the only thing you can tell me  
19 is he was trying to get Home Rule?

20 A I did not work on the District Committee. I  
21 worked in the congressional office. I had no functions  
22 on the District Committee. I had no idea what was  
23 going on over there.

24 Q Did you know what the Congressman was doing  
25 that you were working for?

000354

1           A       I knew what he was doing in his congressional  
2 office.

3           Q       Well, were you making his appointments?  
4 Weren't you doing --

5           A       Not for the District Committee. I made his  
6 appointments as far as whomever he was going to see, but  
7 as far as his legislative activities in the House  
8 District Committee, I had no idea. I knew -- I made his  
9 appointments to the degree that I knew who he was going  
10 to meet with and he knew who he was going to meet with.  
11 The substance of that meeting at the District Committee,  
12 I had no idea.

13          Q       I'm not asking for the substance of the  
14 meetings, but you coordinated as his personal secretary  
15 where he was, who he was going to be meeting with,  
16 whether he was traveling, whether he was going to be in  
17 town, out of town, in Africa, in the District of  
18 Columbia, in Detroit or anywhere else, didn't you?

19          A       That's true, yes.

20          Q       Well, in doing that work, in coordinating that  
21 activity you were doing more than just for him as  
22 congressman from the 13th District. You were doing it  
23 for him in the other positions he held as well, in the  
24 House of Representatives; were you not?

25          A       I suppose you are right. I'm not sure what

000355

1 you're trying to say to me. He is a member of Congress;  
2 has an appointment secretary. As I understand the  
3 appointment secretary's position she makes his appoint-  
4 ments regardless of what committees he is assigned to,  
5 regardless of what chairmanships he might hold. She is  
6 still his congressional secretary or his appointment  
7 secretary in his congressional office.

8 Now, I don't know of any chairman who has a  
9 separate appointment secretary on each one of his  
10 committees. He did have a secretary in the committee  
11 who served in that capacity and at times she and I would  
12 coordinate meeting appointments.

13 Q Could you tell me, Mrs. Stultz, what he was  
14 doing as Chairman of the House District Committee for the  
15 District of Columbia in 1973 other than simply to say  
16 that he was working on Home Rule?

17 A No, I can't.

18 MR. ROTELLY: I object.

19 I withdraw my objection.

20 THE COURT: I think it has been answered.

21 THE WITNESS: No, I can't.

22 THE COURT: We will take a recess for ten  
23 minutes.

24 (Recess.)  
25

000356

CROSS EXAMINATION RESUMED

BY MR. POVICH:

Q I believe, Mrs. Stultz, my last question concerned your knowledge of Mr. Diggs' activities as Chairman of the House District Committee in 1973, and you indicated that you really weren't aware of what they were; is that correct?

A Other than I knew they were trying -- he was trying to get the Home Rule legislation, but other than that I did not know.

Q Was that a particularly difficult period of time for him and other members of the House who were trying to get that legislation through?

MR. KOTELLY: Objection, Your Honor. Irrelevant.

THE COURT: Sustained.

BY MR. POVICH:

Q Did it require a lot of time on his part and a lot of effort?

MR. KOTELLY: Objection.

THE COURT: I sustained the objection to the question, Mr. Povich.

MR. POVICH: Your Honor, may I inquire as to his location and the things that he was doing as Chairman of the House District Committee with this witness

000357

1 since she was his secretary?

2 THE COURT: To the extent she knows, you may  
3 inquire.

4 BY MR. POVICH:

5 Q Is there anything else that you can tell me  
6 that he was doing in 1973 with respect to the Home Rule  
7 bill in the House District Committee?

8 A No, sir. The major legislation that I knew  
9 about in that period was the Home Rule.

10 Q Well, that legislation was then -- that bill  
11 passed the latter part of 1973; is that correct?

12 A I don't recall when the bill passed.

13 Q There did come a time when it did pass; is that  
14 correct?

15 A I believe that's correct.

16 Q Do you recall what he did then with respect  
17 to the implementation of the bill in the formation of the  
18 District of Columbia government insofar as his  
19 activities were concerned?

20 A No, sir, I cannot specifically recall. All I  
21 know was he was a chairman of the committee.

22 To my knowledge he led the bill through. I  
23 did not sit in on committee meetings on that bill or any  
24 of the other House District of Columbia committee  
25 meetings.

000358

1 Q I am not asking you what he did in the  
2 meetings. I am asking you what he did, where he was?

3 A I think I have answered that, sir. All I know  
4 is the Home Rule legislation.

5 Q In 1973 and the beginning of 1974, what was  
6 the next major piece of legislation that he concerned  
7 himself?

8 A I don't even recall. I don't know. I don't  
9 remember.

10 Q Was it the bill which provided --

11 MR. KOTELLY: Objection, Your Honor. I submit  
12 again Mr. Povich is trying to go into his defense  
13 case and not the Government's case that he is cross  
14 examining on.

15 MR. POVICH: Your Honor, I am not asking for  
16 character. I'm not really asking for character. I am  
17 just asking for her knowledge of what her Congressman  
18 was doing as Chairman of the House District Committee,  
19 because of the inference she was working for him on that  
20 committee, that there was something improper in that.

21 MR. KOTELLY: Your Honor, Mr. Povich is the  
22 one saying anything is improper. I would suggest  
23 Mr. Povich's question should be as to what Mrs. Stultz  
24 did for the District of Columbia committees.

25 MR. POVICH: Your Honor, if she is the

000359

1 secretary to the Chairman of the committee, I suggest,  
2 Your Honor, the relevant question is what was the  
3 Chairman doing, since she was working for him.

4 THE COURT: To the extent she knows she may  
5 answer.

6 BY MR. POVICH:

7 Q Were you familiar in 1974 with his activities  
8 in establishing the University of the District of  
9 Columbia?

10 A I was vaguely familiar only to the extent of  
11 what I read in the newspapers. I had no involvement in  
12 that at all, not even as his secretary, other than  
13 possibly making appointments.

14 Q You knew who he was with and where he had to  
15 be and when you were going to be able to meet with him  
16 and when you would not.

17 Did he ever ask you to do things for him?

18 A Not concerning the District Committee other  
19 than making his appointments.

20 Q Did that concern his activities on the  
21 District committee?

22 A If he had an appointment that involved the  
23 District Committee, yes, it would have concerned his  
24 activities.

25 Q Well, if he was meeting with District of

000360



1 Columbia officials would that concern his role in the  
2 House District Committee?

3 A I would assume that it would.

4 Q Was he meeting with those people during that  
5 period of time?

6 A He did meet with District of Columbia  
7 officials, yes.

8 Q Did he meet with them frequently?

9 A There was a period of time that I recall the  
10 mayor came to the office and a couple of other District  
11 of Columbia officials came to the congressional office,  
12 not you know -- I don't know when they came over. I  
13 can't recall when they came over to the District  
14 Committee offices.

15 I recall these meetings in the congressional  
16 office.

17 Q He was very busy during that period of time  
18 on these matters; was he not?

19 A The Congressman was busy most of the time,  
20 sir.

21 Q Did he work fairly long hours?

22 A Yes, he did.

23 Q From approximately when to when, early in the  
24 morning until 8:30 or so, until sometimes even after  
25 the staff left?

000361

1 A He was often there after the staff left, yes.

2 Q Let me ask you, do you recall a particular  
3 event when after he had assumed the chairmanship of the  
4 House District Committee there was a rather -- there  
5 was a ceremony in which a formal portrait, painting, was  
6 to be hung in the committee, and it was a matter of  
7 honor and a matter of great pride to him?

8 MR. KOTELLY: Objection, Your Honor, as to  
9 whether it was a matter of honor and great pride.

10 THE COURT: Sustained.

11 BY MR. POVICH:

12 Q Do you recall the incident?

13 A I recall hanging the portrait, yes, the  
14 unveiling of the portrait.

15 Q How would you describe that?

16 A It was a ceremonial event.

17 Q Is it what you call a usual, every day event  
18 in the life of a congressman?

19 A I don't know, sir. I don't know how many --  
20 I did not know the practice of other members. I don't  
21 know how they presented their portraits to the house.  
22 This was the first occasion I had ever seen like that.  
23 I could not say whether it was usual or unusual.

24 Q Were you impressed with the occasion?

25 MR. KOTELLY: Objection, Your Honor.

000362

1 Irrelevant.

2 THE COURT: I don't see the relevance of it,  
3 Mr. Povich.

4 BY MR. POVICH:

5 Q Ms. Stultz, the first payment from what you  
6 described as your salary from the Congress was in part  
7 -- it was to an individual by the name of Mr. Clipper;  
8 was it not?

9 A That's right.

10 Q Well, was Mr. Clipper the portrait artist?

11 A Yes, sir.

12 Q Did that payment go for that painting?

13 A To my knowledge, it did.

14 Q Well, can you tell me whether or not that was  
15 a matter of some importance either to you or the  
16 Congressman?

17 MR. KOTELLY: Objection, Your Honor.  
18 Irrelevant.

19 THE COURT: Whether Mr. Clipper was paid for  
20 painting the portrait; is that the question?

21 MR. KOTELLY: No. Whether it was important,  
22 Your Honor. Whether it was important to Ms. Stultz or  
23 the Congressman was the question, Your Honor, and I  
24 object to that as irrelevant totally.

25 THE COURT: Sustained.

000363

1 MR. POVICH: Your Honor, the Government  
2 introduced evidence she paid the bill.

3 MR. KOTELLY: The Court has ruled and  
4 Mr. Povich is still arguing. If he continues, I request  
5 we come to the Bench.

6 THE COURT: Do you want to come to the Bench?

7 MR. POVICH: I don't think it is necessary.

8 THE COURT: Then let's go ahead and get into  
9 something that is relevant.

10 BY MR. POVICH:

11 Q Do you recall that was one of the first bills  
12 that you paid for him?

13 A Yes, sir.

14 Q That was an expensive portrait; was it not?

15 A I can't say whether it was or not. I have  
16 never had a portrait done. I have never known anyone  
17 else that had one. I don't even know the going rate  
18 for portraits.

19 Q Do you remember how much he paid?

20 A To my -- as best I can recall it was over  
21 \$2,000.

22 Q Was there any discussion as to whether or not  
23 this money might be paid out of other funds, official  
24 funds?

25 A There was no discussion with me.

000364

1 Q With no one?

2 A There was no discussion with me as to whether  
3 that money should be paid from other funds.

4 Q You say between you and the Congressman?

5 A That's right.

6 Q Did you have any discussion with anyone else?

7 A No, sir.

8 Q Where was that portrait to be hung?

9 A I don't know where it was to be hung. It was  
10 eventually hung in the District Committee's office.

11 Q But at the time you paid for it, it had not  
12 been hung there; was it?

13 A I don't remember when it was hung, sir.

14 Q But this was a portrait, an official portrait  
15 of the Congressman that was to be hung in the House  
16 District Committee; is that correct?

17 A I don't know whether it was an official  
18 portrait or not. All I know is it was a portrait. I  
19 had nothing to do with the ordering of it. I only  
20 handled the payment for it.

21 MR. POVICH: Would Your Honor indulge me for  
22 a moment?

23 THE COURT: Yes.

24 MR. POVICH: Your Honor, can we have a  
25 representation these are the files which were subpoenaed

000365

1 from the Congressman's office and turned over?

2 MR. KOTELLY: I would make such a representa-  
3 tion, yes, Your Honor. They were turned over on  
4 November 1st, 1977.

5 MR. POVICH: Your Honor, I don't wish to mark  
6 this but I would just like to show it to the witness,  
7 if it's all right.

8 THE COURT: All right.

9 MR. KOTELLY: No objection, Your Honor.

10 BY MR. POVICH:

11 Q Ms. Stultz, I show you a box which is labeled  
12 1971-1976 Office Expenses Accounts, Congressman Diggs,  
13 one of two boxes.

14 Does it seem to contain that type of  
15 information? Well, some of the tabs in there include  
16 such things as telegrams in '73, 1971, '72, telephones,  
17 public document accounts, Michigan Bell.

18 A Yes.

19 Q Travel allowances, official office equipment,  
20 leasing, telephone/telegraph, travel expenses, purchase  
21 account, stationery account, office supply account,  
22 Majority Printer, accounts payable list.

23 I remove what is called an "Accounts Payable  
24 List". Does this have any information in there that you  
25 are familiar with?

000366

1 MR. KOTELLY: Your Honor, I would ask it be  
2 marked.

3 THE COURT: If you are going to question the  
4 witness about it, let it be marked.

5 MR. POVICH: Mark the whole file, Your  
6 Honor?

7 THE COURT: Sufficient for the record,  
8 Mr. Povich.

9 THE CLERK: Defendant's Exhibit No. 11 marked  
10 for identification.

11 (Whereupon, the document was  
12 marked as Defendant's Exhibit  
13 No. 11 for identification.)

14 BY MR. POVICH:

15 Q Ms. Stultz, I show you what has been marked  
16 as Defendant's Exhibit No. 11, a file which is entitled,  
17 "Accounts Payable Monthly-List, 1975". Do you recognize  
18 the material in there?

19 A Yes, I do.

20 MR. POVICH: Mr. Kotelly, do you have any  
21 of the accounts payable files that go back to 1971?

22 MR. KOTELLY: All files that were turned over  
23 to us that have not been returned to the defendant are  
24 here in Court other than what has been marked as  
25 exhibits, Your Honor.

000367

1 BY MR. POVICH:

2 Q Does that file, Ms. Stultz, contain the lists  
3 that you were talking about that you made for paying  
4 the bills?

5 A It contains some of them, not all.

6 Q But that is representative of the type of  
7 lists that you were making?

8 A That is correct.

9 Q Some of them have now been marked in red  
10 pencil; is that correct, or are marked in red pencil?

11 A Some of them are marked in red pencil, my  
12 markings.

13 Q Your markings?

14 A Yes.

15 Q Do they seem to have been altered in any way  
16 or anything?

17 A It doesn't appear to have been any alterations.

18 MR. POVICH: If Your Honor will indulge me, I  
19 am sorry.

20 THE COURT: Yes.

21 MR. POVICH: May I have this marked as  
22 Defendant's Exhibit 12, Your Honor, 13 and 14.

23 THE CLERK: Defendant's Exhibits 12, 13 and  
24 14 marked for identification.  
25

000368



1 (Whereupon, the documents  
2 were marked as Defendant's  
3 Exhibits Nos. 12, 13 and 14 for  
4 identification.)

5 BY MR. POVICH:

6 Q Ms. Stultz, I show you what's been marked as  
7 Defendant's --

8 MR. KOTELLY: Might I be allowed to see those,  
9 Your Honor?

10 THE COURT: Yes.

11 MR. POVICH: I'm sorry.

12 BY MR. POVICH:

13 Q Ms. Stultz, I show you what's been marked as  
14 Defendant's Exhibit 14 and ask you whether or not this  
15 top file, whether or not that contains the type of  
16 accounting papers or lists or records which you kept with  
17 respect to the payment of his bills?

18 A Yes, sir. This reflects accounts paid in  
19 January through April, 1975.

20 Q Exhibits 12 and 13 are some ledger books you  
21 apparently kept or started to keep listing the checks  
22 which you paid; is that correct? Is that right?

23 A That's right. Checks written.

24 Q Checks written?

25 A Yes.

000369

1 Q If we looked at Exhibit 14 for 1975, which is  
2 right in the middle of the years that we are concerned  
3 with, you have listed, have you not, the checks that  
4 he paid; not only did you list the checks he paid but  
5 you list the numbers of checks; is that correct?

6 A That's correct.

7 Q When it was a money order you listed the  
8 number of the money order; is that correct?

9 A That's correct.

10 Q When it was a cashier's check you gave the  
11 number of the cashier's check; is that correct?

12 A That's correct.

13 Q Even when you paid it with your own check you  
14 marked that down; did you not?

15 A That's right.

16 Q And you indicated the check number right next  
17 to it?

18 A That's right.

19 Q Do you recall this type of record?

20 A Oh, yes.

21 Q Did you generally do this during the period of  
22 time that you were writing checks for him and keeping  
23 his accounts?

24 A I attempted to do that. You will notice this  
25 isn't complete and I did it up through April, this shows.

000370

1 of '75 and very often I would try to start a ledger and  
2 for some reason I never completed it.

3 Q Right, but the point is that these are the  
4 type of files that you did keep; is that correct?

5 A Yes, that's right.

6 Q They all seem to be here or at least perhaps  
7 they are all here?

8 A Looks like a good portion of them are here  
9 anyway.

10 Q Well, the files go back. I will show you a  
11 box -- again, Your Honor, I don't want us to mark it --  
12 but I will just show you the box for purposes that this  
13 has more records in it. This says "Personal Accounts  
14 and Miscellaneous of Charles Diggs". It contains his  
15 bills; does it not, accounts and it has listed D through  
16 F?

17 A Yes.

18 Q Are those your files or were they your  
19 predecessor's? If you look at some of the dates maybe --

20 A These are my files, the first ones I  
21 established. These are not my files (indicating).

22 Q Those are your predecessor's?

23 A Yes.

24 Q So --

25 A These are Mrs. Corker's.

000371

1 Q So, this goes back 5/17/71; is that right?

2 A That's what it says, yes.

3 Q Bills due 1971?

4 A That's what it says.

5 Q Personal bills, 1971.

6 Essentially as far as you can recall or as  
7 far as you know, is it fair to say the document which  
8 the Government has asked you to identify with respect  
9 to the payment of bills and the notations that you  
10 made on those records came from files such as this; did  
11 they not?

12 MR. KOTELLY: I would object as to her  
13 knowledge as to where they came from.

14 Where did she put them?

15 THE COURT: You may rephrase your question.

16 BY MR. POVICH:

17 Q Is it fair to say that the document that you  
18 have been asked to identify where you made notes on them  
19 and said, "Yes, I recall this; this is my handwriting,"  
20 you kept those documents in files such as these during  
21 the period that you were there?

22 A Yes. They were in the Congressman's office  
23 files.

24 Q And the last time you knew they were in these  
25 files and if you have --

000372

1 A When I left they were still in the Congress-  
2 man's office files.

3 Q Did you destroy them when you left?

4 A I did not destroy them. I took nothing from  
5 the Congressman's office with me.

6 Q Who took over your responsibilities when you  
7 left?

8 A I don't know.

9 Q Do you remember the individual who you gave  
10 the key to? Was it where the files are?

11 A I believe I gave the key to his personal file  
12 to his personal accounts file to Ms. McDaniels.

13 Q Ms. McDaniels? Is she Mrs. McDaniels?

14 A I know her as Lorraine McDaniels.

15 Q And you gave it to her?

16 A I believe I did.

17 Q Didn't take anything out?

18 A No.

19 Q And indeed from the files that the Government  
20 has shown you apparently they are still there.

21 MR. KOTELLY: Objection, Your Honor.

22 THE WITNESS: Apparently what was still there,  
sir?

23 BY MR. POVICH:

24 Q These files were all kept.

000373

1 MR. KOTELLY: Withdraw the objection.

2 THE WITNESS: When I left the files were --  
3 when I left, to the best of my knowledge, the files were  
4 there.

5 Now, Mr. Randall Robinson had come in and  
6 begun to remove files from the drawer and send them  
7 down to the storage room. What files he removed and  
8 placed in storage, how he did it, I don't know.

9 BY MR. POVICH:

10 Q But I mean these. (Indicating.)

11 A I was not involved in that clean-up operation.

12 Q But I am simply trying to find out whether  
13 you would concede that the documents that you have been  
14 asked about have been produced; is that correct, the  
15 payments for the bills, the letters, the correspondence,  
16 the ones that the Government --

17 A The documents that I identified today are those  
18 that were, I am pretty sure, were from the Congressman's  
19 files.

20 Q I asked you before earlier whether or not  
21 you were aware of his ability to pay for these expenses  
22 that he obviously had incurred and you said that you  
23 had some question as to whether or not you knew whether  
24 he was able to do so but it was obvious to you that  
25 there were a lot of bills, unpaid bills and expenses;

000374

1 is that correct?

2 A Yes.

3 Q Now, how long did you work on the Hill as his  
4 secretary?

5 A Almost four years.

6 Q Now, during that period of time were you  
7 familiar with campaign practices for soliciting funds  
8 or obtaining funds from constituents or other people  
9 that Congressmen might use in conducting their campaigns  
10 or running their office?

11 MR. KOTELLY: Objection, Your Honor, irrelevant

12 THE COURT: Sustained.

13 MR. POVICH: Well, Your Honor, I would like --

14 THE COURT: Sustained.

15 BY MR. POVICH:

16 Q Were you familiar with the Congressman's  
17 the extent to which he had campaign contributions to  
18 assist him in his campaign and running his office?

19 MR. KOTELLY: Objection. Irrelevant.

20 THE COURT: Sustained, Mr. Povich.

21 MR. POVICH: Can we approach the Bench?

22 THE COURT: Yes.

23 (Bench Conference.)

24 MR. POVICH: Your Honor, this is relevant as  
25 to why this woman paid these bills. I suggest to you

000375

1 that if she believed that he had funds available to him  
2 in accounts, in campaign contribution accounts, in  
3 unofficial office accounts, she would not have been  
4 amenable to conducting the type of practice that she  
5 went through, and I think it is important for me to  
6 ascertain whether or not this woman believed from her  
7 own experience and her contact with him whether or not  
8 he had these type of funds available.

9 THE COURT: I sustain the objection.

10 (Open court.)

11 MR. POVICH: May I inquire, Your Honor, as to  
12 her knowledge of outside money which was available to  
13 him?

14 THE COURT: To the extent she knows she may  
15 testify.

16 BY MR. POVICH:

17 Q Ms. Stultz, did the Congressman, to the extent  
18 that you know, have available to him any substantial  
19 campaign contributions from constituents?

20 A I can recall receiving campaign contributions  
21 which were also recorded and they were very -- that  
22 information was very rigidly kept.

23 THE COURT: Come to the Bench, please, counsel.

24 (At the Bench.)

25 THE COURT: You may be getting into something

000376



1 here inadvertently that subjects him to additional  
2 charges. You cannot deliver contributions to a  
3 Congressman or Senator's office, as I understand it.  
4 You have got to set it up with an outside fund.

5 MR. POVICH: I'm not afraid of that. He  
6 didn't violate the law.

7 THE COURT: Let's not get into something else.

8 MR. POVICH: I don't want to get into some-  
9 thing else.

10 THE COURT: I'm not going to let you,  
11 whether you want to or not.

12 I recall once when I made a contribution to  
13 a man who was running for the Senate. He specifically  
14 instructed me to send it to his office in the state.

15 If you are getting into this woman receiving  
16 campaign contributions you may be suggesting him to  
17 additional liability. Let's stay out of it.

18 (Open court.)

19 BY MR. POVICH:

20 Q Ms. Stultz, in the latter part of 1973, based  
21 upon your knowledge and information, what would you say  
22 that the Congressman's financial situation was as far  
23 as you knew it to be?

24 A '73, the latter part, as best I can recall --  
25 '73 it was certainly maybe fair, based on the manner

000377

1 on which he paid his bills. It was certainly a lot  
2 better than the latter of '74, '75. It got progressively  
3 worse.

4 Q Was it one of the bills that he was unable  
5 to pay or where he had difficulty paying?

6 A Was what one of the bills?

7 Q Was one of the bills he had difficulty  
8 paying the bill for the 20-some hundred dollar bill for  
9 the portrait?

10 A I can't answer that. All I know is that he  
11 instructed me to pay for the portrait, to pay the  
12 \$1,000 check for the portrait. I don't know if he was  
13 having difficulty paying it or not. I do know that  
14 Mr. Clipper had called several times about his bill.

15 Now, the Congressman's financial status at  
16 that time I was not aware of. I learned as I began to  
17 assume more responsibility that his bills were getting  
18 farther and farther behind and he was incurring more  
19 and more bills at the same time.

20 Q Were you sympathetic at all in trying to help  
21 him solve that problem?

22 A One time when I offered and made a loan for  
23 him. Other times I made -- I was in sympathy with him.  
24 I even went downtown and talked with a very prominent  
25 lawyer who -- when he was trying to negotiate some type

000378

1 of large loan to help pay off his bills. But beyond  
2 being in sympathy with him I don't know what I'm  
3 supposed to say.

4 Q That you just felt sympathy for him and that  
5 was the extent of the way you felt about the matter?

6 A I would be sympathetic with you or anybody  
7 else, Mr. Povich, if they had bills over their head.  
8 I know the feeling.

9 Q Would you borrow some money and pay my second  
10 trust?

11 A I don't think I would borrow money and pay  
12 anybody's second trust now, not even my own, no. I  
13 would not. But I did do that for the Congressman.

14 Q You have spoken about the conversation that  
15 you had towards the latter part of 1973 with him  
16 concerning increasing your salary; is that correct?

17 A Which salary are we talking about now? What  
18 increase are we talking about, the latter part of '73  
19 where I did not receive an increase? Is that the  
20 conversation that you are referring to?

21 Q No. My understanding of your direct testimony  
22 was that your salary was increased in 1973 as a result  
23 of a discussion that you had with him. Your salary was  
24 over \$14,000.

25 A From -- the salary increase to \$14,000

000379

1 occurred in '73 when I assumed the position of secretary.  
2 I had no choice in that discussion other than I was  
3 made aware that I was going to \$14,000, which I was very  
4 happy about.

5 Q Well, really matters of salary were within the  
6 sole discretion of the Congressman; weren't they?

7 A Oh, yes, they were.

8 Q He could set the salary for anything he  
9 wanted just as long as it didn't exceed the limit; is  
10 that correct?

11 A That's correct.

12 Q I think perhaps there was even a minimum, was  
13 there not, as well?

14 A I believe there was a minimum.

15 Q So, if he stayed within the limits he could  
16 set it more or less for anything he wanted as long as it  
17 was agreeable with you?

18 A With me?

19 Q Well, you didn't have to take a salary if you  
20 didn't want it. I assume if you did not want to work  
21 for a certain amount of money you didn't have to take it.

22 A I assume that's correct.

23 Q Well, I am just saying he could set the  
24 salary at whatever level he wanted and that would be  
25 the salary just as long as it was agreeable?

000380

1 A Yes, okay.

2 Q And you say that in 19 -- did there come a  
3 time in which your salary was increased over the \$14,000?

4 A Yes.

5 Q When was that?

6 A I would have to refer to the document, sir.  
7 I don't remember those dates specifically.

8 Q I think I am just suggesting the latter part.  
9 I think it was in October of 1973. Does that sound  
10 familiar?

11 A It very well may have been. I still cannot  
12 say for sure. I do know that there was a salary  
13 increase. It was between 17 and 19,000. I'm not even  
14 sure of the exact figure again.

15 Q When do you think that that occurred?

16 A Mr. Povich, I am having trouble with dates. I  
17 really cannot say. If I saw the document forms I could  
18 tell you when those increases took place.

19 Q I'll try to help you.

20 A All right.

21 MR. KOTELLY: Your Honor, may I suggest  
22 Mr. Povich also look at Government's No. 5 which might  
23 assist him?

24 BY MR. POVICH:

25 Q Well, I show you Exhibits 2 and 5, Ms. Stultz.

000381

1 Was it approximately October of '73?

2 A What is your question, Mr. Povich?

3 Q I say looking at Exhibits 2 and 5 was it in  
4 approximately October of 1973 that your salary was  
5 increased?

6 A In October of 1973 I received two paychecks,  
7 yes. There was an increase that shows the first pay-  
8 check that I went on the District Committee, if I am  
9 reading this correctly.

10 Q Well, which one are you looking at?

11 A U.S. Treasury checks issued oh -- I am  
12 looking at Exhibit 2 -- October of '73.

13 Q Maybe I can help you a little bit.

14 Exhibit 2 relates to the congressional office  
15 and Exhibit 5 relates to the committee.

16 A All right.

17 Q I think doesn't Exhibit 5 say "Committee" at  
18 the top of it?

19 A Yes.

20 In October of '73, and I am assuming that these  
21 are net amounts, I received \$833.75 from the District  
22 Committee payroll and I received \$1,270.86 from the  
23 Congressional office payroll.

24 Q So, that was increased by how much money?

25 A \$1,270.

000382

1 Q And it was in October of '73?

2 A Those are the months you asked about, yes.  
3 That's what I am dealing with.

4 Q Now, do you recall -- I believe you testified  
5 as to the conversation you had with Mr. Diggs which  
6 you say resulted in that increase?

7 A Yes.

8 Q Do you remember exactly how he first brought  
9 up the matter with you?

10 A Yes, I remember. He called me into his  
11 private office. It was just the two of us in that  
12 office and he said he had some bills or expenses or  
13 whatever the terminology was, that needed to be paid so  
14 things could be taken care of and he proposed increasing  
15 my salary. As I said, I didn't like the idea and I let  
16 him know I didn't like the idea. I even said to him  
17 that I didn't think it was legal.

18 Q I heard you say that. Are you certain that  
19 you told him that you didn't think it was legal?

20 A Yes, sir. I am very certain I told him that.

21 Q Well --

22 A In fact, I even read the House manual.

23 MR. POVICH: Do you have the Jencks material,  
24 Mr. Kotelly?

25 MR. KOTELLY: Your Honor, I have turned over

000383

1 all materials to defense counsel prior to trial that  
2 they are entitled to.

3 MR. POVICH: Your Honor, my problem is --

4 THE COURT: You may come to the Bench.

5 (At the Bench.)

6 MR. POVICH: I have Xerox copies of everything  
7 and they are very difficult to read. I just want to  
8 know if you have the originals.

9 MR. KOTELLY: Surely. They are downstairs  
10 in the office. They are still not very legible.

11 THE COURT: What is it you are trying to  
12 locate?

13 MR. POVICH: It's a Jencks statement of an  
14 interview that she gave.

15 THE COURT: You gave him Jencks material when?

16 MR. KOTELLY: There were personal notes of  
17 Mr. Bizer who talked to Ms. Stultz at the beginning of  
18 the investigation. There were a few comments in there  
19 verbatim, so I gave the defense the entire statement,  
20 but they are just rough notes.

21 MR. POVICH: I can't read them and I don't  
22 want to ask her to read something if I have to, and have  
23 her tell me she can't read them. It would be a waste  
24 of time. So, I was wondering if we could have the  
25 original.

000384



1 MR. KOTELLY: Is Mr. Povich intending to  
2 impeach the witness with any of these statements?

3 MR. POVICH: Yes.

4 MR. KOTELLY: There is an inconsistency?

5 I'm sorry, Your Honor. I have read the Jencks  
6 material. I don't know if Mr. Povich is intending to  
7 establish an inconsistent statement or not. I assume  
8 he knows how to cross examine.

9 MR. POVICH: Well, I don't recall anything in  
10 those statements about her believing that it was  
11 illegal.

12 MR. KOTELLY: Your Honor, I don't believe  
13 those statements are verbatim statements or totally  
14 total recall of the whole meeting that took place. And  
15 for Mr. Povich to cross examine her because of the  
16 absence of some very rough notes that were taken by two  
17 attorneys, I think it's improper.

18 MR. POVICH: Your Honor, I think if two  
19 attorneys are talking about this matter with her in  
20 this initial conversation which has been a focal point  
21 of the trial, if she had mentioned something as critical  
22 as that they would have written it down.

23 MR. KOTELLY: I don't know how Mr. Povich  
24 can assume that, Your Honor.

25 THE COURT: Well, it is a matter that comes

000385

1 up often in the trial. Whether or not there is any  
2 statement that contains all the material is something  
3 that you can go into. If it doesn't, it doesn't. It  
4 doesn't mean you can throw it out, but you can argue  
5 it.

6 MR. POVICH: Sure.

7 THE COURT: That is all just argument.

8 MR. POVICH: Could we take a break and get it?

9 THE COURT: No. It is 12:10 right now. Go  
10 on with something else and if he can give it to you at  
11 the noon break we will let the jury go to lunch at  
12 12:30 and they will be gone for an hour and a half and  
13 there are certain logistics involved in feeding the jury  
14 since we don't have any food here in the courthouse.

15 MR. POVICH: Thank you.

16 (In open court.)

17 BY MR. POVICH:

18 Q I will get back to it later, Ms. Stultz, when  
19 we get some documents during the luncheon break, but  
20 you recall being questioned in this matter by Mr. Marcy  
21 and an attorney by the name of Mr. Beizer and also an  
22 FBI agent?

23 A In what matter, sir.

24 Q In this case, very early in the case.

25 A Oh, yes. Yes, I have met with the Prosecutor's

000386

1 office.

2 Q Approximately how many times did you meet  
3 with them?

4 A Three, four. I don't know. I didn't keep  
5 any tabs on it.

6 Q When was the last time?

7 A This week.

8 Q How long a session was it?

9 A About five hours, four to five hours.

10 Q Had you met with them before last week?

11 A Yes, I had.

12 Q Had you spent some time with them then?

13 A Yes. I had met with them prior to this week.

14 Q This is nothing improper. That is what a  
15 lawyer is supposed to talk to witnesses. I am not  
16 suggesting that there is anything improper.

17 Did you meet with them for a couple of days or  
18 a day or do you remember how long it was?

19 A I met with them Monday of this week. I don't  
20 remember the dates prior to that, but I have met with  
21 them before Monday of this week, maybe two or three  
22 times before. I don't remember exactly how many times.

23 Q Were you here the work before, say on Thursday  
24 and Friday to talk to them?

25 A Yes.

000387

1 Q For a couple of days?

2 A Thursday and Friday the week of the 11th.

3 Q When you first came in to see them do you  
4 remember when that was approximately?

5 A If I can recall it was about May of 7 --  
6 last year.

7 Q '77?

8 A '77.

9 Q Do you recall that at the time you came and  
10 you spoke with them about the matters about which you  
11 are testifying now --

12 A Yes.

13 Q Do you recall that they took some notes down  
14 about what you had said?

15 A I don't know that they took notes. They may  
16 have. They probably did.

17 Q Do you remember meeting with Mr. Marcy?

18 A I met with Mr. Marcy, yes.

19 Q And Mr. Beizer?

20 A Right, my first meeting.

21 Q Was there an FBI agent there as well?

22 A I don't remember whether he was at the first  
23 meeting or the next one, but at one point he was at the  
24 meeting also.

25 Q There apparently are some notes with respect

000388

1 to these meetings.

2 MR. KOTELLY: Objection, Your Honor. Is  
3 Mr. Povich testifying at this point?

4 MR. POVICH: I want to tell her -- I'm going  
5 to leave the subject and go on to something else because  
6 I don't have the notes, Your Honor.

7 THE COURT: All right. Go ahead to something  
8 else then.

9 BY MR. POVICH:

10 Q In this conversation that you had with the  
11 Congressman you indicated that you were resistant to  
12 your discussion about your increase in salary and what,  
13 if anything, you were to do with that money.

14 A I did not like the idea. I objected to it, yes.

15 Q And you said that at the time you were under  
16 the impression that if you were going to make any funds  
17 available to him it was only going to be for a short  
18 period of time?

19 A That's right.

20 Q How long have you contemplated that that would  
21 happen?

22 A The Congressman said it would only be for two  
23 or three months.

24 Q Did you protest again?

25 A Yes, I did.

000389

1 Q Before the time you say in May of 1976?

2 A Yes.

3 Q When was that?

4 A I don't remember exactly when, Mr. Povich.  
5 This went on for quite a while, but I protested and I  
6 got the usual response from the Congressman, which was  
7 a wave of the hand.

8 Q You protested saying you didn't want to do  
9 this any more? How did you protest?

10 A I told him I wanted to get out of this  
11 arrangement. I didn't want to do this any more.

12 Q Did you tell him why you said that, why you  
13 wanted to get out of the arrangement?

14 A I don't recall whether I said why but I know  
15 I did tell him I no longer wanted to continue the  
16 arrangement.

17 Q How many occasions would you say that you did  
18 this between the time --

19 A That I finally stopped?

20 Q Yes.

21 A At least twice.

22 Q At least twice? At least on two other  
23 occasions?

24 A Yes, sir.

25 Q Do you recall whether they were connected with

000390

1 any event or anything?

2 A No.

3 Q Was this a matter of importance to you and  
4 that you wanted him to know that you didn't want to  
5 continue or was it rather a casual matter?

6 A Mr. Povich, I might have considered the matter  
7 of importance if I even suggested it. I did not want  
8 to begin the arrangement.

9 Q You have said that in 1976, in the spring I  
10 think, perhaps, you initially said April or May?

11 A Yes.

12 Q That you indicated to him that you wanted to  
13 stop?

14 A March or April.

15 Q Is it fair to say that the reason you indicated  
16 to him that you wanted to stop really had nothing to do  
17 with this arrangement at all but because you were  
18 concerned about your relationship with some of the  
19 other employees, particularly some people in the Detroit  
20 office which you felt were having difficulty?

21 A No, that's not fair to say.

22 The relationship with the employees had nothing  
23 to do with my -- with the salary arrangement that we had.

24 Q No. I am asking you whether or not the  
25 relationship with the employees had anything to do with

000391

1 your deciding that you wanted to leave the office in  
2 March or April?

3 A I did not make that decision in March or  
4 April. I made the decision to leave the office, as  
5 best I recall, my letter of resignation was in May.  
6 The decision may have been made in late April.

7 Q But wasn't this in connection with a  
8 conversation in which he said to you, "I want you to  
9 stay. I'd like you to stay."

10 A A conversation was subsequent to my letter of  
11 resignation.

12 Q Hadn't he indicated to you before that he  
13 wanted you to stay?

14 A After he received my letter of resignation.

15 Q Well, the letter of resignation followed, I  
16 assume, a conversation in which you said first, before  
17 you just handed him the letter of resignation, that  
18 you wanted to leave?

19 A There was no conversation prior to that. I  
20 said to him that I was leaving; I had had enough. I  
21 didn't have to take that. Again I got a wave of the  
22 hand.

23 Q Now, when you said you had had enough, you  
24 didn't have to take that, you were talking about a  
25 situation, a problem that you had with some people in

000392



1 Detroit; weren't you?

2 A Uh-huh.

3 Q And --

4 A Specifically at that moment, yes.

5 Q And that's when you decided you were -- that  
6 was it; you were going to leave?

7 A I was going to leave his employment, yes.

8 Q And he asked you to stay; did he not?

9 A Not at that time, no. Not at that time. He  
10 didn't even respond to me at that time. He waved me  
11 off.

12 Q Didn't he ask you at that time whether or not  
13 you would agree to stay part time and take a position as  
14 his secretary?

15 A In the meeting that we had at lunch after he  
16 received my letter of resignation, which came  
17 approximately maybe a week after the incident which  
18 caused me to first say to him I was leaving.

19 Q In that conversation didn't he ask you to  
20 stay?

21 A In what conversation, Mr. Povich? In the one  
22 where we were at lunch after he had received my letter  
23 of resignation, yes, in that conversation, not prior to  
24 that.

25 Q Didn't he ask you to stay?

000393

1 A Yes.

2 Q Take a position at the office as secretary?

3 A That's right.

4 Q On a part-time basis or some basis which was  
5 satisfactory to you?

6 A That's right.

7 Q Until after the primary or the election?

8 A Well, there were actually two proposals. The  
9 first one was a part-time basis -- actually three.  
10 The first one was a part-time basis which I said I would  
11 consider. The second one was staying on as his  
12 secretary, which I rejected immediately. And the final  
13 one was would I stay full time for three months until  
14 after the primary, which I agreed to do.

15 Q He tried very hard to have you stay; did he  
16 not?

17 A Based on those three suggestions, yes, I guess  
18 he did try to have me stay.

19 Q He tried very hard to have you stay after you  
20 told him you did not want to continue with the salary  
21 at the level that you had?

22 A He asked me to stay after -- no, no. He  
23 asked me -- the salary had been discontinued. The  
24 salary increase had been discontinued at that point.

25 Q He still wanted you to stay?

000394

1 A Oh, yes.

2 Q Well, then your employment wasn't conditioned  
3 upon whether or not you would agree to keep a salary  
4 at a level that you thought was too high?

5 A In 1976 it wasn't.

6 Q Well, that was after -- at what period of  
7 time did you begin to change and feel that it was no  
8 longer a condition of your employment?

9 A I can't say that I felt totally it was no  
10 longer a condition of my employment, but then I felt  
11 that it was entirely up to me. It was a matter of my  
12 own conscience, and if it meant losing my employment  
13 because I would no longer be a part of that arrangement  
14 then I was going to take that chance.

15 Q But you felt that it was your decision and  
16 you could make that decision?

17 A Of either continuing to receive an inflated  
18 salary or leave on my own? Is that what you are asking  
19 me?

20 Q Yes.

21 A Yes.

22 Q You weren't afraid he was going to terminate  
23 you; were you?

24 A I can't say whether I was afraid or not. It  
25 really didn't matter at that point. If that had been the

000395

1 end result I was willing to accept it.

2 Q But every time you talked about leaving he  
3 urged you to stay?

4 A Every time we talked about leaving -- excuse  
5 me for interrupting -- he did not urge me to stay.  
6 There was only one time he urged me to stay and that  
7 was at the final time after he received my letter of  
8 resignation.

9 Q Well, did he ever give you the impression  
10 during that period of time that he did not want you to  
11 remain in his employment regardless of what salary?

12 A No. He never gave me that impression.

13 Q Don't you believe he considered you to be a  
14 valuable worker and an asset to the office?

15 A Yes, I would believe that.

16 Q Wasn't much of the difficulty or the primary  
17 difficulty you were having at that time a matter of how  
18 you were able to get along with other people in the  
19 office and what you thought your position was with  
20 respect to them?

21 A I didn't consider that the reason. Well,  
22 there was not a good relationship with some members of  
23 the staff. There was what I thought an excellent  
24 relationship with other members of the staff.

25 Q What members were you having or did you feel

000390

1 that you did not have a good relationship with?

2 A Do you want me to name them, Mr. Povich?

3 Q I think it is important, Ms. Stultz. They may  
4 be witnesses.

5 A All right. There was not a good relationship  
6 with Ms. Willabee, Joan Willabee, who I thought was a  
7 trouble maker and created a lot of problems in the  
8 office.

9 There was not a particularly good relationship  
10 with Ms. Dorothy Anderson who worked on the House  
11 District Committee whom I had the same impression of.

12 There initially was what I felt a good rela-  
13 tionship with Ms. Rox, but Ms. Rox was the one who  
14 really forced my decision to leave. That relationship  
15 had deteriorated greatly.

16 Q Was there anyone else in the Detroit office?

17 A In the Detroit office? Possibly Sandra  
18 Fischer, but that was a kind of -- she wasn't there that  
19 long and as I understand it, her relationship wasn't  
20 very good with anybody. So, it was not something that  
21 was just unique to me.

22 Q Was this a problem of something more than just  
23 squabbling? Is that fair?

24 MR. KOTELLY: Objection unless we know whose  
25 problem we are talking about now.

000397

1 THE COURT: Suppose you rephrase the question.

2 BY MR. POVICH:

3 Q Well, the difficulty that you felt you were  
4 experiencing in your position at this time as a result  
5 of your relationship with other employees, the three  
6 women you have mentioned, was this a difficulty you felt  
7 was more deep seated than just a matter of squabbling?

8 A I felt it was, yes. Incidentally, I had  
9 mentioned all three of these employees to the Congressman  
10 at some point and the difficulty that I was having with  
11 them. In fact, one of the employees the Congressman  
12 physically removed from the congressional office and  
13 placed in the District Committee Office and said to me  
14 that he had done this because of the difficulty we were  
15 having.

16 Q He wanted to eliminate that problem if he  
17 could; did he not?

18 A He took that action which I suppose was to  
19 help eliminate that problem.

20 Q The troubles you were having with these other  
21 women, did you suggest that that might be remedied by  
22 hiring a man?

23 A Did I suggest that? I don't know. I don't  
24 recall suggesting that.

25 Q Well, at that point you were an office manager;

000398

1 were you not?

2 A Yes.

3 Q You were in charge of the Washington office?

4 A Yes.

5 Q And you are in charge of all the District  
6 offices?

7 A Yes.

8 Q And you have communications; is that correct,  
9 back and forth?

10 You really ran both offices; did you not?

11 A Well, I tried. I had the responsibility of  
12 supervision of both offices.

13 Q When you left or you had made a decision to  
14 leave in part because of this difficulty, did you not  
15 suggest that you thought that the situation required  
16 somebody who was perhaps -- took a much stronger hand  
17 and could come in and be a little more forceful in the  
18 operation of the office and did you not suggest that a  
19 man do it?

20 A I don't recall that suggestion, Mr. Povich.

21 Q Who did succeed you?

22 A Randall Robinson. I do know, if I may be  
23 permitted to say, I do know that there was a good deal of  
24 rumor prior to my leaving that the Congressman was  
25 entertaining the idea of bringing in a man. - But as I

000399

1 said, this was rumor. He never discussed it with me.

2 MR. POVICH: Your Honor, could this be a good  
3 time to take a break?

4 THE COURT: It is about that time.

5 Ladies and gentlemen, remember what the Court  
6 previously told you. Don't discuss the case among  
7 yourselves. Don't let anybody talk to you about it and  
8 don't talk to anybody about it. We will take a recess  
9 for lunch at this time. 2:00 will be the time we  
10 reconvene.

11 (Whereupon, at 12:30 p.m. the above-entitled  
12 matter was recessed for lunch.)  
13  
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000400



AFTERNOON SESSION

(Jury not present)

MR. KOTELLY: Your Honor, may we approach the Bench before the jury comes in?

THE COURT: Yes.

(At the Bench.)

MR. KOTELLY: Your Honor, I wish to bring to the attention of the Court something that I personally noticed both yesterday and today and I have had other people mention it to me and that is Juror No. 9 I have noticed on a number of occasions appears to be either sleeping or frequently looking around acting as if she is not paying attention. I just wanted to call it to the attention of the Court. Maybe the Court could, you know, observe in that general direction on occasion to make sure she is paying attention to the evidence that is being presented here.

THE COURT: Well, I must admit that I had Mr. Patterson take her a glass of water this morning in an effort to try to wake her up. She seemed to be inattentive. I don't want to use up any more ordinances that I have to but I will bear that in mind. I had noticed it.

MR. KOTELLY: Thank you.

THE COURT: All right.

000401

1 (Open court.)

2 (The jury returned to the courtroom.)

3 Whereupon,

4 JEAN STULTZ

5 resumed the witness stand and having previously been duly  
6 sworn, was further examined and testified as follows:

7 THE COURT: Mr. Povich?

8 CROSS EXAMINATION (RESUMED)

9 BY MR. POVICH:

10 Q Ms. Stultz, I believe when we left I had  
11 asked you about the circumstances that existed with  
12 respect to your relationship with certain employees at  
13 the time that you finally terminated in 1976. During  
14 the course of your direct examination Mr. Kotelly asked  
15 you about an incident in which you said that you in  
16 addition to paying money out from your salary you went  
17 out and borrowed some money for the Congressman. That  
18 was a loan?

19 A Yes.

20 Q Was it Union First Bank, something like that,  
21 anyway a \$1,500 loan?

22 A No, sir. It was a \$1,000 loan.

23 Q I am sorry. \$1,000 loan, but the amount of  
24 money that he needed to pay at that time was how much  
25 money?

000402

1 A \$1,500.

2 Q Were arrangements made for him to pay that  
3 through an individual? Is that Mr. Clarence Robinson?

4 A Yes, sir.

5 Q Was he able to pay the \$1,500 to Mr. Robinson  
6 or were you able to do that?

7 A Yes, sir.

8 Q Correct me if I am mistaken. I believe that  
9 you said that you went to the bank and you borrowed the  
10 money and you got four money orders -- maybe it was  
11 three for \$300 each or one for \$100 when you cashed  
12 the check?

13 A I don't know whether I got three money orders  
14 or four money orders. I got money orders for the total  
15 \$1,000.

16 Q I believe you said you took it back to the  
17 office and you wouldn't give it to the Congressman but  
18 you gave it to Mr. Robinson?

19 A I didn't give the cash money to the Congress-  
20 man; that's true. I gave it to Mr. Robinson.

21 Q There was an additional \$500 that was also  
22 given to him to make up the \$1,500 that was needed?

23 A Yes.

24 Q Where did that come from?

25 A I believe that was from a reimbursement check,

000403

1 a House reimbursement check that the Congressman had.

2 Q I see. Now, with respect to the \$1,000 I  
3 believe you testified that I think there were six  
4 repayments of \$177, the last one that you got from  
5 Mr. Matlock; is that correct?

6 A There was six. I think the first five were  
7 \$172 or \$73, something like that, and the last one I  
8 believe was \$177.

9 Q You said that you paid the first five from  
10 your salary account?

11 A That's correct.

12 Q Ms. Stultz, were you shown any checks by  
13 Mr. Kotelly concerning the payment of that sum of  
14 money?

15 A My own checks that I turned over to him and  
16 some checks, yes.

17 Q Were you shown any other checks concerning  
18 that?

19 A What do you mean "other checks"?

20 Q Were you shown any checks by the Congressman,  
21 Congressman Diggs, for the payment of that money?

22 A I believe one of those checks was the  
23 Congressman's. I am not really sure. I was shown the  
24 check that constituted the full payment.

25 Q Whose checks were they? Were they your

000404

1 checks?

2 A Yes, some of them were my checks. I think one  
3 of them was the Congressman's, and I am positive the  
4 last one was my own check.

5 Q Well, you testified this morning that the  
6 five payments were taken from your salary account and  
7 that's the way you were repaid. Are you now saying  
8 that is not correct?

9 A The five payments were reimbursed from the  
10 overage and what we call the special account. Now,  
11 I can identify those same checks again.

12 Q Could you?

13 A Yes.

14 Q Mr. Kotelly has handed me what has been  
15 marked as Exhibits 41-A and 41-B.

16 MR. KOTELLY: Your Honor, those were premarked.  
17 I don't believe they have been officially marked. I  
18 would ask maybe they should be marked as Defense  
19 exhibits if Mr. Povich wishes to have them identified.

20 THE COURT: Do you want them to be marked,  
21 Mr. Povich?

22 MR. POVICH: They have already got a yellow  
stamp on the back of them.

23 MR. KOTELLY: They were premarked by myself,  
24 Your Honor, but they have not yet been officially  
25

000405

1 marked.

2 THE COURT: Mr. Patterson, give them a number.

3 THE CLERK: Defendant's Exhibits 15 and 16  
4 marked for identification.

5 (Whereupon, the documents were  
6 marked as Defendant's Exhibits  
7 Nos. 15 and 16 for identifica-  
8 tion.)

9 BY MR. POVICH:

10 Q Ms. Stultz, I show you what has been marked  
11 as Defendant's Exhibits 15 and 16 for identification.  
12 Are those checks that you are referring to?

13 A Yes, sir. The checks which you have just  
14 handmarked 15 you will note indicates the final payment  
15 on that loan and has the account number of that loan.  
16 The 12/25 check, if my memory serves me correct, is  
17 probably the first payment on that loan.

18 Q Do you know where the others are?

19 A I believe Mr. Kotelly may have them. I am  
20 not absolutely sure. Some of my checks I could not --  
21 I really don't know where the others are.

22 Q Ms. Stultz, isn't it fair to say that the  
23 Congressman paid you, reimbursed you for the first  
24 check that you wrote there in December of 1975?

25 A The Congressman -- yes.

000406

1 For this check?

2 Q Yes.

3 A Yes.

4 Q And he paid as well the next four checks on  
5 that loan as well?

6 A The Congressman paid the full loan. He repaid  
7 the full loan. Now, whether he paid it with his own  
8 checks, whether they were all paid with mine, I don't  
9 remember that, if that is what you are asking me. But  
10 he repaid the full loan.

11 MR. POVICH: Your Honor, could we have these  
12 marked as Defendant's Exhibits?

13 THE COURT: Whatever the next numbers are,  
14 Mr. Povich.

15 THE CLERK: Defendant's Exhibits 17 through  
16 21 marked for identification.

17 (Whereupon, the documents were  
18 marked as Defendant's Exhibits  
19 Nos. 17 through 21 for identi-  
20 fication.)

21 BY MR. POVICH:

22 Q Ms. Stultz, I show you what has been marked  
23 as Defendant's Exhibits 17 through 21. I ask you first  
24 of all whether or not you recognize any of those  
25 checks?

000407

1 A Yes, I recognize them all.

2 Q Were you shown those checks by the Government  
3 before you testified today that you paid that amount  
4 of money from your salary account, what you  
5 considered your overage account?

6 A I may have been, Mr. Povich.

7 Q You may have been?

8 A Yes. I was shown a number of documents and  
9 these checks may have been a part of those documents.

10 Q Well, did they indicate to you that with  
11 respect to the repayment of that loan that the  
12 Congressman actually repaid it from his account and  
13 that the money did not come from any salary account of  
14 yours?

15 A Did they indicate that to me, that he paid it  
16 from his account?

17 Q Yes. You spent several days going over what  
18 your testimony --

19 A No.

20 Q That was not brought to your attention?

21 A No, that was not brought to my attention.

22 Q Was it fair to say then, now looking at the  
23 series of checks, and can we establish this without  
24 any question now that Congressman Diggs paid five of  
25 those installments on that loan in the amount of

000408



1 approximately 170-some dollars?

2 A Mr. Povich, would you ask the question again,  
3 please?

4 Q Is it clear from those checks to you now that  
5 the Congressman repaid you the money that you  
6 borrowed in the form of five checks from his account  
7 and not from any salary account of yours?

8 A Based on these checks it is fair to say that  
9 the Congressman repaid me from his account five times.

10 Q Now, and the balance of \$500 which was given  
11 to Mr. Clarence Robinson on that occasion came as well  
12 from money which he received from the United States  
13 Treasury in the form of a reimbursement check for  
14 expenses?

15 A The balance of the \$500 was from a U.S.  
16 Treasury check.

17 Q Made out to him?

18 A Made out to the Congressman.

19 MR. POVICH: Could we have this marked, Your  
20 Honor, as the next Defendant's exhibit number?

21 MR. KOTELLY: Your Honor, it has already been  
22 marked and identified by several witnesses.

23 MR. POVICH: Is it in evidence?

24 MR. KOTELLY: It has not been moved into  
25 evidence, no.

000409

1 THE CLERK: Defendant's Exhibit 22 marked for  
2 identification.

3 (Whereupon, the document was  
4 marked as Defendant's Exhibit  
5 No. 22 for identification.)

6 BY MR. POVICH:

7 Q I show you, Ms. Stultz, what has been marked  
8 as Defendant's No. 22 in evidence and ask you whether  
9 or not you would look at the endorsement.

10 THE COURT: Is that Defendant's 22?

11 MR. POVICH: Not in evidence, Your Honor, just  
12 22 for identification.

13 THE COURT: Defense 22 for identification,  
14 all right.

15 BY MR. POVICH:

16 Q I ask you whether or not you could tell from  
17 the endorsement whether or not the -- and the date,  
18 whether that was the \$500 that you gave to Mr. Clarence  
19 Robinson on an occasion?

20 A I can't say this is the exact check that was  
21 used to give to Mr. Clarence Robinson. I can identify  
22 the Congressman's signature on the check.

23 Q Well, it's typed on the back there. Is that  
24 your typing?

25 A It says "Paid to the order of Union Trust

000410

1 Company.

2 Q Would that be at the same bank?

3 A It would lead one to assume that this would  
4 be the check.

5 Q You won't concede that though?

6 MR. KOTELLY: Your Honor, I would object  
7 unless there is some basis for her personal knowledge  
8 that that particular Treasury check is, in fact, the  
9 one that was given to Clarence Robinson.

10 THE COURT: I think she has answered to the  
11 extent of her knowledge.

12 BY MR. POVICH:

13 Q Mrs. Stultz, do you recall that event when you  
14 went and obtained that money for the Congressman,  
15 obtained the money orders, the check?

16 A Yes.

17 Q And you gave it to Mr. Robinson?

18 A Very well.

19 Q Would you tell us what happened?

20 A From the very beginning when I applied for  
21 the loan?

22 Q No, just with respect to when you obtained --  
23 concerning the obtaining of the money and handing it to  
24 Mr. Robinson.

25 A Mr. Robinson came to the Congressman's office

000411

1 and he and I were present in the Congressman's office.

2 The Congressman was not present.

3 I presented -- handed the money to  
4 Mr. Robinson, the full payment to Mr. Robinson and  
5 Mr. Robinson said, "Jean, I know where this money came  
6 from," or something to that effect, and we exchanged  
7 a few words. He indicated that he knew that I had  
8 gotten the money through some source. He did not know  
9 what source. He took the money and he said that he  
10 would contact the bank or whatever was necessary.

11 Q He indicated to you that he --

12 A It was a personal conversation between  
13 Mr. Robinson and I. Mr. Robinson and I had, like some  
14 of his other creditors, had talked any number of times  
15 about the state of that particular account.  
16 Mr. Robinson, in fact, had made a number of sort of  
17 go-betweens between the bank and the Congressman and he  
18 was able, from what I understood, he was able to get  
19 the bank to accept partial payment of \$1,500.

20 Q But you say you had a conversation with him  
21 about the fact that he knew that you had gotten the  
22 money for the Congressman?

23 A He indicated to me that he knew that I had  
24 made some effort to get the money.

25 Q What did he say?

000412

1 A I can't remember his words verbatim. I just  
2 said to you as best I could.

3 Q Do you recall ever testifying about such a  
4 conversation as that before on occasion prior to this,  
5 before the Grand Jury?

6 A If they asked me, Mr. Povich, I am sure I  
7 told them.

8 MR. POVICH: Would Your Honor indulge me for  
9 a moment?

10 Mr. Kotelly, this is the Grand Jury testimony  
11 of Ms. Stultz on June 8th, 1977, Page 46.

12 BY MR. POVICH:

13 Q During the course of your testimony, Ms.  
14 Stultz, before the Grand Jury on that occasion, in  
15 response to a question concerning what help, if any,  
16 you had given the Congressman you spoke about this loan  
17 and the occasion when Mr. Robinson came to the office  
18 to pick up the money. You said at the bottom of the  
19 page, Page 46:

20 "When he came in the Congressman wasn't even  
21 there and I counted out the cash to him and he  
22 gave me the receipt for it and he said to me, 'Jean,  
23 I know you got this money for the Congressman,' and  
24 he said, 'Why did you do it?'

25 "And I said, 'Well, hell, Clarence, I do it for

000413

1 anybody. He's up against it. He's going to lose  
2 his home.'

3 "It is this kind of informal conversation  
4 between Robinson."

5 Are you saying that that's the conversation  
6 which took place?

7 A That's pretty much the conversation which  
8 took place, that's correct.

9 Q You are certain about that?

10 A Yes, sir.

11 Q Ms. Stultz, I'd like to turn to the manner  
12 in which the accounts were handled, your salary  
13 account was handled.

14 Is it fair to say that with respect to your  
15 salary account, which was paid out of what was called  
16 clerk hire funds; is that correct?

17 A Yes.

18 Q That the employee had certain elections as  
19 to what, if anything, they may wish to do with respect  
20 to withholding benefits and things like that; is that  
21 correct?

22 A That's right.

23 Q And with respect to that matter you exercised  
24 certain options with respect to your salary account;  
25 did you not? You indicated, I believe, or tell me if

000414

1 you will, whether or not you wanted any of the taxes  
2 withheld from your account and if so, an amount more or  
3 less, depending on the allowances you selected and any  
4 other options you had insofar as the withholding tax  
5 was concerned; do you recall that?

6 A Every employee lists their withholding  
7 deductions and only Federal taxes at that time were  
8 deducted from the employee's salary.

9 Q At what time?

10 A At the time I was an employee. They did not  
11 deduct state taxes.

12 Q Well --

13 A I could also elect to have an amount, any  
14 amount, over and above the required amount deducted  
15 from my salary.

16 THE CLERK: Defendant's Exhibit No. 23 marked  
17 for identification.

18 (Whereupon, the document was  
19 marked as Defendant's Exhibit  
20 No. 23 for identification.)

21 BY MR. POVICH:

22 Q Ms. Stultz, let me show you what has been  
23 marked as Defendant's Exhibit 23. I don't know whether  
24 or not you have ever seen a document such as this, but  
25 I ask you to look at it and to refresh your recollection

000415

1 as to whether or not you had elected during the period  
2 of your employment to withhold state taxes in this  
3 case. It would have been the District of Columbia  
4 taxes.

5 A In the period of 1976, sir, when I began  
6 employment with the Congressman, state tax was not being  
7 taken from the employee's salary. This went into effect  
8 during my tenure with the Congressman. This shows only  
9 '76 deductions beginning, in fact, in January of '76.  
10 I am sorry, beginning in April of '76.

11 Q How much was deducted from your salary in  
12 1976 for state taxes?

13 A The total amount of \$9,029.17.

14 Q Now, if you keep that form for a moment it  
15 may be of some assistance.

16 A All right.

17 Q In addition to the deduction for state taxes  
18 you deducted other items, for instance, Federal taxes.  
19 You gave information to the Government as to how much  
20 you felt should be deducted according to your family  
21 situation, et cetera; is that right?

22 A I listed my dependents. I think I listed zero  
23 dependents.

24 Q Did the Congressman have any control over  
25 how you filed that form and how much you listed?

000416



1 A No, no.

2 Q That was a matter that you were to determine  
3 on your own?

4 A That was a personal matter, yes.

5 Q In 1976 how much Federal taxes were withheld  
6 from your salary?

7 A \$6,102.73.

8 Q That shows a gross salary of how much?

9 A \$21,239.61.

10 Q Did you feel that that was enough to cover  
11 your taxes? Did you feel that the amount which had been  
12 deducted was sufficient to cover the payment of your  
13 taxes?

14 I'm sorry. The reason I asked you that  
15 question is because I think you said that you increased  
16 your draw the last two months so that you could pay for  
17 your taxes.

18 A No. I did not feel it was sufficient.

19 Q You did not feel --

20 A No.

21 Q I am sorry. Would you read the figures again?  
22 The gross salary there was how much?

23 MR. KOTELLY: Your Honor, I am going to  
24 object. If this document is being admitted in evidence  
25 I think that Mr. Povich should proffer it as such. If

000417

1 he is refreshing her recollection he should withdraw  
2 the document from the witness if her recollection is  
3 refreshed, but he's having the witness testify from a  
4 document that has not been admitted into evidence.

5 MR. POVICH: Your Honor, I am just trying to  
6 get some sense from the witness in response to her  
7 question on direct examination as to her withholding  
8 tax as to whether or not those figures may refresh her  
9 recollection and if she felt those figures were --

10 THE COURT: Counsel may come to the Bench.

11 (At the Bench.)

12 THE COURT: What he says about the law is  
13 correct. If you are offering the document she may use  
14 it as part of her testimony. Otherwise she may just  
15 read it and refresh her recollection and if refreshed,  
16 testify. But it seems to the Court that what she  
17 obviously had in mind was that with this fluctuating  
18 salary, as she termed it, which sometimes went up to  
19 something in the neighborhood of \$37,000, as I recall  
20 her testimony, with the \$37,000 in salary she had a  
21 greater tax liability than if her salary was something  
22 in the 20,000. You can't base tax liability on the  
23 lower figure. Uncle Sam will reach out and grab the  
24 top dollar he can. We all know that.

25 MR. POVICH: Well, Your Honor, the only

000418

1 trouble with that observation is you don't control and  
2 Uncle Sam deducts the amount of money not from any  
3 special arrangement that she may testify to, but from  
4 the gross salary on the W-2 form so the money is already  
5 there. That's the purpose of withholding.

6 THE COURT: The amount of withholding in my  
7 experience depends upon what the employee discloses  
8 and may be sufficient; it may be insufficient. If it  
9 is insufficient you are hooked with it and you may have  
10 to pay an additional amount as a penalty. I have  
11 actually had that experience when I was United States  
12 Attorney.

13 MR. POVICH: I can't imagine Your Honor having  
14 that problem.

15 THE COURT: I sure did.

16 MR. POVICH: I just want to use it to refresh  
17 her recollection.

18 THE COURT: Okay.

19 (Open court.)

20 BY MR. POVICH:

21 Q Just use this to refresh your recollection,  
22 Ms. Stultz. Your answer is you did not feel that the  
23 amount which you had taken out was sufficient to meet  
24 your tax obligation?

25 A That's true.

000419

1 Q Now, in addition to the withholding which you  
2 could adjust a certain extent, depending on what you  
3 claim for exemptions, you could increase your holdings  
4 by having them deduct additional amounts; could you  
5 not?

6 A That's right.

7 Q Did you do that on occasion?

8 A Yes, I did.

9 Q Was that solely your option and at your  
10 discretion?

11 A Yes, it was.

12 Q Did the Congressman enter into that decision  
13 at all?

14 A No.

15 Q In addition to your withholding the Federal  
16 Government provided for retirement, your retirement  
17 program; did it not?

18 A That's right.

19 Q Did you on the occasion with respect to the  
20 payment to you of salary from clerk hire funds make an  
21 election with respect to the retirement benefits?

22 A At the time I entered on duty I elected to  
23 have retirement withdrawn from my salary.

24 Q And you have an option when you terminate  
25 either to take that with you or to leave it in?

000420

1 A That is correct.

2 Q But in any event those funds were your funds,  
3 they were not the Congressman's, were they?

4 A That's right.

5 Q I think that you also had the election as a  
6 federal employee for health benefits?

7 A Yes.

8 Q You can have high and low options. I am really  
9 not too familiar with it, but you can to some extent  
10 regulate the type of coverage that you wish to have?

11 A That's right.

12 Q Did you seek to do that?

13 A Yes. I had health insurance deducted.

14 Q By the way, let me go back for a moment. The  
15 retirement is based upon the amount of salary you get;  
16 is it not? You can't really --

17 A It is a percentage of your salary.

18 Q It's a percentage of your gross salary. I  
19 see.

20 Now, with respect to health benefits, does  
21 that have anything to do with your gross salary? Was  
22 it just so much?

23 A I don't believe so. I think it was based  
24 on your -- the type of program you elect.

25 Q He did not enter into the decision as to

000421

1 whether or not you should elect that or have any  
2 control over that; did he?

3 A No.

4 Q I think you also are entitled to life  
5 insurance?

6 A Yes.

7 Q That too is based upon your gross salary; is  
8 it not?

9 A Yes, I believe that is.

10 Q That is a benefit which you exercised?

11 A That is right.

12 Q Did he have any control over that?

13 A No.

14 Q Do you still have that in effect?

15 A Have what?

16 Q Did you keep that in effect after you left  
17 his employment?

18 A What the Government life insurance? I  
19 couldn't. I am not a Government employee.

20 Q I see. Now, Ms. Stultz, the money that you  
21 received from your salary which came out of clerk hire  
22 was deposited automatically to your account; was it  
23 not?

24 A Yes, it was.

25 Q Did Mr. Diggs have anything to do with the

000422

1 deposit of that money to your account?

2 A No, he did not.

3 Q Is that the employee's election?

4 A That's right.

5 Q In fact, there are some banks in the city  
6 that it is automatically deposited in and other banks  
7 that you may or may not have to mail it; correct?

8 A I don't know how it gets to the bank, sir.  
9 All I know is that it would show up in my account at  
10 the end of the month.

11 Q And that was a result of your election; is  
12 that correct?

13 A That's right.

14 Q He did not have anything to do with that?

15 A No.

16 Q Now, the account that it went into, was that  
17 your own private checking account?

18 A That's right, yes, it was.

19 Q Were you the sole signatory on the account?  
20 You had sole control over it?

21 A Yes.

22 Q And Mr. Diggs was not a co-signer; was he?

23 A No.

24 Q He had no power of attorney or any means of  
25 withdrawing the money from that account?

000425

1 A No, he did not.

2 Q I would like to ask you also is it not fair  
3 to say that with respect to the check, cashier's checks  
4 and the money orders and your personal checks that  
5 on each occasion when you made a payment on his behalf  
6 that you so indicated either on a cashier's check or  
7 the money orders or your own check; is that correct?

8 A That's right.

9 Q Ms. Stultz, there have been a great number of  
10 exhibits that have been entered into evidence in this  
11 case concerning the payment of bills, congressional  
12 bills, personal bills or otherwise.

13 MR. POVICH: Mr. Kotelly, could we have  
14 those?

15 Your Honor, I would like to have the cashier's  
16 checks, the money orders and Ms. Stultz' checks that  
17 were introduced with respect to the payment of bills.

18 BY MR. POVICH:

19 Q I would like to just briefly identify and  
20 at the break so we don't waste any time you could help,  
21 but would you briefly identify, were these the checks  
22 which you paid either to Mr. Diggs or for or on his  
23 behalf? Those are all Exhibit Series 23, I believe.

24 A Yes, that is correct. These are my own  
25 checks.

000424



Q These are cash checks. That would be the means by which say you withdrew funds from your account in order to purchase either cashier checks or money orders; is that right?

A Those, not these.

(Indicating.)

Q Right. And these -- so those are the checks themselves and these are the --

THE COURT: For the record let's identify what "those not these" are.

MR. POVICH: Yes, sir. I just showed her, Your Honor, Exhibit 23-A through GG.

THE COURT: And 23 is "those"?

MR. POVICH: 23, Your Honor, are the checks which she issued from her account, her personal checking account for or on behalf of Mr. Diggs.

THE COURT: All right.

MR. POVICH: I'm now showing her Exhibit No. 46, 45, 45-A through Z, A through DD and 46-A through I.

THE WITNESS: Now, what is the question concerning these?

BY MR. POVICH:

Q The Exhibits 45-A through BB are the money orders, are they not, which you obtained from Riggs National Bank, which you say you paid for on behalf of Mr. Diggs; is that

000425

correct?

A That's correct.

Q And Exhibits 46-A through I are cashier checks which you say you obtained from Riggs which you paid for or on behalf of Mr. Diggs; is that correct?

A That is correct.

Q Now, that then represents together with your own checks which you have identified as Exhibit 23-A through GG the funds which you expended during the relevant period of time from your salary account for or on behalf of Mr. Diggs, without distinguishing whether they were for congressional purposes or tied to his duties as a Congressman of the United States or for personal reasons; is that correct?

A These represent funds.

Q Without distinguishing between congressional and personal?

A Yes, right.

Q Thank you very much.

MR. POVICH: Your Honor, I will get a listing of these. I think it will make it easier during the break. We will have a listing of these during the break.

THE COURT: Okay.

BY MR. POVICH:

Q Now, in connection with the payment of congressional expenses you said that Mr. Matlock paid many of the bills,

000426

the office bills in Detroit; is that correct?

A That's correct.

Q And you described one of the bills that he paid as the House of Diggs Radio Show bills which was, you said, not office related?

A As far as I could determine it wasn't office related. I didn't know of any office activity that was involved with the House of Diggs Radio Show. I personally had no knowledge of any.

Q When you testified that it was not office related, what did you understand the House of Diggs Radio Show to be?

A A radio show relating to the House of Diggs which is a mortuary establishment.

Q I see. And that's the only information that you had as to what transpired on that radio show?

A That was my interpretation and my understanding of what the House of Diggs Radio Show was all about.

MR. POVICH: Your Honor, could we have these marked as defendant's Exhibits 24, 25 and 26, Your Honor.

THE COURT: Defendant's Exhibits 24 --

Yes.

(Whereupon, the documents were marked as Defendant's Exhibits Nos. 24, 25 and 26 for identification.)

000427

MR. KOTELLY: Your Honor, may we approach the  
Bench?

THE COURT: Yes.

(At the Bench.)

MR. KOTELLY: Your Honor, Mr. Povich has shown me  
what appears to be transcripts of radio programs. It says  
"Transcript for the House of Diggs Radio Program". Ms.  
Stultz in her earlier testimony said that she had never heard  
these radio programs.

Again I would submit the defense is trying to put  
in their affirmative defense in the Government's case and that  
it is totally improper. There is no reason to believe that  
Ms. Stultz ever saw any of these documents before.

MR. POVICH: I will find that out, Your Honor.  
That's exactly the question I was going to ask her.

THE COURT: I think it is affirmative defense.  
Put it on in your case.

MR. POVICH: She has testified she characterized  
that show. I simply want to ask her if she was aware of this.  
If so, whether she thinks that has nothing to do with his  
appearance.

THE COURT: She said as far as she knew the House  
of Diggs related to his mortuary business. This is  
affirmative proof. Do it in your case.

MR. POVICH: But it contradicts her, Your Honor.

000428

It is impossible to look at this transcript, which is typed in her office, and have her make that testimony. That's just incredible.

THE COURT: She wouldn't know everything typed in her office.

MR. POVICH: Just let me ask her, Your Honor.

THE COURT: I am not going to let you put on your affirmative defense at this stage of the proceeding. You can go into it later. We have got to keep this thing in order. Let's move on.

MR. POVICH: This has nothing to do with affirmative defense. It simply has to do with whether or not when a woman testifies as this woman did here that the House of Diggs program had nothing to do with it, I can show her -- ask her whether she ever saw the transcript or similar transcripts, and if she says no, that's the end of it. If she says yes, then I can ask her whether or not she is still of the opinion it has nothing to do with him because they talk about the Humphrey/Hawkins bill. It is the most incredible mortuary show you have ever heard, Your Honor.

THE COURT: Sure is.

MR. POVICH: I would just like to ask her whether she is familiar with the transcript.

THE COURT: You can ask her if she has ever seen them.

000429

MR. POVICH: Thank you.

THE COURT: All right.

(In open court.)

THE CLERK: Defendant's 27 marked for identification.

(Whereupon, the document was  
marked as Defendant's Exhibit No.  
27 for identification.)

BY MR. POVICH:

Q Ms. Stultz, I show you what has been marked as Defendant's Exhibits 24 through 27 for identification and ask you whether or not as Mr. Diggs' secretary during the period, the four years that you worked for him, you had ever seen transcripts of the similar material relating to the program that was presented by the House of Diggs when the Congressman appeared on it?

A I am sure I have seen a transcript, Mr. Povich. I doubt that I have ever read one. I probably -- most of those transcripts came in and went directly to Ms. Willabee.

Q Then you say that you have no idea as to the content of the transcript?

A That was not the least of my concern, the contents of the transcript. That was solely between Ms. Willabee, the Congressman and Mr. Leatherwood.

Q Well, I'm concerned. I am not suggesting at the time, Ms. Stultz, that you were concerned with it, but I am

000430

1 questioning whether or not when you testify under oath that  
2 they have nothing to do with the Congressman in the performance  
3 of his duties, whether you were concerned with that state?

4 A I didn't say it had nothing to do with the  
5 Congressman in the performance of his duties, sir. I think I  
6 said I understood it to be a House of Diggs Radio Show and  
7 it was a mortuary establishment in Detroit.

8 Q Well, did it have anything to do with him in the  
9 performance of his duties?

10 A I was not familiar with the transcript. I don't  
11 know.

12 Q Then the answer is that you just don't know?

13 A I cannot say that. I don't know whether it had  
14 anything to do with him in the performance of his duties.  
15 I did not consider it a congressionally-related program.

16 Q You were not familiar then with the type of people  
17 who appeared on it and what transpired?

18 A On the House of Diggs Radio Show?

19 Q Yes.

20 A No.

21 Q With respect to the House Recording Studio, did  
22 you have an opinion or did you, as to whether or not that  
23 was congressionally related?

24 A The House Recording Studio I felt was a  
25 congressional -- I feel was congressionally related. It was

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1 a television program and it had public national figures as  
2 guests and that kind of thing.

3 Now, whether it was related to Diggs' District  
4 Office expenses or not, I don't know. I believe that's the  
5 context in which I was questioned.

6 Q You made a statement that the Congressman, for  
7 instance, drew down the sum of \$500 each quarter; is that  
8 correct?

9 A Yes.

10 Q And your testimony was that that was for what?

11 A District Office expenses.

12 Q Now, did you mean to say that that was the expense  
13 for the District Office?

14 A For operating, and I understood it, that money is  
15 allowed for the operation of the District Offices, the  
16 offices in the district in which he is elected.

17 Q Well, you were aware, were you not, that in addition  
18 to the operation of the offices themselves -- by the way, how  
19 many were there?

20 A There were two buildings and one mobile office.

21 Q In addition to the operation of the offices them-  
22 selves, that was reimbursement for expenses within the  
23 District?

24 A It didn't say that, sir. It says District  
25 Office allowance. Now, if it covered the entire district,

000432



I don't know, but in any case my concern with that was making the vouchers for the allowable amount reimburseable.

MR. POVICH: May I have this marked?

THE CLERK: Defendant's Exhibit No. 28 marked for identification.

(Whereupon, the document was marked as Defendant's Exhibit No. 28 for identification.)

MR. KOTELLY: Your Honor, may we approach the Bench?

THE COURT: Yes.

(At the Bench.)

MR. KOTELLY: Your Honor, I would object to this document as having no relevance at all to the testimony of this witness. It is a change apparently that had something to do with the Office of Finance that has different language on it than are on these vouchers that are being signed, but the language is similar. It is not exactly the same. Mr. Povich, I understand, obtained that from the Office of Finance a few days back; did not question Mr. Lawler about the language and I would submit this is an improper witness to be going into what may have been on other vouchers that Ms. Stultz is not involved with.

THE COURT: What is 28, Mr. Povich?

MR. POVICH: Exhibit 28, Your Honor, is a voucher

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1 certification saying he is entitled to reimbursement. The  
2 problem that we are going to have, Your Honor, is the  
3 certification here is for expenses incurred outside the  
4 District of Columbia. The voucher which Mr. Kotelly has  
5 certified entitled, "Reimbursement for Official Expenses  
6 Incurred in my Congressional District". The term "official  
7 office expenses" does not mean to the physical office. It is  
8 not limited to the physical office and that's simply what I  
9 am trying to obtain from this witness. Now, I can do it by  
10 reading her a regulation, but I don't think that's  
11 appropriate.

12 THE COURT: It seems to me like that is your proof  
13 in chief; isn't it?

14 MR. POVICH: Yes. I was just questioning whether  
15 her --

16 THE COURT: Is this based on the new law that  
17 you brought out in your opening statement?

18 MR. POVICH: Actually, this was a change in the  
19 law, but this was the form that should have been signed  
20 actually for the -- I think it's the last one of this; is  
21 that not right?

22 MR. KOTELLY: I'm not certain. I didn't look that  
23 closely at them.

24 MR. POVICH: For '76, last part of '75, they  
25 changed to this form, but I don't know. Maybe it is a

000434

matter of form rather than substance. But this woman has become so cavalier in what is and what is not proper expenses and I just feel sometimes I have to challenge her on it.

I will pass.

THE COURT: All right.

(In open court.)

BY MR. POVICH:

Q The three offices that you had in the 13th District did not include the Federal Building, did they?

A Neither of those offices in my time was located in the Federal Building.

Q Were you familiar with the availability of the Federal Building for free offices for the Congressman if he sought to exercise that option?

A I understand that there was such space available, yes.

Q What was the reason for not taking it?

A The Congressman made his own decisions as to where he wanted his offices located. It was his decision to have them where they were located.

Q Do you know what that decision was based on?

A I have no idea.

Q I believe you testified also with respect to Jeralee Richmond that she did not have an office located or office space located within the District Office itself;

000435

is that correct?

A My first contact with her, no. She was at the House of Diggs.

Q All right. Was there any restriction as to whether or not an employee on the staff was required to work in an office in the particular District Office or not?

A I knew of no restriction.

Q So, the fact that she was not actually in the office was not determinative of whether or not she was doing any extra work in the Congressman's representation of the constituents in the 13th District?

A That could be correct. That is correct.

Q Is it fair to say as well as person could be doing the Congressman's business in the House of Diggs, could very well have been doing the Congressman's business within the House of Diggs?

MR. KOTELLY: Your Honor, I would object. I think this calls for speculation.

THE COURT: Ask her if she knew, Mr. Povich.

BY MR. POVICH:

Q Did you know, Mrs. Stultz, whether or not the Congressman's business could be furthered by a person within the House of Diggs?

MR. KOTELLY: Your Honor, I would object.

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Anything could be furthered in the House of Diggs. There is no question being asked if it is the direct knowledge of this witness.

BY MR. POVICH:

Q Do you have any knowledge of that, Mrs. Stultz?

A I have no knowledge of Mrs. Richmond doing any congressional work while she was employed by the House of Diggs.

Q Do you have any knowledge of whether or not Mrs. Richmond serviced constituents that came to the House of Diggs looking for the Congressman or looking for help of the Congressman?

A I have no such knowledge of that.

Q You have no knowledge of that at all?

A No, sir.

Q Do you have any knowledge as to whether or not there was any information in the House of Diggs with which the Congressman was concerned that it was in furtherance of his representation of that district?

A I have no such knowledge.

THE COURT: Defendant's Exhibit No. 29 marked for identification.

(Whereupon, Defendant's Exhibit No. 29 was marked for identification.)

000437

1 MR. KOTELLY: Your Honor, could I have your  
2 indulgence while I read this document?

3 THE COURT: All right.

4 MR. KOTELLY: Satisfied, Your Honor.

5 BY MR. POVICH:

6 Q Mrs. Stultz, I show you what's been marked as  
7 Defendant's Exhibit No. 29 and ask you to take a look  
8 at that. Perhaps it may refresh your recollection with  
9 respect to activities at the House of Diggs which the  
10 Congressman felt may or may not have been of benefit to  
11 him in the performance of his duty as a representative  
12 of the 13th District.

13 A I have read it.

14 Q Do you recall that memorandum now?

15 A Yes. This memorandum was to Ms. Claudia Young

16 Q Who was it from?

17 A It's from myself.

18 Q What did it concern?

19 A The topic is "Detroit Project". It concerns  
20 sending Ms. Young to Detroit as a representative of the  
21 Congressman to broaden his contacts with his constitu-  
22 ents with particular emphasis being placed on certain  
23 segments of the community and special interest groups.  
24 It indicates that she was to work out of the Detroit  
25 office commencing April 1st.

000438

The subparagraph of House of Diggs next-of-kin list, which says, "Following is a detailed outline of the project, a list of the next-of-kin or persons handling funeral arrangements for all deceased handled by the House of Diggs in '74.

"Your contact at House of Diggs will be Denise Diggs. Please discuss this with Denise immediately on your arriving in Detroit and establish a completion date on your return to Washington. This listing will be checked against our premailing list that we have duplicates. The new names will be incorporated in our mailing cards and books."

Shall I continue?

Q In addition to the House of Diggs were there other groups that were to be contacted?

A Block clubs.

Q Pardon?

A Block clubs. She was to do basically the same thing, obtain the listing of all block clubs organized in the 13th District, churches.

Q Who was to handle that?

A This is -- Well, I didn't read the entire thing.

Q That's all right. The churches. Who was she to contact there?

000439

1 A "Contacts should be made with the pastor of  
2 each church in the District to reinforce the  
3 Congressman's interests, et cetera. The pastor  
4 should be made aware that Reverend Caldwell and  
5 Mrs. Robbie McCoy of the Michigan Chronicle are  
6 on CCD's staff."

7 MR. KOTELLY: Your Honor, I'm going to object  
8 if we are getting beyond just the House of Diggs aspects  
9 of that memo. It has not been relevant to any testimony.

10 MR. POVICH: It is relevant, Your Honor. I  
11 suggest, Your Honor, it is relevant. It is relevant,  
12 the contacts and the use which has made up House of  
13 Diggs with respect to his representation of those  
14 people.

15 THE COURT: But she has concluded the House of  
16 Diggs aspect of the memo, I guess.

17 BY MR. POVICH:

18 Q Do you recall this memorandum?

19 A Yes, I recall that memorandum.

20 Q And the project?

21 A Yes, sir.

22 MR. POVICH: Your Honor, I think I'm almost  
23 finished. If we could take a brief break now I think  
24 I could wrap it up when we come back.

25 THE COURT: On that promise, yes.

000440



Ten minute recess, ladies and gentlemen.

(Recess.)

THE COURT: Bring in the jury.

(The jury returned to the courtroom.)

CROSS EXAMINATION (RESUMED)

BY MR. POVICH:

Q Ms. Stultz, I show you what's been marked already as your checks or money orders, 45-AA, 46-A, 46-B and 46-I. These appear to be -- and I will check -- the only check or cashier's checks or money orders which were written on the Riggs Bank in 1973 from the stack that you gave me. If I find any additional ones I will ask you to look at them. But would you separate on one side and put on the other what you considered to be the personal checks, personal expenses of the Congressman and those expenses which were in furtherance of his duties as a Congressman?

MR. KOTELLY: Objection, Your Honor. May we approach the Bench?

THE COURT: Yes.

(At the Bench.)

MR. KOTELLY: Your Honor, first I would like to object to Mr. Povich's facial expressions towards the jury when I make objections.

MR. POVICH: I was just -- I'm tired. I am

000441

1     sorry.

2             MR. KOTELLY: My objection again, Your Honor,  
3     is Mr. Povich is trying to get into his affirmative  
4     defense again. Based on his opening statement that  
5     there was some distinction between personal expenditures  
6     and expenditures for the office I would submit it is  
7     proper for him to do it in his part of the case and not  
8     in the Government's case.

9             MR. POVICH: I can't recall her. I am not  
10    limited any more under the new rule, Your Honor, in my  
11    examination. They have put these checks in. She is  
12    talking of terms when -- they put them in. "This was  
13    the Congressman's expense." They put in something so  
14    inflammatory as, "This is Mrs. Diggs' expense."

15            I think I have the right to do it on some  
16    intelligible basis; otherwise, we have a handful of  
17    checks.

18            THE COURT: The issue here is whether or not  
19    payment of these obligations, whether they be  
20    congressional or personal, is properly from the salary  
21    of an employee. That's the issue. So, it doesn't make  
22    any difference whether they are personal or congressional

23            MR. POVICH: One of our defenses and one of  
24    our contentions, Your Honor, congressional expenses  
25    might very well be lawfully paid.

000442

THE COURT: But you can't do it by this particular ledger demand of increasing an employee's salary and then say, "Give me some of that back".

MR. POVICH: It depends on whether or not the employee wishes to do that.

THE COURT: That's the point. So, you can get to that.

MR. POVICH: If they decide that question was -- we are supposed to come back and retry the case now they have decided we are going to find out which ones are which? I think it also goes to -- the distinction goes to an intent of what her motive was, what his motive was. I don't think that we can spend three hours putting all of this information of his in, having the Government say this represents one kind of an expenditure; this represents another, if now they say it is irrelevant, that the distinction is irrelevant.

THE COURT: I think they are entitled to bring in checks that were paid from this so-called special fund regardless of what particular account was met by it or if indebtedness was met by it. I don't think they have to segregate it out. How much of this do you have?

MR. POVICH: Well, I had hoped to do it during the break, but Mr. Watkins advised me that

000443

Mr. Kotelly was going to object to it, so I didn't have her do it. It could have been done very quickly. I was just going to have her put it in two different stacks.

THE COURT: I don't think it makes any difference from the standpoint of the indictment. I think it may make some difference from the standpoint of mitigation. That's all.

MR. POVICH: Your Honor, I think it is relevant to intent and that's what this case is all about.

THE COURT: The Government is correct that you can't have a kick-back arrangement. It doesn't make any difference what you use it for.

MR. POVICH: A person has to enter into such an arrangement knowingly, willfully and these are specific intent crimes.

MR. KOTELLY: Again, Your Honor, I suggest if this is the defense case it properly belongs in the defense.

THE COURT: Well, as he points out, he can't bring her back.

MR. KOTELLY: The segregation as to whether it is personal or corporate or congressional can be done by anyone. The Congressman himself can testify.

THE COURT: I don't know whether he's going

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to testify. He may not testify. Is he going to testify?  
You don't know yet?

MR. POVICH: I never know, Your Honor. I'm  
sure we would like to hear from him. I know Mr. Kotelly  
would like to hear from him. I probably won't put him  
on the stand unless Mr. Kotelly gets so anxious to hear  
from him.

Your Honor, to me I am trying to bring some  
sense to this thing. There is no -- at the moment there  
is just a bunch of bills. There is no feeling for what  
was happening here. This is one way to give the jury  
a feel. I know you like to give them as much help as  
possible. You can't just throw in a stack of bills and  
say, "Here they are. That's what I paid." Those people  
want to know what they were paid for.

THE COURT: I don't think it makes any  
difference, as I have told you, to the case.

MR. POVICH: Well, I think it does. Would  
you give me an opportunity at least to have it in  
evidence.

THE COURT: You may do it briefly but don't  
let's go off on expeditions like these if it has no  
legal significance.

MR. POVICH: I didn't want to, as I say. I  
wanted to do it in the break but since we can do it this

000445

way, we can do it quickly, Your Honor.

THE COURT: All right.

(In open court.)

MR. POVICH: May she divide them, Your Honor, as briefly as she can?

THE COURT: Suppose you ask the question again.

BY MR. POVICH:

Q I would like you to divide, put in two stacks, if you would, in one stack would you put what you consider to be purely personal bills and other expenses which were incurred in furtherance of his duties as a Congressman? I give you first 1973. There were four, I believe, items.

Do you have them?

A Yes.

Q Would you indulge me for a moment and I will try to get the rest.

Which ones are which? These here on your right are --

A Those are in furtherance of his duties as a Congressman and this one is the personal.

Q Just as an example, you are saying Michigan Bell Telephone, which is Exhibit, Your Honor, 46-B and Barnett Caterers, which is 46-I, and the Gandel's Liquors

000446

which is 45-AA are in furtherance; is that correct?

A That's correct.

Q And the personal one is Daniel Clipper for portrait; is that correct?

A That's right.

Q And the personal you keep to your left; is that right?

A All right.

Q I will give you now your checks for 1974. They are 12 personal checks and nine cashier's checks and money orders, another cashier's check in September of '74, so it would be ten.

Do you have those separated?

A Yes, sir.

Q All right. Let me give you the ones then for 1975.

MR. POVICH: I won't count them, Your Honor, because the number doesn't make any difference. These are for '75.

BY MR. POVICH:

Q If you would separate those, please. You can just make a total of two stacks. I will give you another series I had over at my desk.

MR. POVICH: Your Honor, to save time I won't -- perhaps I can make arrangement with your clerk to

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have the exhibit numbers listed in the two stacks so  
that we don't have to take time once she identifies them.

THE COURT: All right.

BY MR. POVICH:

Q You have one?

A That one I can't categorize.

Q It is made out to?

A House Sergeant of Arms.

MR. POVICH: That's Exhibit, Your Honor, 46-D.

BY MR. POVICH:

Q These are the last ones. Have you been able  
to do that now?

A Yes.

Q Now, these to the right here are the expenses  
represented by your checks, cashier's checks and money  
orders which you paid from your account at Riggs Bank  
or you purchased at Riggs Bank; is that correct, and  
they were in furtherance, you say, of the Congressman's  
duties as a Congressman?

A Yes. If my interpretation of what you are  
saying is correct.

Q Fine. At least that's what you understand  
them to be?

A They relate to his congressional business,  
yes.

000448



Q Thank you.

MR. POVICH: Your Honor, I ask the courtroom clerk to segregate those.

BY MR. POVICH:

Q The other ones are the personals; is that correct?

A Yes.

Q Except for the Sergeant of Arms check.

Now, what did the Sergeant of Arms -- a check made out to the Sergeant of Arms could represent what type of payment?

A It could represent a deposit in this account and it could have represented money that he cashed for cash, a cashier's check that he turned in for cash.

Had it been deposited in the account it could have represented payment for any of the checks.

Q So, you --

A This may have either been deposited in his account or cashed.

Q Thank you.

MR. POVICH: That is 46-D again, Your Honor.

THE COURT: Very well.

BY MR. POVICH:

Q Now, just several other brief questions.

In addition to the items you deduct or had

000449

taken out of your salary, you also had an item, I believe for savings bonds; did you not?

A I don't think I had savings bonds, did I?

Q Well, that's only for 1976.

A I don't recall having savings bonds on the Hill.

Q But the Clerk's office would have a record of that; is that correct?

A Yes.

Q Now, you testified that Mr. Johnson did tax work for the Congressman; is that correct?

A That's right.

Q Now, when the Congressman went to Detroit he did meet with Mr. Johnson; did he not?

A Yes, he met with him.

Q Can you tell me what type of an individual Mr. Johnson was? What did you know him to be professionally?

A He was an accountant.

Q That's all? Did he have any particular expertise in any field?

A Other than accounting?

Q Yes.

A I don't know of any.

Q Just as far as you knew he was just an

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accountant?

A Yes. He had an accounting firm or business.

Q Were you present at any of the meetings between him and Congressman Diggs at the time they were in Detroit?

A At one.

Q When was that?

A Oh, I don't remember the date but I did go to Detroit with the Congressman once when we met with Mr. Johnson. I think the meeting was on a Saturday or Sunday.

Q Was that in connection with some preparation of some return or something?

A It was in connection with his tax return.

Q All right. That was the only time that you met with him?

A In Detroit.

Q Yes. Were you present -- how many times did Mr. Johnson come to the District of Columbia?

A I don't remember how many times he came to the District. I recall meeting with him, I believe, once in the office. He came down and let's see --

I don't know whether it was for any other function or not, but he was once, I recall, in the District.

000451

Q Do you know what, if anything, he and the Congressman discussed on the occasion he came to Washington when you were not present?

A Would I know what they discussed when I was not present?

Q Yes.

A No.

Q Now, you testified concerning the circumstances under which you left finally in August of 1976 and at that time you were office manager. You were in charge of both offices; is that correct?

A Yes, I was.

Q I mean both offices in the District of Columbia and the District Office, two offices plus the van?

A Right.

Q And any of the operations in the District. And when you left, did you have any evaluation as to the people, the number of people that it took to replace you in the job that you had been doing?

A When I left it was Mr. Randall Robinson and his secretary in addition to Ms. McDaniels who was already there. So, actually two persons were employed, to my knowledge, to cover my one position; however, at one time I was performing these secretarial functions,

000452

the function that Mr. Robinson performed and the function that his secretary performed.

Q So, you felt you were performing the functions of how many people who were hired there?

A At one point of three people.

Q Three people?

A Yes.

Q And were you bitter about that?

A No.

Q Did you ever indicate that you felt that you had been underpaid because of the salary which you received and the fact that you were being replaced by three additional people?

A No.

Q What did you consider your position to be at the office?

A Office manager.

Q Did you ever consider your position to be that of administrative assistant?

A I knew my position to be office manager. There were certain publications that did not use that title and I was listed as administrative assistant, as the chief person in the office responsible only to the Congressman.

Q Did you ever represent yourself to the public

000453

as being an administrative assistant?

A No. As his office manager and principal assistant.

Q And you discussed what you considered to be the amount of your salary. Did you represent yourself to the public as having a salary of \$36,000 a year?

A No, sir.

Q Never did?

A No.

MR. POVICH: Could Your Honor indulge me for a moment?

Could I have this marked as Defendant's Exhibit --

THE CLERK: Defendant's Exhibit No. 30 marked for identification.

(Whereupon, Defendant's Exhibit No. 30 was marked for identification.)

MR. POVICH: Your Honor, I will substitute what I have for something more authoritative because there is a note on it, but for present purposes I would like to use it.

THE COURT: All right.

Is it marked?

MR. POVICH: Yes, sir, it is marked. Someone

000454

has made obviously an additional notation on here and it is not part of the official documents.

Your Honor, I feel badly about showing the witness this copy because it is so bad I can hardly read it myself. Could you give me a moment and maybe we could find a better copy? I will show you what I mean.

THE COURT: You needn't show me something you can't read.

MR. POVICH: Well, I will just show you --

THE COURT: My eyes are twice as old as yours.

MR. POVICH: Mine are going fast. Maybe she can read it, Your Honor.

BY MR. POVICH:

Q Ms. Stultz, look very carefully -- First of all, could you tell me what Defendant's Exhibit 30 is? Can you identify that for me?

A Yes. It's an application for a loan to First National Bank.

Q Is that the application that you made for the thousand dollar loan?

A I believe this is a copy of it, yes.

Q Can you read or did you fill it in or did you give them the information?

A Yes, sir.

Q You did.

000455

Could you tell me what information you gave them insofar as your employer and your position is concerned?

A My position I show as administrative assistant. My salary I show -- I am sorry. You asked employer, Congressman Charles C. Diggs, Jr.

Q Can you read the amounts you show as salary or do you recall what it was?

A My salary I show as \$36,000.

Q \$36,000?

A \$36,000. That's not a representation to the public. That's a private document to a financial organization for a loan. That's telling the truth.

MR. POVICH: I have no further questions.

THE COURT: Anything further?

MR. KOTELLY: Yes, Your Honor. I have a number of questions.

REDIRECT EXAMINATION

BY MR. KOTELLY:

Q Ms. Stultz, Mr. Povich asked you regarding your performing the function of three people for Congressman Diggs. For how long a period of time would you say that you were performing the function of three people?

A During the period of time when I was office

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manager and secretary when he did not have a secretary.

This was right after Ms. Corker left.

Q What period of time would that be then?

A It would have been around '73, '74, '75.

Q How about in later years?

A In later years I did do a bit of secretarial functions. I took the occasion from him. When necessary I assisted him with his appointment book. I also performed the officer manager's duties and, of course, I never had a secretary as Mr. Randall did to assist me -- as Mr. Robinson, I am sorry.

Q At the beginning of 1976, which was your last partial year with the Congressman, were you the office manager until the time you left?

A Yes, sir.

Q Did you also handle the Congressman's financial matters during that time?

A Yes, I did.

Q How about the appointment calendar? Who handled that during 1976?

A Primarily Ms. McDaniel. When she was not there or when she was not present, I handled it.

Q When did Ms. McDaniel assume that responsibility?

A I believe she came over to the congressional

000457

office in '75.

Q Did she immediately take over the function of keeping the appointment calendar?

A Yes. Yes.

Q Was your salary reduced at the time when Ms. McDaniel took over that function?

A Was my salary reduced?

Q Yes.

A No, it wasn't.

Q Were you doing secretarial work for Congressman Diggs during 1976?

A Yes, sir.

Q Would that be true all the way until the time that you resigned?

A Yes, sir.

Q You have indicated that I believe it was March of 1976 when you decided to cease the arrangement of having the special account for payment of the Congressman's bills?

A That's right.

Q In the following months did your work change in any regard?

A My work in the following months, the last three months, was based primarily on getting his accounts in order. I had -- my functions as far as legislative,

000458

you know, the congressional office, the operation of the office, that kind of thing, decreased considerably at my own request.

Q At what point in time?

A After the Congressman and I had the discussion about my staying on the additional three months.

Q Would that have been a period of time after you had your salary reduced?

Let me rephrase that question. Was there a period of time after you had your salary reduced where you were still the office manager and still had the same functions that you had had prior to 1976?

A Oh, yes, in April I think after March, after we discontinued that inflated salary I still retained the same functions I had.

Q Ms. Stultz, why did you tell the Congressman that you wished to cease the special accounts arrangement that you had with him?

A Well, as I said, I was no longer -- I didn't like the arrangement. I never did. I was also -- felt I was getting in trouble with my taxes. I had a tax liability and I just wanted to be free of it.

Q At that time what was your attitude regarding your job whether you would maintain it or not?

A My attitude was I would take whatever happened.

000459

1 I would take my lumps, so to speak, you know. If I were  
2 dismissed I would be dismissed. I would find another  
3 job.

4 Q When did you finally reach that conclusion  
5 as to your attitude?

6 A When I made up my mind that I was no longer  
7 going to be a part of that arrangement.

8 Q Did you have the same feelings in earlier  
9 months from October of '73?

10 A Not as strongly. I had given it a good deal  
11 of consideration but not as strongly as when I finally  
12 took the action.

13 Q You indicate that you had considerable tax  
14 liability. Were there any problems with the payment of  
15 your taxes in any of the years between October of 1973  
16 and August of 1976?

17 A Yes. One of those years I had a substantial  
18 tax liability. I think it was '75. It was either  
19 '75 -- '74, I believe it was. It was one of those  
20 two years I had quite a bit owed.

21 Q Ms. Stultz, were you paying taxes on the full  
22 amount of your take-home salary?

23 A Yes, sir.

24 Q And that included taxes on the amount of  
25 money that you were using to spend on the Congressman's

000460

expenses?

A Yes, sir.

Q Regarding the files you maintained on creditors and the documents that you were placing into those files, would you normally put your customer copy of money orders and cashier's checks that you had purchased at the Riggs Bank in those files?

A Yes, in the file for the particular creditor.

Q Were there occasions when the customer copy of money orders or cashier's checks did not end up in those files; to your knowledge?

A There may have been, to my knowledge. I can't think of any particular occasion.

Q During the period of time that you worked for Congressman Diggs, were there, to your knowledge, any customer copies of Riggs cashier's checks or Riggs money orders or Xerox copies of Riggs cashier's checks that would be in your files that were not purchased by you?

A Not to my knowledge.

Q At the time that you left the Congressman's office the end of August of 1976, did you take any of the money order copies or --

A Excuse me. May I correct that?

Q Certainly.

000461

1 A They would be copies of money orders that had  
2 been purchased by Mr. Matlock.

3 Q I asked about Riggs money, from Riggs.

4 A I am sorry. I misunderstood the question.

5 Q So, to your knowledge there would not be any  
6 other -- anyone else purchasing Riggs money orders or  
7 Riggs cashier's checks?

8 A Not to my knowledge, no.

9 Q At the time that you left Congressman Diggs  
10 did you take any of these copies of money orders or  
11 Xerox copies of cashier's checks with you when you left  
12 that office?

13 A No, sir. I took nothing from the office.

14 Q Did you keep any lists or ledgers of such  
15 cashier's checks or money orders that you had purchased,  
16 that you took with you when you left the Congressman's  
17 office?

18 A No, sir, no.

19 Q Had you maintained such a list of money orders  
20 and cashier's checks when you were working for the  
21 Congressman?

22 A Nothing other than the ledger sheets and the  
23 notations I would make on the file copy.

24 Q After leaving Congressman Diggs' office in  
25 August of 1976, when was the next time that you saw the

000462

customer copy of money orders and Xerox copies of Riggs cashier's checks that you had purchased?

A When they were shown to me in Mr. Marcy's office.

Q Mr. Marcy is an Assistant United States Attorney, correct?

A That's correct.

Q Do you recall when that would have been?

A I believe it was -- it might have been either the second or third week ago.

Q When you first met with Mr. Marcy, do you recall when that was?

A I believe it was in May of '77. I am sorry. Yes, '77.

Q When was the first time that you heard about this investigation, the investigation of Mr. Diggs?

A I believe it was in April or very early in May, '77, when I received a letter from Riggs Bank indicating that my bank account -- my bank records had been subpoenaed.

Q Prior to that time had you told any law enforcement officials about your arrangement for paying for Mr. Diggs' expenses?

A No.

Q When you received notification from the Riggs

000463

Bank, what did you do?

A Well, I called -- let's see. I believe Riggs Bank gave me the name of Mr. Beizer.

Q And Mr. Beizer --

A Or either I contacted Riggs Bank. In any case I called Mr. Beizer and I spoke with him and asked him what it was all about.

Q After talking with Mr. Beizer, what did you do?

A I contacted Mr. Robinson in the Congressman's office, Randall Robinson.

Q Did you contact anyone else after Mr. Beizer's telephone conversation?

A I contacted my attorney.

Q What was the purpose of your calling Mr. Randall Robinson?

A Mr. Beizer had indicated that -- based on what Mr. Beizer had indicated to me I called Mr. Robinson. Mr. Beizer had indicated that --

MR. POVICH: Objection.

THE COURT: Sustained.

BY MR. KOTELLY:

Q Without going into what Mr. Beizer advised you, after you spoke with your attorney -- first of all, where was your attorney located?

000464



1 A In Washington, D.C.

2 Q How long have you known this attorney?

3 A At least 25 years.

4 Q How do you know this attorney?

5 A I was employed by her about 25 years ago.

6 Q After talking to your attorney did you and  
7 your attorney meet with the Assistant United States  
8 Attorneys who were working on this case?

9 A Yes, sir, we did.

10 Q Were any promises made to you at that time as  
11 to prosecution?

12 A No, they were not.

13 Q Ms. Stultz, Mr. Povich showed to you a memo  
14 regarding the Detroit project; is that correct?

15 A Yes.

16 Q I believe it is Defense Exhibit 29.

17 This is your memorandum to Cynthia A. Young?

18 A Right.

19 Q Regarding the Detroit project.

20 In that memorandum it regards -- it mentions  
21 for Cynthia Young to contact someone at the House of  
22 Diggs; is that correct?

23 A Yes, sir. It's Claudia Young.

24 Q I am sorry, Claudia Young. You indicated to  
25 Claudia Young that she should contact someone at the

000465

House of Diggs; is that correct?

A That's correct.

Q And that was Denise Diggs?

A That's correct.

Q Who is Denise Diggs?

A The Congressman's daughter.

Q What was her position at the House of Diggs, if you know? What was Denise Diggs' position in the House of Diggs?

A In March of '75 I'm not sure. I'm really not sure what her position was there.

Q Did she work at the House of Diggs?

A Yes.

Q Was Denise Diggs on your staff, congressional staff?

A No, sir.

Q Did she do, to your knowledge, any congressional work?

A Not to my knowledge, no.

Q Now, at the time that that memo was written in I believe you said March of 1975?

A That's right.

Q Jeralee Richmond was on the congressional payroll; was she not?

A I have to look at the documents. I can't

000466

remember.

MR. KOTELLY: If the Court will indulge me one second.

BY MR. KOTELLY:

Q Ms. Stultz, I show you Government's Exhibit 13-A through 13-G and ask you if that would refresh your recollection as to whether Jeralee Richmond was on the congressional staff at that time?

A Yes, sir. This would indicate that she was.

Q Ms. Stultz, did you tell Claudia Young to contact Jeralee Richmond regarding any matters involved with the House of Diggs?

A Not to my knowledge and recollection.

Q Claudia Young was merely obtaining a mailing list from the House of Diggs records; is that not correct?

A Those were instructions, yes.

Q You have testified regarding the loan that you obtained from Union First and also about turning over \$1,500 to Clarence Robinson; is that correct?

A Yes, sir.

Q Part of the testimony was that there was a \$500 Treasury check which was reimbursement; is that correct?

A Yes, sir.

000467

Q Did you receive any authorization to use that reimbursement check?

A Yes, sir.

Q To give to Mr. Robinson?

A Yes, sir.

Q Who authorized you to do that?

A The Congressman.

MR. KOTELLY: Your Honor, if I might look at the cashier's checks and money orders that were separated by Ms. Stultz and see the group that were congressionally-related. I believe that was the right side, Your Honor.

BY MR. KOTELLY:

Q Ms. Stultz, I show you one of these documents that you placed on the congressionally-related list, 23-U and ask you who was that for?

A This is to Wayne County Democratic Committee.

Q To your knowledge was the Congressman required to give money to the Wayne County Democratic Committee?

A Well, I don't know.

Q Was it a requirement of being a Congressman that he had to belong to the Wayne County Democratic Committee?

A I'm not really sure.

Q I show you 23-X and ask you the payee on that

000468

one.

A Bazleton Florist.

Q What was the purpose of paying a bill of Bazleton Florist of the Congressman?

A This was his flower account.

Q Flowers for whom?

A Well, the Congressman would purchase flowers for some of his friends or constituents who were ill.

Q Was that required of the Congressman?

A Or deceased. It was not a condition or requirement for his employment or his position as Congressman.

Q You separated a money order 45-U to Barnett Caterers. Is that for catering some function?

A Yes. This was for catering a reception the Congressman sponsored, I believe, in the House of Representatives.

Q Was that required of the Congressman that he had to sponsor that function?

A No, it was not required.

Q 23-Z is your personal check to E. C. Chapter, Historical College Alumni. Do you know if that check was required to be paid by Congressman Diggs because of his position as a Congressman?

A No, sir.

000469

Q 45-F is a money order to the House Stationery Account; is that correct?

A Yes, sir.

Q On occasion did you have to put money into the House Stationery account?

A Yes.

Q Why was that?

A Because all of our funds had been exhausted.

Q Why was it that your funds were exhausted?

A Well, usually at the beginning of each year the Congressman would withdraw a large amount of cash from this account which was permitted.

Q And the money that was withdrawn from cash, was it given to you to operate any of the district expenses?

A If so, not the total amount.

MR. KOTELLY: I return these to the Clerk, Your Honor.

No further questions, Your Honor.

THE COURT: Mr. Povich.

#### RE CROSS EXAMINATION

BY MR. POVICH:

Q Mrs. Stultz, Mr. Kotelly asked you when you met with Mr. Beizer whether or not any -- I don't know what the question was. It was whether any arrangements were made or deals were made with you; is that correct?

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MR. POVICH: I'm sorry, Your Honor. I have forgotten the exact words.

BY MR. POVICH:

Q Do you remember that question?

A I don't remember the exact words either but I remember the question.

Q Do you remember the gist of it, if any arrangements had been made about your appearing to testify?

A I don't know. Why don't you restate as best you think and I will answer the question.

THE COURT: What, if any, promises were made her.

BY MR. POVICH:

Q Yes. What, if any, promises were made? What, if any, promises were made, and you say no promises were made; is that right?

A No, sir.

Q Well, now, Mrs. Stultz, you are appearing in Court today and testifying under oath; is that correct?

A Yes, sir.

Q At any time prior to the time you appeared in Court to testify did the Government make any representation to you with respect to your testimony today?

A Prior to my appearance today but not at the time that Mr. Beizer spoke with me.

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1 Q Not at the time Mr. Kotelly specifically  
2 mentioned?

3 A Nor not prior to my grand jury testimony.

4 Q Nor prior to your grand jury testimony.

5 A Right.

6 Q But prior at some point they did; is that  
7 what you are saying?

8 A They -- at some point we discussed it, yes.

9 Q What did you discuss? What promises or  
10 representations were made to you?

11 A My attorney -- the discussion was between my  
12 attorney and Mr. Kotelly and Mr. Marcy.

13 Q What was your understanding of what represen-  
14 tation the Government made, what promises, if any, the  
15 Government has made?

16 A The only understanding I received was that  
17 Mr. Kotelly and Mr. Marcy had no intention of prosecuting  
18 me for my testimony. They would not give me immunity.

19 Is that what you are trying to get me to say?  
20 They would not give me immunity but they themselves had  
21 no intentions of prosecuting me for my testimony.

22 Q You say they would not give you immunity?

23 A They would not. They did not ever promise me  
24 immunity.

25 Q Well, did you have any other discussions with

000472



them?

A My attorney may have. That was the only discussion at which I was present in their office.

Q Was there any other occasion at which the matter of any promises or representations made to you again came up?

A Not in the presence of the District Attorney's office, not with me. That was the one occasion with me.

Q And you have not had any discussion with them since?

A Not me personally, no.

Q Well, has your attorney on your behalf had discussions with them?

A My attorney may have.

Q What is your understanding as to any promise or representations made by the United States Attorney's Office?

A My attorney informed me yesterday morning after the meeting in the courtroom that she had received assurance again that I would be free of prosecution for my testimony in this trial.

Q And that took place in this courtroom?

A That took place in the witness room outside of this courtroom yesterday morning.

Q And that was right after you had started to

000473

1 testify?

2 A Yes, sir.

3 Q And then there was a recess?

4 A I believe there was, yes.

5 Q Then you don't know what happened but after  
6 that recess your attorney came out and advised you  
7 what, that the Government had done what?

8 A My attorney advised me that she had received  
9 an assurance that I would not be prosecuted for my  
10 testimony.

11 MR. POVICH: Thank you very much.

12 MR. KOTELLY: Just a couple of additional  
13 questions, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. KOTELLY:

16 Q Mrs. Stultz, regarding your understanding of  
17 what the assurances of the prosecutor are you do under-  
18 stand, do you not, if you commit perjury or lie under  
19 oath that you can be prosecuted for that?

20 A Yes, sir.

21 MR. KOTELLY: I have nothing further.

22 THE COURT: Anything else?

23 MR. POVICH: I'm sorry, Your Honor, nothing.

24 THE COURT: Did you have anything based on  
25 that last question?

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MR. POVICH: I'm sure, Your Honor, but I will end the examination now.

THE COURT: All right. May the witness be excused, gentlemen?

MR. KOTELLY: Yes, Your Honor. We would ask she be excused.

THE COURT: You may be excused. Thank you.

(Witness excused.)

MR. KOTELLY: I call Felix R. Matlock.

Whereupon,

FELIX R. MATLOCK

was called as a witness by and on behalf of the Government and, having been first duly sworn was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOTELLY:

Q Would you please state your full name for the record?

A Felix R. Matlock.

Q Mr. Matlock, where do you presently live?

A 9110 Darcy Street, Detroit, Michigan, ZIP is 48204.

Q How long have you lived in Detroit, Michigan?

A Since 1939.

Q Mr. Matlock, are you presently employed?

000475

1 A Yes.

2 Q For whom are you employed?

3 A Congressman Diggs.

4 Q What position do you hold in the employment of  
5 Congressman Diggs?

6 A Caseworker and field representative.

7 Q Where are your offices?

8 A Offices at the present time, our offices are  
9 at 83 -- our offices at the present time are at 6362  
10 Grescher, and we have one at 8401 Woodward.

11 Q The person that you employed by Congressman  
12 Diggs, do you see him here in court today?

13 A Yes, sir. He is seated at the table.

14 MR. KOTELLY: Satisfied with the identifica-  
15 tion?

16 MR. POVICH: Yes.

17 BY MR. KOTELLY:

18 Q How long have you worked as a Congressional  
19 employee for Congressman Diggs?

20 A January, 1965.

21 Q Did you know Congressman Diggs prior to that  
22 time?

23 A Yes.

24 Q Have you worked for Congressman Diggs prior  
25 to the time that you were not on his congressional

000476

payroll?

A Yes. I was in the insurance business.

Q What period of time?

A 1950 to the end of 1964.

Q Now, you have indicated that you began working for Congressman Diggs in 1965; is that correct?

A That's right.

Q What was your position at that time?

A In 1965 I was a field representative.

Q What generally were your duties as a field representative?

A Caseworker, office duties, field work.

Q Casework consists of what?

A Assisting people with problems, the constituents, such as welfare and so forth.

Q Do you have much contact with Congressman Diggs' office in Washington, D.C.?

A Occasionally by telephone.

Q Mr. Matlock, do you know an individual named Jean Stultz?

A Yes.

Q How long have you known her?

A Since 1973.

Q How do you know her?

A I met her here in Washington as an employee

000477

of Congressman Diggs.

Q What was Mrs. Stultz' position in relation to yours?

A I always knew her as the office manager.

Q As the office manager what, if anything, responsibilities, did Mrs. Stultz have regarding your day-to-day functions as an employee of Congressman Diggs?

A She called me on various problems as they occurred that related to the District.

Q Mr. Matlock, as an employee of Congressman Diggs do you receive a salary?

A Yes.

Q How frequently are you paid?

A Once a month.

Q During the period of 1975-1976, during that period of time how did you receive your salary?

A Through the mail either at the office or my home address.

Q Where would that be?

A At first when I first started it was at an office that we had on Mt. Elliott. Later on it was -- the office was moved to 1201 East Grant Boulevard and then later I received my checks at 4824 Woodward and then I started getting the checks at home.

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Q At home was where?

A 9110 Darcy.

Q Did you always receive your checks by mail?

A Always by mail.

Q Were there any months did you did not receive your check by mail?

A No.

Q What part of the month did you receive your salary check?

A Either at the end of the month or the first of the month.

Q After receiving your salary check, Mr. Matlock, what would your normal practice be as to what you did with it?

A I would go to the bank and deposit it. At first I would deposit part of my check for my wife's allowance, then the balance to my own checking account.

Q Mr. Matlock, I will show you a group of Treasury checks, Government's Exhibit 9-A through 9-I and ask you to look at the front and the back of those documents and ask you if you can identify those?

A I identify these documents because they have my name on them. These are at my office address, 4825 Woodward, where the check was mailed and they have my signature on the back.

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Q That is as to 9-A that you have in your hand?

A That is as to 9-A.

Q I would ask you to just quickly look through all the rest and see if your signature appears on all those documents and your name and address on the front of each of those documents?

A On Exhibit 9-B --

Q Why don't you just look at all of them one right after another without having to say anything at this time.

Have you looked at all the checks, Government's 9-A through 9-I?

A Yes.

Q Does your name appear on each one?

A My name appears on each one.

Q Does your name and address appear on the front of each one?

A Either my office address or my home address.

MR. KOTELLY: Your Honor, at this time we would move into evidence Government's Exhibit 9-A through 9-I.

THE COURT: Do you wish to be heard?

MR. POVICH: No, Your Honor. We have no objection.

THE COURT: They will be received.

000480



THE CLERK: Government's Exhibits 9-A through 9-I received in evidence.

(Whereupon, Government's Exhibits 9-A through 9-I were received into Evidence.)

BY MR. KOTELLY:

Q Mr. Matlock, during the period of time that you worked with Congressman Diggs since 1965 to the present, how frequently did you have contact with Congressman Diggs?

A On the weekends when he comes home.

Q Where do you usually see the Congressman?

A At the office. Occasionally I pick him up at the airport.

Q Now, Mr. Matlock, as far as your employment at the District Office, in the period of 1973 through the end of 1976 where was that located, the office that you were in?

A In the period of 1973 to 1976 the offices were located at 4825 Woodward and 8401 Woodward.

Q Did you work at each of those offices?

A At each one.

Q Were those offices at different periods of time between 1973 and the end of 1976?

A Yes.

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Q Mr. Matlock, was there any other District office at that time?

A At that time?

Q During that period of time?

A During that period we opened an office at 8315 Mack Avenue and then later on I think it was at the end of '76 we moved the Mack Avenue office to 6362 Greshner.

Q Did you work at either of those two offices?

A No, no.

Q Now, Mr. Matlock, during this period of 1973 through the end of 1976 did you have any personal knowledge as to how any expenses relating to the operation of the District offices were paid?

A In 1973 I had no personal experience with the exception of -- No, not in 1973.

In 197 -- latter part of '74 or '75 when the office was opened at 8315 Mack Avenue I was told that the Government paid part of the rent and the Congressman paid the other.

Q Who told you that?

A Mrs. Stultz.

Q Did you have any connection with paying any of the expenses at the District Office?

A Not that I recall.

000482

Q Did there come a time when you did pay any of the expenses at the District Office?

A Yes.

Q When was that?

A '75. Occasionally -- oh, no. In '73 there were some expenses with signs and in '75 there were -- there began expenses with lights, with heating, with the lights, the heat, Real Leasing Company.

Q What was that?

A That was for our mobile van. That was for the payments I made, and I made payments on occasions to the House Recording Studio here in Washington.

Q Directing your attention to the period of 1973, 1974 could you indicate on how many occasions you can recall paying for any expenses?

A 1973, three or four times.

Q 1974 can you recall any during that year?

A A few times, three or four times.

Q How did it happen that you paid these expenses for the District Office?

A Mrs. Stultz would contact me and tell me that certain expenses exist and she was going to put some money in my check and she would tell me when to send it to her so it could be paid.

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Q After these conversations with Mrs. Stultz, what would happen as far as your paycheck?

A My paycheck would go up.

Q What, if anything, would you do after you received this paycheck that had gone up?

A After the paycheck had gone up I would -- when I would get paid I would have in most instances prior knowledge of the bill. I would go to the bank, either to the Bank of the Commonwealth or to the National Bank of Detroit and buy the money orders and send them to Washington.

Q Why would you purchase money orders?

A So I'd have a record of them.

Q Did anyone advise you as to using money orders?

A Yes. Mrs. Stultz told me to get a money order.

MR. KOTELLY: I ask to have marked 47-A through E, Your Honor.

(Whereupon, Government's Exhibits Nos. 47-A through 47-E were marked for identification.)

BY MR. KOTELLY:

Q Mr. Matlock, I show you five money orders,

000484

Government's Exhibits 47-A through E, and ask you if you can identify those documents?

A 47-A is a money order purchased by me.

Q How can you tell that?

A It's my writing and I used the money order to pay the sign man, the Staff sign.

Q What was the purpose of your paying the Staff?

A To put a sign on the door.

Q 47-B, can you identify that?

A 47-B was a money order that I purchased to pay George Fishman who at that time was our landlord at 4825 Woodward.

Q What was the amount of that money order?

A This one is for \$300.

Q 47-C, can you identify that document?

A 47-C is the same thing. It's for signs paid to the Staff Sign Company.

Q How do you identify that?

A Because it's my writing and I hand delivered the check.

Q Now, I also ask you to look at 47-D and E on the next page and ask you if you can identify those documents?

A 47-D was money order that I purchased and

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paid \$300 to Bell Telephone.

Q How do you identify that?

A It's my handwriting. I bought the money order.

Q And 47-E?

A 47-E is another one that I purchased and paid to Bell Telephone. I identify it because it is my handwriting and again it was hand delivered by me.

Q Government's 47-D and E, for what purpose did you pay those money orders?

A To pay on the telephone bill.

Q For where?

A For Congressman Diggs' office in Detroit.

Q Why did you purchase the five money orders, 47-A through E?

A I purchased them because I was instructed to purchase them.

Q How did you pay for them?

A I paid for them out of my check.

Q During that period of 1973 and 1974, Mr. Matlock, the payment of bills by yourself, was it frequent or infrequent?

A Infrequent.

Q Directing your attention to 1975, during that year did you pay for any office expenses?

A Yes.

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Q Were your payments of office expenses in 1975 frequent or infrequent?

A At first it was infrequent and then it became frequent.

Q Approximately when did it become frequent?

A I would think around the middle of '75.

Q How did it occur around the middle of '75 that you began to frequently pay these expenses?

A Mrs. Stultz told me that most of the bills were down there in the District and Detroit and it was a waste of time to mail the money orders to Washington and she would get with me each month and tell me which bills to pay and just go buy the money orders and pay them.

Q What, if anything, occurred as far as your salary was concerned?

A It went up.

Q Mr. Matlock, during the early months of 1975 do you recall what your salary was?

A In the early months of 1975 I don't recall exactly.

Q Would you give us any type of an estimate as to the amount of money that you were making?

A Around fifteen.

Q \$15,000?

000487

1 A Yes. I was getting fourteen and then I got  
2 a thousand dollar raise.

3 Q Do you recall when it was that you went from  
4 \$14,000 to \$15,000?

5 A I think that was the latter part of '75.

6 Q You are referring to \$14,000 and \$15,000 a  
7 year; is that correct?

8 A That's right.

9 Q When you began paying for these offices  
10 expenses do you know what your salary was?

11 A Well, when I began to pay the office expenses  
12 my salary went up to around \$19,000, net checks. The  
13 gross checks went from -- first it went up to around  
14 a little better than \$2,000 and then it jumped up to  
15 around \$3,100.

16 Q You are talking now about the amounts of the  
17 checks; is that correct?

18 A That's right.

19 Q Do you know what your annual salary was after  
20 you had increases in your salary?

21 A After I had increases in my salary my annual  
22 salary was in the neighborhood of in the first year,  
23 '75, was in the neighborhood of \$20,000 and then it  
24 kept on going up and at the end of '76 I received  
25 \$35,000.

000488



Q Mr. Matlock, I again show you Government's Exhibits 9-A through 9-E which are the Treasury checks that have been admitted in evidence that show your salary. As to the first check on, 9-A, could you indicate to the jury the date and the amount of that check?

A July 31st, 1975; the amount of the check was \$907.32.

Q To your knowledge, of your own salary checks was that an increased check or was that not an increased check?

A This was not an increased check.

Q Could you indicate the second check as 9-A, the date and the amount?

A August 29, 1975; the amount went up to \$1,483.16.

Q Of that amount of money, Mr. Matlock, was any of it spent for office expenses?

A Yes.

Q Could you indicate to us how much of that second check would have been considered as your own salary?

A The difference in the \$907.32 plus I was told to use seven percent of the total check from my state and city income tax.

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Q What did you do as far as that money  
calculated as seven percent?

A That was for my tax.

Q What did you do with the actual money itself?

A I kept that and put it in the bank.

Q I would ask you to also go over to the next  
9-B which is in evidence and again read to the jury the  
date and the amount of that check.

A September the 3rd of 1975. The amount of the  
check was \$1,960.57.

Q And the second check, date and amount?

A October 13, 1975; the amount was \$1,287.70.

Q Of that money were you allowed to keep all  
or just a portion?

A Just a portion.

Q The next Government's 9-C, would you read the  
amount of the check and the date of the check?

A November the 28th, 1975; \$1,706.22.

Q I don't remember. Did you give the date of  
that one?

A November the 28th, 1975.

Q I am sorry. You did.

The next check, date and the amount?

A December 19, 1975; amount was \$1,706.22.

Q Were you allowed to keep all of that?

000490

A No.

Q Or just a portion?

A Just a portion.

Q I ask you to go to the next check. What exhibit number is that, the one you are presently looking at?

A 9-D.

Q Would you again recite the amounts and the date of the top check and the second check?

A The date was January 30, 1976. The amount was \$1,153.34.

Q And the second check?

A Second check dated February 27th, 1976. The amount, \$1,453.34.

Q Were you allowed to keep a portion of that or were you allowed to keep the whole amount?

A A portion of it.

Q Are we on D or E now?

A We are on E now.

Q Could you recite the date and the amount of those two checks?

A March the 31st, 1976; \$2,014.96.

Q The second check?

A April the 30th, 1976; \$1,963.65.

Q Again I would ask you, were you allowed to

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keep a portion or the whole check for yourself?

A A portion. A portion.

Q 9-F, sir, I believe there is just one check on that page. I would ask you to give the date and the amount.

A 9-F, June 30, 1976; the check was \$1,063.65.

Q Again were you allowed to keep a portion or use the whole amount for yourself?

A A portion.

Q Next exhibit should be 9-G.

A 9-G, the check was dated 7/30/76. The amount, \$1,963.65.

Q The second one?

A Second check dated 8/31/76; amount, \$1,963.65.

Q Again were you allowed to use the whole amount for yourself?

A No.

Q The next check, which would be 9-H?

A Next check, 9-H, dated 9/30/76; \$1,963.65.

Q Could you repeat that number?

A The amount of money is \$1,963.65.

Q And the second check on that page? I don't believe that you read that, Mr. Matlock, 9-H.

A Second check on the page dated 10/29/76; amount was \$2,073.80.

000492

Q The next check should be 9-I.

A The date was 11/30/76; amount, \$2,073.80.

Q And the second check?

A Second check dated 12/20/76; amount was \$2,073.80.

Q As to these last three exhibits that you have identified, were you allowed to keep all of them for yourself or just a portion?

A No.

Q Mr. Matlock, from August of 1975 until the end of 1976, would you have identified checks as showing an increased salary for you, was there a regular procedure that you followed in finding out what expenses to be paid and then how they were paid?

A The procedure during the time that Mrs. Stultz was there, she would inform me of the bills pertaining to the District.

I would inform her of the same and then what would happen, I would get my check. I would go to the bank and deposit a portion of my check to my wife's allowance. I would take out the seven percent; deposit my own allowance in my own checking account; then with the difference I was instructed to buy money orders and send them to Washington.

Q Who instructed you to buy money orders?

000493

1 A Jean Stultz.

2 Q Where would you buy these money orders?

3 A If I was going to buy the money orders prior  
4 to -- if I knew exactly what the bills were going to be  
5 I would buy the money orders at the National Bank of  
6 Detroit or I would buy the money orders at the Common-  
7 wealth Bank.

8 Q Who was it that would determine who was to  
9 be paid and the amount to be paid?

10 A At first it was Mrs. Stultz. Then afterwards  
11 after she left it was Congressman Diggs.

12 Q How would you be notified as to who was to be  
13 paid?

14 A Most of the time we would do it when he would  
15 come to Detroit.

16 Q During the time that Mrs. Stultz was the  
17 office manager, at what time would it be decided?

18 A At the end of the month.

19 Q In what manner would you be told about this?

20 A Over the telephone.

21 Q After you purchased these money orders,  
22 Mr. Matlock, what did you do with the originals?

23 A The originals I would send them to Washington  
24 after making a copy of them for myself in my own  
25 records.

000494

Q Did this procedure occur all the time after mid-1975?

A Yes.

Q Were there any occasions when you directly paid any of these bills yourself?

A I would always hand deliver the bills, the money orders for the bills.

Q Mr. Matlock, I show you what has previously been identified as money orders, copies of money orders from the National Bank of Detroit, 47-D, G, H, I, J and M and ask you to look at each of these documents and ask you if you can identify them?

A 47-F --

Q Look at all of them and see if you can identify all of them, Mr. Matlock.

A Yes.

Q How do you identify all of them?

A I identify them because I purchased them. I dated them. I signed the Congressman's name on them, the address of the office, with the exception of this one from Jim Real. That was typed in, but this is my writing. I no doubt had somebody type Jim Real on it.

Q Your handwriting appears on each of those documents; is that correct?

A That's right.

000495

Q Who directed you to purchase those money orders, if you know, Mr. Matlock?

A Jean Stultz.

Q Were those documents purchased by you and then sent to the person named on them?

A No. They were purchased by me but I hand-delivered them.

Q Hand delivered them?

A Yes.

Q Would you do that on each occasion?

A On each occasion.

Q Would you go through those exhibits stating the exhibit number, the payee and the purpose of the payment and the amount of the payment?

A 47-F was for \$405.84. That was to Jim Real Leasing Company.

Q What was that for?

A To pay the note on the mobile van.

Q Fine. 47-G?

A 47-G, the amount -- the date is 6 of December '75; \$85 to Merle Staff Sign Company for sign painting.

Q With the office?

A With the office.

Q Next exhibit, 47-H?

A 47-H, date is 12/5/75 for \$277, paid to

000496



WJLB Radio Station to pay on the radio program.

Q Whose radio program?

A Congressman Diggs' radio program.

Q The next one is what number?

A 47-I.

Q Who was the payee and the amount and the purpose?

A December the 6th, '75; the amount, it was -- I can hardly see it. .

Q Why don't you just tell us the name then.

A It appears to be \$70.30. It was paid to One-Stop Locksmith for locks on the door for the office.

Q At the office of Congressman Diggs?

A Yes.

Q And the last document there is 47 what?

A 47-J.

Q Who is that to, the amount and the purpose?

A \$200 to Michigan Bell to pay on the office telephone.

Q And the next money order?

A The next money order is for \$77.20 paid to Detroit Edison for the light bill.

Q And the number on that exhibit?

A The number on this one is 47-M.

Q Thank you.

000497

1 Mr. Matlock, I next show you Government's  
2 Exhibits 48-A through D which has been identified  
3 earlier as personal money orders from the National Bank  
4 of Detroit. These are original copies. I ask you to  
5 look at all of them and ask you if you can identify  
6 them?

7 A Yes.

8 Q How do you identify them?

9 A I identify them by my handwriting.

10 Q Does your handwriting appear on each of  
11 these?

12 A My handwriting appears on each one.

13 Q Would you state to the jury starting with  
14 48-A the payee, the amount and the purpose of each of  
15 those documents?

16 A 48-A, the amount was \$14. That was to Borin  
17 Oil Company. The purpose of it was to buy gas for the  
18 mobile unit.

19 Q 48-B?

20 A 48-B, the amount \$38.85 to Edison Company to  
21 pay the light bill.

22 Q For what?

23 A It would appear that this was for the light  
24 bill at either one of the offices, either 4825 Woodward  
25 or 8315 Mack Avenue.

000498

Q 48-C?

A 48-C, the amount is \$100 paid to Maxine Young for an ad.

Q What kind of an ad?

A A program, a political program.

Q Whose ad was that?

A Congressman Diggs.

Q Next one is 48-D.

A 48-D is \$101.46 paid to Jim Real Leasing Company for the note on the mobile office.

Q I next show you Government's Exhibits 48-G through 48-N and ask you to look at all of those and ask you if you can identify them?

A Yes.

Q How do you identify each of those?

A My handwriting.

Q Were those money orders that you purchased?

A They are money orders that I purchased and money orders that I hand delivered.

Q Starting with 48-G could you indicate the amounts, the person paid and the purpose?

A 48-G, the amount is \$101.46 paid to Jim Real Leasing Company for the note on the mobile unit.

Q 48-H?

A I was looking. Yes, it is on the back.

000499

Q 48-H?

A 48-H was for \$.91 paid to Michigan Gas Company for the gas bill at 8315 Mack Avenue.

Q 48-I?

A 48-I was for \$47. paid to Borin Oil Company for gas for the mobile unit.

Q 48-J?

A 48-J was \$13 for gas paid to Borin Oil Company.

Q Same purpose?

A For the same purpose.

One-Stop Locksmith, \$42.60 was for the locks to be changed on the door. I think that was at 4825 Woodward.

Q That's 48-K you just looked at?

A 48-K.

Q 48-L?

A 48-L, \$59.69 was for Edison.

Q Light bills for the office?

A Light bills for the office.

Q 48-L?

A 48-L, \$94.82 paid to Vaughn Mirror & Glass Company to repair the glass door at 4825 Woodward.

Q 48-M?

A M was \$500 paid to WJLB Radio for the radio program.

000500

Q For the Congressman?

A For the Congressman.

Q I next show you 48-P through 48-S and ask you to look at these money orders from the National Bank of Detroit and ask you if you can identify them?

A Yes.

Q How do you identify that?

A I identify the first one even though the signature is not mine, but the House Recording Studio for the \$400, that's in my handwriting.

Q The signature that you say is not yours, do you recognize that signature?

A It appears to be Congressman Diggs' signature.

Q The next exhibit -- Let me ask you, for the House Recording Studio what was the purposes of sending that money order?

A To pay for the taping of the radio program and the television program.

Q For Congressman Diggs?

A For Congressman Diggs.

Q And the next item on that was Exhibit 48-what?

A 48-Q.

Q Amount and the person paid?

A The amount is for \$300. The person paid was WJLB Radio, paid for Congressman Diggs' radio program.

000501

Q It would be 48-R?

A 48-R, \$55.79 paid to Detroit Edison for the light bill.

Q And 48-S?

A 48-S was for \$50 paid to the Martin Mirror & Glass Company for glass breakage.

THE COURT: Counsel, come to the Bench, please.

(At the Bench.)

THE COURT: How much more of this do you have?

MR. KOTELLY: Probably go close to 5:30, Your Honor.

THE COURT: How about your cross?

MR. WATKINS: I don't think it will be very long, but I can't really predict.

THE COURT: I think we will go to 5:00. We will knock it off at 5:00. If we have got to sit tomorrow we don't want to go too late tonight.

(In open court.)

BY MR. KOTELLY:

Q Mr. Matlock, as to each of these National Bank of Detroit money orders that I have just showed you for you to identify both the originals as well as the copies, were all of these instruments purchased by you

000502

either at the direction of Jean Stultz or Congressman Diggs?

A Yes.

Q Were all of them paid for out of the extra money that was put into your paycheck?

A Yes, with one exception.

Q Please tell us about the exception.

A The money paid to the Boron Oil Company, we would buy the gas at the gas company -- oil company rather and send the receipts to Washington and we would be reimbursed. At first we were reimbursed by the leasing company up to \$50 a month.

Q Did you ever exceed \$50 a month?

A No.

Q Then later who were you reimbursed by?

A Later we were reimbursed -- we would just simply, we would send receipts and the check would come from Washington. I never did see it any more.

Q As far as the reimbursement, you did not see it any more?

A No.

Q But the money for Boron Oil was reimbursed by the leasing company to your knowledge; is that correct?

A That's right. That's right.

000503

Q That money that you were reimbursed from  
the leasing company, how was that money used?

A Beg your pardon?

Q The money that you received as reimbursement  
for having paid Boron Oil, what did you use that money  
for?

A To go and pay the oil bill.

Q For later oil bills?

A No, for -- yes, it was for the oil bill that  
was due.

Q My question was when you received reimburse-  
ment from the leasing company what form would that  
reimbursement be, a check or cash?

A Well, I don't know because the reimbursement  
money went to Washington.

Q During the time that the leasing company was  
reimbursing?

A Yes.

Q Would you see any of that money?

A I would.

Q Reimbursement money?

A No. I would only see it when they sent me a  
check back to pay the oil company.

Q So we won't cause confusion, who would send  
you a check back?

000504



1 A Jean.

2 Q And what kind of check was it?

3 A It would be a check from, most of the time,  
4 from the oil company.

5 Q It was not Jean Stultz' check or the  
6 Congressman's check?

7 A No, no, no.

8 Q What would you do with the check that Jean  
9 Stultz would send you?

10 A I would cash the check.

11 Q Then what would you do with the money?

12 A Then take the money and pay the oil company.

13 Q For the next bill?

14 A For the next bill.

15 Q 50-A' through 50-KK, I would ask you to look  
16 through those and ask you whether you can identify your  
17 handwriting on each of those documents? Just go through  
18 them quickly one at a time. If there are any that do  
19 not have your handwriting on it, please indicate that  
20 to us.

21 A Here. That's my handwriting. I am sorry.  
22 It is my handwriting. Part of it is my handwriting.

23 Q If your handwriting appears on any part of  
24 the document please indicate that to us.

25 THE CLERK: For the record, Your Honor, that

000505

is 50-D.

BY MR. KOTELLY:

Q Continue on looking at the documents,  
Mr. Matlock.

Have you had an opportunity to look through  
all of those?

A Yes.

Q Does your handwriting appear on each of those  
money orders from the Bank of the Commonwealth?  
Have you found one your handwriting is not on?

A I found one that my handwriting is not on.  
It doesn't look like my handwriting, but I purchased  
that myself. I paid that.

Q It says 50-II?

A I paid that.

Q Well, what do you mean that you paid that,  
sir?

A I can recall paying this \$70 for a company  
boatwright.

Q Who was that for?

A Congressman Diggs.

Q You can recognize it based on the amounts of  
money?

A Yes.

Q And to whom it is paid?

000506

A Yes.

Q But your signature does not appear or your writing does not appear on that?

A No. My writing doesn't appear on it.

MR. KOTELLY: That's 50-II, Your Honor.

THE COURT: All right.

BY MR. KOTELLY:

Q Does your signature then appear on all of the other money orders from this Bank of Commonwealth, 50-A through 50-KK, other than 50-II?

A Yes.

Q Were each of these money orders from the Bank of the Commonwealth purchased by you at either the direction of Mrs. Stultz or Congressman Diggs?

A Yes.

Q Were they purchased by you for monies that you received in your extra salary?

A Yes.

Q I next show you Government's Exhibit 50-MM through 50-QQ and ask you to look at those few documents and ask you if you can identify your handwriting on each of those documents?

A Yes.

Q Is your handwriting on each of those documents?

A Yes.

000507

1 Q Those money orders from the Bank of the  
2 Commonwealth, were they all purchased by you?

3 A All purchased by me.

4 Q Were they purchased at the direction of either  
5 Jean Stultz or Congressman Diggs?

6 A Yes.

7 Q Were they from monies in your extra salary?

8 A Yes.

9 Q I will try to expedite this. I show you  
10 Government's Exhibit 50-A. Could you tell us the payee,  
11 the amount and the purpose?

12 A This was Consolidated Gas Company to pay a  
13 gas bill at one of the offices.

14 Q 50-B for identification, could you tell us  
15 the payee, amount and the purpose?

16 A Michigan Consolidated Gas Company. The  
17 amount, \$101.45 to pay the gas bill at 8315 Mack  
18 Avenue.

19 Q 50-C for identification, could you tell us  
20 the amount, the payee and the purpose?

21 A The amount is \$60.73 to Edison for the light  
22 bill.

23 Q Light bill for whom?

24 A For Congressman Diggs?

25 Q 50-D for identification, the amount, payee and

000508

purpose?

A The amount is \$220. The purpose is WJLB radio for Congressman Diggs' radio program.

Q 50-E for identification?

A The amount is \$45.30 to Edison Company for a light bill at 8315 Mack Avenue.

Q That is the District office; correct?

A Yes.

Q Would this be F for identification?

A 50-F, the amount, \$44.10 to James McCoy. He did some work. I don't recall exactly what it was.

Q Worked for whom?

A For the office.

Q 50-G for identification?

A 50-G, \$167.25 for the House Recording Studio.

Q For what purpose?

A For recording the radio program and the television program for Congressman Diggs.

Q 50-H for identification.

A The amount of \$100, House Recording Studio.

Q Same purpose?

A For the same purpose.

Q 50-I for identification?

A \$220.52, Roosevelt Chrysler-Plymouth Company for notes on the mobile unit.

000509

1 Q 50-J for identification?  
2 A Roosevelt Chrysler Company, \$100.  
3 Q Same purpose?  
4 A Same purpose.  
5 Q 50-K for identification?  
6 A This was for repair of the mobile van.  
7 Q All right. 50-K for identification?  
8 A Jim Real Leasing Company, \$101.46 for the  
9 monthly note on the mobile they had.  
10 Q 50-L for identification.  
11 A \$140 paid to WJLB for the radio program.  
12 Q 50-M for identification?  
13 A \$155 paid to WJLB Radio.  
14 Q Same purpose?  
15 A Same purpose.  
16 Q 50-N for identification?  
17 A For Jean Stultz, \$177. I don't recall exactly  
18 what that was for.  
19 Q Is there any indication on this as to what it  
20 was for?  
21 A No. Occasionally she would call me and say  
22 there was a bill due and tell me how much to send.  
23 Q 50-O for identification.  
24 A House Recording Studio, \$213 for the radio-  
25 television program.

000510

Q 50-P for identification?

A WJLB-Radio, \$250 for Congressman Diggs' radio program.

Q 50-Q for identification, I would ask you to look at the front and back of that one.

A Now, this is for \$250 for the radio program and in making this out at the station I wrote Charles C. Diggs, Jr. on the front when I should have written WJLB, and they had me sign my name on the back.

Q All the writing on that document is yours as far as you know?

A Yes.

Q It was paid to whom?

A WJLB.

Q And it was for?

A For the same purposes as before.

Q 50-R for identification?

A WJLB-Radio, \$70 for the same purpose.

Q 50-S for identification?

A This was a traffic ticket of \$17 that someone got with the mobile van that had been paid.

Q Put aside 50-T for Boron Oil since that had been reimbursed later.

50-U for identification, I ask you to identify that one.

000511

4 A This is for \$50 to reimburse Phil Simms for  
5 fans that he bought for the office at 4825 Woodward.

6 Q 50-V for identification?

7 A Press Picture Service, \$20.80 for pictures  
8 taken on the mobile van.

9 Q 50-W for identification?

10 A Ruth Rox, \$6.75.

11 Q Is that \$6.75 or \$6,075?

12 A Six dollars. This was reimbursement for  
13 parking expenses.

14 Q 50-X for identification?

15 A City Election Commission, City Treasurer.

16 Q Amount?

17 A \$12.00.

18 This was for three copies of the Detroit  
19 street directory.

20 Q 50-Y for identification?

21 A Jim Real Leasing company, \$101.46 for the note  
22 on the mobile office.

23 Q 50-Z for identification?

24 A House Recording Studio, \$250 to pay for  
25 recording the radio program and television program for  
Congressman Diggs.

Q 50-AA?

THE COURT: How many more of those have you

000512



got?

MR. KOTELLY: Probably about 20, Your Honor.

THE COURT: We will recess at this point. It is 5:00 o'clock.

Ladies and gentlemen, remember what the Court tells you. You don't discuss the case among yourselves. Don't let anybody talk to you about it. Don't talk to anybody about it. We will recess until tomorrow morning and it will be about 9:30. We will sit all day tomorrow. I want to get through this case as soon as we can.

All right. You are excused.

(Whereupon, the jury left the courtroom.)

THE COURT: Counsel, come to the Bench, please

(At the Bench.)

THE COURT: How much can you go tomorrow?

MR. KOTELLY: All day. We have more than enough witnesses.

MR. POVICH: Who do you have for tomorrow besides Matlock?

MR. KOTELLY: For tomorrow we have Ruth Rox, Lorraine McDaniels, Ofield Dukes, George Johnson, Jeralee Richmond, are all available and we can have a few more if need be.

THE COURT: All right.

000513

1 MR. POVICH: Do you think you will finish?

2 MR. KOTELLY: I forgot two custodians; one  
3 from WJLB and one from the Michigan Chronicle we also  
4 have here.

5 MR. POVICH: Will you finish tomorrow.

6 MR. KOTELLY: My guess is probably a little  
7 into Tuesday.

8 THE COURT: All right. Very good.

9 (In open court.)

10 THE MARSHAL: Court will stand recessed until  
11 tomorrow morning at 9:30.

12 (Whereupon, at 5:05 o'clock p.m, the above-  
13 entitled matter was recessed.)  
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, ]

v. ]

Criminal No. 78-142

CHARLES C. DIGGS, JR., ]

Defendant. ]

Washington, D.C.

September 30, 1978

The above-entitled matter came on for further  
hearing at 10:00 o'clock a.m. before:

HONORABLE OLIVER GASCH  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:

JOHN KOTELLY, ESQUIRE  
ERIC MARCY, ESQUIRE

ON BEHALF OF THE DEFENDANT:

DAVID POVICH, ESQUIRE  
ROBERT WATKINS, ESQUIRE  
BERNARD CARL, ESQUIRE

-oOo-

REGIS GRIFFEY  
Official Court Reporter

000515

P R O C E E D I N G S

MR. POVICH: May we approach the Bench?

THE COURT: Yes.

(At the Bench.)

MR. POVICH: There is something that has come up that we had to divert some time again to this morning. We have a witness who I consider to be a very important witness in our case who we had hoped to be able to come who has advised us really now because of scheduling commitments that he has set months long standing, that he is not going to be able to come to Washington, but he would, if we could depose him on Monday, which is an off day, he could do that. And it is out of town. It is on the west coast, Your Honor, and he is a very important witness. I would like very much to be able to go and I can't do it, but Mr. Watkins could do it and take his deposition.

MR. KOTELLY: I am not certain who this witness is, Your Honor. It is the first I have heard anything about this. I have no idea of even who this witness is.

MR. POVICH: It is an important character witness, Your Honor, and I would not make the request unless I thought that it was of sufficient moment for this case to warrant that kind of --

MR. KOTELLY: Your Honor, I would strenuously object having either myself or Mr. Marcy have to travel way

000516

1 out to the West Coast on Monday in order to take a deposition  
2 of a character witness. Mr. Diggs can certainly have many,  
3 many, many character witnesses here available in town on  
4 Tuesday or Wednesday to testify. A character witness is just  
5 a person who is going to give his personal opinion or reputa-  
6 tion in the community, of the man's character for certain  
7 character traits, and it seems to me that those should be  
8 interchangeable.

9 THE COURT: This case has been set for quite  
10 awhile.

11 MR. POVICH: Your Honor, I --

12 THE COURT: I think this character witness could  
13 conform his engagements to the requirements of the case.

14 MR. POVICH: Your Honor, it is an unusual situation.  
15 The character witness -- it is not a situation of which I  
16 had any control. I don't think he did either. I think his  
17 commitments were set long before this trial.

18 Your Honor, the character witness is President  
19 Gerald Ford who has indicated he would like to speak on  
20 behalf of Mr. Diggs.

21 THE COURT: I would like to have Mr. Ford in court.  
22 I don't think a deposition of a character witness is suffi-  
23 cient.

24 MR. WATKINS: Well, Your Honor, may I be heard?

25 THE COURT: Yes.

000517

1 MR. WATKINS: Saturday -- I mean Monday is a day off  
2 for us because of the holiday. Mr. Povich is not going to  
3 be available.

4 THE COURT: I understand.

5 MR. WATKINS: I am willing to go out to the West  
6 Coast to set this up and to do it. I don't think it would  
7 add unduly to the length of the trial, and it would severely  
8 limit presentation of our defense.

9 THE COURT: Let Mr. Ford come here.

10 MR. WATKINS: Very well.

11 THE COURT: Tell him I said so.

12 All right.

13 (In open court.)

14 THE COURT: Bring in the jury.

15 (Whereupon, the jury resumed their seats in the  
16 jury box, and the following proceedings were had  
17 in open court:)

18 THE COURT: Good morning, ladies and gentlemen of  
19 the jury.

20 THE JURY: Good morning.

21 THE COURT: You may proceed.

22 MR. KOTELLY: We would recall Mr. Matlock, Your  
23 Honor.

24 THE DEPUTY CLERK: Your Honor, the witness has been  
25 previously sworn.

000518

1           You may resume the stand, Mr. Matlock. You are  
2 still under oath.

3                           DIRECT EXAMINATION

4 BY MR. KOTELLY:

5           Q     Mr. Matlock, I would like to show you the  
6 remaining personal money orders from the Bank of the Common-  
7 wealth, which you yesterday identified as having your hand-  
8 writing on them, and again I would ask you to indicate the  
9 amount of money and the payee on each of these.

10          A     Exhibit 57 for identification the amount of money  
11 is \$250 paid to the Recording Studio.

12          Q     And the purpose?

13          A     The purpose was to pay for the recording of the  
14 radio and television program for Congressman Diggs.

15          Q     50-AA for identification.

16          A     50-AA, the amount is \$250, House Recording Studio  
17 to pay for the radio/television program for Congressman Diggs.

18          Q     50-BB.

19          A     \$24.25, House Recording Studio to pay --

20          Q     Same purpose?

21          A     Uh-huh.

22          Q     50-CC?

23          A     \$78.19 paid to Edison re: light bill in the District  
24 Office.

25          Q     50-DD?

000519

1 A \$70.68 to pay the insurance premium policy for the  
2 Congressman, Congressman Diggs, to the North Carolina  
3 Mutual Insurance Company.

4 Q 50-EE?

5 A \$14.75, House Recording Studio for the radio/  
6 television program.

7 Q 50-FF for identification?

8 A \$220 paid to WJLB-Radio for the radio program of  
9 Congressman Diggs.

10 Q 50-GG?

11 A \$220 paid to WJLB-Radio for the same purpose.

12 Q 50-HH and JJ are made out to whom?

13 A Bolton Oil Company.

14 Q You were later reimbursed for those?

15 A That is right.

16 Q If you just put those aside.

17 50-KK.

18 A \$100.46 paid to Gem Reel Leasing Incorporated for  
19 the note on the mobile unit.

20 Q 50-MM.

21 A Michigan Consolidated Gas Company, \$56.43 which  
22 paid the gas bill at the District Office at 8315 Mack  
23 Avenue.

24 Q 50-NN.

25 A \$93.07 paid to Edison, a light bill for 4825

000520



1 Woodward Avenue.

2 Q 50-00.

3 A \$23.90 paid for a lock repair, One-Stop Locksmith  
4 at the District Office.

5 Q 50-PP.

6 A \$28.71. Edison light bill, District Office, 8315  
7 Mack Avenue.

8 Q And 50-KK.

9 A \$36.09, Michigan Consolidated Gas Company, a gas  
10 bill at 8315 Mack Avenue.

11 Q Mr. Matlock, all of these money orders that I have  
12 shown you from the Bank of the Commonwealth that you  
13 identified yesterday and today, 50-A through 50-KK and except  
14 a few numbers in that sequence, were all of these paid at  
15 the instructions of either Jean Stultz or Congressman Diggs?

16 A Yes.

17 Q And the monies that purchased these money orders,  
18 did they come from your salary, paycheck?

19 A Yes.

20 Q Mr. Matlock, I wish to show you Government's  
21 Exhibit 49 for identification and ask you if your writing  
22 appears anywhere on that document?

23 A No.

24 Q And the payee on that, on Government's Exhibit No.  
25 49 for identification is whom?

000521

1 A The payee?

2 Q Yes, who is the payee?

3 A Charles C. Diggs, Jr.

4 Q To your knowledge or recollection, did you make  
5 out any personal money orders or cashier checks to Charles C.  
6 Diggs, Jr.?

7 A I recall making out a cashier's check.

8 Q Do you recall ever making out any money orders to  
9 Charles C. Diggs?

10 A Only at the one time and that was to WJLB. There  
11 might have been another time when Jean instructed me, I don't  
12 remember.

13 Q Okay. I show you Government's Exhibit No. 51-A  
14 through 51-D, which are cashier's checks from the Bank of the  
15 Commonwealth and ask you if your handwriting appears on any  
16 of those documents.

17 A No.

18 Q Could you tell us the payee on each of those  
19 documents starting with 50-A, 51-A?

20 A 51-A, Congressman Charles C. Diggs, Jr. 51-B,  
21 Felix R. Matlock, Sr.

22 Q Is it made payable --

23 A To Jean Stultz.

24 Q Okay. Fine. Does your name appear imprinted on  
25 either of those?

000522

1 A No, it is typewriting.

2 Q Okay. Fine. 51-C?

3 A 51-C the payee is Felix R. Matlock, Sr. made  
4 out to Congressman C. Diggs, Jr.

5 Q You mean the payor?

6 A Yes.

7 Q Is Felix Matlock?

8 A Yes.

9 Q 51-D?

10 A 51-D, the payor was Charles C. Diggs, Jr.  
11 made out to WJLB-Radio.

12 Q Would those persons that are listed on those  
13 documents, would they be the type of persons you would  
14 pay with cashier's checks?

15 A Yes.

16 Q I show you 50-LL which is a money order from  
17 the Bank of the Commonwealth and ask you if your writing  
18 appears on that document?

19 A No.

20 Q Who is the payee on that document?

21 A The House Recording Studio.

22 Q Was that the type of person you would pay with  
23 money orders?

24 A That is right.

25 Q I show you 47-L, 47-K and L and ask you if

000523

1 your writing appears on that document?

2 A 47-K, my writing does not appear on the  
3 document.

4 Q And 47-L?

5 A 47-L, my writing does not appear on the  
6 document.

7 Q Who is the payee on those two documents?

8 A Congressman Charles -- Oh, WJLB-Radio.

9 Q Is that the type of person you would pay with  
10 a money order?

11 A Yes.

12 Q I show you this 47-N for identification and  
13 ask you if your handwriting appears on that National  
14 Bank of Detroit money order?

15 A No.

16 Q Who is that made out to?

17 A Gem Reel Leasing, Incorporated.

18 Q Is that the type of person you would make a  
19 money order out to?

20 A Yes.

21 Q For what purpose?

22 A A note on the mobile unit.

23 Q Mr. Matlock, did there come a time when you  
24 no longer received instructions from Jean Stultz as to  
25 what expenses would be paid?

000524

1 A Yes.

2 Q When did that occur?

3 A The end of August of '76.

4 Q Do you recall the reasons that you no longer  
5 had contacts with Jean Stultz about the payment of  
6 expenses?

7 A She was resigning. She was leaving the  
8 employment.

9 Q Of the Congressman?

10 A Yes.

11 Q After Jean Stultz left the employment of the  
12 Congressman, what, if anything, did you do regarding  
13 the payment of expenses for the District Office?

14 A I waited until I saw the Congressman,  
15 Congressman Diggs.

16 Q Did you make any further payments after Jean  
17 Stultz left the Congressman's employment?

18 A Yes.

19 Q Could you tell the jury how that would occur?

20 A That would occur once a month after consulting  
21 with the Congressman, finding out what bills were to be  
22 paid, getting the instructions, then I would pay them.

23 Q For how long a period did you do this?

24 A That was September to October, November, and  
25 December.

000525

1 Q Do you recall making any payments into  
2 January of 1977?

3 A I made one payment.

4 Q Mr. Matlock, were there any occasions when  
5 you would give blank money orders to anyone?

6 A At first I made out blank money orders to  
7 Detroit -- I mean to Washington. That was only on one  
8 occasion. I recall that I gave some blank money orders  
9 to Congressman Diggs.

10 Q Could you tell the jury the circumstances,  
11 the giving of the blank money orders to Congressman  
12 Diggs?

13 A Yes. This was in September. I had deposited  
14 the bill money in my account and I waited for  
15 instructions and we were going over bills and Congress-  
16 man Diggs and I were. I had purchased the money orders  
17 and I bought one for \$101.46 to the Jim Reel Leasing.  
18 I had been instructed prior to that to have \$100 money  
19 order on hand to pay Maxine Young. So, we went over  
20 those two. He told me to pay them. Then I had a few  
21 other money orders left. He says to me, "Give me these  
22 money orders. I will pay the bills myself."

23 Q On how many occasions did you pay money  
24 orders to Maxine Young?

25 A One time to my knowledge.

000526

1 Q I show you again 48-C for identification and  
2 ask you if that is the document you are referring to?

3 A This is it.

4 Q Mr. Matlock, would you read the serial number  
5 on that money order from the National Bank of Detroit?

6 A 7871344.

7 Q Mr. Matlock, do you recall how many money  
8 orders it was that you gave blank to Congressman Diggs?

9 A Three or four money orders.

10 Q Mr. Matlock, are you familiar with the  
11 writing of Congressman Diggs?

12 A Yes.

13 Q How frequently have you seen the Congressman's  
14 signature?

15 A Over the years I have seen it at least  
16 every two or three months.

17 Q Do you believe that you could recognize the  
18 Congressman's signature if you saw it?

19 A I think so.

20 Q I show you Government's Exhibit 48-E for  
21 identification, a personal money order from the  
22 National Bank of Detroit and ask you if you can identify  
23 any of the writing on the front of that document?

24 A Yes. It appears to be Congressman Diggs'  
25 writing.

000527

1 Q And 48-F for identification, a money order  
2 from the National Bank of Detroit. Can you identify the  
3 writing on that document?

4 A Again, it appears to be Congressman Diggs'  
5 writing.

6 Q 48-F-1 for identification. Can you identify  
7 the writing?

8 A It appears to be Congressman Diggs' writing.

9 Q 48-F-2 for identification. Can you identify  
10 any of that writing?

11 A The signature of the purchaser appears to be  
12 Congressman Diggs, but the person has made out -- that  
13 it is made out to, Ruth Rox, it doesn't appear to be  
14 his writing.

15 Q Who is Ruth Rox?

16 A She is an employee of Congressman Diggs.

17 Q Mr. Matlock, did there come a time when you  
18 stopped paying for the expenses of the District Office?

19 A Yes.

20 Q When was that?

21 A That was -- I stopped paying the 1st of  
22 January of 1977.

23 Q Could you state to the jury the circumstances  
24 that surrounded your stopping the payments of the paying  
25 of expenses?

000528



1 A Well, I had been told by --

2 MR. WATKINS: Objection.

3 THE COURT: Did you get certain information as  
4 a result of what you stopped?

5 THE WITNESS: Excuse me?

6 THE COURT: Did you get certain information  
7 as a result of which you made the decision?

8 THE WITNESS: Yes.

9 THE COURT: From whom?

10 THE WITNESS: First I got it from the  
11 Congressman, Congressman Diggs, and I got it from  
12 Randall Robertson.

13 BY MR. KOTELLY:

14 Q Could you tell us what Congressman Diggs told  
15 you?

16 A He told me that this arrangement would end the  
17 end of the year.

18 Q What, if anything, did the Congressman tell  
19 you about your salary?

20 A He told me that my salary would be \$20,000 a  
21 year.

22 Q Subsequent to that time, what was your salary?

23 A Subsequent?

24 Q After that.

25 A After that, \$20,000.

000529

1 Q Did you pay any further expenses for the  
2 District Office after January 1, 1977?

3 A No.

4 Q Mr. Matlock, during the period of, I believe  
5 it was August of 1975 through the end of 1976, why did  
6 you pay for these expenses out of the District Office?

7 A I didn't want to make any waves.

8 Q Mr. Matlock, when was the first time that you  
9 heard about this investigation, the investigation of  
10 Congressman Diggs?

11 A The 31st of May, 31st of May, 1977.

12 Q What type of notice did you receive?

13 A I received a subpoena from the United States  
14 Justice Department to appear.

15 Q Before that time, before May of 1977 had you  
16 contacted any law enforcement officials regarding your  
17 payment of District Office expenses?

18 A No.

19 MR. KOTELLY: I have no further questions,  
20 Your Honor.

21 THE COURT: Mr. Povich?

22 CROSS EXAMINATION

23 BY MR. WATKINS:

24 Q Good morning, Mr. Matlock.

25 A Good morning, Mr. Watkins.

000530

1 Q Now, Mr. Matlock, you have been an employee of  
2 Congressman Diggs for a long time; is that correct?

3 A That is correct.

4 Q And you were an employee of Congressman Diggs  
5 in his Detroit office from 1973 to '78; in fact, still  
6 are an employee of his?

7 A Yes.

8 Q Now, during the course of your employment you  
9 learned, did you not, that there was never enough money  
10 in the congressional appropriation to pay for the two  
11 District offices?

12 MR. KOTELLY: Objection, Your Honor, unless  
13 the question is asked to his knowledge.

14 MR. WATKINS: I asked him, did he learn that.

15 MR. KOTELLY: Objection, Your Honor, unless we  
16 know in what form he learned of this.

17 THE COURT: Well, he may ask the question.  
18 You may inquire as to the manner in which he learned it.

19 THE WITNESS: I was informed that there wasn't  
20 enough money.

21 BY MR. WATKINS:

22 Q To cover both District Offices?

23 A Yes.

24 Q Now, I think you testified yesterday that  
25 Congressman Diggs did not have an office in the Federal

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1 Building; is that correct?

2 A No, I don't think I testified to that.

3 Q Well, let me ask you then, Mr. Matlock, in the  
4 period of 1973 to 1976, Mr. Diggs did not have an  
5 office in the Federal Building; is that right?

6 A That is right.

7 Q His offices were in the community; is that  
8 right?

9 A That is right.

10 Q Is it fair to say they were store front  
11 offices?

12 A That is right.

13 Q On the first floor?

14 A That is right.

15 Q Visible to his constituents?

16 A That is right.

17 Q And, did he always -- well, did he always have  
18 two offices during your employment with him?

19 A With the exception of a short period after the  
20 offices were consolidated at 4825 Woodward.

21 Q Tell me about that short period how many  
22 offices did he have, sir?

23 A During that very short period we only had one  
24 office at --

25 Q Where was that?

000532

1 A 4825 Woodward.

2 Q I take it if I am correct in the sequence,  
3 there is a time you had two offices, and then there  
4 became a time you had one and then later on you had two;  
5 is that correct?

6 A That is right.

7 Q Do you know why Congressman Diggs found it  
8 necessary to open a second office after he had tried to  
9 consolidate at 4825 Woodward Avenue?

10 A Excessive complaints from constituents.

11 Q What kind of complaints, Mr. Matlock?

12 A About his not having office accessibility to  
13 them.

14 Q All right. And as a result of these  
15 complaints he opened a second office again?

16 A That is right.

17 Q On the other side of town?

18 A That is right.

19 Q All right. And he also, during this period  
20 of 1973 to 1976 decided that it was necessary to him to  
21 have a mobile van; is that correct?

22 A That is right.

23 Q And some of the payments that you made during  
24 this period were for the upkeep of this mobile van,  
25 repairs; is that right?

000533

1 A That is right.

2 Q And gas and oil?

3 A That is right.

4 Q And payment on the lease for the mobile van?

5 A That is right.

6 Q And that van was used in the servicing of his  
7 constituents; is that right?

8 A That is right.

9 Q And did that van move around the District?

10 A Yes.

11 Q At regular intervals?

12 A Yes.

13 THE DEPUTY CLERK: Defendant's Exhibit No. 31  
14 marked for identification.

15 (Whereupon, Government's  
16 Exhibit No. 31 was marked for  
17 identification.)

18 BY MR. WATKINS:

19 Q Mr. Matlock, I show you what has been marked  
20 as Defendant's Exhibit No. 31 for identification. Would  
21 you look at it and tell the ladies and gentlemen of the  
22 jury whether you recognize that?

23 A Yes.

24 Q What is it?

25 A This is a report, newsletter from Congressman

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1 diggs to the District constituents.

2 Q Mr. Matlock, I am going to turn to the third  
3 page and there is a picture on that page; is there  
4 not?

5 A Yes.

6 Q Is that the mobile van about which we have  
7 been talking?

8 A Yes, this is the mobile van.

9 Q That is used as a moving office; is that  
10 correct?

11 A That is right.

12 Q And to the right of the picture is there a  
13 schedule that indicates the stops that that mobile van  
14 will be making during the period of December,  
15 November and December of 1976?

16 A There is a schedule of where the mobile van  
17 will be during this period.

18 Q Thank you, Mr. Matlock.

19 Now, would it be fair to say that the reason  
20 Mr. Diggs had to have the offices, or two stationary  
21 offices and a mobile office or mobile van as you have  
22 called it, is because his district is a large sprawling  
23 district?

24 A Yes.

25 Q And it has a number of aged and infirmed

000535

1 persons that cannot get to the offices?

2 A Yes.

3 Q Mr. Matlock, I show you what has been  
4 previously marked as Government's 51-C for identification  
5 That is a Bank of the Commonwealth cashier's check; is it  
6 not?

7 A That is right.

8 Q And it is made out to Congressman Diggs; is  
9 that correct?

10 A That is correct.

11 Q In the amount of \$564, is that right?

12 A That is right.

13 Q And on the back it has been endorsed; is that  
14 correct?

15 A Yes.

16 Q Do you know what this payment was for?

17 A As I recall it was for the House Recording  
18 Studio.

19 Q All right. Fine. Thank you.

20 Is the House Recording Studio, what do you  
21 understand the House Recording Studio to be?

22 A Well, all I know about the House Recording  
23 Studio is it plays Congressman Diggs' recorded radio/  
24 television program.

25 Q His radio/television programs are aired, his

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1 radio program is aired on Sunday morning; is that  
2 correct?

3 A That is right.

4 Q And it contains discussions by Congressman  
5 Diggs of legislative and current events; is that a fair--

6 A Exactly, right.

7 Q Thank you.

8 Now, yesterday I think you indicated that  
9 there was an office at one time at 1201 East Grand  
10 Boulevard; is that correct?

11 A Yes.

12 Q Now, what is 1201 East Grand Boulevard, or  
13 what was it?

14 A That was the House of Diggs Funeral Home.

15 Q All right. Where was that office physically  
16 located?

17 A In the heart of the 13th Congressional  
18 District.

19 Q Well, let me see. Isn't it fair, Mr. Matlock,  
20 to say that that office occupied the second floor of the  
21 House of Diggs Funeral Home, which was on the first  
22 floor?

23 A Yes.

24 Q All right. And is it fair to say that the  
25 receptionist for the House of Diggs also served as a

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1 receptionist for the congressional office?

2 A In a sense.

3 Q Well, in a sense. Do you mean that when  
4 persons came in for congressional help, constituents  
5 came in for congressional help --

6 THE COURT: Counsel, please come to the Bench.

7 (At the Bench.)

8 THE COURT: It appears, Mr. Watkins, that to a  
9 large degree you are doing the testifying here. I think  
10 it is best that that be brought out in the defense case,  
11 or at least if you want this man to testify from this,  
12 at least you would let him do the testifying.

13 MR. WATKINS: You are saying you want me to  
14 ask him non-leading questions?

15 THE COURT: You are making him your witness.

16 MR. WATKINS: All right, Your Honor, I will  
17 do that.

18 (In open court.)

19 BY MR. WATKINS:

20 Q Mr. Matlock, will you describe the physical  
21 setup of the receptionist at the facilities at 1201  
22 East Grand Boulevard?

23 A Yes. The receptionist was on the first floor.

24 Q Was that -- that is in the lower portion  
25 where the funeral home was?

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1           A     Where the funeral home was and the people that  
2 came in invariably had questions concerning the  
3 political setup and political problems and you would  
4 have to spend some time with them before she would refer  
5 them to us.

6           Q     Where would she refer them to?

7           A     To the second floor, to the congressional  
8 office.

9           Q     Who provided that receptionist?

10          A     I always thought the receptionist was hired  
11 by the House of Diggs. I don't know.

12          Q     Now, I think that you testified this morning,  
13 Mr. Matlock, that there was an occasion on which you  
14 gave the Congressman two blank money orders; is that  
15 correct?

16               MR. KOTELLY: I object. I don't believe that  
17 was his testimony at all. My recollection is three or  
18 four.

19               THE COURT: You may clear it up by asking  
20 him.

21               THE WITNESS: I said three or four.

22               MR. WATKINS: I am sorry, Mr. Matlock.

23 BY MR. WATKINS:

24          Q     On this occasion when you gave the  
25 Congressman three or four blank money orders, I think

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1 that was in November -- September of 1976?

2 A That is right.

3 Q All right. And as I recall your testimony  
4 about the events, you and the Congressman were going  
5 over what bills were to be paid?

6 A That is right.

7 Q For that month; is that correct?

8 A That is correct.

9 Q And one of the bills that you were directed  
10 to pay was Gem Reel Leasing; is that correct?

11 A That is right.

12 Q And that is for the lease on the mobile van?

13 A That is right.

14 Q Another bill that you were requested to pay  
15 was Maxine Young; is that correct?

16 A That is right.

17 Q I am handing you Exhibit 48-C, Government's  
18 Exhibit 48-C. Is that the check that was paid to  
19 Maxine Young?

20 A Yes.

21 Q All right. Now, Mr. Matlock, who is Maxine  
22 Young?

23 A Maxine Young is one of the commissioners in  
24 Wayne County, Detroit.

25 Q Do you know what this check specifically was

000540

1 for?

2 A For an ad.

3 Q An ad in what?

4 A In some program she was having pertaining to  
5 her district.

6 Q Pertaining to her district, is Maxine Young's  
7 district within Congressman Diggs' congressional  
8 district?

9 A Yes.

10 Q Thank you. All right, now to continue on  
11 with that conversation after you were directed to pay  
12 those two bills you had two other blank money orders;  
13 is that correct?

14 A Three or four other blank money orders.

15 Q What I am trying to establish, you told me  
16 you had -- I see. Strike that.

17 You had six blank money orders in all; is  
18 that right?

19 A That is right.

20 Q Or six money orders in all?

21 A That is right.

22 Q Two of them were to pay Maxine Young and the  
23 four remaining were in blank?

24 A That is right.

25 Q And Congressman Diggs, after directing you

000541

1 to pay two of those bills he said to you something to  
2 the effect of "Give me the rest of the checks, I will  
3 pay the rest,"?

4 A That is right.

5 Q Mr. Matlock, the following month did you have  
6 any dunning notices that indicated that bills were not  
7 paid?

8 A It would be difficult to tell, because we had  
9 oftentime dunning notices from the lights and from the  
10 gas. I just don't recall having any dunning notices  
11 the following month.

12 Q You don't recall having any?

13 A No.

14 Q Now, Mr. Matlock, do you know a person named  
15 Jeralee Richmond?

16 A Yes.

17 Q Who is she?

18 A She is an office employee of Congressman  
19 Diggs.

20 Q Did you know her in 1974?

21 A Yes.

22 Q And where did she work in 1974?

23 A She worked at the House of Diggs.

24 Q The funeral home?

25 A The funeral home.

000542

1 Q Did you have contact with her in 1974 while  
2 she was working at the funeral home?

3 A Yes, quite often.

4 Q How did that come about?

5 A Constituents would go to the funeral home with  
6 problems pertaining to the District and she would refer  
7 them to me.

8 Q All right. Do you know why constituents would  
9 go to the funeral home to solve problems?

10 MR. KOTELLY: Objection, Your Honor, calls for  
11 speculation.

12 MR. WATKINS: I asked him if he knew, Your  
13 Honor.

14 THE COURT: If they told him, otherwise it  
15 would be hearsay.

16 MR. KOTELLY: May I be heard on that, Your  
17 Honor?

18 THE COURT: You may ask the question. Repeat  
19 the question, but rephrase it so that it isn't  
20 objectionable.

21 BY MR. WATKINS:

22 Q Mr. Matlock, do you know if constituents went  
23 to the Diggs Funeral Home to have constituent problems  
24 solved?

25 MR. KOTELLY: Objection, Your Honor.

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1 THE COURT: He testified to that. You asked  
2 him why, if he knows of his own knowledge why they went  
3 there he may testify. Otherwise, it would be hearsay.

4 BY MR. WATKINS:

5 Q Do you know, Mr. Matlock?

6 A Well, they would be there for often times  
7 funeral business and while they were there they would  
8 ask about the constituency problem.

9 Q Now, Mr. Matlock, in your time with  
10 Congressman Diggs, did you learn whether he ever held  
11 fund raisers to help him in his political campaigns?

12 MR. KOTELLY: Objection, Your Honor,  
13 irrelevant.

14 THE COURT: I am inclined to think it is, but  
15 you may ask the question.

16 THE WITNESS: To help him in his personal  
17 political campaign? I don't recall. I don't think so.

18 BY MR. WATKINS:

19 Q Well, are you saying that you don't recall  
20 that he held them?

21 A That is right.

22 Q All right. I am still not sure I understand  
23 your answer, Mr. Matlock. Are you saying --

24 A To my knowledge he didn't have any.

25 Q All right. And you have been with him for

000544



over 20 years; is that correct?

A That is right.

Q And in Detroit, where you worked --

A Uh-huh.

Q -- did you know of him having any?

A No.

Q All right. Now, Mr. Matlock, Mr. Rotelly has asked you to identify a number of checks that were used to pay bills; is that correct?

A That is correct.

Q All right. And all of those checks were in connection with some form of Congressman Diggs' duties as a congressman; is that correct?

A Possibly, with the exception of one; that is correct.

Q Which is that one?

A I am not too sure, but whether the check for the North Carolina Mutual was for business insurance or whether it was a personal check.

Q But all right. With the exception of the check to North Carolina Mutual, you think 17.68 --

A Yes --

Q -- the bills that you paid were in connection with Congressman Diggs representing his constituents; is that right?

000545

1 A Yes.

2 Q Now, you talked both with Mrs. Stultz and  
3 Mr. Diggs about paying those bills; is that correct?

4 A Yes.

5 Q All right. Did Congressman Diggs ever tell  
6 you not to tell anybody that you were paying the bills  
7 of the Detroit office?

8 A No.

9 Q Did Ms. Stultz ever tell you that?

10 A No.

11 Q In fact, it is true that employees in the  
12 office were told to bring the bills of the office to  
13 you and you would pay them; is that correct?

14 A Yes.

15 Q All right. Mr. Matlock, during the period  
16 from 1973 to 1977 did you give any portion of your  
17 salary back to Mr. Diggs?

18 A No.

19 Q Did he ask you for it?

20 A No.

21 Q Thank you.

22 MR. KOTELLY: Your Honor, I have about two or  
23 three questions that I failed to ask on direct.

24 MR. WATKINS: Your Honor, I am sorry. I have  
25 no further questions.

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1 MR. KOTELLY: Two or three questions that I  
2 failed to ask on direct. I would ask permission to  
3 reopen for that brief matter. I have a few questions  
4 on redirect, also.

5 THE COURT: All right.

6 REDIRECT EXAMINATION

7 BY MR. KOTELLY:

8 Q Mr. Matlock, when you purchased the money  
9 orders and cashier's checks from the Bank of the  
10 Commonwealth and the National Bank of Detroit, did you  
11 keep any records or copies of those documents?

12 A Yes. I made a receipt. I made a copy for my  
13 own records and I kept it.

14 Q What type of copy did you keep?

15 A I kept a duplicate copy that I took from the  
16 Xerox machine.

17 Q After you were first subpoenaed in this  
18 investigation, did you give these records to anyone?

19 A I gave them to the United States Justice  
20 Department.

21 Q Now, Mr. Watkins questioned you about giving  
22 any money directly back to Congressman Diggs and you  
23 testified that you didn't; is that correct?

24 A That is right.

25 Q Regarding money orders and cashier's checks

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1 that either you sent in blank or you gave in blank, to  
2 either Mrs. Stultz or Congressman Diggs, did you have  
3 knowledge as to how they were to be used?

4 A No.

5 Q Regarding your paying bills at the District  
6 Office, did you tell people how you were paying those  
7 bills?

8 A No.

9 Q Mr. Matlock, did you have any personal  
10 knowledge as to how much money that Congress was giving  
11 to Congressman Diggs to run his District Office?

12 A No.

13 Q Did Congressman Diggs give you any cash money  
14 to pay for any of the expenses?

15 MR. WATKINS: Your Honor, I would like to  
16 object. This is not cross examination, Your Honor.  
17 This is redirect and Mr. Kotelly is leading the witness,  
18 and I think that is improper.

19 THE COURT: You should not lead the witness  
20 on direct.

21 BY MR. KOTELLY:

22 Q Mr. Matlock, besides paying for expenses by,  
23 out of your Treasury check for your salary, did you  
24 receive any other money to pay for District Office  
25 expenses?

000548

1 A No.

2 MR. KOTELLY: No further questions, Your Honor.

3 THE COURT: Mr. Watkins?

4 RE CROSS EXAMINATION

5 BY MR. WATKINS:

6 Q Mr. Kotelly asked you if you kept any records  
7 of these bills or the checks that you made to pay these  
8 bills; right?

9 A Uh-huh.

10 Q And did Mr. Diggs ever tell you to destroy  
11 any records?

12 A No.

13 Q He knew you were keeping them?

14 A Yes.

15 Q When you were contacted by the Justice  
16 Department did he tell you not to tell the truth?

17 A No.

18 Q In fact, he told you to tell the truth; didn't  
19 he?

20 A Yes.

21 MR. WATKINS: Thank you.

22 THE COURT: Anything else?

23 MR. KOTELLY: Nothing further, Your Honor.

24 THE COURT: May the witness be excused?

25 MR. KOTELLY: We would ask that he be excused.

000549

1 THE COURT: You may be excused. Thank you.

2 (Witness excused.)

3 MR. MARCY: Your Honor, the Government would  
4 call Ofield Dukes.

5 Whereupon,

6 OFIELD DUKES

7 was called as a witness by and on behalf of the Govern-  
8 ment and, having first been duly sworn, was examined  
9 and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MARCY:

12 Q Mr. Dukes, would you please state your full  
13 name?

14 A Ofield Dukes.

15 Q And what is your profession, Mr. Dukes?

16 A Public relations counselor.

17 Q Do you have a firm?

18 A Yes, Ofield Dukes & Associates, National Press  
19 Building, Suite 716.

20 Q Where do you live at the present time?

21 A 3412 Barger Drive, Falls Church, Virginia.

22 Q Could you spell that for us?

23 A B-a-r-g-e-r.

24 Q Where did you live prior to that time?

25 A 201 I Street, Southwest, Washington.

000550

Q Do you know Congressman Charles C. Diggs?

A I have known him for about 20 years.

Q Do you see Congressman Diggs in the courtroom?

A I see -- Where is he? Oh, yes. Okay.

Q Would you briefly describe what he is wearing?

MR. WATKINS: We will stipulate that he is here.

THE WITNESS: I think he is wearing a very attractive --

BY MR. MARCY:

Q Thank you.

A -- blue suit.

Q You are in public relations?

A I am not certain. Whatever it is, it is a very nice looking suit.

Q Mr. Dukes were you at one time employed by Congressman Diggs?

A Yes.

Q When were you first employed by him?

A I think the records indicate in the spring of 1973. I think it was about April.

Q What was the salary that you were employed at?

A Oh, I think it was \$12,000 annually.

Q What were your duties during that period of time that you were employed by Congressman Diggs?

000551

1           A     Okay. That was a wide range of responsi-  
2 bilities.

3           Some people refer to me as the Chief of Staff  
4 at large. In terms of programs activities, very little  
5 happened in the Congressman Diggs' office without my  
6 involvement. That included developing all of the  
7 program activities for the City of Detroit mainly  
8 because I am a product of Detroit and knew the city very  
9 very well. I was very, very much involved in all of  
10 the strategy, and development for the passage of the  
11 Home Rule Bill, also the University of D.C. Bill. I had  
12 the responsibility of going out into the District and  
13 developing a coalition of community organizations to  
14 develop political support for the bills.

15           I was very, very much involved in his  
16 activities in Africa, so it is unlimited program  
17 responsibility. As a matter of fact, I think that if  
18 Mr. Diggs had not been a friend, I don't know if I  
19 would have accepted him as a client. I put in far more  
20 time than there was compensation.

21           Q     How long did you work for Congressman Diggs?

22           A     From '73 until February. I resigned in  
23 February.

24           Q     Of this year?

25           A     That is right.

000552



1 Q What was your salary when you left Congressman  
2 Diggs' employment?

3 A I think it was about \$13,000.

4 Q During that period of time did you receive  
5 United States Treasury checks each month?

6 A Yes. They were sent to my home address.

7 Q Okay. Let me show you Government's Exhibits  
8 12-A through 12-R which have previously been marked.

9 Would you go through those -- well, let me  
10 ask you first. Can you identify those?

11 A Yes.

12 Q How can you identify them?

13 A My name is indicated.

14 Q Is there any other way that you can identify  
15 them?

16 A Well, that is the main --

17 Q Does your signature appear on the back in the  
18 form of an endorsement?

19 A On some of them, yes.

20 Q Would you go through and indicate which they  
21 do not appear on?

22 A This one, I think, was sent to the bank by my  
23 secretary.

24 THE DEPUTY CLERK: What number is that, sir?

25 MR. MARCY: Would you identify that one?

000553

THE WITNESS: May 31st, 1974.

BY MR. MARCY:

Q Is there a Government exhibit on it?

A 12-G.

THE DEPUTY CLERK: Thank you.

BY MR. MARCY:

Q 12-G was deposited in your account for your benefit?

A Yes, uh-huh. Should I go through all of them?

Q Yes, would you please.

A 12-K.

Q 12-K does not have your signature on the back. Do you know if that was deposited to your account and for your benefit?

A Yes. 12-L.

Q Do you know if that one was deposited to your account for your benefit?

A Yes. 12-M. 12-P, 12-Q.

Q Were 12-M, P and Q all deposited to your account?

A Yes.

Q How did you receive these Treasury checks?

A Through the mail.

Q Were they directed to the address that appears on each Treasury check?

000554

1 A Yes. That is the home address.

2 Q During the period of time that you worked for  
3 Congressman Diggs, what was your salary during the  
4 period of time you worked for him?

5 A The basic salary was \$12,000 a year, \$1,000 a  
6 month.

7 Q Were there occasions when you received more  
8 than \$12,000 a year?

9 A Yes.

10 Q Would you relate under what circumstances  
11 you would receive more?

12 A As I indicated to you in our different section,  
13 it is a practice in the field of public relations for a  
14 client --

15 Q Mr. Dukes, I don't want to know about the  
16 practices in the field of public relations, just what  
17 were the occasions when you received more than \$12,000?

18 A If I can give it to you in context --

19 THE COURT: Just answer the question.

20 BY MR. MARCY:

21 Q Were there occasions when you received more  
22 than \$12,000 a year?

23 A Yes.

24 Q What were the circumstances under which you  
25 received those?

000555

1           A     They were reimbursements for bills incurred  
2 by me in the performance of the specific job  
3 responsibilities for the Congressman.

4           Q     Would you relate what sort of bills they  
5 would include?

6           A     I think the first series of bills were based  
7 on a photographer taking some photographs of the  
8 Congressman and the President of Liberia. I think that  
9 was in June of 1973. In the fall of '73. I think at  
10 the Congressional Black Caucus dinner. We had a  
11 practice of taking pictures of the Congressman and his  
12 constituents and other V.I.P.'s that would be sent to  
13 the Michigan Chronicle in Detroit. We developed --  
14 there was a problem in connection with that.

15          Q     Well, without going into problems, what were  
16 the other expenses?

17          A     I think in '74, '75 I took a trip to Little  
18 Rock, Arkansas to represent the Congressman at the  
19 National Black Assembly. He was the Chairman of that  
20 Assembly, and I was reimbursed for the airline fare and  
21 the other expenses incurred.

22          Q     Were there other types of expenses besides the  
23 ones that you have mentioned?

24          A     Yes.

25          Q     What types would those be?

000556

1           A     In May of 1974, May of 1975 we had a staff  
2 meeting in Detroit. The entire staff met in Detroit. I  
3 presided over that meeting and we decided at that time --

4           Q     Without going into the meeting, could you  
5 answer the question as to what expenses you are referring  
6 to as to travel to and from Detroit?

7           A     No. This was in connection with a series of  
8 ads run by the Congressman in connection with the  
9 mobile unit and also his congressional staff on the  
10 East Side and the congressional staff for the main  
11 office downtown and the second --

12          Q     And you paid for these ads that were placed  
13 in the paper; is that what you are saying?

14          A     I would like to, if I can answer, you know,  
15 there are certain circumstances involved in each  
16 situation.

17          Q     Well, my question now is confined to what  
18 expenses you incurred, that you asked the Congressman to  
19 reimburse you for.

20          A     With the Michigan Chronicle, before the  
21 Chroncile would run an ad on the Diggs team and in  
22 speaking with Mr. Quinn, the former boss of the Michigan  
23 Chronicle, he indicated to me that he would not be  
24 able --

25          Q     Without going into what Mr. Quinn indicated to

000557

1 you, did there come a time that you paid some Michigan  
2 Chronicle bills?

3 A Yes, those bills were paid in connection with  
4 the work I was doing for the Congressman.

5 Q Let me ask you: When you would incur an  
6 expense, how would you go about being reimbursed for it?

7 A Well, the reimbursement process at the very  
8 beginning was based on sending the bills to Mrs. Stultz  
9 and the problem developed in that the bills were not  
10 paid. So, she developed a new system and that was for  
11 me to pay the bills in connection with the expenses  
12 incurred and then I would be reimbursed.

13 Q And you would submit to Jean Stultz a list of  
14 your expenses?

15 A No, I would send her the vouchers.

16 Q You would send vouchers?

17 MR. WATKINS: Objection. It is leading, Your  
18 Honor.

19 THE COURT: Seek to avoid leading questions.

20 MR. MARCY: Yes, Your Honor.

21 BY MR. MARCY:

22 Q How frequently would you send Mrs. Stultz  
23 vouchers?

24 A I don't think there was a frequency connected  
25 with that. It was really depending on what I was working

000558

on.

Q Did there come a time that you paid any Michigan Chronicle bills?

A I think I indicated that, yes.

Q Do you recall when that was?

A That was during -- I am not really certain of the exact date. I can check my own record.

Q Did you write out a check for the Michigan Chronicle bill?

A Yes, I wrote out three checks.

Q A series of checks? Let me show you Government's Exhibits 56-A, B, and C. I would ask that they be marked at this time, Your Honor.

THE COURT: Very well.

BY MR. MARCY:

Q Can you identify Government's 56-A, B and C?

A Yes.

Q How can you identify them?

A There is my signature and they are personal checks.

Q Who is the payee?

A Michigan Chronicle.

Q What are the dates of the Government Exhibits?

A April 18, 1974; January 8, 1975, and December the 1st, 1975.

000559

1 Q How did you come to know that those bills were  
2 outstanding?

3 A I called the Michigan Chronicle and I talked,  
4 as I indicated before coming to Detroit, I worked there  
5 as an assistant editor. I talked to Mr. Quinn. I also  
6 talked to Ms. Sylvia Lee, and --

7 Q What was it that precipitated your calling the  
8 Michigan Chronicle about the Congressman's bills?

9 MR. WATKINS: Excuse me, Your Honor. I think  
10 the witness ought to be able to answer the question  
11 before he is interrupted.

12 THE COURT: That is a perfectly proper ques-  
13 tion. What precipitated the call? Overruled.

14 THE WITNESS: Well, the main reason is that  
15 the Michigan Chronicle is the most important newspaper --  
16 BY MR. MARCY:

17 Q Tell me what precipitated your call?

18 A I can only tell you what the situation was,  
19 if you would indulge me.

20 Q Well, wasn't there an incident that precipita-  
21 ted your calling the Michigan Chronicle?

22 A There are a certain set of circumstances.

23 Q Did you talk to someone before calling the  
24 Michigan Chronicle?

25 A No. There is a set of circumstances --

000560



1 Q Tell us the set of circumstances.

2 A The set of circumstances is this, is that the  
3 Michigan Chronicle is the most important --

4 Q Well, I don't want to know about the  
5 Michigan Chronicle. I am asking why you called.

6 A I can only explain to you in the context of  
7 the circumstances.

8 Q Why did you call the Michigan Chronicle?

9 A Okay, if I can explain.

10 Q Can you answer my question?

11 A I can only -- I am trying to be honest and  
12 direct and candid and sincere and in responding to your  
13 question --

14 Q I appreciate that, Mr. Dukes, but I would  
15 like to find out why you called the Michigan Chronicle.

16 A I called the Michigan Chronicle because  
17 there was a set of circumstances that prevented the  
18 Congressman from having articles in that newspaper  
19 until the outstanding bill was paid.

20 Q How did you become aware of that?

21 A I became aware of it because one of my major  
22 areas of responsibility was in that particular year,  
23 was the developing a new press strategy, media strategy,  
24 for the Congressman for the City.

25 Q Were you --

000561

1           A     If I may continue.

2                     For the City of Detroit based on new program  
3 initiatives. We had eight or ten programs going in the  
4 City of Detroit and the Michigan Chronicle was more  
5 important to him in getting the message to his people  
6 than the Detroit Free Press and the Detroit News. So,  
7 we had a crisis.

8           Q     Excuse me, Mr. Dukes. Were you in contact  
9 with the Michigan Chronicle? Is that what you are  
10 telling me and they would not place ads?

11          A     There was one particular ad that we had  
12 discussed at the staff meeting. This was an ad --

13          Q     When was this staff meeting?

14          A     The staff meeting was in the spring.

15          Q     The spring of what year?

16          A     The spring of 1975.

17          Q     The spring of 1975. Let me ask you first  
18 about Government's Exhibit 56-A, which is a check dated  
19 April 18th, 1974. What precipitated your paying that  
20 bill to the Michigan Chronicle?

21          A     I don't remember the circumstances for that  
22 one.

23          Q     Do you recall who asked you to pay that bill,  
24 if anyone?

25          A     Probably was Mrs. Stultz, and I think that

000562

1 this was the ad having to do with the East Side office.

2 Q All right. Let me show you what has been  
3 marked as Government's Exhibit 56-B, which is dated  
4 January 8th, 1975, and in the amount of \$661.50. Do  
5 you recall the circumstances leading to your paying that  
6 bill?

7 A May I just indicate one thing? I am not  
8 really certain when the staff meeting was held in  
9 Detroit. It could have been in the spring of '74. It  
10 could have been the spring of '73.

11 Q Okay.

12 A But anyway --

13 Q Referring to Government's Exhibit 56-B, can  
14 you tell me what precipitated your paying that bill?

15 A I think there is an overall concern here --

16 Q Excuse me. Did someone tell you to pay that  
17 bill?

18 A I can't say absolutely.

19 Q You don't recall?

20 A No. The other thing, if I may answer, if I may  
21 indicate, Mr. Marcy, there was --

22 Q There is no pending question.

23 Let me show you 56-C and ask you if you can  
24 identify that.

25 A Yes.

000563

1 Q What is that?

2 A That is a bill to the Michigan Chronicle paid  
3 by Ofield Dukes.

4 Q A check?

5 A Yes.

6 Q What is the amount of that check?

7 A That is \$924.

8 Q Do you have the date of that check?

9 A Yes.

10 Q What is the date?

11 A December the 1st, 1975.

12 Q Do you recall the circumstances under which  
13 you paid that check?

14 A I don't recall, but I voluntarily paid all  
15 three.

16 Q When you would submit vouchers to Mrs. Stultz,  
17 what form would they take?

18 A It was a copy of the check.

19 Q Anything else?

20 A I think that depended on the nature of the  
21 bill. With the photographers there are always copies  
22 of the vouchers. On the airline trips there was a  
23 copy of the airline ticket.

24 MR. MARCY: Your Honor, could I have Govern-  
25 ment's Exhibit 55 marked for identification?

000564

THE COURT: Yes.

THE DEPUTY CLERK: Government's Exhibit 55  
marked for identification.

BY MR. MARCY:

Q Showing you what has been marked as Government's Exhibit 55, is that one of the invoices that you have referred to that you sent to Mrs. Stultz?

A Yes.

Q What does that exhibit contain?

A It is a note to Ms. Sylvia Lee of the Michigan Chronicle.

Q Is there a copy of your check?

A Yes, that is true.

Q Would it be a practice as you have indicated to send that to Mrs. Stultz?

A A copy of it, yes.

Q What is your connection with WJLB?

A That was one -- I was the producer of a ten-minute radio -- co-producer of a ten-minute radio program called "The Congressman Speaks".

Q When did "The Congressman Speaks", go on the air?

A I don't remember the exact date.

Q Can you give us an approximate time?

A It was sometime during 1975.

000565

Q Toward the beginning or toward the end?

A I am not really certain.

Q When did that show appear on the air?

A It was in the morning.

Q Any particular day?

A On Sunday.

Q Did you pay for that program?

A Yes, I paid for it under a set of circumstances

Q Who asked you to pay for that program?

A As a memoranda in my file would indicate, in August of that year we started negotiating with the radio --

Q My question, Mr. Dukes, is: Who asked you to pay that bill?

A I am not really certain who asked me.

Q Okay. Did there come a time that you began receiving bills from WJLB?

A Under a set of circumstances.

Q And those bills were for Congressman Diggs?

A They were routinely forwarded to his office because they were sent to me by his secretary.

Q Did you receive a bill from WJLB which is marked as Government's Exhibit 57-A?

A Yes, I received that and I routinely sent that one to Ms. Jean Stultz.

000566

Q You did send 57-A to Jean Stultz?

A Yes.

Q Let me just ask you: What is the address on that bill?

A Which one?

Q The one you have in your hand?

A The National Press Building.

Q Addressed to you?

A Ofield Dukes Associates, yes.

MR. MARCY: I would move into evidence at this time 57-A.

MR. WATKINS: I have no objection.

THE DEPUTY CLERK: Is it received, Your Honor?

THE COURT: Received.

THE DEPUTY CLERK: Government's Exhibit 57-A received in evidence.

(Whereupon, Government's Exhibit No. 57-A was received into Evidence.)

BY MR. MARCY:

Q Referring to 57-A, does it indicate the name of the person who put the show on?

A That is the House of Diggs.

Q Does it indicate a time of day that that show is on?

000567

1 A That is in the evening.

2 Q Any time in the evening?

3 A I don't see the time listed.

4 Okay, that is at 9:00 p.m.

5 You also find here, if I may -- I am sorry,  
6 there is a second bill that I received during the time  
7 period.

8 Q Excuse me, Mr. Dukes.

9 THE COURT: He is just asking you questions and  
10 please seek to answer his questions.

11 THE WITNESS: Okay.

12 BY MR. MARCY:

13 Q Mr. Dukes, did you send 57-A to Jean Stultz?

14 A Yes, I did.

15 Q Did there come a time that Jean Stultz asked  
16 you to do anything about this bill?

17 A Under a set of circumstances.

18 MR. MARCY: Your Honor, could I have Govern-  
19 ment's Exhibit 58 marked for identification?

20 THE DEPUTY CLERK: Government's Exhibit No. 58  
21 marked for identification.

22 (Whereupon, Government's  
23 Exhibit No. 58 was marked for  
24 identification.)

25 BY MR. MARCY:

000568



Q Showing you what has been marked as Government's Exhibit 58, is that your memorandum to Jean Stultz?

A It is one of them.

Q Did that memorandum accompany this bill, 57-A?

A It is very possible, yes.

Q Okay.

MR. MARCY: Your Honor, I would move that into evidence at this time, 58.

THE COURT: Do you wish to be heard on that?

MR. WATKINS: No objection.

THE COURT: Received.

THE DEPUTY CLERK: Government's Exhibit 58 received in evidence.

(Whereupon, Government's Exhibit No. 58 was received in Evidence.)

BY MR. MARCY:

Q Mr. Dukes, would you read that memorandum?

A "I have received through the mail the enclosed bill from WJLB. There must be a mistake. Enclosed bill, I think, is from the Sunday night program, unless there is a change I am to pay for the new Sunday morning show. Please let me know if there is something new I

000569

1 should know." This is one of two memorandas that I sent  
2 to her on the subject.

3 Q Thank you. What is the amount of the bill in  
4 57-A?

5 A \$224.

6 Q Did there come a time that you wrote out a  
7 check in that amount to WJLB?

8 A That was on December the 10th.

9 MR. MARCY: I would ask that Government's  
10 Exhibit 60 be marked for identification.

11 THE DEPUTY CLERK: Government's Exhibit 60  
12 marked for identification.

13 (Whereupon, Government's  
14 Exhibit No. 60 was marked for  
15 identification.)

16 BY MR. MARCY:

17 Q I am showing you what has been marked as  
18 Government's Exhibit 60. Is that the check that you  
19 wrote out?

20 A Yes.

21 Q Who is the payee?

22 A WJLB-Radio.

23 Q And the date?

24 A December 10th, 1975.

25 Q And the amount?

000570

1 A \$224.40.

2 MR. MARCY: Your Honor, could I have Govern-  
3 ment's Exhibit 59 marked for identification?

4 THE COURT: Yes.

5 THE DEPUTY CLERK: Government's Exhibit 59  
6 marked for identification.

7 (Whereupon, Government's  
8 Exhibit No. 59 was marked  
9 for identification.)

10 BY MR. MARCY:

11 Q Showing you what has been marked as Govern-  
12 ment's Exhibit 59, is that one of the vouchers that  
13 you would have submitted to Jean Stultz?

14 A Yes.

15 Q Would you tell us what it contains?

16 A It contains a note that my secretary sent to  
17 WJLB and it does not contain my signature.

18 Q What does it reflect?

19 A Beg your pardon?

20 Q What does it reflect?

21 A It says, "December 10th, 1975, WJLB-Radio,  
22 31st Floor, Dave Hart Towers, Gentle Persons: The  
23 enclosed check for \$224.45 is the payment of the House  
24 of Diggs account. 'Sincerely, Ofield Dukes.'"

25 That was sent by my secretary without my

000571

1 signature.

2 Q Was that sent with your permission and with  
3 your knowledge?

4 A The intent was not for the check to be sent  
5 for the House of Diggs show, and this is what I indi-  
6 cated before the Grand Jury.

7 Q But it was sent?

8 A Inadvertently, and Mr. Marcy, it is also  
9 indicated under the set of circumstances with all of  
10 the confusion between the radio station and the two  
11 programs, and there is a --

12 Q Thank you, Mr. Dukes.

13 Did there come a time that you paid a bill for  
14 the House Recording Studio?

15 A Under a set of very peculiar circumstances.

16 Q Who asked you to pay that bill?

17 A I'm not certain, but I paid it because I was  
18 the Executive Producer of a TV program.

19 Q Now, do you know who asked you to pay that  
20 bill?

21 A I am trying to decide whether I voluntarily  
22 paid the bill. I know I had conversations with John  
23 Willobee who was the producer of the show and I had  
24 conversations with Jean Stultz.

25 Q Did Mrs. Stultz ask you to pay that bill?

000572

1       A     I am sincerely, honestly, I am not really  
2 certain who asked me to pay for it.

3       MR. MARCY: Your Honor, could I have these  
4 marked as the next Government's exhibit?

5       THE COURT: Yes.

6       THE DEPUTY CLERK: Government's Exhibit 64-A  
7 and B marked for identification.

8                   (Whereupon, Government's  
9 Exhibits Nos. 64-A and B were  
10 marked for identification.)

11 BY MR. MARCY:

12       Q     Did you receive, Mr. Dukes, instructions on  
13 how to pay the House Recording bill?

14       A     I received the instructions from Mrs. Jean  
15 Stultz.

16       Q     What were her instructions?

17       A     I think under the circumstances the Congressman  
18 could not use the studio unless that bill was paid, and  
19 it had to be paid either by a money order or cashier's  
20 check.

21       Q     Let me show you Government's Exhibit No. 64-A.

22       MR. WATKINS: Mr. Marcy --

23 BY MR. MARCY:

24       Q     Showing you what has been marked as Government's  
25 Exhibit 64-A, can you identify that?

000573

1 A Yes.

2 Q What is that?

3 A That is a check, a personal check for \$183.75.

4 Q Is that your personal check?

5 A Yes.

6 Q What is the date on that?

7 A The date is February 6th, 1976.

8 Q What did you do with that check?

9 A I cashed the check. I purchased a money  
10 order -- not a money order, but a cashier's check.

11 Q Showing you what has been marked as Govern-  
12 ment's Exhibit 64-B, does that appear to be the cashier's  
13 check that you purchased?

14 A Yes.

15 Q What is the date of that and the amount?

16 A The same date as the check.

17 Q And the amount?

18 A The same amount as the check.

19 Q What did you do with that cashier's check?

20 A I gave it to -- somehow I think I gave it to  
21 Mrs. Stultz.

22 Q What was your normal monthly take-home pay?

23 A It was about \$600; \$600 something.

24 Q Showing you what has been marked as Government's  
25 Exhibit 56-C, 64-A and 60.

000574

1           Let me do it this way. Showing you what has  
2 been marked as Government's Exhibit 56-C, what is the  
3 date of that and the amount and the payee?

4           A     December 1st, 1975.

5           Q     And the amount?

6           A     The amount is \$924.

7           Q     And the payee?

8           A     Michigan Chronicle. This one, WJLB.

9           Q     Government's Exhibit 60?

10          A     Yes.

11          Q     The amount?

12          A     \$224.20, December 10th, 1975.

13          Q     Showing you Government's Exhibit --

14          A     February 6, 1976, cash, \$183.75.

15          Q     Did you receive -- do you recall what you  
16 received in the months of November, December and  
17 January of 1975?

18          A     No, I do not.

19          Q     And, excuse me, November, December of '75 and  
20 January of '75?

21          A     No.

22          Q     Let me show you Government's Exhibit 12-P, Q  
23 and R and ask you if that refreshes your recollection?

24          A     Yes.

25          Q     What did you receive in November of 1975?

000575

1           A     This check is dated November the 28th, 1975  
2 for \$1,839.87.

3           Q     And in December of 1975?

4           A     December 19, 1976, \$1,826.51. January --  
5 Do you want the January 30th?

6           Q     Please.

7           A     That is \$1,826.51.

8           Q     And February?

9           A     February is \$628.23.

10          Q     Is that February check your normal check,  
11 again?

12          A     Oh, it depends on -- well, I guess it depends  
13 on the reference of "normal".

14          Q     What was your normal?

15          A     The average, yes, for the annual rate, yes.

16          Q     Did there come a time that you stopped paying  
17 bills this way?

18          A     Yes.

19          Q     Why was that?

20          A     Well, there was -- there was a set of circum-  
21 stances for me paying those three bills and there was  
22 another set of circumstances for my not, and maybe if I  
23 get a chance later to explain the set of circumstances  
24 for paying the bills, the circumstances for not using  
25 this procedure for reimbursement based on the fact that

000576



1 my accountant indicated to me whatever the salary, the  
2 personal income was increased. I not only had to pay  
3 the Federal tax on that, but also District tax. And so  
4 for the income of 1975, I think it was \$21,000. I paid  
5 \$6,000 Federal tax plus about \$3,000 extra tax on the  
6 reimbursement process, plus \$900 in District taxes.

7 Q In 1975 you earned \$21,000?

8 A I think the records indicate that.

9 Q And what was your --

10 A Mr. Marcy, if I may --

11 Q What was your true salary in 1975?

12 A Probably about twelve, but that is contrary  
13 to --

14 MR. MARCY: Thank you, Your Honor. I have  
15 no further questions.

16 THE WITNESS: Mr. Marcy, would you like these?

17 MR. MARCY: Yes, I would.

18 THE COURT: Mr. Watkins?

19 CROSS EXAMINATION

20 BY MR. WATKINS:

21 Q Good morning, Mr. Dukes.

22 A Good morning, sir.

23 Q You are a public relations man; isn't that  
24 right?

25 A That is true.

000577

1 Q And your firm is called "Ofield Dukes &  
2 Associates?

3 A And associates.

4 Q And associates?

5 A Right.

6 Q Do you have clients other than Mr. Diggs?

7 A Yes.

8 Q Did you have clients other than Mr. Diggs in  
9 19 -- the period of 1973 to --

10 A I had about seven other clients.

11 Q -- 1973 to '76.

12 Who were they?

13 A Let's see. We had the Washington Bullets,  
14 Anheiser-Busch, Alex Haley, HEW, Department of Commerce.

15 Q Are you finished?

16 A Yes.

17 Q Mr. Dukes, in the course of your representing  
18 your clients, how did you bill them?

19 A I am usually on a retainer, which is a fixed  
20 sum, and I bill them at the end of the month and that  
21 billing is based on other expenses incurred.

22 If I have to make a trip, or if I have to use  
23 printing and other services, that amount is included and  
24 this is standard cost accounting for public relation  
25 firms.

000578

Q Let me see if I understand you.

You say you have a fixed fee, a monthly fee that you charge your clients?

A That is true.

Q And if your monthly fee were \$1,000 a month, when you billed your client and you had incurred an additional expense, such as photographers, printing, advertising --

A Overhead, and that is -- the Government recognizes it. This is true for Government clients because the built-in sum for overhead, and even the Government includes a percentage for income.

MR. MARCY: Excuse me, Your Honor. The witness was an employee. It is not a consulting firm, and I think this whole field is irrelevant to what we are talking about.

THE COURT: I will permit the question.

BY MR. WATKINS:

Q Mr. Dukes?

A If I may clarify that, Mr. Watkins.

THE COURT: I think you have answered his question.

BY MR. WATKINS:

Q Mr. Dukes, it will be easier for the reporter if you wait until I finish my question.

000579

1 A I am sorry.

2 Q And then we can go on.

3 A Thank you.

4 Q I know. All right.

5 So, let me just go back over this so I can get  
6 it clear.

7 You bill on a fee basis?

8 A Yes.

9 Q And at the end of each month so that your fee  
10 is \$1,000 a month you bill out \$1,000 plus any expenses  
11 you have incurred on behalf of your client, such as  
12 photography, printing --

13 A Travel and any other bills connected with the  
14 performance of my responsibilities.

15 Q All right. Now, when you talked to Mrs.  
16 Stultz and she suggested that you send your bills to her  
17 at the end of each month, you didn't find this unusual;  
18 did you?

19 A No, that is the normal practice.

20 Q And that is what you did?

21 A Yes.

22 Q And you got paid as far as you were concerned,  
23 just as you would be paid by any other client?

24 A Through a very legitimate reimbursement  
25 process.

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MR. KOTELLY: Objection, Your Honor. That is for the jury to decide.

THE COURT: Well, he has expressed his views.

BY MR. WATKINS:

Q And neither Mrs. Stultz nor Mr. Diggs ever told you to conceal the fact that you were being reimbursed by an increase in salary when you incurred the expenses; is that right?

A No, not at all.

Q You didn't find it unusual?

A No, and the fact that I had to pay an income tax, it was all part of the public record.

Q I will get to your income taxes, Mr. Dukes. We will let you explain that.

Now, you were hired by the Congressman to deal with his, among other things, with his media problems?

A I was hired as a consultant.

Q As a consultant to deal with his media problems?

A No. I was hired as a consultant to deal with program development, media, as I said before. There weren't too many things that I was involved in, there weren't too many things in the Congressman's office that I was not involved in. I just have a memo here dated September 4, 1975, and there are 12 projects at that

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1 particular time that I was coordinating for the Congress-  
2 man relating to the District of Columbia, Africa, and  
3 about six program activities in the City of Detroit, and  
4 that was September 4th, 1975, including the development  
5 of a new 10-minute radio program "The Congressman Speaks".

6 Q Mr. Dukes, so it is fair to say among other  
7 things, you were general utility infielder, among other  
8 things you dealt with media?

9 A Yes. I think I was mainly, Mr. Watkins,  
10 because I spent three years as an assistant to Vice-  
11 President Hubert Humphrey. I learned quite a bit, and  
12 also a product of Detroit and knew the Congressman when  
13 I was in high school. I knew as much about Detroit and  
14 utilized the experiences and expertise I learned from  
15 three years traveling around the world with Hubert  
16 Humphrey to assist the Congressman.

17 Q Now, I want to focus basically on your  
18 contacts with the media.

19 Now, you were not hired to do any work for  
20 the House of Diggs as opposed to the Congressman?

21 A Absolutely not. I was never involved in any  
22 activity involving the House of Diggs.

23 Q All right. Now, in connection with your  
24 representation of Congressman Diggs, I think you  
25 indicated on direct that there came a time in 1975, a

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3 set of particular circumstances regarding the Michigan  
4 Chronicle which caused you to call the Michigan  
5 Chronicle?

6 A That is true.

7 Q Do you want to tell us what those particular  
8 circumstances were?

9 A Okay. As I was indicating before, the Michigan  
10 Chronicle is a black newspaper in Detroit, about 60  
11 years old, and the most influential paper in terms of  
12 the black community and the 13th Congressional District  
13 in Detroit is predominantly black, and in connection  
14 with a series of new program initiatives that we were  
15 trying to develop in Detroit, it was essential that we  
16 had a media outlet, not necessarily the daily papers,  
17 because they for some reason had their own criticisms of  
18 the Congressman's involvement in Africa.

19 So, we spent a lot of time convincing the  
20 Congressman that it was fine for him to be dedicated  
21 and committed to bringing home rule to the District of  
22 Columbia and being the conscious, leading spokesman for  
23 Africa, but he also had to find time to deal with the  
24 problems and develop new programs for his constituents  
25 in Detroit.

26 MR. MARCY: Could we approach the Bench?

THE COURT: Yes.

000583

1 (At the Bench.)

2 MR. MARCY: We would object to their bringing  
3 out the defense through this witness.

4 MR. WATKINS: I would stop it if I could.

5 THE COURT: I understand that. He has been  
6 about as quick on the trigger as I have ever seen a  
7 witness.

8 MR. WATKINS: I just don't think it is  
9 appropriate for me to try and interrupt him.  
10 Mr. Marcy tried to do that and couldn't. I tried to ask  
11 him questions meaning "Yes" or "NO" answers. I just  
12 can't hold him to that. It makes very much sense for  
13 me to try. I think if you instruct him to answer the  
14 questions, that would be fine.

15 THE COURT: Mr. Povich?

16 MR. POVICH: I think Your Honor, the problem  
17 would be solved if Mr. Watkins asked him if he would  
18 briefly answer the question under the circumstances.

19 MR. WATKINS: I will try to do that, Your  
20 Honor, but I may need some help from you.

21 THE COURT: I suppose everybody else is a  
22 volunteer in this case, why shouldn't I be one.

23 (In open court.)

24 THE COURT: Mr. Dukes, in view of the fact  
25 that we are trying to get along with the case we have a

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1 jury that is sequestered, their time is important too.  
2 Just answer the questions briefly and to the point, if  
3 you will.

4 THE WITNESS: Thank you, Your Honor.

5 BY MR. WATKINS:

6 Q Now, Mr. Dukes, I think what you were saying  
7 to me is that there was a set of circumstances that arose  
8 where Mr. Diggs was not getting adequate coverage in  
9 the Michigan Chronicle; is that correct?

10 A Thirty seconds to say that the publisher of  
11 the Michigan Chronicle who, although was a good friend  
12 of mine, was a hard nosed businessman, would not run  
13 any articles on the Congressman until the bill was paid.

14 Q He wouldn't run new articles on the Congressman  
15 until he paid his advertising bill?

16 A That is true.

17 Q All right. And at that point you went to the  
18 publisher or the newsman and asked him what could be  
19 done; is that a fair statement?

20 A I indicated to Mr. Quinn and to Ms. Sylvia  
21 Lee, if necessary I would pay those bills, and since it  
22 was my responsibility as an area of my responsibility,  
23 that certain things were done and that I would do that  
24 for my client.

Q And I take it this telephone conversation with

000585

1 Mr. Quinn about not running any stories until the bill  
2 was paid, you were here in Washington and he was in  
3 Detroit?

4 A That is true.

5 Q Did he tell you what the amount of the bill  
6 was?

7 A No, I got that, I think, from Ms. Lee.

8 Q All right. Now, did you ever see the bill  
9 when you paid the check, when you wrote the check?

10 A I am not really certain whether I saw the bill,  
11 but Mr. Watkins, I voluntarily --

12 Q Mr. Dukes, I understand you are trying to be  
13 helpful and I appreciate it, but there is a form that we  
14 have to follow to get through this.

15 A All right.

16 Q Now, that bill was in the amount of \$924; is  
17 that correct?

18 A I am not certain of the amount.

19 Q Okay. I show you what has been marked as  
20 Government's Exhibit 56-C. Would you look at that?

21 A Yes.

22 Q That is a check that you paid to the Michigan  
23 Chronicle, the bill; is that right?

24 A Yes.

25 Q And your understanding was that that was a

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1 bill for the Congressman's outstanding advertising  
2 bill?

3 A That is precisely --

4 Q Now, I show you also, Mr. Dukes, what has  
5 been marked as Government's Exhibit No. 54 for identi-  
6 fication. Would you look at that?

7 Now, it says, does it not, as the addressee,  
8 "House of Diggs Funeral Home"? Correct?

9 A That is right.

10 Q Now, if you had seen that bill when you were  
11 told that the Congressman's account with the Michigan  
12 Chronicle was overdue, would you have paid it?

13 A Absolutely not.

14 Q Why not?

15 A Because my responsibility was for taking care  
16 of the ads run in connection with the Congressman's  
17 office, his new east side office and a new mobile unit.

18 Q Not in connection with the House of Diggs?

19 A Not at all.

20 Q All right. Now, I show you the back of  
21 Government's 56-C. What does it say?

22 A It says, "The House of Diggs".

23 Q Is that your handwriting?

24 A No, it is not.

25 Q Do you have any indication of who wrote that

000587

1 on there?

2 A I don't know.

3 Q All right. Would it be fair to say that it  
4 was not your intention to pay this money to the  
5 Michigan Chronicle for the House of Diggs' ad?

6 A Most definitely.

7 Q I show you Government's Exhibit 55 and that  
8 is the note that you sent along with your check,  
9 Government's Exhibit 56-C to the Michigan Chronicle to  
10 pay the Congressman's bill, so you thought.

11 A That is right.

12 Q Now, would you read the body of that section  
13 of Government's Exhibit 55?

14 A Mr. Watkins, the notice to Sylvia Lee says,  
15 "Dear Ms. Lee, enclosed is a check for \$924 to bring  
16 the Congressman's account up to date."

17 Q So, you indicated at that time that this was  
18 for the Congressman's account?

19 A That is true.

20 Q By some manner unknown to you they apparently  
21 credited this to the House of Diggs account?

22 A For whatever reason.

23 Q Do you have any idea what the reason is?

24 A No.

25 Q Now, Mr. Dukes, in connection with your

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1 representation of Mr. Diggs, you also had occasion  
2 about that time to have contact with a radio station,  
3 WJLB; is that correct?

4 A That is true.

5 Q And that was for his radio program that ran on  
6 Sunday, that radio program that ran on Sunday morning?

7 A That is right, "The Congressman Speaks."

8 Q Now, do you know if there is another radio  
9 program that was run by the House of Diggs in the  
10 evening?

11 A Yes. That was in the evening, yes.

12 Q Did you have any responsibility for that  
13 program?

14 A None whatsoever.

15 Q Were you hired to do anything in connection  
16 with that program?

17 A No, not at all.

18 Q All right. Now, let's refer to these  
19 programs, these two programs respectively as the morning  
20 show for the Congressman, "The Congressman Speaks", and  
21 the evening show as the House of Diggs so that we don't  
22 get confused.

23 A All right.

24 Q I would like to go through this process that  
25 Mr. Marcy went through with you.

000589

1 Now, I show you what has been marked as  
2 Government's Exhibit 57-A for identification. Would  
3 you look at that and tell me what it is?

4 A This is a bill to me from WJLB and it is for  
5 the evening show.

6 Q All right. That is the 9:00 o'clock show, the  
7 House of Diggs show?

8 A Uh-huh.

9 Q Q In fact it indicates right on it, "House of  
10 Diggs Show"?

11 A That is true.

12 Q Now, and it is dated October 27th, 1975?

13 A That is right.

14 Q All right. You received this bill in the  
15 mail, would it be fair to say, sometime around the first  
16 week in November?

17 A That is true.

18 Q Was this the only bill that you received from  
19 WJLB around that time?

20 A No.

21 Q You received another bill?

22 A Yes.

23 Q Do you have a copy of that other bill?

24 A That is part of the record, too.

25 THE DEPUTY CLERK: Defendant's Exhibit 32

000590

1 marked for identification.

2 (Whereupon, Defendant's  
3 Exhibit No. 32 was marked for  
4 identification.)

5 BY MR. WATKINS:

6 Q All right. Now, I show you what has been  
7 marked as Government's Exhibit No. 32, Mr. Dukes, and  
8 would you tell us what that is?

9 A This is a bill to Ofield Dukes & Associates,  
10 National Press Building, and this is from the morning  
11 show.

12 Q All right.

13 A And it was sent about the same time as the  
14 other bill.

15 Q All right. How do you know that?

16 A The dates are about the same.

17 Q When you say, "the other bill". you are  
18 referring to --

19 A Check the dates.

20 Q -- Government's Exhibit 51-A?

21 A That is true.

22 Q All right.

23 A I think the dates are 10-27-75, 10-27-75.

24 Q So both bills bear the same date?

25 A That is true.

000591

1 Q Both bills have you as the addressee?

2 A Yes.

3 Q Do you believe that you received them both  
4 about the same time?

5 A That is true.

6 Q All right. Now, since you had no responsibility  
7 ty for the House of Diggs Show and you did have  
8 responsibility for "The Congressman Speaks" Show, you  
9 took some action; correct?

10 A That is true.

11 Q And that action was to send a note to Jean  
12 Stultz with a Xerox copy of the House of Diggs' show;  
13 correct?

14 A Yes.

15 Q And you retained "The Congressman Speaks" bill  
16 in your own file?

17 A Yes.

18 Q All right. Is this a copy of the -- well, I  
19 show you Government's 58, which is a copy of the note  
20 that you sent to Jean Stultz asking her if in effect,  
21 well, read it.

22 A Okay. It says: "Ms. Jean Stultz, Ofield  
23 Dukes, dated December -- I am sorry -- November 5th,  
24 1975. I have received in the mail the enclosed bill  
25 from WJLB. There must be a mistake. The enclosed bill,

000592



1 I think, is from the Sunday night program. Unless there  
2 is a change I am to pay for the new morning show.  
3 Please let me know if there is something new that I  
4 should know." If I may add, this is one of two  
5 memorandas that I sent to Mrs. Stultz regarding the same  
6 subject.

7 MR. WATKINS: Mr. Kotelly, I take it you do  
8 not have the other memoranda?

9 MR. KOTELLY: At least I am not aware of having  
10 it. We have many memorandums from Mr. Dukes, copies of  
11 them.

12 MR. WATKINS: Would it be fair to say it might  
13 be in the file?

14 MR. KOTELLY: I was not made aware of it  
15 being there, and I have not seen it.

16 THE WITNESS: It is about a four paragraph  
17 memorandum, once again emphasizing the fact that I was  
18 not -- it was not my responsibility nor my intentions to  
19 be paying any bills relating to the House of Diggs, and  
20 Your Honor, if I could just take 30 seconds --

21 THE COURT: I think you have answered the  
22 question.

23 BY MR. WATKINS:

24 Q Now, did there come a time when you heard from  
25 Mrs. Stultz about the bill that you sent to her for the

1 evening show?

2 A I am not really certain because those were  
3 very, very confusing times. There were extensive  
4 discussions with the sale, program manager, who did not  
5 want the new program on the air.

6 MR. KOTELLY: Objection, Your Honor, hearsay.

7 BY MR. WATKINS:

8 Q Mr. Dukes, if you can be brief.

9 A Okay.

10 Would you repeat the question?

11 Q Did there come a time when Mrs. Stultz  
12 responded to your note to her about the evening show?

13 A I am not very clear because as you will see,  
14 the memorandum was written November the 5th and the  
15 date of the check was December the 10th, and I am not  
16 really certain what type of response there was to that.

17 Q All right. Would it be fair to say that you  
18 had conversations with Mrs. Stultz? Did you have  
19 conversations with the radio station?

20 A There were extensive discussions with the radio  
21 stations.

22 Q All right, fine. So, it is fair to say you  
23 don't know who gave you some instructions about paying  
24 the bill?

25 A One thought, Mr. Watkins, is the fact the

000594

1 program would not run the new show unless the morning  
2 bill was paid.

3 Q All right. Are you saying to me, Mr. Dukes,  
4 that WJLB said, "We will not run 'The Congressman  
5 Speaks' --"

6 MR. KOTELLY: Objection, Your Honor.  
7 Mr. Watkins is testifying to hearsay.

8 MR. WATKINS: All right.

9 THE COURT: Sustained.

10 BY MR. WATKINS:

11 Q Did you learn why WJLB would not run the  
12 morning show?

13 A Yes. I learned from discussions with the  
14 manager of the radio station.

15 Q What did you learn, Mr. Dukes?

16 A Mr. Charles Seneca, the manager --

17 Q Don't tell me what he said. Tell me what  
18 you learned.

19 A That he would not run the new "Congressman  
20 Speaks" program until the bill for the morning show was  
21 taken care of.

22 Q All right. As a result of that -- well, as a  
23 result of that conversation or learning that informa-  
24 tion, did you take some action?

25 A It was a crisis situation. I paid the bill

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1 for the morning show.

2 Q You paid the bill for the morning show?

3 A That was my intent.

4 Q All right. Before we get to that, I want  
5 you to tell me what the amounts of the bill on Govern-  
6 ment's 57-A, that is the House of Diggs bill for the  
7 evening show is?

8 A That was \$224.40.

9 Q I want you to tell me what the total amount  
10 of the bill for "The Congressman Speaks" show?

11 A \$220.

12 Q Now, can you tell me what exactly happened  
13 in your office when you decided in this crisis situation  
14 that you had to pay the bill to WJLB so "The Congress-  
15 man Speaks" could continue running?

16 A Okay. It was in a conversation with  
17 Ms. Doris Gordon.

18 Q Don't tell us what she said, Mr. Dukes. Tell  
19 us what you did as a result of that conversation.

20 A From the conversation with Mr. Seneca, the  
21 manager of the station, Ms. Doris Gordon who was the  
22 host of the program and also who purchased the time and  
23 also Ms. Jean Stultz wrote a check for a certain amount  
24 on December the 10th. That was in the morning. I gave  
25 that check to my secretary and during that particular

000596

time we were having a fund raiser for the Congressman.  
I gave her the check and just told her to send it to  
WJLB. The note that was sent was not dictated by me.  
It was not signed by me, and I don't know what action my  
secretary took in calling Ms. Stultz or the radio  
station to find out that it should be sent to the  
Continuity Department, or what have you, but if you  
would check the original note --

Q If you could be brief, Mr. Dukes, and if I  
could ask the questions and if you can answer them, I  
think we can get this out in an orderly manner.

A Thank you.

Q It is fair to say, is it not, that the bill,  
Government's 57-A and Defendant's 32, the amounts are  
very close?

A Yes.

Q And it is fair to say that you told your  
secretary after getting off the phone to pay the bill;  
is that right?

A That is true. I wrote a personal check.

Q Is it likely or fair to say that what you  
said to your secretary was something to the effect of,  
"Let me have the WJLB bill"?

MR. KOTELLY: I object to Mr. Watkins  
testifying here.

000597

1 MR. WATKINS: Let me put it this way:

2 THE COURT: Suppose you rephrase your  
3 question.

4 BY MR. WATKINS:

5 Q Mr. Dukes, do you recall what you said to  
6 your secretary?

7 A I gave her a check and told her to send it to  
8 WJLB.

9 Q All right. What does the note with the  
10 check say?

11 A It says, "This is to the Continuity  
12 Department, WJLB-Radio. Gentlepersons: The enclosed  
13 check for \$224.40 is in payment of the House of Diggs  
14 account." Signed Ofield Dukes.

15 Q All right. Did your secretary give that  
16 note back to you to sign it before it was sent out?

17 A No. It is not customary for those kinds of  
18 letters.

19 Q All right. Was it your intention to pay a  
20 House of Diggs bill with that check?

21 A Oh, no.

22 Q Your intention was to pay the other bills  
23 that you have in your file for \$220?

24 A As I have testified before the Grand Jury.

25 Q Would you answer the question, please?

000598

1 A Yes.

2 Q And so what you are telling us is that this  
3 \$224 to WJLB was in error?

4 A Very much so.

5 Q All right. Now, when were you able to figure  
6 this out, this set of circumstances out?

7 A I don't know if it was really figured out.  
8 There was finally a letter from Mrs. Sonnet to the  
9 Congressman and that was in January, and I was relieved  
10 of the responsibility for the radio show by the  
11 Congressman's new administrative assistant.

12 Q Mr. Dukes, I am sorry to cut you off. I only  
13 asked, "When did you figure it out?" If you can't give  
14 me a date, just say so.

15 A I am not really certain when it was figured  
16 out.

17 Q Fine, all right.

18 Now, if you had had, or if you had been shown  
19 all the documentation surrounding this set of  
20 circumstances, would you have been able to determine  
21 that you paid the bill in error?

22 A Yes.

23 Q Were you shown all the documentation by the  
24 Government when you talked to the Government prosecutors?

25 A I am not really certain that I saw all of

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1 them.

2 Q All right. But had you seen all of them you  
3 would have known that you had paid the wrong bill for  
4 sure?

5 A I indicated that, yes.

6 Q How many times did you meet with Mr. Marcy?

7 A Mr. Marcy, do you remember?

8 THE COURT: He cannot answer the question.

9 BY MR. WATKINS:

10 Q Mr. Dukes, you are here to answer questions.  
11 Do the best you can and we will get through this.

12 THE COURT: Hopefully.

13 THE WITNESS: Once before Christmas.

14 BY MR. WATKINS:

15 Q How many hours did you meet with him?

16 A Oh, I would say about -- say about 10 or 12.  
17 I would say four or five times.

18 Q Four or five times, two or three hours each?

19 A Mr. Kotelly, would you say about two hours,  
20 an hour and a half?

21 THE COURT: Mr. Dukes, you are not supposed to  
22 ask questions. If you cannot answer it, say so.

23 THE WITNESS: I am sorry, sir.

24 BY MR. WATKINS:

25 Q Mr. Dukes, it is important that you only answer

000600



the questions, if you can remember.

A I would say an average of an hour and a half each meeting.

Q An hour and a half each meeting. Did you say you had three or four?

A Four or five.

Q And at those meetings you went through documents and they showed you all kinds of documents and asked you about them and asked you what happened?

A Yes. Yes.

Q And you tried to explain and to the best of your recollection you did explain?

A Yes. Yes.

Q Now, you talked about the termination of the arrangement by which you submit your bills to the Congressman's office to be paid; correct?

A Yes.

Q All right. That came about, as I understand it, because your accountant looked at your checks and came to the conclusion that you were having tax problems with this method of repayment?

A Yes.

Q And it caused you a greater tax liability and as a result you told Mrs. Stultz, "I don't want to continue with this"?

000601

1 A That is part of the process of reimbursement.

2 Q You didn't do that, because you thought there  
3 was anything wrong with it; did you?

4 A Oh, no, and I still don't.

5 Q Did the Congressman or Mrs. Stultz ever indi-  
6 cate to you that there was anything wrong with that  
7 arrangement?

8 A I never had any discussions with the  
9 Congressman regarding the process for reimbursement.

10 Q Did Mrs. Stultz?

11 A No.

12 Q Did she ever indicate that there was anything  
13 wrong with it?

14 A No.

15 MR. WATKINS: Would you indulge me a moment,  
16 Your Honor?

17 THE COURT: Yes, sir.

18 THE DEPUTY CLERK: Defendant's Exhibit 33  
19 marked for identification.

20 (Whereupon, Defendant's  
21 Exhibit No. 33 was marked for  
22 identification.)

23 BY MR. WATKINS:

24 Q Mr. Dukes, I hate to go back to this subject  
25 again, but I must. I show you what has been marked as

000602

1 Defendant's Exhibit No. 33 for identification. Would  
2 you tell me what it is?

3 MR. KOTELLY: Your Honor, we would object.  
4 The proper question would be if he can identify it,  
5 unless there is some foundation we would object to any  
6 other questions.

7 MR. WATKINS: Fine.

8 THE COURT: You may rephrase it.

9 BY MR. WATKINS:

10 Q Can you identify it?

11 A Yes. This is a bill from the House of Diggs.

12 Q All right.

13 A Dated 10-27-75 and sent to the House of Diggs  
14 in Detroit.

15 Q All right. Now, you said it was sent to  
16 the House of Diggs in Detroit. There is a paste-over  
17 label on that, that appears to change the address if you  
18 hold it up to the light; is that correct?

19 A Yes. I think it is Ofield Dukes was the  
20 original addressee.

21 Q Now, I show you Government's 57-A for  
22 identification. Will you compare those?

23 A Well, the amount is --

24 Q Would you look at them before you answer,  
25 Mr. Dukes?

000603

1           A     Yes.

2                 This is the same bill.

3           Q     They are identical with the exception of one  
4 fact and that is the addressee, is it not?

5           A     There is another difference. The bill that was  
6 originally sent to me and was then sent to the House of  
7 Diggs was \$264 and then this bill --

8           Q     You are referring to Government's 57-A.

9           A     -- is a bill minus the agency fee, commission  
10 of \$39.60 which comes to \$224.40.

11          Q     All right. And the bill that you were sent  
12 has that section pasted out; is that correct?

13          A     That is true.

14          Q     So, in their original form they were identical  
15 bills?

16          A     That is true.

17          Q     With the exception, the Government's 57-A had  
18 Ofield Dukes as the addressee?

19          A     That is true.

20          Q     And Defendant's 33 had the House of Diggs as  
21 addressee?

22          A     That is true.

23          Q     Who was the proper addressee?

24          A     The House of Diggs.

25          Q     Did the Government in their 12 or so many

000604

1 hours of going over bills such as these with you, ever  
2 show you this document?

3 A No.

4 MR. WATKINS: Thank you, Mr. Dukes. No fur-  
5 ther questions.

6 MR. KOTELLY: May I have the Court's  
7 indulgence, Your Honor?

8 THE COURT: Yes.

9 MR. MARCY: I am looking for an exhibit.

10 REDIRECT EXAMINATION

11 BY MR. MARCY:

12 Q Mr. Dukes, showing you what has been marked  
13 as Defendant's Exhibit No. 33, the bill that was sent  
14 to the House of Diggs, do you have any personal know-  
15 ledge as to whether the House of Diggs paid that bill?

16 A No, I don't.

17 Q Who was employed by Congressman Diggs, was it  
18 Ofield Dukes or was it Ofield Dukes & Associates?

19 A Ofield Dukes.

20 Q How many hours did you meet with Mr. Watkins?

21 A About 45.

22 Q 45 hours?

23 A 45 minutes.

24 MR. MARCY: I have no further questions, Your  
25 Honor.

000605

RE CROSS EXAMINATION

BY MR. WATKINS:

Q Mr. Dukes, when I met with you did I tell you something? Did I give you any instructions about testifying?

A No.

Q When I talked to you on the phone last night, did I give you any instructions about testifying?

A No. No.

MR. WATKINS: Thank you, Mr. Dukes.

THE COURT: May the witness be excused?

MR. KOTELLY: Yes.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will take a 10-minute recess.

(Whereupon, at 11:30 o'clock a.m. a short recess was taken at the conclusion of which the following proceedings were had at 11:50 o'clock a.m.):

THE COURT: Bring in the jury.

(Defendant present in open court.)

(Whereupon, the jury resumed their seats in the jury box and the following proceedings were had in open court:)

MR. MARCY: Your Honor, the Government would

000606

1 call Ruth Rox.

2 Whereupon,

3 RUTH A. ROX

4 was called as a witness by and on behalf of the Govern-  
5 ment and, having first been duly sworn was examined and  
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MARCY:

9 Q Mrs. Rox, will you please state your full  
10 name?

11 A Ruth Alexy Rox.

12 Q Where do you live, Mrs. Rox?

13 A I live in Detroit, Michigan.

14 Q Who do you work for at the present time?

15 A Congressman Diggs.

16 Q How long have you worked for Congressman  
17 Diggs?

18 A I have been with him since '67.

19 Q Directing your attention to September of 1976,  
20 did there come a time when the Congressman gave you  
21 some money orders to cash?

22 A I believe so.

23 Q Would you briefly relate the circumstances  
24 under which the Congressman came to you and asked you  
25 to cash the money orders?

000607

1 A Oh, my God. I believe I worked that weekend  
2 when the Congressman was in town and he asked me to --  
3 he asked me to cash the money orders for him.

4 Q Did you cash the money orders?

5 A Yes. He didn't have an account. I know he  
6 doesn't have an account in Detroit. Since I had an  
7 account I didn't see anything wrong with cashing the  
8 money orders for him.

9 Q What, if anything, did you do with the money  
10 received after you cashed the money orders?

11 A I believe I took it back to the office and  
12 gave him the money.

13 Q Showing you what has been marked as Govern-  
14 ment's Exhibit 46-E, can you identify that?

15 A Yes, I do.

16 Q How can you identify that?

17 A It is my account number there.

18 Q Does your signature appear anyplace on it?

19 A Yes, it is.

20 Q How much is that money order for?

21 A Oh, my God. It is \$250.

22 Q Is that one of the money orders that you  
23 referred to as cashing for the Congressman?

24 A I believe it is.

25 Q Showing you what has been marked as Government

000608



1 Exhibit -- let me ask you one other question: Are you  
2 familiar with Congressman Diggs' signature?

3 A Yes, I am.

4 Q Do you see Congressman Diggs' signature on  
5 that exhibit?

6 A It appears to be his.

7 Q Showing you what has been marked as Govern-  
8 ment's Exhibit 48-F, can you identify that?

9 A Yes, I do.

10 Q How do you identify that?

11 A It is my signature and my account number.

12 Q How much is that money order for?

13 A \$250.

14 Q Showing you what has been marked as Govern-  
15 ment's Exhibit 48-F-1, can you identify that?

16 A I believe this is a Xerox copy of the one you  
17 just showed me.

18 Q Would you compare the serial numbers, the last  
19 two digits of each serial number?

20 A Yes.

21 Q Can you identify Government's Exhibit 48-F-1?

22 A Yes, I do.

23 Q Is that an additional money order that the  
24 Congressman gave you?

25 A I really don't recall it. I guess it is, yes.

000609

1 Q What is the amount of that one?  
2 A It is \$250.  
3 Q Showing you what has been marked as Govern-  
4 ment's Exhibit 48-F-2, can you identify that?  
5 A Yes, I do.  
6 Q How do you identify that?  
7 A It is my signature and my account number.  
8 Q How much is that money order for?  
9 A \$22.10, I think.  
10 Q Looking at all four exhibits as they are in  
11 front of you, are those numbered consecutively?  
12 A Yes, they are.  
13 Q What is the last two digits of the first and  
14 the last two digits of the last exhibits?  
15 A 78, 71346 is the first one.  
16 Q And the last one?  
17 A Talking about this?  
18 Q Yes.  
19 A 7871349.  
20 Q Would you refer to the dates on those money  
21 orders? Are the dates listed on them the same or are  
22 they different?  
23 A They are the same.  
24 Q What is the date?  
25 A September 11th of '76.

000610

Q Are those the money orders that Congressman Diggs gave you on approximately that day and that you cashed?

A To the best of my knowledge, yes.

Q Did you return the cash to him?

A Yes, I did.

Q Do you know what he used the money for?

A No, I don't.

Q Have you ever cashed a United States Treasury check for Congressman Diggs?

A I don't recall it, no.

Q Showing you what has previously been marked as Government's 22-F, would you look at that? Could you identify that check?

A Yes, I do.

Q How do you identify it?

A It is made out to the Congressman. My initials and my account number are there on the back.

Q It is made out to Congressman Diggs?

A Yes, it is.

Q And your endorsement appears on the back?

A Yes, it does.

Q Can you tell where you cashed that check?

A I believe I cashed it at my bank and my account

Q What is your bank?

000611

1 A The Bank of the Commonwealth.

2 Q How much is that check for?

3 A I can't make it out. \$500.

4 Q What is the date of that check?

5 A October 2nd, '76.

6 Q After you cashed that check what did you do  
7 with the proceeds?

8 A I gave it to the Congressman after I cashed it.

9 Q I'm sorry.

10 A I gave it to Congressman Diggs.

11 Q Do you know what Congressman Diggs used that  
12 money for?

13 A No, sir, I don't.

14 MR. MARCY: I have no further questions, Your  
15 Honor.

16 THE COURT: Mr. Watkins?

17 CROSS EXAMINATION

18 BY MR. WATKINS:

19 Q Ms. Rox, are you a citizen of this country?

20 A An alien resident.

21 Q Pardon?

22 A An alien resident.

23 Q You cashed these checks for Congressman Diggs  
24 because he didn't have an account with a Detroit bank;  
25 is that right?

000612

1 A Yes.

2 MR. WATKINS: Thank you, Ms. Rox, that is all.

3 THE COURT: Anything else?

4 MR. MARCY: No, Your Honor.

5 THE COURT: Thank you. You are excused.

6 MR. WATKINS: Just one other thing.

7 BY MR. WATKINS:

8 Q Ms. Rox, where are you from?

9 A Originally from British Honduras.

10 THE COURT: Anything further, gentlemen?

11 MR. MARCY: Nothing further.

12 THE COURT: You may be excused.

13 (Witness excused.)

14 MR. KOTELLY: Your Honor, the next witness  
15 we would call is Sylvia Shearer.

16 Whereupon,

17 SYLVIA SHEARER

18 was called as a witness by and on behalf of the Govern-  
19 ment and, having first been duly sworn, was examined  
20 and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. KOTELLY:

23 Q Would you please state your full name for  
24 the record?

25 A Sylvia Shearer, formerly Lee.

000613

1 Q Where do you presently live?  
2 A Detroit, Michigan.  
3 Q Are you presently employed?  
4 A Yes, I am.  
5 Q For whom are you employed?  
6 A The Michigan Chronicle Publishing Company.  
7 Q How long have you been employed with the  
8 Michigan Chronicle?  
9 A 12 years.  
10 Q What is your position?  
11 A Comptroller.  
12 Q How long have you had that position?  
13 A Approximately five years.  
14 Q What are your general duties as comptroller  
15 of the Michigan Chronicle?  
16 A Bookkeeping, dealing with the general  
17 expense ledger, accounts receivable, accounts payable,  
18 payroll.  
19 Q The accounts receivable that you are  
20 referring to relate to what type of persons or  
21 organizations?  
22 A It is for advertising accounts that place  
23 ads in the paper.  
24 Q What type of records do you maintain at the  
25 Michigan Chronicle relating to accounts receivable?

000614

1           A     We have a ledger card that records the  
2 transactions for the charges and payments received.

3           Q     For each particular advertiser?

4           A     Yes, for each one.

5           Q     What other records do you maintain regarding  
6 the accounts receivable?

7           A     We have a daily collection sheet that records  
8 the money received, and this is recorded on the ledger  
9 also.

10          Q     And is that done each day?

11          A     Yes, this is daily.

12          Q     Are these records, these ledger account cards  
13 and the daily collection sheets kept in the ordinary  
14 course of business of the Michigan Chronicle?

15          A     Yes, they are.

16          Q     Does the Michigan Chronicle have the business  
17 of keeping and maintaining this type of documents?

18          A     I don't understand your question.

19          Q     In the regular course of business of the  
20 Michigan Chronicle's business in the advertising area,  
21 is it part of your business to maintain and keep these  
22 documents?

23          A     Yes, it is.

24          Q     Are these documents based on information  
25 given to the Michigan Chronicle around the time that the

000615

1 information is placed on the ledger cards and the daily  
2 collection sheets?

3 A Yes. The collections are posted daily and  
4 the charges are weekly.

5 Q Mrs. Shearer, were you subpoenaed to bring  
6 with you certain documents relating to either  
7 Congressman Charles Diggs or the House of Diggs?

8 A Yes, I was.

9 Q What type of documents did you bring with  
10 you?

11 A I brought the ledger recording the transac-  
12 tions of the ads and the charges and the payments for  
13 the House of Diggs and Charles Diggs.

14 MR. KOTELLY: I ask that these be marked as  
15 Plaintiff's Exhibit 53-D for identification.

16 THE DEPUTY CLERK: Government's Exhibit 53 --

17 MR. KOTELLY: D.

18 THE DEPUTY CLERK: Government's Exhibit 53-D  
19 as in dog marked for identification.

20 MR. KOTELLY: And also premarked Government's  
21 Exhibit 53-A, B and C, Your Honor.

22 THE DEPUTY CLERK: 53-A, B and C marked for  
23 identification.

24 (Whereupon, Government's

25 Exhibits Nos. 53-A, B, C, D

000616



1                                were marked for identifica-  
2                                tion.)

3 BY MR. KOTELLY:

4            Q     All right. Mrs. Shearer, I first show you  
5 Government's Exhibit 53-A, B, and C for identification  
6 and ask you if you can identify those three documents?

7            A     Yes, I can.

8            Q     How do you identify them?

9            A     I have initialed them, dated them, and they  
10 are the forms that we record the daily collections for  
11 the Michigan Chronicle.

12           Q     Can you tell us for each date what 53-A, B  
13 and C, the daily collections, relate to?

14           A     53-A is for April 19, 1974.

15                 53-B is January 11 of '75.

16                 53-C is December the 4th of '75.

17           Q     Mrs. Shearer, I also show you Government's  
18 Exhibit 53-D, which is a two-page document for identi-  
19 fication and ask you if you can identify that document?

20           A     Yes. This I have also initialed and this is  
21 the display ledger of the advertising of the House of  
22 Diggs, of Congressman Diggs.

23           Q     Is there a separate ledger card for the House  
24 of Diggs and for Congressman Diggs?

25           A     No. We have a card on the record on the same

000617

1 accounts.

2 MR. KOTELLY: Your Honor, at this time we  
3 would ask to have moved into evidence 53-A, B, C and D.

4 MR. WATKINS: No objection, Your Honor.

5 THE COURT: They will be received.

6 THE DEPUTY CLERK: Government's Exhibit 53-A,  
7 B, C and D received in evidence.

8 (Whereupon, Government's  
9 Exhibits 53-A, B, C and D  
10 were received into evidence.)

11 BY MR. KOTELLY:

12 Q Mrs. Shearer, I would first ask you to look at  
13 53-A and ask you if there are any notations on that  
14 daily collection sheet relating to Congressman Diggs or  
15 the House of Diggs?

16 A Yes, there is.

17 Q Again, what date is that?

18 A This is April 19, 1974.

19 Q What is the notation regarding either  
20 Congressman Diggs or the House of Diggs?

21 A It is recorded on Congressman Diggs, \$583  
22 even.

23 Q Even?

24 A Even.

25 Q Is there any other references on that entry?

000618

1 A Oh, his agent, sales person.

2 Q Would you also look at 53-D, to see the  
3 ledger card, to see whether that entry was posted on the  
4 ledger?

5 A There is a recording. I am sorry. There is  
6 a recording on the ledger, April, 1974 of \$588.

7 Q Does that correspond with 53-A in evidence?

8 A Yes, it does.

9 Q I next ask you to look at 53-B, which is in  
10 evidence and ask if there are any references on that  
11 document to either Charles C. Diggs or the House of  
12 Diggs?

13 A This is for Congressman Diggs, \$651.50, and  
14 it is dated January 11th, 1975.

15 Q Could you see if there is a corresponding  
16 amount on the ledger card, 53-D?

17 A On the ledger it is recorded January 11th of  
18 1975, \$651.50.

19 Q Does that amount compare?

20 A It is identical.

21 Q 53-C, which is in evidence, is there any  
22 notations on that document as to whether there are any  
23 payments made on behalf of either Congressman Diggs or  
24 the House of Diggs?

25 A On 53-C, it is December 4, the House of Diggs,

000619

1 \$924.

2 Q Is there any corresponding notation on 53-D,  
3 the ledger card?

4 A Yes. It is recorded December 4th of '75,  
5 \$924 even.

6 Q Mrs. Shearer, based on your records are you  
7 able to determine specific ads that were run for the  
8 Michigan Chronicle which were the ads that were paid  
9 for by 53-A, B and C, the amounts listed?

10 A Yes, I have.

11 Q Did you bring those ads with you?

12 A Yes, I brought tear sheets from the paper  
13 that I had.

14 MR. KOTELLY: Your Honor, I would ask that  
15 these be marked 52-A, B, C, and D for identification.  
16 They have been premarked.

17 THE COURT: Very well.

18 THE DEPUTY CLERK: Government's 52-A, B, and  
19 C marked for identification.

20 BY MR. KOTELLY:

21 Q Mrs. Shearer, I show you what has been  
22 marked as Government's Exhibit 53-A through D for  
23 identification and ask you if you can identify those  
24 documents?

25 A Yes, sir. These are the documents

000620

1 I brought with me. They are also dated the dates of  
2 the charges that are recorded on the ledger.

3 Q The newspaper ads that you brought with you,  
4 do they relate to the three payments for the daily  
5 collections of 53-A, B, and C?

6 A Yes. The ads for April 27th is an 84-inch  
7 ad and that is the one that is on 52-A.

8 Q Fine.

9 A It is marked with --

10 Q You will have to keep your voice up, Mrs.  
11 Shearer.

12 A Did you want --

13 Q What was the amount?

14 A \$588. This is an 84-inch ad pertaining to  
15 Diggs.

16 Q And the second ad, the date of that paper?

17 A January the 11th. This is a 95-inch ad.  
18 This was \$661.50.

19 Q Is that the ad that was paid for by the  
20 collection item on January 11th, 1975 which the Govern-  
21 ment's exhibit reflects?

22 A Yes. \$661.50.

23 Q I ask you to look at 52-C and D, please.  
24 Can you identify those?

25 A Yes. 52-C is an 80-inch ad which was \$560.

000621

1 I can't read this, and this one is a 52-inch ad which  
2 was \$354. The two ads together were \$924 and this is  
3 what was paid for.

4 Q For the record, the first, this was 52-C and  
5 the second, this was 52-D. You indicated the two ads  
6 together were what amount?

7 A \$924 even.

8 Q When were the two ads paid?

9 A They were paid December the 4th, which is  
10 reflected on this collection sheet.

11 Q Were the two ads paid at one time according  
12 to your records?

13 A At one time in the amount of \$924.

14 Q Mrs. Shearer, based on your records, can you  
15 identify the instrument, the check, or the form of  
16 payment as to each of these payments that you have  
17 testified about?

18 A I could not identify the exact form of  
19 payment because the payment is made in one office and  
20 it is recorded from the collection sheet in my office.  
21 So, that whether this was paid in a check or cash or  
22 anything, I would have no way of knowing this. I make  
23 my figures up from the tally.

24 Q Mrs. Shearer, I show you what has been  
25 previously identified as 56-A, B and C, which are the

000622

1 three checks, personal checks of Ofield Dukes and ask  
2 you to look at them and ask you if you can identify  
3 them or any part of them?

4 A They are made out to the Michigan Chronicle  
5 and they have the Michigan Chronicle endorsement stamp,  
6 so this I would identify as the payment for the \$580,  
7 which is recorded.

8 Q Okay. And that check is what exhibit number?

9 A This is 56-A.

10 Q Thank you. I ask you to look next at 56-B.

11 A 56-B is made to the Michigan Chronicle. It  
12 also has the Michigan Chronicle stamp endorsement and  
13 it is in the amount of \$661.50, which I would account  
14 for the January 11, '74, \$661.50.

15 Q Does the amount on your ledger correspond  
16 with the amount on that check?

17 A It is identical.

18 Q And 56-C. I ask you to look at that and ask  
19 if you can identify the marking on that document?

20 A This is made out to the Michigan Chronicle  
21 in the amount of \$924 and has the Michigan Chronicle  
22 endorsement stamp on the back of it.

23 Q Does that correspond with any of the notations  
24 on your ledger card?

25 A This corresponds with the payment of

000623

1 December 4th of 1975 for \$924.

2 Q And the amount on the check, the amount on  
3 your ledger card, how do they correspond?

4 A Identical, \$924, even.

5 Q And the last item for \$924, paid for how many  
6 ads?

7 A Two ads. It paid for two ads.

8 MR. KOTELLY: Your Honor, at this time we  
9 would move into evidence these ads which are 52-A, B,  
10 C and D.

11 THE COURT: Do you wish to be heard?

12 MR. WATKINS: No objection, Your Honor.

13 THE COURT: They will be received.

14 THE DEPUTY CLERK: Government's Exhibits 52-A,  
15 B, C and D received in evidence.

16 (Whereupon, Government's  
17 Exhibits Nos. 52-A, B, C and  
18 D were received into  
19 evidence.)

20 MR. KOTELLY: Nothing further.

21 THE COURT: Mr. Watkins?

22 CROSS EXAMINATION

23 BY MR. WATKINS:

24 Q Good morning, Mrs. Shearer.

25 A Yes.

000624



1 Q Now, Mrs. Shearer, I am going to show you two  
2 documents, one that has been marked as Government's  
3 54. That is a bill from the Michigan Chronicle; is it  
4 not?

5 A Yes, it is.

6 Q And the other; that has been marked as 53-D  
7 for identification and in evidence, that is also a bill  
8 from the Michigan Chronicle; is it not?

9 A Correct, yes.

10 Q And the addressee or the person billed is  
11 House of Diggs; is that right?

12 A Yes, it is.

13 Q Now, I show you what has been marked as  
14 Government's Exhibit 53-A. That is the daily collection  
15 sheet that Mr. Kotelly referred to.

16 A Uh-huh.

17 Q And there is a line there that indicates  
18 \$588 of Congressman Diggs; is that correct?

19 A Yes, that is correct.

20 Q And on 53-B, there is a line that also  
21 indicates \$661.50, Congressman Diggs; correct?

22 A Correct.

23 Q And on Government's Exhibit 53-C, there is a  
24 line that indicates House of Diggs, \$924.

25 A That is correct.

000625

1 Q Now, Mrs. Shearer, looking at your bill, it is  
2 fair to say, is it not, that both the collection sheets  
3 or the collection sheet bear items relating to either  
4 House of Diggs or Congressman Diggs?

5 A That is correct.

6 Q And when you send out bills you do not  
7 distinguish between the House of Diggs and Congressman  
8 Diggs?

9 A No.

10 Q So, that someone outside your organization  
11 looking at a bill or learning about a bill would not be  
12 able to tell whether that bill related to the House of  
13 Diggs and/or Congressman Diggs' ads; is that correct?

14 A They would not know just from the statement;  
15 that is correct. They would only know were there a  
16 tear sheet.

17 Q And you normally do not send tear sheets.  
18 Let me ask you this, specifically:

19 Do you recall sending a bill and a tear  
20 sheet to a person named Ofield Dukes?

21 A No. I personally do not send out the bills  
22 and tear sheets. I oversee this, so I can tell you  
23 our procedure.

24 When an account is invoiced for the weekly  
25 newspaper, and when we invoice the account for each ad

000626

1 we will send a tear sheet with that. However, our  
2 particular records are set up on monthly payments, so  
3 that when we send a monthly statement there is no  
4 tear sheet accompanying that.

5 Q All right. So --

6 A This is a statement that you have.

7 Q Now, referring to Government's 54 in evidence,  
8 showing \$924.

9 A Uh-huh.

10 Q A person receiving that bill would not be  
11 able to determine whether the amount listed there was  
12 for ads for Congressman Diggs or the House of Diggs;  
13 is that correct?

14 A That is correct.

15 MR. WATKINS: Thank you very much, Mrs.  
16 Shearer.

17 THE COURT: Anything else?

18 BY MR. WATKINS:

19 Q Now, Mrs. Shearer, showing you what has been  
20 marked as 52-B, 52-C, 52-A, B, C and D, I am going to  
21 ask you to look at these, Mrs. Shearer.

22 Now, in looking at these four tear sheets is  
23 what you call them; is that correct?

24 A Yes, that is correct.

25 Q Three of these tear sheets, 52-D, 52-A, and

000627

1 52-B, relate to Congressman Diggs; is that correct?

2 A Yes.

3 Q And 52-C?

4 A House of Diggs.

5 Q That relates to the House of Diggs?

6 A The House of Diggs, yes.

7 Q Thank you. But as you say no one receiving  
8 such -- Let me strike that.

9 One receiving a monthly statement without the  
10 tear sheet would not be able to distinguish whether the  
11 bill was for the House of Diggs or Congressman Diggs'  
12 ads?

13 A That is correct, they would not know.

14 MR. WATKINS: Thank you, Mrs. Shearer. I  
15 have no further questions, Your Honor.

16 THE COURT: Anything further?

17 MR. KOTELLY: Nothing further of this witness,  
18 Your Honor.

19 May the witness be excused, Your Honor?

20 THE COURT: You are excused. Thank you.

21 (Witness excused.)

22 THE COURT: Do you gentlemen have a short  
23 witness?

24 MR. KOTELLY: The witness would probably be  
25 about 15 minutes, Your Honor.

000628

1 THE COURT: All right, ladies and gentlemen  
2 of the jury. It is close to 12:30. We will recess at  
3 this point for lunch. Do we know how long it will  
4 take?

5 THE DEPUTY CLERK: The same as yesterday,  
6 Your Honor.

7 THE COURT: Do not discuss the case among  
8 yourselves. Do not let anybody talk to you about it  
9 and do not talk to anybody about it. We will seek to  
10 resume just before 2:00 o'clock.

11 Mr. Marshal, get them back as soon as you can.

12 (Whereupon, at 12:25 o'clock p.m. the  
13 luncheon recess was taken at the conclusion  
14 of which the following proceedings were had.)  
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000629

THE COURT: Bring in the jury.

(The jury returned to the courtroom.)

Whereupon,

JOHN J. SHEERAN

was called as a witness by and on behalf of the Government,  
and having been first duly sworn was examined and testified  
as follows:

DIRECT EXAMINATION

BY MR. KOTELLY:

Q Will you please state your full name for the record?

A John J. Sheeran.

Q Mr. Sheeran, where do you live?

A I live in Roseville, Michigan.

Q What major city is that located near?

A Detroit, Michigan.

Q Where are you presently employed?

A I'm employed at Booth Broadcasting Company.

Q Where are your offices located?

A 2600 Poole Building, Detroit, Michigan.

Q What type of company is the Booth Broadcasting  
Company?

A Booth Broadcasting owns and operates Radio Station  
WJLB in Detroit.

Q What is your position with Booth Broadcasting?

000630

1 A I am the office manager of the central office of the  
2 company, which is the business office in Detroit.

3 Q What are your general duties?

4 A I supervise all accounts receivable, clerks, and  
5 maintain all the accounts receivable and billing records for  
6 WJLB and other Booth stations.

7 Q What type of persons or organizations are considered  
8 as part of your accounts receivable?

9 A All advertisers on WJLB or who have programs.

10 Q How long have you held this position?

11 A I have been with them for 13 years.

12 Q What type of records do you maintain as part of  
13 your accounts receivable?

14 A We maintain cash receipts, journals, copies of  
15 invoices and statements and ledger cards.

16 Q How frequently do you bill for your accounts  
17 receivable?

18 A Usually once per month.

19 Q The records that you have indicated that are  
20 maintained by WJLB, are they maintained based on information  
21 given to them around the time that these items would be  
22 posted on your ledger and cash receipts journals?

23 A I'm not following your question.

24 Q Okay. The information that is placed on your  
25 ledger cards and cash receipts journals, where does that

000631

1 information come from?

2 A That comes from receipts received by the office and  
3 my invoices mailed out from the office.

4 Q And the information that is posted on the ledgers  
5 as well as on the cash receipts journal, is that information  
6 posted around the time that the information is received at  
7 WJLB?

8 A Yes, it is.

9 Q Is WJLB in the business of maintaining and making  
10 records like the cash receipts journals and the ledger cards?

11 A Yes.

12 Q Is that also true of the statements and invoices  
13 that are sent to the customer?

14 A That is correct.

15 MR. KOTELLY: Your Honor, I would ask these new  
16 exhibits be marked Government's 67 for identification, 68 for  
17 identification, 69-A for identification, the whole group,  
18 69-B for identification.

19 THE CLERK: Exhibits 67, 68, 69-A and 69-C and D,  
20 like in dog, marked.

21 (Government Exhibit Nos. 67, 68,  
22 69-A, 69-C, and 69-D were marked  
23 for identification.)

24 BY MR. KOTELLY:

25 Q Mr. Sheeran, I first show you Government's Exhibit

000632



67 for identification and ask you if you can identify that?

A Yes, I can.

Q How do you identify it?

A It is the ledger card for Ofield Dukes and Associates for the account of Congressman Diggs.

Q What period of time does that ledger card cover?

A It covers the period October through December of 1975.

Q What, if any, type of records did you maintain after the end of 1975?

A We went to a computerized method of keeping ledgers.

Q And you no longer maintained ledger cards after that?

A No, we did not.

Q I show you Government's Exhibit 69-A for identification and ask you if you can identify those documents?

A Yes. These are pages from our cash receipts journal for WJLB from October, '75 through December, 1976.

Q Are those records regularly kept and made by WJLB?

A Yes, practically on a daily basis.

Q I show you 69-B for identification and ask you if you can identify that document?

A Yes. It's a photostatic copy of the cash receipts journal for two days concerning January, 1977.

Q Can you identify that as being the cash receipts

000633

1 journal pages from WJLB?

2 A Yes, I can.

3 Q Were those previously furnished to the Government?

4 A Yes, they were.

5 Q Mr. Sheeran, did you bring the original of that  
6 document with you when you came to Washington pursuant to the  
7 subpoena?

8 A No, I did not.

9 Q I also show you Government's Exhibits 69-C and  
10 69-D for identification and ask you if you can identify those  
11 documents?

12 A Yes. These are photostatic copies of invoices and  
13 statements to Ofield Dukes and Associates.

14 Q How would that relate to the account that you have  
15 the ledger card for?

16 A These items would be the bills to Ofield Dukes.  
17 These would be the receipts journal.

18 Q Would you give us exhibit numbers rather than  
19 "these"?

20 A Exhibits 69-C and 69-D are invoices to Ofield  
21 Dukes and Associates. Exhibits 69-A and 69-B are the cash  
22 receipts journals as we receive payments from these invoices  
23 and Exhibit No. 67 is the ledger concerning the account.

24 Q Mr. Sheeran, the documents that you have before you,  
25 were they brought and given to the Government pursuant to a

000634

1 subpoena in connection with this case?

2 A Yes, they were.

3 Q And the documents that are before you relate to  
4 what?

5 A Relate to Congressman Diggs.

6 MR. KOTELLY: Your Honor, at this time I would move  
7 Exhibit 67, 69-A, B, C and D into evidence.

8 MR. WATKINS: No objection, Your Honor.

9 THE COURT: Be received.

10 THE CLERK: Government's Exhibits 67, 69-A, B, C  
11 and D received in evidence.

12 (Government Exhibit Nos. 67, 69-A,  
13 69-B, 69-C, and 69-D were  
14 received in evidence.)

15 BY MR. KOTELLY:

16 Q Mr. Sheeran, were you previously shown by the  
17 Government certain money orders and cashier's checks from the  
18 National Bank of Detroit and the Bank of the Commonwealth in  
19 connection with this case?

20 A Yes, I was.

21 Q What did you do with the various documents that  
22 were shown to you by the Government?

23 A I identified them and initialed and dated them.

24 Q How did you identify them?

25 A I identified them in many cases by the bank it was  
drawn on, the check number and date as it was recorded in our

000635

1 cash receipts journal and by our endorsement stamps on the  
2 backs of the checks.

3 Q Mr. Sheeran, first I will show you Government's  
4 Exhibit 47-K and 47-L.

5 MR. KOTELLY: I don't know if they have been  
6 previously marked for identification, Your Honor. They have  
7 been premarked.

8 THE COURT: Mr. Patterson, what does your record  
9 reflect?

10 THE CLERK: Your Honor, they have been previously  
11 marked.

12 THE COURT: By you?

13 THE CLERK: Yes, sir.

14 THE COURT: All right.

15 BY MR. KOTELLY:

16 Q These are personal money orders on National Bank of  
17 Detroit and I would ask that you look at those documents and  
18 ask you if you can identify the writing on either of those  
19 documents?

20 A Yes, I can.

21 Q How do you identify them?

22 A It is my writing on the face of them.

23 Q Do you recall the circumstances that you filled in  
24 those two money orders?

25 A Yes. They would have been brought to me by

000636

1 Mr. Matlock in blank and filled out in his presence.

2 Q Do you know Mr. Matlock?

3 A I have met Mr. Matlock on several occasions.

4 Q Under what circumstances have you met Mr. Matlock?

5 A When he came in to our office to pay on the  
6 Congressman Diggs' account.

7 Q Mr. Sheeran, would you be the person who would  
8 normally collect for the moneys on your cash receivables?

9 A It would be a normal course of events for me to  
10 receive such things. Other people in the office could have  
11 done it as well.

12 Q If someone hand-delivers money to WJLB what, if any,  
13 procedure do you have regarding the customer himself to note  
14 that the payment was made?

15 A We always give that customer a receipt whether  
16 they pay in cash, check or whatever.

17 Q What, if anything, occurs regarding money that is  
18 mailed in to you?

19 A Then it's a person's canceled check is their receipt  
20 and that's all.

21 MR. KOTELLY: Your Honor, I would ask that this be  
22 marked the next Government's Exhibit in order, 70 for  
23 identification.

24 THE CLERK: Government's Exhibit No. 70 marked for  
25 identification.

000637

(Government Exhibit No. 70 was  
marked for identification.)

BY MR. KOTELLY:

Q Mr. Sheeran, I show you what has been marked  
Government's Exhibit 70 for identification and ask you if you  
can identify that document?

A Yes. It's a receipt which I gave concerning a  
\$550 payment on the account of Congressman Diggs.

Q When would you have made out that receipt?

A December 30, 1975, and I would have made it out  
because someone came to my office with a payment.

Q Do you know who that someone would have been?

A Yes. Felix Matlock.

Q How do you know that?

A Because Mr. Matlock is the only person I ever  
received payments from concerning Congressman Diggs.

Q The receipt that is dated December -- what was the  
date on that again, sir?

A December 30.

Q How would that relate to the two money orders before  
you, Government's Exhibits 47-K and L, I believe the numbers  
are?

A That's correct.

The two money orders total \$550. One is for \$500.  
The other is for 50 and this receipt is for \$550.

000638

1 Q As to Government's Exhibits 47-K and L you have  
2 indicated that you can identify them. Have you had a chance  
3 to review those two money orders and compare them with the  
4 cash receipts journal and your ledgers?

5 A Yes. They are recorded in our cash receipts  
6 journal and also posted to the ledger.

7 Q I next show you Government's Exhibit 47-H for  
8 identification and ask you if you previously looked at that  
9 money order from the National Bank of Detroit?

10 A Yes, I have.

11 Q Have you been able to identify it?

12 A Yes. It's a payment for \$277 payable to WJLB.  
13 It's a personal money order.

14 Q Have you had an opportunity to compare that with  
15 your ledgers and your cash receipts journals and your invoices  
16 and statements?

17 A Yes. This was recorded into our cash receipts  
18 journal and posted to the ledger.

19 Q I next show you Government's Exhibit 48-N and ask you  
20 if you have had an opportunity to previously look at that  
21 money order from the National Bank of Detroit?

22 A Yes, I did. It's a money order for \$500 payable to  
23 WJLB.

24 Q Have you had an opportunity to compare that with  
25 your ledgers and the other documents that have been moved into

000639

1 evidence?

2 A Yes. This was traced to our cash receipts journal  
3 and to the ledger.

4 Q Exhibit 48-Q for identification, have you previously  
5 looked at that?

6 A Yes, I have.

7 Q How can you identify that?

8 A I have initialed it, dated it. It's a money order  
9 payable to WJLB.

10 Q Have you had an opportunity to compare that with the  
11 other exhibits?

12 A This again I traced to our cash receipts journal and  
13 the ledger card.

14 Q I show you 50-D, 50-L, 50-M, 50-P, 50-Q, 50-R, 50-FF,  
15 50-GG.

16 I ask you to look at each one of those and ask you  
17 if you have previously looked at those documents before which  
18 are money orders from the Bank of the Commonwealth?

19 A Yes. I examined all these before.

20 Q How do you identify those?

21 A They are money orders payable to WJLB and again, we  
22 traced these to our cash receipts journal and to the ledger.

23 Q Finally I show you 51-D for identification and ask  
24 you if you previously looked at that document?

25 A Yes, I have. It's a money order drawn on the Bank

000640



1 of the Commonwealth for \$500 payable to WJLB.

2 Again we traced this to our cash receipts journal  
3 and to the ledger.

4 Q When you indicate that you have traced each of  
5 those through your cash receipts journal and ledger what exactly  
6 does that mean?

7 A In our cash receipts journal many times we record  
8 the date of the document, such as the date of the money order,  
9 the number of the money order and for future reference.  
10 Then on the ledger card the cash receipts or cash receipts  
11 journal page is then posted to the ledger and the amount that  
12 we received that day.

13 Q The documents that are in front of you, the money  
14 orders and cashiers' checks from the two banks, can you  
15 identify as to whether or not they were received by WJLB?

16 A Oh, yes. Our endorsement stamps are on the backs  
17 of these items.

18 Q Have you been able to identify as to whether they  
19 have been credited to a certain account?

20 A Yes, I can. They have been credited to the account  
21 of Congressman Diggs.

22 Q That is true of all of those exhibits you have  
23 just identified?

24 A Yes, it is.

25 Q I next show you what has been marked Government's

000641

1 Exhibit 68 for identification and ask you if you can identify  
2 this document?

3 A Yes. It's a ledger card for the House of Diggs  
4 account.

5 Q What period of time does that ledger card cover?

6 A This is balance forwarded at April 27, 1975, and  
7 continues on to December 28, 1975.

8 Q And after 1975 was there a procedure regarding that  
9 account?

10 A Yes. We went on a computerized accounts receivable  
11 system.

12 Q Did WJLB consider the House of Diggs account the  
13 same or separate from the Charles Diggs account?

14 A They were separate accounts.

15 Q And Government's Exhibit 68 for identification, is  
16 that a ledger that is made and maintained by WJLB in the  
17 ordinary course of their business?

18 A Yes, it is.

19 MR. KOTELLY: Your Honor, I would move Government's  
20 Exhibit 68 into evidence at this time.

21 THE COURT: Do you gentlemen wish to be heard?

22 MR. WATKINS: No, Your Honor.

23 THE COURT: Received.

24 THE CLERK: Government's 68 received in evidence.  
25

000642

1 (Government Exhibit No. 68 was  
2 received in evidence.)

3 MR. KOTELLY: Government's Exhibit 60 -- I don't know  
4 if that is in evidence yet or not. It is a check from  
5 Ofield Dukes.

6 THE CLERK: It is not in evidence.

7 BY MR. KOTELLY:

8 Q Government's 60 for identification, I would ask you  
9 if you have previously looked at that document?

10 A Yes, I have.

11 Q How can you tell whether you have looked at that  
12 document?

13 A I have initialed it and dated it.

14 Q Can you identify as to whether that was a check  
15 received by WJLB?

16 A Yes. It's a check made payable to WJLB Radio and  
17 it has our endorsement stamp on the back.

18 Q Have you been able to identify as to what account  
19 that check was credited?

20 A Yes. It was credited to the House of Diggs on  
21 December 17th, 1975.

22 Q The amount of the credit?

23 A Was \$264 credit although the check is for \$244.40.  
24 There was an agency commission allowed.

25 Q Have you had an opportunity to compare the documents

000643

1 to determine whether, in fact, the check, Government's  
2 Exhibit 60 for identification, was properly credited to the  
3 account of the House of Diggs?

4 A Yes. I traced it to our cash receipts journal and  
5 then to the ledger.

6 Q Thank you.

7 Mr. Sheeran, I again show you Government's Exhibit  
8 67 which is in evidence which is your ledger card as to  
9 Congressman Charles Diggs and ask you if you had an opportunity  
10 to review that document to determine the number of payments  
11 that were made on that account in the year 1975?

12 A Yes. This ledger starts October 1st, 1975 and  
13 ends December 28, 1975, and there were four payments credited  
14 to this account.

15 Q Could you tell from that ledger -- would you tell  
16 the jury the dates and the amounts of those credits?

17 A Yes. On October 1st, 1975, there was a \$110  
18 payment. On November 11 there was a \$273 payment. On  
19 December 5th there was a \$277 payment. On December 30 there  
20 was a \$550 payment.

21 Q I again show you Government's Exhibit 69-A which is  
22 now in evidence which is your cash receipts journal and I'll  
23 ask you if you have had an opportunity to review those  
24 documents to determine as to who paid those four various  
25 payments?

000644

1 A Yes, I can identify them. Would you like me to  
2 detail them?

3 Q Yes. The four payments in 1975, would you state  
4 what your records and the cash receipts journal reflect as to  
5 the four payments on Congressman Diggs account?

6 A All right. The first on October 1st, is a check  
7 drawn on the Union Trust for \$110 by Ofield Dukes dated  
8 September 24. His Check No. 3187.

9 The second is a money order. It does not indicate  
10 which bank it was drawn on. It was dated November 11. It  
11 was credited to the Ofield Dukes and Associates, Congressman  
12 Diggs account, in the amount of \$273.

13 Q The third payment?

14 A The third payment on October 5th was a money order  
15 for \$277 dated December 5th, credited to the Ofield Dukes  
16 account for Congressman Diggs.

17 Q Was there any identifying information as to the form  
18 of that payment?

19 A Only that it was a money order.

20 Q And the fourth payment as to Congressman Diggs?

21 A Yes. A check drawn on Union First, \$244.40  
22 allowing \$39.60 agency commission. A credit to the account  
23 of Ofield Dukes for Congressman Diggs, \$264. It was his  
24 check dated December 10th, No. 3347.

25 Q I show you again Government's Exhibit 60 for

000645

1 identification and ask you if that is how that compares with  
2 the cash receipt item?

3 A This is the document we recorded. It is Check No.  
4 3247 dated September 10th from Ofield Dukes.

5 Q Do you know whether that was credited to Congressman  
6 Diggs' account or to the House of Diggs account?

7 A That was credited to Congressman Diggs' account.

8 Q Was there later a change regarding that payment?

9 A No, I don't believe so.

10 Q Would any other document assist you in identifying  
11 that particular check?

12 A Yes, the other ledger.

13 Q I show you Government's Exhibit 68 in evidence.

14 A This is the ledger for the House of Diggs account.  
15 We receipted this check on December 17, as I just explained  
16 a moment ago, and we have a posting to the ledger of December  
17 17, 1975, a credit of \$264 to the House of Diggs account.

18 Q I was asking, Mr. Sheeran, only about the charges on  
19 Congressman Diggs' account, not the House of Diggs account.  
20 You identified a check from Ofield Dukes for \$224.40. You  
21 indicated it was for Congressman Diggs' account.

22 A But it was for the House of Diggs account.

23 Q All right. You have told us that there were four  
24 credits to the account of Congressman Diggs. You have related  
25 three and then, of course, mentioned Mr. Dukes' check.

000646

1            Could you tell us what the fourth one is from your  
2 cash receipts journal?

3            A     Yes. We received two money orders in the amount of  
4 \$550 and they were dated December 30, each of them, and they  
5 were credited to the account of Congressman Diggs.

6            Q     Is there any further identification of those money  
7 orders on your cash receipts journal?

8            A     No, there isn't.

9            Q     Going in inverse order, the latest payment, and  
10 going back to the earliest payments, I show you Government's  
11 Exhibit 47-K and 47-L for identification, which you  
12 previously identified, and ask you whether you can identify  
13 that as having made any of the four payments?

14           A     Yes. These two that I identified a few minutes  
15 earlier I filled out for Mr. Matlock and they were recorded  
16 here on December 30 going to the Congressman Diggs account.

17           Q     So are those two money orders the fourth payment?

18           A     Yes, they are.

19           Q     I next show you Government's Exhibit 47-H for  
20 identification which you previously looked at and ask you if  
21 you can identify that one as being any of the four payments  
22 in 1975?

23           A     Yes, it is. It is a \$277 money order and I mentioned  
24 that we recorded that on the 5th.

25           Q     Which numbered payment would that have been of the

000647

1 four?

2 A That would have been the third payment.

3 MR. KOTELLY: Your Honor, I would ask these to be  
4 marked. I believe we are at Government's Exhibit 71-A and B  
5 for identification.

6 THE CLERK: Government's Exhibit 71-A and 71-B  
7 marked for identification.

8 (Government Exhibit Nos. 71-A and  
9 71-B marked for identification.)

10 BY MR. KOTELLY:

11 Q Mr. Sheeran, I show you first what is marked on  
12 this Exhibit 71-A which is just the top document and ask you  
13 to look at it and ask you if you can identify it?

14 A Yes. This is a receipt that I filled out for the  
15 Congressman Diggs account in the amount of \$273 on November  
16 11, 1975.

17 Q Whose writing appears on the face of that?

18 A That's my writing.

19 Q I ask you to look at the second document, the one  
20 underneath it, 71-B for identification, and ask you first of  
21 all how that compares with your receipt?

22 A It's in the exact same amount. What it is, it's  
23 a purchaser's copy of a money order drawn on National Bank of  
24 Detroit. It's dated November 11, 1975, as is my receipt that  
25 I filled out, and it appears that it is made payable to WJLB

000648



1 for the account of Congressman Charles Diggs, as is the  
2 receipt that I also filled out.

3 Q Do you know who you would have given the receipt  
4 to for that payment?

5 A Yes. Mr. Matlock.

6 Q Is that reflected on any of the four payments in the  
7 last few months of 1975?

8 A Yes, it is.

9 Q Which payment number would that have been of the  
10 four?

11 A That would have been the second one we referenced  
12 in their cash receipts journal which I have a money order in  
13 the amount of \$273, credited to the Ofield Dukes account,  
14 Congressman Charles Diggs.

15 Q .The amount on your ledger, your cash receipts  
16 ledger, how does that compare with the amount of your receipt  
17 and the amount of the money order?

18 A All three tie in.

19 Q Again as to the first payment of the four on  
20 Congressman Diggs account in 1975 what do your records  
21 reflect? Just recite what the record reflects as to the  
22 first payment.

23 A We have an entry in our cash receipts journal  
24 indicating the payment.

25 Q By whom?

000649

1 A By money order. Let me just double check.

2 Q Please do.

3 A I'm sorry. It's a Union Trust check for \$110 from  
4 Ofield Dukes.

5 Q Is there a number, identifying number?

6 A Yes, a check number, 3187.

7 MR. KOTELLY: I have no further questions of the  
8 witness, Your Honor.

9 THE COURT: Gentlemen?

10 CROSS-EXAMINATION

11 BY MR. POVICH:

12 Q Mr. Sheeran, just a couple questions. All the  
13 documents you have given the Government today, have they  
14 previously been turned over to the Government?

15 A We made photostatic copies of many of those that  
16 were given to the FBI which eventually wound up with the  
17 United States Attorney.

18 Q But they were all given to the FBI?

19 A Yes, they were.

20 Q How long ago was that?

21 A It was early this year. I don't recall when.  
22 Before the summer, I believe.

23 Q Did all those documents relate to the billings for  
24 WJLB with respect to Congressman Diggs or the House of Diggs;  
25 is that correct?

000650

1 A That's correct.

2 Q So that the Government had available to them all  
3 this information as of -- since what date?

4 A I really don't recall. It was a few months ago.

5 MR. POVICH: Thank you very much.

6 THE COURT: All right.

7 MR. KOTELLY: Nothing further.

8 THE COURT: May the witness be excused?

9 MR. KOTELLY: Yes, Your Honor.

10 MR. POVICH: Yes.

11 THE COURT: Thank you. You are excused.

12 (Witness excused.)

13 MR. KOTELLY: We call Lorraine Westbrook, if she  
14 is here.

15 MR. MARCY: Your Honor, Lorraine Westbrook is not  
16 here. The Government would call Jeralee Richmond.

17 THE COURT: All right.

18 Whereupon,

19 JERALEE RICHMOND

20 was called as a witness by and on behalf of the Government,  
21 and having been first duly sworn was examined and testified  
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. MARCY:

25 Q Mrs. Richmond, would you please state your full name?

000651

1 A Jeralee Richmond.

2 Q Where do you live, Mrs. Richmond?

3 A 24071 Jerome Park, Michigan.

4 Q Do you know Charles C. Diggs?

5 A Yes, I do.

6 Q Do you work for him at the present time?

7 A Yes, I do.

8 Q Would you tell us what you do for Congressman Diggs?

9 A Constituency services and run his congressional  
10 offices in Detroit.

11 Q Which congressional office in Detroit?

12 A 8401 Woodward Avenue.

13 Q When did you first meet Charles C. Diggs, Jr.?

14 A 1949.

15 Q What were the circumstances under which you met  
16 Mr. Diggs?

17 A I went to the House of Diggs Funeral Home to apply  
18 for a job.

19 Q Did you interview Mr. Diggs at that time?

20 A Yes, I did.

21 Q Were you hired for a job?

22 A Yes, I was.

23 Q Who were you hired by?

24 A Mr. Diggs.

25 Q To work for whom?

000652

1       A     The House of Diggs Funeral Home.

2       Q     What were your responsibilities for the House of  
3 Diggs Funeral Home?

4       A     Bookkeeper and general clerical work.

5       Q     Were there any other responsibilities that you had  
6 while you worked at the House of Diggs?

7       A     We took -- yes, working with the miscellaneous  
8 cases that may have come into the office with any of their  
9 problems.

10      Q     Did there come a time that you left the House of  
11 Diggs?

12      A     In 1955.

13      Q     Where did you go at that time?

14      A     I went to Diggs Enterprises.

15      Q     What was Diggs Enterprises?

16      A     Public stock company with subsidiaries.

17      Q     How long were you employed by Diggs Enterprises,  
18 if you remember?

19      A     Until 1967.

20      Q     From the period you first began with the House of  
21 Diggs in 1949 until 1967 where did you receive your salary  
22 from? Who paid you?

23      A     The House of Diggs until '55 and Diggs Enterprises  
24 until '67.

25  
000653

1 Q Did you apply for re-employment with the House of  
2 Diggs in the spring of 1974.

3 A Yes. I asked.

4 Q Would you tell us what the circumstances were under  
5 which you applied for re-employment?

6 A I approached Mrs. Juanita Diggs or the congressman --  
7 I don't remember which first -- but I did ask for employment.

8 Q Who is Juanita Diggs?

9 A Mr. Diggs' divorced wife.

10 Q What was Juanita Diggs' relationship to the House of  
11 Diggs when you re-applied for employment?

12 A I believe she was controlling -- I'm not positive  
13 of her capacity.

14 Q Did there come a time when you contacted Congressman  
15 Diggs?

16 A I called him at Bethesda Hospital.

17 Q Where did you call him from?

18 A My home.

19 Q In Detroit?

20 A Yes.

21 Q When was that?

22 A It was in May, the first part of May, around the  
23 1st or 2nd of May.

24 Q Of what year?

25 A '74.

000654

1 Q Would you describe the conversation you had with  
2 Congressman Diggs in that telephone call?

3 A After we finished, after we discussed his ailment  
4 and possibly being hospitalized we went into the subject of  
5 the operation of the funeral home, the status of the funeral  
6 home.

7 Q Could you tell us what Congressman Diggs said at  
8 that time?

9 A That if I was ready to come back to work and if he  
10 mentioned at that point the actual -- I don't know whether  
11 we got into a figure discussion or not at that time but I do  
12 know --

13 Q What do you mean "a figure discussion"?

14 A On the accounts receivables.

15 Q Of the House of Diggs?

16 A Yes, sir.

17 Q As a result of that telephone conversation, did you  
18 meet with Congressman Diggs?

19 A Yes, I met with him.

20 Q When was that?

21 A It was May.

22 Q How long after the telephone call?

23 A Within a week.

24 Q Where did this meeting take place?

25 A On West Boston Boulevard in Detroit.

000655

1 Q Who was present at the meeting?

2 A The congressman, Mrs. Juanita Diggs and the two  
3 older children that were involved with the funeral home at that  
4 time.

5 Q What did Congressman Diggs talk about at the meeting  
6 on that Sunday?

7 A The general condition of the funeral home.

8 Q Could you be a little more explicit?

9 A Well, the financial conditions of it. The money  
10 wasn't being collected and wasn't coming in properly as it  
11 should for operational purposes.

12 Q What was your connection with this discussion?

13 A What was my connection? I may have raised the  
14 question as to what procedure was now being used or who was  
15 doing it. As to actual discussion I don't remember word-for-  
16 word.

17 Q Did you get a job as a result of this meeting?

18 A Yes, I did.

19 Q Was there any discussion at the meeting as to how  
20 much money you would be paid?

21 A No, it was not.

22 Q Any discussion as to how you would be paid?

23 A No, it was not.

24 Q Did you leave that meeting on West Boston Boulevard  
25 with the congressman?

000656



1 A Yes. We both left at the same time.

2 Q Was there a discussion as you were leaving?

3 A Yes, sir.

4 Q -- concerning how you would be paid?

5 A He was going to his car; I was going to mine, and  
6 we stopped and talked.

7 Q What, if anything, did the congressman say?

8 A We went over the principles -- we went over the  
9 status of the general condition of the account and then he  
10 said that I would be paid on the congressional payroll, paid  
11 from.

12 Q Was there any discussion at that meeting or during  
13 this subsequent conversation that he told you that you would  
14 be paid from the congressional payroll that the subject of  
15 doing any congressional work came up?

16 A No, it did not.

17 Q Did you then report to work at the House of Diggs?

18 A Yes.

19 Q When was that?

20 A The Monday after that Sunday we met.

21 Q Still back in May of 1974?

22 A Yes, May of '74.

23 Q Where did you report to work?

24 A At the funeral home on Dexter.

25 Q How long did you work at the funeral home on Dexter?

000657

1 A Until the 20th of May when we moved.

2 Q Where did you move to?

3 A On Myers.

4 Q Was that also a funeral home?

5 A Yes, sir.

6 Q Was there a congressional office at either one of  
7 these funeral homes?

8 A Not as such.

9 Q What were your duties as you came to know them after  
10 you began working for the House of Diggs in May of 1974?  
11 What were your duties? What were your responsibilities?

12 A My responsibilities were to work on the accounts  
13 receivable, collect what I could collect, and take care of the  
14 miscellaneous people that came to the office or called the  
15 office for what we called constituency services.

16 Q Can you give us some estimation during this period  
17 of time -- let me ask this question first.

18 How long did you work at the House of Diggs Funeral  
19 Home? Did there come a time that you moved to the congressional  
20 office full-time?

21 A In August of '76.

22 Q Between July of '74 and August of 1976 can you  
23 give us some idea as to how much of your time was spent with  
24 the accounts receivable and doing House of Diggs work and how  
25 much was spent with what you have characterized as

000658

1 constituency work?

2 A I would say in the area of 20 percent.

3 Q Twenty percent of what?

4 A My time.

5 Q Was spent?

6 A On constituency work. I didn't keep a record so I  
7 have no way of knowing.

8 Q Did there come a time that the Diggs Funeral Home  
9 merged with the Stenson Funeral Home?

10 A Yes.

11 Q Do you recall approximately when that was?

12 A It was in the fall of '75.

13 Q How was your job affected as a result of that  
14 merger, if it was affected?

15 A It wasn't really affected. I did the same thing  
16 that I was doing. I stayed at Myers for a period of time and  
17 then after they moved the complete operation out over to  
18 Stenson's then I was on assignment, I guess you would call it.

19 Q On assignment to the Stensons?

20 A No, I never took the instructions from Mr. Stenson.  
21 I mean I respected him.

22 Q But you indicated that you were on assignment?

23 A Yes. I went back to Myers.

24 Q The funeral home on Myers?

25 A Yes.

000659

1 Q Who owned the funeral home on Myers after the merger?  
2 A I guess it was Diggs/Stenson.  
3 Q Did you know if Congressman Diggs had any connection  
4 with the funeral home at that time?  
5 A After the merger?  
6 Q Yes.  
7 A No, he did not, to my knowledge.  
8 Q What did you do at the Myers Road funeral home?  
9 A Assembled the old records.  
10 Q What kind of old records?  
11 A Funeral records.  
12 Q How long did you do this?  
13 A About a period of two or three months, I guess. I  
14 went back to 1930, back in the 30's.  
15 Q Collecting records that went back to the 30's?  
16 A Yes. I got back to the 30's.  
17 Q Who told you during that period of time, July of  
18 '74 through August of '76, where to work?  
19 A You are saying July?  
20 Q July -- well, May of '74.  
21 A Congressman Diggs.  
22 Q Did you ever receive from May, 1974, through July or  
23 August of 1976, any salary from the House of Diggs?  
24 A No, sir.

Did you ever receive any salary from the

000660

1 diggs/Stenson Funeral Home during that period?

2 A No, sir.

3 Q Did you receive a United States Treasury Check each  
4 month from July, 1974 through July, 1976?

5 A Yes.

6 MR. MARCY: Your Honor, these have previously been  
7 marked for identification.

8 BY MR. MARCY:

9 Q I would show you Government's Exhibits 15-A through  
10 15-M. Can you identify those?

11 A Yes.

12 Q What are they?

13 A They are salary checks that I received.

14 Q Why is it that you can identify them?

15 A By the endorsements.

16 Q And they have your endorsement on them?

17 A Yes. Those that hasn't has my husband's.

18 Q How were those checks delivered to you?

19 A At the address printed on the front through the  
20 mail.

21 Q Through the U. S. Mail?

22 A Yes.

23 Q You mentioned that you performed some what you  
24 characterized as constituent services both in the 1950's and  
25 also from July, 1974 through July or August of 1976?

000661

1 A Yes.

2 Q From July, 1974 through July, 1976, did you handle  
3 more constituent complaints or less constituent complaints  
4 than you handled in the 1950's when you worked for the House  
5 of Diggs?

6 A It was less.

7 Q You handled less?

8 A Less.

9 Q And during the 1950's you were paid by the House of  
10 Diggs?

11 A The House of Diggs and Diggs Enterprises.

12 Q Let me refer you to Government's Exhibit 15-A.  
13 Would you describe what Government's Exhibit 15-A is?

14 A It's a check.

15 Q Is that A?

16 A Yes.

17 Q What is the date on the top check?

18 A July 31st, '74.

19 Q What is the amount of that check?

20 A \$525.18.

21 Q What is the date on the second check?

22 A August 30.

23 Q Of what hear?

24 A '74.

25 Q What is the amount of that check?

000662

1 A \$1,449.79.

2 Q Do you know why those checks -- there is approximately  
3 a thousand dollars difference between them?

4 A It was three months involved?

5 Q You had been working for the House of Diggs for  
6 three months?

7 A Yes.

8 Q Were you paid by either the U. S. Treasury or the  
9 House of Diggs for May and June of '74?

10 A I received no moneys from the House of Diggs.

11 Q Is my understanding correct that this August check  
12 was to pay you for May and June?

13 A For the back pay, yes.

14 MR. MARCY: May I have the Court's indulgence for  
15 a moment?

16 THE COURT: Yes.

17 MR. MARCY: I have no further questions, Your Honor.

18 THE COURT: Mr. Watkins?

19 MR. WATKINS: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. WATKINS:

22 Q Miss Richmond?

23 A Yes, sir.

24 Q How are you this afternoon?

25 Just relax.

000663

1 Now, I want to direct your attention to 1974. You  
2 came back from South Carolina; is that correct?

3 A That's correct.

4 Q And you wanted work; is that right?

5 A Yes.

6 Q And you talked with Mrs. Juanita Diggs about work?

7 A Yes.

8 Q And she referred you to the congressman; did she not?

9 A Something of that nature, yes.

10 Q And the congressman said to you in that meeting  
11 something to the effect that "If you move to Washington your  
12 chances would be better"?

13 A Had I moved to Washington the chances would have  
14 been better of employment.

15 Q All right. You understood that to mean that the  
16 congressman would employ you in his congressional office in  
17 Washington; is that correct?

18 A I guess that was the general assumption, yes.

19 Q It was after that in May of 1974 that you received  
20 a call from Juanita Diggs, Mrs. Juanita Diggs, to call  
21 Congressman Diggs in the hospital?

22 A Yes, sir.

23 Q You had a conversation with him in the hospital?

24 A Yes.

25 Q And that ultimately resulted in a meeting with him

000664



1 at Juanita Diggs' house on Boston Road sometime later on that  
2 month; is that right?

3 A Yes, sir. Yes, sir.

4 Q All right. Now, there was a meeting inside the  
5 house with Mrs. Diggs, Congressman Diggs, and his children,  
6 correct?

7 A Two of the older ones, yes.

8 Q Okay. And as you were leaving you had some conversa-  
9 tion with Congressman Diggs about your duties at the funeral  
10 home, correct?

11 A Yes.

12 Q In that conversation you indicated not only you  
13 would be doing accounts receivable but that you would be  
14 doing miscellaneous work; isn't that correct?

15 A Miscellaneous, yes.

16 Q And miscellaneous work meant for you what?

17 A The things that had been going on since I went to the  
18 funeral home in '49.

19 Q Tell me what that is.

20 A Working with the folks that came in with their  
21 problems.

22 Q Would it be fair to say you mean constituent work?

23 A Yes. That's what we call it now.

24 Q What did you call it then, ma'am?

25 A Just cases. Folks came in with problems.

000665

1 Q What kinds of problems did they come in with? I'm  
2 talking about in 1949 now. What kinds of problems did they  
3 come in with?

4 A They have -- it was called Welfare back then. It's  
5 now Social Services, but they had welfare problems and rental  
6 problems, insurance problems. Social Security was not too  
7 popular back then. It was just general problems with the  
8 persons.

9 Q All right. Part of your duties in 1949 was handling  
10 those people with problems; is that correct?

11 A Yes, sir.

12 Q Trying to help them solve their problems?

13 A Yes, sir.

14 Q Now, so when you left that parking lot after that  
15 meeting with Mr. Diggs you knew that your duties at the funeral  
16 home would consist of two aspects; is that correct?

17 A It was a general understanding.

18 Q And those two aspects would be constituent services,  
19 to put it in present-day language; is that correct?

20 A Correct.

21 Q And in addition you would be doing accounts  
22 receivable, working trying to collect moneys on the Diggs  
23 Funeral Home?

24 A Yes, sir.

25 Q All right. Why was it you would be doing constituent

000666

1 services at a funeral home, Mrs. Richmond?

2 A That was the pattern that was going on when I  
3 started with the company in 1949.

4 Q Tell us why.

5 A Why was it started?

6 Q Sure.

7 A I really don't know other than his father, I imagine,  
8 started it before he did. It just proceeded that Diggs  
9 would help you, sir.

10 Q You say what? I'm sorry.

11 A That Diggs would help you.

12 Q Would it be fair to say that the Diggs Funeral Home  
13 was a focal point of the community for problems?

14 A It was at that time.

15 Q Would it be fair to say if you could go to the  
16 Diggs Funeral Home Congressman Diggs or his staff would help  
17 you with their problems?

18 A Yes.

19 Q When you talked to Congressman Diggs in May of 1974  
20 you knew that that was the kind of work that you were going  
21 to be doing?

22 A I assumed because I was not told differently.

23 Q All right. Fine. And you went to work for  
24 Congressman Diggs doing' constituent work and accounts receivable  
25 very soon thereafter; is that right?

000667

1 A Yes, sir.

2 Q The next week?

3 A It was the next day after the meeting.

4 Q All right. The next day after the meeting?

5 A Yes.

6 Q You did spend a portion of your time performing

7 constituent services; isn't that right?

8 A Those that came in that I was able to handle.

9 Q And that was you said about 20 percent?

10 A I'd say about 20.

11 Q Now, in the fall of 1975 there was a merger,

12 Diggs/Stenson. Stenson Funeral Home and Diggs Funeral Home

13 merged; is that correct.

14 A Correct.

15 Q And you remained, I think you said, at the Myers

16 Avenue office, right?

17 A Yes, sir.

18 Q And your duties didn't change there, did they?

19 A No, they didn't.

20 Q You continued to do constituent work as well as

21 accounts receivable?

22 A I did.

23 Q All right.

24 A They did not move the operations out for awhile.

25 Q Now, so that was 1975. You were still at -- well,

000668

1 Diggs/Stenson merged funeral home in January of 1976; were you  
2 not?

3 A Yes.

4 Q All right.

5 THE CLERK: Defendant's Exhibit No. 34 marked for  
6 identification.

7 (Defendant Exhibit No. 34 was  
8 marked for identification.

9 BY MR. WATKINS:

10 Q Now, Mrs. Richmond, I show you what has been marked  
11 as Defendant's Exhibit 34. Can you identify it?

12 A Yes, I can.

13 Q Would you tell the ladies and gentlemen of the jury  
14 what it is?

15 A This was an employment case for a constituent that  
16 had filed with the Civil Service Branch here in Washington  
17 for jobs.

18 Q All right. Are you finished?

19 A Go on.

20 Q Would it be fair to say, Mrs. Richmond, this is a  
21 pre-printed form?

22 A Yes. That's a pre-printed form.

23 Q Are you writings on it at any place?

24 A This is my writing.

25 Q All right.

000669

1 A Right here.

2 Q What is the date of that form?

3 A January 4th, 1976.

4 Q That was the time you were working at Diggs/Stenson  
5 Funeral Home, the merged operation?

6 A Yes, sir.

7 Q And you said this was an employment case; is that  
8 right?

9 A Yes. -----

10 Q Would you tell us what happened there? Does that  
11 refresh your recollection so you can tell us exactly what  
12 happened, what your part in producing that form was?

13 A The gentleman had filed the application for fire  
14 protection here in Washington.

15 Q For what, ma'am?

16 A A fire protection job.

17 Q Let me stop you for a minute. Did the gentleman  
18 come into the office?

19 A No. It was by phone.

20 Q It was by phone. All right. You talked to him on  
21 the phone, right?

22 A Yes.

23 Q Go on and tell us what happened.

24 A And he wanted to find out what was the status of his  
25 case and I in turn called --

000670

1 Q You what, ma'am?

2 A I in turn called the Washington office because this  
3 is where he originally filed it. They gave me the information  
4 that he would have to proceed to gather information from the  
5 point of filing, which would have been here in Washington.

6 Q And you hung up the phone and then called him and  
7 told him what he had to do; is that right?

8 A Yes.

9 Q Then you marked "Closed" on the case?

10 A It should have been.

11 Q Mrs. Richmond --

12 (The witness was crying.)

13 THE WITNESS: I'm sorry.

14 BY MR. WATKINS:

15 Q That's all right.

16 A That is the procedure.

17 Q Is that the procedure you followed in this case?

18 A Yes.

19 Q All right. Now, moving from January, 1976 on  
20 there came a time, did there not, when you started to go into  
21 the congressman's congressional office part-time as opposed  
22 to spending your full five days at the funeral home, correct?

23 A Correct.

24 Q Now, you went in about one day a week of a five-day  
25 week; is that correct?

000671

1 A Yes.

2 Q And at whose direction was it that you went to the  
3 congressman's office one day a week?

4 A Congressman Diggs.

5 Q So until August, 1976, when you went into the  
6 congressman's office full-time you were going there on a  
7 part-time basis and still doing your work at the funeral home?

8 A Yes.

9 Q And at the funeral home you were doing still  
10 constituent work when they called as well as accounts  
11 receivables?

12 A Right, correct.

13 Q Now, Mrs. Richmond, you were subpoenaed to testify  
14 at a grand jury in this case; is that correct?

15 A That's correct.

16 Q When you received that subpoena did you call  
17 Congressman Diggs?

18 A Yes, I did.

19 Q And you told him you were going to be testifying in  
20 front of a grand jury, correct?

21 A I'm pretty sure that was the conversation because  
22 I told him I had received the subpoena.

23 Q Right. And he told you, did he not, there was  
24 nothing for you to do but tell the truth?

25 A That's correct.

000672



1 MR. WATKINS: Thank you, Mrs. Richmond.

2 One other thing.

3 BY MR. WATKINS:

4 Q When you received that subpoena you were upset,  
5 weren't you?

6 A Still am.

7 Q We will let you get out of here.

8 THE COURT: Anything else, gentlemen?

9 MR. MARCY: I just have three brief questions,  
10 Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. MARCY:

13 Q Mrs. Richmond, showing you again Defendant's  
14 Exhibit 34, was there anything more involved than making a  
15 phone call in that complaint?

16 A Not from Detroit and I don't know what happened on  
17 this. Not from Detroit and that's all I could do was make a  
18 telephone call here.

19 Q How long would you estimate that telephone call  
20 took?

21 A The actual call, it may not have taken long, but I  
22 think this is one of the lady's writing in the office. I'm  
23 not sure. It may have taken her some time to get the Civil  
24 Service and get a status.

25 Q I'm only referring to your action.

• 000673

1 A About three or four minutes, I guess, five.

2 Q You indicated that you were doing some of these  
3 constituent services back in the period of 1949, 1950, 1951?

4 A That's right.

5 Q During that period of time was Charles C. Diggs, Jr.,  
6 a congressman?

7 A No, he was not.

8 Q When you worked at the house of Diggs from July,  
9 1974 -- May --

10 A Wait a minute. Did you say '49 and what?

11 Q From '49 to 1954.

12 A Yes. He was not a congressman.

13 Q Going to the next question, while you were working  
14 at the House of Diggs from 1974 through 1976 were there other  
15 people working at the House of Diggs who were doing what you  
16 have referred to as constituent services?

17 A When I went back in '74 it was a very limited force.  
18 Now, what they did as individuals, I don't know.

19 Q Were the other people in the House of Diggs paid by  
20 the House of Diggs?

21 A I assume they were. I have no way of knowing.

22 MR. MARCY: I have no further questions, Your Honor.

23 MR. WATKINS: One question.

24  
25  
000674

RE CROSS-EXAMINATION

BY MR. WATKIN:

Q Mrs. Richmond, isn't it true that in 1949 to 1954 Congressman Charles Diggs or Mr. Charles Diggs was not a congressman at that time but he was a State Senator in Michigan; isn't that correct?

A That is correct.

Q Thank you, Mrs. Richmond.

THE COURT: May the witness be excused, gentlemen?

MR. MARCY: Yes, Your Honor.

THE COURT: You are finally excused. Thank you.

(Witness excused.)

MR. MARCY: The Government would call Lorraine Westbrook.

Whereupon,

LORRAINE WESTBROOK

was called as a witness by and on behalf of the Government, and having been first duly sworn was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MARCY:

Q Would you please state your full name?

A Lorraine Westbrook.

Q Where do you live?

A Washington, D. C.

000675

1 Q Where do you work?

2 A U. S. House of Representatives.

3 Q Who do you work for?

4 A Congressman Charles C. Diggs, Jr.

5 Q How long have you worked for Congressman Diggs?

6 A Five and a half years.

7 Q What is your present position with Congressman Diggs?

8 A Executive Secretary.

9 Q Have you in the past had occasions to cash Treasury  
10 checks and money orders for the congressman?

11 A Yes, I have.

12 Q Do you recall cashing a U. S. Treasury check in July  
13 of 1976?

14 A I think so, yes.

15 MR. MARCY: Your Honor, this has previously been  
16 marked as Government's 22-E.

17 BY MR. MARCY:

18 Q Showing you what has been marked as Government's  
19 22-E can you identify that?

20 A By my signature, yes.

21 Q Is that an endorsement on the back?

22 A Yes, it is.

23 Q Is there another endorsement ahead of that?

24 A Yes. It is Congressman Charles C. Diggs, Jr.'s  
25 signature.

000676

1 Q Who is that check made payable to?  
2 A To the congressman.  
3 Q What is the date of the check?  
4 A July 6th.  
5 Q Of what year?  
6 A '76.  
7 Q Did the congressman give you that check to cash?  
8 A Yes, he did.  
9 Q Did you cash it?  
10 A Yes.  
11 Q Where did you cash it?  
12 A By the stamp on the back, at my bank, at the time  
13 that I was doing business at the bank that I used.  
14 Q What bank is that?  
15 A National Bank of Washington.  
16 Q What, if anything, did you do with the proceeds of  
17 that check?  
18 A I must have given it to him. It must have been just  
19 given to him.  
20 Q In cash?  
21 A Yes.  
22 Q What is the amount of that check?  
23 A \$500.  
24 Q Does it indicate in the left-hand corner what it's  
25 for?

000677

1 A No, it doesn't. It says "Vouchers" on it. I guess  
2 that would be an indication.

3 Q Thank you.

4 Showing you what's been marked as Government's  
5 Exhibit 48-O, a money order, do you recognize that?

6 A Yes, I do.

7 Q How do you recognize that?

8 A My name is on it.

9 Q On both of these signatures was your name different  
10 in 1976 than it is now?

11 A Yes. McDaniels was my married name.

12 Q And your present name is Westbrook?

13 A Yes.

14 Q Referring to that Government Exhibit would you  
15 describe what it is?

16 A It's a personal money order.

17 Q In the amount of?

18 A \$286.33.

19 Q Do you recognize any of the handwriting on that  
20 money order?

21 A Yes. The handwriting is mine.

22 Q Is there any handwriting of the congressman on that  
23 money order?

24 A His signature.

25 Q Do you recall the congressman giving you that check

000678

1 to cash?

2 A I guess he must have given it to me if I made it  
3 payable to me.

4 Q Did you cash that check?

5 A Yes, I did.

6 Q Where did you cash that check?

7 A National Bank of Washington.

8 Q What, if anything, did you do with the proceeds that  
9 you received from cashing that check?

10 A I must have given it to him.

11 Q Where is that check drawn?

12 A The National Bank of Detroit.

13 MR. MARCY: Thank you.

14 I have no further questions, Your Honor.

15 MR. WATKINS: No question, Your Honor.

16 THE COURT: May the witness be excused, gentlemen?

17 MR. MARCY: Yes, Your Honor.

18 THE COURT: Thank you. You are excused.

19 (Witness excused.)

20 MR. MARCY: Your Honor, Government would call  
21 George Johnson.

22 Whereupon,

23 GEORGE JOHNSON

24 was called as a witness by and on behalf of the Government, and  
25 having been first duly sworn was examined and testified as

000679

1 follows:

2 DIRECT EXAMINATION

3 BY MR. MARCY:

4 Q Mr. Johnson, will you please state your full name?

5 A George Gentry Johnson.

6 Q What is your present address?

7 A My present address is 1875 Golf Ridge Drive South,  
8 Bloomfield Hills.

9 Q What state is that in?

10 A The State of Michigan.

11 Q Where did you live prior to that?

12 A 1847 Littlefield, Detroit.

13 Q What is your profession?

14 A CPA.

15 Q Could you tell me some of your background?

16 A I was employed by General Motors. And I was also  
17 employed by the International CPA firm as a supervisor,  
18 Detroit office, and I'm a graduate of Hawaiian State Accounting  
19 and I have some work on my masters in management also.

20 Q Do you have a company now?

21 A Yes, I do.

22 Q What is the name of that company?

23 A The name of the company is George Johnson and  
24 Company, professional corporation, Detroit.

25 Q What business do you engage in in that corporation?

000680



1 A Accounting, auditing, tax work, tax planning,  
2 management, consulting along with computerized services.

3 Q How many accountants do you have working for your  
4 company?

5 A Total accountants about 11. Total office para-  
6 professionals, administrative staff, about 19, 20 people.

7 Q Where is the George Johnson Company located?

8 A 19838 James Cousins, Detroit.

9 Q Do you know Congressman Charles C. Diggs?

10 A Yes, I do.

11 Q When did you first meet him?

12 A I first met him personally or first knew of him?

13 Q Personally.

14 A Personally I first met him the fall of 1971.

15 Q Would you tell us the circumstances?

16 A 1971, yes.

17 Q Would you tell us the circumstances under which you  
18 met Congressman Diggs?

19 A A friend of mine told me that the House of Diggs  
20 needed an accounting system and he set up -- a friend of  
21 mine set up a meeting and at that meeting I gave the  
22 congressman a proposal to establish an accounting system.

23 Q House of Diggs?

24 A For the House of Diggs.

25 Q Did the congressman retain you at that time?

000681

1 A Yes, he did.

2 Q Did you establish an accounting system in the House  
3 of Diggs?

4 A Yes, I did. The firm did.

5 Q Would you indicate what sort of system you put into  
6 the House of Diggs?

7 A It was basically cancelled receipts, disbursements,  
8 payroll, inventory control and an overall management system  
9 related to the financial system.

10 Q Did there come a time that you began doing any  
11 personal accounting work for Congressman Diggs?

12 A Yes, there did.

13 Q When did that happen?

14 A The firm had gotten and completed the 1970 tax  
15 return for the congressman.

16 Q Did you then take that over in succeeding years?

17 A Yes, right.

18 Q What was the status of your account with the House of  
19 Diggs and with Congressman Diggs in the spring of 1973?

20 A At one time the bill had gotten behind.

21 Q Do you recall approximately it was?

22 A I would say it was less than 10,000 and more then  
23 2,000. I can't recall exactly how much it was.

24 Q What, if anything, did you do to try to collect that  
25 bill?

000682

1 A I mailed a letter -- well, of course, called up the  
2 House of Diggs. Then I mailed a letter to the House of  
3 Diggs stating that services would discontinue.

4 Q Do you know whether you sent a copy of that to  
5 Congressman Diggs?

6 A I believe I did send him a copy.

7 Q Did there come a time in the spring or early summer  
8 of 1973 that you met Congressman Diggs?

9 A Can you relate it to a meeting or --

10 Q Where the subject of your past-due bill came up?

11 A Yes. I did meet him. After a Democratic Party  
12 affair I attended, a cocktail party, and the congressman was  
13 there along with at least 25 other people and I believe at  
14 that point he came up.

15 Q Do you recall approximately when this cocktail party  
16 took place?

17 A Early June, 1971, I believe.

18 1973, I guess.

19 Q Do you recall what the Democratic Party was for?

20 A I can't recall. I remember it was in Coble Hall  
21 but the exact person giving the speech I can't recall or any-  
22 thing from it.

23 Q At that cocktail party you had a discussion with  
24 Congressman Diggs?

25 A Yes, I did.

000683

1 Q What was the general subject of the discussion?

2 A We covered -- I can recall about three points at  
3 least that we touched upon. One point was in general at least  
4 the fact that House of Diggs bill.

5 Q Do you know who brought that subject up, the House  
6 of Diggs bill?

7 A I don't know who brought it up, however, usually,  
8 as stated to the grand jury, I don't bring out accounting  
9 fees, let's say, in public, so he probably brought it up. I  
10 can't say for sure though.

11 Q What else did you discuss besides the past-due bill  
12 at the House of Diggs?

13 A We discussed also the fact that I did need some  
14 additional funds as far as because my cash flow or at least  
15 cash sum and such as that was fairly low and also we talked  
16 about the possibility of myself going on the congressional  
17 staff at least in the sense that there would be a position  
18 for it I could possibly render. My background could be used.

19 Q Who brought up the subject of your going on the  
20 congressional staff?

21 A That would have, you know, it would have had to have  
22 been the congressman.

23 Q After that did you go on the congressional staff?

24 A Yes, I did.

25 Q Do you recall when you went on the congressional staff?

000684

1 A The 1st of July, 1973.

2 Q At that cocktail party were there any discussions  
3 as to what your duties and responsibilities would be?

4 A No, other than my background -- at least there  
5 would be something that would fit my background as far as --  
6 I assume that it would financial account-type work.

7 Q Was there any discussion as to what your salary  
8 would be?

9 A No, there wasn't.

10 Q Beginning in July of 1973 did you begin receiving  
11 Treasury checks?

12 A Yes, I did.

13 Q Showing you what's previously been marked as  
14 Government's Exhibit 18-A through 18-H can you identify those?

15 A Yes. These are checks that I received. My name is  
16 on the front, address, home address; signature is on the back.  
17 These are checks that I received.

18 Q How did you receive those checks?

19 A Through the mail at 18467 Littlefield.

20 Q Through the U. S. Mail?

21 A Yes.

22 Q Did you begin doing any congressional work after you  
23 began receiving these Treasury checks?

24 A As far as congressional work related to any accounting  
25 financial work, working on the House, at least when I started

000685

1 receiving these checks no, I didn't.

2 Q Did there come a time that you had a conversation  
3 with Congressman Diggs concerning getting some congressional  
4 work?

5 A Yes, there was.

6 Q Could you tell us about that conversation?

7 A This has been over five years ago. I can't say  
8 exactly what was said, however, I'm quite sure it was stated  
9 at the time some work at least would be coming.

10 Q The congressman said that some work would be coming?

11 A Yes, I'm quite sure.

12 Q Was any work forthcoming?

13 A I didn't at least do any, you know, financial or  
14 accounting work for Congress.

15 Q Did there come a time that you left the employ of  
16 Congressman Diggs?

17 A Yes, there was.

18 Q By that I mean from the congressional payroll?

19 A Yes.

20 Q Would you tell us the circumstances leading up to  
21 your leaving the congressional payroll?

22 A As far as I looked at the amount of funds, at least  
23 that I had received, and I looked at -- I hadn't gone ahead  
24 and gotten into any financial work. It was just a situation  
25 that began to bother me and so I got -- I stated I wanted to

000686

1 get off of the payroll. Although I stated that since I was  
2 leaving the city as well as leaving the District, in my own  
3 mind I just couldn't rationalize receiving those checks.

4 Q When did you leave the congressional payroll?

5 A The last of 1974, I believe, '74.

6 Q During the period of time that you received these  
7 Treasury checks, from July, '73, through the last part of  
8 '74, did you receive a regular salary?

9 A No, I did not.

10 Q Do you know how your salary was set?

11 A No, I don't know.

12 Q Could you give us a range of what the checks were  
13 that you received?

14 A The checks were from low amounts, something like  
15 maybe 130, \$150, for example, and I see one here for \$2,000.  
16 Gross was approximately \$2700. So there was a wide range.

17 Q During that period of time that we have discussed  
18 did there come a time that you felt you were performing more  
19 work than you were being paid for by the Treasury?

20 A Yes. That did happen.

21 Q When I say "work" was that congressional work or  
22 House of Diggs work?

23 A It was House of Diggs work in the sense that I  
24 looked at my time charts. At least they exceeded the amount  
25 of money that I was receiving, at least the firm's time chart.

000687

1 Q Did you bring that to Congressman Diggs' attention?

2 A I'm quite sure I did.

3 Q What, if anything, happened?

4 A I received a telephone call from -- I'm quite sure  
5 of this. I received a telephone call from Jean Stultz.

6 Q As a result of that telephone call what happened?

7 A I received a telephone call from Jean Stultz and she  
8 informed me --

9 Q Without telling us what Jean Stultz said to you  
10 can you tell us what happened as a result of that telephone  
11 call?

12 MR. POVICH: Your Honor, not as a result of the  
13 telephone call. What happened next.

14 BY MR. MARCY:

15 Q After that telephone call what happened next in  
16 regards to your salary check?

17 A It went up.

18 Q Did you perform work for the House of Diggs and for  
19 Congressman Diggs in a personal capacity during the period of  
20 July, 1973, through December, 1974?

21 A Yes, sir, I did.

22 Q What sort of work was that?

23 A Tax planning, Internal Revenue exam, representation  
24 and consulting work.

25 Q Did there come a time that --

000688



1 A Did you say congressman or House of Diggs?

2 Q I asked you what kind of work you did for the  
3 congressman and the House of Diggs.

4 A And also for House of Diggs preparation of financial  
5 statements and tax returns and other -- various other things.

6 Q Did there come a time that you began applying your  
7 Treasury checks to the House of Diggs bill?

8 A Yes. Not applying. I adjusted at least the House  
9 of Diggs statements.

10 Q Was that done at the direction or at the explicit  
11 direction of Congressman Diggs?

12 A No, it wasn't.

13 Q How did you come to do that?

14 A I stop and I look back now and I just don't know.  
15 I have funds coming in on one side and I had charges at least  
16 over here and I don't know, you know. I know that he did come  
17 and say to me, "George, go ahead and adjust these checks at  
18 least against the bills." That I can say for sure.

19 As far as how it came about, I look back and it just  
20 doesn't sound too intelligent. I just don't know, but I did  
21 do it.

22 Q Did you make an adjustment for the approximate total  
23 amount of the money that you received?

24 A Yes, I did.

25 Q And you reduced the House of Diggs bill by that

000689

1 amount?

2 A Yes, I did.

3 MR. MARCY: May I have the Court's indulgence for  
4 a minute?

5 I have no further questions, Your Honor.

6 THE COURT: Mr. Povich?

7 CROSS-EXAMINATION

8 BY MR. POVICH:

9 Q Mr. Johnson, you said that you entered into a  
10 discussion with Mr. Diggs in which as a result of that it  
11 was your understanding that you would begin to do some work  
12 for him with respect to his congressional activities; is that  
13 correct?

14 A It was told to me. I thought it would be on the  
15 African Committee at least, House Committee. I would start  
16 doing some financial accounting at least for him.

17 Q You had had other contacts with Mr. Diggs; had you  
18 not?

19 A Yes. Prior to early June, '73, I had earlier  
20 contacts with him, correct.

21 Q Had you been interested in similar matters that were  
22 matters he had concerned himself with at that time?

23 A Such as?

24 Q Economic development for black businessmen and  
25 minorities?

000690

1 A Yes. I still have an interest, yes, deep interest.

2 Q The discussions that you had, you came away from  
3 them and they were good-faith discussions; were they not, that  
4 you believed you would be assisting him in such ways as he  
5 would call upon you to help him?

6 A If you are asking me if we talked about various,  
7 let's say minority development, yes. We discussed --

8 Q And you went back and you thought in terms of the  
9 amount of time you might have to come back to Washington in  
10 connection with this type of work?

11 A Originally from when we first -- at least the  
12 discussion I can recall going on with my wife that evening  
13 and discussing how much time I may have to at least spend  
14 here, that I told you before.

15 Q Now, let me ask you this. The time that you spent  
16 with Congressman Diggs, it was not limited, was it, to the  
17 representation of him in connection with just his tax returns  
18 or tax audit, was it? Was that the only thing that you ever  
19 discussed with him? Is that the only subject that ever came  
20 up for discussion?

21 A No.

22 Q I would like you to think back, if you could, to the  
23 other problems or other matters which were discussed during  
24 this period of time. This would be the period of time that  
25 was 1973 and 1974.

000691

1 Did they include such things as ICBIF?

2 A Yes.

3 Q Tell me about ICBIF and what that was involved with,  
4 what your concern was and what his involvement was with  
5 ICBIF.

6 A ICBIF, Inner City Business Improvement Forum, is an  
7 organization in the City of Detroit that was established to  
8 promote minority businesses and to assist minority businesses  
9 and as far as since basically most of my clients at least  
10 minority businesses are related, at least I had an interest in  
11 it and he also expressed at least an interest in it.

12 Q Did you discuss the problems that your clients were  
13 having and his concern about how that program was going?

14 A Well, not necessarily that program but other  
15 programs, yes, we did discuss it.

16 Q What were some of the other programs that you  
17 discussed with him?

18 A Well, we talked about the entirety of -- I can't  
19 recall because this has been -- if you hadn't brought it up  
20 at least ICBIF I wouldn't have known that, but we discussed  
21 several things as far as the overall economic development of  
22 businesses, how the different programs were working and at  
23 least I can now recall one conversation at least on financing  
24 of businesses. That was an item at least how the banks were  
25 going about financing, giving loans to businesses, minority

000692

1 businesses.

2 Q He was interested and you discussed at times you  
3 did not have black opportunity with respect to the Renaissance  
4 Center in Detroit? Was he not concerned with that and were you  
5 not concerned with that?

6 A Yes. He has a good memory. We did talk about that.

7 Q Can you tell the ladies and gentlemen of the jury  
8 what the Renaissance Center is?

9 A Renaissance Center is located in downtown Detroit  
10 and it's basically a development that some say even Ford at  
11 least started to put together to go ahead and revitalize the  
12 downtown area. We have office space, hotels, restaurants and  
13 it's going through a second phase as far as development for  
14 downtown Detroit.

15 Q The city is quite proud of that?

16 A Yes, and it's really worked out well.

17 Q It is right on the water front, is it not?

18 A Correct.

19 Q They advertise the hotel as the largest in the  
20 world, don't they?

21 A I don't know that to be a fact.

22 Q Mr. Diggs' concerns initially with that were with  
23 respect to employment opportunity for construction workers in  
24 the actual building of that; is that not correct?

25 A Yes, I think I can recall now he did express some

000693

1 concern about minority contractors would get their fair  
2 share at least of the work with the Renaissance Center.

3 Q And the Center is up essentially now but after it  
4 was up did he not express a concern and did you not express  
5 the opportunities for employment in the building once it  
6 was?

7 A Yes. I can recall that coming up, yes.

8 Q Now, the Center itself is in addition to the hotel  
9 and office space it has shops or areas for businesses; does it  
10 not?

11 A Yes.

12 Q What was his concern with respect to the option and  
13 availability of those shops for minority businessmen,  
14 particularly blacks in the district?

15 A He had a concern as a matter of fact with the  
16 fashion shops, let's say, if they would just be the larger  
17 chains coming or at least be larger -- well, non-minority,  
18 let's say, businesses coming in. That was a concern. Or,  
19 you know, if minority business people would have an opportunity  
20 to, you know, participate because it was something that  
21 should take off fairly well and was a matter of would  
22 minorities participate after it was up.

23 Q The Renaissance Center was in downtown Detroit?

24 A Yes, it is in downtown Detroit.

25 Q Is that his 13th District down there?

000694

1 A Yes, it is.

2 Q Now, in addition to the Renaissance Center and  
3 those matters was he also concerned and did you have  
4 discussions with him concerning the policies and the manner  
5 in which the Small Business Administration policies affected  
6 minorities in Detroit?

7 A Yes, I believe we discussed that.

8 Q Was one of his primary concerns whether or not the  
9 Small Business Administration was going to make funds available  
10 or particularly after 1967 when there appeared to have been a  
11 decline in the ability or the willingness of the Administration  
12 to help minorities?

13 MR. MARCY: Your Honor, I am going to object to  
14 Mr. Povich testifying.

15 THE COURT: I will say the same thing to you I said  
16 to Mr. Watkins earlier at the bench: You are making this man  
17 your witness so don't ask him leading questions.

18 BY MR. POVICH:

19 Q Can you think of other matters particularly that you  
20 and Mr. Diggs may have discussed during this period of time  
21 and may I suggest to you, if I could, Your Honor --

22 THE COURT: No. Don't ask leading questions. If  
23 he knows what he and Mr. Diggs talked about, the kind of things  
24 for which he might bill Mr. Diggs for his time, he may  
25 testify.

000695

1 MR. POVICH: Yes, sir.

2 THE WITNESS: This is over five years ago. I can't  
3 recall all the details as far as what we discussed and I  
4 didn't keep any memos on it.

5 I can recall one at least concern tied in to the  
6 Small Business Administration as well as with some of the  
7 banks around the city. I expressed a concern and he expressed  
8 a concern to me at least about if the banks were really let's  
9 say doing the job that they should as far as with minority  
10 businesses or if it had gone back to a pre-1967, let's say,  
11 period. It was a matter of if they're really -- and I just  
12 don't -- if they are doing at least their jobs as far as tied  
13 into businesses or if they are setting aside a certain amount  
14 for certain contractors or certain people or if they are just  
15 going ahead and giving the money to a few that the PR people  
16 are saying they are doing a good job when they are not.

17 BY MR. POVICH:

18 Q Have you thought of something else you said?

19 A No. Something else at least tied in with that same  
20 conversation, something about minority contractors. I can't  
21 recall. This has been over five, six years, but we did  
22 discuss these businesses.

23 Q Mr. Johnson, just to tie this thing in, the time  
24 you spent with Mr. Diggs and you had these discussions in  
25 addition to other matters that you did, you billed him for all

000696



1 this time; did you not?

2 A Yes, I did.

3 Q Now, is it fair to say that with respect to him that  
4 you billed him for the time you worked on his returns and  
5 perhaps assisted him in his IRS matters, Internal Revenue  
6 Matters. Who did you bill all of the other time that you  
7 spent with him to?

8 A There are several bills going out. Can you ask me  
9 the question -- I can off from the beginning.

10 Q I will save you some time. Essentially did the  
11 people in your office post those or post that time or bill  
12 that time posted and then perhaps bill it later to the House  
13 of Diggs?

14 A Yes. We have charge numbers and the staff members  
15 charge the time to a particular charge number, yes.

16 Q Mr. Johnson, drawing back on your recollection now,  
17 if you could, if Mr. Diggs had inquired at the end of say  
18 1975, the period that or 1974, it was 1973 and 1974 that you  
19 had received the checks; is that correct?

20 A Correct.

21 Q If at the end of that period of time or shortly  
22 thereafter he had inquired as to the House of Diggs as to how  
23 much time you had billed, actually billed the House of Diggs,  
24 what to the best of your recollection, what type of information  
25 would he have received as of that date?

000697

1 A You mean as far as a total amount of charges for  
2 services?

3 Q Yes, yes.

4 A I would say we are talking about 35, \$40,000: I  
5 can't say exactly.

6 Q If he was asked, "Well, how much have we paid, what  
7 type of figure; how much does the House of Diggs pay  
8 Mr. Johnson during this period of time," what type of figure  
9 would he have received?

10 A From this right here I can't say exactly. I'm just  
11 guessing.

12 Q Your best estimate.

13 A From particular amounts I can recall I would say  
14 \$15,000.

15 Q So if he inquired --

16 A It was, you know, out of six or seven -- about 15,  
17 I'd say.

18 Q Or if he called up and said, "How much? The  
19 difference is what we still owe Mr. Johnson"; is that correct?

20 A How do you mean?

21 Q If he said -- you say he has paid \$15,000. At the  
22 end of that period of time --

23 THE COURT: I don't understand your question,  
24 Mr. Povich. Are you trying to get the witness to see what is  
25 in Mr. Diggs' mind

000698

1 MR. POVICH: No, sir. I'm trying to find out --

2 THE COURT: Suppose you rephrase it.

3 MR. POVICH: If I understood --

4 THE COURT: If he had called would you have said --  
5 it's too hypothetical.

6 BY MR. POVICH:

7 Q What would your record reflect, Mr. Johnson, with  
8 respect to the amount you said about \$15,000 that had been  
9 paid?

10 A Correct.

11 THE COURT: Mr. Johnson, do you have these records?

12 THE WITNESS: No, I don't, so I can't -- this is  
13 why I just can't give you an answer. Without the record I  
14 can't say.

15 BY MR. POVICH:

16 Q How much money would you say that the House of Diggs  
17 owed him still if he had already paid \$15,000?

18 A Without any adjustments we are talking about roughly  
19 25,000 or 20,000.

20 Q Now, in addition to that you billed him, did you not,  
21 during this period of time?

22 A I don't know if I billed him or not during the  
23 period of time.

24 Q Has the Government shown you any records?

25 A I did. Without something directly in front of me I

000699

1 can't really say but I did see some records where I did bill  
2 him at least sometime. The exact period of time, I can't say.

3 THE CLERK: Defendant's Exhibit No. 35 marked for  
4 identification.

5 (Defendant Exhibit No. 35 was  
6 marked for identification.)

7 BY MR. POVICH:

8 Q Mr. Johnson, I show you what is marked as Defendant's  
9 Exhibit No. 35 for identification and ask if you can tell me  
10 what that is?

11 A This is an invoice submitted to Congressman Diggs  
12 for the period of time October 1st, '74 through May 31, '75  
13 and it shows "For consultation of the Internal Revenue  
14 Service regarding years '72 to '73 and also preliminary work  
15 on 1974 return for \$2400."

16 Q Now, attached to that are certain computer-type  
17 documents; are there not?

18 A Yes. These are the firm's computer records where  
19 time was accumulated.

20 Q Can you tell from those records -- I know they are  
21 very hard to read -- but can you tell from them when they  
22 began, the computer records began?

23 A The records begin, it appears as it -- well, it is  
24 August 15, '74.

25 Q Now, the first record that appears there, however,

000700

1 includes a balance which has been carried from an earlier  
2 period; is it not?

3 A Correct.

4 Q So that although the first record would be from  
5 August, 1974, it includes previous time; does it not?

6 A Yes, it does. There is a balance here for --

7 Q Would you look through those records just briefly  
8 and see if it is not fair to say that during the period of  
9 time, certainly at some point before August when that time  
10 there is included, through August, '74, 1974 and 1975, you  
11 charged to his account the time which you spent on his matters?

12 A Yes. This represents at least my time alone, the  
13 staff's time as far as the charge to Congressman Diggs in  
14 this period of time.

15 Q And that would be only for doing IRS work, in other  
16 words his returns and his audits? Essentially is that what  
17 you were charging for; is that correct?

18 A Yes. I can tell by the coding here "IRS exam" and  
19 also there is a standard coding in here for income tax return.

20 Q Is it fair to say -- I am doing this to save time.  
21 Is it fair to say you accumulate your hours?

22 A Correct.

23 Q And at some point you then bill; is that correct?

24 A Correct.

25 Q And those records reflect that you accumulated the

000701

1 hours at your hourly rate or the hourly rate of the person  
2 that was doing the work; is that correct?

3 A Correct.

4 Q Then at some point you would make the decision to  
5 bill it out; is that correct?

6 A Correct.

7 Q When you billed it out is that what you called an  
8 adjustment?

9 A Well--

10 Q -- in that file?

11 A Well, I have to give you some detail. At least on  
12 this we have an adjustment. We reduced the unpaid bill and  
13 transferred it and it appears at least in the adjustment  
14 column so that is the way the computer system used to work.

15 Q So the adjustment would take it out of the unbilled;  
16 put it in the billed and that would mean an invoice went out?

17 A That's correct.

18 Q Is it fair to say that represents only the time you  
19 worked on Congressman Diggs, on his personal return and his  
20 personal tax matters; is that correct?

21 A If the systems was working properly as far as  
22 charging of time this should be only the time worked on his  
23 account.

24 Q And the other time -- you billed out all your time,  
25 though, with Congressman Diggs, did you not, not on that

000702

1 necessarily but all the time you billed out on either one  
2 account or another?

3 A I can see this here I did bill out at least all of  
4 my time here. It is here. I can say it is before me so I  
5 can say I did bill out all of my time.

6 Q Did there come a time when you sent him the bill?

7 A Well, yes. This right here was mailed to him in  
8 Washington, his office.

9 Q It included a period '74 and into 1975; did it not?

10 A It did.

11 Q Is it fair to say or do you have a recollection  
12 that an amount remained unpaid and I believe you filed a  
13 lawsuit against him to collect?

14 A Yes. We attempted to collect on this, correct.  
15 I referred it to an attorney.

16 Q Now, just let me finish up. We'll just be a couple  
17 of minutes.

18 You said you made a decision that you were going  
19 to leave the district; you were leaving the 13th District  
20 and leaving the city and you indicated to the congressman that  
21 you wanted to terminate your association; is that correct?

22 A Yes. It was -- I informed him at least at the time  
23 that I was leaving and I wanted to go ahead and terminate our  
24 relationship because of the whole situation. I just didn't  
25 care for it.

000703

1 Q At that time there was a substantial outstanding  
2 bill still with the House of Diggs; was it not?

3 A Yes, there was.

4 Q You either brought suit or threatened to bring suit  
5 with respect to that balance as well?

6 A Yes, at a later time. I continued to do work at  
7 least for the House of Diggs and I also at least personally  
8 when the balance got at least substantially higher for us  
9 that I couldn't describe him as a client but I figured at  
10 least one day I would receive the funds.

11 Q You were a little uncomfortable. You had Republican  
12 clients; did you not?

13 A Yes, I have Republican clients.

14 Q Were you somewhat uncomfortable about associating  
15 with the congressman as a Democrat?

16 A Well, I wouldn't say as a Democrat. At times I do  
17 have, you know, Republican clients and at that particular time  
18 one particular party I could think of who didn't, you know,  
19 like the idea tremendously. I do have Republican clients,  
20 yes.

21 Q In fact, Congressman Diggs' office asked you to be  
22 included in a picture in the newspaper as being part of the  
23 staff and you declined to do so because you felt that it may  
24 offend perhaps some of your Republican clients?

25 A That is correct.

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1 MR. POVICH: I have no further questions.

2 THE COURT: Do you have anything else or can we take  
3 a recess at this time?

4 MR. MARCY: Your Honor, I have got maybe five  
5 minutes.

6 THE COURT: We will take a recess.

7 (Recess.)

8 THE COURT: Bring in the jury.

9 (Jury present.)

10 THE WITNESS: I was asked a question earlier and  
11 I would just like to correct the record. I believe the  
12 question was did I decline. This is four or five years ago  
13 and I can't recall in detail if I declined to take the photo.  
14 I believe I did take the photo but I can't recall what reason  
15 I gave later but I stated that I didn't want it at least  
16 published so I sould just like to correct that.

17 REDIRECT EXAMINATION

18 BY MR. MARCY:

19 Q Mr. Johnson, did your leaving the staff or your  
20 resigning from the congressional payroll in December of 1974  
21 have anything to do with the fact that you had some  
22 Republican clients?

23 A No. No. As far as that, I can't recall that being  
24 a major factor at least.

25 Q What was the reason that you left Congressman Diggs'

000705

1 employ in December of 1974?

2 A It was a situation where I just didn't feel  
3 comfortable as far as receiving these checks here.

4 Q You indicated that you billed Congressman Diggs  
5 individually for the work that you performed for him  
6 individually; is that correct?

7 A On the invoice at least that was given to me here  
8 I did bill him individually.

9 Q Did the congressman ever pay you from his checking  
10 account for any of those bills?

11 A No, I can't recall him at least ever paying.

12 Q You mentioned that you had some discussions with  
13 Congressman Diggs concerning economic development; is that  
14 true?

15 A Yes, yes.

16 Q Was a meeting ever called for the specific purpose  
17 of discussing economic development?

18 A I can't recall one, no.

19 Q Did you ever contact anybody on behalf of Mr. Diggs  
20 to discuss with them economic development on behalf of  
21 Mr. Diggs?

22 A I can't immediately recall.

23 Q Did you ever do any research on Congressman Diggs'  
24 behalf into economic development?

25 A As far as library work, tax work, no. I can't

000706

1 recall that either.

2 Q Did you write or assist in writing any legislation  
3 for Congressman Diggs in the field of economic development?

4 A The answer to that is no.

5 Q Did you ever write any memorandum to the congressman  
6 or on behalf of the congressman concerning economic development?

7 A If I ever sent him a letter or any -- I can't recall  
8 at least. We had a lot of correspondence. I can't recall it.

9 Q You also mentioned at some other occasion policies  
10 of the Small Business Administration were discussed between  
11 you and Congressman Diggs; is that correct?

12 A Yes, yes.

13 Q Was there a meeting set up to discuss specifically  
14 policies of the Small Business Administration?

15 A No, I can't recall. A meeting wasn't set up let's  
16 say directly for that, to answer your question.

17 Q Did you ever have any contact with anybody on behalf  
18 of Congressman Diggs to discuss the policies of the Small  
19 Business Administration?

20 A I can't recall.

21 Q Did you do any research on behalf of the Congressman  
22 into the policies of the Small Business Administration?

23 A On behalf of the Congressman, no.

24 Q Did you ever assist in writing any legislation  
25 concerning the Small Business Administration?

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1 A No.

2 Q -- at the behest of Congressman Diggs?

3 A No.

4 Q Did you ever write any memos to him or on his behalf  
5 concerning policies of the Small Business Administration?

6 A I can't recall ever writing -- let's say we discussed  
7 it. I can't recall putting -- writing any memos to him, at  
8 least. We discussed it but I can't recall ever writing any  
9 memos to him on it.

10 MR. MARCY: I have no further questions, Your Honor.

11 THE COURT: All right. Anything else?

12 RECROSS-EXAMINATION

13 BY MR. POVICH:

14 Q Mr. Johnson, do you recall a payment by the House  
15 of Diggs? I know you don't have your records but do you  
16 recall an instance in which September of 1973, which would have  
17 been two or three months after you went on the payroll,  
18 receiving a specific amount of money from the House of Diggs  
19 in payment for your fees, a fairly substantial sum?

20 A I can recall during the period of time receiving  
21 \$6,000 payment.

22 Q Was that about --

23 A I'm quite sure it was exactly 6,000 or 64 or \$6200.  
24 It was approximately \$6,000.

25 MR. POVICH: Could I have this marked as Defendant's

000708

1 Exhibit 36?

2 THE CLERK: Defendant's 36 marked for identification.

3 (Defendant Exhibit No. 36 was  
4 marked for identification.)

5 THE WITNESS: I believe it was approximately six.  
6 I'm not exactly sure of the amount.

7 BY MR. POVICH:

8 Q I just show you a page. Can you identify that?  
9 Do you know what that is?

10 THE COURT: Does that have a marking?

11 MR. POVICH: Yes, Your Honor. It is Exhibit No. 36.

12 THE WITNESS: It's the check register used by the  
13 House of Diggs. I see an amount, George Johnson & Company on  
14 September 23rd of '74 for \$6,216.93.

15 BY MR POVICH:

16 Q Right. And that was during the period of time that  
17 you were working for the congressman?

18 A Yes.

19 MR. POVICH: I have no further questions.

20 THE COURT: Anything else?

21 MR. MARCY: Just one or two questions.

22 FURTHER REDIRECT EXAMINATION

23 BY MR. MARCY:

24 Q Did that payment have anything to do with the loan?  
25 Are you aware of that?

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1 A I remember there was a loan made by City National  
2 Bank and I believe immediately --

3 THE COURT: A loan to him, sir?

4 THE WITNESS: A loan to the House of Diggs, I'm sorry,  
5 and immediately after that I received a check. That one I'm  
6 quite sure that's what it is, but it stands out -- at least  
7 I remember that amount.

8 BY MR. MARCY:

9 Q Do you know where the money came from?

10 A The money came from City National Bank at least as  
11 far as the loan. It was immediately after a loan had been  
12 received.

13 Q Did that totally wipe out the House of Diggs'  
14 indebtedness to you?

15 A I really don't know. It should -- I really can't  
16 say. I really don't know. I really don't know.

17 Q Did you continue to perform accounting services for  
18 the House of Diggs and Congressman Diggs after that time?

19 A Yes, I did.

20 MR. MARCY: I have no further questions.

21 MR. POVICH: Nothing, Your Honor.

22 THE COURT: May the witness be excused?

23 MR. MARCY: Yes, Your Honor.

24 THE COURT: You may be excused. Thank you.

25 (Witness excused.)

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1 MR. KOTELLY: May we approach the bench, Your Honor?

2 THE COURT: Yes.

3 (At the bench:)

4 MR. KOTELLY: Your Honor, I'm afraid we did not do  
5 as good a scheduling job today as we thought we had. I had  
6 expected these witnesses to take us much longer. We have no  
7 further witnesses today. We have three more witnesses to put  
8 on Tuesday morning. They are not going to be very lengthy  
9 witnesses. We should have it wrapped up in two hours for the  
10 three witnesses.

11 At this time we would ask though that Your Honor,  
12 if we could have published to the jury Exhibits 52, A through  
13 D, which are the ads from the Michigan Chronicle which are in  
14 evidence at this time.

15 THE COURT: My practice is not to give exhibits to  
16 the jury during the case.

17 MR. KOTELLY: Then I withdraw the request. I didn't  
18 know your practice.

19 THE COURT: But we have nothing further to do until  
20 5:00 since you have no witnesses. How long do you anticipate  
21 this will take?

22 MR. KOTELLY: Publishing these to the jury? Just a  
23 few minutes for them to pass it among themselves for them to  
24 look at it, Your Honor.

25 THE COURT: They are in evidence?

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1 MR. KOTELLY: Yes, they are, Your Honor.

2 THE COURT: Might as well spend a few minutes doing  
3 that.

4 (In open Court:)

5 MR. KOTELLY: Your Honor, may I just pass them to  
6 the jury?

7 THE COURT: Yes. This exhibit is in evidence,  
8 ladies and gentlemen. Since we don't have any more witnesses  
9 this afternoon you may look at the exhibits briefly.

10 Counsel come to the bench, please.

11 (At the bench:)

12 THE COURT: On this character evidence you gentlemen  
13 have your memorandum?

14 MR. POVICH: It's not quite finished, Your Honor.  
15 We thought we would maybe give it to you Monday. I won't  
16 be here but the other people will be.

17 THE COURT: Well do that. I have the Government's  
18 memorandum.

19 MR. POVICH: All right. That will help us.

20 THE COURT: All right. Now, I intend to tell the  
21 jury we are not going to meet on Monday because of a religious  
22 holiday. We will meet on Tuesday. All right.

23 (In open Court:)

24 THE COURT: Ladies and gentlemen, we will next meet  
25 on Tuesday morning at 9:30. Monday is a religious holiday.

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1 For that reason we won't be here Monday.

2 Remember what I previously told you. Don't discuss  
3 the case among yourselves. Don't let anybody talk to you  
4 about it and don't talk to anybody about it. So until  
5 Tuesday we will see you later.

6 (The jury left the courtroom.)

7 MR. POVICH: Your Honor, I would like to perhaps  
8 say a little bit more about the matter I discussed this  
9 morning with you because of the importance of it and to make  
10 sure --

11 THE COURT: You may come to the bench.

12 (At the bench:)

13 MR. POVICH: I would like the record to be as  
14 complete as it can be as far as the information I have as of  
15 this time and so that I can advise the Court I am not asking  
16 you to -- I know you have ruled but since we do have a little  
17 time I would like to make this for the record.

18 In connection with the presentation of character  
19 evidence in this case and the preparation of witnesses who  
20 would be prepared to testify in this case, Your Honor, we  
21 did not expect an offer of the former President of the United  
22 States to appear on behalf of Mr. Diggs, the defendant.

23 THE COURT: You don't mean he just volunteered out  
24 of the air. You mean you requested him to appear and he  
25 agreed to do so?

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1 MR. POVICH: I didn't ask him to appear here, Your  
2 Honor. I learned just yesterday evening after we returned  
3 to the Court that he had indicated a desire that -- or  
4 willingness to appear and he would like to appear. I also was  
5 told, however, that because of commitments which he had which  
6 had been set a long, long time in advance, and my understanding  
7 from someone in our office who has worked with him, that these  
8 commitments are set up long in advance because of the Secret  
9 Service and other problems and that it would simply be  
10 impossible for him to be in Washington. He was going to be  
11 on the West Coast and he would be very happy to help if it  
12 could be done either by way of letter or deposition.

13 We immediately advised the person that, of course,  
14 a letter would never be sufficient and there had to be an  
15 opportunity for cross-examination and the appearance of  
16 counsel and that we would request since we had a day off  
17 Monday perhaps the Court would permit us to take his deposition  
18 on Monday since that was the one day that he indicated --  
19 I'm sorry -- Monday or Wednesday was the one day in the  
20 morning at 9:30 that he felt that he could be deposed on the  
21 matter consistent with his schedule already set up sometime in  
22 advance.

23 I indicated to him that I did not think that the  
24 testimony would take long but the person I was talking to was  
25 not the President but that it would require that both counsel

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1 be present and, of course, the defendant be present if he  
2 so chose to be and that I would request the Court allow us to  
3 take his deposition on the West Coast on Monday since that  
4 was the day that would not interfere with the trial date.

5 I did not consider, Your Honor, asking you to  
6 continue the trial on a day in which you were prepared to sit  
7 but since Monday was an off-day anyway because of the Jewish  
8 holiday I thought that that timing was very good.

9 When I came in this morning I, of course, advised  
10 Your Honor properly of this offer. I have participated in  
11 many cases, civil cases and criminal cases. I have never  
12 taken the deposition of Mr. Ford in a criminal case. I have  
13 taken it at a civil trial and, you know, sometimes you go up  
14 and can take them when people can appear for lots of reasons.  
15 The reasons are almost just a matter of convenience. Here,  
16 of course, we have a different situation. We have a witness  
17 we feel has something to contribute, albeit character evidence,  
18 but nevertheless something to contribute because of his  
19 own personality, his own character, his own position in our  
20 community. We think it is very much an issue in this case.  
21 It has nothing to do with specific acts or anything such as  
22 that. It would just be straight character evidence.

23 There is no question in this case, Your Honor, this  
24 individual knows this man and it is not a cameo appearance.  
25 They are from the same state. They have known each other their

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1 entire political life. The man is a man who can testify,  
2 who has an opinion with a basis for that opinion and good  
3 basis and a long association and I would ask Your Honor to  
4 consider this again. I ask the Government to consider it  
5 again in allowing us to go and have his deposition taken on  
6 Monday, which is a day this Court is not sitting.

7 Now, I know that Mr. Kotelly, we are interrupting  
8 his case, but in essence, Your Honor, Tuesday is the last  
9 day of his case. He only has two witnesses left, Mr. Clarence  
10 Robinson and Randall Robinson and that is the end of his case.

11 MR. KOTELLY: And one more witness.

12 MR. POVICH: The inconvenience is more to us and  
13 we are just beginning our case and we would very much love to  
14 have that day in Washington, but the witness is sufficiently  
15 important to us that we would forego that in order to have  
16 his testimony presented to the jury here.

17 Under those circumstances, Your Honor, I would ask  
18 for the Government to reconsider its objection and if it  
19 persists in its objection for the Court to reconsider its  
20 decision.

21 THE COURT: What you might do in the light of your  
22 representations, you are not expecting to ask the witness  
23 about specific incidents but just write out what you expect  
24 the testimony to be.

25 MR. POVICH: When I say "specific instances" I just

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1 expect a straight character testimony. "I have known him. I  
2 have known him from the following associations with him."

3 THE COURT: Well following associations with him,  
4 I thought you were going to say that your testimony would  
5 be in line with the form previously used. "I know him. I know  
6 other people in the community who know him and his reputation  
7 among those people is such and such." If that's what you  
8 expect the Government might have one response. If you wish  
9 to go into specific instances then I think you have a horse  
10 of another color and I have had enough. I haven't had very  
11 much time to look at the authorities which my clerks are  
12 working right now after having received the Government's  
13 memo and I think that this is the kind of testimony if you are  
14 going beyond the mere bare bones type of approach we used  
15 to have, if you are going beyond that I think you ought to  
16 be in the presence of the Court who can rule upon objections.

17 MR. POVICH: Your Honor, I'm not offering specific  
18 incidences. I'm only offering it with respect to President  
19 Ford. I'm only offering, "How long have you known him?" "I  
20 have known him in the following respects." I am not going to  
21 say whether he acted honestly or dishonestly in any particular  
22 instance.

23 THE COURT: What do you mean "the following respects"?

24 MR. POVICH: "How long have you known him?" "I first  
25 met him when we entered Congress."

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1 THE COURT: Why don't you write it out. Let them  
2 consider it and then I will entertain that objection. They  
3 may have no objection.

4 MR. POVICH: Your Honor --

5 THE COURT: I am affording you the opportunity of  
6 getting a reconsideration of it. If that isn't satisfactory I  
7 will rule right now.

8 MR. POVICH: I was thinking I had what he once said  
9 about Mr. Diggs in an official document. It was at the  
10 presentation at his swearing in as Chairman of the District  
11 Committee.

12 THE COURT: I think that is different. There was  
13 no indictment pending at that time.

14 MR. POVICH: I will certainly do what Your Honor  
15 suggests and perhaps my problem is that today is Saturday.

16 THE COURT: I understand.

17 MR. POVICH: When would Your Honor want to have  
18 something, how soon in order to allow us the time?

19 THE COURT: I expect to be home tonight. I expect  
20 to go to a religious observance tomorrow known as the Red  
21 Mass, although I am not a Catholic. Following that there is  
22 going to be a brunch as I understand it. I am invited to that.

23 So the sooner you make up your mind on this thing  
24 and can make representations to me, the sooner I can decide it.

25 MR. POVICH: Yes, sir.

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1 THE COURT: I suppose you want to buy an airline  
2 ticket if you are going out there?

3 MR. POVICH: I can't go. I would love to go.

4 THE COURT: You couldn't go but Mr. Watkins could.

5 MR. POVICH: Mr. Watkins could go.

6 THE COURT: Nobody would be working on your case and  
7 you have got to present it next week except you can't do it.  
8 You have got a religious commitment.

9 MR. POVICH: That's right. Not Monday. Not Monday.

10 THE COURT: All right. The ruling stands until  
11 something is submitted in writing.

12 MR. POVICH: Thank you.

13 MR. WATKINS: Thank you, Your Honor.

14 THE COURT: All right.

15 (In open Court:)

16 THE MARSHAL: Court will stand recessed until  
17 Tuesday morning.

18 (Whereupon, at 4:35 p.m., the above-entitled matter  
19 was recessed.)  
20  
21  
22  
23  
24  
25

000719

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF COLUMBIA  
3

4 UNITED STATES OF AMERICA )

5 vs. ) Criminal No. 78-142

6 CHARLES C. DIGGS, JR., )

7 Defendant. )

8 TRANSCRIPT OF PROCEEDINGS

9 Washington, D. C.

10 October 3, 1978

11 The above-entitled matter came on for further hear-  
12 ing at 9:30 o'clock, a.m., before:

13 HONORABLE OLIVER GASCH  
14 UNITED STATES DISTRICT JUDGE.

15 APPEARANCES:

16 ON BEHALF OF THE GOVERNMENT:

17 JOHN KOTELLY, ESQUIRE  
18 ERIC MARCY, ESQUIRE.

19 ON BEHALF OF THE DEFENDANT:

20 DAVID POVICH, ESQUIRE  
21 ROBERT WATKINS, ESQUIRE  
22 BERNARD CARL, ESQUIRE.

23 -oOo-  
24 JUDITH B. MOORE, CSR  
25 Official Court Reporter  
-oOo-

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P R O C E E D I N G S

THE CLERK: Criminal Case 78-142, case of United States versus Charles C. Diggs.

THE COURT: Mr. Povich, I will hear you.

MR. POVICH: Thank you, Your Honor.

THE COURT: Are there witnesses in the court?

MR. POVICH: Yes.

THE COURT: They may step out.

THE CLERK: All witnesses in Criminal Case 78-142 in the case of United States versus Charles C. Diggs, please retire to the witness room accompanied by the Deputy Marshal.

MR. POVICH: May it please the Court?

THE COURT: Yes.

MR. POVICH: We are here this morning on a matter of the admissibility of testimony from Mr. Under Secretary Newsome, who is presently the Under Secretary of State for Political Affairs.

I am not sure; he is either the No. 3 or No. 4 person in the Department of State.

Mr. Newsome during a considerable period of time was the Assistant Secretary of State for African Affairs. He came into contact with the defendant, who held the position of Chairman of the Subcommittee on Africa in the House of Representatives.

During the course of that period of time, I think

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1 from 1969 through 1973, when he held the position of the  
2 Assistant Secretary for African Affairs, and since that time,  
3 he has had contact with the defendant.

4 I would like to put him on the stand to have him  
5 testify --

6 THE COURT: First, we will have the legal argument  
7 as to whether that type of testimony is admissible. That's  
8 what I understand we were here for.

9 MR. POVICH: Yes, sir; but I think --

10 THE COURT: That's what we will do.

11 MR. POVICH: Could I proffer what his testimony  
12 would be?

13 THE COURT: No. I want to hear whether or not it's  
14 proper under the circumstances of this case to have specific  
15 acts adduced as part of the defense. That's the question.

16 I recognize we are confronted with a new rule. We  
17 are confronted with only one case passing on this that's been  
18 brought to my attention, the Benadetto case, which is quite  
19 comparable insofar as the Second Circuit said, that refusal  
20 to accept bribes in four other instances should not have been  
21 deduced as specific act testimony.

22 MR. POVICH: I didn't know in those four instances,  
23 Your Honor, that one had been offered in the Benadetto case.  
24 There was no indication a bribe had even been offered.

25 It's like asking a person if he ever acted unlawfully

000722

1 in any other instance.

2 I think that case is clearly distinguishable and  
3 doesn't even reach the case we have here.

4 THE COURT: This bribe wasn't accepted.

5 MR. POVICH: It was offered, Your Honor. It was  
6 an instance in which this individual was offered an opportu-  
7 nity to profit handsomely from the performance of his duty  
8 as a congressman profits handsomely.

9 There is no indication in that case that anyone  
10 was ever offered a bribe that anyone gave him a chance to  
11 act improperly.

12 Of course, the Court of Appeals is going to come  
13 in and say he never acted improperly; perhaps he never had  
14 a chance to do otherwise. We have a very different situation  
15 here.

16 I'll address that, Your Honor, at this point if  
17 you wish. I know that concerns you. I read the case but  
18 it immediately was the first thing that struck me. It would  
19 be like saying in your dealings with this person over the  
20 last ten years, have you ever saw him commit an unlawful act,  
21 and the answer was no.

22 I would agree with Your Honor and the Court of  
23 Appeals and anybody else who ruled on that, that that would  
24 have been an improper question. We don't have that situa-  
25 tion here.

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1           The question that this person would respond to  
2 would be the following questions, "Do you have an opinion  
3 of his honesty and integrity of the defendant and whether  
4 he is a truthful person." Answer is yes.

5           "On what observations and contact with the defendant  
6 do you base your opinion?" The answer would be the following,  
7 which I have already outlined.

8           The answer would be, "I had contact with him during  
9 that period of time and on an occasion, which I consider to  
10 be relevant to this matter, he called me to his office and  
11 he advised me that he had been offered a bribe by an African  
12 head of state. He showed me the letter from the African  
13 head of state. He told me that he was very concerned with  
14 it. He wanted me to know about it immediately. He wanted  
15 me to handle it in my official capacity as the Under Secre-  
16 tary of State for African Affairs.

17           "He wanted me to make a memorandum of it. He wanted  
18 to reject that offer. He did not feel that a reply was  
19 necessary and wanted my advice on that matter.

20           "I told him that I agreed with him that the reply  
21 was not necessary. I told him that we would handle the  
22 matter, that I would make a memorandum of it, and it would  
23 be kept in the file.

24           "He wanted assurance that the matter would be  
25 retained in the files so that if there was ever a question

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1 about it that the State Department would be able, or he would  
2 be able to corroborate what had happened."

3 He followed the advice, the letter was turned over,  
4 a memorandum was made, Your Honor.

5 Mr. Under Secretary Newsome's recollection is that  
6 the matter came, it was an annual retainer of offer to assist  
7 the head of this African state with respect to matters of  
8 Congress, that the retainant was in the amount of five figures  
9 and on an annual basis, Your Honor.

10 That is the recollection, precise recollection of  
11 the defendant as well. We have in this case no question of  
12 the fact that this event took place, which is one of the prob-  
13 lems Courts get into, and I can understand where you have  
14 some question you would have to chase it down and go into  
15 a mini-trial. That fact isn't present here.

16 It is clear that it happened. It's clear that it's  
17 probative. It's clear that it's relevant.

18 It's performance of his duties as a congressman.  
19 This is an attempt to prove it from those activities which  
20 the Government in this case says is precisely what this  
21 gentleman does.

22 It's an instance in which this man was offered  
23 supplement at a time when he was under financial duress. He  
24 rejected it, handled it in a commendable manner, notified  
25 the appropriate authorities and the appropriate authorities

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1 took the appropriate action.

2 We are dealing with two people, Your Honor, who  
3 are at the highest level of our Government. We have the lead-  
4 ing authority on African affairs in the Congress. We have  
5 what is now perhaps the third man from the Secretary of State.

6 I think this evidence is so probative, it's so  
7 helpful to the jury in deciding whether or not this person  
8 did what he did as a matter of a crime or whether it was per-  
9 haps done for some other purpose. It's so indicative, Your  
10 Honor, of whether or not he is a criminal, whether or not  
11 he has a criminal mind, a criminal intent in addition to his  
12 character. It goes to the very things that we put character  
13 in evidence about.

14 I can't imagine anything more probative. It's incon-  
15 ceivable to me.

16 THE COURT: Very well. I know you feel very  
17 strongly about it. But at the same time, the Court is called  
18 upon to make an objective and fair decision on this matter.

19 MR. POVICH: I'm not asking Your Honor --

20 THE COURT: Now, there are certain distinctions,  
21 it seems to me, between an American citizen like the Congress-  
22 man refusing to sell his country out for a bribe by a foreign  
23 nation. You have got the question of patriotism there. You  
24 don't have that in the issue before this jury.

25 MR. POVICH: It's a question, Your Honor -- it

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1 depends on how you put the question.

2 If the Government wants to distinguish that matter,  
3 they have the right to do so.

4 If they want to say he turned it down because he  
5 was a patriot, that's fine.

6 I, Your Honor, think it is just as probative of the  
7 fact he does not seek to profit from his position as a United  
8 States Congressman, and that's what this case is about. He  
9 does not seek to profit from that position.

10 That to me, if you want to narrow it and say he  
11 didn't do it because he was a patriot, he didn't do it because  
12 it had some treasonous aspects of it which the Government now  
13 tries to distinguish it on. Let the Government argue that  
14 to the jury.

15 I suggest, Your Honor, that it's perhaps one of  
16 the best indications of what this man is made of and whether  
17 he sought to profit.

18 THE COURT: And this is 1972, isn't it?

19 MR. POVICH: Yes, it is, '72 or '73. We are not  
20 certain, Your Honor.

21 THE COURT: You don't have any evidence of this  
22 thing besides what these two men are prepared to testify;  
23 is that right? You have lost the letter, you have lost the  
24 correspondence?

25 MR. POVICH: I haven't lost anything, Your Honor.

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1 The State Department --

2 THE COURT: I'm talking about the evidence is not  
3 available; let's put it that way.

4 MR. POVICH: As a result of the way it was handled  
5 by the United States Government, Your Honor, by the very  
6 Government that is prosecuting this case, has nothing to do  
7 with the defendant.

8 The defendant took every step he could to make sure  
9 this matter was handled appropriately. The testimony would  
10 so indicate that. We have people here from the State Depart-  
11 ment. There is no question in Mr. Newsome's mind that the  
12 matter occurred and that, Your Honor, is just is precisely  
13 part of the problem.

14 If this were debated, if this were a question  
15 which were in issue, did this or did this not happen, I would  
16 say, all right, Your Honor doesn't want to hold a mini-trial,  
17 but I can't believe that the United States Attorney in this  
18 case is going to doubt Mr. Newsome's word when he says this  
19 is what happened. The fact of the matter is not in issue.

20 THE COURT: Well, I will hear from the Government.

21 MR. KOTELLY: May it please the Court, regarding  
22 the factual matters that Mr. Povich has proffered, the Govern-  
23 ment has, is willing to accept Ambassador Newsome's word that  
24 Mr. Diggs contacted him and advised him as to this letter  
25 that purportedly was a form of a bribe.

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1           However, Ambassador Newsome is unable to testify  
2 as to what Mr. Diggs did after that time. Ambassador Newsome  
3 can only testify as to what he himself knows of the initial  
4 information.

5           Now, what Mr. Diggs did afterwards, the Government  
6 has no way of knowing. Apparently, only Mr. Diggs knows and  
7 maybe the head of the African Government who corresponded  
8 with Mr. Diggs.

9           We are not willing to concede that there were no  
10 further contacts between Mr. Diggs and the head of state  
11 because we don't know. So that in terms of no factual dis-  
12 putes, we would submit that there is a factual dispute.

13           The claim is that on one occasion Mr. Diggs advised  
14 the State Department of this approach. That is all that the  
15 Ambassador Newsome's testimony goes to, nothing further.

16           It does not show that in fact Mr. Diggs did not  
17 later change his mind, have other contacts or was just never  
18 contacted again by the head of the foreign state. So, we  
19 submit that the evidence itself is not that clearcut as Mr.  
20 Povich would indicate.

21           An example that I can think of immediately that  
22 comes to mind of this type of a situation was in the Donald  
23 Robinson case. When Mr. Robinson was first approached by  
24 what he thought were members of the Mafia, he reported it  
25 to Earl Silbert and other members of the United States

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1 Attorney's office. They took no action at that time.

2 Later, of course, Mr. Robinson did have further  
3 contacts with the people that he thought were Mafia members.  
4 Now, obviously, if these people were not police officers,  
5 Mr. Silbert would never have known about the later contacts  
6 between Mr. Robinson and these individuals and I think that's  
7 a good example of human nature!.

8 They may take a position at one time and change  
9 their mind at a later time. That's the reason why this evi-  
10 dence of prior behavior is really a quicksand because human  
11 behavior is not that consistent that people can say that at  
12 one moment because this man did an honest act, that that would  
13 rule the rest of his life.

14 Human nature varies and an individual will at one  
15 time have the strength to resist temptation and another time  
16 he would not have that type of resistance.

17 The Federal Rules clearly set out that there is  
18 certain type of character evidence that is admissible in order  
19 for the jury to determine as to whether this man's prior  
20 character circumstantially would reflect on whether or not  
21 he did the alleged acts in the indictment.

22 The Rules specifically call for either representation  
23 or opinion testimony as to general character. It specifically  
24 precludes testimony of specific acts of prior conduct.

25 The only exception that is gone into is Rule 405(b)

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1 which talks about specific acts being admissible in the case  
2 in which the character or a trait of character of a person  
3 is an essential element of the charge claim or defense.

4 If in reading the advisory opinions as to what this  
5 relates to, it is clearly a very minority type of situation  
6 in which such evidence can come in where character itself  
7 is in issue.

8 We would submit that character is not an issue in  
9 this case. Honesty, integrity, truthfulness are not elements  
10 of the offense, nor are they elements of the defense. The  
11 type of situation they are talking --

12 THE COURT: That's where I have problems with the  
13 position you are taking. Obviously, this is a specific intent  
14 crime, and bad character is one of the hallmarks of specific  
15 intent. And I think that we are in a fairly foggy area here  
16 and I have got to be objective about my decision.

17 So tell me why it isn't part of the defense to show  
18 that the defendant is not of good character.

19 MR. KOTELLY: Your Honor, first, specific intent  
20 is usually an element in almost every offense.

21 THE COURT: Well, it is in this offense.

22 MR. KOTELLY: This offense, as well as all other  
23 major felonies.

24 THE COURT: It is in bribery.

25 MR. KOTELLY: That's true, but specific intent is

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1 frequently an element and bad character in that case would  
2 always be relevant to any case in which specific intent or  
3 specific intent to defraud are elements of the case.

4 So that if the Court were to adopt a rule that  
5 prior good acts could be introduced as part of the defense  
6 that the defendant did not act in bad faith, then this type  
7 of evidence would come in in every single case.

8 But, to be more specific in this instance, Your  
9 Honor, we think that the advisory committee notes on 405(b)  
10 are very clear as to what was intended.

11 I'm reading from the second paragraph of the advisory  
12 committee notes:

13 "Of the three methods of proving character provided  
14 by the rule, evidence of specific instances of conduct is  
15 the most convincing. At the same time it possesses the greatest  
16 capacity to arouse prejudice, to confuse, to surprise and to  
17 consume time."

18 Subsequently, the Rule confines the use of evidence  
19 of this kind to cases in which character is in the strict  
20 sense in issue and hence deserving of a searching inquiry.

21 When character is used circumstantially and hence  
22 occupies a lesser status in the case, proof may be only by  
23 reputation and opinion.

24 Now, we have set forth examples, Your Honor, as  
25 to when the character or character trait is a specific issue,

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1 in which reputation such as chastity or incompetence is a  
2 specific issue in the case.

3 But here, you know, honesty and integrity are not  
4 specific issues. It is merely the evidence of reputation  
5 which circumstantially the jury could find that the individual  
6 acted in conformance with his usual reputation at the time  
7 of the alleged offense, if they believe the character testi-  
8 mony and give it weight and credence.

9 We would submit that that is the reason the Rules  
10 have set out that it is intended that reputation and opinion  
11 be in general nature, that it's not to be specific instances.  
12 Otherwise, the case, you know, a whole man's life could be  
13 paraded in front of a jury as proof that this man did not  
14 commit the offense charged.

15 We would submit that the people who made up these  
16 rules could never have intended such a result, that 405(b)  
17 is a very, very narrow, very, very limited circumstance in  
18 which specific acts can be introduced.

19 THE COURT: Now, in what type of situation do you  
20 believe the Rules is intended to apply?

21 MR. KOTELLY: 405(a), of course, the Rule.

22 THE COURT: I understand 405(a).

23 MR. KOTELLY: 405(b) is the example we gave in our  
24 memo, was when chastity is in issue, or when there is incompe-  
25 tence in issue.

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1           Your Honor, I can only believe that the Rule was  
2 intended to include some common law-type offenses that may  
3 appear in Federal Court in civil matters or because there  
4 really are no federal crimes in which I can remember that  
5 character or a character trait is in issue, either in the  
6 defense or of the offense itself.

7           There are no cases that have cited 405(b) in terms  
8 of relying on it as an element of either the offense or the  
9 defense. I would submit from reading the advisory opinion  
10 that it was intended that very, very narrow, as they refer,  
11 very strict sense.

12           And we would submit that the issue here is not the  
13 question of, you know, is Charles Diggs an honest man, a man  
14 of integrity, a man of truthfulness as part of the offense  
15 itself.

16           The question is here, did he submit payroll vouchers  
17 or payroll authorization forms which had misleading and false  
18 information which caused the use of the mails, and which  
19 defrauded the United States both as to the authorization  
20 forms that were submitted, as well as to the scheme that he  
21 devised.

22           We would submit that honesty and integrity,  
23 although it may be relevant as to opinion testimony and reputa-  
24 tional testimony, it is not the specific conduct of prior  
25 acts which are relevant to the issues in this case.

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1           As I stated before, this man could bring in his  
2 whole history, step by step, every single good act that he  
3 did, every honest act that he did. Did the fact he may have  
4 filed his income taxes and they were audited and found they  
5 would not be fined would be relevant information that he  
6 wasn't dishonest at that time?

7           I could go on and on for examples, Your Honor, but  
8 it was clearly not the intent of the Federal Rules to open  
9 up a criminal trial to a life history of the defendant.

10          THE COURT: But it is part of the defense that he  
11 is a person of good character.

12          MR. KOTELLY: And the character testimony should  
13 be the way Michaelson allowed it except the way it's extended  
14 by the Federal Rules for opinion, Your Honor, but nowhere  
15 has character testimony been allowed for specific proof of  
16 good conduct or lawful conduct in the past.

17          THE COURT: Of course, we are on a new rule. We  
18 only have such cases as Benadetto that go into that.

19          MR. KOTELLY: Also, we have the advisory notes of  
20 the committee to reflect as to what they were thinking of  
21 at the time that they propounded this new rule, Your Honor,  
22 and nowhere do they say that this is suppose to be, you know,  
23 a preferred way to go.

24          The Rule, the note that I just read to Your Honor  
25 indicated that it was intended to be, you know, in a very

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1 limited and strict sense that this would be applied, Not  
2 as just an opening up the flood gates to allow all sorts of  
3 testimony about prior good acts to come into evidence.

4 I would submit to the Court that if 405(b) was  
5 intended to make such a sweeping change in the law of evidence  
6 that this advisory note would have been far more clear as  
7 to that, was their intent--but their intent is, you know,  
8 it's spelled out that it wasn't intended as that.

9 Consequently, Rule 405(b) confines the use of evi-  
10 dence of this kind -- specific acts -- to cases in which  
11 character is in the strict sense in issue and hence  
12 deserving of a searching inquiry.

13 We would submit that this is not such a case at  
14 all, that Mr. Povich has twisted the concept of the defense,  
15 to prove that this man because he may have done a lawful act  
16 in the past, somehow reflects directly on his conduct and  
17 the issues in this trial.

18 We would submit that they can only show that circum-  
19 stantially by opinion and reputation testimony and nothing  
20 further.

21 THE COURT: The standard instruction on character,  
22 as I recall it, is to the effect that a person of good charac-  
23 ter, good moral character would be unlikely to do the type  
24 of act that he is charged with doing. And that that alone  
25 may create reasonable doubt in the mind of the jury.

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1 Without it, the jury might be convinced that he  
2 was guilty, but with it they might have a reasonable doubt.

3 Now, that was the instruction we use to give even  
4 prior to the change in the rules.

5 MR. KOTELLY: Yes, that's from Michaelson.

6 THE COURT: This seems to open up something differ-  
7 ent.

8 MR. KOTELLY: It certainly does, Your Honor. No  
9 longer are we talking about circumstantial evidence of reputa-  
10 tion.

11 THE COURT: Yes. It's reputation and opinion.

12 MR. KOTELLY: And opinion. But the question --

13 THE COURT: I have no doubt that the Ambassador  
14 could give testimony as to his opinions. It's a question  
15 of whether the defense should be permitted to offer testimony  
16 as the basis for that opinion.

17 MR. KOTELLY: That's a slightly different issue  
18 as we view it, Your Honor, rather than 405(b) exception.

19 If I might address that other matter?

20 THE COURT: Yes, yes.

21 MR. KOTELLY: Your Honor, again in our second memor-  
22 andum, which we supplied to the Court yesterday, we argued  
23 that it was the intent of the Federal Rules not to allow  
24 character witnesses to go into specific details as to what  
25 they base their opinion on.

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1           On Page 2 of our memorandum, we quote from Judge  
2 Weinstein, who was one of the promulgators of the Federal  
3 Rules where he is quoted as saying:

4           "There was some fear expressed on the part of  
5 government attorneys that opinion witnesses would  
6 be permitted on direct to testify to specific  
7 incidents supporting their opinion. This was  
8 not the intent of the draftsman who expected the  
9 witness to be asked only in general terms to  
10 describe the nature of the familiarity as a basis  
11 for the opinion."

12           Accordingly, a paragraph was added at the end of  
13 the advisory committee note to make that clear. The advisory  
14 opinion note which Judge Weinstein refers to states as follows:

15           "Opinion testimony on direct in these situations  
16 ought in general to correspond to reputation testimony  
17 as now given, i.e., be confined to the nature and  
18 extent of the observation and acquaintance upon which  
19 the opinion is based."

20           Again, Your Honor, I would submit that it's clear  
21 from the advisory notes that the advisory group did not intend  
22 to open up reputation and opinion testimony as being the way  
23 to introduce the whole history of the defendant as far as  
24 all of his good acts on prior occasions.

25           They intended merely that the witness who was

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1   testifying as to opinion or reputation in the community be  
2   confined to just generally stating the time period he knew  
3   the individual, the general types of contacts he would have  
4   with him, then state that opinion or state the reputation,  
5   but it was not intended to be a new way for the defense to  
6   bring in a lot of miscellaneous matters as far as specific  
7   conduct which would then require the Government to respond  
8   and try and refute and rebut all of their specific instances  
9   that they bring forth.

10           We would submit that it's clear that the Federal  
11   Rules were not intended to broaden the law in that regard.  
12   and that a reading of the advisory notes spell it out.

13           In the paragraph I just indicated, that the  
14   advisory committee was not intending to just open up this  
15   whole field, that they were expecting that the law that  
16   had been following Michaelson would be continued to be  
17   followed even though they have expanded the law to allow  
18   personal opinion testimony rather than reputation in the  
19   community.

20           The Federal Rules as far as character made only  
21   really that one significant change and the advisory opinion  
22   goes quite far to make clear that is the one area they were  
23   concerned with changing, allowing a person to give his  
24   personal opinion of reputation rather than going through  
25   the convoluted form of community reputation, but in no

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1 other way were they trying to change the law of character  
2 testimony.

3 Character evidence properly introduced can still  
4 be circumstantial evidence that the jury can consider and  
5 they can acquit based on character testimony. But that  
6 character testimony has to be general testimony and not as  
7 to specific instances.

8 The third issue that the defense has raised is  
9 that the specific acts are evidence that relate to intent  
10 and motive and, Your Honor, we cite the Drew case, which  
11 is the case that's recognized in this jurisdiction when such  
12 evidence can be introduced, when they can show a close link  
13 between the prior activities and the present activities.

14 If it is a continuing transaction or if it is a  
15 significant type incident, that would bring forth either  
16 identity or have some reflection on motive or intent. We  
17 would submit that as to whether or not Mr. Diggs received  
18 a bribe offer and refused it sometime in 1972, has absolutely  
19 nothing to do with the issue as to whether he inflated his  
20 employees' salaries in '73, '4, '5 and '6, for the purposes  
21 of their kicking back money for his personal expenses and  
22 his business expenses.

23 The two types of incidents are totally divorced  
24 from one another. There are numerous aspects that are  
25 different. As far as dealing with a foreign head of state

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1 versus dealing with employees who are close and loyal to  
2 you, who you can trust, the type of offense is totally  
3 different, the time periods are totally different.

4 We would submit that if the Government had tried  
5 to introduce evidence of a bribe, let's say a year before  
6 the time of this kickback scheme as proof somehow of motive  
7 and intent in the case that the Court clearly would not  
8 have allowed us to do so.

9 The crimes are not similar under Drew and clearly  
10 would not be permitted to have any evidentiary value as to  
11 proof of motive or intent and we would submit if the  
12 Government is precluded from introducing such evidence,  
13 the defendant should also be precluded from introducing  
14 their evidence. It is not close enough of a link to say  
15 it has direct bearing on those issues and we would submit  
16 that the only value that the prior activities could have  
17 is general reputation, which circumstantially, the jury  
18 can find that he acted in accordance with his general reputa-  
19 tion.

20 But not proof of the prior behavior as a direct  
21 proof that this man had not the intent nor the motive to  
22 commit this crime.

23 Mr. Povich in his memorandum, misstates, I would  
24 submit, the Government's evidence as to the motives in this  
25 case. The Government has not tried to elicit testimony that

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1 Mr. Diggs was impoverished and, therefore, that was his  
2 reasons for causing the inflated salaries for kickbacks,  
3 for expenses and for personal expenses and business expenses.

4 Miss Stultz, who testified, indicated clearly she  
5 did not know what the financial condition of the Congressman  
6 was. She knew that there were creditors calling.

7 She knew that the Congressman would tell her which  
8 ones to pay and which ones not to pay, but she had no know-  
9 ledge as to his outside sources of income or what he did with  
10 his money.

11 All she knew about were those people who were in  
12 contact with her. Now, we would submit that this was not  
13 evidence of motive as to why he would inflate the salaries  
14 of his employees.

15 Frankly, Your Honor, the Government is at a loss  
16 to understand why he did it, but we would submit that for  
17 the defense to now raise the spectre that the Government  
18 has tried to introduce evidence of motive and, therefore,  
19 they are entitled to rebut it, is creating a strawman in  
20 this case.

21 The Government's evidence merely is that he did  
22 the act which we have charged and as far as his motivations  
23 it is, you know, open really to speculation.

24 He maybe could have been a voluntary deadbeat if  
25 he wanted to, if he just wanted to hoard his money away and

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1 decided that's the way he was going to handle his financial  
2 affairs, just ignore his creditors and keep his money for  
3 himself, it wouldn't reflect at all as to his motives as  
4 to why he would inflate his employees' salaries to pay the  
5 expenses.

6 We have no evidence in this case that this man  
7 was financially destitute merely that he had creditors;  
8 some were being paid and some weren't being paid.

9 So, we would submit under any theory of the defense  
10 that the testimony regarding the specific act that happened  
11 a year before the alleged incident is not admissible as  
12 direct evidence of prior behavior and can only come in as  
13 part of general reputation testimony for the various charac-  
14 ter traits and only as a general and not as to the specific  
15 instances upon which it is based.

16 THE COURT: All right.

17 Now, Mr. Povich, I read Benadetto somewhat differ-  
18 ently than you do. You say there was no evidence that there  
19 were four bribe offers.

20 Now, let me read to you what Judge Fineberg wrote.

21 MR. POVICH: Yes, sir.

22 THE COURT: Benadetto's counsel had made clear  
23 he intended to call as witnesses employees of meat packing  
24 companies not referred to in the indictment. This evidence  
was to show that Benadetto had not solicited or attempted

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1 or accepted any money and, therefore was a person of good  
2 character, not likely to have taken bribes.

3 Defense counsel later lived up to his word and  
4 did present such testimony from four witnesses who were  
5 employed by four other meat processing companies.

6 Now, had you read that?

7 MR. POVICH: Yes, sir.

8 THE COURT: And you still think there was no offer  
9 of bribes from four other meat packing concerns?

10 MR. POVICH: I read that, Your Honor, as saying  
11 he didn't solicit any, and none was offered to him.

12 I'm sorry, Your Honor, that's the way I read it.

13 THE COURT: I don't have your ability to exclude  
14 things perfectly plain to me from the reading of Judge  
15 Fineberg's opinion.

16 MR. POVICH: I'm sorry, Your Honor, that's the  
17 way -- I didn't see anything there that was at all comparable  
18 to the situation here.

19 The man, as I understand that, he had not solicited.

20 THE COURT: It was on all fours with what he was  
21 charged with in the indictment. You don't have any issue  
22 of conflict of interest so far as nations are concerned.  
23 It was another or four other meat packing concerns offering  
24 bribes, and testimony presented to that effect and turned  
25 down and, therefore, evidence of good character.

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1 character involved in the crime. They didn't have to set  
2 out 405(b) in order to allow that kind of testimony. That  
3 had long been permitted, Your Honor. It didn't take any-  
4 thing as dramatic as 405(b) for the permission to use opinion  
5 testimony of the individual, as opposed to reputation, in  
6 order to allow that kind of testimony.

7 Indeed, the cases have recited my recollection  
8 is went back prior to the adoption of the Rule. So that  
9 there was already a recognized exception within the common  
10 law on this issue that would allow that type of testimony.

11 It didn't need anything as dramatic as 405(b) to  
12 permit that. I don't think it had ever been denied; it had  
13 always been permitted.

14 The Government's argument, Your Honor, from the  
15 text writers is that the Court does not wish to allow this  
16 type of testimony because there are certain counterbalancing  
17 factors which are involved.

18 The factors as Mr. Kotelly says are prejudice,  
19 surprise, consumption of time. He adds a fourth, not parading  
20 a man's life.

21 Let me deal with the first three. There is no  
22 prejudice here. There is no surprise here. There is no  
23 consumption of the time.

24 We have an isolated instance with an isolated wit-  
25 ness. I am not seeking to parade this man's life in front

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1           That was the defense theory of that case.

2           MR. POVICH: Your Honor, I don't think, as I read  
3 that opinion, there was never any evidence offered or  
4 proffered that this individual was offered a bribe by the  
5 four meat packing companies, simply that he dealt with those  
6 four meat packing companies; he did not solicit a bribe  
7 from them and was not offered it.

8           I'm sorry I read it differently than Your Honor.  
9 I could be mistaken, but that's the way I read it. I gave  
10 Your Honor my best recollection of it.

11           I have a portion of the opinion. I don't have  
12 the whole opinion.

13           Your Honor, may I just address briefly a couple  
14 of things and answer a question which you directed to Mr.  
15 Kotelly?

16           THE COURT: Certainly.

17           MR. POVICH: You asked him, I thought rather  
18 pointedly, what examples he thought there would be of the  
19 situation under 405(b) as it now reads.

20           He said he gave you two examples of what might  
21 be included as a situation which would be encompassed by  
22 that rule. He gave you the situation of the chastity of  
23 a woman and I believe the second was incompetence.

24           Your Honor, those have been long standing excep-  
25 tions, though the situation with respect to reputation and

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1 of the Court with respect to this witness.

2 I'm asking him about an isolated instance during  
3 a very relevant period of time in a professional association  
4 with this man, when they were dealing as between representa-  
5 tives of the Government and in the Congress and representa-  
6 tive of the Government, the highest levels, in the Department  
7 of State.

8 All of these countervailing factors could be used  
9 as a hypothetical suggestion which might prompt a text  
10 writer to say, be careful, Your Honor, before you allow this,  
11 because it may lead to further problems which aren't  
12 present in this case. They are just not present.

13 And so I suggest to you that although the Court  
14 should admit it with caution and carefully and under restric-  
15 tions, that nevertheless in this instance, it is probative,  
16 probative, Your Honor, of several issues in the case as Your  
17 Honor has indicated, I can't think of anything more than  
18 the character traits of honesty and integrity and truthful-  
19 ness here -- very, very probative.

20 It makes sense. The jury will understand it. They  
21 won't be confused. Your Honor can put in whatever limiting  
22 instruction the Government asks with respect to how this  
23 testimony is to be used.

24 I ask for such a limited instruction if you feel  
25 that there is going to be any confusion on the jury as to

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1 how it is to be received.

2 The Government can offer such a suggestion, but  
3 it's very, very probative of what I think to be the critical  
4 issues in this case.

5 THE COURT: There is a word usage had in connection  
6 with this. The word "circumstantial."

7 MR. POVICH: Yes, sir.

8 THE COURT: It seems to me at best this is circum-  
9 stantial.

10 MR. POVICH: Well, Your Honor --

11 THE COURT: If it's circumstantial, it should not  
12 be admitted.

13 MR. POVICH: A jury has to decide in this case  
14 an issue, an element of the offense which I don't believe  
15 there has ever been direct evidence of, in few, if any,  
16 cases, Your Honor, in few if any cases.

17 All of this evidence is circumstantial evidence,  
18 Your Honor. We don't have a smoking gun in this case. We  
19 don't have that type of evidence. It's all circumstantial.  
20 They have to make a evaluation.

21 I suggest, Your Honor, that we give them the best  
22 most probative evidence under the clearest instructions and  
23 let them make that evaluation.

24 I don't think that because it's circumstantial  
25 that it prohibits it. In fact, I think Your Honor will recall

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1           They use to give the instruction I guess they do  
2 on circumstantial evidence and Your Honor knows that instruc-  
3 tion says that although the evidence may be circumstantial,  
4 it may nevertheless be very probative and very helpful and  
5 the deciding factor.

6           Many cases are made on nothing but circumstantial  
7 evidence, so I don't think that that prohibits it, Your Honor,  
8 or indeed limits it.

9           This is a hard case for the jury to decide; I would  
10 hope it's a hard case for them to decide, and I think this  
11 is a factor which would help them to do so, and I think it's  
12 relevant and it's rational and I would like to see them have  
13 that.

14           If there is a problem, Your Honor, I think the prob-  
15 lem can be handled by a matter of instruction when it is  
16 received and how it is received and how it is to be considered  
17 by them.

18           THE COURT: All right. Anything else, Mr. Kotelly?

19           MR. KOTELLY: Just briefly on that last matter,  
20 Your Honor.

21           As far as circumstantial evidence, Courts have long  
22 understood that the reputation of a person, which means his  
23 conduct over a long period of time, can be circumstantial  
24 evidence as to the defense and the elements of the offense,  
25 but one specific incident we submit does not have that same

000749

1 weight of circumstantial connection that a long history of  
2 reputation has and, therefore, one isolated incident should  
3 not be admitted as circumstantial evidence that he did not  
4 commit the offenses that are charged in the indictment.

5 THE COURT: All right. I will take a brief recess  
6 and let you gentlemen know my opinion.

7 (Whereupon, a short recess was taken.)

8 AFTER RECESS

9 9:40 a.m.

10 THE COURT: Gentlemen, this is a difficult and  
11 unusual situation with which the Court is confronted.

12 I think it's almost a matter of first impression.

13 I note Moore considers the matter and reaches this  
14 conclusion, that opinion testimony on direct in these  
15 situations ought in general to consider the reputation. This  
16 is to testimony now given. It has been confined to the nature  
17 and extent of the observation and acquaintance upon which  
18 the opinion is based.

19 It refers to Rule 701 of the new Federal Rules  
20 which permits lay opinion testimony. I think what I will  
21 do in this case is to permit the Ambassador briefly to state  
22 the basis of his opinion.

23 Mr. Povich, I am not going to allow him to expatiate  
24 it, which your public relations man did.

25 MR. POVICH: That was the Government's witness,  
Your Honor.

000750

1 THE COURT: That I understand, but he was also  
2 Mr. Diggs' friend and associate.

3 MR. POVICH: I am sure, Your Honor, the Under  
4 Secretary will be more professional.

5 THE COURT: So, you may tell the Ambassador as to  
6 my ruling. We will take his testimony when the Government  
7 has concluded its presentation.

8 MR. POVICH: Thank you, Your Honor.

9 THE COURT: Bring in the jury.

10 (Whereupon, at 9:42 a.m., the jury entered the  
11 courtroom)

12 MR. POVICH: May we approach the bench for a moment;  
13 perhaps I misunderstood what you said.

14 THE COURT: All right.

15 (Thereupon, counsel for both parties approached  
16 the bench and conferred with the Court, as follows:)

17 THE COURT: The Ambassador may be called this after-  
18 noon when the Government has concluded its case.

19 MR. POVICH: And if in response to the question --

20 THE COURT: He may express an opinion as to the  
21 truth and veracity and moral character of the defendant and  
22 you may ask him on what basis have you to express that  
23 opinion and he may testify that Mr. Diggs came to him in  
24 connection with this bribe offer and said he had turned it  
25 down, and that and that only.

000751

1 I'm not going to let you go into a whole lot of  
2 other material.

3 MR. POVICH: Just so I'm clear and I don't violate  
4 the Court's admonition, I would like to inquire on a couple  
5 of things.

6 He would say that Mr. Diggs called up and came to  
7 him and advised him of the offer, showed him the letter of  
8 the amount to the best of his recollection, that Mr. Diggs  
9 turned it down and asked him to take care of the matter  
10 appropriately with the Department of State and that he did  
11 so.

12 THE COURT: All right.

13 MR. POVICH: That would not violate Your Honor's  
14 admonition.

15 THE COURT: No, but I want it briefly and concisely  
16 given and not a lot of atmosphere.

17 MR. POVICH: There will be no atmosphere, Your Honor.

18 THE COURT: All right.

19 (Thereupon, the proceedings had at the bench  
20 were concluded; counsel returned to their seats at  
21 counsel table and the proceedings were resumed,  
22 as follows:)

23 THE COURT: Good morning, ladies and gentlemen.

24 It may be of some interest to you Court and counsel  
25 have been busy with this case since 8:30 this morning

000752



1 concerning certain legal aspects.

2 You may proceed, gentlemen.

3 MR. MARCY: The Government would call Mr. Clarence  
4 Robinson.

5 Whereupon,

6 CLARENCE A. ROBINSON

7 was called as a witness by and on behalf of the  
8 Government and, having first been duly sworn, was  
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MARCY:

12 Q Mr. Robinson, would you please give us your full  
13 name?

14 A Clarence A. Robinson.

15 Q Where do you live, Mr. Robinson?

16 A Residence, 1724 Allison Street, Northwest, Washing-  
17 ton.

18 Q What is your business?

19 A I'm a real estate broker.

20 Q Where are your offices?

21 A 1750 Pennsylvania Avenue, Northwest.

22 Q How long have you been a real estate broker?

23 A Over 25 years.

24 Q Do you know Mr. Diggs?

25 A Oh, yes, I know Mr. Diggs.

000753

1 Q How long have you known Mr. Diggs?  
2 A I met him when he first came to Congress.  
3 Q How do you know Mr. Diggs?  
4 A Well, personally, socially and as a client.  
5 Q Have you ever had any financial dealings with Mr.  
6 Diggs?  
7 A Well, I sold him his present residence.  
8 Q Were you connected with a second trust that was  
9 taken out on that residence?  
10 A Yes. At the time of the sale of the property, the  
11 first trust did not equal what we had planned on and the  
12 seller decided that he would take back a second trust for  
13 a year on an interest basis.  
14 Q When was that second trust taken out?  
15 A Well, you have my file which you have had.  
16 MR. MARCY: Your Honor, I have had this marked as  
17 Government's Exhibit No. 72.  
18 THE COURT: Very well.  
19 THE CLERK: Government's Exhibit 72 marked for  
20 identification.  
21 (Document marked Government's  
22 Exhibit 72 for identification)  
23 BY MR. MARCY:  
24 Q Mr. Robinson, if you could look at your file and  
25 tell us if there is anything in there that refreshes your

000754

1 recollection as to when the second trust was taken out?

2 A It was taken out at the time of the purchase of  
3 the property from February 1972.

4 Q Did there come a time --

5 Let me ask you this first. What was your role in  
6 the second trust?

7 A Well, it was part of the sales transaction.

8 Q Were you a trustee on the second trust?

9 A I was. I decided to become one, and one of the  
10 title officers was the other trustee.

11 Q Did there come a time you were asked to collect  
12 the principal amount of that second trust from Mr. Diggs?

13 A Yes.

14 Q Do you recall approximately when that was?

15 A Well, I received a letter from the Thomas J. Owens  
16 Company, stating that they had a request from the Union Turst  
17 Bank to collect payment, which meant the possibility of fore-  
18 closure.

19 And at the bottom of the letter it stated that in  
20 order to stop the foreclosure proceedings that I should get  
21 in touch with the Union Turst Bank, Mr. Zinza, who is the  
22 trust officer.

23 And I went to see Mr. Zinza, and explained to him  
24 the fact that this was a Member of Congress, sort of said  
25 to him, because I happened to know the officers of the bank,

000755

1 that it was a good brother and I wanted to help him as much  
2 as I could. And he gave me some instructions as to what to  
3 do.

4 Q Did you have contact with Mr. Diggs after that  
5 conversation with Mr. Zinza?

6 A Yes, I called his office and an appointment was  
7 set up for me to talk with him, and I went to see him and  
8 we discussed the payment of the second trust.

9 And at that moment he said, "Well, you know, I  
10 don't have the money right now, but what shall I do?"

11 And previous conversation with the trust department  
12 was such that if I got a partial payment on it and promise  
13 to pay the additional amount sometime soon, that that would  
14 be satisfactory.

15 Q Was there an amount chosen at the time or recom-  
16 mended by you?

17 A I selected the amount, approximately half of it.

18 Q How much was that?

19 A It was \$1500.

20 Q Did there come a time you were paid \$1500?

21 A Yes. The first \$1500 I collected within the next  
22 week or so.

23 Q Do you know the date that you collected that amount  
24 of money?

25 A Well, November the 24th, 1975.

000756

1 Q Who did you collect that money from?

2 A I collected it from the Congressman, but it was  
3 handed directly to me by Mrs. Stultz, who came out of his  
4 office to do so. It's right close by.

5 Q What was the form of payment that was given to you  
6 on that day?

7 A The form of payment were three \$300 money order,  
8 one \$100 money order and a check for \$500, which totaled the  
9 \$1500.

10 Q How were you able to determine that?

11 A Well, by adding it up, of course, but then I made  
12 some copies of it so I would have it and it's in the file.

13 Q Could you remove those?

14 I believe they are marked as Government's Exhibits  
15 72-A and 72-B.

16 Did you make those Xerox copies of 72-A and 72-B?

17 A Yes.

18 Q When were they made?

19 A Well, they were made immediately after I received  
20 them.

21 Q Let me show you Government's Exhibit 22-B, which  
22 is in evidence, and ask you to compare that with Government's  
23 Exhibit 72-A. Does that appear --

24 A Well, the numbers match.

25 Q Does that appear to be the U.S. Treasury check that

000757

1 you received that day?

2 A Yes, sir.

3 Q Is there a notation in the lower left-hand corner  
4 of that check as to what it's for?

5 A Well, there's room for something to be written in,  
6 but it's blank.

7 Q I'm referring right here.

8 A Oh, printed on the check it says "voucher." Is  
9 that what you mean?

10 Q Yes.

11 A Yes.

12 MR. MARCY: Your Honor, I would move Government's  
13 Exhibits 72-A and 72-B into evidence at this time.

14 THE COURT: Counsel wish to be heard?

15 MR. WATKINS: May I see it, please?

16 No objection, Your Honor.

17 THE COURT: Received.

18 THE CLERK: Government's Exhibit 72-A and 72-B  
19 received in evidence.

20 (Government's Exhibits 72-A  
21 and 72-B for identification  
22 were received)

23 BY MR. MARCY:

24 Q Mr. Robinson, did there come a time you collected  
25 the remainder of the outstanding principal from Mr. Diggs

000758

1 on that second trust?

2 A Yes. In the letter that was sent to the Thomas  
3 J. Owens Company, they lifted the foreclosure request and  
4 they were pleased they were receiving payment and that addi-  
5 tional amount would be paid to finish it out within 60 days.

6 Q Did there come a time that you collected the addi-  
7 tional amount that was due?

8 A Well, yes. I personally went, because they had  
9 received a letter -- well, I received a letter, really, that  
10 they hated to bother me, but would I look into the matter  
11 and get the additional amount.

12 And I in turn went to see Congressman Diggs and  
13 made an appointment the following week and I collected the  
14 money.

15 Q Do you recall when that was?

16 A It was in February.

17 Q Of 1976?

18 A Yes, approximately two months later.

19 Q How did you --

20 A There was a receipt here. Oh, yes, here it is --  
21 February 25.

22 Q How did you receive payment for that?

23 A The receipt reads:

24 "Currency in the amount of \$1303, representing  
25 final payment of the note Charles C. Diggs held by  
Union Trust Bank."

000759

1 Q Who did you receive that from, from Mrs. Stultz  
2 or from the Congressman or someone else?

3 A Well, I received it from the Congressman, but it  
4 was handed to me by Mrs. Stultz.

5 Q And that was in cash?

6 A That was in cash, yes.

7 MR. MARCY: I have no further questions, Your Honor.

8 MR. KOTELLY: Excuse me one moment, Your Honor.

9 MR. MARCY: Let me ask one more question, Mr. Robinson

10 BY MR. MARCY:

11 Q After you received Government's Exhibit 72-A and  
12 -B, which are the Treasury check and the money order, what  
13 did you do with those money orders and checks?

14 A The following day I think that was in the afternoon,  
15 the following day I went to the bank and delivered them to  
16 the bank.

17 Q To which bank?

18 A To the Union Trust Bank, directly to Mr. Zinza,  
19 who is the trust officer that I have worked with.

20 Q And to your knowledge, were they credited to Mr.  
21 Diggs' account in paying off that second trust?

22 A Oh, yes.

23 Q And also --

24 A Because the bank held the note, so that was a very  
25 simple matter, and they gave me the receipt.

000760



1 Q Also the currency you mentioned you received in  
2 February?

3 A Absolutely.

4 MR. MARCY: I have no further questions.

5 THE COURT: Mr. Watkins.

6 CROSS-EXAMINATION

7 BY MR. WATKINS:

8 Q Good morning, Mr. Robinson.

9 A Good morning, Mr. Watkins.

10 Q I'm going to hand you Government's Exhibit 72-A --  
11 I'm sorry, 72-A and -B and Government's Exhibit 22.

12 Those documents relate to the payment of money to  
13 you on November 24, 1975?

14 A Yes, sir.

15 Q 1975?

16 A 1975; yes, sir.

17 Q Now, you said in your direct testimony that those  
18 documents were handed to you by Mrs. Stultz; is that right?

19 A Yes. That's true, the Congressman said if I had  
20 any further conversation to call.

21 Q I'm only asking you, Mr. Robinson, if those docu-  
22 ments were handed to you by Mrs. Stultz?

23 A Correct, yes, sir.

24 Q Now, did you have any conversation with Mrs. Stultz  
25 about those documents?

000761

1 A No, sir.

2 Q Did you say to Mrs. Stultz on that day anything  
3 like, "Jean, I know you got the money for him"?

4 A Did I?

5 Q Yes.

6 A Well, I say no, but I think I'd like to add to  
7 that that I never discuss a client's business with staff  
8 or employees. So I'd have no occasion.

9 Q So on that day you did not say to Jean, to Mrs.  
10 Stultz, "Jean, I know you got the money for him"?

11 A No, sir.

12 Q Did she reply to you -- let me strike that.

13 Did you ask Jean why she got the money?

14 A No, sir.

15 Q Did she ever reply to you, "Hell, Clarence, I'd  
16 do that for anyone; he's going to lose his home"?

17 A Absolutely not, no.

18 Q So it's your testimony, Mr. Robinson, that no such  
19 conversation ever occurred; is that correct?

20 A That's correct.

21 Q If I told you that Mrs. Stultz testified to such  
22 a conversation --

23 MR. KOTELLY: Object, Your Honor.

24 THE COURT: Sustained.

25 MR. WATKINS: Thank you, Mr. Robinson. I have no  
further questions.

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1 THE COURT: Anything else?

2 REDIRECT EXAMINATION

3 MR. MARCY: There is only one other thing, Your  
4 Honor. Mr. Robinson read from a receipt which was in his  
5 folder and I would ask that be marked Government's Exhibit  
6 72-C for identification.

7 BY MR. MARCY:

8 Q Mr. Robinson, where is the receipt that you referred  
9 to earlier?

10 THE CLERK: Government's Exhibit 72-C marked for  
11 identification.

12 (Document was marked Govern-  
13 ment's Exhibit 72-C for  
14 identification)

15 MR. MARCY: We have no further questions, Your Honor.

16 THE COURT: May the witness be excused?

17 MR. MARCY: Yes, Your Honor.

18 THE COURT: You may be excused.

19 Thank you.

20 (Witness excused)

21 MR. KOTELLY: Our next witness is Randall Robinson,  
22 Your Honor.

23 (Continued on the following page:)  
24  
25

000763

1 Whereupon,

2 RANDALL M. ROBINSON

3 was called as a witness by and on behalf of the  
4 Government and, having first been duly sworn, was  
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. KOTELLY:

8 Q Would you please state your full name for the  
9 record?

10 A Randall Maurice Robinson.

11 Q Mr. Robinson, where do you presently live?

12 A I live at 10 Park Valley Road, Silver Spring.

13 Q Are you presently employed?

14 A Yes, I am the Executive Director of Trans-Africa  
15 Foreign Policy Interest Group.

16 Q Where are your offices?

17 A At 1325 18th Street, Suite 202.

18 Q Mr. Robinson, do you know an individual named  
19 Congressman Charles C. Diggs, Jr.?

20 A Yes.

21 Q How long have you known him?

22 A I met the Congressman, I think, in 1972, at Harvard  
23 University.

24 Q Did you have occasion to be employed by Congressman  
25 Diggs?

000764

1 A Yes.

2 Q During what period of time?

3 A I was employed by the Congressman from August 1st  
4 of 1976, until May 15 of 1978.

5 Q May 15th of this year?

6 A Yes.

7 Q What was your position during that time with  
8 Congressman Diggs?

9 A I was his administrative assistant.

10 Q Mr. Robinson, could you state briefly to the jury  
11 your education and background prior to starting work for  
12 Congressman Diggs?

13 A I have a Bachelor's degree from Virginia Union Uni-  
14 versity and a Law degree from Harvard Law School.

15 Q And did you have any employment after law school  
16 prior to working for Congressman Diggs?

17 A Yes, I was a Ford Foundation Fellow in Dar es  
18 Salaam, Tanzania.

19 I worked for the Lawyers Committee for Civil Rights  
20 here in Washington for the Committee.

21 Lawyer with Roxbury Civic Center in Roxbury, Massa-  
chusetts.

I worked with Congressman William Clay then with  
the Lawyers Committee before coming to Congressman Diggs.

Q During the approximately year and a half that you

000765

1 worked for Congressman Diggs, could you indicate to the jury  
2 your general responsibilities?

3 A My responsibility was to supervise staff and run  
4 the administrative operation, the three offices, the Washing-  
5 ton office and the two Detroit offices.

6 Q Who did you replace, if you know?

7 A Well, I replaced, if one can call it replacement,  
8 Jean Stultz. She did not have the breadth of responsibilities  
9 that I did.

10 Q Was there any overlap in the time that you were  
11 in the office and Jean Stultz was in the office?

12 A One month, yes.

13 Q For one month?

14 A Yes.

15 Q Now, Mr. Robinson, after you began to work in  
16 August of 1976, for Congressman Diggs, during that year of  
17 1976, what responsibilities did you have regarding the payroll  
18 of the staff?

19 A Well, I would recommend to the Congressman the  
20 hiring and firing of staff and would recommend salary level.

21 Q And did you have conversations with the Congressman  
22 regarding salary levels of members of the staff?

23 A Yes, I would recommend.

24 Q Mr. Robinson, do you know an individual named  
25 Felix Matlock?

000766

1 A Yes.

2 Q How do you know Mr. Matlock?

3 A Mr. Matlock worked at the time in the Detroit  
4 office on Woodward Avenue.

5 Q Did you have any conversations with Congressman  
6 Diggs during 1976, regarding Mr. Matlock's salary?

7 A Yes.

8 Q Could you relate to the jury what those conversa-  
9 tions were?

10 A Well, it was of a piece with my full evaluation  
11 of staff operations. I determined that Mr. Matlock did not  
12 give a product that justified the salary that he had been  
13 receiving and recommended that his salary be lowered.

14 Q Do you recall what salary Mr. Matlock had been  
15 receiving when you made your recommendation?

16 A Something in the middle thirties. I can't be more  
17 specific than that.

18 Q Do you recall what your recommendation was to have  
19 it reduced to?

20 A Yes. I recommended that his salary be lowered to  
21 \$22,000, I think.

22 Q And how did the Congressman react to your recommen-  
23 dation?

24 A He complied.

25 Q Did you make recommendations as to the salary

000767

1 changes for any other employees at that time?

2 A No, not salary changes. I don't recall any.

3 Q Mr. Robinson, again directing your attention to  
4 those last several months of 1976, when you were the adminis-  
5 trative assistant, those periods in '76 would have been Octo-  
6 ber through the end of December, correct?

7 A August 1 through the end of December.

8 Q You were the administrative assistant as of August  
9 1st?

10 A Yes.

11 Q What connection did you have regarding the payment  
12 of any expenses incurred in your District in Michigan?

13 A Well, I didn't pay any of those expenses.

14 Q And do you know who was paying the expenses during  
15 that period of time?

16 A I instructed my assistant, Marcia Mills, to determine  
17 how the office bills in Detroit had traditionally been paid.  
18 She reported back to me --

19 MR. WATKINS: Object.

20 BY MR. KOTELLY: . . .

21 Q Without going into specific conversations, what  
22 did you learn as to how the expenses were being paid?

23 A My understanding was that Mr. Matlock paid the  
24 Detroit office expenses.

25 Q During that last calendar quarter of 1976, did you

000768



1 have any responsibility regarding submitting any vouchers  
2 for reimbursement for District office expenses?

3 A No. If I recall correctly, the official expense  
4 account had been already depleted before I arrived.

5 Q Mr. Robinson, I show you what has been admitted  
6 in evidence as Government's Exhibit 21-F.

7 Mr. Robinson, I show you Government's Exhibit 21-F,  
8 which is in evidence and ask you to look at that document;  
9 I ask you if you can identify that document?

10 A That's the quarterly application, quarterly over  
11 Congress at least, application for 500 of the 2,000 allotted  
12 per Congressman for official expenses.

13 Q And what quarter was this for?

14 A Apparently, this is for the last quarter of 1976,  
15 of that Congress.

16 Q Would you have been the administrative assistant  
17 during that period of time?

18 A Yes, I was.

19 Q When that was applied for?

20 A Yes.

21 Q Did you have any responsibilities regarding the  
22 submitting of a voucher like this in the last quarter of 1976;  
23 when I say "like this," Government's Exhibit 21-F?

24 A I don't recall. I may have had the voucher prepared  
25 for the Congressman's signature.

000769

1 Q During that last quarter of 1976, did you have any  
2 connection with obtaining monies as reimbursement for District  
3 office expenses?

4 A I'm afraid I don't follow the question. Is that  
5 not the question you just asked?

6 Q I think it's slightly different. As to that last  
7 quarter of 1976, did you personally handle any monies for  
8 the purpose of District office expenses?

9 A Oh, no, no.

10 Q Now, Mr. Robinson, during the time that you were  
11 the administrative assistant, I ask you what was your starting  
12 salary?

13 A I think 275.

14 Q And did you have any changes in your salary during  
15 the time that you were the administrative assistant?

16 A Yes. I left the staff at 34-and-some dollars;  
17 I don't recall exactly.

18 Q Do you recall when it was you were increased to  
19 34,000 something?

20 A No, I don't recall.

21 Q Mr. Robinson, directing your attention to sometime  
22 in October of 1977, did you have occasion to receive a  
23 subpoena to bring certain materials to a grand jury in the  
24 District of Columbia?

25 A Yes.

000770

1 Q Do you recall exactly when that was?

2 A No.

3 Q And do you know whether any other members on your  
4 staff received identical subpoenas?

5 A Yes. My assistant, Marcia Mills, and Loraine  
6 Westbrook.

7 Q After receiving the subpoena, did you deliver any  
8 materials to the grand jury?

9 A Yes.

10 Q What type of materials did you deliver to the grand  
11 jury?

12 A Office files.

13 Q Did you indicate to the jury as best you can what  
14 type of office files they were and where they were located?

15 A I think they were payroll files largely and other  
16 kinds of personnel files going back as far as 1971, '72, or  
17 as far back as we could reconstruct any files.

18 They were located in two places, my office had wall  
19 file cabinets and the work room where the balance of the  
20 staff works has wall file cabinets, so they were both within  
21 the two work offices of the congressional office.

22 Q And that is Congressman Diggs' congressional office?

23 A Yes.

Q Do you know whether there were any files relating  
to creditors?

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1 A No, not -- official creditors or personal creditors?

2 Q Both or either?

3 A Yes. There were files relating to official bills,  
4 yes.

5 Q Do you recall the volume of documents that you sub-  
6 mitted to the grand jury?

7 A I would guess, I think, something in the area of  
8 three or four standard box sizes.

9 Q How many trips did you make to deliver those docu-  
10 ments to the grand jury?

11 A Just one.

12 Q And do you recall who you turned the documents over  
13 to?

14 A Yes.

15 Q Who was that?

16 A Eric Marcy.

17 Q Do you recall whether anyone assisted you when you  
18 arrived at the courthouse in bringing the boxes in?

19 A Yes. I came in with Miss Westbrook and Miss Mills.

20 Q Did you have any contact with any members of the  
21 FBI during the time that you brought the documents to the  
22 courthouse?

23 A I'm not certain that I did. I had been to the court-  
24 house before and had contact with a member of the FBI, testi-  
25 fied before the grand jury, and I'm confused as to whether

000772

1 that person of the FBI was there on the second occasion or  
2 not.

3 MR. KOTELLY: If the Court will indulge me one  
4 moment.

5 THE COURT: Yes.

6 MR. KOTELLY: No further questions, Your Honor.

7 THE COURT: Mr. Watkins.

8 CROSS-EXAMINATION

9 BY MR. WATKINS:

10 Q Good morning, Mr. Robinson.

11 A Good morning.

12 Q In your direct testimony you referred to an item  
13 called "District office expenses"; is that correct?

14 A Yes.

15 Q And you referred to an allowance called "District  
16 office allowance"; is that correct?

17 A Yes.

18 Q That is a short form notation for the actual cate-  
19 gorization of that allowance, isn't it?

20 A Yes.

21 Q And the proper categorization of that allowance  
22 is allowance for expenses outside the District of Columbia;  
23 is that correct?

24 A Yes.

25 Q Now, you also mentioned that you were subpoenaed

000773

1 to bring certain documents to the courthouse; is that right?

2 A Yes.

3 Q And those documents that you brought to the court-  
4 house were in Congressman Diggs' office; is that right?

5 A Yes.

6 Q And they were his files; is that correct?

7 A Yes.

8 Q And he was then a Congressman at that time and in  
9 control of that office; is that correct?

10 A Yes.

11 Q And he gave you no resistance in terms of allowing  
12 you to bring those boxes of documents to the courthouse, did  
13 he?

14 A No.

15 Q Now, I want to direct your attention, Mr. Robinson,  
16 to August of 1976. You testified that you and Mrs. Stultz  
17 overlapped for the month of August in 1976, when you came  
18 on; is that correct?

19 A Yes.

20 Q All right; and when you came on, Mrs. Stultz'  
21 duties consisted of primarily running the office; is that  
22 correct?

23 A Yes.

24 Q And she was responsible for handling and super-  
25 vising the files; is that correct?

000774

1 A Yes.

2 Q And it's fair to say, is it not, that those files  
3 were in horrible shape?

4 A Yes.

5 Q Documents weren't filed properly, sometimes files  
6 were not kept, documents were found behind and under drawers?

7 MR. KOTELLY: Your Honor, I am going to object to  
8 Mr. Watkins testifying here.

9 MR. WATKINS: I'm sorry, Mr. Kotelly. I will  
10 rephrase.

11 BY MR. WATKINS:

12 Q Mr. Robinson, your title was administrative assis-  
13 tant; is that right?

14 A Yes.

15 Q Now, the Congressman is formally in charge of that  
16 office and responsible for the administration; is that right?

17 A Yes.

18 Q Did he engage in the day-to-day administration of  
19 the office?

20 A No.

21 Q He left that to you; is that correct?

22 A Yes.

23 Q And for the month that you were there, he left that  
24 to Mrs. Stultz as well?

25 A Yes.

000775

1 Q And would it be fair to say that he was interested  
2 in other matters, policy matters?

3 A Yes.

4 Q And he relied on you and Mrs. Stultz while you were  
5 there to run the administrative aspects of the office?

6 A Yes.

7 Q Would it be fair to say then he spent most of his  
8 time on matters such as Africa because he was Chairman of  
9 the Subcommittee on Africa?

10 MR. KOTELLY: Objection, Your Honor, this is irrele-  
11 vant; he has already asked the question and received the  
12 information as to who was running the day-to-day administra-  
13 tion of the office.

14 THE COURT: I think so. If you want to call this  
15 gentleman back as your witness, you may do so.

16 BY MR. WATKINS:

17 Q Well, Mr. Robinson, what did Congressman Diggs  
18 spend his time on in the office?

19 MR. KOTELLY: Objection, Your Honor. Irrelevant.

20 THE COURT: You may answer.

21 BY MR. WATKINS:

22 Q Mr. Robinson?

23 A He spent very little, if any, of his time on  
24 administrative matters. He spent a large part of his time  
25 on policy questions of Africa and the District of Columbia.

000776



1 Q Now, Mr. Kotelly asked you about your responsibili-  
2 ties with regard to payroll during that period from August  
3 of 1976, through the end of the year.

4 When you took over your job, you learned that the  
5 Congressman had great discretion in setting salaries; is that  
6 correct?

7 A Yes.

8 Q In fact, they have complete discretion in setting  
9 salaries; isn't that right?

10 A Yes.

11 Q A Congressman can pay a consultant, if you will,  
12 37 or the maximum amount of money if he so desires whether  
13 or not that consultant does one or two or three things; is  
14 that correct?

15 A Yes.

16 Q And he could pay someone who worked daily in his  
17 office for doing case work the minimum salary, could he not?

18 A Yes.

19 Q And so it's fair to say that a Congressman's discre-  
20 tion is pretty much unlimited between the maximums and the  
21 minimums set by Congress in what he can pay his employees?

22 A Entirely.

23 Q You learned, did you not, that there are no job  
24 descriptions for employees that work for congressmen?

25 A No.

000776A

1 Q There are no job descriptions; is that right?

2 A There are none, no official descriptions imposed  
3 by the Congress, no.

4 Q All right. Now, Mr. Robinson, Mr. Kotelly also  
5 asked you about changes that you recommended in the running  
6 of the office, specifically with regard to salaries; is that  
7 right?

8 A Yes.

9 Q And I take it you initiated a number of changes  
10 in the office when you came aboard?

11 A Yes.

12 Q And did Mr. Diggs resist any of those changes?

13 A No.

14 MR. WATKINS: Your Honor, may I have the Court's  
15 indulgence for a moment?

16 THE COURT: Yes.

17 BY MR. WATKINS:

18 Q Now, Mr. Robinson, I want to go back a moment to  
19 the question of the administration of the office. You indi-  
20 cated that Mr. Diggs had difficulty or did not spend his  
21 time on running the day to day operation of the office.

22 Now, what was his capacity or did you observe his  
23 ability to hire and fire people?

24 A I think Mr. Diggs was reluctant to participate in  
25 either of those two activities.

000777

1 Q Either hiring or firing?

2 A Yes.

3 Q Did you observe what factors he placed an emphasis  
4 on before he decided to -- or let's rephrase that question.

5 Did you observe what factors were important to him  
6 in deciding whether to hire or fire someone?

7 MR. KOTELLY: Objection, Your Honor, this is not  
8 relevant at all to the issues in this case.

9 THE COURT: Sustained.

10 BY MR. WATKINS:

11 Q When you recommended that certain people be hired  
12 and their salary reduced, did Mr. Diggs have difficulty in  
13 doing that?

14 MR. KOTELLY: Objection, Your Honor.

15 THE COURT: I think it's been answered. He said  
16 Mr. Diggs followed his recommendations.

17 BY MR. WATKINS:

18 Q Mr. Robinson, did you observe Mr. Diggs' abilities  
19 to fire persons who had been on the staff for a long time  
20 with him?

21 A Yes.

22 Q What were they?

23 A It was great difficulty. He had compassion for  
24 persons with whom he had been associated for some long period  
25 of time.

000778

1 Q Would it be fair to say he had difficulty firing  
2 them?

3 A Yes.

4 MR. WATKINS: Thank you, Mr. Robinson.

5 THE COURT: Anything else?

6 MR. KOTELLY: Just a few questions, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. KOTELLY:

9 Q Mr. Robinson, Mr. Watkins asked you about the discre-  
10 tion of a congressman in setting the salaries. From your  
11 experience working in Congressman Diggs' office, did that  
12 discretion or payment of salaries include payment of expenses  
13 in the office out of those salaries?

14 A Not during my tenure, no.

15 Q Did you have any direct knowledge that any  
16 employee's salary was going to pay for either personal or  
17 House of Representatives expenses on behalf of Congressman  
18 Diggs?

19 A No.

20 MR. KOTELLY: No further questions, Your Honor.

21 THE COURT: Anything else?

22 MR. WATKINS: No questions, Your Honor.

23 THE COURT: May the witness be excused, gentlemen?

24 MR. KOTELLY: Yes, Your Honor.

25 THE COURT: Thank you. You are excused.

000779 (Witness excused)

1 MR. KOTELLY: May we approach the bench, Your Honor?

2 THE COURT: Yes.

3 (Thereupon, counsel for both parties approached  
4 the bench and conferred with the Court, as follows:)

5 MR. KOTELLY: Your Honor, I would ask permission  
6 to recall very briefly a witness who testified on the first  
7 day of trial, that is John Lawler from the Office of Finance.

8 The only two areas that I wish to question him on  
9 are regarding the payment of consultants on a congressman's  
10 staff, which was brought up by Mr. Dukes during his testimony  
11 Saturday and also about one voucher check which was missing  
12 at the time Mr. Lawler testified, but which we have since  
13 gotten.

14 I would like to have him identify it. It's just  
15 for that limited purpose we would ask to recall him.

16 MR. WATKINS: Mr. Kotelly told us about that last  
17 night, Your Honor. We have no objection.

18 THE COURT: Thank you.

19 MR. POVICH: My understanding is that after him,  
20 you are going to put on your FBI agent.

21 MR. KOTELLY: That's correct.

22 MR. POVICH: How long do you anticipate his testi-  
23 mony will be?

24 MR. KOTELLY: There are -- his testimony is in two  
25 phases, Your Honor. The first phase will be identify certain

000780

1 documents that were turned over to him by Randall Robinson  
2 or Felix Matlock, and after that we will be moving in the  
3 bulk of our evidence.

4 The second phase of his testimony will regard the  
5 testimony of summary charts that he has prepared based on  
6 the exhibits in this case, so that I would ask the Court to  
7 have a break and to excuse the jury while we at least go  
8 through the exhibits to see as to their admissibility before  
9 we get into the second phase.

10 THE COURT: All right.

11 MR. POVICH: Could I inquire generally?

12 THE COURT: Sure.

13 MR. POVICH: I don't believe we -- do you think  
14 you will rest and we should be prepared to argue the motion?

15 MR. KOTELLY: I'm still hopeful of finishing by  
16 12:30.

17 THE COURT: All right.

18 MR. POVICH: Thank you.

19 MR. WATKINS: Thank you.

20 (Thereupon, the proceedings had at the bench  
21 were concluded; counsel returned to their seats at  
22 counsel table, and the proceedings were resumed,  
23 as follows:)

24 MR. KOTELLY: Your Honor, we would call John Lawler.

25 THE CLERK: Your Honor, the witness has been previously sworn.

000781

1 THE COURT: You may resume the stand, Mr. Lawler.  
2 You are still under oath.

3 Whereupon,

4 JOHN LAWLER

5 was recalled as a witness by and on behalf of the  
6 Government and, having been previously duly sworn,  
7 was examined and testified further as follows:

8 DIRECT EXAMINATION

9 BY MR. KOTELLY:

10 Q Would you again state your full name for the record?

11 A John Lawler.

12 Q And your present position?

13 A I am the Chief of the Office of Finance at the U.S.  
14 House of Representatives.

15 Q Are you the same John Lawler who testified last  
16 Wednesday in this trial?

17 A Yes.

18 Q Mr. Lawler, during the period of 1973 through the  
19 end of 1976, was a member of Congress permitted, according  
20 to the regulations of the House of Representatives, to hire  
21 consultants on his personal staff?

22 A Yes. they could hire employees and designate them  
23 consultants.

24 Q If a person was designated or hired as a consultant,  
25 how were expenses incurred by the consultant to be handled,

000782

1 as far as payments?

2 A In the same manner as any other employee would be  
3 reimbursed.

4 Q And could you again state the manner that expenses  
5 were to be reimbursed?

6 A In the case of travel expense, an employee would  
7 incur the expense directly and then upon a properly completed  
8 voucher sent to us, we would reimburse that employee for  
9 travel.

10 Q And during the period of 1973 through the end of  
11 1976, did the regulations allow the clerk hire allowance to  
12 be used for that purpose for persons who would be considered  
13 a consultant?

14 A The regulations stated that the clerk hire allow-  
15 ance was for the payment of compensation to employees for the  
16 performance of official duties.

17 Q Did the compensation for performance of official  
18 duties include expenses incurred --

19 MR. POVICH: Objection, Your Honor. I think he  
20 answered the question and I question whether or not he is  
21 competent to give an opinion on the other matter.

22 THE COURT: You may ask the question.

23 BY MR. KOTELLY:

24 Q Do you have an answer to the question, Mr. Lawler?

25 A May I have you repeat the question, please?

000783



1 BY MR. KOTELLY:

2 Q The clerk hire allowance you have testified was as  
3 payment for -- well, I am afraid I am even going to misrepre-  
4 sent exactly what you said. The clerk hire allowance, would  
5 you again repeat exactly what the clerk hire allowance is for?

6 A It's used to pay compensation of employees in the  
7 performance of official duties.

8 Q My question was the compensation for the performance  
9 of official duties, did that include any expenses which were  
10 incidental to the employment?

11 A The regulations in that time period didn't have any  
12 specific definition as far as official duties. It's silent  
13 on the question of what it might include.

14 Q Mr. Lawler, I now show you what you have identified  
15 previously and is now in evidence and that is Government's  
16 Exhibit 20, which is a ledger card for what, sir?

17 A Government Exhibit 20 is a ledger card for the  
18 official expense allowance in the District office for Congress-  
19 man Charles Diggs.

20 Q And Government's Exhibit 21-A through 21-F, which  
21 are admitted into evidence, would you again just identify  
22 that for the record?

23 A The Exhibit 21-A through 21-F are copies of the  
24 voucher or the request for reimbursement for the expenses in  
25 the Congressional District for Congressman Diggs.

000784

1 Q I now show you a document which you were not shown  
2 last week, Government's Exhibit 22, which has previously been  
3 identified by Lorraine McDaniels Westbrook and I would ask  
4 you if you can identify that document?

5 A Yes.

6 Q How do you identify it?

7 A The check is the original on the prescribed format  
8 of the Treasury of the United States, the House of Representa-  
9 tives account. It's identified by our checking account symbol  
10 number.

11 In addition, the check number agrees with the number  
12 on our ledger account card for a district office quarterly  
13 payment in the amount of \$500. The check is made payable  
14 to Charles C. Diggs, Jr.

15 MR. KOTELLY: Thank you. I have no further ques-  
16 tions.

17 CROSS EXAMINATION

18 BY MR. WATKINS:

19 Q Good morning, Mr. Lawler.

20 A Good morning.

21 Q Mr. Kotelly asked you about whether Congressmen  
22 could hire consultants. You indicated they could hire  
23 employees and call them consultants; is that correct?

24 A That's correct.

25 Q And have you checked your records to determine

000785

1 whether there are any employees hired as consultants?

2 A Yes.

3 Q For what years did you check your records?

4 A The public disclosure document for 1975 and 1976,  
5 and also the current period.

6 Q Do you recall how many consultants were listed on  
7 the public disclosure documents for 1975?

8 A No. The resume didn't recap totally the total num-  
9 ber of employees designated as consultants.

10 Q What did your review consist of?

11 A It indicated that there were in several instances  
12 employees that were titled or designated consultant or some  
13 derivation of the word "consultant." It may have said  
14 "district office consultant" or "legal consultant."

15 Q When you say you didn't break it down, how did you  
16 break down your analysis or your review of the records?

17 A My review was just casually paging through the  
18 public disclosure documents. In one of the years I recall  
19 I think nearly 20 separate instances where employees were  
20 designated a consultant or some derivation of "consultant."

21 Again, that review would be at least that many,  
22 but there could have been more.

23 Q At least that many in one of the years, '75, '76  
24 and '77?

25 A Yes.

000786

1 Q Mr. Lawler, what public disclosure documents are  
2 you referring to?

3 A This document is the report of the Clerk of the  
4 House.

5 Q Do you have one of those with you?

6 A Yes, I do.

7 Q May I see it, please?

8 A Yes.

9 THE CLERK: Defendant's Exhibit No. 37 marked for  
10 identification.

11 (Document marked Defendant's  
12 Exhibit 37 for identification)

13 BY MR. WATKINS:

14 Q Mr. Lawler, I show you what has been marked as  
15 Defendant's Exhibit 37 for identification. Can you identify  
16 it first?

17 A Yes.

18 Q All right. Would you tell the ladies and gentlemen  
19 of the jury what it is?

20 A This is a public record document formally titled  
21 "Report of the Clerk of the House." This particular document  
22 covers the period January 1, 1976, through June 30, 1976.

23 In essence, it's a recapitulation of every dollar  
24 expended by the Finance Office on behalf of the U.S. House  
25 of Representatives. It includes both personnel and

000787

1 non-personnel information. This report is prepared by our  
2 office.

3 Q Now, Mr. Lawler, I take it what you did was you  
4 flipped through the pages of this document and other documents  
5 like that and determined, what did you say in one year there  
6 were approximately 20?

7 A Yes.

8 Q You said at least 20, I think is what you said.

9 A Yes, again the review wasn't so comprehensive that  
10 every person was reviewed for their job title.

11 Q But you merely flipped through those documents,  
12 that document and documents like that, and determined there  
13 were 20 consultants or people named as consultants in that  
14 document?

15 A Or some derivation of consultant, right.

16 Q That report is one volume. Are there any additional  
17 volumes published by the House similar to that? Let me  
18 rephrase the question.

19 How often is a volume like that published?

20 A Its' presently published every 90 days during the  
21 time period until 1977, it was published every six months.  
22 So there are two documents for each year.

23 Q I see. Fine.

24 Mr. Lawler, is it -- you are in charge of the  
25 Finance Office; is that correct?

000788

1 A Yes.

2 Q And is it proper for a congressman to have a person  
3 on both his personal staff and a committee staff if he's a  
4 committee chairman?

5 A Yes, if the position on the committee staff is not  
6 one that's designated professional.

7 Q Well, to make sure I understand and the jury under-  
8 stands, you are allowed under the rules to have a person,  
9 let's take a secretary, a secretary on your committee staff;  
10 is that right?

11 A Yes.

12 Q And that person at the same time can be on the  
13 personal staff and be paid from both staffs; is that correct?

14 A Yes, that is correct.

15 Q And that is not improper?

16 A No.

17 Q Mr. Lawler, how far back do you have the documents,  
18 the public documents that are similar to or for different  
19 periods that are similar to -- let me rephrase.

20 How far back do Reports of the Clerk of the House  
21 go containing the lists of expenditures for the Clerk of the  
22 House?

23 A The report in this form goes back to 1970. Payroll  
24 information contained in payroll journals of the House is  
25 kept forever. In this particular format, though, from 1970  
through the present.

000789

1 Q Now, Mr. Lawler, in your capacity as Chief of the  
2 Finance Office, is there an account that is sometimes referred  
3 to as "district office account"?

4 A Yes.

5 Q Now, the official name for that account is for  
6 "Expenses Outside the District of Columbia"; is that correct,  
7 or let me refer to the period from '73 to 1976.

8 A During that time period, as I recall, that had two  
9 titles. After 1975, it was retitled as you indicated.

10 Q Which way; I'm sorry?

11 A Expenses Outside the District of Columbia.

12 Q Do you know if that was limited to only district  
13 office expenses or did it include all expenses outside the  
14 District of Columbia?

15 A Prior to 1975, the regulations surrounding that  
16 allowance stated that the expenses were in the district office  
17 but effective at the beginning of the Congress in 1975, it  
18 was restated then to include expenses outside of the District  
19 of Columbia.

20 When we refer to "district" in the first case, we  
21 mean the congressional district in the respective state that  
22 the member is representing.

23 Q So that would mean that in the entire district,  
24 any expenses incurred in the entire district would be payable  
25 out of that allowance?

000790

1 A Until 1975, the regulations also had the term  
2 "office expenses" in the regulation surrounding that allowance.

3 Q After 1975?

4 A After 1975, the word "office" was deleted and it  
5 just said "expenses outside the District of Columbia."

6 MR. WATKINS: Fine. Thank you, Mr. Lawler.

7 REDIRECT EXAMINATION

8 BY MR. KOTELLY:

9 Q Just a few more questions, Mr. Lawler.

10 Regarding the change in 1975, in the title of that  
11 allowance, "expenses outside the District of Columbia," was  
12 that intended to include all expenses of the Member of  
13 Congress outside the District of Columbia?

14 MR. WATKINS: Objection, he's not competent to  
15 testify about what that was intended to mean. Those regulations  
16 speak for itself.

17 THE COURT: I sustain that objection.

18 BY MR. KOTELLY:

19 Q Mr. Lawler, during the period of 1975 to 1976, were  
20 there other allowances administered by you that related to  
21 expenses outside the District of Columbia?

22 A Yes.

23 Q Such as?

24 A It would include travel for the Congressman and  
25 a separate allowance, travel for the staff. The district

000791



1 office telephone and the equipment lease allowance also  
2 included equipment in district offices.

3 Of course, the district office rental allowance  
4 by definition was in the district.

5 Q How about leasing of district offices?

6 A Yes. The leasing of district office space by  
7 definition in the district.

8 Q And were these separate or the same allowance as  
9 the expenses outside the District of Columbia allowance?

10 A No, they were specifically stated as a separate  
11 allowance.

12 Q Mr. Lawler, you have indicated the Report of the  
13 Clerk of the House, which reflects certain job titles or job  
14 positions of certain staff members of congressmen. That was  
15 the item you were referring to, correct?

16 A Yes. It lists other information, but among the  
17 information includes job title.

18 Q And where does that information come from that you  
19 place in the Report of the Clerk of the House?

20 A From the payroll authorization form.

21 Q I show you Government's Exhibits 10-A through 10-P,  
22 which are admitted in evidence, payroll authorization forms  
23 of Ofield Dukes, and ask you what his position title was  
24 during the time of those payroll authorization forms?

25 A Government Exhibit 10-A through 10-P lists Ofield

000792

1 Dukes as Director of Special Projects.

2 Q Do any of those documents reflect he was a consul-  
3 tant?

4 A They do not.

5 Q Mr. Lawler, do committees of the House of Repre-  
6 sentatives, are they allowed to hire consultants?

7 A Yes.

8 Q And the hiring by a committee of a consultant, is  
9 that the same or different than the hiring by a Member of  
10 Congress of a consultant?

11 A Again, a Member may hire an employee designated  
12 consultant. The regulations for committees are separately  
13 stated between the hiring of an employee and the hiring of  
14 a consultant. There are certain regulations that are spec-  
15 ifically addressed regarding the employment or the hiring  
16 of consultants.

17 Q By the committees?

18 A Yes, by committees.

19 Q Do the regulations relate to the payment of  
20 expenses of consultants?

21 A Yes, they do.

22 Q Are there such regulations relating to the hiring  
23 by a Member of a consultant as far as the payment of expenses?

24 A Referring to congressional office now?

25 Q Yes.

000793

1           A     There are regulations that address themselves to  
2 the employment of consultants from Members' congressional  
3 funds, not the clerk --

4           Q     Is it specific references you are talking about?

5           A     Yes, the official expenses allowance.

6           Q     How does that relate to the clerk hire allowance?

7           A     It is separate.

8           Q     Mr. Lawyer, as far as the salary paid to a staff  
9 member of a Member's personal staff, are there benefits that  
10 are deducted from the employees' wages?

11          A     Yes.

12          Q     What type of benefits?

13          A     The standard employment benefits, particularly in  
14 the Federal Government, including the withholding of Federal  
15 and State taxes, deductions for health plans, life insurance,  
16 retirements, also allocations to savings institutions and  
17 the purchase of government bonds.

18          Q     Are any of these benefits that are deducted from  
19 an employee's salary related to the amount of money that the  
20 employee earns?

21          A     Yes, two of the benefits.

22          Q     Which two are they?

23          A     Retirement and life insurance.

24          Q     And the deductions for retirement and life insurance  
25 are based on what consideration?

000794

1 A The gross annual appointed salary.

2 MR. KOTELLY: No further questions, Your Honor.

3 THE COURT: Anything else, gentlemen?

4 MR. WATKINS: Yes, I have one, Your Honor.

5 RECROSS EXAMINATION

6 BY MR. WATKINS:

7 Q Showing you Government's Exhibit 10-A through  
8 10-P, would you review those documents and tell me whether  
9 they indicate Mr. Dukes was on the Congressman's personal  
10 staff or on a committee staff?

11 A Government Exhibit 10-A through 10-P, all exhibits  
12 relate entirely to the appointment of Ofield Dukes on  
13 Congressman Diggs' personal congressional staff.

14 MR. WATKINS: Thank you, Mr. Lawler.

15 I have no further questions.

16 MR. KOTELLY: No further, Your Honor.

17 THE COURT: May the witness be finally excused?

18 MR. KOTELLY: Yes, Your Honor.

19 THE COURT: You are finally excused. Thank you.

20 (Witness excused)

21 MR. KOTELLY: Your Honor, there are four stipulations  
22 that the Government and Defense have entered into and I ask  
23 permission to read the stipulations into evidence at this  
24 time.

25 THE COURT: Do you know of the stipulations?

000795

1 MR. WATKINS: Yes, sir.

2 THE COURT: You concur in this and Mr. Diggs concur  
3 in this?

4 MR. WATKINS: Yes, Your Honor.

5 THE COURT: All right.

6 MR. KOTELLY: Stipulation No. 1:

7 It is hereby stipulated and agreed to by the parties  
8 that Government's Exhibits 3-A through 3-N and 6-A through  
9 6-F are United States Treasury checks prepared in the ordinary  
10 course of business by the Office of Finance, House of Repre-  
11 sentatives, and each check made payable to Jean G. Stultz.

12 It is further stipulated and agreed to that Govern-  
13 ment's Exhibits 3-A through 3-N and 6-A through 6-F were  
14 transmitted by the Office of Finance to the Riggs National  
15 Bank, Washington, D. C., and deposited on or about the date  
16 set forth on the checking account of Jean G. Stultz.

17 Stipulation No. 2:

18 It is hereby stipulated and agreed to by the parties  
19 that Government Exhibits 23-A through 23-M, 45-I through ..  
20 45-M, 45-X and 46-G are personal checks, money order or  
21 cashier's checks which were received by the financial institu-  
22 tion named as the payee on each exhibit in the amount appearing  
23 on each exhibit, was credited to the personal automobile or  
24 mortgage loan account of Charles C. Diggs, Jr.

25 It is further stipulated and agreed to that

000796

1 Government's Exhibits 23-S, 45-C, 45-D, 45-F, 45-Y, 45-Z,  
2 46-A, 46-C, 46-E, 46-F, 48-P, 49, 50-G, 50-H, 50-O, 50-Z,  
3 50-AA, 50-BB, 50-EE, 50-LL and 51-C are personal checks,  
4 money orders or cashier's checks which were received by the  
5 payee on each exhibit in the amount appearing on each exhibit  
6 as credited to the account of Charles C. Diggs, Jr.

7 It is further stipulated and agreed to that Govern-  
8 ment's Exhibits 22-C and 46-D were deposited to the personal  
9 checking account of Charles C. Diggs, Jr., at the House  
10 Sergeant at Arms.

11 It is further stipulated and agreed to that Govern-  
12 ment's Exhibit 36-B is a check written by defendant and  
13 debited to his personal checking account at the House Sergeant  
14 at Arms.

15 Stipulation 3:

16 It is hereby stipulated and agreed to that Govern-  
17 ment's Exhibit 56-C and 64-A are copies of two checks from  
18 the checking account of Ofield Dukes. Government Exhibit  
19 64-B is a copy of a Union 1st cashier's check numbered  
20 03-06566, which were all kept in the ordinary course of busi-  
21 ness by Union 1st National Bank of Washington.

22 Your Honor, in connection with the next stipulation,  
23 we would ask this be marked Government's Exhibit 45-CC,  
24 which I have already showed to Mr. Patterson.

25 THE CLERK: Government's Exhibit 45-CC marked for  
identification.

000797

1 (Document marked Government's

2 Exhibit 45-CC for identification)

3 MR. KOTELLY: It is hereby stipulated and agreed  
4 to by the parties that Government Exhibit 45-CC is a money  
5 order which was sold and after it was negotiated, it was kept  
6 in the ordinary course of business by the Riggs National  
7 Bank.

8 Your Honor, at this time there are a few exhibits  
9 that we would like to move into evidence.

10 Would Your Honor prefer it be done?

11 THE COURT: Have you concluded your stipulations?

12 MR. KOTELLY: Yes, Your Honor.

13 THE COURT: Ladies and gentlemen, the stipulation  
14 is an agreed statement of fact. You may accept it as undis-  
15 puted evidence in the case.

16 All right.

17 MR. KOTELLY: Your Honor, at this time the Government  
18 would move into evidence Government's Exhibit 3-A through  
19 3-N and 6-A through 6-F, which are Treasury checks referred  
20 to in the stipulation, as well as through the testimony of  
21 John Lawler. I move those into evidence at this time.

22 THE COURT: Do you gentlemen wish to be heard on  
23 any of those exhibits?

24 MR. WATKINS: No, Your Honor.

25 MR. POVICH: No.

000798

1 THE COURT: They will be received.

2 THE CLERK: Government's Exhibits 3-A through  
3 3-N received in evidence, and 6-A through 6-F received in  
4 evidence.

5 (Government's Exhibits 3-A  
6 thru 3-N and 6-A thru 6-F  
7 for identification received)

8 MR. KOTELLY: We would move into evidence Govern-  
9 ment's Exhibits 12-A through 12-R, which are Treasury checks  
10 to Ofield Dukes, which were identified by Mr. Dukes and  
11 Mr. Lawler.

12 MR. POVICH: No objection.

13 THE COURT: Received.

14 THE CLERK: Government's Exhibit 12-A through 12-R  
15 received in evidence.

16 (Government's Exhibit 12-A thru  
17 12-R for identification received)

18 MR. KOTELLY: Government's Exhibit 15-A through  
19 15-M, which are Treasury checks of Jetalee Richmond, which  
20 were identified by Mr. Lawler and Miss Richmond, salary  
21 checks.

22 MR. POVICH: No objection, Your Honor.

23 THE COURT: Received.

24 THE CLERK: Government's 15-A through 15-M, like  
25 in Mary, received in evidence.

000799



1 (Government's Exhibit 15-A thru  
2 15-M for identification received)

3 MR. KOTELLY: Government's Exhibit 18-A through  
4 18-H, which are Treasury checks to George Johnson identified  
5 by Mr. Lawler and Mr. Johnson as salary checks for Mr.  
6 Johnson.

7 MR. POVICH: No objection.

8 THE COURT: Received.

9 THE CLERK: 18-A through 18-H received in evidence.

10 (Government's Exhibit 18-A thru  
11 18-H for identification received)

12 MR. KOTELLY: Government's Exhibit 22-A, which is  
13 a voucher check dated July 24, 1975, which was identified  
14 by Mr. Lawler as a reimbursement for district office expen e  
15 and also identified by Miss Stultz and Mr. Chrisman.

16 MR. POVICH: No objection.

17 THE COURT: Received.

18 THE CLERK: Government's Exhibit 22-A through  
19 22-F received in evidence.

20 (Government's Exhibit 22-A thru  
21 22-F for identification received)

22 MR. KOTELLY: I was going to go through B. It was  
23 just "A," Your Honor.

24 22-B was a voucher check dated November 24, 1975,  
25 also identified by Mr. Lawler as a voucher reimbursement

000800

1 check and identified also by Clarence Robinson today.

2 MR. POVICH: No objection.

3 THE COURT: Received.

4 THE CLERK: 22-B received.

5 MR. KOTELLY: 22-C, which is a voucher check dated  
6 January 21, 1976, identified by Mr. Lawler as a reimbursement  
7 for district office expenses and is also included in the  
8 stipulation that it was placed in the banking account of Mr.  
9 Diggs at the Sergeant of Arms. That is Stipulation No. 2.

10 MR. POVICH: No objection.

11 THE COURT: Received.

12 THE CLERK: 22-C received in evidence.

13 MR. KOTELLY: 22-D is a voucher check dated May  
14 5th, 1976, identified by Mr. Lawler as a reimbursement for  
15 district expenses, also identified by Mr. Chrisman and Miss  
16 Stultz.

17 MR. POVICH: No objection.

18 THE COURT: Received.

19 THE CLERK: 22-E received.

20 MR. KOTELLY: 22-E, July 26, 1976, voucher identified  
21 by Mr. Lawler and Miss Westbrook that she cashed that check.  
22 That is "E."

23 MR. POVICH: No objection.

24 THE COURT: Received.

25 THE CLERK: 22-E received in evidence.

000801

1 MR. KOTELLY: 22-F, which is a voucher check dated  
2 October 2nd, 1976, identified previously by Mr. Lawler as  
3 reimbursement for district office expenses and also identified  
4 by Ruth Rox.

5 MR. POVICH: What date, October 2nd, '76?

6 MR. KOTELLY: Yes.

7 MR. POVICH: No objection.

8 THE COURT: Received.

9 THE CLERK: 22-F received in evidence.

10 MR. KOTELLY: Government's Exhibit 56-A and -B,  
11 which are two personal checks identified by Ofield Dukes.

12 MR. POVICH: Would Your Honor indulge me a moment?

13 No objection.

14 THE COURT: Received.

15 THE CLERK: Government's Exhibit 56-A and -B  
16 received in evidence.

17 (Government's Exhibit 56-A and  
18 56-B for identification was  
19 received)

20 MR. KOTELLY: Government Exhibit 56-C, which is  
21 a microfilm copy of a personal check of Ofield Dukes, was  
22 identified by Mr. Dukes, and is part of the Stipulation  
23 No. 3.

24 MR. POVICH: No objection.

25 THE COURT: Received.

000802

1 THE CLERK: Government's Exhibit 56-C received  
2 in evidence.

3 (Government's Exhibit 56-C for  
4 identification was received)

5 MR. KOTELLY: Government's Exhibit 60, which is  
6 a personal check of Ofield Dukes, which is identified by Mr.  
7 Dukes and Mr. Sheeran of WJLB.

8 MR. POVICH: No objection.

9 THE COURT: Received.

10 THE CLERK: Government's Exhibit 60 received in  
11 evidence.

12 (Government's Exhibit 60 for  
13 identification was received)

14 MR. KOTELLY: 64-A and 64-B, which are copies of,  
15 64-A is a copy of Mr. Dukes' personal check to cash, and  
16 64-B is a Xerox copy of a Union 1st cashier's check, which  
17 are identified by Mr. Dukes as well as Stipulation No. 3.

18 MR. POVICH: No objection.

19 THE COURT: Received.

20 THE CLERK: Government's Exhibit 64-A and 64-B  
21 received.

22 (Government's Exhibit 64-A and  
23 64-B for identification were  
24 received)

25 MR. KOTELLY: Government's Exhibit 66, which is

000803

1 a summary of money orders that were purchased on two specific  
2 dates which are identified by Miss Alfano from the National  
3 Bank of Detroit.

4 MR. POVICH: Your Honor, we have a problem with  
5 that. We are not going to agree to that.

6 May we come to the bench?

7 THE COURT: Yes.

8 (Thereupon, counsel for both parties approached  
9 the bench and conferred with the Court, as follows:)

10 MR. POVICH: Your Honor, that represents, this is  
11 not a business document. It represents essentially some notes  
12 she made in connection with the preparation of her testimony.  
13 It has no authenticity. We have no backup documents with  
14 which to support it and I would object to it as there is no  
15 basis for its admissibility into evidence.

16 MR. KOTELLY: Your Honor, it is my recollection  
17 of the testimony, this is a summary that she prepared based  
18 on documents from the National Bank of Detroit.

19 THE COURT: Miss Alfano?

20 MR. KOTELLY: Yes, Your Honor.

21 THE COURT: When did she testify?

22 MR. KOTELLY: She testified on Saturday, Your Honor.  
23 No, I'm sorry, it was Friday. Which day did Miss Stultz have  
24 to leave?

25 THE COURT: Was she before or after Matlock?

000804

1 MR. KOTELLY: Before Matlock. They were the last  
2 two witnesses on Thursday, Miss Alfano and Miss Allen.

3 You recall Miss Stultz had to break up her testimony  
4 and I squeezed in the two.

5 THE COURT: How about Jeralee Richmond, was she  
6 before her?

7 MR. KOTELLY: Yes, much before. Miss Richmond  
8 testified Saturday. Miss Alfano was on Thursday afternoon,  
9 Your Honor.

10 MR. POVICH: Don't you have these checks?

11 MR. KOTELLY: Yes. She read the information into  
12 evidence.

13 THE COURT: I remember the name but I don't remember  
14 much about her testimony.

15 THE COURT: She was custodian from the National  
16 Bank of Detroit. She was the last witness on that Thursday  
17 before Miss Stultz resumed the stand Friday.

18 THE COURT: Oh, yes. Miss Alfano.

19 What are those numbers?

20 MR. KOTELLY: 66 is the government exhibit number,  
21 Your Honor.

22 THE COURT: What are the numbers of the document?

23 MR. KOTELLY: They relate to dates that certain  
24 of the money orders were purchased.

25 THE COURT: She testified from bank records?

000805

1 MR. KOTELLY: Yes, Your Honor.

2 MR. POVICH: She testified from the summary which  
3 she said she prepared from records back at home in Detroit.

4 MR. KOTELLY: That's correct.

5 THE COURT: This is a list showing dates of issue?

6 MR. KOTELLY: Yes, Your Honor.

7 MR. POVICH: Date of issue or date of purchase.

8 MR. KOTELLY: Date of purchase. Date of issue I  
9 think is the same.

10 THE COURT: What is the identification number?

11 MR. POVICH: 66 for identification.

12 THE COURT: I will receive it.

13 THE CLERK: Government's 66 received in evidence.

14 (Government's Exhibit 66 for  
15 identification was received)

16 MR. KOTELLY: Your Honor, the Government's last  
17 witness will be Jim Reed.

18 THE COURT: Perhaps that would be a good time for  
19 a 10-minute recess.

20 (Whereupon, at 11:05 a.m., a short recess was  
21 taken.

22 AFTER RECESS

23 11:18 a.m.

24 THE COURT: Bring in the jury.

25 (The jury returned to the courtroom)

000806

1 MR. KOTELLY: James Reed.

2 Whereupon,

3 JAMES MILTON REED

4 was called as a witness by and on behalf of the  
5 Government and, having first been duly sworn, was  
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KOTELLY:

9 Q Would you please state your full name for the record?

10 A James Milton Reed.

11 Q Where are you presently employed?

12 A I'm employed by the Federal Bureau of Investigation.

13 Q What is your position with the FBI?

14 A Special Agent.

15 Q How long have you been a Special Agent with the  
16 FBI?

17 A Nine years.

18 Q Could you state briefly your education and background  
19 prior to joining the FBI?

20 A I graduated from Penn State University in 1966,  
21 with a major in Accounting, and between 1966 and 1969, when  
22 I joined the FBI, I worked in public accounting for a CPA  
23 firm in industrial accounting and I served two years in the  
24 Armed Forces, United States Army.

25 Q After joining the FBI in 1969, did you receive any

000807



1 additional training in the area of accounting?

2 A Yes. I attended in-service training.

3 Q And what is your present position within the Bureau  
4 relating to your accounting work?

5 A I'm designated Special Agent (Accountant), and I'm  
6 rated fully qualified, which is our highest rating based on  
7 a scale of one to four.

8 Q Mr. Reed, were you involved in an investigation  
9 of Charles C. Diggs, Jr.?

10 A Yes, I was.

11 Q When did you first become involved in that investi-  
12 gation?

13 A April 27, 1977.

14 Q Mr. Reed, in connection with your investigation,  
15 did you receive any documents or materials from a Randall  
16 Robinson?

17 A Yes, I did.

18 Q When did you receive such documents?

19 A November the 1st, 1977.

20 Q Could you state to the jury the circumstances of  
21 your physically receiving these documents?

22 A Randall Robinson brought the items to the John  
23 Marshall side of the courthouse. He brought a total of eight  
24 boxes. I met him at his automobile or a taxi -- I can't  
25 recall which it was -- with an accounting technician from

000808

1 our office and we carried the eight boxes to the Fraud  
2 Section of the United States Attorney's office on the third  
3 floor.

4 Q Was anyone with Mr. Robinson at that time that you  
5 observed?

6 A Yes. I believe at the same time Marcia Mills or  
7 Miles was with him and also Lorraine Westbrook McDaniels,  
8 I believe her name is.

9 Q After you received these eight boxes from Mr.  
10 Robinson, what if anything did you do with them?

11 A First day, accounting technician and I spent a  
12 couple hours just looking through the boxes to see exactly  
13 what we had received.

14 Q To your knowledge, the eight boxes that you received,  
15 have they been physically present here in court during these  
16 proceedings?

17 A Yes, they have. I personally brought them up one  
18 day last week and they were brought into the courtroom.

19 Q Mr. Reed, would you state to the jury the type of  
20 records that were contained in these eight boxes you received  
21 from Randall Robinson?

22 A Yes. Three of the boxes dealt with personal  
23 expenses of the Congressman, and those three boxes contained  
24 102 separate folders.

25 There was another box that dealt with miscellaneous

000809

1 personal expenses, mostly I believe for the year 1973.

2 There were 19 folders in that particular box.

3 There were two boxes that dealt with business type  
4 expenses of the Congressman, and there were 36 separate folders  
5 in those boxes.

6 There was one box which contained appointments and  
7 calendars for the years 1971 through 1977, for the Congressman,  
8 and there was one other box which had miscellaneous items.

9 There were check stubs, cancelled checks. There  
10 were a few ledgers where someone had attempted to keep a  
11 record of certain expense or personal accounts.

12 Q After you initially reviewed these documents with  
13 this accounting technician, what if anything did you do later?

14 A Well, later I went through all of the evidence.  
15 I was specifically looking for customer's copies of money  
16 orders or cashier's checks.

17 I was looking for any references I could find to  
18 special account funds, any lead-type information. Whenever  
19 I would find an item which I felt would probably be certainly  
20 introduced in evidence, I would initial it, date it, and  
21 at that time I put all of the evidence back into the original  
22 folders and I kept a record of what I found in the folders.

23 Q Agent Reed, I'm going to show you a number of docu-  
24 ments and ask you if you can identify these documents.

25 Mr. Reed, I first show you what's been marked

000810

1 Government's Exhibit 25-A and -B, which have previously been  
2 identified by Miss Stultz and ask you if you can identify  
3 those documents?

4 A Yes, I can identify them.

5 Q How do you identify them?

6 A My initials.

7 Q What are those two documents, just briefly?

8 A 25-A is a letter from Charles C. Diggs to Joseph  
9 Daniel Clipper, advising him that --

10 Q When I say briefly, just describe the type of docu-  
11 ment that is, sir, and 25-B.

12 A 25-B is a photocopy of a cashier's check for \$1,000.

13 Q Made payable to?

14 A Daniel Clipper.

15 Q I next show you Government's Exhibit 26-A and -B,  
16 which were previously identified by Jean Stultz, and ask  
17 you if you can identify those documents?

18 A Yes. I can.

19 Q How do you identify them?

20 A My initials are on them.

21 Q What are they?

22 A 26-A is a letter from Jean Stultz to Mr. John J.  
23 Conman, Michigan Bell Telephone.

24 Q And 26-B?

25 A 26-B, there are two items here, the Treasury check

000811

1 for \$450, and you also have Riggs cashier's check for \$250,  
2 payable to Michigan Bell Telephone.

3 Q I next show you Government's Exhibit 27-A and  
4 -B for identification, which were previously identified by  
5 Jean Stultz, and ask you if you can identify that?

6 A Yes, I can.

7 Q How do you identify it?

8 A My initials are on them.

9 Q And what is 27-A and -B?

10 A 27-A is a letter from Mrs. Jean Stultz to Mr.  
11 Armstead H. Barnett, Sr.

12 Q On that document, are there any references to any  
13 money orders or cashier's checks?

14 A Yes. States, "Enclosed you will find a cashier's  
15 check for \$5525."

16 Q Any identifying numbers were mentioned in that  
17 letter?

18 A Yes. At the bottom it says, "Enclosure, Cashier's  
19 check No. 245758 in the amount of \$525."

20 Q And 27-B for identification, would you briefly  
21 describe what that is?

22 A This is a, appears to be a bill from Barnett Caterers  
23 to the House of Representatives, attention Mrs. Jean Stultz.  
24 The total bill is for \$716.42.

25 Q Are there any personal figures on that document?

000812

1 A Yes, there are.

2 Q Fine. I next show you Government's Exhibit 28 for  
3 identification, which was previously identified by Miss  
4 Stultz, and ask you if you can identify that document?

5 A Yes, I can.

6 Q How do you identify it?

7 A By my initials.

8 Q What is that document?

9 A This is a customer copy of a personal money order  
10 drawn on Riggs National Bank payable to Gandel's Liquors;  
11 at the bottom it is signed or has the name Charles C. Diggs,  
12 Jr.

13 MR. KOTELLY: I ask Government's 29 for identifica-  
14 tion be marked at this time.

15 THE COURT: All right.

16 THE CLERK: Government's Exhibit 29 marked for  
17 identification.

18 (Document marked Government's

19 Exhibit 29 for identification)

20 BY MR. KOTELLY:

21 Q I show you Government's Exhibit 29 for identifica-  
22 tion and ask you if you can identify it?

23 A Yes, I can.

24 Q How do you identify it?

25 A My initials.

000813

1 Q What is Government's Exhibit 29?

2 A This is a Riggs cashier's check payable to J.  
3 Daniel Clipper in the amount of \$1,270.

4 Q I next show you Government's Exhibits 30-A and  
5 30-B, which were previously identified by Miss Stultz, and  
6 ask you if you can identify that document?

7 A Yes, I can.

8 Q How do you identify it?

9 A By my initials.

10 Q What are those two documents?

11 A 30-A is an invoice from David R. Ramage, Clerk,  
12 Majority Room, House of Representatives.

13 Q And the 30-B for identification was what?

14 A One thing -- that is a cashier's check for \$900  
15 payable to House Majority.

16 Q I next show you Government's Exhibit 31-A and  
17 31-B for identification, which were previously identified  
18 by Miss Stultz, and ask you if you can identify those docu-  
19 ments?

20 A Yes, I can.

21 Q And how?

22 A By my initials.

23 Q And what are those documents?

24 A 31-A is a bill from Detroit Edison Company for  
25 \$13.39 -- excuse me -- well, you have two numbers, 13.39,

000814

1 and then after a certain date it's 13.59.

2 Q And 31-B for identification, briefly what is that?

3 A That's a Riggs customer copy of a personal money  
4 order. It's payable to the Detroit Edison for \$13.59, and  
5 the name that appears in the lower right-hand is Congressman  
6 Charles C. Diggs, Jr.

7 Q I next show you Government's Exhibit 31-C and  
8 31-D for identification, previously identified by Miss Stultz  
9 and ask you if you can identify those documents?

10 A Yes, I can.

11 Q How do you identify them?

12 A By my initials.

13 Q Briefly, what are those two documents?

14 A 31-C is a Riggs money order, copy of it, payable  
15 to One Stop Lock Company in the amount of \$17; lower right  
16 hand appears the name Congressman Charles C. Diggs, Jr.

17 31-D is a bill from One Stop Lock and there is a  
18 notation on there, "paid 3/18/74, money order 791186."

19 MR. KOTELLY: Your Honor, I ask Government's Exhibits  
20 32-A and -B be marked for identification.

21 THE COURT: Very well.

22 THE CLERK: Government's Exhibit 32-A and -B  
23 marked for identification.

24 (Documents marked Government's

25 Exhibit 32-A and 32-B for

000815 identification)



1 BY MR. KOTELLY:

2 Q I show you Government's Exhibit 32-A and -B for  
3 identification and ask you if you can identify those docu-  
4 ments?

5 A Yes.

6 Q How?

7 A By my initials.

8 Q What are they, briefly?

9 A 32-A is a customer copy of a Riggs money order pay-  
10 able to David Ramage for \$300. On the right hand appears  
11 the name Charles C. Diggs, Jr.

12 Q 32-B for identification?

13 A That's also a customer copy of a Riggs money order  
14 payable to David Ramage, House Majority.

15 The amount is \$140.

16 Q I show you Government's Exhibit 32-C and 32-D  
17 for identification, previously identified by Miss Stultz,  
18 and ask you if you can identify those documents?

19 A Yes, I can.

20 Q How do you identify them?

21 A By my initials.

22 Q And what are they, briefly?

23 A 32-C is a bill from the Combustioneer Corporation  
24 to Congressman Diggs, 322 Second Street, Southeast, Washing-  
25 ton, D. C., and the amount of the bill is \$66.25.

000816

1           32-D is again a bill from Combustioneer Corporation  
2 to the Congressman at the same address in the amount of  
3 \$56.33.

4           Q     Do your initials appear on both 32-C and 32-D?

5           A     Yes, they do.

6           MR. KOTELLY: I ask 32-E be marked for identifica-  
7 tion.

8           THE COURT: Very well.

9           THE CLERK: 32-E marked.

10                               (Document marked Government's  
11                               Exhibit 32-E for identification)

12           BY MR. KOTELLY:

13           Q     I show you 32-E for identification and ask you if  
14 you can identify it?

15           A     Yes, I can.

16           Q     How do you identify it?

17           A     By my initials.

18           Q     What are those documents?

19           A     32-E is a customer copy of a Riggs money order pay-  
20 able to the Combustioneer Corporation for \$122. In the lower  
21 right hand appears the name Charles C. Diggs, Jr.

22           Q     Mr. Reed, I show you 32-F through 32-L for identifi-  
23 cation, all previously identified by Miss Stultz, and ask  
24 you if you can identify those documents?

25           A     Yes, I can.

000817

1 Q I'm asking you about the whole group. Have you  
2 looked at all of them?

3 A Yes.

4 Q How do you identify them?

5 A By my initials.

6 Q Do your initials appear on each of those documents?

7 A Yes, on 32-I it doesn't appear, but it's connected  
8 with 32-J, on which my initials do appear.

9 Q Would you please state very quickly and briefly  
10 what each of those exhibits are?

11 A 32-F is a letter.

12 THE COURT: Mr. Kotelly, come to the bench, please.

13 (Thereupon, the witness stepped down from the  
14 stand; counsel for both parties approached the bench  
15 and conferred with the Court, as follows:)

16 THE COURT: Are you going to offer them?

17 MR. KOTELLY: Yes. Would you rather --

18 THE COURT: Won't they speak for themselves?

19 MR. KOTELLY: Yes, Your Honor.

20 THE COURT: That will save a little time.

21 MR. KOTELLY: I agree.

22 THE COURT: All right.

23 MR. POVICH: Your Honor, should we be heard now  
24 on the admissibility of these?

25 THE COURT: I don't know what they are; do you

000818

1 have objection to them?

2 MR. POVICH: If the only way they are going to come  
3 in is by his identifying them as coming in for the file, yes,  
4 that's the basis for the putting them in.

5 THE COURT: These are Diggs' files.

6 MR. POVICH: They came from eight boxes delivered  
7 by Randall Robinson. I don't think that establishes a  
8 sufficient basis. They are business records; there is no  
9 indication they are kept in the regular course of business.

10 He said the files were in a mess. They just packed  
11 everything up and sent it over. I don't think there is  
12 sufficient basis to admit them on that basis so far with  
13 respect to the testimony that's been given in this case.

14 In fact, he couldn't recall whether he turned them  
15 over to Mr. Reed, and not only that, he is talking about--  
16 three or four boxes and this maybe is talking about

17 MR. KOTELLY: Your Honor, we submit the inconsis-  
18 tency in recollection has nothing to do with this. This  
19 witness has identified eight boxes as coming from Randall  
20 Robinson at one time under circumstances identical to which  
21 Randall Robinson testified about, and he's identifying each  
22 of these records by his initials on them.

23 Randall Robinson said all the records turned over  
24 came from the offices of Congressman Diggs, so we submit we  
25 have more than amply showed the connection between these

1 documents from the Congressman's office and being admitted  
2 in evidence.

3 THE COURT: I'm inclined to agree with that.

4 MR. POVICH: Just to say they came from someone's  
5 office doesn't make them admissible, Your Honor.

6 You have gone through this problem before. You  
7 have to say how they are kept. You have someone say, "Yes,  
8 I kept this document in this file. It was the regular course  
9 of business to keep it this way."

10 There has to be some legitimacy to this matter.  
11 They just have a bunch of papers that was delivered. There  
12 is no way anybody could ever testify to sufficient indicia  
13 of authenticity to permit these documents to come in as  
14 business records of Congressman Diggs.

15 MR. KOTELLY: We are not asking they be admitted  
16 as business records. They are physical documents that have  
17 nothing to do with the shop book rule at all.

18 These are documents from the offices of Congressman  
19 Diggs.

20 THE COURT: I just thought we could save a little  
21 time.

22 Proceed to identify them individually.

23 (Thereupon, the proceedings had at the bench  
24 were concluded; counsel returned to their seats at  
25 counsel table; and the witness returned to the  
witness stand and testified further, as follows:)

000820

1 DIRECT EXAMINATION (continued)

2 BY MR. KOTELLY:

3 Q Mr. Reed, I will not ask you any further questions  
4 regarding identifying any individual documents.

5 MR. KOTELLY: Your Honor, I believe 33-B and -C  
6 have not been marked for identification. I would ask they  
7 be marked for identification now.

8 THE CLERK: Government's Exhibit 33-B and -C  
9 marked for identification.

10 (Documents marked Government's  
11 Exhibit 33-B and -C for  
12 identification)

13 BY MR. KOTELLY:

14 Q I show you Government's Exhibits 33-A through  
15 33-L for identification, 34-A for identification, and ask  
16 you if you can identify those items?

17 A Yes, I can.

18 Q How do you identify them?

19 A My initials are on all of them.

20 MR. KOTELLY: Your Honor, I ask to have marked -  
21 34-C for identification.

22 THE CLERK: It's already been marked, Mr. Kotelly,  
23 34-C through 34-H have already been marked.

24 BY MR. KOTELLY:

25 Q I show you Government's Exhibits 34-B through

000821

1 34-H for identification, and ask you if you can identify  
2 those documents?

3 A Yes, I can.

4 Q How do you identify them?

5 A My initials is on each one.

6 MR. KOTELI ask 35-A and -B be marked for identifi-  
7 cation, Your Honor.

8 THE CLERK: Government's Exhibits 35-A and  
9 35-B marked.

10 (Documents marked Government's  
11 Exhibits 35-A and -B for  
12 identification)

13 BY MR. KOTELLY:

14 Q I show you Government's Exhibits 35-A and -B for  
15 identification and ask you if you can identify those documents?

16 A Yes, I can.

17 Q How do you identify them?

18 A My initials.

19 Q Next, I show you Government's Exhibits 36-A through  
20 36-C, 37-A, -B and -C, 39 and 40 for identification, and ask  
21 you if you can identify those documents?

22 THE CLERK: You meant 37-A didn't you?

23 MR. KOTELLY: No, 36-A, 37-A, -B, -C; I think I  
24 may have missed 37, 37-A, -B, -C, 38-A, -B, -C, 39 and 40  
25 for identification.

000822

1 I ask you if you can identify each of those docu-  
2 ments?

3 A Yes, I can.

4 Q How do you identify each of those exhibits?

5 A My initials are on all of them I believe but  
6 No. 39 -- excuse me. My initials are on the back.

7 Q So can you identify each of those exhibits, Mr.  
8 Reed?

9 A Yes.

10 Q How do you identify them?

11 A By my initials.

12 Q I next show you Government's Exhibits 54, 55,  
13 57-A, 58 and 59 for identification and ask you if you can  
14 identify those?

15 A Yes, I can.

16 Q How do you identify them?

17 A By my initials on each of them.

18 Q I next show you Government's Exhibit 70 and ask  
19 you if you can identify that document?

20 A Yes, I can.

21 Q How do you identify it?

22 A By my initials.

23 Q Finally I show you a group of documents which  
24 includes 71-A and 71-E for identification, and ask you if  
25 you can identify the group?

000823



1 A Yes, I can.

2 Q How do you identify that group of documents?

3 A This group was together and I have my initials on  
4 one of the items in the group.

5 Q Does your initial specifically appear though on  
6 71-A and 71-B?

7 A These don't have any numbers on them.

8 Q They don't have your initials on the actual exhibits  
9 themselves; is that correct? Do you see which is 71-A and  
10 71-B, Mr. Reed?

11 A There is no marking on these, no government exhibit  
12 numbers.

13 Q I show you the back of this page and the back of  
14 that page, Mr. Reed, and ask you now if you see government  
15 exhibit numbers?

16 A No. My initials aren't specifically on these two.

17 Q Fine. Agent Reed, the document which you have  
18 just identified and that are sitting before you, where did  
19 you obtain each and every one of those exhibits?

20 A From the eight boxes of records that were turned  
21 over by Randall Robinson on November the 1st, 1977.

22 Q Mr. Reed, did you also receive any documents from  
23 a Felix Matlock?

24 A Yes, I did.

25 Q When did you receive documents from Felix Matlock?

000824

1           A     June 13, 1977.

2           Q     What type of documents did you receive from Mr.  
3 Matlock?

4           A     I received some of his cancelled personal checks,  
5 customer copies of money orders and cashier's checks, some  
6 receipts, a couple of his check registers.

7                     He also had some rough notes for me to keep track  
8 of his use of excess funds for a couple of months.

9           Q     And did you mark the documents you received from  
10 Mr. Matlock in any manner for purposes of identification?

11          A     Yes. I initialed them.

12                   MR. KOTELLY: Your Honor, at this time I would ask  
13 these be marked Government's Exhibit 73-A, -B, -C and -D  
14 for identification and 74-A and -B.

15                   THE CLERK: Government's Exhibits 73-A through  
16 73-D marked for identification.

17                                     /Documents marked Government's  
18                                     Exhibits 73-A through 73-D  
19                                     for identification)

20                   MR. KOTELLY: And 74-A and -B.

21                   THE CLERK: Government's Exhibits 74-A and 74-B  
22 marked for identification.

23                                     /Documents marked Government's  
24                                     Exhibits 74-A and 74-B for  
25                                     identification)

000825

1 BY MR. KOTELLY:

2 Q Mr. Reed, I show you Government's Exhibit 73-A  
3 through -D for identification and ask you if you can identify  
4 those documents?

5 A Yes, I can.

6 Q How do you identify them?

7 A By my initials.

8 Q And could you state briefly for the record what  
9 are Government's Exhibits 73-A through -D?

10 A Customer copies of cashier's checks, all of them.

11 Q From what institution?

12 A Bank of the Commonwealth, Detroit, Michigan.

13 Q From whom did you receive Government's Exhibit  
14 73-A through -D?

15 A Felix Matlock.

16 Q I next show you Government's Exhibits 74-A and  
17 74-B for identification, and ask you if you can identify  
18 those documents?

19 A Yes, I can.

20 Q How do you identify them?

21 A By my initials.

22 Q And for the record, what are 74-A and -B for identi-  
23 fication?

24 A 74-A is a customer copy of a cashier's check payable  
25 to House Recording Studio for \$300.

000826

1 Q On what institution?

2 A It's drawn on the National Bank of Detroit.

3 Q And 74-B for identification, what is that?

4 A It's a customer copy of a National Bank of Detroit  
5 money order for \$405, I believe and 84 cents, payable to  
6 Jim Reel Leasing, Incorporated.

7 Q 74-B for identification, is that an actual customer  
8 copy?

9 A No. this is not a customer copy, this is a Xerox  
10 or photocopy of the customer copy.

11 Q As to Government Exhibit 74-A and -B for identifica-  
12 tion, who did you receive those from?

13 A Felix Matlock.

14 Q In that form?

15 A Yes.

16 MR. KOTELLY: Your Honor, at this time I ask to  
17 approach the bench.

18 THE COURT: All right.

19 (Thereupon, the witness stepped down from the  
20 stand; counsel for both parties approached the bench  
21 and conferred with the Court, as follows:)

22 MR. KOTELLY: Your Honor, at this time I wish to  
23 start moving into evidence not only the evidence that has  
24 been identified by Mr. Reed as having been received from Mr.  
25 Robinson and Mr. Matlock, but also the other money orders,

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1 cashier's checks from the Riggs bank, National Bank of Detroit  
2 and the Bank of the Commonwealth. It's going to require  
3 some time to recite all of the correlating documents in order  
4 to tie everything together, Your Honor.

5 I would ask maybe the jury be excused for a bit  
6 so we can do it in open court. I think it would be less  
7 cumbersome.

8 THE COURT: I am inclined to agree with that.

9 MR. WATKINS: I have no objection.

10 THE COURT: All right.

11 (Thereupon, the proceedings had at the bench  
12 were concluded; counsel returned to their seats at  
13 counsel table, and the proceedings were resumed,  
14 as follows:)

15 THE COURT: Ladies and gentlemen, how do you feel  
16 about lunch?

17 All right, I will excuse you for lunch at this time  
18 about an hour and a half.

19 THE CLERK: 1:30, Your Honor?

20 THE COURT: Yes.

21 You may be excused.

22 (Whereupon, at 11:50 a.m., the jury left the  
23 courtroom)

24 (Following proceedings in open court outside  
25 the presence and hearing of the jury)

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1 THE COURT: You may proceed.

2 MR. KOTELLY: Thank you, Your Honor.

3 Your Honor, I would ask that first of all Govern-  
4 ment's Exhibit 25-A through Government's Exhibit 40, inclusive,  
5 be moved into evidence.

6 We would submit that we have laid the foundation  
7 that all of these documents have come from the files of  
8 Congressman Charles Diggs.

9 Excuse me one moment. I think there is one exhibit  
10 in that group, there is a 36-B for identification which is  
11 not part of that group, but other than 36-B, 25-A through  
12 40 we would move into evidence.

13 Other than 36-B, then, Your Honor, we would move  
14 the 25-A through 40 into evidence.

15 THE COURT: 25-A through 40?

16 MR. KOTELLY: Other than 36-B.

17 THE COURT: Do those documents contain anything  
18 that identifies them from the Diggs file?

19 MR. KOTELLY: These were all identified as having  
20 come from Randall Robinson through Mr. Reed, Your Honor.  
21 Most of them have been identified by Jean Stultz as having  
22 been documents that she prepared and would have had in her  
23 files.

24 I can go through exactly which ones she identified,  
25 which is the bulk of them, Your Honor, but we would submit

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1 that those that she did not identify because there is none  
2 of her personal writing on them are still admissible as being  
3 documents which come from the offices of Charles C. Diggs,  
4 Jr.

5 THE COURT: Has Mr. Povich seen them?

6 MR. KOTELLY: Oh, yes, many times, Your Honor.

7 THE COURT: Do you have anything other than your  
8 general objection?

9 MR. POVICH: I wish to reassert the objection I  
10 said earlier, Your Honor, and I don't think -- let me say  
11 that it's not clear that they came from Congressman Diggs'  
12 files.

13 In addition, the testimony of this man was that  
14 they were produced by Randall Robinson. That's all. This  
15 man had gone and pursuant to the subpoena moved them from  
16 the files.

17 There perhaps might be other -- he could indicate  
18 what files they come from, where they came from, it would  
19 be one thing, but just to say someone handed me eight boxes  
20 of documents.

21 THE COURT: It wasn't someone, it was the Congress-  
22 man's administrative assistant accompanied by two of the  
23 Congressman's employees answering a subpoena duces tecum.

24 If you have no other objection, I will receive them.

25 THE CLERK: Government's Exhibits 25-A through

000830

1 40, excluding 36-B, received in evidence.

2 (Government's Exhibits 25-A

3 thru 40 [excluding 36-B] for

4 identification were received)

5 MR. KOTELLY: At this time I would also move into  
6 evidence Government's Exhibit 36-B, which is a personal check  
7 of Congressman Diggs, which is part of Stipulation No. 3,  
8 that it was drawn on the account of Congressman Diggs.  
9 Jean Stultz has also identified the writing on that document  
10 as being her's on the body of the check and the Congressman's  
11 signature.

12 THE COURT: It will be received.

13 THE CLERK: Government's Exhibit 36-B received in  
14 evidence.

15 (Government's Exhibit 36-B for

16 identification received)

17 MR. POVICH: All over objection, Your Honor.

18 THE COURT: Congressman's check? Prior testimony,  
19 you objected to it. It will be received.

20 MR. KOTELLY: Government's Exhibits 54, 55, 56,  
21 57-A, 58, 59, 70, 71 and 72, we would submit have been identi-  
22 fied by Mr. Reed as all having come from the records of  
23 Congressman Diggs.

24 In addition, as to 54, 57-A, 58, they have also  
25 been identified by Miss Stultz as having her writing on them  
and having been the type of record she would have kept when

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1 she worked for the Congressman.

2 Also, 55 and 58 and 59 were identified by Mr.  
3 Dukes as having been items that he prepared and had sent to  
4 Miss Stultz when she was working for Congressman Diggs.

5 So we would ask that all of these items be identi-  
6 fied, Your Honor.

7 In addition, I should state as to Government's 70  
8 and 71-A and -B, they were also identified by Mr. Sheeran  
9 of WJLB.

10 70 and 71 are receipts Mr. Sheeran actually wrote.

11 71-B, he testified, appeared to be the money owed  
12 that related to the payment that he had a receipt for.

13 THE COURT: Mr. Povich, anything other than your  
14 general objection?

15 MR. POVICH: Yes, sir. Any document which was  
16 not identified by a witness I object to.

17 Specifically, in addition, Your Honor, I object  
18 to WJLB because my recollection was at the time this was shown  
19 to me that they were representing, they were only putting  
20 in one page of these several pages.

21 MR. KOTELLY: Two pages, 71-A and 71-B, and we will  
22 eliminate all of the other pages. We kept them together for  
23 the purpose of Mr. Reed being able to identify them, Your  
24 Honor.

25 THE COURT: All right, they will be received.

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1 MR. KOTELLY: We would ask the top packet, anything  
2 not marked in that packet be removed.

3 THE COURT: Let's wait until Mr. Patterson catches up.

4 THE CLERK: Government's Exhibit 70 received in  
5 evidence and Government's Exhibits 71-A and 71-B received in  
6 evidence.

7 Government's Exhibit 54 received.

8 55 received in evidence.

9 57-A received in evidence.

10 58 received in evidence.

11 59 received in evidence.

12 That's all I have.

13 THE COURT: Received.

14 (Government's Exhibits 70,  
15 71-A and -B, 54, 55, 57-A,  
16 58 and 59 for identification  
17 received)

18 MR. KOTELLY: Your Honor, at this time we also move  
19 into evidence Government's Exhibits 73-A through 73-D,  
20 74-A and 74-B, based on the testimony of Mr. Reed that he  
21 received these from Mr. Matlock and Mr. Matlock's earlier  
22 testimony that he did maintain copies of the money orders  
23 purchased from his special account, and that he turned them  
24 over to the FBI.

25 THE COURT: Do you wish to examine them, Mr. Povich?

000833

1 MR. POVICH: Your Honor, I object to these on the  
2 ground that Mr. Matlock was not shown these items and did  
3 not identify them, in addition to my previous basis.

4 THE COURT: They will be received.

5 THE CLERK: Government's Exhibits 73-A through 73-D  
6 73-D received in evidence.

7 (Government's Exhibits 73-A  
8 thru 73-D for identification  
9 received)

10 MR. KOTELLY: Your Honor, at this time I would like  
11 to move into the area of, first of all, the Riggs money orders  
12 and cashier's checks which are the Exhibits 45 and 46.

13 I believe Mr. Patterson has most, if not all, of  
14 those documents.

15 I have four in my custody, Your Honor, which I will  
16 give to Mr. Patterson.

17 Your Honor, if we could go through these seriatim,  
18 I will state the basis for the admissibility of each of these  
19 documents:

20 Government's Exhibit 45-A is a Riggs money order  
21 to the Detroit Edison Company.

22 Your Honor, if I could ask to do this in a slightly  
23 different way, if I could go chronologically, I will be able  
24 to explain this a little easier.

25 46-A is a cashier's check from Riggs, payable to

000834

1 J. Daniel Clipper.

2 We have Government's Exhibits 25-A and -B in evi-  
3 dence, which are a letter of Jean Stultz, which in her hand  
4 she has an identifying cashier check number as well as a  
5 Xerox copy of the cashier's check. These correspond exactly,  
6 Xerox copy corresponds exactly with the actual document we  
7 received from the Riggs bank on 46-A.

8 In addition, there is a personal check to cash,  
9 Government's Exhibit 24-A, which Jean Stultz identified as  
10 having been a check that she made payable from the special  
11 account to purchase cashier's checks and money orders, and  
12 the total amount of that check is \$250, which we submit ties  
13 in with Government's Exhibit 46-B, a cashier's check to  
14 Michigan Bell Telephone Company in the amount of \$250.

15 Also, from the files and identified by Miss Stultz  
16 are Government's Exhibit 26-A and -B, which is a letter to  
17 Michigan Bell with a Xerox copy of the Michigan Bell cashier's  
18 check.

19 We would submit those are identical; so based on  
20 the records that we got from the files, plus the check to  
21 cash which is in the exact amount on the same date as these  
22 two cashier's checks, Government's Exhibit 46-A and -B, and  
23 in the total amount identical, that those should be admitted  
24 into evidence. It's Government's Exhibits 46-A and -B.

25 THE COURT: Anything further, Mr. Povich?

000835

1 MR. POVICH: Is that the cashed check?

2 MR. KOTELLY: Yes. 24-A is the check to cash for  
3 \$1250.

4 MR. POVICH: Your Honor, I think there is a suffic-  
5 ient connection where there is a cashier's check and money  
6 order both in the same amount. I have no objection to that.

7 THE COURT: All right. Received.

8 THE CLERK: Government's Exhibits 46-A and 46-B  
9 received in evidence.

10 (Government's Exhibits 46-A  
11 and 46-B for identification  
12 were received)

13 MR. KOTELLY: The next three exhibits, Your Honor,  
14 will be 46-I, a cashier's check to Barnett Caterers; 45-AA,  
15 a money order to Gandel Liquors; and 45-BB, a money order  
16 to Call Carl.

17 The sum total of these three items is \$692.71.  
18 They were all purchased on December 5th, 1973, based on the  
19 printed date that appears on each of those documents.

20 From the files we received from Congressman Diggs,  
21 27-A is a letter with a notation as to serial number relating  
22 to the Barnett Caterers, cashier's check.

23 28 is a customer copy of the money owed for Gandel  
24 Liquors, which was obtained from the file which Miss Stultz  
25 identified her handwriting, as well as the actual Government's

000836

1 Exhibit 45-AA, she identified her handwriting.

2           There is Exhibit 27-B which is a letter which  
3 relates to the Gandel payment in the amount which is the same  
4 amount that appears on the money order.

5           As to the Call Carl exhibit, Miss Stultz identified  
6 her writing on that actual document from Riggs Bank 45-BB.  
7 It was in her handwriting.

8           On the same date as these documents were purchased,  
9 December 5th, 1973, there is a check to cash dated the same  
10 date, purchased from the same branch or cashed at the same  
11 branch that the cashier's check and money order were purchased,  
12 in the amount of \$692.76.

13           The difference between these, the total for the  
14 cashier's check and money order and the total for the check  
15 to cash is a difference of five cents.

16           Your Honor, we would submit that based on her testi-  
17 mony that that check of her's, 24-B, was what she purchased  
18 the money order and cashier's checks; that there is sufficient  
19 tie-in to "I" to have admitted in evidence 46-I, 45-AA  
20 and 45-BB.

21           MR. POVICH: No objection, Your Honor, because there  
22 appears to be a relationship between the cashed check and  
23 the cashier's checks and the money order.

24           THE COURT: Be received.

25           THE CLERK: Government's Exhibit 46-I, 45-AA and

000837

1 45-BB received in evidence.

2 (Government's Exhibits 46-I,  
3 45-AA and 45-BB for identifi-  
4 cation received)

5 MR. KOTELLY: The next document is a cashier's check  
6 46-C purchased January 4th, 1974, based on what's written  
7 on that cashier's check, made out to J. Daniel Clipper.

8 Government's Exhibit 29 in evidence is a Xerox copy  
9 of that cashier's check, which was obtained from the files  
10 of Congressman Diggs.

11 The amount of the cashier's check is \$1270. There  
12 is a check to cash, Government's Exhibit 24-C, which is in  
13 evidence, which was cashed on the same date at the same branch  
14 that the cashier's check was purchased. The check to cash  
15 is in the amount of \$1691. The cashier's check itself is  
16 \$1270.

17 We have been unable to find any other money order  
18 or cashier's checks on that date, Your Honor, but we would  
19 submit, based on the fact that it's from the same branch,  
20 the same date, and that a copy of that cashier's check was  
21 found in the files turned over to us by Congressman Diggs,  
22 that there is a sufficient link-up that it should be admitted  
23 into evidence and be considered by the jury.

24 MR. POVICH: Your Honor, I object to that insofar  
25 as it represents a cash--insofar as the Government is seeking

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1 to represent any cash going to Congressman Diggs.

2 I do not object to it insofar as it may represent  
3 the payment of the \$1200 to Mr. Clipper pursuant to the  
4 cashier's check and money order.

5 THE COURT: There was some testimony, I believe,  
6 from Mrs. Stultz about paying Mr. Clipper for Congressman  
7 Diggs.

8 MR. POVICH: Yes, sir; I'm saying I have no objection  
9 insofar as that amount is concerned, but what I do object  
10 to is just a cashier's check for any amount other than that  
11 amount.

12 MR. KOTELLY: We have no cashier's check for anything  
13 other than that amount.

14 46-C is the only cashier's check on that date we  
15 are asking to be admitted.

16 24-C, the check to cash, is already in evidence.

17 MR. POVICH: The Clipper check I have no objection  
18 to, Your Honor.

19 THE COURT: The Clipper check will be received.

20 What is the other check you were concerned with  
21 or the other money order?

22 MR. KOTELLY: There are no others for that date,  
23 Your Honor.

24 THE COURT: Does the Clipper check take care of  
25 your request?

000839



1 MR. KOTELLY: Yes.

2 THE COURT: Received.

3 THE CLERK: Government's Exhibit 46-C received in  
4 evidence.

5 (Government's Exhibit 46-C  
6 for identification received)

7 MR. KOTELLY: 46-D is a check to the Sergeant at  
8 Arms with a notation for the Charles C. Diggs account. It's  
9 a cashier's check in the amount of \$734; date on the cashier's  
10 check is February 7, 1974. On that same date, the same branch,  
11 there was a check cashed by Miss Stultz, which is Government's  
12 Exhibit 24-D in evidence in the amount of \$735, which is  
13 \$1 more than the 734.

14 On the back of her check to cash is a notation she  
15 identified in her own hand which has a cashier's check number  
16 written on the back and that number corresponds identically  
17 to the cashier's check to the Sergeant at Arms.

18 In addition, there is a stipulation that that  
19 cashier's check was deposited in the account of Charles C.  
20 Diggs, Jr.

21 MR. POVICH: No objection.

22 THE COURT: Received.

23 THE CLERK: 46-D received in evidence.

24 (Government's Exhibit 46-D for  
25 identification received)

000840

1 MR. KOTELLY: Next are four documents, Your Honor,  
2 two money orders, Government's Exhibits 45-A and 45-B; two  
3 cashier's checks, 46-E and 46-F. I could go through those  
4 seriatim.

5 45-A is a money order to the Detroit Edison Company.  
6 From the files of Congressman Diggs we have 31-A and -B,  
7 which has a bill, and the notation to the cashier's check  
8 with the cashier's check number as well as having a copy of  
9 that money order, customer copy of that money order, coming  
10 from the files of Congressman Diggs.

11 45-B is a money order to One Stop Lock, which is  
12 identical to a customer copy of the money order which is  
13 31-C or -D. I don't remember which is which now, but either  
14 -C or -D is a customer copy of that money order and the other  
15 one is an invoice from One Stop Lock with a notation in the  
16 hand of Jean Stultz which identifies this particular money  
17 order.

18 46-E is a cashier's check to the House Majority  
19 on Government's Exhibits 30-A and -B; there is an invoice  
20 with a notation that's in the amount of \$900, and a copy of  
21 the cashier's check is also attached. That's 30-B. That  
22 comes from the files of Congressman Diggs.

23 Government's Exhibit 46-F, which was a payment made  
24 to the House restaurant, it's a cashier's check; there is  
25 nothing from the files of Congressman Diggs that relates to

000841

1 this particular item. However, the sum total of these four  
2 documents, the two money orders and the two cashier's checks  
3 is the amount of \$1430.59.

4 There's a check to cash that was cashed on the same  
5 date at the same branch, personal check of Jean Stultz, it  
6 was in the amount of \$1430.99. There is a difference of  
7 \$1.40 between these two.

8 I should also state that the serial number of the  
9 cashier's check to the House restaurant is the next digit  
10 over from the serial number of the House Majority cashier's  
11 check that that would reflect they were all purchased at the  
12 same time by Jean Stultz with her check to cash.

13 THE COURT: Mr. Povich?

14 MR. POVICH: I have no objection to those checks  
15 which she identified specifically as having been paid by her  
16 from her funds.

17 THE COURT: Be received.

18 THE CLERK: Government's Exhibits 45-A, -B, -E and  
19 -F received in evidence.

20 (Government's Exhibits 45-A and  
21 -B, 46-E and -F for identification  
22 were received)

23 MR. KOTELLY:, The next group relate to August 16,  
24 1974. It's 45-C, -D, -F, -G, -H.

25 There are six money orders on that date, Your Honor.

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1           They each run by the serial number chronologically  
2 one right after another in sequence.

3           45-C is the money order to David Ramage. There  
4 is an identical serial number for a customer copy, 32-A, which  
5 came from the files of Congressman Diggs.

6           45-D is also a money order to David Ramage. There  
7 is an identical customer copy, 32-B, from the files of Congress  
8 man Diggs.

9           45-E is a money order to Combustioneer, which is  
10 an air conditioning company, for the Congressman's home.  
11 Government's Exhibits 32-C and -D are bills from Combustioneer  
12 in the exact amount of the money order, as well as 32-E,  
13 which is a customer copy of the Combustioneer money order.  
14 They are identical as to amount and serial number.

15           45-F is a money order to the House stationery account  
16 Jean Stultz identified a letter, 32-F, which was a letter  
17 from the House stationery account with a notation as to the  
18 fact there was a money order that was paid and the amount  
19 on it. There is also a customer copy of the money order  
20 which is identical in serial number and amount and person.

21           45-G is a money order to Rod Miller. It compares  
22 exactly to a customer copy and a bill which has a notation  
23 on it, which is 32-I and -J, which are in evidence.

24           45-H is a money order to the Public Printer and  
25 we have from the files of Congressman Diggs, Government's

000843

1 Exhibits 32-K and -L, which are the bill and a customer copy  
2 for that exact money order.

3 These six money orders are a total of \$898.58. On  
4 the same date at the same branch, Jean Stultz cashed a check  
5 in the identical amount, \$898.58

6 MR. POVICH: No objection for that reason, Your  
7 Honor.

8 THE COURT: Received.

9 (Government's Exhibits 45-C,  
10 -D, -E, -F, -G and -H for  
11 identification received)

12 MR. KOTELLY: On September 12, 1974, there were  
13 six money orders purchased, Your Honor. 45-CC, which was  
14 introduced this morning.

15 THE COURT: Mr. Patterson, are you able to keep  
16 up with this?

17 THE CLERK: I'm trying, Your Honor.

18 MR. KOTELLY: And 45-I, -J, -K, -L and -M.

19 Your Honor, these six money orders run numerically  
20 in sequence, one right after the other.

21 45-CC, Continental Society money order, Jean Stultz  
22 identified her handwriting on Government's Exhibit 33-A,  
23 which is the customer copy of that money order and the purpose  
24 was to give it to a constituent of the Congressman.

25 45-I is a money order to Anchor Finance from the  
files of Congressman Diggs.

000844

1 We have the customer copy of that identical money  
2 order.

3 45-J is a money order on the National Capital Bank.  
4 I should say -J, -K and -L are all three money orders on the  
5 National Capital Bank of Washington. Miss Stultz identified  
6 her handwriting on the face of each document and also there  
7 were customer copies obtained from Congressman Diggs' files,  
8 33-B, -C, -D and -E.

9 45-M to Industrial Credit is the last one of this.  
10 There was a mailgram of a customer copy in this money order  
11 found in the files of Congressman Diggs.

12 On September 12, 1974, these six money orders were  
13 all purchased from the same branch. They were totaled,  
14 \$1,008.86.

15 On that same date at the same branch, Jean Stultz  
16 cashed her check, 24-K, in the exact same amount, \$1,008.86.

17 THE COURT: Mr. Povich?

18 MR. POVICH: I have no objection for that reason,  
19 Your Honor.

20 THE COURT: Received.

21 THE CLERK: Government's 45-I, -J, -K, -L and  
22 -M received in evidence and 45-CC.

23 (Government's Exhibits 45-I,  
24 -J, -K, -L and -M and 45-CC  
25 for identification received)

000845

1 MR. KOTELLY: On September 30, 1974, a cashier's  
2 check to Perpetual was purchased, which is Government's  
3 Exhibit 46-G for identification. The amount of the cashier's  
4 check is \$916.

5 On that same day at the same branch, Jean Stultz  
6 cashed a check to cash, 24-J, in the exact same amount, \$916.  
7 On the back of that check to cash is a notation of a cashier's  
8 check number which is identical to the cashier's check number  
9 of Perpetual.

10 We also have the stipulation that this cashier's  
11 check was paid to the account of Charles Diggs at Perpetual  
12 for a loan.

13 THE COURT: Mr. Povich?

14 MR. POVICH: No objection, Your Honor.

15 THE COURT: Received.

16 THE CLERK: Government's Exhibit 46-G received in  
17 evidence.

18 (Government's Exhibit 46-G for  
19 identification received)

20 MR. KOTELLY: Your Honor, the next nine money orders  
21 are 45-N consecutively to 45-V. They were all purchased on  
22 January the 2nd, 1975.

23 45-N is a money order to the Central United Methodist  
24 Church.

25 45-O is a money order to Multitech, I think it is,

000846

1 Corporation.

2 From the files of Congressman Diggs, Government's  
3 Exhibit 34-A, was a Xerox copy of those two money orders  
4 with a notation identified by Miss Stultz, said "mail to  
5 Quinn," and she identified that as being her handwriting  
6 and that they were two money orders that she had sent to  
7 Quinn who worked for the Congressman in connection with some  
8 function that was at Detroit that she personally attended.

9 45-P is a money order to the Detroit Edison which  
10 is from the files of Congressman Diggs. We found the exact  
11 customer copy and the bill, which is 34-B and -C.

12 45-Q, -R and -S were three money orders that are  
13 cancelled. Jean Stultz identified her signature on those  
14 three documents.

15 45-T and -U are money orders to Barnett Caterers  
16 and there is a letter from the files of Congressman Diggs,  
17 that was identified by Miss Stultz, 34-D, which has the serial  
18 numbers of the money order reflected on them. There were  
19 also customer copies of these two money orders found in the  
20 files of Congressman Diggs; that's 34-E and -F.

21 Last one is 45-V, which is to Lees Florist, and  
22 from the files of Congressman Diggs we obtained Government's  
23 Exhibits 34-G and -H, which was a letter to Lees Florist  
24 from Miss Stultz, which she identified as well as a customer  
25 copy of this particular money order.

000847



1           The total of these nine, if you eliminate the three  
2 that are cancelled, Your Honor, the total of the six actual  
3 money orders is \$763.91. There is a check to cash on the  
4 same date at the same branch from Jean Stultz, which is in  
5 the amount of \$763.91, the exact same amount as these six  
6 money orders.

7           MR. POVICH: For that reason we have no objection.

8           THE COURT: Received.

9           THE CLERK: Government's Exhibits 45-N (like in  
10 Nancy) through 45-V received in evidence.

11                               (Government's Exhibits 45-N  
12                               through 45-V, inclusive, for  
13                               identification, received)

14           MR. KOTELLY: On October 1st, 1975, there were two  
15 money orders and a cashier's check purchased, Your Honor.

16           Government's Exhibit 45-W is a cashier's check to  
17 American Express from the files of Congressman Diggs. We  
18 had a customer copy of that exact American Express money order.

19           45-X was a money order to Gefco Finance and in the  
20 files of Congressman Diggs, 35-D, is a copy of that particular  
21 money order.

22           THE COURT: Geico or Gefco?

23           MR. KOTELLY: Gefco, G-e-f-c-o.

24           46-H is a cashier's check to the National Bank of  
25 Washington.

000848

1           On a ledger which was identified by Miss Stultz  
2 as one maintained by her, Government's Exhibit 36-A, which  
3 did come from the files of Congressman Diggs, there is a nota-  
4 tion on this page dated 10/1/75.

5           It has a total amount and the indication "cashier's  
6 check 442,441," which is the exact serial number on the  
7 National Bank of Washington cashier's check, 46-H.

8           There is also a notation "CCD" which Miss Stultz  
9 identified as the Congressman. "CCD check number 7-51."  
10 That is the check, 36-B, which is in evidence, Your Honor.

11           The sum total of the cashier's check and the personal  
12 check of the Congressman is identical to the number, to the  
13 amount that she has listed here of \$483.98. So based on  
14 these notations, we would submit that that National Bank of  
15 Washington cashier's check has been identified.

16           The sum total of these three documents, the two  
17 money orders and the cashier's check, is \$600. They were  
18 purchased on October 1st, 1975. On that same date at that  
19 same branch, Miss Stultz cashed a check to cash, 24-Q, in  
20 the same amount, \$600.

21           MR. POVICH: No objection for that reason, Your  
22 Honor.

23           THE COURT: Received.

24           THE CLERK: Government's Exhibits 45-W, 45-X and  
25 46-H received in evidence.

000849

1 (Government's Exhibits 45-W,  
2 45-X and 46-H for identifica-  
3 tion were received)

4 MR. KOTELLY: The last two, Your Honor, are Govern-  
5 ment's Exhibits 45-Y and -Z. They are money orders from the  
6 Riggs bank to the House Recording Studio from the files of  
7 Congressman Diggs. We obtained an invoice with Miss Stultz'  
8 writing on it which indicated that money orders were paid  
9 for the amount of \$312 plus they were attached, 37-B and  
10 -C, customer copies of these two money orders.

11 The amount of these two money orders purchased on  
12 March 16 was \$312. On the same date at the same branch, Jean  
13 Stultz cashed a check to cash, 24-S, in the amount of \$312,  
14 which was the exact same amount.

15 MR. POVICH: No objection for that reason.

16 THE COURT: Received.

17 THE CLERK: Government's 45-Y and 45-Z received  
18 in evidence.

19 (Government's Exhibits 45-Y  
20 and 45-Z for identification  
21 were received)

22 MR. KOTELLY: Your Honor, I believe that takes care  
23 of all of the 45 and 46 series, if Mr. Patterson could just  
24 reassure me of that. I think I covered all of them.

25 So that would be 45-A through -Z, AA through ZZ;

000850

1 and 46-A through -I, I believe.

2 Do we have all of those?

3 THE CLERK: Yes.

4 MR. KOTELLY: We can move on to the money orders  
5 and cashier's checks from the National Bank of Detroit.

6 Your Honor, 47-A through -J, which are money orders.

7 THE CLERK: 47-A through -E is already in.

8 MR. KOTELLY: Fine. So then -F through -J and  
9 -M were all identified by Mr. Matlock as having his handwriting  
10 on them.

11 We move those into evidence.

12 MR. POVICH: Anything he identified, Your Honor,  
13 I have no objection to.

14 THE COURT: Would you identify them?

15 THE CLERK: 47-F through 47-J and -M, Your Honor.

16 MR. KOTELLY: Those are the ones Mr. Matlock identi-  
17 fied as having his own personal handwriting on them.

18 THE COURT: Mr. Povich would like to have them  
19 individually identified, so just show them to him.

20 MR. POVICH: I have no objection to that, Your Honor,  
21 that representation is correct.

22 THE COURT: Thank you.

23 They will be received.

24 THE CLERK: I was wondering about -N.

25 MR. KOTELLY: We are going to -K and -L and -N,

000851

1 which I have not addressed yet, Your Honor. It's the only  
2 way I know how to get them through.

3 THE CLERK: Government's Exhibits 47-F through  
4 -J and -M received in evidence. 47-F through -J, including  
5 -J, and then -M by itself.

6 MR. KOTELLY: Government's Exhibits 47-K and -L  
7 were identified by --

8 THE COURT: Mr. Patterson, are you up to him?

9 THE CLERK: 47-F through 47-J and 47-M.

10 (Government's Exhibits 47-F,  
11 -G, -H, -I, -J and 47-M for  
12 identification were received)

13 MR. KOTELLY: Right. 47-K and 47-L were identified  
14 by Mr. Sheeran of WJLB, who identified these as having come  
15 from Mr. Matlock. He identified the writing on the face of  
16 these documents as being his own.

17 There was also a receipt that's in evidence that  
18 he furnished to Mr. Matlock as a result of these two money  
19 orders being given to him.

20 MR. POVICH: No objection.

21 THE COURT: Received.

22 THE CLERK: 47-K and 47-L received in evidence.

23 (Government's Exhibits 47-K  
24 and 47-L for identification  
25 were received)

000852

1 MR. KOTELLY: 47-N, Your Honor, is a National Bank  
2 of Detroit money order which is all typed from Jim Reel  
3 Leasing Company. We have a Xerox copy which was admitted  
4 in evidence from Mr. Matlock to Agent Reed, which is identical  
5 in serial number and the amount. The Xerox copy is 74-B,  
6 Your Honor, and that has already been admitted as having been  
7 given by Mr. Matlock to Mr. Reed.

8 MR. POVICH: Identified by Mr. Matlock?

9 MR. KOTELLY: No, this was not identified because  
10 it was typewritten; there is no personal identification  
11 capable.

12 MR. POVICH: Was 74-B identified by Mr. Matlock?

13 MR. KOTELLY: 74-B was not identified. He turned  
14 over documents he maintained to Mr. Reed and Mr. Reed marked  
15 them for purposes of identification.

16 MR. POVICH: I object to that, Your Honor.

17 MR. KOTELLY: I think the objection is already  
18 noted, Your Honor, as to 74-B.

19 THE COURT: All right. Be received.

20 THE CLERK: 74-B and 74-A, Your Honor?

21 THE COURT: Yes.

22 (Government's Exhibits 74-A  
23 and -B for identification  
24 were received)

25 MR. KOTELLY: I'm sorry, we are talking about

000853

1 47-N. I'm sorry; I confused everything. 74-B is already  
2 in evidence. It was earlier moved into evidence.

3 47-N is the document we are now talking about.

4 47-N is the document we are asking to have admitted into evi-  
5 dence, and it's based on 74-B.

6 THE COURT: Received.

7 THE CLERK: 47-N received in evidence.

8 (Government's Exhibit 47-N for  
9 identification received)

10 THE COURT: How much more of this do you have?

11 MR. KOTELLY: We have a number more money orders  
12 and cashier's checks, Your Honor.

13 THE COURT: We will resume at 1:30.

14 How much more evidence do you have of Mr. Reed?

15 MR. KOTELLY: After we have the evidence moved in,  
16 which will probably take another 15, 20 minutes, we'll have  
17 Mr. Reed testify about certain charts that he has prepared  
18 based on the physical evidence. That should take no more than  
19 20 minutes to present that evidence and this is our last wit-  
20 ness, so whatever cross-examination there is after that.

21 THE COURT: All right.

22 Could you give the Court some indication as to the  
23 balance of the afternoon?

24 MR. POVICH: Yes. We will give you our memorandum  
25 on the motion at the end of the Government's case.

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1           We will outline for you briefly and answer any ques-  
2 tions which you may have as a result of that. Mr. Carl will  
3 argue that if it pleases the Court.

4           After that we will proceed with Mr. Under Secretary  
5 Newsome in accordance with his request, although it's somewhat  
6 out of turn, and we believe that that probably would take  
7 us just about to the end of the day. There may be another.

8           THE COURT: He's going to be a very brief witness.

9           MR. POVICH: There are a couple other witnesses  
10 we have prepared that are essentially brief.

11          MR. KOTELLY: May we inquire who the witnesses will  
12 be this afternoon? Mr. Povich has refused to tell us who  
13 he's calling even at this late date when we should know who  
14 he is intending to call.

15          MR. POVICH: I think I know who I'm going to call,  
16 but it's not the kind of witness I would like to disclose  
17 to you.

18          THE COURT: Are you calling character witnesses  
19 in addition to Mr. Newsome or any fact witnesses?

20          MR. POVICH: I'm going to call character witnesses  
21 in addition, Your Honor.

22          The clerk who was here will be recalled briefly  
23 for information with respect to one of the employees that  
24 was in the file. He testified this morning.

25          There will be a fact witness, I believe,

000855



1 Bob Washington, who will appear as a result of the testimony  
2 of Mrs. Stultz in rebuttal to what she had to say. I think  
3 that would probably take care of it.

4 THE COURT: This would take us up to 5:00 o'clock?

5 MR. POVICH: I think so.

6 MR. KOTELLY: I must state I'm somewhat burdened  
7 by the fact Mr. Povich has fact witnesses that he has kept  
8 hidden from the Government to this late point in time.

9 MR. POVICH: Let's say, Mr. Kotelly, as a result  
10 of Mrs. Stultz' testimony, we learned of a fact witness who  
11 essentially volunteered to testify.

12 THE COURT: I think fact witnesses should be dis-  
13 closed. The Government has disclosed its fact witnesses at  
14 least a week ago -- longer than that.

15 MR. POVICH: I have given him the name of Robert  
16 Washington. I think Mr. Victor Fisher may testify; we are  
17 not certain of that.

18 MR. KOTELLY: Some of these witnesses have testified  
19 before the grand jury, and in order to properly prepare the  
20 cross-examination, Your Honor --

21 THE COURT: I think you are entitled to that informa-  
22 tion.

23 MR. POVICH: I don't know of course who has appeared,  
24 Your Honor, but I will try to give Mr. Kotelly the name of  
25 any fact witness I wish to call.

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1 THE COURT: You gave the Court the names of certain  
2 people that I understand were fact witnesses. Mr. Newsome  
3 was one of them. Now we learn Mr. Newsome is a character  
4 witness.

5 MR. POVICH: It was at that time I wanted to make  
6 sure that the Government understood that it could come in  
7 either by way of character or substantive evidence and not  
8 be caught unaware, and that's why I gave you his name as a  
9 fact witness.

10 THE COURT: Any of the other people whose names  
11 you gave me as character witnesses?

12 MR. POVICH: No, sir; I don't believe so.

13 THE COURT: I assume that is your list of fact wit-  
14 nesses.

15 MR. POVICH: At the moment, Your Honor, yes.

16 THE COURT: Because the Court is concerned about  
17 identifying all fact witnesses to the jury, whether they knew  
18 them.

19 MR. POVICH: There is one additional person, Mrs.  
20 Roundtree, may testify in this case, and Mr. Ed Sylvester may  
21 testify, both as fact witnesses as a result of Mrs. Stultz'  
22 testimony.

23 THE COURT: All right. 5:00 o'clock today, gentlemen.  
24 we'll go to 5:00 o'clock.

25 (Whereupon, at 12:32 p.m. a luncheon recess  
was taken, to reconvene at 1:30 p.m. this same day.)

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AFTERNOON SESSION

1:30 p.m.

[Jury not present]

THE COURT:..All right.

MR. KOTELLY: Your Honor, I believe we were finished with 47, and we were beginning on 48, which are money orders from the National Bank of Detroit.

48-A through -D were all identified by Mr. Matlock as his personal handwriting.

We would move those into evidence.

THE COURT: Mr. Povich?

MR. POVICH: Those were all for the payment of office expenses, right? I have no objection, Your Honor.

THE COURT: Received.

THE CLERK: Government's Exhibits 48-A through -D received in evidence.

(Government's Exhibits 48-A  
thru 48-D for identification  
received)

MR. KOTELLY: The next four, Your Honor, were not identified by Mr. Matlock. Those are 48-E, -F, F(1), F(2). They are all money orders from the National Bank of Detroit.

If I might comment briefly on that at this time, Your Honor. Your Honor recalls the testimony of Mr. Matlock. He indicated that he gave Congressman Diggs three or four

000858

1 money orders in blank and that he related it at the time when  
2 he purchased a money order for Maxine Young.

3 He also talked about that same time there was a  
4 money order to Jim Reel Leasing.

5 Government's Exhibit 48-C is a money order to Maxine  
6 Young. The serial number is 7871344.

7 The next sequence, number 1345, is a money order  
8 to Jim Reel Leasing. Matlock identified his handwriting on  
9 it.

10 The next number is in sequence after Jim Reel,  
11 1346, 1347, 1348, 1349, which are Government's 48-E, -F,  
12 -F(1), -F(2).

13 We would submit that based on the sequence of numbers  
14 the fact that a number of witnesses have identified Mr. Diggs'  
15 handwriting on these documents and the testimony of the  
16 custodian from the National Bank of Detroit that all six of  
17 these money orders was purchased on September 10th, 1976,  
18 adequately identifies these four money orders, -E, -F, -F(1)  
19 F(2) as being the money orders that Mr. Matlock must have  
20 given to Congressman Diggs in blank, so we move for their  
21 admission at this time.

22 MR. POVICH: Your Honor, I object for the reasons  
23 stated that there is no indication that they were given by  
24 Mr. Matlock to anybody else. Mr. Matlock couldn't identify  
25 that, and so testified.

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1 THE COURT: I thought his testimony was he had given  
2 them to Mr. Diggs.

3 MR. POVICH: Couldn't identify those money orders,  
4 Your Honor.

5 THE COURT: He had given money orders to Mr. Diggs.

6 MR. POVICH: Yes, but the question is whether or  
7 not he gave them those money orders and I object to that.

8 MR. KOTELLY: Your Honor, we submit with the  
9 sequence numbers on the money orders, the fact they are the  
10 two money orders directly after the ones from Maxine Young  
11 and Jim Reel, which Mr. Matlock testified about, that circum-  
12 stantially we have demonstrated these have to have been the  
13 three or four money orders that were given in blank to Mr.  
14 Diggs.

15 THE COURT: I will receive them.

16 THE CLERK: Government's Exhibits 48-E, 48-F,  
17 48-F(1) and 48-F(2) received in evidence.

18 (Government's Exhibits 48-E,  
19 48-F, 48-F(1) and 48-F(2) for  
20 identification were received)

21 MR. KOTELLY: 48-G through -N were all identified  
22 by Mr. Matlock as being in his handwriting, Your Honor.

THE COURT: Do you want to see them?

24 MR. POVICH: No objection, Your Honor.

25 THE COURT: Received.

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1 THE CLERK: Government's 48-G through 48-N  
2 received in evidence.

3 (Government's Exhibits 48-G  
4 thru 48-N for identification  
5 were received)

6 MR. POVICH: No objection.

7 MR. KOTELLY: Your Honor, the next exhibit is  
8 48-O, which was not identified by Mr. Matlock because none  
9 of his writing appears on it. However, Mr. Matlock and Miss  
10 Stultz identified the signature on the face of this document  
11 as being Mr. Diggs'.

12 Starting with Government's Exhibit 48-J, which is  
13 now in evidence, and going up through -N, the serial numbers  
14 on these money orders are 7873085, which is 48-J, and then  
15 it goes 86, 87, 88, 89, 89 being 48-N.

16 The next number in the sequence, which is 48-O,  
17 is 7873090, which follows in sequence. These were all pur-  
18 chased according to the custodian from the National Bank of  
19 Detroit, all on November the 1st of 1976.

20 The first five of those numbers in sequence, Mr.  
21 Matlock identified because they were his writing on them;  
22 they were the type of money orders that he purchased out of  
23 his salary for expenses for Congressman Diggs.

24 We would submit that even though Mr. Matlock could  
25 not identify 48-O, that circumstantially, because they all

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1 follow in sequence order, they were all purchased on the  
2 same day, that circumstantially reflects that this was addi-  
3 tional money orders that were purchased by Mr. Matlock and  
4 that in some manner it was signed by Congressman Diggs and  
5 cashed by Lorraine McDaniels Westbrook.

6 MR. POVICH: I object, Your Honor.

7 THE COURT: I understand. Received.

8 THE CLERK: 48-O received in evidence.

9 (Government's Exhibit 48-O for  
10 identification was received in  
11 evidence.)

12 MR. KOTELLY: -P and -S are in Mr. Matlock's hand-  
13 writing, Your Honor. I move their admission.

14 THE COURT: Received.

15 THE CLERK: Government's Exhibits 48-P and 48-S  
16 received in evidence.

17 (Government's Exhibits 48-P and  
18 48-S for identification were  
19 received in evidence.)

20 MR. KOTELLY: Your Honor, Government's 49 is a  
21 cashier's check from the National Bank of Detroit for the  
22 House Recording Studio. It's all typewritten. On the face  
23 of it, without -- Mr. Matlock did not identify this as one  
24 he purchased, although he did identify it as the type of  
25 document he would purchase.

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1 Mr. Matlock and Miss Stultz also identified the  
2 signature on the back of this document.

3 THE COURT: Identified as who's?

4 MR. KOTELLY: Mr. Diggs', Your Honor.

5 Government's Exhibit 74-A, which is already in evi-  
6 dence, is a document that Mr. Reed identified as having been  
7 given to him by Mr. Matlock.

8 Mr. Matlock testified that he kept customer's  
9 copies of various documents and turned them over to the FBI.  
10 This document, 74-A, is the customer's copy of Government's  
11 Exhibit 49. It's identical in serial number, date, payee  
12 and amount, so we would submit that circumstantially, we  
13 have shown this is one of the cashier's checks that was pur-  
14 chased by Mr. Matlock.

15 THE COURT: Received.

16 MR. POVICH: Was Mr. Matlock shown the customer's  
17 copy?

18 MR. KOTELLY: He was not shown the customer's copy;  
19 he was shown the original copy, Government's Exhibit 49,  
20 which is the type of document he would have purchased.

21 MR. POVICH: He could not identify that document,  
22 Your Honor, so for that reason I object.

23 THE COURT: He identified the signature.

24 MR. POVICH: He said Mr. Diggs' signature is on  
25 it, but the question is going to be whether or not Mr. Matlock

000863



1 gave it to him, not whether Mr. Diggs signed it.

2 Mr. Diggs can get money orders from places other  
3 than Mr. Matlock.

4 THE COURT: I have to agree with that.

5 THE CLERK: Government's Exhibit 49 received in  
6 evidence.

7 (Government's Exhibit 49 for  
8 identification received)

9 MR. KOTELLY: Government's Exhibits 50-A through  
10 50-KK were all identified by Mr. Matlock as having his hand-  
11 writing.

12 MR. POVICH: No objection, Your Honor.

13 THE COURT: Received.

14 THE CLERK: Government's Exhibits 50-A through  
15 50-KK received in evidence.

16 (Government's Exhibits 50-A  
17 thru 50-KK for identification  
18 were received)

19 MR. KOTELLY: 50-LL is a money order from the Bank  
20 of the Commonwealth -- I'm sorry. 50-LL is a money order  
21 from the Bank of the Commonwealth, payable to the House  
22 Recording Studio. It's all typewritten and Mr. Matlock could  
23 identify it only as being the type of money order that he  
24 would have purchased.

25 Government's Exhibit 50-LL comes in sequence

000864

1 immediately after Government's 50-KK as far as the serial  
2 numbers on this money order.

3 50-KK, which was in Mr. Matlock's handwriting is  
4 23210408 and -LL is 09. So we would submit, based on the  
5 fact that it's the type of money order Mr. Matlock would have  
6 purchased, that it follows by one in sequence to the one that  
7 Mr. Matlock can positively identify as having been purchased  
8 by him, that circumstantially we can show -LL was also pur-  
9 chased by Mr. Matlock.

10 THE COURT: Does it have Mr. Diggs' signature on  
11 it?

12 MR. KOTELLY: There is no signature on this, Your  
13 Honor. This was credited to Mr. Diggs' account at the House  
14 Recording Studio, according to the stipulation 13, and that  
15 is undisputed.

16 MR. POVICH: Objection, Your Honor.

17 THE COURT: Sustained.

18 THE CLERK: 50-LL sustained.

19 MR. KOTELLY: Government's -MM through -QQ were  
20 also identified by Mr. Matlock as having his personal writing  
21 on them. Move those in evidence.

22 THE COURT: Received.

23 MR. POVICH: No objection.

24 THE CLERK: Government's 50-MM through 50-QQ  
25 received in evidence.

000865

1 MR. KOTELLY: Your Honor, regarding Exhibits  
2 51-A through 51-D, they are four cashier's checks from the  
3 Bank of the Commonwealth. We have in evidence Government's  
4 Exhibits 73-A through -D, which are the corresponding customer  
5 copies of each one of these cashier's checks, which Agent  
6 Reed testified he was given them by Mr. Matlock.

7 Mr. Matlock testified that these were the type,  
8 you know, they were copies made and kept by him which were  
9 turned over to the FBI, copies of money orders and cashier's  
10 checks that he had purchased out of his salary.

11 Among these documents we have also had independently  
12 identified 51-B by Jean Stultz as having been received by  
13 her from Mr. Matlock.

14 51-C we had testimony that there was a signature  
15 on the back of Congressman Charles Diggs, and this one by  
16 stipulation was a cashier's check that was credited to the  
17 Congressman's account at the House Recording Studio.

18 51-D was identified by Mr. Sheeran as having been  
19 paid on the account of Congressman Diggs at WJLB.

20 So, based on the fact that Mr. Matlock gave customer  
21 copies of these particular documents to Agent Reed and his  
22 testimony that these were documents he kept of cashier's  
23 checks that he had purchased out of his salary to pay for  
24 expenses, that 51-A through -D should be admitted in evidence.

25 MR. POVICH: Your Honor, I don't believe he

000866

1 identified customer's

2 MR. KOTELLY: I can show them to Mr. Povich, if  
3 he believes they differ in any respect.

4 MR. POVICH: I don't believe he was shown either  
5 the original or customer's copy to identify whether he gave  
6 those over.

7 THE COURT: They will be received.

8 THE CLERK: Government's Exhibits 51-A through  
9 51-D received.

10 (Government's Exhibits 51-A thru  
11 51-D for identification received |

12 MR. POVICH: I object.

13 MR. KOTELLY: Your Honor, I believe that is all  
14 of the Government's exhibits that we intend to move into evi-  
15 dence up through 71-B.

16 If we could have Mr. Patterson, I request Mr.  
17 Patterson to read which exhibits he does not have admitted  
18 so I can indicate whether those are being withdrawn or not.

19 THE COURT: Proceed, Mr. Patterson.

20 THE CLERK: 41-A through 44-B.

21 MR. KOTELLY: Withdrawn, Your Honor.

22 THE COURT: All right.

23 THE CLERK: 61-A, -B and -C withdrawn?

24 MR. KOTELLY: Yes, Your Honor, they were never  
25 identified and were withdrawn.

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1 THE COURT: 61-A through -C -- all right.

2 THE CLERK: And Government's Exhibit 57-B.

3 MR. KOTELLY: That was never identified and we  
4 would ask that be withdrawn.

5 THE COURT: All right.

6 THE CLERK: Government's Exhibits 62-A and 62-B.

7 MR. KOTELLY: Never identified and we ask it be  
8 withdrawn.

9 THE COURT: All right.

10 MR. KOTELLY: I believe 65 was never given a number;  
11 it was just missed inadvertently, Your Honor.

12 THE CLERK: Government's Exhibit 72; that was the  
13 folder.

14 MR. KOTELLY: It has been marked but we would not  
15 move the whole folder into evidence, Your Honor.

16 THE COURT: All right.

17 THE CLERK: And Government's Exhibit 72-C, the  
18 receipt.

19 MR. KOTELLY: That also we would not move into  
20 evidence, Your Honor.

21 THE COURT: All right.

22 THE CLERK: That completes the list, Your Honor.

23 THE COURT: All right, now, did you have something  
24 you wanted the Agent Reed to testify about before we bring  
25 in the jury?

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1 MR. KOTELLY: Your Honor, not before the jury is  
2 brought in. The remaining testimony of Agent Reed is regarding  
3 eight charts that he prepared based on the exhibits that are  
4 now in evidence.

5 There's only one minor change that will have to  
6 be made, Your Honor. That is, because the Court did not  
7 admit Government's Exhibit 50-LL a money order to the House  
8 Recording Studio in the amount of \$46.75, that that one par-  
9 ticular item will have to be deleted from the summary of  
10 money orders and cashier's checks purchased by Mr. Matlock,  
11 which is going to be 79, and also that will decrease the  
12 total for that year by the commensurate amount of \$46 and  
13 some cents.

14 THE COURT: All right. Do you want him to do that  
15 now?

16 MR. KOTELLY: If we could advise him, yes, Your  
17 Honor, that would be helpful.

18 THE COURT: All right.

19 MR. KOTELLY: I was just thinking this is going  
20 to cause a minor logistics problem. Your Honor, we had not  
21 only prepared these charts in advance, but we have also  
22 made copies so that when after these are admitted in evidence,  
23 when Agent Reed explains what is on these charts, that we  
24 have copies for the jury.

25 We would request, if at all possible, that we use

000869

1 the document as it is, even though it includes that entry;  
2 the entry will be removed later. But there will not be any  
3 reference to individual items and have it indicate that the  
4 total indicated on that figure is incorrect and give the  
5 correct figure, which will also be corrected.

6 THE COURT: I think you had better correct the docu-  
7 ment before it is used.

8 MR. KOTELLY: Including the documents given to the  
9 jury, Your Honor?

10 THE COURT: Yes.

11 MR. KOTELLY: It's just a question of logistically  
12 removing that entry.

13 THE COURT: I understand. You just have to do it,  
14 that's all. Just take your time and get it done.

15 MR. KOTELLY: Mr. Marcy is going to do that, Your  
16 Honor, right now.

17 THE COURT: All right.

18 MR. KOTELLY: Your Honor, might I be allowed go  
19 out and tell Mr. Reed that particular exhibit is not in evi-  
20 dence and explain to him the charts will be altered?

21 THE COURT: Go ahead.

22 MR. KOTELLY: They are being Xeroxed now, Your Honor.  
23 They should be down in a few minutes.

24 THE COURT: All right.

25 MR. KOTELLY: We are ready to proceed.

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1 THE COURT: Ready for the jury?

2 MR. KOTELLY: Yes, Your Honor.

3 THE COURT: All right.

4 MR. KOTELLY: Do I have permission to formally  
5 read the exhibits now in evidence or do you wish I wouldn't?

6 THE COURT: That would be reading of a meaningless  
7 number of symbols.

8 MR. KOTELLY: Might I make a broad statement of  
9 moving remaining documents into evidence.

10 THE COURT: All right.

11 (Whereupon, at 2:10 p.m., the jury entered the  
12 courtroom)

13 MR. KOTELLY: Your Honor, I would move in the remain-  
14 ing Government's exhibits through Exhibit 74, which the Court  
15 has indicated it would allow the Government to have them in  
16 evidence.

17 THE COURT: They will be received in accordance  
18 with the Court's prior rulings.

19 MR. KOTELLY: We ask Agent Reed be recalled, Your  
20 Honor.

21 THE COURT: All right.

22 (Continued on the following page:)  
23  
24  
25

000871



1 Whereupon,

2 JAMES MILTON REED

3 having been called as a witness by and on behalf of  
4 the Government and having been previously duly sworn,  
5 resumed the stand and testified further as follows:

6 DIRECT EXAMINATION (continued)

7 BY MR. KOTELLY:

8 Q Agent Reed, in connection with this case, did you  
9 have occasion to prepare any charts?

10 A Yes, I did.

11 Q How many charts did you prepare?

12 A Eight.

13 Q What were these eight charts generally based upon?

14 A Based upon generally it would be the payroll  
15 authorization forms, the payroll summaries furnished by the  
16 House Finance Office, Treasury checks issued to various indi-  
17 viduals, copies of money orders and cashier's checks furnished  
18 by Riggs, which were placed in evidence, original money orders  
19 and cashier's checks furnished by the Bank of the Commonwealth  
20 in Detroit, which were placed in evidence as well as original  
21 cashier's checks and some original and some microfilm copies  
22 of money orders and cashier's checks furnished by the National  
23 Bank of Detroit.

24 MR. KOTELLY: Your Honor, I ask this be marked  
25 Government's Exhibits 75 through 82.

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1 THE CLERK: Government's Exhibits 75 through 82  
2 marked for identification.

3 (Government's Exhibits 75 thru  
4 82 marked for identification)

5 BY MR. KOTELLY:

6 Q Mr. Reed, I show you Government's Exhibits 75 through  
7 82, and ask you if you can identify those charts?

8 A Yes, I can identify them.

9 Q How do you identify them?

10 A I recognize the format as that which I prepared  
11 and I also have my initials on the originals.

12 Q Are these the eight charts which you prepared in  
13 connection with this case?

14 A Yes.

15 Q Have you compared these charts with the Government's  
16 exhibits that are in evidence, to compare it for purposes  
17 of determining the accuracy of the charts?

18 A Yes, I am.

19 Q How do they compare?

20 A Accurately.

21 Q I ask you to look at Government's Exhibit 75 for  
22 identification and ask you what is that chart?

23 A Government's Exhibit 75 is a payroll analysis for  
24 Jean G. Stultz covering the period October 1972 through  
25 August of 1976.

000873

1 Q What documents did you rely on in preparing Govern-  
2 ment's Exhibit 75 for identification?

3 A The payroll -- I can't think -- the payroll certi-  
4 fications and the --

5 Q Payroll authorization cards?

6 A Yes, payroll authorization forms, the salary checks  
7 and the payroll certifications as furnished by the House  
8 Finance Office.

9 Q And all of those documents are in evidence?

10 A Yes.

11 Q Government's Exhibit 76 for identification, could  
12 you state what that chart is?

13 A Government's Exhibit 76 is a summary of checks from  
14 the personal checking account of Jean G. Stultz.

15 Q What documents did you rely on in preparing Govern-  
16 ment's Exhibit 76 for identification?

17 A That would be cancelled checks of Jean Stultz, which  
18 I placed in evidence.

19 Q Government's Exhibit 77 for identification, would  
20 you state what that chart is?

21 A Government's Exhibit 77 is a comparison of Jean  
22 Stultz' checks to cash and Riggs Bank money orders and cashier'  
23 checks.

24 Q What documents did you rely on in preparing this  
25 chart?

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1           A     The personal checks of Jean Stultz, the payroll  
2 authorizations and the copies of cashier's checks and money  
3 orders furnished by Riggs National Bank and placed in evidence.

4           Q     I believe you mentioned payroll authorizations.  
5 Did you use that in preparing Government's Exhibit 77?

6           A     No. Just the checks and the information furnished  
7 by Riggs.

8           Q     Government's Exhibit 78 for identification, would  
9 you state what that chart is?

10          A     Exhibit 78 is the payroll analysis of Felix R.  
11 Matlock from January 1975 through January of 1977.

12          Q     What document did you rely on in preparing this  
13 chart?

14          A     Payroll authorization forms, the payroll furnished  
15 by the House Finance Office, the Treasury checks issued to  
16 Mr. Matlock; as well, and also there was an annual base change  
17 confirmation form.

18          Q     Government's Exhibit 79 for identification, what  
19 is that document?

20          A     Exhibit 79 is a summary of money orders and cashier's  
21 checks purchased from the National Bank of Detroit and the  
22 Bank of the Commonwealth.

23          Q     What documents did you rely on to prepare this chart?

24          A     The original cashier's checks and money orders  
25 furnished by the Bank of the Commonwealth, and the original

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1 cashier's checks as well as some originals and some microfilm  
2 money orders furnished by the National Bank of Detroit.

3 Q All of which are in evidence?

4 A Right.

5 Q Government's Exhibit 80 for identification, what  
6 is that chart?

7 A That's a payroll analysis of Ofield Dukes for the  
8 period April 1973 through February of 1976.

9 Q What documents did you rely upon to prepare this  
10 chart?

11 A The payroll authorization forms, the payroll sum-  
12 maries furnished by the House Finance Office, the Treasury  
13 checks issued to Ofield Dukes.

14 Q Government's Exhibit 80, the documents you relied  
15 on, are they all in evidence?

16 A Yes.

17 Q Government's Exhibit 81 for identification, what  
18 is that?

19 A It's a payroll analysis of Jeralee G. Richmond from  
20 July 1974 through July, 1976.

21 Q What documents did you rely on to prepare this chart?

22 A Payroll authorization forms, payroll summaries  
23 furnished by the House Finance Office and the Treasury checks,  
24 all of which are in evidence.

25 Q Government's Exhibit 82 for identification, what

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1 is that chart?

2 A It's a payroll analysis of George G. Johnson, July,  
3 1973, through December of 1974.

4 Q What documents did you rely on in preparing that  
5 chart?

6 A The payroll authorization forms, the payroll  
7 summaries furnished by the House Finance Office, as well as  
8 the Treasury checks issued to George Johnson, all of which  
9 have been placed into evidence.

10 MR. KOTELLY: Your Honor, at this time the Government  
11 would move to have admitted into evidence Government's Exhibits  
12 75 through 82.

13 THE COURT: Do you wish to be heard on those, Mr.  
14 Povich?

15 MR. POVICH: Yes, Your Honor.

16 THE COURT: Come to the bench.

17 (Thereupon, the witness stepped down from the  
18 stand; counsel for both parties approached the bench  
19 and conferred with the Court, as follows:)

20 MR. POVICH: Your Honor, the underlying facts are  
21 in evidence and I have no objection to them. I do object  
22 to the inflammatory and prejudicial manner in which these  
23 charts have been prepared.

24 We talk in terms of every month of enormous  
25 figures based upon gross annual salary, and yet the estimate

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1 happens to come up.

2 We talk about 11,000, 11,000 up front.

3 14, 14 gets down here to \$36,000.

4 They have spent more time, more numbers per month  
5 talking about annual salary than they are talking about the  
6 monthly salary.

7 THE COURT: I'm not going to have these charts  
8 redrawn for that.

9 MR. POVICH: Your Honor, I'm not -- what I think,  
10 if they are going to do it monthly, they should have had the  
11 monthly amount and not had the annual amount. That's what  
12 I'm saying. I'm specifically now referring to Government's  
13 Exhibit 75.

14 THE COURT: It's perfectly clear which is which,  
15 Mr. Povich.

16 MR. POVICH: Yes.

17 THE COURT: When we talk about an annual salary,  
18 that's specified. When we talk about monthly salary, that's  
19 specified.

20 Do you have some other objection?

21 MR. POVICH: On Government's Exhibit 76, with respect  
22 to Jean Stultz, there are cash checks listed there for which  
23 she did not testify that the money went for or on behalf of  
24 Mr. Diggs.

25 She testified that it is her practice to cash checks,

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1 go to the bank, withdraw cashier's checks and money orders.  
2 And the balance she said sometimes there might be a balance  
3 where she would give Mr. Diggs.

4 That's not -- there are cashed checks in here for  
5 which there are no cashier's checks or money orders.

6 This is not a situation which she described spec-  
7 ifically, Your Honor, if you look on Exhibit 77, it will  
8 indicate which checks are the next exhibit, Your Honor.

9 THE COURT: Do you have any objection to 76?

10 MR. POVICH: Yes, because it contains the checks.  
11 You can identify the checks from the next exhibits.

12 For instance, on Exhibit 77, with respect to Jean  
13 Stultz, they have a cashed check here on April 11 for \$420.  
14 There is no cashier's check or money order drawn against  
15 that and it should not have been included as one going to  
16 Mr. Diggs.

17 Now, we think that \$420 check appears on the rest  
18 back up here on the same date; it's misleading. There it  
19 is right there. These are going to be used.

20 THE COURT: Where did that check come from?

21 MR. KOTELLY: Your Honor, Government's Exhibit 24  
22 were a series of checks to cash that Jean Stultz identified  
23 as checks that she used out of her special account to purchase  
24 money orders and cashier's checks, or on one occasion she  
25 thought she may have given cash back to Mr. Diggs.

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1 THE COURT: Yes.

2 MR. KOTELLY: But she did identify all of these  
3 as being checks that were drawn for the purpose of buying  
4 money orders and cashier's checks.

5 THE COURT: What was done with the money orders  
6 and cashier's checks? What was done with the \$420 worth of  
7 money orders and cashier's checks?

8 MR. KOTELLY: We have been unable to ascertain from  
9 Riggs as to these money orders and cashier's checks. They  
10 have made some search but they have never found any for that  
11 particular date.

12 But they have great difficulty in finding these  
13 unless we know the number of the money order or cashier's  
14 checks, so we would submit even though they have not been  
15 able to find the specific document, that you know the money  
16 order or the cashier's checks, that her testimony is that  
17 these checks went to purchase money orders or cashier's checks  
18 or returned as cash to the Congressman, and that, therefore,  
19 that they should be the checks cashed then.

20 THE COURT: With respect to this \$420 worth of  
21 money orders and cashier's checks to which Mr. Povich  
22 specifically objects, what testimony did she have?

23 MR. KOTELLY: She had no testimony as to whether,  
24 no specific testimony as to which checks they cashed, which  
25 money orders and cashier's checks were purchased.

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1 THE COURT: I don't think if you have got her testi-  
2 mony as to that you can't put that down as an exhibit to submit  
3 to the jury.

4 MR. KOTELLY: First of all, I submit that is what  
5 her testimony is they were used for. Because we don't have  
6 corroboration does not make the exhibits invalid.

7 THE COURT: I thought I understood you to say with  
8 respect to this particular group of \$420 worth of cashier's  
9 checks and money orders that there was no testimony from her.

10 MR. KOTELLY: There was testimony that the whole  
11 group of checks were checks that she took out from her own,  
12 her personal checks that she had had returned each month in  
13 her monthly statement that she identified which ones she had  
14 paid out of the special account and that's what she identified.

15 THE COURT: Has she identified this \$420?

16 MR. KOTELLY: That along with every other one I  
17 asked her to identify each one, she went through them and  
18 she said all of them were checks drawn to cash, she purchased  
19 money orders or cashier's checks with, or on one occasion  
20 she could remember she may have given cash back to the Congress  
21 man out of it, so even though there is no corroboration as  
22 far as --

23 THE COURT: We are not talking about corroboration,  
24 but is there basic testimony to support this?

25 MR. KOTELLY: Yes, Your Honor.

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1 THE COURT: Tell me what is this?

2 MR. KOTELLY: The testimony was--I asked her about  
3 her procedure.

4 This was her first day of testimony which was on  
5 Thursday of last week. She testified that she did it one  
6 of two ways, either she had checks to an individual payee,  
7 which were Government's Exhibit 23, which she identified,  
8 or they were checks to cash that she went out and purchased  
9 money orders and cashier's checks.

10 My next question was that, you know, did you give  
11 to the Government the checks that you've identified as having  
12 been ones that you used to pay for the cashier's checks and  
13 money orders.

14 THE COURT: Do you remember what series this was?

15 MR. KOTELLY: 24-A through -S, I believe.

16 THE COURT: We heard testimony on that. We had  
17 sufficient testimony. I will receive it. I have it in my  
18 notes.

19 MR. POVICH: My recollection was her testimony was  
20 she would go to the bank, cash a check and against that check  
21 she would purchase cashier's checks and money orders.

22 Occasionally, there was a balance due over that,  
23 which she would give back in cash.

24 We don't have a situation comparable to this at  
25 all, Your Honor. Here we have a check to cash with no cashier's

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1 check and no money order, no indication at all that this was  
2 a check which she used to follow these procedures.

3 What she is saying here is her testimony now is  
4 quite different.

5 Here she is saying she either did one of two things.  
6 She either purchased cashier's checks or money orders with  
7 this amount or she gave it to him and that's not what her  
8 testimony is.

9 But that's what this chart represents. The Government  
10 is saying we can't find the evidence of it, but there is a  
11 cashed check there for \$420, \$438, \$200, \$320, and they wish  
12 to introduce that, and there isn't sufficient nexus, Your  
13 Honor.

14 If Your Honor will remember, if Your Honor wants  
15 us to go through these matters, I have no objection to the  
16 cashier's checks or money orders that are tied to the cashier's  
17 checks of Jean Stultz, but just to say here is a cashed check  
18 of Jean Stultz, and therefore it must have gone to the  
19 Congressman, I think the nexus is totally insufficient,  
20 especially to make this type of representation.

21 MR. KOTELLY: Might I be heard on the last? The  
22 Government is not trying to argue these checks to cash repre-  
23 sent money that went to Congressman Diggs, because we don't  
24 know that that's the way it happened.

25 We know that it was one of three ways, either the

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1 money orders were purchased, cashier's checks were purchased,  
2 or on one or two occasions money was returned to the Congress-  
3 man. As to which, you know, particular checks was distributed  
4 in any particular way, we don't know.

5 But the first chart, 76, represents all of the pay-  
6 ments that came out of the special account and that's all  
7 this chart represents, and we would submit the checks to cash  
8 represent monies coming out of the special account for the  
9 purpose of paying money on behalf of Congressman Diggs.

10 The second chart, 77, is merely to show the correla-  
11 tion between the checks to cash and the money orders and  
12 cashier's checks that are in evidence, to satisfy the jury  
13 that in fact these money orders and these cashier's checks  
14 were purchased out of the checks to cash by Jean Stultz.

15 MR. POVICH: Your Honor, if they are not a list  
16 of checks which were shown to have been paid either to the  
17 Congressman or for or on his behalf, then they are not relevant  
18 and they shouldn't be included and that's my point.

19 MR. KOTELLY: Your Honor, may I address the Court  
20 again?

21 THE COURT: Yes.

22 MR. KOTELLY: The testimony was the checks to cash  
23 were out of the special account for the purpose of paying  
24 expenses on behalf of the Congressman. The only thing we  
25 can't pinpoint is what type of expenses.

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1 I would submit her testimony is that this is money  
2 out of the special account from her inflated salary; therefore,  
3 it is money on behalf of the Congressman even though we cannot  
4 pinpoint the type of expense that it was, and that these charts  
5 are not misrepresenting the facts as to what the testimony  
6 is and the exhibits that are in evidence.

7 THE COURT: I am confident that the stenographer's  
8 notes more clearly reflect this than mine do, but I note I  
9 have practically a column of notes about the series 24 with  
10 sufficient detail in my own style of writing to illustrate  
11 the basis for the exhibit and I will let it in.

12 That is the 24 series which is the subject of your  
13 objection.

14 MR. POVICH: Your Honor, can we have the representa-  
15 tion of the Government now so that it is clear that they are  
16 not, he is not making the representation these checks were  
17 paid either for or on behalf of Congressman Diggs, that they  
18 were simply taken out of --

19 THE COURT: The original testimony was they were  
20 used for the expenses of the office, money orders to pay  
21 expenses of the office.

22 MR. KOTELLY: That's correct.

23 MR. POVICH: That's not my recollection.

24 THE COURT: That's what my notes reflect.

25 MR. POVICH: Yes, sir.

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1 THE COURT: I have to go on that.

2 All right.

3 (Thereupon, the proceedings had at the bench  
4 were concluded; counsel returned to their seats at  
5 counsel table; and the witness returned to the wit-  
6 ness stand and testified further, as follows:)

7 THE COURT: Received.

8 THE CLERK: Government's Exhibits 75 through 82  
9 received in evidence.

10 (Government's Exhibits 75 thru  
11 82 for identification received)

12 DIRECT EXAMINATION (continued)

13 BY MR. KOTELLY:

14 Q Mr. Reed, regarding Government's Exhibit 75 through  
15 82, did you have copies made of those charts?

16 A I made them myself.

17 Q And what were they, Xerox copies?

18 A Yes.

19 MR. KOTELLY: Your Honor, at this time we would  
20 ask these copies, which have been compared to make certain  
21 they are exact copies, be distributed to the jury so that  
22 they can follow Agent Reed in his recitation.

23 THE COURT: All right.

24 BY MR. KOTELLY:

25 Q Agent Reed, asking you first to turn to Government's

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1 Exhibit 75, the payroll analysis for Jean Stultz, could you  
2 briefly state to the jury what this chart represents?

3 A Yes. This is the payroll analysis for Jean Stultz  
4 and it covers her entire employment by the House District  
5 Committee or the Congressman's staff.

6 Q Would you state what the columns are and what this  
7 chart represents?

8 A First column is the date.

9 Second column is the gross annual staff salary  
10 which is the annual salary that she was receiving from the  
11 staff of the Congressman.

12 The next column is the gross annual committee salary,  
13 that's going to show you the amount, the annual amount when  
14 she was on the committee payroll.

15 Q Mr. Reed, those two columns, where did that informa-  
16 tion come from specifically?

17 A From the payroll authorization forms.

18 Q The next column?

19 A The next column is the fourth column, is total  
20 gross annual salary and that's the sum of columns two and  
21 three.

22 Next column is the total gross monthly salary which  
23 would be your fourth column divided by 12, and your final  
24 column is your total net monthly salary, which would have  
25 been obtained from her Treasury checks, as well as from the

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1 payroll summaries furnished by the House Finance Office.

2 Q Pages two and three of Government's Exhibit 75,  
3 do they follow the same format?

4 A Yes.

5 Q Could you state briefly what the various columns  
6 reflect as to the change of salary of Jean Stultz?

7 A Yes. She was first put on the Congressman's staff  
8 in October of 1972. Her annual salary was \$11,000, and she  
9 continues on strictly the staff salary up until March of '73,  
10 when her salary is now at \$14,000.

11 In April of '73, she switched over to the House  
12 District Committee at \$14,000, and she continues at that annual  
13 rate up to October of 1973, when two things happen.

14 First of all, she gets a cost-of-living increase  
15 on her committee salary from 14,000 up to \$14,667.80. At  
16 the same time the same month, she goes on the Congressman's  
17 staff salary, so she is drawing two checks, so her total  
18 gross annual salary has jumped from 14,000 in September of  
19 '73 to \$33,667.80 the next month in October.

20 She continues to draw the same salary from both  
21 the committee and the staff up to May of '74, when there are  
22 some changes made increased -- I'm sorry -- she is decreased  
23 on the staff salary and increased on the committee salary,  
24 and that result, there is a slight increase to \$33,710 per  
25 annum. This continues until August of '74, when she is

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1 receiving one check and that's from the committee and it is  
2 36,000 per annum.

3 The next month she switches back to the staff salary  
4 at a rate of 36,000 per annum.

5 The next month, October of 1974, she is reduced  
6 slightly to 35,574.36 per annum and she continues to receive  
7 that amount until October of 1975, when her salary is increased  
8 to \$37,355, and she receives that amount per annum until April  
9 of 1976, when she drops from 37,355 down to 22,700.

10 She receives that amount for April, May and June,  
11 and then in July she is again increased to \$37,355, and she  
12 also received that amount in August of '76, after which she  
13 is terminated.

14 Q On Government's Exhibit 75, the last column, on  
15 each of these three pages, total net monthly salary, how would  
16 that compare with the take-home pay?

17 A That would be the take-home pay.

18 Q I ask you next to turn to Government's Exhibit 76,  
19 which is the summary of the checks from the personal checking  
20 account of Jean Stultz. Could you explain the various columns  
21 on Government's Exhibit 76?

22 A Yes. The first column is the date column, would  
23 be the date that she listed on the check.

24 The next column is the payee. The payee she lists  
25 and the amount is the amount of the check.

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1 Q And what is the total amount for all of the checks  
2 that are in evidence from the personal account of Jean Stultz?

3 A Total amount is \$20,413.16.

4 Q I next ask you to turn to Government's Exhibit 77,  
5 which is the comparison chart. I would ask you to explain  
6 the various columns on Government's 77.

7 A The best way to look at this chart is to think of  
8 it as a line between your first three columns and the second  
9 three.

10 If you recall on the Exhibit 76, the one before  
11 this, there were a number of checks that were written to cash.  
12 There is also one check dated September 13, 1974, which is  
13 written to Riggs National Bank, which is in effect a check  
14 to cash, because it bears a House stamp.

15 I have taken all these checks, the one to cash,  
16 plus this one from Riggs National Bank and put them on the  
17 left-hand side of this column.

18 In other words, I just strictly have broken them  
19 off from their last schedule.

20 First column is date of the check. Next column  
21 is the payee on the personal check, and in all cases the one  
22 who will be cashed.

23 After that, you see lettering in parentheses will  
24 be either 16 or 18 and that's the branch designation where,  
25 the Riggs branch number where the check was cashed. That

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1 appears on your telescan.

2 The next column is the amount on the check. Now,  
3 going across the next date is going to be for the correspond-  
4 ing money orders and cashier's checks.

5 The date is going to be the -- here you have either  
6 cashier's checks or money orders and you see behind the payee  
7 indication it's a cashier's check, the "M" will stand for  
8 money order.

9 Here again you have either a letter "16" or "18."  
10 If you look at your exhibit, it will always come across, it  
11 will always be the same.

12 In other words, whenever she cashed a check, No.  
13 16 branch, she always bought money orders and cashier's checks  
14 on the same date, the same branch.

15 Your final column is the amount and for each specific  
16 date I put a total so you can compare the total that the check  
17 was written to with the total and cashier's checks and money  
18 orders that had been purchased.

19 Take the first item on the first check she wrote  
20 a check to cash on November the 2nd, 1973, for \$1,250. Look-  
21 ing across you can see that on that date at the same branch  
22 she also purchased two cashier's checks. The total amount  
23 being \$1,250.

24 The next check was written on December 5th, 1973,  
25 to cash, for \$692.76. Looking across, you can see that on

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1 that date at the same branch she purchased one cashier's  
2 check and two money orders, which totaled \$692.71, which is  
3 just five cents short of what the check was written for.

4 The next one is January the 4th, 1974, check to  
5 cash for \$1,691. Looking across you will see that on that  
6 date she purchased a cashier's check made payable to J. Daniel  
7 Clipper for \$1,270.

8 That does not add up to the total amount of the  
9 check and in a case like that, I would have attempted to  
10 obtain from Riggs cashier's checks on either side that may  
11 have made up the difference, but I was unable to find any  
12 that applied.

13 In the case of a money order, if I didn't have a  
14 reference point based on information in the files, I obtained  
15 from the Congressman or any other way, I wouldn't have any  
16 way to know what number to look for, so I wouldn't be able  
17 to obtain them.

18 All I can specifically say is there were as far  
19 as I know none purchased.

20 Next one is February the 7th of '74, a check written  
21 to cash for \$735. Looking across, you can see on that date  
22 she purchased cashier's check payable to the House Sergeant  
23 at Arms account of Charles E. Diggs for \$734. \$1 short.

24 The next one is March the 6th, 1974, a check written  
25 to cash for \$1,134.31. That compares with two cashier's

000892

1 checks and money orders totalling \$1,430.59, or \$1.40 short.

2 Now, the next one is, date of her check is April  
3 11 of '74. That check was actually cashed on 4/10/74, as  
4 evidenced by the teller's stamp and the bookkeeping stamp.

5 For that one, which was \$420 and for the next three,  
6 one for \$438, another one for 200, another for 320, I have  
7 not been able to locate any money orders or cashier's checks  
8 purchased from these checks.

9 The next one is August 16 of '74, check written  
10 to cash for \$898.58. On that date at the same branch she  
11 purchased six money orders totalling exactly \$898.58.

12 Over to page two, the first thing I would like to  
13 point out in comparison of the dates, the date on the check  
14 is written by Jean is September 13, 1974, and you can see  
15 the date on the money order is September 12 of '74.

16 That check, the check of Jean's was actually written  
17 on the 12th as evidenced by the teller's stamp as well as  
18 the bookkeeping stamp and she just made a mistake there.

19 The payee, this one is to Riggs National Bank, based  
20 on the fact you have a teller's stamp, it was actually in  
21 effect a check to cash.

22 She purchased six money orders on that date total-  
23 ling the exact same amount, \$1,08.86.

24 Next one is September 30 of '74, \$916 check to cash  
25 and that corresponds with the cashier's check purchased on

000893

1 the same day, the same branch to Perpetual Building Associa-  
2 tion for \$916.

3 Now, looking down the rest of them, you either see  
4 that they either match up perfectly or I was not able to find  
5 any money orders or cashier's checks to match up with the  
6 checks to cash.

7 Q Fine. Thank you.

8 Next, turning to Government's Exhibit 78 in evidence,  
9 payroll analysis of Felix Matlock, could you indicate what  
10 the various columns appearing on that chart are?

11 A First is your date column.

12 Next is your annual gross as taken from the payroll  
13 authorization forms.

14 Next is monthly gross which is your annual gross  
15 divided by 12.

16 Next is your monthly net which would be the amount  
17 you receive by the Treasury check and also it is verified  
18 from the payroll summaries furnished by the House Finance  
19 Office.

20 Now, the next column is a gross excess, and that's  
21 exactly what it is. It is a, I emphasize to the jury, that's  
22 a gross amount and does not take into effect any benefits  
23 or taxes.

24 That is determined by taking the last known non-  
25 inflated check of Mr. Matlock, which was July, 1975, in the

000894

1 amount the monthly gross being \$1,208.33. You subtract that  
2 amount from each succeeding monthly gross and take it across  
3 and that is how that figure is determined.

4 Q I ask you next to turn to Government's Exhibit 79,  
5 which is a summary of money orders and cashier's checks from  
6 the National Bank of Detroit and Bank of the Commonwealth,  
7 and I would ask you to relate to the jury what those columns  
8 represent.

9 A First is your date, and the next is the bank. "NBD"  
10 stands for National Bank of Detroit and "BC" stands for Bank  
11 of the Commonwealth.

12 Next column is type of instrument and the "MO" is  
13 your money order and this one "CC" is cashier's check.

14 Now the payee is the payee as it appears either  
15 written in on the money order or typed in on the cashier's  
16 check and the amount is the amount of the instrument.

17 On this schedule I have put subtotals for each year.  
18 1975, the total was \$1,671.54.

19 Going over to Page 3, the total for 1976, was  
20 \$8,574.98, and the total for 1977, is \$705.79.

21 Q I next ask you to look at Government's Exhibit 80,  
22 which is the payroll analysis for Ofield Dukes and ask you  
23 to relate to the jury what those columns reflect.

24 A First column is your date column.

25 The next is the annual gross as shown on the payroll

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1 authorization forms.

2           Next is monthly gross, which is annual gross  
3 divided by 12.

4           Next column is the monthly net as would be reflected  
5 in the Treasury checks issued to Mr. Dukes and from the payroll  
6 summaries furnished by the House Finance Office.

7           — The final column is your excess, which is determined  
8 in the same fashion as it was for Mr. Matlock. The actual  
9 non-inflated salary is what he has already received is \$12,000  
10 per annum for a monthly gross of \$1,000, so if you take \$1000  
11 from any monthly gross over that and take it across, that's  
12 your gross excess.

13           Again, I emphasize that's gross excess. That would  
14 not be the amount for Mr. Dukes to be actually paying bills,  
15 because from that you would have to have taxes and benefits  
16 deducted.

17           Q     The next chart, Government's Exhibit 81, relating  
18 to payroll analysis of Jeralee Richmond, would you state what  
19 the columns on that chart reflect?

20           A     The first column is your date column.

21                   Second column is your gross annual as reflected  
22 on the payroll authorization forms.

23                   Next column is gross monthly, which is gross annual  
24 divided by 12.

25                   Final column is net monthly which would be the

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1 amount he received in his Treasury checks, and also this is  
2 verified by the payroll summaries furnished by the House  
3 Finance Office.

4 On this schedule I have totaled the gross monthly,  
5 which is 20,290.64, net 16,900.13.

6 Q Final chart, Government's Exhibit 82 in evidence,  
7 would you relate what those various columns reflect?

8 A First column is the date column.

9 Q First of all, who does this apply to?

10 A This applies to George G. Johnson.

11 First column is your date column.

12 Second column is the gross annual as it appears  
13 on the payroll authorization forms.

14 Next column is your gross monthly, which is your  
15 gross annual divided by 12.

16 And the final column is net monthly, which was the  
17 amount he received in Treasury checks and as verified by the  
18 information furnished by the payroll information furnished  
19 by the House Finance Office.

20 Q And the total?

21 A Total gross monthly is \$19,166.02.

22 Net monthly is \$15,615.04.

23 MR. KOTELLY: Will the Court indulge me?

24 I have no further questions, Your Honor.

25 THE COURT: Mr. Povich?

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CROSS-EXAMINATION

BY MR. POVICH:

Q Mr. Reed, who asked you to set up the charts in this fashion?

A These charts were set up at the request of Mr Kotelly and Mr. Marcy.

Q Did they tell you how they wanted them outlined?

A Basic format, we discussed that.

Q They gave you the format here for each of these charts; just take a look at Government's Exhibit 75.

A Yes. They told me the basic format they would want, what they want me to show, and I would work up the figures.

Q I see. When they said, for instance, on any one month on the date of October, 1972, they told you to put down the gross salary for the year opposite October of '72?

A Yes. This is the amount that would be reflected in the payroll authorizations. That's the way it is determined. They can change it every month.

Q Well, the payroll authorization was really a monthly authorization, wasn't it?

A Yes, but the payroll authorization shows the figure that is shown is actually the gross annual figure and then you figure the monthly from that.

Q But the payroll authorization was for a monthly payment, was it not?

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1 A Yes.

2 Q Wasn't intended to reflect each month the salary  
3 for the year, was it?

4 A Well, I have to base my chart on the actual, what's  
5 actually shown on the payroll authorization form. This is  
6 what is shown, gross annual.

7 Q If you wanted to be really fair about it when you  
8 got down to payroll analysis for the month of October, 1972,  
9 you put the gross for October '72, the net for October of  
10 '72, would you not, just the last two columns?

11 A Well, I have to show how I come to those figures,  
12 how I derive them. I have to derive them with the information  
13 that is in evidence, which includes your payroll authorization  
14 forms.

15 Q I see. And on Exhibit 76, for instance, you have  
16 listed there, have you not, payments to cash; is that correct?

17 A Yes.

18 Q But you have listed there payment to cash for which  
19 you have no money orders or cashier's checks making payments  
20 with respect to those cash withdrawals, don't you?

21 A Yes.

22 Q Did you think that that was an accurate representa-  
23 tion of what the records reflected?

24 A Well, this is what the specific ones that Mr.  
25 Stultz stated were used to purchase money orders or in some

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1 cases I think money was supposedly turned over to the  
2 Congressman.

3 Q When she said she would turn over a balance of  
4 whatever she said was left over, wasn't that her testimony?

5 A I don't know her testimony here.

6 Q But here you have cash checks listed for which she  
7 has no cashier's checks or money orders opposite; is that  
8 not true?

9 A Yes. I explained that to the jury.

10 Q Well, you explained, you list them on one Exhibit  
11 No. 76, but you don't explain it until you get to 77; is that  
12 correct?

13 A Yes.

14 Q But when you explain it on 77 and you show you have  
15 no cashier's checks or money orders from which she made pay-  
16 ments, you don't go back and take it off of 76, do you?

17 A Well, I didn't take it off this one either. I  
18 have it listed and I explained that if I have no reference,  
19 by going through the files I could find no letter or no cus-  
20 tomer copy of the money order, I would have no reference point  
21 to go to the bank and try to find specific money orders on  
22 those dates.

23 Q So what that represents, then, really although  
24 Mrs. Stultz testified that she withdrew that money for the  
25 Congressman, there is no documentary evidence supporting that;

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1 is that true?

2 A Correct.

3 Q Now, there is no question, of course, that the  
4 person who has a salary, a gross and net salary, received  
5 the difference; is that not true?

6 A I'm sorry?

7 Q There is no question that where you have a gross  
8 and net amount of salary for the person, say, for either Mr.  
9 Matlock or Mr. Dukes, or anyone else, would that difference  
10 between the gross and the net represent the total amount of  
11 deductions; is that correct?

12 A Yes.

13 Q All of which would have gone to the employee, is  
14 that not true, to the credit of the employee?

15 A Well, to pay taxes or whatever.

16 Q Or retirement or health benefits or life insurance?

17 A Whatever, correct.

18 Q Savings bonds, whatever they wanted?

19 A Correct.

20 Q When you have a figure that is really out of line,  
21 did you seek to ascertain what the reason was for that figure?

22 For instance, if you refer to Jeralee Richmond --  
23 that's Exhibit No. 81 -- you will note that with the exception  
24 of the second month, August, 1974, her salary actually was  
25 between 8500, her gross salary, and \$9400; is that correct?

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1 A I'm sorry, would you repeat that?

2 Q Do you have Jeralee Richmond in front of you?

3 A Yes, I just found it.

4 Q Except for the one month, second month, August,  
5 1974, her salary was between 8500 and 9400 for the period  
6 July '74 through July '76; is that correct?

7 A Correct.

8 Q You have on the second month, you have \$25,000 as  
9 a gross salary.

10 A That's correct.

11 Q Did you have an explanation as to why that was?

12 A We may have. I can't recall at this time, but pre-  
13 paring this schedule I was basically interested in the fact  
14 that all these checks were obtained to her salary while she  
15 was working for the House of Diggs Funeral Home.

16 Q But you don't know why all of a sudden it went to  
17 \$25,000?

18 A For that one month I do not.

19 Q There is no indication she ever paid any money out  
20 of her account for Mr. Diggs, was there?

21 A I can't recall any.

22 MR. POVICH: All right. I have no further questions.  
23 Thank you.

24 THE COURT: Anything further?

25 MR. KOTELLY: Nothing further, Your Honor, no further

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1 questions of the witness.

2 THE COURT: May the witness be excused?

3 MR. KOTELLY: Yes, Your Honor.

4 THE COURT: You may be excused.

5 Thank you.

6 (Witness excused)

7 MR. KOTELLY: Your Honor, the Government rests at  
8 this time.

9 THE COURT: All right.

10 Mr. Povich.

11 MR. POVICH: May we approach the bench, Your Honor?

12 THE COURT: Yes.

13 (Thereupon, counsel for both parties approached  
14 the bench and conferred with the Court, as follows:)

15 MR. POVICH: Your Honor, I would like to move for  
16 judgment of acquittal at the conclusion of the Government's  
17 case. Mr. Carl is prepared to argue the motion if Your Honor  
18 would indulge us.

19 Perhaps we could have the jury excused and he could  
20 address you and also give you the memo on our points.

21 THE COURT: As I indicated to you, I think it was  
22 last night, I'm not sure when I talked to you last about this  
23 matter of your motion.

24 MR. POVICH: Yes, sir.

25 THE COURT: Since we have a sequestered jury and

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1 since you wish to put on this gentleman from the State  
2 Department this afternoon, I think it would be well if we  
3 would just outline the motion rather than having a full-  
4 scale argument at this time, to which the Government would  
5 be expected to reply.

6 I can excuse the jury and you can outline what  
7 your points are or I will entertain any suggestion from you  
8 as to how you think we should proceed under the circumstances.

9 MR. POVICH: I think Your Honor's suggestion is  
10 fine. Mr. Carl can outline the matter briefly and then we  
11 can proceed from there.

12 THE COURT: All right. Now, purely cooperative,  
13 of course, I have got to look at the Government's case in  
14 the light most favorable to the Government at this stage of  
15 the proceeding.

16 MR. POVICH: I think some argument on the motion  
17 might be informative, Your Honor. We are dealing here with  
18 a little bit of a different problem. We are talking in terms  
19 of two different branches of Government.

20 We feel that there are certain matters that  
21 should be brought to the Court's attention at this time that  
22 may be helpful.

23 THE COURT: Very well. We'll have a brief presenta-  
24 tion.

25 MR. POVICH: Thank you.

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1 (Thereupon, the proceedings had at the bench  
2 were concluded; counsel returned to their seats at  
3 counsel table and the proceedings were resumed,  
4 as follows:)

5 THE COURT: Ladies and gentlemen, you may step to  
6 the jury room briefly.

7 (Whereupon, at 3:00 p.m., the jury left the  
8 courtroom)

9 THE COURT: Do you gentlemen wish the jury to  
10 surrender the exhibits?

11 MR. POVICH: Yes.

12 THE CLERK: I will get them, Your Honor.

13 [Open Court with the jury not present]

14 MR. CARL: Your Honor.

15 THE COURT: Mr. Carl?

16 MR. CARL: The Government has been provided with  
17 a copy of our memorandum and we have provided a copy to the  
18 Court for your review later.

19 At this point I would like to just briefly outline  
20 our position. We believe the judgment of acquittal is proper  
21 on all the counts in the indictment.

22 Turning first to the mail fraud count, an essential  
23 element to that count is the use of the mail.

24 The Government's witness, Mr. Lawler, has testified  
25 defendant had no control or even knowledge as to whether the

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1 mails were used to transmit the pay checks to the individuals  
2 involved in those counts of the indictment.

3 Moreover, in United States v. Maze, the Supreme  
4 Court indicated a nexus is required between the use of mails  
5 and the scheme. In some sense the mails must be a necessary  
6 element to the scheme itself.

7 THE COURT: Is that Congressman Mays' case that  
8 you cited?

9 MR. CARL: No, sir, it involved the use of credit  
10 cards and the mailing of charges to the actual owner of the  
11 credit card and the delay in that mailing being essential  
12 to the scheme.

13 THE COURT: It's in your briefs?

14 MR. CARL: It's cited and explained.

15 The Government in this case has charged essentially  
16 the same scheme to defraud in the 1001 counts as it has in  
17 several of the mail fraud counts. Several of the 1001 counts  
18 do not involve mailing at all.

19 I strongly suggest that mailing was not a necessary  
20 element to the scheme, but rather incidental element.

21 The Court has held clearly such incidental uses  
22 of the mail are not adequate to establish the basic nexus  
23 between the mail and the scheme to defraud required for a  
24 conviction on that charge.

25 Turning briefly to the false statement charges,

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1 an element of the charge of false statement is a statement  
2 that is erroneous, false or misleading statement be material  
3 in some way.

4 Materiality has been defined in this context and  
5 in other statutes as being information that would induce in  
6 this case a government agency to act or not to act.

7 Now, the agency identified in this case by the  
8 Government has been the Office of Finance of the House of  
9 Representatives.

10 The writing is the payroll authorization form for  
11 the employees.

12 The item allegedly false is the entry of a salary  
13 amount.

14 The Government says that for Mr. Johnson and Miss  
15 Richmond, the false statement was that the compensation was  
16 not just for services to the Congressman per se.

17 For the other employees it indicates the false state-  
18 ment is the compensation is not just for personal services.

19 The Government has had the testimony of the Chief  
20 of the Office of Finance. He indicated that the only things  
21 that that office considers on the payroll authorization form  
22 in taking the action it is required to take is whether the  
23 salary listed is within the minimum and maximum salary levels,  
24 whether the payroll authorization form causes the Congressman  
25 to exceed his aggregate dollar or allotted ceiling, and whether

000907

1 the Congressman has certified that he has not hired a relative  
2 in violation of the nepotism laws.

3 None of the payroll authorization forms in these  
4 cases have indicated any circumvention of those particular  
5 requirements which are applied by the House Finance Office.

6 In fact, Mr. Lawler has testified that the purpose  
7 for the salary paid, the duties for the employees or the terms  
8 of his employment are not considered by the House Finance  
9 Office. Those are matters totally within the discretion of  
10 the Member.

11 Accordingly, the alleged misrepresentations are  
12 not material as far as the decisions of the agency of Government  
13 to which they were submitted.

14 That being true, there cannot be a conviction on  
15 a charge of false statement.

16 On both the false statement and mail fraud charges  
17 concerning Mr. Dukes and Mr. Matlock and those counts concern-  
18 ing Mrs. Stultz, which involve the payment of official  
19 expenses, the Government cannot assert that there has been  
20 a scheme to defraud the United States unless the defendant  
21 has somehow used clerk-hire funds in a way prohibited by law.

22 The testimony this morning by Mr. Lawler has indi-  
23 cated there is no lawful restriction statutory or otherwise  
24 put by this Court that indicates that clerk-hire cannot be  
25 used to compensate employees for the expenses they incur in

000908

1 the Congressman's behalf to support him in the performance  
2 of his official and representational duties.

3 If the Congressman has not diverted funds to a  
4 purpose that is illegal or prohibited, he cannot be said to  
5 have defrauded the Government of those monies.

6 Accordingly, judgments of acquittal should be  
7 proper also on all those counts that relate to the use of  
8 clerk-hire funds to meet congressionally-related expenses.

9 Moreover, I think the testimony so far has indicated  
10 how vague the standards are on the appropriate uses of clerk-  
11 hire funds. We submit that such vague standards do not provide  
12 a clear enough demarcation of legal and illegal conduct on  
13 which to base a criminal conviction.

14 Finally, on those false statement counts alone,  
15 the Second Circuit, United States v. Diogo, has indicated  
16 that a statement which is literally true cannot be a false  
17 statement for purposes of that charge.

18 In this case all of the forms submitted by the  
19 defendant to the House Office of Finance were literally true.  
20 Every question which the House office requires to be answered  
21 by a Member as appointing authority were answered and they  
22 were answered in a manner which was in all factual respects  
23 correct.

24 Each employee received a check for, as salary, the  
25 amount listed on those forms. What the employee did with

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1 that salary was not of consequence to the House Office of  
2 Finance.

3 Finally, Your Honor, this case presents a different  
4 constitutional issue. The Government has indicated in its  
5 Bill of Particulars that the basis for its charge is that  
6 the Congressman has misused clerk-hire funds and its defini-  
7 tion of that "misuse" is based in the Government's terms on  
8 the rules of the House and common understanding of Members  
9 of the House of Representatives.

10 We would submit that once an employee provides any  
11 services to a congressman and that is what the appropriation  
12 for clerk-hire requires, that the Court should inquire no  
13 further into the terms of that individual's employment.  
14 Further inquiry would embroil the Court in a political question

15 There are several tests for a political question.  
16 First is a textual commitment to another branch of Government.  
17 Here, Article 1, Section 5, Clause 2 of the Constitution  
18 specifically commits to each Branch of the Legislature the  
19 responsibility for developing its own internal rules of con-  
20 duct and for sanctioning violations of those rules.

21 THE COURT: I believe that was the position that  
22 was taken in the Bramblett case and Judge Bastian accepted it  
23 and it went to the Supreme Court and it was reversed and  
24 remanded for trial.

25 MR. CARL: Your Honor, the Bramblett case involved

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1 somewhat a different issue at the Supreme Court level. It  
2 involved the issue of whether the Office of Finance of the  
3 House of Representatives was an agency of the United States.  
4 The Court held that it was an agency of the United States.

5 We would submit that, for example, had the  
6 Congressman falsely certified as to the nepotism provision,  
7 where there is specific requirement both by statute and as  
8 a certification on the form to the House Office of Finance,  
9 that might be a false statement.

10 However, that is not the case here. The employee  
11 did not violate any statutory prohibition on the use of  
12 clerk-hire funds. What he's alleged to have done is violated  
13 the rules and common understanding of the House. That is  
14 a different matter.

15 The Constitution says that the House shall apply  
16 its own rules. In fact, the rules of the House of Repre-  
17 sentatives, I believe it is Rule 10-E(1), indicates that  
18 the body that has the responsibility to investigate violations  
19 of laws, regulations or rules by Members of the House is to  
20 convey to the appropriate law enforcement authority any viola-  
21 tion of law that it determines.

22 It distinguishes violations of the rules and regula-  
23 tions of the House. It does not permit those to be referred  
24 to law enforcement authorities, but instructs the committee  
25 to refer those to the House of Representatives for its action.

000911



1           The Constitution clearly seems to indicate that  
2 the House and the congressmen's constituents are to be the  
3 judges of his conformance with the House rules.

4           That's very different from his conformance with  
5 specific statutes such as, for example, the nepotism statute.  
6 Moreover, I believe in Bramblett; the problem involved a  
7 fictitious employee and one could say a fictitious employee  
8 was not providing services.

9           THE COURT: I think I have to agree with that.

10          MR. CARL: In this case you do have employees and  
11 the uncontroverted testimony is every employee provided some  
12 modicum of services to the Congressman in support of his  
13 function.

14          I will not go into how much each employee provided,  
15 but each of them did in fact serve that function.

16          What the Government alleges is there is some viola-  
17 tion of what they term, as I said, the House rules against  
18 as yet unidentified and common understanding which is rather  
19 vague for imposition of a criminal sanction.

20          To go on with the Baker test briefly, we would submit  
21 the other political question doctrine issues are also present.  
22 There is not really a manageable standard for deciding in  
23 this case whether clerk-hire funds were properly used or not.  
24 The testimony in this case has already indicated how vague  
25 and difficult to grasp the appropriate limitations on that

000912

1 use are.

2 Finally, the Government's argument about, or the  
3 Government's position that the defendant's misconduct is based  
4 on a failure to comply with the common understanding of the  
5 appropriate uses of this appropriation brings the Court into  
6 the process of inquiring into what the practices and the  
7 understandings of Members of the House of Representatives  
8 are. That is a very delicate inquiry which has the tremendous  
9 danger of causing this Court to express a lack of respect  
10 for another branch of government and for its ability to  
11 discipline its own members.

12 We would submit, Your Honor, that once it is shown  
13 that these employees are real individuals who have performed  
14 services to the Congressman in support of his official and  
15 representational duties, that they are not violating the  
16 nepotism law, which are the only statutory provision on the  
17 use of clerk-hire funds, the Court is no longer the proper  
18 forum to inquire into the use of those funds.

19 The proper forum now, Your Honor, is the House  
20 Committee on Standards of Official Conduct, which by the  
21 House rules, which derive from the Constitution, have that  
22 responsibility. And since the clerk-hire use is disclosed  
23 regularly by the House, the ultimate decision must be the  
24 Congressman's constituents, and that's what the Constitution  
25 envisions.

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1 For that reason, we believe it would be appropriate  
2 to grant the judgment of acquittal on all counts in this  
3 indictment.

4 THE COURT: Thank you, Mr. Carl.

5 Mr. Kotelly?

6 MR. KOTELLY: Your Honor, I was just a few moments  
7 ago just handed a copy of the defendant's arguments, but I  
8 think I can respond to all of them that he has made.

9 Regarding the alleging that there was insufficient  
10 causation of mailing to come within the mail fraud statutes,  
11 we rely on the Supreme Court opinion in Pereira, which is  
12 cited in the defense memorandum as well as a recent case from  
13 the 9th Circuit, which is United States v. Outpost Development  
14 Company, 552 F 2d 848, which was decided in 1977. In that  
15 opinion the Court states:

16 "The only essential elements of mail fraud under  
17 18 U.S. Code, Section 1341, are that the defendant  
18 devised a scheme to defraud, and that for the purpose  
19 of executing the scheme he used the mail to cause the  
20 mails to be used.

21 "A person may cause the mails to be used even  
22 though he did not know that the mails were to be used  
23 or intended that the mails be used, provided that the  
24 use of the mails was reasonably foreseeable."

25 Your Honor, we would submit that the three employees

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1 whose salary checks are part of the mail fraud charges being  
2 Jeralee Richmond, George Johnson and Felix Matlock, since  
3 all of these employees were living in Detroit during the time  
4 that they were receiving their salary checks, they clearly,  
5 it was foreseeable that the only way that the Office of Finance  
6 could get those checks to those employees was through the  
7 mails.

8 By submitting payroll authorization forms signed  
9 by the defendant, the defendant has caused the subsequent  
10 acts to occur, which means the mailing of those checks. It  
11 is an intricate part of the scheme because the checks had  
12 to be received by the employees.

13 Mr. Matlock, in order to pay for the expenses of  
14 the Congressman, and Miss Richmond and Mr. Johnson, in order  
15 to pay for the personal debts of the Congressman, regarding  
16 Miss Richmond paying on the House of Diggs' salary, Mr.  
17 George Johnson's pay as to the fact he did personal services  
18 for the Congressman, and for the House of Diggs, so that  
19 the mails themselves, we submit, are an integral part of the  
20 scheme and, therefore, clearly the mailings were foreseeable  
21 and it constitutes prima facie evidence of violating the  
22 mail fraud statute.

23 Regarding the defense's second argument that the  
24 payroll authorization forms where they reflect what the  
25 salary is of the employee, is not material, we would submit

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1 that clearly it is material to the operating of the Office  
2 of Finance.

3 In addition to the Office of Finance being concerned  
4 with whether the Congressman has met his total salary payroll  
5 commitment and maximum and minimum in number of salaries,  
6 they also are guided by the regulations of the Committee on  
7 Administration as to the fact that payroll clerk-hire allow-  
8 ances for paying employees for the performance of their  
9 official duties and to include figures on the payroll authori-  
10 zation form as salary which reflect inflated monies that were  
11 intended by the Congressman as kickbacks from Jean Stultz,  
12 from Felix Matlock and from Ofield Dukes, we would submit,  
13 is an omission of a material fact that was clearly relevant  
14 to the Office of Finance.

15 As to George Johnson and Jeralee Richmond, we would  
16 submit that his misrepresentation that these are salary, that  
17 the salaries on the payroll authorization forms were for the  
18 performance of official duties is a material misrepresentage  
19 that the jury could find from the evidence that those salaries  
20 were paid, not for the purpose of compensating Jeralee  
21 Richmond and George Johnson for any legislative duties, but  
22 for compensating them for their, for Jeralee Richmond's employ-  
23 ment at the House of Diggs and for George Johnson's personal  
24 accounting work.

25 So we would submit, based on proffer, that clearly

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1 we have established these were material omissions of fact  
2 based on the payroll authorization forms that were submitted  
3 by the Congressman.

4 THE COURT: Do you have anything to say about the  
5 constitutional argument?

6 MR. KOTELLY: Your Honor, there have been cases  
7 in this jurisdiction, a number of cases, in which this issue  
8 has been raised, and which the Court has ruled that there  
9 is a proper area for the courts to get involved in in criminal  
10 prosecutions to be involved.

11 Your Honor cited the Bramblett case. There has been  
12 the James Hastings case that was tried before Judge Green  
13 two years ago.

14 There was Congressman Whalley who pled guilty to  
15 identical charges about three or four years ago. There have  
16 been several administrative assistants to congressmen, like  
17 George Hagaman, by the name of McPherson, who have been  
18 prosecuted for identically the same conduct that we have here.

19 The Government submits that individual congressmen  
20 are required to abide by the laws and that is not to defraud  
21 the United States by use of the mails or by submitting false  
22 official statements, and that those criminal statutes apply  
23 to congressmen as well as to any other person, and that we  
24 would submit that clearly based on the law, that there is  
25 no constitutional prohibition from prosecuting a congressman

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1 merely because he is a congressman.

2 THE COURT: All right.

3 MR. CARL: Your Honor, may I briefly respond?

4 THE COURT: Yes, briefly.

5 MR. CARL: I would just like to make three very  
6 brief comments. On the mail fraud matter, there are two  
7 elements to the mail fraud issue that the Court has identi-  
8 fied.

9 In U.S. v. Maze, the Court differentiated the issue  
10 of what amounts to a causing something to be mailed from the  
11 question of the necessary nexus, which is really a jurisdic-  
12 tional issue.

13 I don't believe the Government has dealt with the  
14 question of the necessary nexus which most courts have defined  
15 as the scheme itself being dependent in some way on the  
16 mailing.

17 In this case there were alternative means that the  
18 employees could have received their checks, including having  
19 them delivered at the congressional office and having one  
20 of the congressmen, or one of the employees in there bring  
21 them to Detroit. There was no necessity of the mails being  
22 used and the scheme did not depend on it.

23 On the question of materiality, I would note that  
24 what the Government has done is brought before this court  
25 exactly what I suggested, and that is an internal rule of

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1 the House of Representatives as the standard of conduct upon  
2 which they intend to oppose a sanction.

3 This directly raises the constitutional issue.  
4 The cases cited by the Government, I think Bramblett you  
5 will find is distinguishable in terms of the issue decided  
6 by the Supreme Court.

7 In the Hastings case, this issue was not raised  
8 and there has not been any decision on it. The other cases  
9 involving guilty employees obviously didn't raise the  
10 constitutional issue about the appropriateness of criminal  
11 sanction being imposed for violation of the House rule.

12 THE COURT: Mr. Haig was tried before me.  
13 Mr. Wadden, a former associate and partner in the Williams  
14 firm, was defense counsel. I am not clear on whether  
15 Mr. Wadden raised it or not, but knowing Mr. Wadden, I'm  
16 quite sure he raised every point, just as I'm sure you would.

17 However, he was convicted and I don't think he  
18 appealed.

19 MR. CARL: I would like to not to Your Honor that  
20 you, in fact, were sitting in a case called United States vs.  
21 Israel Thompson and Pendergast.

22 THE COURT: Doesn't ring a bell right now but  
23 that's all right.

24 MR. CARL: I would merely note in that case, which  
25

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1 was dismissed by Your Honor, there was an allegation that  
2 certain employees of the Sergeant of Arms of the House were  
3 not performing services that were related in any way to their  
4 pay and apparently in violation of the House rules.

5 The Clerk of the House of Representatives filed  
6 a brief in that case. In the brief advised Your Honor, in  
7 effect, that the proper rate of pay in development of job  
8 descriptions for employees of the House of Representatives  
9 is non-justiciable. It involves a political matter which is  
10 entirely committed to the Legislative Branch.

11 The Judiciary should not involve itself in the  
12 determination of the appropriate levels of pay for House  
13 offices.

14 The Clerk of the House concluded that such an  
15 inquiry would violate the political question doctrine and  
16 Your Honor dismissed that suit, although there were other  
17 issues involved.

18 THE COURT: Mr. Carl, it's always nice when you  
19 can get rid of a difficult case by granting a motion like  
20 that. However, I will resist that opportunity in this case  
21 and I will deny your motion.

22 Of course, if there is an acquittal, that ends the  
23 matter. If there is a conviction, why you can renew all  
24 these points on motion for judgment non obstante; I will  
25 go even further.

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1           Take a 5-minute recess.

2           (Whereupon, at 3:23 p.m. a short recess was  
3 taken)

4                       AFTER RECESS

5           THE COURT: Counsel, come to the bench, please.

6           (Thereupon, counsel for both parties approached  
7 the bench and conferred with the Court, as follows:)

8           THE COURT: Is your first witness Mr. Newsome?

9           MR. POVICH: Yes, sir.

10          THE COURT: Do you remember my admonition about  
11 him?

12          MR. POVICH: Yes. I will tell you it will go this  
13 way, your name, your address, position, how long have you  
14 known Mr. Diggs. Do you have an opinion as to his honesty  
15 and integrity and whether he is a truthful person. Yes.

16          On what do you base your opinion? He says what  
17 it is.

18          What is your opinion? Or I can say, what is your  
19 opinion and what do you base it on would be more relevant.

20          THE COURT: All right.

21          MR. POVICH: And he will say, yes, I find him to  
22 be a truthful person; he's exhibited those qualities and I  
23 will say what do you base it on, and he will say, I base it  
24 on my association with him and in particular an instance  
25 such and such, and that's it.

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1 THE COURT: All right.

2 MR. POVICH: The only other question I might ask  
3 him is whether or not he has the material, whether in the  
4 memorandum he wrote, and he is going to say he does not have  
5 it, but he caused a search of the file to be made and unfortu-  
6 nately has been unable to turn it up.

7 Do you have any problem with that, Your Honor?

8 THE COURT: I take it you are not going to drag  
9 out the cross.

10 MR. KOTELLY: Not unduly long, no. I think I can  
11 conduct cross-examination of character witnesses; I don't  
12 intend on making it better for the defendant than I should.

13 THE COURT: All right. All right.

14 (Thereupon, the proceedings had at the bench  
15 were concluded; counsel returned to their seats at  
16 counsel table, and the proceedings were resumed,  
17 as follows:)

18 THE COURT: Bring in the jury.

19 (Whereupon, at 3:30 p.m., the jury entered  
20 the courtroom)

21 THE COURT: You may proceed, Mr. Povich.

22 MR. POVICH: May we proceed with the defense case,  
23 Your Honor?

24 THE COURT: Yes, sir.

25 MR. POVICH: I would like to call as our first

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1 witness Mr. Under Secretary David Newsome.

2 Your Honor, I must indicate we are taking him a  
3 little out of turn. We normally would not put him in in this  
4 order, but because of scheduling problems, we put him on at  
5 this time.

6 THE COURT: I understand.

7 Whereupon,

8 DAVID DUNLOP NEWSOME

9 was called as a witness by and on behalf of the  
10 defendant and, having first been duly sworn, was  
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. POVICH:

14 Q Would you state your full name and address, please?

15 A David Dunlop Newsome, 3230 Woodley Road, Northwest.

16 Q Your position of employment, Mr. Newsome?

17 A I am Under Secretary of State for Political Affairs.

18 Q Do you know the defendant in this case, Congressman  
19 Charles C. Diggs, Jr.?

20 A I do.

21 Q How long have you known Mr. Diggs?

22 A I first met Mr. Diggs in 1962.

23 Q Mr. Under Secretary, would you tell me whether or  
24 not you have an opinion as to the Congressman Charles C.  
25 Diggs' honesty, integrity, and whether or not he is a truthful  
person?

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1       A     Well, in all of my dealings with him in a profes-  
2 sional capacity relating to his work as Chairman of the  
3 Subcommittee on Africa --

4           THE COURT: Mr. Under Secretary, do you have an  
5 opinion?

6           THE WITNESS: My opinion is based on my experience  
7 with him.

8           THE COURT: Just tell us, do you have an opinion.

9           THE WITNESS: Yes, I do.

10          THE COURT: What is your opinion?

11          THE WITNESS: My opinion is he is a man of integrity  
12 and honesty.

13          THE COURT: All right.

14          BY MR. POVICH:

15          Q     What do you base that opinion on, Mr. Under Secretary?

16          A     I base that on my experience with him as in a  
17 professional capacity as first Director of North African  
18 Affairs and Assistant Secretary for Africa while he was Chair-  
19 man of the Subcommittee on Africa for the House of Representa-  
20 tives.

21          Q     And any particular instance that you base your  
22 opinion on?

23          A     I recall one in particular when he received a letter  
24 from an African chief of state in which he was offered, as  
25 I recall, a stipend in order to further the interests of this

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1 particular African country in the Congress.

2 I was at that time Assistant Secretary for Africa.  
3 He called me and asked me to come to his office. I did and  
4 he gave me the letter indicating his indignation that he  
5 should be approached in this fashion and asked me to take  
6 the letter and file it with an appropriate notation, and  
7 indicated that he would, as I recall, refer any further  
8 approaches to the State Department.

9 Q Can you tell me approximately when that was?

10 A It was either in 1972 or '73. I don't recall the  
11 exact date.

12 Q And can you tell me the amount that was offered  
13 and whether or not it was on an annual basis?

14 A I don't recall the amount. My impression was that  
15 it was in five figures and it was on an annual basis.

16 Q You say that he showed you a letter and asked you  
17 to make appropriate memorandum or notation of it; is that  
18 correct?

19 A That's correct.

20 Q And did you do that?

21 A I did that.

22 Q Have you been asked by subpoena to produce the  
23 letter and memorandum which you have written?

24 A The Department was asked by subpoena to produce  
25 the document. A search has been made. As far as I know,

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1 it has not been found.

2 Q What is your position, Mr. Under Secretary, with  
3 respect to the Department of State? Where are you within  
4 the hierarchy of that?

5 A I'm the No. 3 person in the Department of State.

6 Q Are you satisfied every effort has been made to  
7 produce the documents that you have referred to?

8 A I am.

9 MR. POVICH: I have no further questions, Your Honor.

10 THE COURT: Mr. Kotelly?

11 CROSS-EXAMINATION

12 BY MR. KOTELLY:

13 Q Ambassador Newsome, Mr. Diggs actually gave you  
14 this letter, I take it?

15 A That's correct, yes.

16 Q Was it on official appearing stationery?

17 A As I recall, it was on official stationery of the  
18 government from which it was sent.

19 Q Did it have any kind of a seal on it?

20 A I don't recall that.

21 Q Did it have a printed letterhead as to the  
22 official stationery of this country?

23 A All I recall is that we both accepted it as a  
24 communication from an official of this country.

25 Q Was it signed?

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1 A It was signed.

2 Q Was it signed by the head of state?

3 A That, I don't recall.

4 Q Do you know how this letter was delivered to Mr.  
5 Diggs?

6 A I do not.

7 Q So that you do not know as to whether it was secretly  
8 passed to him or just delivered in an official manner?

9 A I do not remember.

10 Q Did Mr. Diggs refer any further matters to you  
11 regarding this letter as to any further inquiries from this  
12 African nation?

13 A To the best of my knowledge, there were no further  
14 actions relating to that matter.

15 Q That's based on the fact that Mr. Diggs did not  
16 tell you about any further contacts?

17 A That's true, yes.

18 Q So that you do not have any knowledge as to whether  
19 Mr. Diggs had any later contact with this African nation or  
20 not?

21 A I do not.

22 Q Did this letter that you read, did it state that  
23 it wanted Mr. Diggs to do anything unlawful?

24 A I do not recall the wording of the letter. I do  
25 recall that it was in effect asking him to assist positively

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1 in the congressional treatment of this particular country.

2 Q But you do not recall that it asked Mr. Diggs to  
3 do anything unlawful?

4 A I do not.

5 Q And you have not been able to find that letter,  
6 even though you have searched for it?

7 A The Department has not been able to find it.

8 Q And have you searched your own personal files?

9 A I have.

10 Q Your opinion as to Mr. Diggs' honesty, is it based  
11 on this specific instance?

12 A It is based on -- this is the only instance in  
13 which there is, in my relation with Mr. Diggs, in which any  
14 financial matter has come up. In all other cases involving  
15 discussions of African questions and so forth, I have found  
16 him to be an honest man.

17 Q Ambassador Newsome, if you knew as a fact that  
18 Congressman Diggs had increased the salary of his personal  
19 employee for the purpose of paying for his personal expenses  
20 during the period of 1973 to 1976, would that affect your  
21 personal opinion as to honesty and integrity?

22 MR. POVICH: Objection, Your Honor. May we approach  
23 the bench?

24 THE COURT: Yes.

25 (Thereupon, the witness stepped down from the

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1 stand; counsel for both parties approached the bench  
2 and conferred with the Court, as follows:)

3 MR. POVICH: Your Honor, I object because that ques-  
4 tion is improper. It specifically elevates to a matter of  
5 fact a matter which is at trial in this issue. It overcomes  
6 the presumption of innocence. It relates directly to the  
7 very matter in issue. It is not a proper foundation for  
8 impeaching a character witness.

9 THE COURT: I think the way it is phrased, Mr. Povich  
10 is correct.

11 MR. KOTELLY: Your Honor, the Government is relying  
12 on two cases, United States v. Senak, 527 F 2d 129, which  
13 is a 7th Circuit opinion in 1975, as well as United States  
14 v. Null, 415 F 2d 1178. It's a 4th Circuit opinion in 1969.

15 Both opinions clearly state that if a witness, a  
16 character witness is asked about his present, the present  
17 character traits of the defendant, that the Government is  
18 allowed to question him as to whether if the facts of the  
19 case are true, if they would affect his opinion as to the  
20 reputation of that witness.

21 MR. POVICH: That's not my understanding of the  
22 law, Your Honor. I am sorry, I haven't got the case I'm  
23 relying on. Again, I did not expect him to ask the very,  
24 to assume the very fact in issue in this case.

25 MR. KOTELLY: It's a way for the jury to test the

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1 basis of the opinion and the merit of the opinion. If this  
2 man would testify that that would not affect his opinion at  
3 all, then the jury can weigh that in determining how much  
4 weight to give the character testimony.

5 If it would affect his opinion, the jury is entitled  
6 to use that in evaluating whether his opinion is worthwhile  
7 or not based on what they find from the facts of the case.

8 MR. POVICH: Your Honor, every question in this  
9 area has to be based upon information. When that fact is  
10 a fact, and that fact has not been established. That's the  
11 very fact in issue. It assumes a very fact, it assumes some-  
12 thing to be true which would constantly tell this jury there  
13 is a presumption of untruth until it is established beyond  
14 a reasonable doubt, and I think in that sense it violates  
15 the rule allowing proper cross-examination of a character  
16 witness throughout assumption --

17 THE COURT: Would it come up in the cases you cited?

18 MR. KOTELLY: Yes, Your Honor, in the opinions,  
19 and I have extracts just in a written form of the opinions,  
20 was that if the reputation testimony is in the present tense  
21 as to what is his reputation, that that question can be  
22 allowed.

23 If the character testimony is in the classic form  
24 it is at the time of the offense, it is that the character  
25 trait should be related to.

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1           Mr. Povich did not intend or attempt to only limit  
2 the time period which this character testimony is elicited.

3           MR. POVICH: Your Honor, first of all, there is  
4 a difference I think if you ask reputation. I don't concede  
5 for a moment even under the concept of reputation because  
6 a lot of that depends on whether or not he heard something  
7 or didn't hear something or not.

8           That would be like asking him in this case what  
9 are the facts of the indictment, whether all of the facts  
10 in the indictment, if they were facts, would it change your  
11 opinion of an individual.

12           Well, Your Honor, I suggest that that's a hard  
13 question. If a man is, if a person is convicted of a crime,  
14 if a person is convicted of a crime, would that change your  
15 opinion with respect to honesty and integrity and I don't  
16 see how anybody could ever say no, so I don't think it is  
17 very probative when you are talking about the very facts  
18 in issue.

19           THE COURT: I can't say I'm familiar with these  
20 two cases, unfortunately, gentlemen. I would permit you  
21 to ask him if he was familiar with the facts in this case.

22           MR. KOTELLY: At what period of time, Your Honor?

23           THE COURT: At this time. And if he isn't, then  
24 you can argue that to the jury and he can argue it to the  
25 jury.

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1 MR. KOTELLY: If he says he is familiar with the  
2 facts in this case, do I have to stop at that point or am  
3 I allowed to --

4 THE COURT: Well, you can ask him whether or not  
5 he has taken that into consideration in his opinion.

6 MR. POVICH: Your Honor, did Your Honor mean to  
7 say is he familiar with the facts in the case, or is he  
8 familiar with the charges and the evidence which is presented  
9 in this case?

10 THE COURT: Well, I think we have passed charges.  
11 We have put on sworn testimony. There hasn't been a determi-  
12 nation.

13 MR. POVICH: That's evidence.

14 THE COURT: If he's familiar with the evidence.  
15 All right.

16 (Thereupon, the proceedings had at the bench  
17 were concluded; counsel returned to their seats at  
18 counsel table; and the witness returned to the wit-  
19 ness stand and testified further, as follows:)

20 CROSS-EXAMINATION (continued)

21 BY MR. KOTELLY:

22 Q Ambassador Newsome, I withdraw that question, and  
23 ask it a different way.

24 Are you familiar with the evidence that has been  
25 presented in this case?

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1 A Only from reading occasional newspaper articles.

2 Q Have you taken that into consideration in giving  
3 your present opinion today?

4 A My opinion was asked with respect to the association  
5 I have had with Congressman Diggs.

6 Q Ambassador Newsome, are you familiar with Mr. Diggs'  
7 financial condition during the period of 1973 through 1976?

8 A No, I am not.

9 Q Were you familiar with the payment made to employees  
10 on the staff of Congressman Diggs?

11 A No, I am not.

12 Q Were you familiar with how Mr. Diggs paid for his  
13 personal and for his House of Representative expenses during  
14 that time?

15 A I had no knowledge.

16 MR. KOTELLY: I have no further questions, Your  
17 Honor.

18 THE COURT: Mr. Povich.

19 REDIRECT EXAMINATION

20 BY MR. POVICH:

21 Q Mr. Under Secretary, did you have any question at  
22 the time or do you today with the authenticity of the letter  
23 with which you and Congressman Diggs concerned yourselves  
24 about?

25 A No.

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1 Q Would it be illegal for a congressman to accept  
2 a sum of money that you -- in your estimation would it be  
3 illegal for a congressman to accept a sum of money which  
4 was offered, referred to in that letter?

5 A I can't comment on the legality. It would be con-  
6 sidered highly improper I think.

7 MR. POVICH: Thank you.

8 I have no further questions, Your Honor.

9 MR. KOTELLY: Nothing further, Your Honor.

10 THE COURT: Thank you, Mr. Ambassador.

11 THE WITNESS: Thank you.

12 (Witness excused)

13 MR. WATKINS: Robert B. Washington.

14 MR. KOTELLY: May we approach the bench, Your Honor.

15 THE COURT: Yes.

16 (Thereupon, counsel for both parties approached  
17 the bench and conferred with the Court, as follows:)

18 MR. KOTELLY: Your Honor, Government first learned  
19 that Mr. Washington would testify in this case at the lunch  
20 break when Mr. Povich announced.

21 We would ask for at least some type of proffer  
22 as to relevancy of the testimony of Mr. Washington.

23 MR. WATKINS: Certainly. When Mrs. Stultz testified,  
24 she indicated that she did nothing on the District Committee,  
25 House District Committee, and that she knew nothing of what

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1 was going on in the House District Committee.

2 Mr. Washington was the general counsel of that  
3 committee during the time Mr. Stultz was employed and his  
4 testimony will be that she was very much an integral part  
5 of that committee and knew what was going on and partici-  
6 pated very deeply in the activities of that committee.

7 It goes to the question of credibility, Your Honor,  
8 and it is clear. I had Mr. Washington call me after he heard  
9 the testimony and said, "Well, that's just not correct."

10 THE COURT: All right.

11 (Thereupon, the proceedings had at the bench  
12 were concluded; counsel returned to their seats at  
13 counsel table; and the proceedings were resumed,  
14 as follows:)

15 Whereupon,

16 ROBERT BENJAMIN WASHINGTON, JR.

17 was called as a witness by and on behalf of the  
18 defendant and, having first been duly sworn, was  
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. WATKINS:

22 Q Sir, would you state your name?

23 A My name is Robert Benjamin Washington, Jr.

24 Q What is your occupation, Mr. Washington?

25 A I'm an attorney.

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1 Q Here in the District of Columbia?

2 A Yes, admitted to the bar in the District of  
3 Columbia.

4 Q Mr. Washington, I want to focus your attention on  
5 the year 1973. Where were you employed?

6 A During the year 1973, I was staff director and chief  
7 counsel of the U.S. House of Representatives Committee on  
8 the District of Columbia.

9 Q Is that a committee that was headed by Mr. Charles  
10 Diggs?

11 A Yes. The Honorable Charles Diggs was Chairman of  
12 the committee.

13 Q Now, Mr. Washington, what were your duties as staff  
14 director and general counsel of the House District Committee?

15 A I was principally responsible for the staff functions  
16 of the committee, including the day-to-day operations of the  
17 staff, drafting legislation, memoranda for members of the  
18 committee, the committee chair, preparing for committee hear-  
19 ings, committee business meetings, and for floor activities  
20 on the House floor.

21 Q While you were in that position, Mr. Washington --  
22 by the way, how long did you hold that position?

23 A Up through, I started in January 1973, and I  
24 returned to the private sector in or around May or June of  
25 1975.

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1 Q During the time you held that position of staff  
2 director and general counsel, did you come to know a person  
3 named Jean Stultz?

4 A Yes.

5 Q What was her position and who was she?

6 A I'm not sure I understand your question, Mr.  
7 Watkins.

8 Q First, what was her position on your committee,  
9 if she was on your committee?

10 A At some point she became a staff in a variety of  
11 titles and as you know, titles on the Hill aren't terribly  
12 descriptive. I think she was a staff assistant.

13 Q Did she hold any other position on the Hill that  
14 you knew of?

15 A It's my understanding, as I reflect, that she was  
16 also on the staff of the Chairman, and that is to say, at  
17 the time she was on the committee staff she was also on the  
18 staff, personal staff of the Chairman.

19 Q Is that an unusual circumstance to have a person  
20 both on the Chairman's staff and the committee staff?

21 A That occurs in the Congress and if my recollection  
22 is correct, there were several instances of this during  
23 1973 through 1975, with respect to the District Committee.

24 Q Is it your understanding that is a proper procedure?

25 A I don't know if there are any regulations which

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1 would preclude that. My understanding was at that point in  
2 1973 to 1975, you could not be a professional staff person  
3 and be on any other committee. You could be a staff assistant  
4 or a clerical or be on what they call an expense resolution  
5 spot and also be on a Member's personal staff, so that was  
6 not precluded.

7 To state it differently, it was permissible.

8 Q Was it permissible in the case of Mrs. Stultz?

9 A In her case it seems to me it was permissible  
10 because she was serving and doing things in both capacities.  
11 She was working as his personal secretary and she was liaison  
12 to our committee from his office and was involved in District  
13 Committee activities.

14 Q Now, Mr. Washington, would you tell us what functions  
15 Mrs. Stultz performed for the House District Committee while  
16 you were general counsel and staff director?

17 A She was involved first of all, she coordinated the  
18 Chairman's calendar and the way the committee was set up,  
19 appointments had to either go through the chief of staff,  
20 Dorothy Corker, or through me with the Chairman. She coordi-  
21 nated all the appointments.

22 She asked why was there a need for a meeting and  
23 for whom and at what time. So she was the focal point in  
24 his office, so that it was a person in the Chairman's office  
25 who knew about the District Committee and that was her job.

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1           She was also involved as the D.C. liaison person  
2 in his office in several of our staff meetings and she  
3 attended. She indicated that the Chairman was -- had incurred  
4 some negative comments in Detroit because of his participation  
5 in D. C. matters, so it was important that those activities  
6 were properly explained to his constituents and that was her  
7 role.

8           Also, she was involved in matters of the District  
9 of Columbia, and she has a personal interest, being a resident.  
10 She use to speak to me from time to time about her interest  
11 in D. C. matters.

12           Q     Do you recall any specific events when you and she  
13 worked together on matters relating to the District of  
14 Columbia Committee?

15           A     Yes, I do. I recall when the Chairman was injured  
16 or was not feeling very well, and was in the hospital in  
17 Bethesda Naval Hospital. Miss Stultz and I both went out  
18 to his room at the hospital and spent an entire afternoon  
19 talking about matters going over memoranda that we had pre-  
20 pared that she knew something about.

21                 She reviewed memoranda because of her own interest,  
22 not from a policy point of view, but because of her own inter-  
23 ests.

24                 We had meetings in the cafeteria, the Longworth  
25 Cafeteria. We had meetings in his office. As you know, her

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1 office was adjacent to his office in the Rayburn Building,  
2 and my office was in the Longworth building, so because she  
3 was a coordinator and facilitator of paper and documents,  
4 she from time to time participated in these matters and in  
5 these conferences.

6 Q Mr. Washington, at the time you were general counsel  
7 and staff director of the House District Committee, were you  
8 also on Congressman Diggs' payroll?

9 A No, I have never been on his personal payroll. I  
10 have always been on the payroll of the committee.

11 MR. WATKINS: Thank you, Mr. Washington.

12 CROSS-EXAMINATION

13 BY MR. KOTELLY:

14 Q Mr. Washington, did Miss Stultz have any office  
15 space in the District of Columbia Committee suite of offices?

16 A No.

17 Q Who would she report to at the District of Columbia  
18 Committee?

19 A Miss Stultz would report, of course, she was the  
20 assistant of the Chairman and her office was adjacent to  
21 Chairman Diggs. She would report to him, but it is important  
22 to stress that when we took over the committee in 1973, we  
23 only had Suites 1307, 8, 9, 10 and 441 in the Cannon. We had  
24 inadequate space to the point that all six subcommittee  
25 chairmen had requested space so we had no space.

000940

1 Q I was asking about who she reported to. Is your  
2 answer the Chairman?

3 A She inquired to me on matters, but she reported  
4 to the Chairman. She was his personal assistant, staff  
5 assistant.

6 Q Now, when you say that she had contacts with you,  
7 did she actually report to you? Did you tell her what jobs  
8 she should do and what she shouldn't do?

9 A No.

10 Q You were the director of the staff of the D. C.  
11 Committee, correct?

12 A That is correct.

13 Q And did you on a day-to-day basis instruct the  
14 persons that were working directly for that committee as to  
15 what they should do each day?

16 A I had the primary responsibility, but the Chairman  
17 also instructed them and other members of the committee.

18 Q Were there any persons who you did not instruct  
19 on a daily basis but would go directly to the Chairman that  
20 were employed on the staff of the D. C. Committee?

21 A Oh, absolutely. That was one of the problems I  
22 had with the Chairman from time to time, that he went to people  
23 without coming to me on some instances.

24 Q How many employees would do that?

A Well, it varied, Dorothy Corker for example. She

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1 reported directly to the Chairman.

2 Q Did she never take instructions on a day-to-day  
3 basis from you?

4 A Never.

5 Q She was paid full time on the committee's salary?

6 A Full time.

7 Q And she had offices at the committee?

8 A Offices at the committee.

9 Q Not at the staff office for Congressman Diggs?  
10 This would be after 1973, when she moved over there?

11 A That's correct.

12 Q Were there any other employees who you did not  
13 direct on a day-to-day basis?

14 A Well, it varies at times, sir. There are times  
15 people, I mean the psychology of the work on the Hill is to  
16 have access to the Chairman -- and I was a staff employee --  
17 and people wanted to have the feel and the touch of the  
18 Chairman, so it is natural for people to want to fee' and  
19 touch the Chairman.

20 I had primary responsibility, but I don't want to  
21 suggest to you that people did not go directly to the Chairman  
22 or did not have contacts with the Chairman.

23 Q Mr. Washington, I'm asking you though as to a full  
24 time reporting directly from an employee on the staff of the  
25 committee to the Chairman, bypassing you at all instances.

000942

1           Now you mentioned Miss Corker; was there anyone  
2 else?

3           A     No one did it in all instances, including Miss  
4 Stultz. No one did it in all instances.

5           Q     Did you direct Miss Stultz on some occasions, what  
6 she should do on behalf of the committee?

7           A     Absolutely.

8           Q     What type of things would you have her do on behalf  
9 of the committee?

10          A     Of course, when a person coordinates the calendar  
11 of the Chairman oftentimes they like to put their arms in  
12 the sleeve of the Chairman and make decisions about when he  
13 can see people and I, although I had a direct telephone to  
14 the Chairman, I would never want to disturb him about his  
15 calendar, and I went to her and Miss Stultz would try to make  
16 decisions we ought to see this person today or that person  
17 tomorrow, or the Chairman has committed himself to see this  
18 person or that time has been allocated, and I would have to  
19 instruct her, Miss Stultz, we are going to see this person,  
20 that is the Chairman, and whatever staff person that is  
21 requested, we are going to see that person today.

22          Q     And would you tell the Chairman before you make  
23 that type of decision?

24          A     It varies, it varies.

25          Q     You would make appointments for the Chairman, even

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1 though he did not know about them and expect for him to have  
2 those meetings? .

3 A Absolutely.

4 Q Now, you have indicated that Miss Stultz handled  
5 the appointment book for the Congressman; is that correct?

6 A That's correct.

7 Q And the Congressman not only was the Chairman of  
8 the D. C. Committee, he had other committee assignment posi-  
9 tions, correct?

10 A That's correct.

11 Q And he also had his own constituents' representation  
12 for the 13th District in Michigan, correct?

13 A That's correct.

14 Q Did the Congress set aside certain portions of a  
15 day solely for appointments dealing with the District of  
16 Columbia Committee?

17 A You know as a conception, we talked about that and  
18 we may have. I frankly don't recall that. At some point  
19 in time in that time frame we may have set some time aside  
20 to do D.C. matters, but I mean the Chairman allocated in  
21 1973, because of the rush of home rule and the University  
22 of the District of Columbia bills that he was involved in,  
23 he spent a lot of time on D.C. matters.

24 So I can't say he allocated a specific amount of  
25 time or specific portion of the day. We spent an enormous

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1 amount of time on D. C. matters.

2 Q As appointment secretary, Jean Stultz would not  
3 only set aside times for meetings regarding D. C. matters,  
4 but also other matters of interest to the Congressman; is  
5 that correct?

6 A Yes, they sometimes clashed because we were fighting  
7 for time.

8 Q I understand. Miss Stultz' function then was a  
9 personal function for Congressman Diggs, to help him allocate  
10 his time to the various committee assignments and constituent  
11 responsibilities that he had?

12 A I'm not sure I understand your question.

13 Q In keeping the Congressman's appointment books,  
14 she was not only keeping his appointments that he dealt with  
15 in the District of Columbia Committee matters, but also his  
16 other committee responsibilities and his constituent responsi-  
17 bilities where he had to have meetings and set aside times  
18 for that; is that correct?

19 A That is correct.

20 Q That was all part of her one single function; is  
21 that correct?

22 A I don't know what other functions were -- it would  
23 be inappropriate for me to respond to your question because  
24 I don't know what her other functions were other than trying  
25 to keep his calendar and I know there was a continual clash

000945

1 because when we had general meetings from the different  
2 components of the Congressman, Detroit, Africa, subcommittee,  
3 the District Committee were all vying for time and there is  
4 a limited amount of time that, in a day.

5 Q I think you have answered the question if you say  
6 you don't know what her other responsibilities were. You  
7 do understand though that that was not her sole responsibility  
8 of sitting down and only taking care of appointments for the  
9 District of Columbia Committee matters that were of interest  
10 to the Chairman.

11 A Clearly.

12 Q Now, who set the salaries for members of the staff  
13 of the committee?

14 A Again, it would vary.

15 Q Were payroll authorizations prepared for each mem-  
16 ber of the staff of the committee whenever there was a change  
17 in salary or appointment or termination?

18 A That was generally the function of the office  
19 administrator, but -- I mean you can't answer these questions  
20 in a word yes or no.

21 But it depended on whether there was a recommenda-  
22 tion, whether -- I mean when it comes to general employees,  
23 we had the staff director and the chief counsel and others  
24 meet with people. We interviewed them, we made recommenda-  
25 tions for salaries. That's for people that the Chairman did

000946

1 not. But where in the instances where the Chairman knew a  
2 person, the Chairman didn't necessarily ask our views about  
3 a salary.

4 Q There was no consultation with you as far as those  
5 particular employees; is that correct?

6 A It would vary.

7 Q You have indicated that Miss Stultz did appear at  
8 staff meetings. Did she come to all the staff meetings?

9 A No, no. It was the exception rather than the rule.

10 Q In '73 and '74, how frequently would you consider  
11 that she attended staff meetings for the committee?

12 A Infrequently.

13 Q Could you give us some idea in terms of numbers?  
14 Are you talking about one or two, three or four?

15 A I'm afraid I can't answer that. I just don't have  
16 that information available. Let me just make a point if I  
17 might. We were so actively --

18 Q You have already indicated that, Mr. Washington.  
19 Please just respond to my questions. You have indicated  
20 there was one occasion when Congressman Diggs was at the  
21 hospital that you and Miss Stultz went to see him; is that  
22 correct?

23 A That's correct.

24 Q Was she there to take notes?

25 A No. As I stated earlier, our memoranda and other

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1 documents were transmitted to her for his attention and  
2 review, and she was there with him and she provided, she had  
3 them and he made certain decisions and so in a sense she did  
4 prepare notes, but that was not the total function.

5 Q Do you know when that was that Miss Stultz and you  
6 went to the hospital?

7 A I do not.

8 Q What year?

9 A I do not know. I do not recall.

10 Q Do you know for certain whether Miss Stultz at the  
11 time you went to the hospital was or was not on the committee  
12 staff?

13 A She was on the committee staff, if my recollection  
14 is correct. She either came to the committee March, April,  
15 May of '73, and she was, I think she got off the committee  
16 in '74 or '75, but I'm not sure.

17 Q At any time that Miss Stultz was on the committee  
18 staff at any time did Miss Stultz spend full time at the  
19 committee?

20 A What do you mean at the committee?

21 A In other words, during the period of time that she  
22 was on the staff, committee staff payroll, was there any period  
23 of time that she would spend a 40-hour week at the committee  
24 meeting itself working on committee matters?

25 A I'm not sure what you mean "at the committee itself."

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1 Q At the offices of the committee.

2 A We had offices all over the Hill.

3 Q Do you know of any period of time that Miss Stultz  
4 would spend 40 hours or more a week on District of Columbia  
5 Committee matters?

6 A No, I don't, but that's true of other employees.

7 Q Mr. Washington, did you have any connection with  
8 determining the salary of Miss Stultz?

9 A I did not.

10 Q Were you aware that according to payroll authoriza-  
11 tion forms in evidence that in August of 1974, that her annu-  
12 alized salary on the committee was \$36,000?

13 Did you hear the question, sir?

14 A I got the question. I am sure I had to be aware  
15 because I got a copy of the document transmitted to the House  
16 administration that went to the House.

17 Q So you were aware at least as to the month of August  
18 1974, that Mrs. Stultz--

19 MR. WATKINS: I'm going to object to that, Your  
20 Honor. May we approach the bench?

21 THE COURT: Yes.

22 (Thereupon, the witness stepped down from the  
23 stand; counsel for both parties approached the bench  
24 and conferred with the Court, as follows:)

25 MR. WATKINS: Your Honor, Mr. Kotelly is misleading

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1 the witness. He talks about \$36,000 annualized salary. She  
2 was not receiving \$36,000 a year. What they do on the Hill  
3 is they state a salary each month as 1/12 of what the yearly  
4 salary is.

5 So to say to this witness, were you aware that she  
6 has an annualized salary of \$36,000 a year, is not correct.

7 THE COURT: Paid at the rate is what you mean?

8 MR. WATKINS: That's right. For the month of  
9 August she was not -- it's misleading if you said that she  
10 was earning a gross salary of \$3,000 a month as the earnings  
11 for that month, that's one thing, and that gives the true  
12 picture. But to say she was earning an annualized salary  
13 for the month of August of \$36,000.

14 THE COURT: See if it can be stated more clearly  
15 on annualized salary paid a salary at the rate of so much  
16 per year.

17 MR. KOTELLY: All right.

18 (Thereupon, the proceedings had at the bench  
19 were concluded; counsel returned to their seats at  
20 counsel table; and the witness returned to the wit-  
21 ness stand and testified further, as follows:)

22 BY MR. KOTELLY:

23 Q Mr. Washington, in order not to confuse or mislead,  
24 my question was as to August of 1974; are you aware that Miss  
25 Stultz received on annual salary a gross monthly salary of

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1 \$3,000 which at an annual rate would have been \$36,000 per  
2 year? Were you aware of that in August of 1974?

3 A I am sure that at some point I had to be aware of  
4 that. Whether I knew it in August or knew it at the time  
5 the document was prepared for the Chairman's signature, a  
6 copy of which was given to me, I knew about it; the answer  
7 there would be yes.

8 Q From your knowledge of employment on Capitol Hill  
9 on committees during that period of time, would \$36,000 have  
10 been close to the maximum amount in 1974?

11 A \$36,000 was the maximum for clerical and professional  
12 staff in 1973-74.

13 Q You were on the professional staff; is that correct,  
14 of the committee?

15 A That's correct.

16 Q I don't mean to embarrass you, but do you remember  
17 what your salary was in August of 1974?

18 A I would be delighted to tell you. It was \$36,000.

19 Q The same as Miss Stultz, at least for that month?

20 A If she made that salary, it would have been similar.

21 Q And Miss Stultz was not on the professional staff  
22 of the D. C. Committee; is that correct?

23 A But if I understand your question, there were 12  
24 statutory, 12 positions, six clerical and six professional  
25 both had a maximum of \$36,000, so a clerical person could

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1 make \$36,000 under the rules.

2 Q Could or could not, I'm sorry?

3 A Could.

4 Q My question was, did Miss Stultz when she was in  
5 August of 1974, was she on the professional staff of the  
6 D. C. Committee?

7 A If my recollection is correct, Miss Stultz was never  
8 on the professional staff. But I'm not sure that I know  
9 what --

10 Q That's merely all I asked you on that question.

11 MR. KOTELLY: No further questions, Your Honor.

12 THE COURT: Mr. Watkins?

13 REDIRECT EXAMINATION

14 BY MR. WATKINS:

15 Q Now, Mr. Washington, as staff director, you said  
16 you had some problems with space at the House District Commit-  
17 tee when you became staff director; is that correct?

18 A That's correct.

19 Q Tell us what problems you had with space, please.

20 A We even prior to taking over the committee in --  
21 and I started consulting with the Chairman when I was teaching  
22 at Howard Law School before becoming an official member of  
23 the committee, we looked at the committee space, which was  
24 suites 1307, 8, 9 and 10, four very small offices and a  
25 committee hearing room, because the committee had been a very

000952

1 small committee under the previous chairman.

2 We were -- the intention was to have six subcommittee  
3 additional staff and most importantly, in the interim, the  
4 Congress at least the Democratic Caucus passed what they call  
5 the Subcommittee Bill of Rights, which assured every subcom-  
6 mittee chairman a professional staff person. So it became  
7 imperative to have additional space.

8 Many of our staff persons were in offices that were  
9 not committee offices, including their subcommittee chairman's  
10 offices.

11 In fact, I recall vividly a letter from all six  
12 subcommittee chairmen to the chairman saying, when you get  
13 some additional space make sure you give that space on a  
14 priority basis.

15 MR. KOTELLY: Objection, hearsay, Your Honor, as  
16 to what the subcommittee chairmen said, Your Honor.

17 THE COURT: All right. I would have to sustain  
18 the objection, but you can rephrase the question.

19 BY MR. WATKINS:

20 Q As a result of this problem with space, do you  
21 recall the subcommittees having problems with getting space?

22 A Yes. We sent, that is the Chairman sent letters  
23 to the Speaker of the House, a whole stream of letters to  
24 the Speaker of the House, who was Chairman of the House  
25 Building Committee, and I recall, and I use to meet with

000953

1 Mike Reed, his chief guide, about space for our committee,  
2 we had no space.

3 Q Well, Mr. Washington, did the Chairman himself have  
4 offices in the House District Committee at the time?

5 A No, he gave me his office.

6 Q So his secretary didn't have offices in the House  
7 District Committee either, did she?

8 A No.

9 Q All right. Now, you tried to explain when Mr.  
10 Kotelly was questioning you about how you had to fight for  
11 the Chairman's time. Would you tell the ladies and gentlemen  
12 of the jury what that meant and what that pertained to in 1973,  
13 particularly, and later while you were at the committee?

14 MR. KOTELLY: Your Honor, I object unless this is  
15 related to some matter in issue in this case.

16 MR. WATKINS: It wasn't raised on direct, Your Honor.  
17 Mr. Kotelly raised it and cut the witness off, and I think  
18 he has a right to explain.

19 THE COURT: It really isn't one of the points with  
20 which we are concerned here, Mr. Watkins, but you may briefly  
21 deal with it, but don't spend a lot of time on it.

22 We have got a lot of matters that are in issue here.  
23 Let's get to them.

24 BY MR. WATKINS:

Q Mr. Washington, do you recall the question?

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1           A     It was my view that an effective staff leader,  
2 Mr. Watkins, ought to have staff reporting to him, all of  
3 the staff reporting to him or to her, and the Chairman's  
4 style, I guess, was to consult with people individually,  
5 and it made it very difficult and inefficient to operate a  
6 staff because people would get assignments from him and have  
7 to report to him, and he would ask me what had happened to  
8 the assignment and I didn't know anything about the assign-  
9 ment.

10                So he would have -- I recall meetings on the steps  
11 of the Capitol with staff persons without my knowledge about  
12 matters, and we had set a priority for the agenda of the  
13 committee, but on an ad hoc basis, if a Member of the Congress  
14 saw the Chairman on the floor about a subject, he would then  
15 assign a staff person, and people would use that as an  
16 excuse for not accomplishing the goals set out by the commit-  
17 tee.

18                So, there was always a constant fight that happens  
19 on the Hill of the Congress for the Chairman's ear. That's  
20 not unusual.

21           Q     And in that context of persons trying to fight for  
22 the Chairman's ear, Mrs. Stultz had a role, did she not?

23           A     Absolutely.

24           Q     And would you explain what that role was?

25           A     You mean being the staff assistant, appointments --

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1 coordinating appointments, the liaison from his office on  
2 D. C. matters. Those are the principal, if I recall,  
3 principal responsibilities of Miss Stultz as they related  
4 to the District Committee and D. C. matters generally.

5 Q And you indicated, I think, in your examination  
6 that Mrs. Stultz was the liaison person?

7 A Yes. When we had a task force, I don't recall  
8 whether it was '74, to reorganize the staff, to better allo-  
9 cate and assign staff responsibilities and it was important  
10 for us to have a person designated in his office, in his  
11 personal office, to handle D. C. matters because we people  
12 came from Detroit or else where they would want to know why  
13 the Chairman was spending his time on D.C. matters; he wasn't  
14 elected from the District.

15 Q Who was that person designated in the Chairman's  
16 office to handle D.C. matters?

17 A Jean Stultz.

18 MR. KOTELLY: Thank you, Mr. Washington.

19 Nothing further, Your Honor.

20 THE COURT: All right, may the witness be excused?

21 MR. KOTELLY: Yes, Your Honor.

22 THE COURT: Thank you. You are excused.

3 (Witness excused)

4 MR. KOTELLY: Your Honor, may we approach the bench?

5 THE COURT: Yes.

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1 (Thereupon, counsel for both parties approached  
2 the bench and conferred with the Court, as follows:)

3 MR. KOTELLY: Your Honor, this is another witness  
4 I only learned about during lunchtime and I would ask again  
5 for a proffer as to relevance.

6 MR. WATKINS: Mrs. Roundtree wasn't here when Mrs.  
7 Stultz testified completely. After the question of immunity  
8 was said, she left.

9 She recalls her testimony, she indicated that the  
10 testimony was a result of a question by Mr. Kotelly about  
11 immunity that she didn't have it or she had made no promise  
12 had been made.

13 THE COURT: She had been writing.

14 MR. WATKINS: Mr. Povich asked her about that again  
15 and she fought him and suggested that no promise had been  
16 made for her testimony.

17 I know that's not the case and when I told Mrs.  
18 Roundtree, she told me that was not the case. She had an  
19 understanding of what was supposed to go on and in fact she  
20 was, if you will, she felt she had been spun by the  
21 prosecutors because she was required, she felt she was due  
22 to get a letter before that lady took the stand and it was  
23 only at the bench when Mr. Kotelly told her "I will give you  
24 a letter after the trial is over."

25 That is an indication that is basically -- it shows

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1 the prosecution had potentially had a club over this person  
2 by not giving her that prior to her testifying, and I think  
3 I told that to Mrs. Roundtree. She said, "That is absolutely  
4 right; that we have a right to."

5 THE COURT: You haven't raised a question about  
6 admitting Mrs. Roundtree to testify about the relationship  
7 with her client.

8 MR. WATKINS: Mrs. Roundtree had some questions  
9 about that. I subpoenaed her, put her on subpoena and dis-  
10 cussed the matter with her. She's not testifying to confi-  
11 dential communications between herself and her client. There  
12 was a third person present; that was the prosecutor. That  
13 makes the matter not privileged. The presence of a third  
14 person makes the matters no longer confidential and Mrs.  
15 Roundtree was satisfied that that was the case, but out of  
16 an abundance of caution she asked me, she said, "If I testify,  
17 Mr. Watkins, you are going to have to put me under a  
18 subpoena."

19 I told her, "Mrs. Roundtree, I will do that," and  
20 I put her under subpoena.

21 MR. POVICH: It was --

22 MR. KOTELLY: Might I be heard on this matter?

23 THE COURT: You said Mrs. Roundtree was not present  
24 in court, so what Mrs. Stultz testified to in court, we don't  
25 know that concerned matters she discussed with her lawyer.

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1           Apparently, it didn't.

2           MR. WATKINS: The point I want to deal with, Your  
3 Honor, is not the question what Mrs. Stultz might exclusively  
4 -- what Mrs. Stultz testified to in court.

5           I guess it is both things: First, in a pretrial  
6 negotiation with the prosecutor what she had been promised,  
7 the fact that promise was not fulfilled, and the fact that  
8 the promise came about.

9           THE COURT: The thing that kind of amazes me about  
10 this line of interrogation is that normally where a witness  
11 has received no promise at all, his testimony is received  
12 with greater consideration by the prosecutor. At least in  
13 those circumstances there is presumably more opportunity for  
14 the person to tell the truth without reference to the promise  
15 of the prosecutor.

16           I recall, for instance, in this Pollack case, which  
17 lasted about six weeks and it was a fraud case and counsel  
18 for Pollack, Mr. Warren McGee, who was a very astute lawyer,  
19 he represented Congressman May, incidentally, which I thought  
20 you were quoting.

21           He was very anxious to bring out that these witnesses  
22 who were testifying for the Government had received promise  
23 as a result of which they were testifying and most of them  
24 had, but here this woman . . . they hadn't received any promise.

25           MR. POVICH: That's precisely the point, Your Honor.

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1 THE COURT: Hadn't received any promise until she  
2 came to the bench, and at that time when counsel said, "No,  
3 we are not going to prosecute her," Mrs. Roundtree said  
4 "That's good enough for me" and I said "And I will enforce  
5 that promise."

6 MR. WATKINS: That's correct, but the problem is,  
7 Your Honor, Mrs. Roundtree and her client were told by the  
8 prosecutor that he would have something in writing and it  
9 was--that was the condition under which she intended to testify.

10 If you will recall the testimony after Mrs. Stultz  
11 gave her name, she turned to you and said, "Your Honor, may  
12 I address the Court?"

13 THE COURT: Yes, I remember that.

14 MR. WATKINS: And you said, "No, answer the question.  
15 And I assume that Mrs. Roundtree had abandoned her feeling  
16 that she should have a letter or some writing before her  
17 client testified.

18 I turned around when I was at the bench and Mrs.  
19 Roundtree was motioning to me. We went out into the corridor  
20 and she said to me, "Mr. Watkins, she was trying to assert  
21 her Fifth Amendment rights because we did not receive the  
22 letter that we were entitled to or we were promised to her  
23 testifying", and that's what brought this about.

24 It seems to me, Your Honor, it is important for  
me to show that fact, that she was promised a letter prior

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1 to her testifying. She did not receive it. She tried to  
2 assert her Fifth Amendment privilege and that letter --

3 THE COURT: But the point is she got the equivalent  
4 of it before she gave any testimony other than her name.

5 MR. WATKINS: Your Honor, the problem is, you see,  
6 it indicates that the prosecution was in a position to hold  
7 this letter up until she waited, until she testified.

8 THE COURT: Not necessarily. I think you are making  
9 a mountain out of a molehill on this Roundtree testimony  
10 and I am definitely concerned about calling a lawyer to  
11 testify about some understanding with a client.

12 MR. WATKINS: It was not an understanding with her  
13 client I'm inquiring to, it's an understanding with the  
14 prosecutor.

15 MR. POVICH: It was contrary to what her testimony  
16 was on the stand, Your Honor. It was directly contrary to  
17 her testimony on the stand. She said no promise had been  
18 made.

19 I couldn't believe Mr. Kotelly got up and got that  
20 answer and left it.

21 MR. KOTELLY: May I respond to that?

22 MR. POVICH: It is not the truth.

23 MR. KOTELLY: That was the truth. Mr. Povich  
24 doesn't understand the facts of the matter.

25 MR. POVICH: That's why we should have Miss Roundtree

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1 MR. KOTELLY: Then we would have to bring on another  
2 prosecutor to rebut Mrs. Roundtree, Your Honor.

3 THE COURT: I'm going to try to keep this case on  
4 track as far as I can. That's my job. I don't think Mrs.  
5 Roundtree has anything to add to this case that's material  
6 right now.

7 A promise was made right at the bench and whether  
8 that colored her testimony or not I don't know.

9 MR. WATKINS: Your Honor, I don't mean to argue  
10 before you or after you rule, but it seems to me that matters  
11 relating to immunity always affect the credibility of a wit-  
12 ness.

13 What happened in this case was Mr. Kotelly asked  
14 if there were any promises made.

15 MR. KOTELLY: At what point in time, Your Honor.

16 MR. WATKINS: Asked if any promises were made and  
17 Mrs. Stultz said no, and that is clearly not the case, because  
18 you remember right here at the bench Mr. Kotelly promised  
19 he would give her a letter after she testified promising  
20 she would not be prosecuted. Now, that is a matter that goes  
21 to her credibility.

22 THE COURT: The essential thing is that we met at  
the bench, Mr. Kotelly represented that she would not be  
prosecuted and Mrs. Roundtree said "That's good enough for  
me."

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1 MR. POVICH: Contrary to her testimony.

2 MR. WATKINS: It's contrary to Mrs. Stultz' testi-  
3 mony. Mrs. Stultz said she received no promise and Mr.  
4 Kotelly asked her that on direct examination and left it.

5 THE COURT: Wait a minute. Mrs. Roundtree said  
6 she would like to speak to Mrs. Stultz in the witness room.  
7 She did and she came back and Mrs. Stultz when asked about  
8 immunity said she talked to Mrs. Roundtree and she had the  
9 assurance from Mrs. Roundtree.

10 MR. WATKINS: I think, Your Honor, that's -- I hate  
11 to disagree with Your Honor but I think that's not the way  
12 the evidence came out. There would have been no need for  
13 me --

14 THE COURT: Let's look at the record. Who took  
15 the testimony of Mrs. Stultz?

16 Who took the testimony of Mrs. Stultz, Regis or  
17 you?

18 THE REPORTER: Regis did.

19 THE COURT: Unfortunately, she is in the hospital  
20 right now.

21 MR. POVICH: Your Honor, I hate to say it, if they  
22 put me on the witness stand and they went into that testimony  
23 as clearly and positively as anything. I was caught completely  
24 unaware that had been testified to the best of my recollection,  
25 but I understand the importance of it and Judge Pratt

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1 understood the importance of it and the people who had to  
2 decide the credibility of one witness who I represented  
3 understood the importance of it, and they went into it in  
4 some detail and the record was made clear for everybody to  
5 understand, not just us up here, and I would suggest that  
6 particularly with respect to her answers on direct examination  
7 by the Government as to whether any promises were made, that  
8 the question was brought up by the Government. It was never  
9 fully answered and it should now be brought out in our case.

10 THE COURT: We will take the testimony of Mrs.  
11 Roundtree out of the presence of the jury and see what you  
12 all have to say.

13 (Thereupon, the proceedings had at the bench  
14 were concluded; counsel returned to their seats at  
15 counsel table, and the proceedings were resumed,  
16 as follows:)

17 THE COURT: Ladies and gentlemen, a problem has  
18 come up at this time concerning a legal question. I am  
19 going to excuse you all for the day, since I started at 8:30.

20 MR. WATKINS: Your Honor, I hate to ask this.

21 THE COURT: The Court has ruled, Mr. Watkins. I'm  
22 going to excuse the jury right now and I will hear this other  
23 stuff.

MR. WATKINS: It doesn't relate to this matter,  
Your Honor; may I be heard?

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1 (At the bench)

2 MR. WATKINS: Your Honor, because I knew you were  
3 concerned with moving this case along swiftly, I have a wit-  
4 ness who came at 1:30 because, on the representation that  
5 Mr. Kotelly was going to finish at 12:00 o'clock. He is  
6 here in the witness room. He has waited patiently until now  
7 on the promise that he would get on today.

8 THE COURT: How long is the witness?

9 MR. WATKINS: He is a character witness and will  
10 take a very short time.

11 THE COURT: We will hear that witness before the  
12 jury leaves.

13 MR. WATKINS: Thank you, Your Honor.

14 (Thereupon, the proceedings had at the bench  
15 were concluded and the proceedings were resumed  
16 in the presence and hearing of the jury)

17 THE COURT: Ladies and gentlemen, I am going back  
18 on my promise about letting you go at this time. They have  
19 a promise, they have a very short witness to call at this  
20 time.

21 MR. WATKINS: Walter Fauntroy.

22 (Continued on the following page:)

23  
24  
25  
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1 Whereupon,

2 WALTER E. FAUNTROY

3 was called as a witness by and on behalf of the  
4 defendant and, having first been duly sworn, was  
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. WATKINS:

8 Q Good afternoon, sir.

9 Would you tell us your name, please?

10 A My name is Walter Edward Fauntroy.

11 Q And where do you live?

12 A I live at 4105 17th Street, Northwest, Washington,  
13 D. C.

14 Q What is your occupation, sir?

15 A I am Pastor of the New Bethel Baptist Church of  
16 Washington, D. C., and I am the D. C. Delegate to the U. S.  
17 Congress for the District of Columbia.

18 Q Do you know Mr. Charles C. Diggs?

19 A I do.

20 Q How long have you known him and in what capacity  
have you known him?

A I have known Mr. Diggs personally since approximately  
1960, when I was asked by Martin Luther King, Jr. to serve  
as the Washington Bureau Director of the Southern Christian  
Leadership Conference, and in that capacity it was my

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1 responsibility to relate to both the Congress of the United  
2 States and the Executive Branch of our Government with  
3 respect to our Civil Rights activities.

4 Q And have you known him in other capacities since  
5 1960?

6 A I have known him both as a supporter of the efforts  
7 in the South where I worked particularly with him in 1965,  
8 when Dr. King asked me to contact him to assemble a group  
9 of Members of the Congress to travel to Selma, Alabama, as  
10 a moral witness for our Voting Rights effort.

11 Thereafter, my contacts with Mr. Diggs were a result  
12 of my being elected to represent the people of the District  
13 in the Congress. At that time I became a member of what is  
14 known as the Congressional Black Caucus, which in that year  
15 was founded by Mr. Diggs, and which relied not only on his  
16 leadership but his knowledge as perhaps the most knowledgeable  
17 person on Africa in the Congress.

18 THE COURT: Mr. Fauntroy, you know the Congressman?

19 THE WITNESS: Yes.

20 THE COURT: Do you have an opinion as to his truth,  
21 his integrity and his honesty?

22 THE WITNESS: I do.

23 THE COURT: Would you say what that opinion is?

24 THE WITNESS: That opinion is that he is a man of  
25 great integrity, dedication and one whom I have come to trust

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1 for his judgment.

2 Not only with respect to Caucus matters and Africa  
3 but with respect to his role --

4 MR. KOTELLY: I object to regard to trust of judg-  
5 ment.

6 THE COURT: This is character testimony only. You  
7 can testify as to your opinion as to his truthfulness, his  
8 honesty and his integrity.

9 BY MR. WATKINS:

10 Q Could you address each one of those separately?

11 THE COURT: He has done that. He regards him as  
12 a man of truthfulness, integrity and so forth.

13 BY MR. WATKINS:

14 Q And honesty; is that correct?

15 THE COURT: Honesty.

16 THE WITNESS: And dedication.

17 MR. WATKINS: Fine. Thank you, Mr. Fauntroy.

18 THE COURT: Do you have any questions, Mr. Kotelly?

19 MR. KOTELLY: Just a few questions, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. KOTELLY:

22 Q Mr. Fauntroy, is Mr. Diggs a member of your church?

23 A He is not.

24 Q Do you see Mr. Diggs socially?

25 A No, not on a regular basis. When we have Caucus

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1 | affairs, of course, I see Mr. Diggs and let me say that with  
2 | respect to my role in the church, he comes to church once  
3 | in a while.

4 | Q But he's not a member of the church?

5 | A Not a member of New Bethel Baptist Church.

6 | Q Have you ever been to Mr. Diggs' home?

7 | A No, I have not.

8 | Q Has he ever come to your's?

9 | A Let me -- he came to my church I think it was when  
10 | I lost my mother and it was the church, it was not the home.

11 | Q Your home is next door or close by to your church,  
12 | correct?

13 | A No. At the time of my mother's passing it was the  
14 | parsonage had been removed from the church building.

15 | Q So your testimony is that he has not been to your  
16 | home then?

17 | A Yes.

18 | Q Reverend Fauntroy, are you aware of the facts and  
19 | the evidence in this case?

20 | A No, I am not, quite frankly.

21 | Q So that has not entered into your opinion as to  
22 | Mr. Diggs' honesty, integrity and truthfulness, any facts  
23 | that may have been related in this case?

24 | A Let me say that I am generally aware, but I am not  
25 | specifically aware, and my general knowledge does not in any

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1 way change my response to the Judge's question.

2 Q Let's see if I understand. Your general knowledge  
3 of the facts and evidence in this case has not altered your  
4 opinion of Mr. Diggs?

5 MR. WATKINS: Objection, Your Honor, he didn't  
6 state he was aware of the facts and evidence in this case.  
7 He said he was generally aware of the case.

8 MR. KOTELLY: Let me clarify that matter.

9 MR. WATKINS: Mr. Fauntroy wasn't here in the court-  
10 room, he can't be aware of the facts in this case.

11 THE COURT: You may rephrase your question.

12 BY MR. KOTELLY:

13 Q Let me clarify, or I would ask you to clarify what  
14 you mean by knowing the facts of this case. Do you know the  
15 facts of this case?

16 A I respond directly, I do not know the facts with  
17 respect to this case.

18 Q Have you read about the case?

19 A I have read portions of articles about the case.

20 Q Have you read those portions of articles during  
21 the start of the trial in this case; in other words, since  
22 last Wednesday?

23 A I have seen headlines and read maybe first paragraphs

24 Q Of the small portions of what you read, has that  
25 in any way entered into your opinion testimony regarding

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1 Mr. Diggs' honesty, integrity and truthfulness?

2 A Not at all.

3 Q Reverend Fauntroy, are you familiar with what Mr.  
4 Diggs' financial condition was during the period 1973 through  
5 1976?

6 A No.

7 Q Do you have any knowledge as to how Mr. Diggs paid  
8 for his financial obligations during that period of time?

9 A No.

10 Q Do you have any knowledge as to how Mr. Diggs paid  
11 for his House of Representatives expenses during that period  
12 of time?

13 A No.

14 Q Do you have any knowledge as to how Mr. Diggs paid  
15 for some expenses of the House of Diggs Funeral Home in  
16 Detroit, Michigan?

17 A No.

18 MR. KOTELLY: I have no further questions, Your  
19 Honor.

20 THE COURT: Mr. Watkins?

21 REDIRECT EXAMINATION

22 BY MR. WATKINS:

23 Q Mr. Kotelly asked you if Congressman Diggs had  
24 ever been to your home. Do you know him, do you socialize  
25 with him on a regular basis?

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1 A Not on a regular basis.

2 Q Your associations as you listed them, I take it,  
3 were because of your involvement with the Civil Rights  
4 Movement.

5 A I was not allowed, or did not complete my statement  
6 with respect as to how I know him.

7 MR. KOTELLY: Your Honor, I object to going back  
8 over old territory that was done on direct. There is no  
9 dispute that the Reverend Fauntroy knows Mr. Diggs.

10 THE COURT: Counsel, please come to the bench.

11 (Thereupon, the witness stepped down from the  
12 stand; counsel for both parties approached the bench  
13 and conferred with the Court, as follows:)

14 THE COURT: Gentlemen, I earlier read you slowly  
15 and carefully about opinion testimony, and I think that this  
16 witness has tresspassed a great deal on my ruling.

17 I am not sure that it was a result of anything you  
18 asked, but I think we have been enough into the question of  
19 his activities with Martin Luther King and Black Caucus and  
20 Civil Rights and all that.

21 MR. WATKINS: Your Honor, Mr. Kotelly challenged  
22 him knowing Mr. Diggs on the grounds that he hadn't been to  
23 his home and I think I have the right to establish that he  
24 has his relationships with him, they have been in a professional  
25 relationship, they have been in the Congress, and he is the

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1 voting delegate of the District of Columbia and Mr. Diggs  
2 is Chairman of the Subcommittee on the District of Columbia.

3 THE COURT: I understand that. He made that point  
4 clear.

5 MR. WATKINS: I don't think he did, Your Honor.

6 MR. POVICH: Mr. Kotelly has suggested on cross-  
7 examination that it is a very casual relationship and he did  
8 not know him very well at all, and I think Mr. Watkins has  
9 a right to bring out what the relationship is and the extent  
10 they do know each other.

11 I think it would be highly improper to leave his  
12 testimony he has never been to his home.

13 THE COURT: I don't think that's important. He  
14 has stated that he has associated closely in the House of  
15 Representatives, as a member of the Black Caucus, which was  
16 organized by Mr. Diggs. He is a member of the District  
17 Committee and he associates closely with him there.

18 I think that's a sufficient basis for the opinion  
19 he expressed. I don't think we have to go over that ground  
20 again. Let me read you what the basis on which I instructed  
21 you earlier.

22 "Opinion testimony on direct in these situations  
23 ought in general to correspond to reputation testimony  
24 as now given and be confined to the nature and extent  
25 of the observation and acquaintance upon which the

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1 opinion is based."

2 MR. POVICH: Acquaintance, Your Honor, that's the  
3 point.

4 THE COURT: He's already testified to that. He  
5 doesn't need to retestify to that.

6 MR. POVICH: It's not a question of retestifying,  
7 it's a question of amplifying what he said. He said he --

8 THE COURT: He has already told about his associa-  
9 tions in the House of Representatives. The only thing Mr.  
10 Kotelly brought out was that they do not have a relationship  
11 as a result of which he visits Mr. Diggs' home and Mr. Diggs  
12 visits his home. He said once it may have happened. It's  
13 perfectly clear.

14 MR. POVICH: Let me give you an example. Like you  
15 are saying, what is your relationship with another judge.  
16 Well, we are both judges on the same bench now, that doesn't  
17 give any indication of when you meet, where you eat, what  
18 do you discuss, how often do you speak with each other, what  
19 matters are there.

20 That is much more probative than the fact you are  
21 both judges on the bench.

22 THE COURT: Mr. Povich, he has testified to his  
23 relationship in the community with Mr. Diggs. It's just he  
24 doesn't visit his home and I don't think that is important.  
25 It's argument.

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1 MR. WATKINS: Let me just say one thing; may I be  
2 heard on one point?

3 I think Your Honor cut him off and probably properly  
4 so at the point where he was talking about Martin Luther King.

5 The thing I wanted to bring to the jury's attention  
6 is the fact Mr. Fauntroy and Mr. Diggs regularly associate  
7 themselves and work together on District of Columbia matters.  
8 That's the only thing that I want to get out.

9 I may have to do it in a leading form.

10 THE COURT: I don't object to your leading because  
11 I think if you ask him that question, he will talk for 15  
12 minutes.

13 MR. WATKINS: If I do it in a leading manner, I  
14 think I can make the matter brief.

15 THE COURT: All right.

16 REDIRECT EXAMINATION (continued)

17 BY MR. WATKINS:

18 Q Mr. Fauntroy, is it fair to say in your position  
19 as Delegate from the District of Columbia, you associate and  
20 deal with Congressman Diggs regularly in his capacity as  
21 Chairman of the House District Committee?

22 A That is true.

23 MR. WATKINS: Thank you, Mr. Fauntroy.

24 MR. KOTELLY: Nothing further, Your Honor.

25 THE COURT: Thank you, Mr. Fauntroy. You are

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1 excused.

2 (Witness excused)

3 THE COURT: Now, ladies and gentlemen, I will keep  
4 my promise; you are excused for the day.

5 Don't discuss the case amongst yourselves and don't  
6 let anybody talk to you about it and don't talk to anybody  
7 about it.

8 All right, tomorrow morning, 9:30.

9 (Whereupon, at 4:45 p.m. the jury left the  
10 courtroom)

11 THE COURT: All right, Mr. Povich.

12 MR. POVICH: Yes, Your Honor, I think Mr. Watkins  
13 wanted to address you with respect to the witness.

14 MR. WATKINS: Mrs. Roundtree.

15 Whereupon,

16 DOVEY J. ROUNDTREE

17 was called as a witness by and on behalf of the  
18 defendant and, having first been duly sworn, was  
19 examined and testified as follows:

20 VOIR DIRE EXAMINATION (out of presence of the jury)

21 BY MR. WATKINS:

22 Q Would you state your name and occupation, please?

23 A Dovey J. Roundtree. I am an attorney at law.

24 Q Are you an attorney at law here in the District  
25 of Columbia?

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1 A I am.

2 Q Mrs. Roundtree, are you testifying here under  
3 subpoena?

4 A I am.

5 Q Now, Mrs. Roundtree, did you represent a witness  
6 named Jean Stultz in the investigation and the trial of this  
7 matter?

8 A I did.

9 Q Did there come a time when you had discussions on  
10 behalf of your client, Mrs. Stultz, with the prosecutors,  
11 that is Mr. Marcy and Mr. Kotelly?

12 A Yes.

13 Q And what were the results of that discussion?

14 A We reached an agreement regarding the matter.

15 Q Were you promised anything as a result of that?

16 A I was assured that she would be granted immunity  
17 prior to her testimony, it was my understanding.

18 Q And were you, did they indicate or did you learn  
19 what form that immunity would take?

20 A I understood that they were going to furnish me  
21 with a memorandum which I personally requested.

22 Q And did you receive that memorandum prior to the  
23 time Miss Stultz took the stand?

24 A No, I did not.

25 Q As a result of your not receiving that memorandum,

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1 did there come a time when you had to come into this court  
2 and have a bench conference?

3 A I did.

4 Q And what did you learn at that time, Mrs. Roundtree?

5 A I learned that Mr. Kotelly was going to give me  
6 a statement at the conclusion of the testimony.

7 Q What else happened at that point?

8 A At that time after a discussion at the bench, Mr.  
9 Kotelly agreed that he would give immunity to Mrs. Stultz  
10 as I had wished before she testified.

11 MR. WATKINS: Thank you.

12 MR. KOTELLY: Your Honor, if I might ask some ques-  
13 tions of Mrs. Roundtree?

14 THE COURT: Yes.

15 VOIR DIRE EXAMINATION (out of the presence of the jury)

16 BY MR. KOTELLY:

17 Q Mrs. Roundtree, did you represent Miss Stultz back  
18 in late May and early June when she came to the Office of  
19 the United States Attorney -- that's late May, early June  
20 of this year, when she came to the Office of United States  
21 Attorney, and around the time she testified before the grand  
22 jury?

23 A I represented her since May 1978.

24 Q Do you recall the reasons that Miss Stultz came  
25 to you initially in this matter relating to this case?

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1 MR. WATKINS: Your Honor, I think at this stage,  
2 we are in the attorney/client privilege matter because this  
3 concerns --

4 THE COURT: I think that's correct.

5 MR. KOTELLY: Although the witness testified.

6 THE COURT: It seems to me, Mr. Kotelly, it is  
7 getting close to the end of the day. As you know, we started  
8 this morning at 8:30. I am painfully aware of that right  
9 now.

10 But it seems to me that Mrs. Roundtree's testimony  
11 on direct has told the matter.

12 MR. KOTELLY: They started two weeks ago rather  
13 than last May when this case started.

14 THE COURT: Mr. Kotelly, don't argue with the Court.

15 MR. KOTELLY: The representations have only come  
16 from defense counsel.

17 THE COURT: Let's simply file these things rather  
18 than confusing and compounding it. The question of whether  
19 or not immunity was promised was dealt with at the bench to  
20 Mrs. Roundtree's satisfaction.

21 MR. KOTELLY: Correct.

22 THE COURT: She said your representations at the  
23 bench that her client would not be prosecuted was sufficient  
24 for her and as you recall, the Court added these words, "And  
25 I will enforce the representations of the United States  
Attorney."

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1 MR. KOTELLY: Yes, I was aware of that.

2 THE COURT: And then Mrs. Roundtree stated she would  
3 like to be excused briefly to go to the witness room with  
4 her client so she could relate to her client what transpired  
5 at the bench.

6 She was excused. She went out there and thereafter  
7 her client said, "Yes, I got the assurance from Mrs.  
8 Roundtree for immunity."

9 MR. KOTELLY: That's not in dispute, Your Honor.

10 THE COURT: That's all there is to the case.

11 MR. KOTELLY: Your Honor, what is in dispute is  
12 to whether Miss Stultz misstated a fact during her testimony  
13 as to whether promises had been made at the time that she  
14 was notified and her bank records were subpoenaed, because  
15 that's the question was asked, whether promises were made  
16 when she first came in to talk to the prosecutors and went  
17 before the grand jury.

18 Now, Mr. Povich and Mr. Watkins are making it sound  
19 as if those promises she said were not made were relating  
20 to two weeks ago when we are talking about totally different  
21 time periods.

22 THE COURT: I don't know whether Mrs. Roundtree  
23 knows anything about that and I'm very reluctant, Mr. Kotelly,  
24 to allow an attorney to be questioned about a relationship  
25 with a client.

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1 I have always felt very strongly about that and I  
2 feel no less strongly this afternoon at 10 minutes of 5:00.

3 MR. KOTELLY: I'm aware of the time and I will only  
4 ask a few questions very quickly, Your Honor.

5 THE COURT: I don't know about few questions, both  
6 sides are very good at asking many, many questions. If the  
7 lawyer forgets, then the witness comes forward with a speech,  
8 so we have problems in this case.

9 Let's keep it as simple as we can.

10 MR. KOTELLY: Yes, Your Honor.

11 VOIR DIRE EXAMINATION (continued)

12 BY MR. KOTELLY:

13 Q Miss Roundtree, were you present in late May or  
14 early June of this year at sessions with Mr. Beizer and Mr.  
15 Marcy of the United States Attorney's office and your client?

16 A I recall having attended at least one such session.  
17 There were others.

18 THE COURT: You had better get some advice from  
19 your colleague.

20 MR. KOTELLY: I was wrong about the year; it was  
21 May and June of '77.

22 THE COURT: We are not really concerned about the  
23 year, we are concerned about the extensiveness of cross-exami-  
24 nation right now.

25 MR. KOTELLY: Yes, Your Honor.

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1 BY MR. KOTELLY:

2 Q Were you present back in May or June of '77, at  
3 meetings with Miss Stultz and Mr. Beizer and Mr. Marcy of  
4 the United States Attorney's office?

5 A I was present at one such and I brought her for  
6 another such and I did not remain. She was here on occasions  
7 when I did not attend.

8 Q Did Mr. Marcy and Mr. Beizer advise your client  
9 of her constitutional rights?

10 A Not in my presence they did not.

11 Q Are you certain of that?

12 A I am certain of that. I advised her of her rights  
13 but they did not advise her not in my presence.

14 Q Well, you advised your client of her rights?

15 A I did.

16 Q Did she invoke her constitutional rights when she  
17 first met with the prosecutors in May and June of 1977?

18 A I had discussions regarding her rights.

19 Q With whom?

20 A Mr. Marcy.

21 Q And what promises were made back in May or June  
22 of 1977?

23 A No specific promise was made at that time to me.

24 Q So there was no promise of immunity for your client  
25 at that time?

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1 A At that particular time, no.

2 Q When was the first time that you brought that  
3 matter up with the United States Attorney's office?

4 A I brought it up at that time. You say the first  
5 time?

6 Q Yes.

7 A At that time I was concerned about it.

8 Q Did you request immunity for your client back in  
9 May or June of 1977?

10 A On that occasion that was my concern.

11 Q Did you request it, Mrs. Roundtree?

12 A As best I could, I did.

13 MR. KOTELLY: Your Honor, I see no reason to further  
14 cross-examine Mrs. Roundtree because, obviously, memories  
15 and recollections of that event differ greatly between Mr.  
16 Beizer, Mr. Marcy and Mrs. Roundtree, and also the testimony  
17 in the grand jury.

18 THE COURT: All right. I take it there is nothing  
19 else, Mr. Watkins?

20 MR. WATKINS: Nothing, Your Honor.

21 THE COURT: Thank you, Miss Roundtree.

22 THE WITNESS: Thank you, Your Honor.

23 (Witness excused)

24 THE COURT: Do you want to come to the bench?

25 MR. WATKINS: Yes.

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1 (Thereupon, counsel for both parties approached  
2 the bench and conferred with the Court, as follows:)

3 MR. WATKINS: Since I had Mrs. Roundtree under  
4 subpoena, I would like to know whether I'm going to be allowed  
5 to present this matter to the jury so I can release her or  
6 have her come back tomorrow.

7 THE COURT: Can you gentlemen agree as to what she  
8 would say if recalled?

9 MR. POVICH: We can't agree, Your Honor.

10 THE COURT: As to what she would say. That's the  
11 function of the witness. I mean Mr. Kotelly and Mr. Marcy  
12 disagree with what she says but if you can agree that if she  
13 were recalled and sworn as a witness she would testify in  
14 substance as follows, if you can write that out, we can spare  
15 her a little time.

16 MR. WATKINS: I don't think Mrs. Roundtree has any  
17 problem with the time, Your Honor. I would like to present  
18 her testimony to the jury, a stipulation is a dry set of facts.

19 Mrs. Roundtree's testimony, as I elicited this after-  
20 noon, took less than five minutes and that's all I would be  
21 asking her about. I don't see that there should be any need  
22 to prolong it.

23 THE COURT: That she once went to the U.S. Attorney's  
24 office in May or June with her client. At that time she asked  
25 for immunity as well as she could, but it wasn't granted then.

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1 when she was at the bench.

2 MR. WATKINS: That's not her testimony, Your Honor.  
3 Her testimony is she was promised a letter before her client  
4 would testify and she didn't get that letter before her client  
5 testified.

6 THE COURT: She didn't testify to that.

7 MR. WATKINS: I beg your pardon, Your Honor.

8 THE COURT: You mean this afternoon?

9 MR. WATKINS: Yes.

10 MR. POVICH: Yes, she did and that presumes, Your  
11 Honor, there was a promise which was made which was going  
12 to be incorporated in the letter.

13 THE COURT: Was there any statement as to when the  
14 letter would be supplied or when this promise was made?

15 MR. WATKINS: Yes. The promise was made earlier  
16 in the summer. She understood that she was to get the  
17 letter whenever her client took the stand and that's why we  
18 had this situation where Mrs. Stultz turned to Your Honor  
19 and said, "May I address the Court?" Because she hadn't  
20 received the letter.

21 And that's what caused the bench conference and that  
22 is the fact that I think has to be elicited, that Mrs. Stultz  
23 or Mrs. Roundtree was promised on behalf of Mrs. Stultz a  
24 letter before she testified and she didn't get that letter.

25 THE COURT: Well, whenever she testified she got

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1 the direct promise which was satisfactory to her and so again  
2 I say the witness who is testifying after a grant of immunity  
3 is more vulnerable to argument that the testimony is colored  
4 by the grant of immunity than the witness who hasn't gotten  
5 such a promise and you have got right now at the bench  
6 conference, the representation of the District Attorney  
7 that she would not be prosecuted. So all the testimony is  
8 subject to the immunity.

9 MR. WATKINS: Your Honor, first, Mrs. Stultz  
10 attempted not to testify because she didn't have immunity  
11 in the sense that she didn't have the letter that she understood  
12 that she was to get.

13 THE COURT: I understand that, Mr. Watkins, but  
14 she didn't testify until she got the immunity.

15 MR. WATKINS: While we know it at the bench, I  
16 think the jury has the right to know that as well.

17 THE COURT: She testified and I don't have it recorded  
18 in my notes, but Regis' notes would reflect it. I don't know  
19 whether you can read Regis' notes or not, but there was  
20 testimony from the witness that she had talked to Mrs. Roundtree  
21 in the witness room and she was satisfied of the promises  
22 the Government had made, or something like that, was the  
23 reason it was made.

24 MR. WATKINS: She fought Mr. Povich.

25 THE COURT: Not everybody loves Mr. Povich, you  
know that.

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1 MR. WATKINS: Most people do, Your Honor.

2 THE COURT: I'm sure they do but not the witnesses  
3 that you seek to interrogate.

4 MR. WATKINS: What happened was Mrs. Stultz was  
5 asked on Redirect by Mr. Kotelly whether any promises had  
6 been made and Mrs. Stultz gave a fantastic answer. I mean  
7 it was fantastic to me because here at the bench, Mr. Kotelly  
8 promised that she was going to get immunity, and she answered  
9 Mr. Kotelly, no.

10 Mr. Kotelly sits down and Mr. Povich gets up and  
11 says to her, "Now, Mrs. Stultz, you were given immunity weren't  
12 you?" And she says, "No." That's one.

13 THE COURT: I don't recall her saying that. I know  
14 she was given immunity.

15 MR. WATKINS: We all know she didn't, but the question  
16 is what she testified.

17 THE COURT: She got the immunity before she testified  
18 didn't she?

19 MR. POVICH: She wasn't given immunity until she  
20 took the stand and that was not --

21 THE COURT: She didn't testify until she got the  
22 immunity.

23 MR. POVICH: Yes, but that was not the truth.

24 THE COURT: She stated her name and address; that's  
25 all she stated.

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1           Then Mr. Watkins called to my attention that she  
2 was trying to communicate with me and why. That's when we  
3 had the bench conference.

4           MR. POVICH: Her testimony was she did not have  
5 immunity was not correct. She had been offered immunity.  
6 She had been told you will get the letter confirming it  
7 before trial. She waited. Miss Roundtree waited.

8           They were somewhat incensed they didn't have the  
9 letter. She was put on the stand. She was asked questions.  
10 She tried to interrupt you to say "I don't have my letter;  
11 I'm not going to rely on just what the Government told me  
12 about immunity," and that's when we had the problem.

13           But her answer that she had not been granted immunity  
14 was wrong and not only that, they held her hostage until she  
15 did testify. They didn't give her that letter. They didn't  
16 give her even though Mrs. Roundtree will testify and that's  
17 important.

18           THE COURT: That's where you leave me because a  
19 person who has not been promised immunity is likely to be  
20 less under the gun. One who has immunity can go ahead unless  
21 they commit perjury.

22           MR. POVICH: She did go ahead. She did go ahead.  
23 Right at one point she just cut loose, but the point was they  
24 had her really up tight before hand because she was either  
25 going to testify the way they wanted or she wasn't going to

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1 get her letter.

2 MR. WATKINS: You see, Your Honor, for us, we under-  
3 stand what the promise of immunity is by the prosecutor.  
4 Mrs. Stultz understood, as I heard her testimony, that her  
5 promise would be, was only good when it was contained in a  
6 written document. That's why she didn't want to testify and  
7 it was only after we came to the bench that Mrs. Roundtree  
8 learned that Mr. Kotelly didn't intend to give her that letter  
9 until after Mrs. Stultz testified and that's the problem.

10 MR. POVICH: That's the critical point, Your Honor.

11 MR. WATKINS: That's the critical point.

12 MR. POVICH: I have never heard of a situation  
13 where a prosecutor says that I will give you immunity in the  
14 form of a letter, but only after you testify, Madam Witness,  
15 only after you testify. Why is that?

16 THE COURT: The "only" is something you are adding,  
17 isn't it?

18 MR. KOTELLY: Yes, yes. Absolutely.

19 MR. POVICH: Let's put it this way, Your Honor.  
20 If you are entitled to the letter, you should have had it  
21 before and not after the trial.

22 THE COURT: I agree with that, however, I know that  
23 getting ready for trial there were times when I had to get  
24 ready for trial. I'm glad I don't have to anymore, but  
25 there were times when I had to get ready for trial and you

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1 just have a lot of things to do and sometimes things you  
2 should do you don't do.

3 MR. WATKINS: Mr. Kotelly said he didn't intend  
4 to give her a letter after she testified.

5 THE COURT: Is that correct?

6 MR. KOTELLY: It is my representation I told Mrs.  
7 Roundtree orally my promise was binding and that she had a  
8 promise her client wasn't going to be prosecuted.

9 She said to me, "What happens if you and Mr. Marcy  
10 and Mrs. Roundtree all die sometime in the next few weeks?"

11 I said, "I will get you a letter if that would satisfy  
12 you and put it in writing but my oral promise is binding."

13 Mrs. Roundtree understood that but wanted something  
14 to preserve it. I waited, Mr. Watkins, for you to finish  
15 and I would like to have an opportunity to say mine.

16 MR. WATKINS: I'm sorry, Mr. Kotelly.

17 MR. KOTELLY: I submit the defense in this case  
18 twisted around what Mrs. Stultz said and are trying in some  
19 way to impeach her, not on her inconsistent testimony, but  
20 because they are trying to make it appear now that there is  
21 some kind of a business involved as to what her understanding  
22 was and what she had knowledge of.

23 Miss Stultz said that the promise had been made and  
24 she had been assured by her lawyer that she was not going  
25 to be prosecuted, but there would be no immunity. There

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1 has not been a formal immunity in this case. The Government  
2 has not gone through the formal procedures of getting approval  
3 of the Attorney General and then applying to the Court for  
4 such immunity.

5 The informal immunity has the same effect, but to  
6 her it is just a promise of the prosecution that she is not  
7 going to be prosecuted and that is what was given two weeks  
8 ago when her lawyer asked us for it.

9 In May or June of '77 she was warned of her rights,  
10 told she was not getting immunity at that time and asked if  
11 she would waive her rights. She waived them and testified.  
12 And that's clear on the grand jury transcript and Mr. Watkins  
13 must know that.

14 MR. WATKINS: I know that, Your Honor, but it is  
15 clear that each time a witness takes the stand in a proceeding  
16 regardless of whether she waived her testimony, waived her  
17 Fifth Amendment rights in a prior proceeding, she is again  
18 exposing herself to prosecution unless she gets another grant  
19 of immunity and Mrs. Roundtree said, you know, "I want that  
20 grant of immunity or a promise from the prosecution in writing  
21 and she will not testify unless she gets that."

22 And that's what she tried to do and Mr. Kotelly and  
23 I would like to have those notes because I am certain and  
24 I was surprised that Mr. Kotelly said "I will give you --  
25 it's my intention to give you a letter of immunity after the  
trial."

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1 THE COURT: Where is that?

2 MR. WATKINS: I'm sure that's in whoever took the  
3 notes at the bench conference that day and I think that's  
4 important, Your Honor, because that indicates that Mr. Kotelly  
5 had the ability to hold this witness to say what he wanted  
6 under pains of penalty of being prosecuted.

7 That was the way she viewed it and it's not what  
8 we understand, it's what was the view in her mind, and in  
9 her mind she was not clear until she got that letter, and  
10 that's the problem that we have and that's why I'm concerned  
11 about this and I think the jury ought to know that she was  
12 of a mind to testify the way the prosecution wanted her to  
13 until she got that letter.

14 MR. KOTELLY: Your Honor, Miss Stultz is the only  
15 person who can testify to that and they did not cross-  
16 examine her on that issue and this extrinsic evidence doesn't  
17 go to what her state of mind was at all.

18 MR. POVICH: I cross-examined her. After you learned  
19 that you extracted the answer that no promise had been made  
20 which was the furthestest thing from the truth, I thought I  
21 should have cleared it up.

22 MR. KOTELLY: Your Honor, I would ask that portion  
23 of the transcript be transcribed. It was the last.

24 THE COURT: I don't know how we are going to do  
25 it. This girl can read the notes, but she's been working

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1 since 8:00 o'clock.

2 MR. KOTELLY: It's only a few questions, Your Honor.  
3 The last few questions on Redirect and the first couple ques-  
4 tions on Recross.

5 MR. POVICH: The bench conference I think is what  
6 should be transcribed.

7 MR. KOTELLY: They are arguing Miss Stultz made  
8 a misstatement of truth in her testimony as to no promises  
9 made. I submit they are taking this totally out of context  
10 as to when she was saying there were no promises made.

11 She was referring back to when she first came to  
12 Mr. Beizer's office after her records had been subpoenaed  
13 from Riggs bank and defense counsel have totally ignored that  
14 portion of her testimony when she said no promises were made  
15 at that time.

16 MR. WATKINS: I don't recall her making any statement  
17 about that time but I know that certainly she said there were  
18 no promises made and you and I know that is not correct.

19 THE COURT: The only way we can get this is by having  
20 a transcript and I don't have the heart to ask this girl to  
21 transcribe some other reporter's notes after having been  
22 transcribing herself since 8:30 this morning.

23 MR. WATKINS: Your Honor, may I suggest a solution?  
24 Mrs. Roundtree I am sure she would like to be released from  
25 the subpoena, but is there a time later on in the week when

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1 that portion of the transcript --

2 THE COURT: How long do you gentlemen expect to  
3 be going?

4 MR. WATKINS: Probably until Thursday unless the  
5 witnesses go faster than we expect.

6 THE COURT: Well, I'm glad to hear that. A very  
7 close friend of mine died this morning about 6:00 o'clock  
8 and she had extracted a promise from me to give the memorial  
9 address, a Lady Lewis, whose husband for many years repre-  
10 sented the London Times here in Washington.

11 She was a very close friend of mine whom I had known  
12 since I was in grade school, so I'm glad I will be available  
13 for that on Saturday afternoon.

14 MR. WATKINS: I'm sure you will be available on  
15 Saturday afternoon, Your Honor.

16 THE COURT: Now, you tell me, you're young and  
17 pretty but you can't transcribe all night. When do you think  
18 you might get to those notes in which these gentlemen --

19 (Discussion with the reporter off the record.)

20 LeCount, what do we have tomorrow morning?

THE CLERK: We have two arraignments and a status  
hearing.

THE COURT: All right, I think we can do that.

(Whereupon, at 5:05 p.m. the above-entitled  
matter was adjourned, to reconvene on October 4, 1978.)

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