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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
) Criminal No. 78-142
) vs.)
CHARLES C. DIGGS, JR.,)
) Defendant.)

EXCERPT OF PROCEEDINGS

Washington, D. C.

October 4, 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.

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JUDITH B. MOORE, CSR
Official Court Reporter

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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. For the Government Mr. John Kotelly and Mr. Eric Marcy. For the Defendant Mr. David Povich, Mr. Robert Watkins and Mr. Bernard Carl.

(Jury not present.)

MR. WATKINS: Your Honor, let me apologize for Mr. Povich and my client. They apparently have some difficulty with transportation at this time. I came to Court on my own. I expect them here any minute.

MR. POVICH: Sorry, Your Honor.

THE COURT: Good morning.

MR. POVICH: Good morning.

THE COURT: Miss Moore transcribed that portion of Mrs. Stultz' testimony that she had taken. I have read it. It bears out the representations of Mr. Kotelly.

MR. KOTELLY: Your Honor, based on that transcript we would submit that the testimony of Mrs. Roundtree would be relevant to impeach the testimony of Jean Stultz.

THE COURT: I wonder whether it would be relevant at all.

MR. KOTELLY: I can think of only the purpose of impeaching the Government witness as the basis for admitting that evidence. I hope that Mr. Povich is not trying to introduce Mrs. Roundtree's testimony to try to put the prosecutors

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1 in this case on trial because I would submit that that would
2 be improper in this case.

3 MR. WATKINS: Your Honor, may we approach the bench?

4 THE COURT: Yes.

5 (At the bench:)

6 MR. WATKINS: Your Honor, after reading this it
7 seems to me that I think there is a problem here. I would
8 like to suggest a solution that would not involve calling Mrs.
9 Roundtree. The problem that I see is Miss Stultz has said
10 throughout this portion of the testimony that she did not get
11 immunity. Then later at the end she said she got assurances
12 she would not be prosecuted.

13 THE COURT: She did not get immunity at the time.

14 MR. POVICH: She says she never got immunity.

15 MR. WATKINS: She keeps saying she didn't get im-
16 munity and I think that on page -- on the first page or page
17 two, no promises were made to her.

18 THE COURT: "Were any promises made to you at that
19 time as to prosecution?"

20 "No, they were not."

21 That's been Mr. Kotelly's representation.

22 MR. WATKINS: I understand that, Your Honor.

23 THE COURT: Yesterday Mrs. Roundtree stated that she
24 sought immunity at that time.

25 MR. WATKINS: My concern is that the jury may be

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1 confused as Mrs. Stultz is confused about the question of
2 whether immunity and assurances of no prosecution are the same.

3 I would ask Your Honor to clarify that matter in
4 the jury's mind by telling them Mrs. Stultz said she got
5 assurances. That is the same thing as immunity, a promise not
6 to prosecute. I think that would solve the problem and clear
7 it up. I understand Your Honor's concern about not calling
8 Mrs. Roundtree to testify and I share your concern and I only
9 did it with reluctance because my recollection was the first
10 statement Mrs. Stultz made she did not proceed with immunity.
11 I think under the circumstances I would just like to have that
12 point clarified with the jury and if it can be done by an in-
13 struction by the Court I'm perfectly satisfied with not calling
14 Mrs. Roundtree back.

15 MR. KOTELLY: Your Honor, if Mr. Watkins could put
16 something in writing I'm sure that we could probably agree to
17 some kind of instruction along those lines. It is a semantic
18 difference.

19 THE COURT: All right. Fine.

20 MR. WATKINS: Thank you, Your Honor.

(In open Court:)

21 THE COURT: Bring in the jury.

(Jury returned to the courtroom.)

22 THE COURT: Good morning, ladies and gentlemen.

23 Counsel may come to the bench.

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1 (At the bench:)

2 THE COURT: Gentlemen, who are the witnesses this
3 morning?

4 MR. WATKINS: Coretta Scott King, Andrew Young,
5 Coleman Young.

6 THE COURT: I take it these are character witnesses?

7 MR. WATKINS: These are.

8 THE COURT: I wish counsel would tell the character
9 witnesses to refrain from atmospheric statements as Mr. Faunt-
10 roy did at the outset. The whole issue, as I told counsel
11 yesterday, is whether they know the gentleman and whether
12 they have formed an opinion as to his truth and veracity and
13 honesty and his integrity and if they say they have; what is
14 that opinion? Let them state that opinion without reference
15 to all these campaigns that they may have undertaken. I don't
16 want that stuff in the record and I'm instructing them.

17 MR. POVICH: They have to talk about the basis for
18 their association.

19 THE COURT: They have had long associations with him
20 in various matters and I'm not going to let you bring in at-
21 mospheric discussions about the activities they have taken
22 part in in the South.

23 MR. WATKINS: Your Honor, it would be one thing if
24 Mr. Kotelly did not challenge the fact they know him. My
25 questions as yesterday, had he been to his house --

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1 THE COURT: I think that is too narrow. I think that
2 question is too narrow. Obviously there is a basis of ac-
3 quaintance of Fauntroy and the defendant.

4 MR. WATKINS: Certainly. I agree.

5 THE COURT: I take it you don't challenge these
6 people know Mr. Diggs.

7 MR. KOTELLY: Absolutely no challenge.

8 THE COURT: Let them state the reputation and in
9 their judgment the opinion they have as to his honesty,
10 integrity, truth and so forth. We are not going to have all
11 this business about what transpired in the South. Do you
12 understand?

13 MR. POVICH: Your Honor --

14 THE COURT: That he knew them well, that is under-
15 standable.

16 MR. POVICH: Just that he knew them well?

17 THE COURT: She knew him well and she has a basis
18 for her opinion. That's not challenged. That's my instruc-
19 tion.

20 MR. POVICH: I have to put on the record that I
21 object if the witness is permitted to give an opinion but is
22 not permitted to give the basis of her opinion, Your Honor.
23 Otherwise it is such a sanitized thing it is meaningless. The
24 jury has no feel for the value of that opinion. It is just
25 like we are walking in some cameo person.

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1 THE COURT: I understand what you want to do and I'm
2 not letting you do it.

3 (In open Court:)

4 MR. WATKINS: Mrs. Coretta Scott King.

5 Whereupon,

6 CORETTA SCOTT KING

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

10 DIRECT EXAMINATION

11 BY MR. WATKINS:

12 Q Good morning, Mrs. King.

13 A Good morning.

14 Q Would you state your full name for the record,
15 please?

16 A Coretta Scott King.

17 Q Where do you live, Mrs. King?

18 A I live at 234 Sunset Avenue, Northwest, Atlanta,
19 Georgia.

20 Q Mrs. King, are you the widow of Dr. Martin Luther
21 King, Jr.?

22 A Yes, I am.

23 Q Do you know, Mrs. King, Congressman Charles C. Diggs,
24 Jr.?

25 A Yes, I do.

001001

1 Q How long have you known him and under what circum-
2 stances?

3 A I have known him since the days of the Montgomery
4 Bus Boycott in 1956.

5 MR. KOTELLY: Your Honor, I'm going to object to
6 this.

7 THE COURT: I think Mr. Watkins can handle the
8 matter.

9 BY MR. WATKINS:

10 Q Just briefly, Mrs. King, can you tell us by dates
11 and just short description of events the times you have come
12 in contact with him over the years?

13 A In 1956 in Montgomery when he brought \$10,000 to
14 help us in the struggle --

15 MR. KOTELLY: Objection, Your Honor.

16 THE WITNESS: -- in 1957.

17 THE COURT: Sustained.

18 Mrs. King, just tell us whether you have known him
19 well or not. If you have known him well, whether you have
20 an opinion as to his honesty, his integrity and his truthful-
21 ness.

22 MR. WATKINS: Your Honor, if I may lead this witness
23 I think I can get it out.

24 THE COURT: Thank you, Mr. Watkins. You understand
25 the Court's position with respect to character evidence. It is

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1 a very narrow facet of the case.

2 BY MR. WATKINS:

3 Q Mrs. King, have you had a long association with the
4 defendant, Mr. Diggs, over a period of twenty-two or so years?

5 A Yes, I have.

6 Q And in the last 15 or so years has that been a very
7 close association?

8 A Yes, it has.

9 Q Now, Mrs. King, do you have a personal opinion as
10 to Congressman Diggs' honesty and integrity?

11 A Yes, I do.

12 Q What is that opinion, Mrs. King?

13 A In my opinion Congressman Diggs is a man of great
14 integrity and honesty and is a man of great dedication.

15 Q Mrs. King, do you have an opinion of whether Mr.
16 Diggs is a truthful person?

17 A Yes, I do.

18 Q What is your opinion?

19 A In my opinion in the experiences that I have had
20 with him I found him to be very truthful.

21 Q What do you base your opinion on, Mrs. King?

22 A I base my opinion on the experiences that I have had
23 in working closely with him during those years and also very
24 closely with the Congressional Black Caucus and the activities
25 that are associated with that.

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1 MR. WATKINS: Thank you very much, Mrs. King.

2 I have no further questions, Your Honor.

3 THE COURT: All right. Mr. Kotelly?

4 CROSS EXAMINATION

5 BY MR. KOTELLY:

6 Q Good morning, Mrs. King. I'm John Kotelly from the
7 Department of Justice.

8 A Good morning.

9 Q Mrs. King, have you heard about the evidence that
10 has been presented in this trial?

11 A I have only heard about it since the trial and prior
12 to that what has been written in the papers.

13 Q Have you been reading newspaper articles about
14 what has been transpiring in this trial?

15 A Not all of them, just some of them

16 Q Your opinion that you have given regarding Mr. Diggs'
17 honesty, integrity and truthfulness, in making that opinion
18 have you taken into consideration any facts that you may have
19 read about or heard about that have been presented in this
20 trial?

21 MR. POVICH: Your Honor, I object.

22 THE COURT: Overruled.

23 THE WITNESS: The things that I have read have not
24 affected my opinion about Mr. Diggs.

25 BY MR. KOTELLY:

001004

1 Q Mrs. King, do you have any knowledge as to Mr. Diggs
2 financial condition during the period of 1973 to the end of
3 1976?

4 A No. I did not know about his financial condition.

5 Q Do you know how Mr. Diggs paid for his financial
6 expenses and financial obligations during that time period?

7 A No, not personally. I have no personal knowledge
8 of that.

9 Q Do you know how he paid any of his expenses for the
10 House of Representatives during that time period?

11 A Not personally.

12 Q Do you have any knowledge as to how he paid some of
13 his expenses for the House of Diggs Funeral Home in Detroit,
14 Michigan?

15 A No. I have had no personal dealings with him at
16 that level.

17 MR. KOTELLY: I have no further questions, Your
18 Honor.

19 MR. WATKINS: No further questions, Your Honor.

20 THE COURT: Thank you, Mrs. King. You are excused.

21 THE WITNESS: Thank you, Your Honor.

22 (Witness excused.)

23 MR. POVICH: Would Your Honor indulge us for a
24 moment?

25 Ambassador Andrew Young.

001005

1 Your Honor, I'm sorry. We will take a witness out
2 of turn.

3 I would like to call the Reverend Jesse Jackson.

4 MR. WATKINS: Your Honor, I would like to apologize
5 for this delay. The weather this morning has caused some
6 delay in plane schedules and I think that is what the problem
7 is.

8 THE COURT: All right.

9 Whereupon,

10 JESSE LOUIS JACKSON

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

14 DIRECT EXAMINATION

15 BY MR. WATKINS:

16 Q Good morning, Reverend Jackson.

17 A Good morning.

18 Q Would you state your full name and address for the
19 ladies and gentlemen of the jury?

20 A Jesse Louis Jackson, 930 East 50th Street, Chicago,
21 Illinois.

22 Q Reverend Jackson, what is your occupation at the
23 present time?

24 A I am an ordained minister and the President of
25 Operation PUSH. People United to Save Humanity.

001006

1 Q Reverend Jackson, do you know Congressman Charles C.
2 Diggs?

3 A Yes.

4 Q How long have you known him?

5 A For approximately 14 years.

6 Q Could you tell us very briefly how you know him,
7 how you came to know him?

8 MR. KOTELLY: Your Honor, I would object to the
9 form of the question. Even though Mr. Watkins said "very
10 briefly" it can extend into all sorts of matters that would
11 be improper.

12 We would ask Mr. Watkins to lead this witness as
13 he did the previous witness.

14 THE COURT: I'm sure Mr. Watkins understands the
15 Court's instruction as to the basis for character opinion.

16 MR. WATKINS: Thank you, Your Honor.

17 BY MR. WATKINS:

18 Q Would you very briefly state how you know Congressman
19 Diggs, Reverend Jackson?

20 A I met him through Dr. King in the South and later
21 at Ebenezer Baptist Church as a Congressman who was identifyin
22 with the issues that we were raising in the South at that time.

23 Q That was what year, sir?

24 A Approximately 1964.

25 Q Did you have occasion to meet and associate with

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1 him at a later time?

2 A Ever since that time.

3 Q Do you consult with him on matters relating to
4 Africa, for instance?

5 A Yes, but other matters as well.

6 Q For instance?

7 A For instance during the period of the last years of
8 Dr. King's life we consulted on the war issue. Then immediately
9 after his death when we came to Washington for the Poor People's
10 Campaign, during that period and during the period when leaders
11 were coming together to try to deal with some alternative forms
12 of action to the Rights the Congressman took a leadership
13 position in organizing the National Black Political Assembly
14 which was our alternative form of struggle.

15 Then as our consciousness expanded to Africa there
16 I met the Congressman in Ghana.

17 Q Reverend Jackson, would it be fair to say that --

18 A I wish I could continue that last statement, if you
19 don't mind.

20 THE COURT: I will let Mr. Watkins ask the question.

21 THE WITNESS: -- in Ghana and later, of course, his
22 mother took very ill.

MR. KOTELLY: Your Honor, I must object to this.

23 THE COURT: Yes. You may summarize. I think the
24 basis for his close acquaintance with the defendant is

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1 established.

2 BY MR. WATKINS:

3 Q Reverend Jackson, do you continue to have a close
4 relationship and acquaintance and association with Charles
5 Diggs?

6 A Yes.

7 Q Now, Reverend Jackson, do you have an opinion, a
8 personal opinion as to Congressman Diggs' honesty and integrity?

9 A Yes, I do.

10 Q What is that opinion?

11 A It is that his character is impeccable and his
12 leadership has basically been based upon his integrity.

13 MR. KOTELLY: Leadership is not a character trait
14 in issue, Your Honor.

15 THE COURT: Just honesty, integrity and truthfulness.
16 We just want you to express your opinion as to those qualities
17 honesty, integrity and truthfulness.

18 THE WITNESS: Okay. So far as his honesty and
19 integrity and truthfulness, based upon my organizational and
20 personal experience with him I trust him absolutely.

21 MR. WATKINS: Fine. Thank you very much, Reverend
22 Jackson.

23 CROSS EXAMINATION

24 BY MR. KOTELLY:

25 Q Good morning, Reverend Jackson. I am John Kotelly

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1 from the Department of Justice.

2 A Yes sir.

3 Q Reverend Jackson, during the period 1973 to the end
4 of 1976 did you have any personal knowledge regarding Mr. Diggs
5 financial condition?

6 A No.

7 Q During that period of time did you have any knowledge
8 as to how Mr. Diggs paid his expenses, his personal expenses?

9 A No.

10 Q Did you have any knowledge as to how Mr. Diggs paid
11 his House of Representatives expenses?

12 A No.

13 Q Did you have any knowledge during that period of
14 time as to how he paid any expenses relating to the House of
15 Diggs Funeral Home which is in Detroit, Michigan?

16 A No.

17 MR. KOTELLY: Nothing further, Your Honor.

18 MR. WATKINS: I have one question, Your Honor.

19 THE COURT: All right.

20 REDIRECT EXAMINATION

21 BY MR. WATKINS:

22 Q During the period 1973 to 1976 your association with
23 Mr. Diggs was close: was it not?

24 A Correct.

25 Q And it was on matters that related to things other

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1 that his financial matters: is that correct?

2 A That's correct.

3 MR. WATKINS: Thank you, Reverend Jackson.

4 THE COURT: Thank you, Reverend Jackson. You are
5 excused.

6 THE WITNESS: Thank you, sir.

7 (Witness excused.)

8 MR. POVICH: Your Honor, can we approach the bench?

9 THE COURT: Yes.

10 (At the bench:)

11 MR. WATKINS: I spoke with Ambassador Young this
12 morning in my office. He was to be here at ten o'clock. He
13 had a car and was driving. I don't know what has happened
14 to him.

15 THE COURT: Do you have another witness?

16 MR. WATKINS: Two or more witnesses we know of.

17 MR. POVICH: Let me explain the situation. Last
18 night, Your Honor, we had decided to move forward very quickly
19 with this case. It is our hope that if we can call the wit-
20 nesses that we want today that most of them -- we have elimi-
21 nated some lengthy witnesses and we would like to substitute
22 two very short witnesses and it is our intention to finish
23 our case today.

24 THE COURT: Are you going to put the Congressman
25 on?

MR. POVICH: Yes and we are going to close very

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1 quickly. What we do need right now, Your Honor, is time to
2 check to make sure the other two witnesses are here. If we
3 can have a brief recess I think we can move this case on very
4 quickly. What I would like to do in addition, Your Honor, I
5 have two character witnesses in addition to Mr. Young. There
6 are two character witnesses that I would like to put on as
7 well which I had initially not contemplated calling because I
8 was going to call people such --

9 THE COURT: You have got two character witnesses to
10 go.

11 MR. POVICH: I have three character witnesses.

12 THE COURT: Two to go. You are limited to six. You
13 have put on four.

14 MR. WATKINS: Ambassador Newsome is not a character
15 witness.

16 THE COURT: He is a character witness. That's the
17 only reason for his testimony.

18 MR. POVICH: We are limited to six. I am asking to
19 substitute two character witnesses for two other lengthy wit-
20 nesses I will not call. I will not hold the case up. We will
21 close very fast.

22 THE COURT: Six.

23 MR. POVICH: Your Honor is holding up six fingers.

24 THE COURT: Right.

25 MR. POVICH: Could we have a brief recess at this

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1 time to make sure that the witnesses are here before we call
2 them?

3 THE COURT: You can't put them on unless they are
4 here, Mr. Povich.

5 MR. POVICH: Your Honor, I know that but the last
6 time we called the witness he wasn't here. I don't want to
7 have that mistake happen again.

8 THE COURT: How much time do you want?

9 MR. POVICH: Five, ten minutes would be fine.

10 THE COURT: All right.

11 (In open Court:)

12 THE COURT: Ladies and gentlemen, we will take a
13 brief recess, five to ten minutes.

14 (Recess.)

15 (Jury not present.)

16 MR. POVICH: The witness is here.

17 THE COURT: All right. Bring the jury in.

18 (Jury returned to the courtroom.)

19 THE COURT: Mr. Watkins?

20 MR. WATKINS: Ambassador Andrew Young, please.

21 Whereupon,

22 ANDREW YOUNG

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

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DIRECT EXAMINATION

BY MR. WATKINS:

Q Good morning.

A Good morning.

Q Sir, would you state your name and where you live?

A Andrew Young. I live now in New York.

Q What is your occupation, sir?

A Well, I'm now serving as Ambassador to the United Nations for the United States.

Q Do you know Congressman Charles C. Diggs?

A Yes, I do.

Q How long have you known him?

A I have known him personally since the early sixties but I have known of him by reputation and through his work for longer than that.

Q Could you tell us very briefly, Ambassador, under what circumstances you have known him?

A Well, I have known him most recently as Chairman of the House Subcommittee on African Affairs and I served with him in the Congress of the United States for four years and because of my own interest in Africa I was very closely involved with him on a number of features almost every week pertaining to the situation in African policy.

Q Ambassador Young, would it be fair to say that within the last ten years that you have had a close association with

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1 Mr. Diggs because of your interest and because of your political
2 affiliation?

3 A Yes, I would say so.

4 Q Now, Ambassador Young, do you have an opinion as to
5 Congressman Diggs' honesty and integrity?

6 A Well, in my dealings with him he's always been very
7 straightforward and honest and a man you can trust, that I
8 certainly have trusted.

9 Q Do you have an opinion of Congressman Diggs as a
10 truthful person?

11 A Well, I think in the Congress if you don't tell the
12 truth to your colleagues you can't survive and can't get any-
13 thing done.

14 He has always told me the truth and I would never
15 question anything he said. In fact, on many occasions, because
16 he was a senior member of the Congressional Black Caucus, I
17 would go to him for advice pertaining to all sorts of issues
18 and practices.

19 Q Thank you very much, Ambassador.

20 THE COURT: Mr. Kotelly?

21 CROSS EXAMINATION

22 BY MR. KOTELLY:

23 Q Good morning, Ambassador Young. I'm John Kotelly
24 from the Department of Justice.

25 A Good morning.

001015

1 Q Ambassador Young, you were a member of Congress during
2 the time period 1973 through the end of 1976; is that correct?

3 A That's correct.

4 Q During that period of time did you have any personal
5 knowledge as to how Congressman Diggs ran his office?

6 A No, I did not.

7 Q Did you have any personal knowledge regarding Con-
8 gressman Diggs' financial condition during that period of
9 time?

10 A No, I did not.

11 Q Did you have any personal knowledge as to how Con-
12 gressman Diggs paid for his personal expenses during that
13 time?

14 A No, I did not.

15 Q Do you have any personal knowledge as to how Con-
16 gressman Diggs paid for his House of Representatives expenses
17 during that period of time?

18 A No, I did not.

19 Q Do you have any --

20 A Well, I should say that we operated on the same kind
21 of budget in the sense we were all members of the House and
22 I would assume that House expenses were paid pretty much the
23 way we all did.

24 Q Were House expenses paid for out of the Clerk
25 Hire Allowance?

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1 A When you mean House of Representatives expenses were
2 paid out of the Clerk Hire Allowance, I think.

3 Q The Clerk Hire Allowance for payment of salaries to
4 employees?

5 A No.

6 Q Maybe we have some misunderstanding.

7 THE COURT: I think he has clarified the matter.
8 Move on to the next question.

9 BY MR. KOTELLY:

10 Q Did you have any personal knowledge as to how Mr.
11 Diggs paid for his expenses at the House of Diggs Funeral Home
12 in Detroit, Michigan, in that period of time?

13 A No, I didn't.

14 MR. KOTELLY: Court will indulge me one moment?

15 THE COURT: Yes.

16 MR. KOTELLY: No further questions, Your Honor.

17 THE COURT: Mr. Watkins?

18 MR. WATKINS: Would the Court indulge me a few moments
19 Your Honor?

20 THE COURT: Yes.

21 MR. KOTELLY: Your Honor, may we approach the bench
22 for one moment?

23 THE COURT: Yes.

24 (AT the bench;)

25 MR. KOTELLY: Your Honor, I realize the Court has

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1 ruled but I'm somewhat confused by Mr. Young's answers.

2 THE COURT: The answer is very clear. He didn't
3 pay his expenses from the salaries of the employees.

4 MR. KOTELLY: Maybe I misheard him.

5 THE COURT: The transcript will state what he said.
6 I think it is a complete answer.

7 MR. KOTELLY: If that was what he said, I misheard
8 him.

9 (Whereupon, the reporter read back the requested
10 portion of the transcript.)

11 (In open Court:)

12 MR. WATKINS: Thank you, Ambassador. I have no
13 further questions.

14 THE COURT: Thank you, Ambassador. You are excused.

15 (Witness excused.)

16 MR. POVICH: Would Your Honor indulge me?

17 THE COURT: Certainly.

18 MR. POVICH: Your Honor, I would like to call Mayor
19 Coleman Young.

20 Whereupon,

21 COLEMAN YOUNG

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

25 DIRECT EXAMINATION

001018

1 BY MR. WATKINS:

2 Q Good morning, sir.

3 Would you state your name for the record?

4 A Coleman Young.

5 Q Where do you live, Mr. Young?

6 A Detroit, Michigan.

7 Q Do you hold public office in Detroit, Michigan?

8 A Yes.

9 Q What is that office?

10 A Mayor of the City of Detroit.

11 Q Now, Mr. Mayor, do you know Congressman Charles C.
12 Diggs?

13 A Yes, since about '31, I think. Almost 50 years.
14 Since about 1931.

15 Q Mr. Mayor, very briefly could you tell us and the
16 ladies and gentlemen of the jury how you know Mr. Diggs?

17 A Well, we were boys together, lived in the same
18 neighborhood. Charlie's father was an undertaker who lived
19 across the street from my father, who was a tailor. We went
20 to the same schools and later on we were in the Army together,
21 in the Army Airforce in Tuskegee where we were part of the
22 Tuskegee airmen, "The Black Airforce" we called it at that
23 time. Then after we left the Army Charlie and I became in-
24 volve' in the Civil Rights Movement and the Political Movement.
25 He was a State Senator and I in the Labor Movement.

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1 Later on I supported him, of course, in his
2 endeavors in politics as State Senator from my district and
3 he gave me a lot of support in my labor activities and Civil
4 Rights activities.

5 Later on when I ran for State Senate from the same
6 district that he once represented, he as my Congressman, he
7 gave me his political support. So we have had interrelation-
8 ships since the time we were -- I'm a few years older than
9 Charlie -- were young boys, up until today. We have been
10 friends and political allies so I believe I know him very
11 well.

12 Q Thank you, Mr. Mayor.

13 Mr. Mayor, do you have a personal opinion as to
14 Mr. Diggs' honesty and integrity?

15 A Yes, I do.

16 Q What is it?

17 A I have known him over the period and in the manner
18 that I described. I have always found his integrity to be
19 of the highest caliber and his honesty unquestioned.

20 Q Mr. Mayor, have you an opinion as to whether
21 Mr. Diggs is a truthful person?

22 A Yes, I do.

23 Q What is that?

24 A I believe he is a truthful person, again based on
25

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1 the fact I have had these relationships with him and friend-
2 ship and politics, the coin of exchange is a man's word, and
3 I have never known Charlie Diggs to lie or go back on his
4 word.

5 Q Thank you, Mr. Mayor.

6 THE COURT: Mr. Kotelly?

7 CROSS EXAMINATION

8 BY MR. KOTELLY:

9 Q Good morning, Mayor Young. I'm John Kotelly from
10 the Justice Department.

11 During the period 1973 through 1976 did you see Mr.
12 Diggs frequently?

13 A Yes. I ran for office in '73; was elected in '74.
14 I was in and out of Washington very often during that period
15 as I am now, seeing Congressman Diggs who represents our
16 district and trying to get bills passed, for instance, that
17 would aid the City of Detroit and its poor people during that
18 time so yes.

19 Q Did you see him frequently?

20 A And I saw him when he came home to visit the dis-
21 trict.

22 Q In Detroit?

23 A In Detroit, yes.

24 Q Mayor Young, during the time 1973 through 1976 do
25 you have any knowledge as to how Congressman Diggs ran his

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1 Congressional office in Washington?

2 A I have no personal knowledge of the operation of his
3 office.

4 Q Do you have any personal knowledge as to Mr. Diggs'
5 financial condition during that period of time?

6 A Well, during the latter period and that might have
7 been since that time, maybe since this trial began.

8 Q No. I'm just talking about '73 through the end of
9 '76. Do you have personal knowledge of his financial condition
10 during that period of time?

11 A Well, I might ask you when were these charges raised?
12 Was that the end of '76?

13 Q It was after 1976.

14 A Then I would have no knowledge then.

15 Q Do you have any personal knowledge as to how Con-
16 gressman Diggs paid his personal expenses?

17 A No, of course not.

18 Q Do you have any personal knowledge how Congressman
19 Diggs during that period of time paid for any expenses relating
20 to the House of Representatives?

21 A I have no personal knowledge nor have I had any
22 reason to have of the internal matters affecting the Congress-
23 man's office or his business.

24 Q That was my last question. Do you have any personal
25 knowledge as to how Mr. Diggs paid for expenses relating to

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1 the House of Diggs Funeral Home in Detroit?

2 A No, I do not.

3 MR. KOTELLY: I have no further questions, Your Honor.

4 MR. WATKINS: Thank you, Mr. Young.

5 I have no further questions.

6 THE COURT: Thank you, Mr. Mayor. You are excused.

7 THE WITNESS: Thank you, Your Honor.

8 (Witness excused.)

9 MR. POVICH: Would Your Honor indulge us for a moment

10 THE COURT: Yes.

11 MR. POVICH: Your Honor, we would like to call

12 Victor Fischer.

13 MR. KOTELLY: Your Honor, may we approach the bench?

14 THE COURT: Yes.

15 (At the bench:)

16 MR. KOTELLY: Your Honor, the night before last was
17 the first time that I found out generally what Victor Fischer's
18 position had been. Apparently he worked for an ad hoc, quasi-
19 public commission for the House of Representatives for a few
20 months in 1976. We have tried to locate him since that time
21 and have been unable to. The phone number in the telephone
22 book no one answers that phone number so we have been unable
23 to talk to the man.

24 I am very concerned as to exactly what this man is
25 supposed to be testifying about. I don't know whether they

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1 are calling him as an expert witness to ask for his opinion.
2 If they are not then I would think that his testimony as to
3 what he did on this ad hoc committee in the House of Representa-
4 tives is not material or relevant to the issues in this case.

5 We would ask for a voir dire out of the presence of
6 the jury to ascertain exactly what this man's testimony is
7 supposed to be.

8 THE COURT: Maybe counsel can tell us what his expected
9 testimony is.

10 MR. POVICH: Yes. He was a director of the Commis-
11 sion which did a survey that Mr. Kotelly describes in his
12 answer to the Bill of Particulars as to the common practice in
13 Congress with respect to the payment of expenses by Congressmen.
14 As a result of that he conducted a survey. He was a director
15 of the survey and he has information as to what those common
16 practices were. Since Mr. Kotelly has made that issue in this
17 case we feel, Your Honor, the evidence is relevant.

18 MR. KOTELLY: Your Honor, I submit this is not an
19 issue in the case. We stated in the Bill of Particulars we
20 were relying on the regulations of the House Committee on
21 Administration and we were relying on the advisory opinion of
22 the House Committee of Ethics and its common understanding in
23 terms of Clerk Hire Allowances for the payment of the employees
24 on the staff.

25 Now, I don't know whether Mr. Fischer is supposed to

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1 be testifying that other members of Congress paid their per-
2 sonal expenses out of Clerk Hire Allowances. I don't know if
3 Mr. Fischer is going to testify that other Congressmen paid
4 for the running of their district offices or the payment for
5 radio time or the payment of the House recording studio out
6 of their Clerk Hire Allowance. I would be very surprised if
7 he had that to testify about but it seems to me since the
8 defense has kept this thing such a close secret all this time
9 that I think the only way that we can determine whether this
10 testimony could possibly be relevant to the issues in this
11 case is to have a voir dire out of the presence of the jury.

12 Also in relation to this witness, which the defense
13 of course must have known about for some period of time, we
14 have been given no materials relating to this witness' testi-
15 mony as the Court ordered the defense to do the Friday before
16 we started the trial.

17 MR. POVICH: We have no materials.

18 MR. KOTELLY: There is nothing, no document in
19 evidence.

20 MR. POVICH: There is a report.

21 MR. CARL: The Special Report of the Commission in
22 which he was director of survey research.

23 MR. KOTELLY: Your Honor, we had no notion until the
24 night before last as to who this person was. That Commission
25 has been abandoned. We have not been able to find out anybody

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1 who even belongs to that Commission. The defense has kept this
2 thing secret from us again and contrary to Your Honor's in-
3 structions that they at least, you know, premark these exhibits
4 the Friday before the trial this is the first time that I have
5 ever seen that document or been aware that there was such a
6 document.

7 MR. WATKINS: Victor Fischer's name. Your Honor, was
8 on the witness list we gave you the first day of the trial. We
9 had some difficulty getting in touch with him during a crucial
10 period of this trial because, I assume -- and I told Mr. Kotely
11 that I didn't know if he was going to testify because I couldn't
12 talk to him because of the Jewish holiday.

13 We spent some time with him this morning. We have
14 been able to determine he does have information that is rele-
15 vant to this case. Since Mr. Kotelly has made an issue of the
16 common understanding matter that has to be dealt with in this
17 case, by his Bill of Particulars, we have to deal with this.
18 This is one of the bases for Mr. Kotelly's saying this is a
19 criminal offense and there is information that Fischer can
20 supply that will indicate that certainly many Congressmen didn't
21 consider it an offense to do some of the things that Mr. Diggs
22 is charged with here.

23 Under the circumstances and since Mr. Kotelly has
24 raised the issue of common understanding, we are trying to
25 prove what that common understanding was.

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1 MR. KOTELLY: Your Honor, the Bill of Particulars
2 is not evidence in this case. There has been no evidence about
3 common understanding, merely the testimony of Mr. Lawler as
4 to what the purpose of the Clerk Hire Allowance was as well as
5 the other allowances.

6 We would submit that Mr. Watkins is now trying to
7 put that common understanding into issue through the testimony
8 of Mr. Fischer.

9 THE COURT: Did you use the expression?

10 MR. KOTELLY: I don't remember ever using that
11 expression in this trial.

12 MR. WATKINS: Well, the Bill of Particulars asked,
13 Your Honor, if Mr. Kotelly would specify the bases on which
14 these charges were brought. In his response November 14, when
15 he modified an earlier Bill of Particulars, we have no last
16 paragraph. "The legal bases include the following", and he
17 lists the cases, a regulation of the Committee of Administration
18 and the common understanding of the purposes and limitations
19 on the Clerk Hire Allowance.

20 MR. KOTELLY: Your Honor, first of all that is not
21 really even a Bill of Particulars. That is our informal
22 understanding in response to their request for a Bill of
23 Particulars.

24 Secondly, there has been nothing in evidence here
25 about common understanding, only the testimony of John Lawler.

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1 I would submit they are raising an issue that isn't
2 in this case as to what other Congressmen may have done. If
3 they did it I would like to know about it. I would hold a
4 Grand Jury session as soon as we finish this trial.

5 MR. POVICH: I'm sure you would.

6 THE COURT: I think you should. I will permit his
7 testimony.

8 MR. WATKINS: Thank you, Your Honor.

9 THE COURT: Be sure it is taken down and bring these
10 Congressmen to trial.

11 (In open Court:)

12 Whereupon,

13 VICTOR JOEL FISCHER

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

17 DIRECT EXAMINATION

18 BY MR. CARL:

19 Q Mr. Fischer, would you state your name and address
20 for the record, please?

21 A Yes. My name is Victor Joel Fischer, F-I-S-C-H-E-R.
22 I live at 1301 20th Street, N.W., in Washington.

23 Q Tell me where were you employed during the first half
24 of 1977?

25 A During the first half of 1977 I was employed as the

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1 Director of Survey Research for the Commission on Administrative
2 Reviews of the House of Representatives.

3 Q Was that the so-called Obey Commission which investi-
4 gated various elements of financial ethics among members of
5 the House of Representatives?

6 A That's correct.

7 MR. CARL: May I have this marked as a defense
8 exhibit, please?

9 THE CLERK: Defendant's Exhibit Number 38 marked for
10 identification.

11 (Whereupon, Defendant's Exhibit
12 Number 38 was marked for
13 identification.)

14 MR. KOTELLY: Your Honor, this is the first time I
15 have seen this document and I am going to ask for time before
16 cross examination to allow me to go over the document.

17 THE COURT: Documents for the defense were supposed
18 to be noted at least ten days prior to trial.

19 MR. CARL: Yes, Your Honor. This is an official
20 report of the Committee of the House of Representatives.

21 THE COURT: It makes no difference for a document you
22 are seeking to offer.

23 MR. CARL: I would merely like him to have it avail-
24 able to refresh his recollection.

25 THE COURT: I haven't yet admitted it into evidence.

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1 MR. CARL: We move its admission, in that case.

2 THE COURT: Come to the bench.

3 MR. CARL: We are not going to move it.

4 Withdraw it.

5 BY MR. CARL:

6 Q Mr. Fischer, what were your responsibilities as a
7 member of the staff of the Obey Commission?

8 A My primary responsibility was designing and directing,
9 analyzing the number of surveys of members of Congress and their
10 key staff people as well as a survey of the general public on
11 the issues of financial ethics and legislative and administra-
12 tive management practices in the House.

13 Q In the course of those responsibilities you undertook
14 a survey of the perceptions and understanding of members of
15 the House of Representatives about the allowance system?

16 A That's correct.

17 Q Would you tell me when, in rough terms, when that
18 survey occurred?

19 A The actual dates that we were interviewing members
20 on that study occurred between January 4th and January 19th,
21 1977.

22 We interviewed, as I recall, 153 members of the House
23 which represented a random cross section of the membership.

24 Q Was the question about the official allowances
25 available for Congressmen to meet their responsibilities to

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1 their constituents an important issue in that survey?

2 A Yes, it was.

3 Q Would you tell me how many members or what proportion
4 of the members surveyed found that the official allowances
5 they were permitted to meet their expenses as members of
6 Congress serving their constituents were inadequate?

7 A On an open-ended question where we asked members to
8 volunteer rather than to respond to a closed, fixed choice
9 kind of question 57 per cent, as I recall, volunteered that
10 they found the allowance system to be inadequate to meet their
11 official expenses.

12 Q Now, in terms of the opposite side of that question
13 how many members found that the official allowance system was
14 adequate to meet what they believe were their obligations to
15 their constituents?

16 A Only seven per cent on that same question said that
17 they found the allowance system to be adequate for that pur-
18 pose, totally adequate for that purpose.

19 Q What percentage of the members of Congress that you
20 surveyed found that the amount of funds made available to them
21 for Clerk Hire were adequate for more than adequate for those
22 needs?

23 A The way we phrased the question 60 per cent said
24 the Clerk Hire Allowance was sufficient and an additional 17
25 per cent said that the Clerk Hire Allowance was more than

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1 sufficient. So it would be 77 per cent found it to be at least
2 sufficient.

3 Q Given the findings about the lack of official allow-
4 ance expenses and surplus of Clerk Hire funds did you become
5 aware in the course of your survey of any practices of in-
6 creasing clerk hire salaries or employees to compensate them
7 for paying expenses related to the member's discharge of his
8 official and represental duties?

9 A Yes. At the time that we were drawing up the ques-
10 tionnaire in late December, '76 and early January, '77 the
11 senior staff of the Commission became concerned with a number
12 of practices and that was certainly one practice that we were
13 concerned with.

14 Q Did you have a perception it was common for members
15 to increase clerk hire salaries to pay, in effect, per diem
16 or travel costs that members incurred in serving -- that em-
17 ployees incurred in performing their duties?

18 A Yes. We became aware of at least a number of possi-
19 bilities where this practice was used. That would have been
20 one of them. Another was where a staff person had gone off
21 the House payroll prior to a Congressional election and then
22 came back on after the conclusion of the election and his
23 salary for that period would then be adjusted upward to com-
24 pensate him for loss of income during the period that he was
25 off of the House payroll. I believe there were some other

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1 scenarios that were that practice which seemed likely to be
2 used.

3 Q Was it also likely, given the information you had,
4 that Clerk Hire Allowance was used to compensate employees for
5 meeting other more district office-related expenses?

6 A Yes. A lot of the expenses that are incurred or were
7 incurred in running a district office were not made under the
8 allowance system. One thing that I recall was funding of in-
9 cidentals, you know, to run volunteers and that was handled
10 that way by at least some of the offices.

11 Q Did the Commission to whom you reported as a staff
12 member have a conclusion about the official allowance system,
13 I guess it would have been, in 1976 or immediately preceding
14 January of 1977?

15 A Yes. The Commission, if I may turn to the exact
16 language that was used was:

17 "The present allowance system simply does not cover
18 the official expenses of a member. Between 150 to
19 175 members maintain unofficial office accounts. In
20 addition many members presently use campaign funds
21 to defray official expenses."

22 MR. KOTELLY: Your Honor, I would ask the document
23 the witness is reading from be marked for an exhibit.

24 THE COURT: It may be marked.

25 THE CLERK: It has already been marked 38.

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1 BY MR. CARL:

2 Q Did that conclusion lead in 1977, to your knowledge,
3 to an explicit recognition of the need to make available for
4 transfer some of the funds in the Clerk Hire Allowance into
5 the various allowances to meet other goods and services-type
6 expenses?

7 MR. KOTELLY: Objection, Your Honor. May we approach
8 the bench?

9 THE COURT: Yes.

10 (At the bench:)

11 MR. KOTELLY: Your Honor, we would object to any
12 conclusions or opinions of this advisory committee after the
13 end of 1976 or relating to matters after 1976.

14 First of all, this is opinions. These are conclusion
15 that were not accepted by Congress. We submit that there is
16 no basis for this kind of opinion testimony.

17 MR. CARL: Mr. Kotelly, the Commission's report was
18 accepted by Congress.

19 MR. KOTELLY: That's not my understanding.

20 MR. CARL: The witness will testify that recommenda-
21 tion was accepted, if you would like to give him the opportunit

22 THE COURT: Your representation in opening statement
23 was this was retroactive and that is the point that concerns
24 me. You were to give me a brief on that. Where is the brief?

25 MR. CARL: It is not retroactive. The committee

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1 recognized an ongoing practice.

2 THE COURT: Well, he has testified to that but that
3 is a recognition subsequent to these charges. It's not retro-
4 active.

5 MR. POVICH: I think we can solve it by simply asking
6 the last question whether or not the recommendations were im-
7 plemented period. That's all, and then we will leave it alone.

8 THE COURT: I'm not sure that is the answer. It con-
9 fuses or may confuse the jury as to the effect of those recom-
10 mendations. It seems to me that we are dealing with a period
11 here prior to this so-called recognition.

12 MR. POVICH: Your Honor, we are dealing with a period
13 Your Honor, in which the practices we suggested to Your Honor
14 were subsequently incorporated into regulation which permitted
15 the use --

16 THE COURT: Mr. Povich, I know very few people in
17 public office who think they are adequately paid. Judges
18 don't get expense accounts as Congressmen do but almost all
19 public servants, unless they are like Nelson Rockefeller or
20 perhaps the President of the United States at the present time
21 don't have independent resources and they are always talking
22 about the inadequacy of what they are paid, whether expenses
23 or salaries. You are taxed on your salaries but not on your
24 expenses.

25 MR. WATKINS: Your Honor, may I ask a question? As

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1 I understand your objection to this is that it came after the
2 indictment period; is that correct?

3 MR. KOTELLY: That's certainly one objection.

4 MR. WATKINS: I think we can solve that problem be-
5 cause Mr. Fischer's survey took place in January of '77 but he
6 was inquiring about practices that were ongoing that would
7 certainly have covered the period prior to January of 1977.
8 These practices for a period of time directed to the indictment
9 period and the final survey, the actual survey was conducted
10 on those early days of 1977 does not change the fact they were
11 talking about practices that had gone on before, so it is
12 relevant and it does relate to the indictment period. That's
13 why I think Mr. Fischer is an appropriate witness to relate
14 this information.

15 THE COURT: Well, the fundamental question is still
16 whether what this man is charged with doing, what the evidence
17 indicates that he did, is a violation of the law and it doesn't
18 make any difference whether others did it or complain about
19 the inadequacy of the funds.

20 MR. CARL: Your Honor, the Government has suggested
21 in its case, particularly with the introduction of its various
22 \$500 quarterly checks, the Congressman had an intent to de-
23 fraud the United States because he was paying his office bills
24 out of Clerk Hire Allowances and then securing reimbursement
25 checks which Mr. Kotelly has suggested was what he needed to

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1 pay for those things and all he needed to pay for that.

2 We can demonstrate that allowance was not adequate
3 and the jury can believe Congressmen did not require any out-
4 side funds to meet the legitimate obligations of the constitu-
5 ent wants because of the testimony he has raised and we would
6 like to question that the supplementary funds were essential
7 and to some extent members used exactly the means the defendant
8 did in this case to do so and that utilization and that recog-
9 nition of need for the utilization of funds in that way goes
10 directly to the common understanding which Mr. Kotelly has
11 cited to us as the bases in this case.

12 Mr. Lawler has never testified that he could not use
13 Clerk Hire Funds to meet official expenses. The Government
14 has introduced no other evidence to that effect. They are
15 depending on the common understanding of the members of Con-
16 gress.

17 I think it is important at this point for the jury
18 to understand what the members understood about their obliga-
19 tions to their constituents, what means were available to meet
20 those obligations.

21 MR. KOTELLY: Your Honor, might I be heard briefly
22 on that?

23 First of all, as to whether other Congressmen were
24 committing crimes by improperly using clerk hire funds is not
25 an issue in this case. We would submit that although Your

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1 Honor overruled my objection and allowed the survey testimony
2 that it should be for that purpose and that purpose only and
3 for them to allow this witness to testify or for the Court
4 to allow this witness to testify about recommendations that
5 happened in 1977 which is beyond the point of this indictment
6 about how they thought changes should be made does not in any
7 way cure the fact that there was a scheme an artifice to de-
8 fraud the treasury of money by Mr. Diggs. The mails were used
9 and false statements were submitted. In no way were they trying
10 to cure crimes that may have been committed prior to 1977.

11 We would submit that for them, for the defense to
12 be allowed to bring this testimony before the jury is going
13 to totally confuse the issues in this case. If other Congress-
14 men committed violations of the law then those people should
15 have been reported to the Justice Department and handled in
16 the same way that Mr. Diggs has been handled.

17 THE COURT: I agree with you.

18 MR. CARL: I had a suggestion, Your Honor.

19 THE COURT: I think I will have to sustain the
20 objection.

21 (In open Court:)

22 MR. CARL: No further questions, Your Honor.

23 THE COURT: All right.

24 MR. KOTELLY: Your Honor, I would ask for a fifteen-
25 minute recess to be allowed to read this report that Mr.

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1 Fischer has been reading from and identified.

2 THE COURT: The Court is not going to receive it in
3 evidence.

4 MR. KOTELLY: Your Honor, I submit this document is
5 the basis for the Government's cross examination of this wit-
6 ness.

7 THE COURT: Well, I will take a recess but I am dis-
8 inclined to hear anything further from the witness in view of
9 my ruling.

10 MR. KOTELLY: Is Your Honor suggesting that the wit-
11 ness' testimony is being stricken from the record?

12 THE COURT: No, not in its present form.

13 MR. KOTELLY: Then regarding his testimony as to
14 the survey I would submit that this document is important in
15 cross examination.

16 THE COURT: A few brief questions but I'm not going
17 to let you go into a lot of material that I don't think is
18 relevant to the issues in this case for the reasons as stated
19 at the bench. I think you understand what I ruled.

20 MR. KOTELLY: Certainly, Your Honor.

21 THE COURT: We will take a brief recess.

22 (Recess.)

23 (Jury not present.)

24 THE COURT: Ready to proceed?

25 MR. KOTELLY: Yes, I am, Your Honor.

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1 THE COURT: Bring in the jury.

2 (The jury returned to the courtroom.)

3 THE COURT: Mr. Fischer, you may resume the stand.

4 CROSS EXAMINATION

5 BY MR. KOTELLY:

6 Q Mr. Fischer, are you presently employed by the House
7 of Representatives?

8 A No, I'm not.

9 Q Where are you presently employed?

10 A I am employed by the firm of Linton, Miels, Reisler
11 and Cotton. We are consultants in governmental relations.

12 Q How long were you on the Commission on Administrative
13 Review?

14 A From approximately October 6, 1976, through November
15 7, 1977 or the end of November, 1977.

16 Q Now, you have indicated that this survey that you
17 made was during the month of January of 1977; is that correct?

18 A That's correct.

19 Q How many days did this survey take place?

20 A The actual number of days where we were interviewing
21 members, as I recall, went from the fourth through to the
22 nineteenth of January, 1977.

23 Q So just a little more than two weeks?

24 A That's right.

25 Q How many persons on your Commission were actually

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1 conducting this survey?

2 A As I recall, on that first wave survey we had approxi
3 mately fifteen interviewers.

4 Q Were they interviewing separately or in teams?

5 A No. It was customary that the interview took place
6 between a single interviewer and the member with no other par-
7 ticipants as a standard survey research practice.

8 Q You indicated you interviewed 133 members; is that
9 correct?

10 A 153.

11 Q I'm sorry, 153 members out of how many members at
12 that time?

13 A That would have been out of the 374 members who were
14 members of both the 94th and the 95th Congress.

15 We did not interview incoming freshmen since the
16 survey assumed that one had been a member of the House prior
17 to the beginning of the 95th Congress.

18 Q Okay. Now, defendant's Exhibit 38, which is a com-
19 munication from the Chairman of the Commission on Administrativ
20 Review, you are familiar with that document?

21 A Yes, I am.

22 Q Did you assist in preparing that document?

23 A Yes, I did.

24 Q Does that document outline the major concerns of the
25 Commission?

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1 A Yes. It outlines in the area of financial ethics,
2 it outlines a number of the major concerns of the Commission.

3 Q Now, according to the document you have broken out
4 into various categories or under various headings some of the
5 concerns of the Commission, for instance, disclosure. Was
6 that one of the concerns of the Commission?

7 A Yes, it was.

8 Q That has nothing to do with any of the allowances
9 under the allowance system of the House of Representatives,
10 does it?

11 A I am not an expert on the regulations and rules of
12 the House but financial disclosure, as I understand it, in
13 this context had to do with disclosure of assets and income
14 and things of that nature and again, without wishing to appear
15 as an expert on those regulations and rules, I believe that
16 those are under the proper purview of the House to set rules.

17 Q I'm not asking you that question. I asked you does
18 the financial disclosure have anything to do with the various
19 allowances for payments of expenses of a member of Congress?
20 It doesn't, does it?

21 MR. POVICH: Your Honor, I think he said he is not
22 an expert on rules. He is only an expert on what happened.

23 THE COURT: If he knows the answer he may state it.
24 If he doesn't, he may state that.

25 BY MR. KOTELLY:

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1 Q You have indicated financial disclosure relates to
2 a member disclosing what his financial assets are.

3 A That's right.

4 Q Does that have anything to do with the amount of
5 money that a member receives in allowances either as reimburse-
6 ment or to pay official expenses in the House of Representative

7 A I'm not sure of any direct relationship although
8 I hate to give it a flat no.

9 Q You are not aware of any connection between the
10 two?

11 A No direct relationship.

12 Q The Commission was also concerned with outside in-
13 come; is that correct?

14 A Absolutely.

15 Q And does that have anything to do with the allowance
16 system in the House of Representatives?

17 A Yes, I believe it does in that a number of members
18 we learned were forced to turn to their own personal incomes
19 to supplement the allowances.

20 Q That's not what I asked, sir. I'm going to ask you
21 to listen to my question, Mr. Fischer.

22 I was asking you whether outside income has anything
23 to do with the actual allowances that are being given to a
24 member of Congress?

25 MR. POVICH: Your Honor, his testimony was with respect

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1 to practices and he said that with respect to practices that
2 was a concern. He is not an expert on the rules.

3 MR. KOTELLY: We will get to practices.

4 THE COURT: Mr. Povich, the question is proper.
5 Objection overruled.

6 You may answer the question, if you can.

7 THE WITNESS: Would you state the question again,
8 please?

9 BY MR. KOTELLY:

10 Q Yes.

11 Regarding the Commission's concerns of outside in-
12 come did that have anything to do with the actual allowances
13 given by the House of Representatives to a member of Congress?

14 A Again not directly, although as I indicated, there
15 are practices in connection.

16 Q Next category is gifts.

17 THE COURT: The question is if a Congressman were a
18 millionaire would he get the same allowances as one who had
19 no outside income?

20 THE WITNESS: That's correct, Your Honor.

21 THE COURT: All right.

22 BY MR. KOTELLY:

23 Q The category of gifts, does that have anything to do
24 with the amount of money that is paid by the House of Repre-
25 sentatives for allowances to a Congressman?

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1 A No.

2 Q The next category is unofficial office accounts and
3 I would like to get to that in a moment so let's defer that.

4 Franking privilege is the next category. Is the
5 franking privilege an allowance in the House of Representatives

6 A Again I'm not an expert on that but as I understand,
7 as a knowledgeable layman, members are entitled to send mail
8 without having to pay postage on it. That's right.

9 Q If it is the proper type of mail there are no limita-
10 tions as to the amount they can send out under the franking
11 privilege; is that correct, if you know?

12 A I think there is a limitation on the number of frank
13 envelopes that are provided but again, I am not the proper
14 person to ask that question.

15 Q All right. The last category is travel. From having
16 reviewed this document was it the concern regarding the travel
17 by members of Congress, especially in their lame duck travel.

18 Q Let's focus on the unofficial office accounts for
19 a moment, if you will. The concern of the Commission was, as
20 to unofficial office accounts, to pay for office expenses; is
21 that correct?

22 A The consent of the Commission was not only with re-
23 lation to office expenses but the use of private money to pay
24 for public business.

25 Q Fine. Now, private money being money from persons

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1 that have no connection with the House of Representatives; is
2 that correct?

3 A That's right. The way that these unofficial office
4 accounts typically work is that contributions were solicited
5 from important contributors in the member's district but un-
6 like campaign contributions there were no limitations on either
7 corporate or union contributions in addition to contributions
8 from private individuals. Again unlike the campaign contri-
9 butions there was no requirement that contributions to unoffi-
10 cial office accounts be disclosed publicly although in fact
11 a small number of members did so voluntarily.

12 Q Now, Mr. Fischer, these unofficial office accounts
13 were used to supplement the allowances given by the House of
14 Representatives, correct?

15 A That is correct, yes.

16 Q And you have already indicated that some of the funds
17 in this unofficial office account did come from private sources
18 that may or may not have been solicited by the member?

19 A That's right.

20 Q Were additional funds in these unofficial office
21 accounts from campaign monies that were excess monies that
22 were really unofficially diverted to supplement the monies
23 given by the House of Representatives?

24 A The way you have asked the question would indicate
25 that people transferred money from an excess campaign account

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1 into an unofficial office account. Certainly there was nothing
2 that would have presented that but I am not aware of that
3 happening directly in any specific case.

4 I would say though that excess campaign funds were
5 another means by which some members sought to defray the excess
6 costs involved in meeting their official and representational obli-
7 gations.

8 Q Now, during your survey what percentage of the mem-
9 bers that were interviewed did have such unofficial office
10 accounts?

11 A The way we asked the question at the time we did the
12 survey it would indicate that -- well, 39 per cent of the
13 members we interviewed said at the time of the interview that
14 they had an unofficial office account. An additional 14 per
15 cent said that they did not have one at the time that the
16 interview was conducted but had had one within recent years.
17 Our estimate was that at the time the survey was conducted it
18 was not unreasonable to assume that at least half the House
19 had such accounts.

20 Q Just to get this clear then what percentage would
21 you estimate did have unofficial accounts totally?

22 A We conservatively estimated that at the time the
23 survey was conducted in early 1977 at least half the House
24 had such accounts.

25 Q Okay. And the other half did not have such accounts
then?

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1 A That's what our estimate was, that's right.

2 Q And the 50 per cent that had these unofficial office
3 accounts were for the purpose of supplementing the monies
4 that would be received from the various allocations of the
5 House of Representatives?

6 A Yes. That was the general purpose.

7 Q Now, you have testified about various practices re-
8 garding the Clerk Hire Allowance. Did your survey include
9 questions to the members of Congress as to how they use their
10 Clerk Hire Allowance?

11 A No.

12 Q There were no questions at all regarding the members'
13 payments of salaries for any purpose other than their being
14 for salaries?

15 A No.

16 Q So you would not know then whether the members of
17 Congress were paying their staff salaries in order to pay for
18 the member's own personal expenses?

19 A The situation was that prior to going into the field
20 with the instrument the staff discussed a number of issues
21 that were --

22 O I don't mean to cut you off but I would ask you just
23 answer my question as to whether you do not know then whether
24 members of Congress would increase their staff's salaries for
25 the purpose of paying the member's personal expenses?

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1 A I have no direct knowledge of that.

2 Q That's all we are asking, as to what you have direct
3 knowledge of, sir.

4 Now, Mr. Fischer, you have mentioned the fact that
5 some members during the survey indicated that they would in-
6 crease their clerk hires salary for an employee for the purpose
7 of reimbursement for the staff member's travel?

8 A That's right.

9 Q What number of Congressmen in your survey told you
10 that's what was done?

11 A As I said, I made that first statement -- there was
12 a discussion among senior staff of the Commission and that
13 question -- because of the sensitivity of this issue -- was
14 not included in the final questionnaire.

15 Q You mean you didn't ask any members of Congress as
16 to whether they increased their staff's salary to reimburse
17 them for travel? Is that your testimony?

18 A We did not ask that direct question.

19 Q So you have no knowledge then as far as the practices
20 of the members themselves as to whether they would increase
21 an employee's salary to reimburse for that staff member's
22 travel?

23 A That's not true. I do have knowledge of the practice
24 in that.

25 Q From whom?

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1 A As I said, among the senior staff of the Commission

2 --

3 Q Of the Commission or of the Congressmen?

4 A Of the Commission, the senior staff.

5 Q Were these members of your senior staff of the Com-
6 mission paid as part of the employees of the staff of any of
7 these Congressmen?

8 A We are all employees of the House.

9 Q Of the staff of a member of Congress?

10 A No. They were all staff of the Commission.

11 Q Let me ask you some further questions then.

12 You have testified about some persons on the staff of
13 a member of Congress who would be working on election matters
14 for the Congressmen and then when they came back to work for
15 the Congressmen their salary would be adjusted in order to
16 cover their periods when they were working on campaigns?

17 A That's right.

18 Q Did you ask any member of Congress as to whether
19 that was the practice of that member?

20 A Not in the survey, no. But as I said, this was an
21 issue that knowledgeable people who happened to be senior
22 staff of the Commission were concerned about, based on their
23 long experience on the Hill and familiarity with the practice
24 in this area.

25 Q But Mr. Fischer, you didn't ask the members of Congress

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1 whether, in fact, that was actually their practice?

2 A Not in the survey, no, because of the sensitivity
3 of the issue.

4 Q You have also testified about the fact that there were
5 some staff members that were paying for district office ex-
6 penses out of their salaries?

7 A That's right.

8 Q Did you ask any member of Congress as to whether that
9 was happening in that member's office?

10 A Again that question was not included in the survey.

11 Q So that you do not have any personal knowledge as
12 to the percentage of members that you interviewed as to how
13 they would have responded to any of those three questions?

14 A That's correct.

15 MR. KOTELLY: Your Honor, I ask we approach the
16 bench.

17 (At the bench:)

18 MR. KOTELLY: Your Honor, I ask this witness' testi-
19 mony be stricken, that it was not anywhere near what it was
20 purported to be, that this man is merely basing his opinion on
21 what the Commission members were talking about who were not
22 members of Congress that were being interviewed. The survey
23 the way they presented it was that this was being a common
24 practice and it is nothing more than hearsay as to what this
25 man is relating. We can't ask him -- we are not able to cross

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1 examine this man as to his knowledge, basis of knowledge of
2 other people, senior staff members on the Commission, whether
3 it was hearsay, whether it was just conversations in the bar
4 on Capitol Hill. We don't know where any of this information
5 is coming from. They did not include this in their survey.

6 They didn't ask any of these questions and I would
7 submit that the testimony is totally irrelevant to any issue
8 in this case.

9 MR. CARL: Your Honor, if I may, the Obey Commission
10 survey is the only extant piece of scholarly work on the prac-
11 tices of members of the House of Representatives. This gen-
12 tleman was the Director of that survey. As such he gained a
13 considerable expertise and is appropriately qualified as an
14 expert, I would think, on the practices of that House. He is
15 the only one that has given the study and he has given it in
16 a professional capacity, having been selected to do so by the
17 Chairman of the Select Committee.

18 MR. KOTELLY: I have not heard anything as to he is
19 an expert witness. He hasn't been qualified as an expert. We
20 haven't voir dired him on his expertise and I would submit he
21 cannot give opinion testimony unless he is qualified as an
22 expert.

23 MR. POVICH: He didn't give an opinion. You asked
24 him a question about where he obtained his information. He
25 told you. You have exposed that. I think the jury can evaluate
how much weight they want to give to his opinion.

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1 THE COURT: I don't think his testimony is worth
2 very much but I will let it stand. I think your questions to
3 him pretty well devastated him. All right.

4 (In open Court:)

5 MR. KOTELLY: Mr. Fischer, just a final question.
6 I'll strike that.

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

9 THE COURT: All right. Mr. Carl?

10 MR. POVICH: Will Your Honor indulge us for a moment?

11 THE COURT: All right.

12 MR. CARL: No further questions, Your Honor.

13 THE COURT: Thank you. You are excused.

14 (Witness excused.)

15 MR. POVICH: Your Honor, could we come to the bench
16 a moment?

17 THE COURT: Yes.

18 (At the bench:)

19 MR. POVICH: We are moving even faster than I thought.
20 Your Honor, the next order of business for us is to introduce
21 Exhibits in response to the charts which the Government intro-
22 duced. We would like the same information presented in a
23 somewhat different fashion. We have unfortunately -- I thought
24 I was going to have the luncheon break in order to get that
25 together. I haven't been able to do so. I will assure Your

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1 Honor I will move forward quickly. I would like some time now
2 to try to do that. I will put them in simply taken off the
3 Government's Exhibit and redone and I will present the de-
4 fendant on the stand and it is our intention to rest, so I
5 hope we can finish up.

6 THE COURT: Could you put Mr. Diggs on the stand?

7 MR. POVICH: No, I can't.

8 THE COURT: You think it would be better after
9 lunch?

10 MR. POVICH: Yes, I'm sure it would be, Your Honor.
11 I feel if he is anything like I am a little lunch would help
12 and since we are fairly close I think that the time we will
13 save --

14 THE COURT: Can you do anything for five minutes?

15 MR. POVICH: I can put Mrs. Roundtree on the stand,
16 Your Honor.

17 THE COURT: You are not going to put Mrs. Roundtree
18 on.

19 MR. POVICH: I really think -- I'm sorry we are
20 wasting the five minutes but I think --

21 THE COURT: Think nothing of it.

22 MR. POVICH: I think if we could have this time it
23 would be helpful in the end, Your Honor. I think we can
24 finish today. I don't see any reason why not. I don't think
25 he is going to be that long.

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1 THE COURT: Have you gentlemen got your proposed
2 instructions?

3 MR. POVICH: We have in draft form. We will put
4 them in the form that is acceptable to the Court.

5 THE COURT: You needn't rewrite anything that's in
6 the Red Book.

7 MR. POVICH: I know your practice generally is to
8 go through them with you and indicate simply which ones you
9 would like. I think we should keep the instructions fairly
10 simply, Your Honor.

11 THE COURT: All right. How much time are you asking
12 for?

13 MR. POVICH: Two o'clock, Your Honor. I'm just
14 going to put the Exhibits in and we will put him on the stand.

15 THE COURT: Let's say 1:30.

16 MR. POVICH: Your Honor, my problem is I have to get
17 them retyped and I have spent so much time with the character
18 witnesses this morning I have not --

19 THE COURT: You didn't spend as much as you thought
20 you were going to spend.

21 MR. POVICH: That's for sure and Your Honor has moved
22 this on so long I need it until two o'clock.

23 (A discussion was held off the record.)

24 (In open Court:)

25 THE COURT: Ladies and gentlemen, you wouldn't

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1 believe what we have been discussing. One of the observations
2 was if I send you to lunch now you will get the jump on Judge
3 Gesell's jurors. Judge Gesell has a sequestered jury so that
4 seems like a very cogent suggestion and don't tell Judge
5 Gesell I said so.

6 We are assured if we take a recess now the balance
7 of the case can move along more expeditiously after lunch be-
8 cause it is believed that lunch will help counsel proceed with
9 his case.

10 So we will give all of you an opportunity to go to
11 lunch at this time. Remember my usual instructions. Don't
12 discuss the case among yourselves. Don't let anybody talk to
13 you about it and don't talk to anybody about it.

14 Mr. Marshal, see they get a good lunch.

15 (Whereupon, at 11:55 o'clock a.m. the above-
16 entitled matter was recessed for lunch.)
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19
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1 A F T E R N O O N S E S S I O N

2 (Jury not present.)

3 THE COURT: Counsel ready to proceed?

4 MR. POVICH: Yes sir.

5 THE COURT: Bring in the jury.

6 MR. POVICH: I couldn't finish the Exhibit charts
7 that I was preparing so I will go ahead without them and we
8 will put them in tomorrow.

9 THE COURT: All right.

10 (The jury returned to the courtroom.)

11 MR. POVICH: Can we call our next witness, Your
12 Honor?

13 THE COURT: Yes.

14 MR. POVICH: I call Congressman Charles C. Diggs to
15 the stand.
16 Whereupon,

17 CHARLES C. DIGGS, JR.

18 defendant herein, was called as a witness by and on his own
19 behalf, and having been first duly sworn was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. POVICH:

23 Q Would you state your full name, please?

24 A Charles Coles Diggs, Jr.

25 Q Are you a United States Congressman from the 13th

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1 District of Michigan?

2 A Yes sir.

3 Q Congressman Diggs, would you tell us where and when
4 you were born?

5 A I was born in Detroit, Michigan, December 2, 1922.

6 Q Where were you educated?

7 A In the public schools of the City of Detroit through
8 highschool and then I went on to college from there. After
9 two and a half years in college I was at the age of 19 drafted
10 into the United States Army Airforce.

11 Q Did you have any achievements or receive any dis-
12 tinctions in your highschool or college graduation?

13 A I was president of the class, president of student
14 council. I was a champion speller at elementary school and
15 the school spelling champion at my elementary school level.

16 Q Where did you attend college?

17 A University of Michigan and Fisk University, Nashville
18 Tennessee.

19 Q What was the reason for the change? How long did
20 you spend in Michigan and then why did you change?

21 A I entered Michigan at the age of 17 in September,
22 1940 and stayed there until June of 1942 and had some incidents
23 there, racial incidents that I didn't like and transferred out
24 of there. Went into Fisk University in September, 1942 and
25 remained there until I was drafted, which was about six months

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1 later, actually in February, 1943.

2 Q Briefly what was your army career and where were you
3 assigned and where were you stationed?

4 A Well, I was drafted as a private and went through
5 several enlisted promotions, Pfc, Corporal, Sergeant and
6 finally was accepted to attend Officer's Training School, the
7 first black to be sent from McNeil Field, Tampa, Florida, to
8 OCS, which was U.S. Airforce Training Officer Candidate School.

9 Q When you graduated from there where were you assigned?

10 A I graduated there in 1944 and as all black officer
11 candidates back in those days we were all sent to Tuskegee
12 to -- as Coleman Young put it earlier today -- the Airforce
13 Base where all of the black airmen were stationed, flying
14 officers were stationed.

15 Q Did there come a time when you were discharged
16 honorably from the army?

17 A Yes. I graduated from OCS as a Second Lieutenant
18 and was assigned to Tuskegee and I was there for 14 months,
19 which was exactly the same time I served as an enlisted man.
20 That brought it up to June of 1945 and I was given an honorable
21 discharge.

22 Q Where did you go from there?

23 A Well, I went home. I'm an only child and I went home
24 to join in business with my mother and father.

25 Q What kind of business were they in, Congressman

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1 Diggs?

2 A They were in the funeral business and had been all
3 of my life.

4 Q Did you receive any special training with respect to
5 that profession?

6 A Yes. I came out in June, out of the army in June and
7 in September of 1945 I entered Wayne State University to begin
8 the formalities for obtaining a license as a funeral director.

9 Q What was your first elected office, Congressman
10 Diggs?

11 A To the Michigan State Senate.

12 Q When was that?

13 A That was in 19 -- I was 27 years old. That was 1951.

14 Q Where were you elected from?

15 A I was elected from Detroit, from the Third Senatorial
16 District, and I was reelected. It was a two-year term in those
17 days and I was reelected and remained in the State Senate
18 through 1954.

19 Q What happened in that year?

20 A Well, 1954 is when I decided to run for Congress and
21 I did become a candidate for Congress and --

22 Q From which District was that?

23 A From the 13th District of Michigan.

24 Q Can you describe that District for us?

25 A Well, it was -- from a geographic standpoint it

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1 started at the Detroit River and went all the way to the out-
2 skirts of town right through the center of the community in-
3 cluding a city called Highland Park which was a population of
4 45,000 people. Racially it was about 65 per cent white and
5 about 35 per cent black at that time.

6 Q Have you held that position as Congressman from the
7 13th District ever since 1954?

8 A That is correct. I was the first black person to
9 be elected to the Congress of the United States from the
10 State of Michigan and I have been reelected 12 times and I have
11 been renominated for my thirteenth time just this past August.
12 I am now a candidate for reelection in November. That covers
13 a period of 24 years.

14 Q Congressman Diggs, in 1954 after your election as
15 the Congressman from the 13th District of Michigan, when you
16 came to Washington, D.C., what did you concern yourself with
17 immediately and what did you consider your constituency to be?

18 MR. KOTELLY: Your Honor, I'm going to object and
19 ask that we approach the bench.

20 THE COURT: All right.

21 (At the bench:)

22 MR. KOTELLY: Your Honor, first of all I'm again going
23 to object to Mr. Povich's expressions every time I object. I
24 don't think I am abusing my rights to object when I think that
25 the questions are improper and every time I object he looks

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1 towards the jury with this look of disdain on his face.

2 MR. POVICH: I don't look at the jury. I don't ever
3 look at the jury. I look at the witness, Your Honor, and I
4 looked at the Court.

5 I am sorry. I don't mean to make any expressions.
6 I wasn't aware I was, but I certainly don't look at the jury.

7 I think the question is, Your Honor -- I'm going
8 to try to go very briefly through the next ten-year period.
9 I understand that Your Honor is sensitive to the question of
10 what these background matters have to do with this case. I
11 want to get in simply his background. I don't wish to get
12 into any discussion about lengthy civil rights issues or any-
13 thing else but there are certain events concerning this man
14 which affected his reputation during the critical periods here
15 and I think it is sufficient to say that there has been a
16 sufficient identity through the character witnesses of what
17 he was concerned with and I'm not going to go into it further
18 but I want to at least say what the man did briefly over a
19 ten-year period. It shouldn't take over three minutes.

20 MR. KOTELLY: Your Honor, if I may be heard on my
21 objection, my objection goes to the fact that the issues in
22 this case are whether during the period of '73 through the
23 end of '76 that the Congressman was involved in a kickback
24 scheme for the purpose of defrauding the United States. I
25 would submit that his constituency, his interest in the Civil

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1 Rights Movement or in Africa have absolutely nothing to do
2 with the issues in this case. We are talking about a period
3 of time that is almost 20 years after the period that this
4 man is now testifying in detail about what his interests were
5 back at that time.

6 MR. POVICH: Your Honor, he is going to go into the
7 same specificity that we have gone in so far. I'm simply going
8 to tick off the events. I am not going to go into any discus-
9 sion of issues. I'm not going to go into any lengthy associa-
10 tion with respect to what he was doing. I simply want to say
11 what he was doing.

12 MR. KOTELLY: The question was what were his interests
13 at that time and I submit his interests are --

14 MR. POVICH: I will reframe the question. I will ask
15 him what he did.

16 THE COURT: Now, on the first point of gesticulations
17 and facial expressions I'm sure you are familiar with the Court
18 of Appeals' criticism of Judge Holtzoff for his gesticulations
19 and facial expressions.

20 MR. POVICH: I am, Your Honor.

21 THE COURT: I know there is a difference between
22 lawyers and judges but I think that it would be fair to say,
23 as my friend Mr. Watkins puts it, that we should all seek to
24 have impartial facial expressions. I haven't been watching
25 you so I don't know anything about the correctness or the

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1 characterization of counsel, but seek to avoid.

2 Both sides have the right to object. In fact, it is
3 their obligation to object when they think they have a basis
4 for the objection. So let's do it impartially and objectively,
5 agreed?

6 MR. POVICH: Yes sir.

7 THE COURT: All right. Now, the next point is the
8 extent of background. I think that we have a fairly sensitive
9 issue here. As you gentlemen know, we have eleven blacks and
10 one white on this jury. I think it would be a mistake if the
11 case were tried with that in mind. I regret to say I have
12 received letters which have gone in the round file criticizing
13 me for allowing such a jury to sit in judgment in this case.
14 Well, I have no control over that and my conscience is my
15 guide about that. But let's not play upon that section of the
16 scale.

17 He is entitled to state what he has done as a member
18 of Congress and I wouldn't limit him on that but that is not
19 the issue in this case.

20 MR. POVICH: I don't wish to make it an issue.

21 THE COURT: All right.

22 MR. POVICH: I'm going to deal with what happened
23 in this case during '73 and '76. Believe me, he will have to
24 deal with it and counsel will have to deal with it. I'm not
25 going to avoid it.

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1 THE COURT: All right. .

2 (In open Court:)

3 BY MR. POVICH:

4 Q Briefly, Congressman Diggs, would you outline briefly
5 and succinctly, if you could, your activities in Congress from
6 the period 1954 roughly to approximately through 1971, shortly
7 before the events involved in this case?

8 I would just like a summary-type of situation so
9 that we won't have to go into each one of them.

10 A Well, I was elected in 1954, took office in January
11 of 1955. I think there have been allusions to what I was
12 doing during that period already today through the witnesses
13 who came here to testify as to my character. Mrs. King talked
14 about the 1950s, the Montgomery Bus Boycott. I raised \$10,000
15 in Detroit to --

16 MR. KOTELLY: Your Honor, I'm going to object. I
17 don't think this witness is being responsive to the question
18 that's being asked.

19 THE COURT: It's not what Mrs. King talked about, sir
20 but your activities as a member of Congress.

21 THE WITNESS: Well, Your Honor, they are related be-
22 cause out of all of these activities legislation was generated.
23 The intervention of Federal authorities in the Civil Rights
24 cases in the South involving the Montgomery Bus Boycott, the
25 Emmet Teal trial in Mississippi, all of these things are

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1 | pertinent to these kinds of references.

2 | MR. KOTELLY: I object. They are not relevant at
3 | all to the issues in this case as to what happened between
4 | 1973 and 1976.

5 | THE COURT: I think your observation is correct,
6 | however, briefly Mr. Diggs, you may state just by naming them
7 | what your activities have been.

8 | THE WITNESS: Yes sir.

9 | THE COURT: The discussion of your activities in
10 | the context of this case I think would be inappropriate, but
11 | you may name them.

12 | THE WITNESS: Yes sir.

13 | Well, on the subject of Africa, in 1957 my trip to
14 | Ghana, there were references here to that by two or three
15 | people. Then into the -- my assignment in 1959 to the Inter-
16 | national Relations Committee called Foreign Affairs Committee
17 | at that time, assignment to the Subcommittee on Africa, began
18 | my attention to that very important subject because I had been
19 | to Ghana in '57, the first of the black nations to become in-
20 | dependent. I went on that Committee and became very actively
21 | involved in African affairs and then ten years later I became
22 | the Chairman of that Subcommittee. I was the first black to
23 | be assigned to the House International Relations Committee and
24 | then that brings it up to the '70s.

25 | My activities at the beginning of the '70s involved

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1 the Nashville Black Political Convention and the National
2 Black Assembly of which I was president and which was involved
3 in various issues affecting poor people around the country and
4 which had a legislative link to my interests.

5 In 1963 I went on the House District Committee and
6 started my Upward Mobility on that particular Committee that
7 has jurisdiction over the nation's capitol and its residents.

8 BY MR. POVICH:

9 Q I would like to direct your attention to 1973 which
10 is the area of concern in this case, 1973 and into 1977. One
11 of the individuals who was employed by you that you have heard
12 testimony from and concerning was a woman by the name of
13 Jeralee Richmond. Do you recall?

14 A Yes sir.

15 Q Would you tell us how long of an association have
16 you had with Jeralee Richmond, you and your family?

17 When did it first begin?

18 A I met Jeralee Richmond in 1949, 1950, in that period.
19 The funeral home needed a bookkeeper or someone to take care
20 of the books and I contacted the accounting firm that was
21 handling our general accounts, Austin and Davenport. Mr.
22 Austin, who headed that firm, was the first black certified
23 public accountant in the State of Michigan and he recommended
24 Jeralee Richmond and she came over and started work.

25 Q How long did she work for you?

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1 A Well, she worked there until on or about 1962 or
2 thereabouts, about 1962.

3 Q And she worked at the funeral home?

4 A She worked at the funeral home taking care of books
5 and dealing with constituents, dealing with people that came
6 into the office. Because the funeral home was more than a
7 funeral home; it was a community service center. People --
8 I was right across -- it was located right across the street
9 from the Brewster Housing Project which is the largest housing
10 project in the State of Michigan, several thousand poor people
11 with all kinds of problems that I had been dealing with as a
12 State Senator, as a Congressman and before that the family had
13 been dealing with them.

14 Q Was their office space and were their offices there
15 at the funeral home to deal with these problems?

16 A That's correct.

17 Q Could you describe what the office situation was?

18 A Well, there were two offices in the building on the
19 second floor. There was a reception area and people who came
20 in for that purpose were generally directed to that office
21 suite.

22 MR. KOTELLY: Your Honor, might we know what the
23 time period Mr. Diggs is talking about?

24 THE COURT: Yes.

25 THE WITNESS: We are talking about the beginning of

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1 my Congressional career, certainly from 1965 to 1972, but before
2 that --

3 Q You mean '55 to '62.

4 A '55 to '62. During my Congressional career, but
5 before that when I was in the State Senate, which brought it
6 back to 1951 and a little before that when we had the facilities
7 for that purpose there had been an addition to the facilities
8 that permitted us to have these facilities.

9 Q Those facilities went back to the time when your
10 father was a State Senator, didn't they?

11 A That's correct, actually.

12 Q You said that you had offices. Was that upstairs
13 from the funeral home?

14 A Yes sir, on the second floor.

15 Q What provision was made for the payment of the rent
16 for those offices; do you recall?

17 A Well, there was no rent. We made no charge, although
18 we could have. The Government made an allowance at that time
19 for the rental of District Office space and for certain
20 district expenses but we never made any application for funding
21 the rental of those offices.

22 Q Did there come a time when the House of Diggs Funeral
23 Home did charge rent for office space which was used for
24 the Congressional office?

25 A That's correct, because Urban Renewal finally took

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1 that property. That's in 1962-63. We had to move from there.

2 MR. KOTELLY: Your Honor, I'm going to object to
3 the relevancy of what was going on back in '62 regarding the
4 payment of rent. It seems rather removed from the '73 through
5 '76 time period.

6 MR. POVICH: Your Honor, I will --

7 THE COURT: Well, he has testified to it. Let the
8 answer stand but see if you can't get on to the period that
9 is relevant to this indictment.

10 MR. POVICH: Yes sir.

11 BY MR. POVICH:

12 Q Essentially you began to pay rent -- do you remember
13 how much it was for that office space?

14 A Fifty dollars a month. I remember it very well. We
15 at that point in the new funeral home location had an entire
16 second floor of the funeral home and -- but we only charged
17 \$50 a month and that included all utilities and maintenance
18 service and the use of the receptionist on the first floor
19 because the people when they walked into the door of the
20 funeral home the receptionist was sitting there and she directed
21 them upstairs. So in that sense that service was being pro-
22 vided.

23 Q Directing your attention to 1974 could you tell us
24 the circumstances under which Jeralee Richmond came to work
25 for you again? I assume that you say she stopped working in

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1 1963 or thereabouts.

2 A That's correct. She stopped working. She got mar-
3 ried. She left the community after she got married ultimately
4 went down to Charleston, South Carolina, as a matter of fact,
5 and then she came back.

6 They became dissatisfied with whatever living condi-
7 tions were down in Charleston and came back to Detroit. She
8 called me, let me know that she was back and said that she
9 needed a job and --

10 Q What did you tell her?

11 A I told her, "Well, welcome home. I certainly will
12 do everything I can to see that you get a job."

13 Q Did you suggest where she might come to work for you?

14 A Well, I said I would check into what I had available
15 and then I got back to her.

16 Q Where did you feel you had a better chance of employ-
17 ing her?

18 A Well, I didn't know at that particular time until I
19 checked but I did check immediately and found that I did have
20 a personnel slot available in Washington and in Detroit and I
21 first said, "Why don't you come on to Washington because you
22 are a Washingtonian?" She was born here. She lived here all
23 of her life and it was just she and her husband. She had no
24 children. "Why don't you come on to Washington and work for
25 me here in the Congressional office in Washington?"

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1 She said, "No. My husband would prefer to be in
2 Detroit." I said, "Okay. Then come on to work with me in
3 Detroit."

4 And that's how it all began.

5 Q Did you finally hire her?

6 A Yes, I did hire her and as I recall, I think she
7 went to work very shortly after that, the next day or so.

8 Q Do you remember what month it was, approximately?

9 A Oh, it was the year that -- 1974 was the year that
10 my chief of staff, Dorothy Corker died. That was in August.
11 It was not too long before that. I think it was about May or
12 something like that.

13 Q When you hired her did you have a conversation with
14 her concerning what her duties were to be?

15 A Yes, yes.

16 Q What was that?

17 A Well, I told her that I needed her in two capacities.
18 I needed her over at the funeral home as a bookkeeper to take
19 care of the books and to do in addition to that what has been
20 traditionally done by her in the past: handle constituent
21 services to deal with the people that came into the funeral
22 home seeking resolutions of their living problems and to make
23 herself and be available for these kinds of services whenever
24 they were needed.

25 Q Do you recall what her salary was when you hired her?

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1 A Oh, I think it was under \$10,000. I think maybe
2 eight or nine or somewhere in the neighborhood.

3 Q Have you recently had an occasion to look at a
4 schedule of her salary checks, the listing of them?

5 A I think, yes. I did see a listing, come to think of
6 it.

7 Q Did you notice that one of the checks was considerabl
8 more, about three times more than -- it was a second check,
9 was about three times more than the first?

10 A I did. That did stand out on that list now that you
11 refresh my memory, right.

12 Q Have you had an opportunity to recall why that hap-
13 pened, how that happened like that?

14 A Well, I have been thinking about that. As I recall
15 Jeralee and I entered into disagreement in May and I think it
16 must have had something to do as to when she could come on to
17 the payroll, whether or not there were at that time quite
18 sufficient funds for that. There was a discussion as to
19 whether she would be willing to wait until I could get the
20 funding back to her that she would normally have gotten at
21 that time if I had all of the monies available.

22 When I did get those funds, which I think was in
23 August or something like that, which was the month Dorothy
24 died, then -- because when Dorothy died that released, that
25 created certain kinds of releases and changes and turmoil,

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1 as a matter of fact. Then I put her pay that would normally
2 cover that period all into that one check. That's the reason
3 that it was the size that it was, as I further reflect on it.

4 Q Did you help your constituents during the period
5 that she was in the funeral home?

6 A Oh yes. Jeralee was very empathetic with people.
7 She had been dealing with the public since I have known her
8 and she was very good. She was a mature person, an intelligent
9 person. She knew how to deal with the various agencies that
10 my folks had to deal with and she was very good.

11 Q Did there come a time when she began to work as well
12 in the District Office?

13 A Yes. She worked in the funeral home. She started,
14 as I recall, on at the funeral home we had on Dexter in Detroit
15 and then we moved from there. We moved from there to another
16 location on Myers Road in Detroit and she went over there and
17 then she was coming over to the Congressional office on Wood-
18 ward Avenue at least one day a week during that period and in
19 addition to handling people that came in and called in and all
20 that business while there.

21 Then the funeral home merged with another firm. That
22 was in the fall of 1975 and she stayed there a few weeks or
23 something like that and then at the same time coming into the
24 Congressional office at least one day a week, as I recall.
25 Then she was transferred completely to the Woodward Avenue

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1 Congressional office, which we call the Diggs Community Ser-
2 vice Center.

3 Q Did her salary remain essentially the same during
4 that period of time or did it go up a little bit?

5 A I think outside of cost of living increase it re-
6 mained somewhere in the same neighborhood.

7 Q With respect to Miss Richmond I would like to ask
8 you this question. You have heard a discussion about where
9 an employee may work with respect to an employee on your staff.

10 What limitation, if any, is there as far as you know
11 as to the location where an employee on a Congressman's staff
12 may work?

13 A An employee on a Congressman's staff who works in
14 -- away from Washington has to work either in the District of
15 the Congressman or in the State of the Congressman, which means
16 that they can work anywhere in the entire State. I could have
17 her up in the upper peninsula if I wanted to. There were no
18 restrictions at all as long as she was performing according
19 to my direction.

20 Q She was not required then to be actually in your
21 District Office as such?

22 A Oh no, not at all. No kind of restrictions like
23 that and never has been as long as I have been a member of
24 Congress for 24 years.

25 Q Mr. Diggs, I would like to direct your attention now.

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1 if I can, to another individual who was employed by you also
2 in Detroit, this individual in the professional capacity. Do
3 you recall that there has been some testimony both by George
4 Johnson and about him and about the money which he received?

5 I would like to address your attention to him, if I
6 could.

7 A Yes sir.

8 Q Can you give me the circumstances which existed at
9 the time you decided that you were seeking an individual of
10 Mr. Johnson's qualifications and background and what prompted
11 you to do so?

12 A I think now you are talking about -- I think George
13 started in 1973. 1973 was a very historical year for me that
14 brought into play all kinds of demands upon my time. That was
15 the year that I became Chairman of the House District Committee,
16 for example, the first time in the history of the country or
17 the Congress that that had ever happened -- and caught up with
18 the reorganization of that Committee and so forth. It was also
19 the year of an election back in Detroit.

20 Coleman Young, who testified here this morning as
21 a character witness, was a candidate for mayor and went on to
22 become mayor, the first black mayor in the history of the
23 City of Detroit.

24 MR. KOTELLY: I would object and I ask these ques-
25 tions be related at this point of George Johnson, they be

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1 related to George Johnson, not generally as to his activities.

2 MR. POVICH: I asked, Your Honor, the situation
3 which existed which prompted him to hire George Johnson and he
4 is giving me that.

5 THE COURT: I will permit the answer.

6 BY MR. POVICH:

7 Q Yes sir? Do you remember the question?

8 A Would you repeat the question, please?

9 Q Yes sir.

10 The question was the situation which existed which
11 prompted you to hire George Johnson.

12 A Well, I was putting together a staff and needed the
13 kind of expertise that George had. George Johnson was the
14 principle in a certified public accountant firm that did
15 financial management; was heavily involved in black economic
16 development, small business and black enterprise and matters
17 of that type and I knew George. I had known him a long time.
18 I knew the firm that he succeeded which was that Austin,
19 Washington and Davenport firm and I ran into George at a social
20 occasion. I think it was a fund raiser for candidate Coleman
21 Young for mayor and I said, "George. I have been thinking
22 about you lately in connection with all of these needs and I
23 can see some places where you could be of great help to me as
24 a consultant with respect to these areas of interests."

25 Well, his eyebrows raised. He was quite interested

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1 and it wasn't a long conversation but I ended it like that and
2 told him I wanted to know whether or not he was available and
3 interested. He said he certainly was interested and I told
4 him I would get back to him. Subsequently he was hired as a
5 consultant to me for those purposes.

6 Q Now, did you from time to time meet with him after
7 that period of time?

8 A Oh, yes. I had been meeting with George anyway about
9 another matter because George Johnson was my personal accountant
10 handling several matters pertaining to my taxes, matters per-
11 taining to my mother's taxes, my daughter, other members of
12 the family. He was the accountant for the House of Diggs.

13 I had many countless meetings with him and had
14 meetings with him over a period of time. We had him on re-
15 tention at the House of Diggs for that particular purpose.

16 Q During the period of time that you were meeting with
17 him what, if anything, did you discuss with him and what did
18 you meet about in addition to matters with respect to the
19 House of Diggs and your family and your personal tax matters?

20 A Well, in addition to the House of Diggs matters, my
21 personal tax matters, I drew upon George's knowledge and exper-
22 tise and involvement in the community with respect to black
23 economic development projects, small business projects.

24 Many of his clients had problems in dealing with the
25 Small Business Administration. I had become identified with

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1 it because I was -- had been a business person myself. I had
2 a lot of constituents that were concerned with these matters
3 and I consulted with George on it.

4 At the same time that was the year that the Renaissance
5 Center was being planned and I had pulled together a group of
6 people in the Community, business people, black business
7 people, black economic people, contractors of various types,
8 for the purpose of developing a program to assure that blacks
9 would participate in this very, very important project, the
10 Renaissance Center.

11 The creation of Henry Ford the Second was going to
12 be the centerpiece of the revitalization of downtown Detroit
13 and I wanted to make sure that black people got a piece of the
14 pie.

15 Q Did you meet with him and discuss these matters?

16 A Yes, I did. Yes, I did.

17 Q In addition he recalled meetings and discussions with
18 respect to an organization called ICBIF. What was that?

19 A ICBIF is an organization that I founded right after
20 the race riots in Detroit in 1967 when the commercial areas
21 in the black community where the riots took place were inter-
22 rupted. I pulled together a group of people to talk about
23 the restoration of commercial services. Even drugstores and
24 grocery stores were wiped out, things of that type, and I
25 called it ICBIF. Stands for the Inner City Business Improvement

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1 Forum, and it was the basis upon which people got together
2 and began to plan about the restoration of the commercial
3 areas in the black community. It is still existing. It
4 developed into an organization that is advising black business
5 people on economic developments, securing loans, interceding
6 on behalf of black business people in dealing with SBA and
7 trying to get commercial loans and trying to get insurance
8 for contracting, which has always been a difficulty in a
9 black community, and so forth.

10 Q Was Mr. Johnson identified with these matters and
11 was he knowledgeable on them?

12 A Oh, yes, my goodness. He was very active in ICBIF
13 because that was a group of people who dealt with black
14 economic problems and he, as I mentioned, was a principle in
15 the leading black CPA firm in the City of Detroit.

16 Q Now, Mr. Diggs, there came a time in which you had
17 this discussion about retaining him; is that correct, for your
18 hiring him for your Congressional work?

19 A Yes sir. I referred to that.

20 Q Did you at that time or did you at any other time
21 ever have a discussion with him in which you suggested that
22 he should credit any monies that he received from the Congres-
23 sional staff payroll for work which he was doing for you
24 privately?

25 A Absolutely not.

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1 Q Or for the House of Diggs?

2 A Absolutely not because he was already being paid
3 from the House of Diggs.

4 Q Do you recall there was some testimony from him with
5 respect to the amount of money which had been paid and was
6 still owing? Do you have any recollection as to what your
7 understanding was at that time, 1973 and 1974, as to whether
8 or not George Johnson was being paid, was billing and, in fact,
9 whether or not the House of Diggs still indeed owed the money?

10 A Well, he was certainly billing and he was being paid.
11 I don't recall exactly how much he was being paid. I particu-
12 larly remember one transaction because that took place at the
13 time the House of Diggs had applied for an SBA loan in connec-
14 tion with their moving from the Dexter address to the Myers
15 Road address and at the closing the bank required that we list
16 our creditors and George Johnson was one of those creditors.
17 And George --

18 "This conference took place at the bank's room and
19 present was myself and George Johnson, my lawyer and the bank
20 officials. We went down the line. They had a list of all the
21 creditors which was part of the closing requirement and we
22 prioritized the payment to our creditors because there wasn't
23 sufficient money being released at that particular time to
24 cover all of the creditors. George Johnson was one of the
25 priority creditors.

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1 As I recall, the check ran a little over \$6,000 that
2 was paid to him out of House of Diggs funds on his account.
3 Now, he was paid some other funds but I particularly remember
4 that amount because of the size of it.

5 Q He testified in this courtroom that his recollection
6 was it was about \$15,000 that he had been paid and there was
7 still a substantial amount of money that was still owed. Does
8 that meet with your recollection?

9 A Well, he was being paid so I assume he knows how
10 much he was being paid. That represented how much he was being
11 paid over or had been paid over a period of time that -- over
12 the period of time in question but I do know that there were
13 balances.

14 As a matter of fact, he sued the House of Diggs to
15 recover his balance. He sued my daughter to recover a balance
16 from her for doing some tax work for her. He sued me to recover
17 monies that I owed him for personal tax and other kinds of
18 services and he turned an account that my mother owed him, my
19 80-year-old mother of \$150 over to a collection agency and she
20 was being dunned for that.

21 Q Did you ever tell him at any time that he was to
22 credit anything that he was receiving from your Congressional
23 staff against any of those accounts?

24 A Not at any time at all.

25 Q Did you ever have any information that he was ever

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1 | crediting those amounts?

2 | A Not at all. I was never made aware of that, if he,
3 | in fact, was doing it.

4 | Q Mr. Diggs, I show you what's been marked as De-
5 | fendant's Exhibit Number 36 and ask you whether or not this
6 | was the check that you were referring to, the check register
7 | which indicates the payment of I think it is \$6200?

8 | A Well, this says "Cash reimbursements payroll journal"
9 | and attached to it is a stub from a check from the House of
10 | Diggs. Going down the line here yes, on the ninth line, on
11 | the 23rd of September, 1974, there was a check made out to
12 | George Johnson & Company, check number 234 for \$6,216.93 and
13 | it says, "Accounting through" some period in that year.

14 | THE COURT: What is the exhibit number?

15 | MR. POVICH: Exhibit 36, Your Honor.

16 | THE COURT: All right.

17 | BY MR. POVICH:

18 | Q Congressman Diggs, I would like to direct your atten-
19 | tion to an individual who was on your staff by the name of
20 | Jean Stultz.

21 | A Yes sir.

22 | Q She testified in this case.

23 | A Yes sir.

24 | Q You have heard considerable amount of testimony
25 | concerning her employment by you.

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1 Can you tell us when you first met Miss Stultz,
2 where it was?

3 A I first met Jean Stultz at the Democratic National
4 Convention in 1972 in Miami. I was at that time the Vice
5 Chairman of the Democratic National Committee in charge of
6 the Minorities Division. I had succeeded Congressman Bill
7 Dawson in that capacity.

8 At the convention the Minorities Division always
9 has an office and facilities to accommodate black delegates
10 that come from all around the country and other black observers
11 from all around the country and act as a liaison between the
12 black community, the various candidates and so on. Jean
13 Stultz was a member of that staffing operation.

14 She was brought into the Miami operation from
15 Washington where she was employed.

16 Q Did you observe her in her activities with respect
17 to the Minorities Division of the Democratic National Com-
18 mittee?

19 A Yes. I observed her and I observed another person
20 who was also there that ultimately came into my employ, a young
21 lady by the name of Joan Willoghby.

22 Q Tell me the circumstances under which she was re-
23 tained or hired by you to go on your staff.

24 A Well, I found both of them to be aggressive and
25 Dorothy Corker was down there at that time. Dorothy Corker

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1 was my administrative assistant and we were in the process of
2 talking about staffing for 1973 because by that time John
3 MacMillan, who was the Chairman of the District Committee and
4 had been for 25 years, had been defeated and I was next in
5 line and I was going to be the Chairman. We were talking
6 about staffing operations and so on.

7 I said, "Dorothy, I've met a couple of people here
8 that we ought to take a look at;" and I named both of them and
9 instructed Dorothy to check with them and find out about their
10 availability for employment.

11 Q Now, you said that you were considering staffing.
12 What was the extent of your staff prior to the time that you
13 assumed the Chairmanship of the House District Committee?

14 A Well, let's see. I think in those days a member of
15 Congress for his Congressional office could hire up to 16
16 people and then I was Chairman, as I have mentioned, of the
17 Africa Subcommittee and I had the authority to hire I think
18 two people over there as consultants, so I had a total of about
19 oh, 18 people or so available to me.

20 Q When you became Chairman, when you were to become
21 Chairman of the House District Committee how many slots would
22 you have to fill with respect to your duties in that position?

23 A Well, at the beginning of 1973 I would say about
24 20, 25 people.

25 Q Additional people?

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1 A Oh, yes. That was separate. That was -- these were
2 people that were authorized to be hired for the Committee on
3 the District of Columbia of the House and then later on under
4 the reforms it was increased even above that.

5 So now we are really -- it's up to 30 or 40 people.

6 Q So essentially then your staff in January of 1973
7 was going to double?

8 A That's correct, that's correct.

9 Q How did you plan on staffing the House District
10 Committee from the people that you were familiar with?

11 A Well, the first thing was to appoint Dorothy Corker
12 who was my Administrative Assistant, as Chief of Staff of the
13 House District Committee, which is generally the way things
14 are done when a member assumes the -- goes from a plain member
15 to the Chairmanship. He generally takes his top staffer along
16 with him as the Chief of Staff. That's what I did in this
17 particular case and I had particular pride in doing it because
18 she became, with that assignment, the only woman in the House
19 of all of the standing committees who was head of the staff of
20 a committee.

21 Q When was it that you actually hired Mrs. Stultz and
22 at what salary and what position?

23 A Well, Dorothy handled those things in those days.
24 I think Jean came in October. Willoughby came in a little
25 ahead of her. The two of them came in about the same time.

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1 Willoughby was ahead of her. I think Jean came in in about
2 October, somewhere in that neighborhood.

3 Q Do you remember what her salary was at that time?

4 A Well, she came in as a secretary. I think it was
5 under \$12,000, somewhere in there.

6 Q Did there come a time when she, in early 1973, when
7 you changed her job and increased her salary?

8 A Yes, that's correct.

9 Q What circumstances prompted that?

10 A Well, she was being figured into our plans as far as
11 that's concerned and my private secretary at that time, Elaine
12 Tillett, gave notice that she was leaving. She left on or
13 about the end of December and she was being -- she meaning
14 Stultz -- was being groomed by Corker to not only move into
15 that slot but was being groomed by Corker to take over the
16 office management on the Congressional office side.

17 Q Describe for me at the time she moved into that
18 position in February or March of 1973 what was happening with
19 you and particularly in the Congress, in the House District
20 Committee.

21 MR. KOTELLY: Objection unless this relates to Mrs.
22 Stultz, Your Honor.

23 MR. POVICH: Yes, it does, Your Honor.

24 She testified she didn't know what he was doing.

25 THE COURT: Very well.

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1 MR. KOTELLY: I would ask the question be directed
2 towards Mrs. Stultz' activities and not the Congressman's
3 general activities, Your Honor.

4 MR. POVICH: I will refrain it.

5 THE COURT: All right.

6 BY MR. POVICH:

7 Q Congressman, would you please tell me your activities
8 during 1973 in the Congress of which Mrs. Stultz would be
9 familiar with?

10 A Well --

11 MR. KOTELLY: Objection, Your Honor, as to whether
12 familiar or involved. I would submit involved is the question,
13 not whether she is just familiar with it.

14 THE COURT: Suppose you put it that way.

15 BY MR. POVICH:

16 Q -- involved, of which she would have personal know-
17 ledge.

18 A I like that word "involved" better myself because
19 she was involved. She was acting as -- in the capacity of
20 my personal secretary in connection with all of the reorganiza-
21 tion efforts and gearing up for the passage of the Home Rule
22 Bill in the District of Columbia which was our main concern.
23 There were numerous meetings, numerous hearings, numerous
24 appointments to be arranged with officials, Mayor Washington,
25 various members of the city council, the appointed city council

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1 and other community leaders, people from the business community,
2 people from organizations all over the community, meetings with
3 members of Congress whose support was needed if we were going
4 to pass this Bill.

5 You know, we are talking about a bill that had been
6 hung up in the House District Committee for a hundred years
7 and John MacMillan sat on that bill for 25 years that he was
8 Chairman of it purposely.

9 MR. KOTELLY: Objection, Your Honor. This has ab-
10 solutely nothing to do with the issues in this case.

11 MR. POVICH: It does, Your Honor, because I feel that
12 if he is in a very critical period of his congressional career
13 that perhaps --

14 THE COURT: He may state what Mrs. Stultz did in
15 supporting his activities.

16 THE WITNESS: Well, Mrs. Stultz was involved in
17 arranging all of these appointments. She had to have some sense
18 of the substantive issues that were involved in arranging these
19 appointments because there are other demands upon my time. I
20 was still the Chairman of the House Subcommittee on Africa.
21 I had my own Congressional office to take care of and my con-
22 stituents services.

23 There was a campaign going on back in Detroit in-
24 volving my childhood friend, Coleman Young, that I was actively
25 engaged in.

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1 So there was a great amount of demand upon my time
2 and in order to intelligently prioritize one had to know what
3 these various appointments were all about and that's where
4 Jean became involved and in conversations with all of the
5 elements that added up to this kind of tremendous activity.

6 BY MR. POVICH:

7 Q Did one of the individuals she had contact with, was
8 that Mr. Robert Washington who testified in this case?

9 A Oh, yes, because Robert Washington was General
10 Counsel for the House District Committee. He was Number 2.
11 Dorothy Corker was Number 1 as Chief of Staff and Bob Washington
12 who had been working over on the Senate side as a member of the
13 Senate District Committee -- I had never met the gentleman
14 before but Dorothy Corker discovered him and that's how he
15 was hired as General Counsel and he was working with her.
16 He was Number 2 working with Jean and Dorothy and other people
17 in connection with all of this activity.

18 Q All right. Directing your attention to March of 1973
19 when Mrs. Stultz became your personal secretary, during the
20 period when she was your personal secretary what was your
21 financial condition at that time?

22 A Well, it was very bad. I was not meeting my monthly
23 bills and the creditors were on my back and it was just a bad
24 picture, without any question.

25 Q Was Mrs. Stultz aware of it?

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1 A Oh, yes. She was, in effect, the buffer between me
2 and the creditors because I was -- as engaged as I was with
3 all these other activities, if I had to take on the creditors
4 I never would have been able to perform my representational
5 duties. So she dealt with the creditors on a daily basis.

6 Q Did you meet with her from time to time during those
7 months and try to arrange some type of payment for each of the
8 creditors and how much you could pay on each of the occasions
9 and which would be paid and which would not be able to be paid?

10 A Oh yes, yes. We had numerous meetings with respect
11 to this. She arranged a schedule so that we could meet.
12 Sometimes that meant meeting pretty late at night because you
13 are talking about eighteen hours a day and other things had
14 priority at that time.

15 Q Towards the end of that year, 1973, did you have any
16 unusual expenses?

17 A Yes. I particularly remember one expense. It was
18 the portrait, a picture which is traditionally done when you
19 have a new Chairman. They make a portrait of the Chairman and
20 it's hung in the Chambers of the Standing Committee and there
21 is a ceremony and all of that and Dorothy Corker, who was my
22 Chief of Staff, came to me and said, "Well, you know, it's
23 time to get ready for this event and I have checked out all
24 the details and I have identified somebody that I think can
25 do the job" -- Clipper, I think his name was. Yes, Mr. Clipper.

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1 an outstanding artist, and it cost \$2500, as I recall. I said,
2 "Well, fine." I said, "But where are we going to get the
3 \$2500? You know I don't have that kind of money."

4 She said, "Well, let me" --

5 MR. KOTELLY: Objection, Your Honor. Are we talking
6 about Dorothy Corker? I would object to hearsay at this point
7 as to what she may have said.

8 THE COURT: As a result of what she said what hap-
9 pened?

10 THE WITNESS: As a result of what she said, subse-
11 quent to that time I think the same day or the next day, Jean
12 Stultz came to me and said that Dorothy Corker had contacted
13 her about this bill and contacted her for the purpose of
14 finding out if she would make available her funds from her
15 salary to pay for this picture and she came to me and asked me
16 if I thought it was legal. I said, "As far as I know you can
17 do anything you want with your salary and as a matter of fact,
18 when Dorothy Corker talked about this matter with me she men-
19 tioned you as a person that she thought would be the person
20 that would be the person she talked to, to see if you were
21 willing to do this."

22 I told her at that time or she told me at that time
23 really, because she had done the research on it, she felt that
24 there wasn't anything improper about it.

25 MR. KOTELLY: Objection, Your Honor. I would ask

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1 that be stricken from the record, Your Honor.

2 This is totally improper testimony.

3 THE COURT: Sustained.

4 BY MR. POVICH:

5 Q You said you had a discussion with Mrs. Stultz?

6 A I had the discussion with Mrs. Stultz.

7 Q And that discussion you say came about following
8 your conversation with Mrs. Corker?

9 A That's correct.

10 Q In that conversation she asked you whether or not
11 you thought it would be permissible for her to do that?

12 A That's correct.

13 Q And what was your answer?

14 A My answer to that is that I was -- that it was per-
15 missible and that I thought that she could do anything she
16 wished to do with her own salary.

17 Q Did there come a time when she paid for the portrait?

18 A She paid for the portrait.

19 Q Were there any other expenses that she paid for as a
20 result of that?

21 A Well, --

22 Q Was her salary increased?

23 A Beg pardon?

24 Q Was her salary increased?

25 A Yes. Dorothy Corker had made that recommendation and

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1 her salary was increased.

2 Q By you?

3 A Well, I signed the Payroll Authorization Forms, yes,
4 by me. I concurred in Dorothy's recommendation on that particu-
5 lar point.

6 Q And the salary was increased and she was placed on
7 -- which payroll was she put on?

8 A I don't remember. I think there was a period when
9 she was on both payrolls because she was working on both pay-
10 rolls so I can't -- I don't recall exactly. You have got the
11 forms there, I assume. Whatever the form says, that's the
12 way it was, because I signed the Payroll Authorization form.

13 Q Now, you say she paid that expense from her in-
14 creased salary?

15 A That's correct.

16 Q Did she pay any other expenses that you can recall
17 during that period of time?

18 We are talking about the end of 1973 and the begin-
19 ning of '74.

20 A Well, as I recall, the portrait was paid in two
21 payments. I think there was one payment of half of it, was
22 paid near the end of either October, November, somewhere in
23 that area and the other half was paid January of '74 just be-
24 fore the ceremony.

25 Q Were there any other office expenses that she paid

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1 after that conversation with you?

2 A I believe there were a couple of others that she may
3 have paid or did pay in November or December. I have some
4 recollection of a telephone bill for the Detroit District
5 Office that had gotten up pretty high because, as I mentioned,
6 you know, all of our bills were getting pretty high. I think
7 that was about \$700, as I recall.

8 The other bill that she may have paid, I don't remem-
9 ber that, but I do remember the portrait matter because of
10 the circumstances surrounding it and the meaning of it because
11 it was in connection with a ceremony that was going to be held
12 and which was held where a half a dozen -- the Speaker was
13 there, the Majority Leader, the Vice President of the United
14 States, Jerry Ford came. He was part of my original delegation
15 from Michigan and he came and spoke, was the main speaker on
16 this occasion and spoke about the pride that he had and
17 Michigan had in my taking that position.

18 MR. KOTELLY: Your Honor, I object.

19 THE COURT: Yes. I sustain that objection.

20 BY MR. POVICH:

21 Q Thereafter did she continue to pay some office
22 expenses or congressionally-related expenses as they came in?

23 A Yes, she did. If you are talking now about --

24 Q 1973 to 1974.

25 A 1974 she paid some expenses during that time, not

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1 each month but she did pay some expenses during that time.

2 Q Did there come a time when she began to pay as well
3 for you what you would call personal expenses?

4 A Yes, she did.

5 Q Can you tell us how that came about?

6 A Well, as I mentioned, I was in very dire financial
7 straits. She was handling all of my personal affairs, all of
8 my personal business and she was dealing with the creditors and
9 I said, "Can you help me out?" She said, "Yes. I'm prepared
10 to help you out." And that's what she did.

11 She began to pay my personal bills, not all of them,
12 because I was paying obviously some of them. She began to pay
13 some of my personal bills out of her salary and make her salary
14 available for that particular purpose.

15 Q How long did that continue?

16 A Well, it continued -- we are talking 1974. I think
17 it began in the latter half of 1974. As I mentioned, Dorothy
18 died. That was sort of the reference point of 1974, was the
19 death of my Chief of Staff, Dorothy Corker. I was drawing
20 no salary beginning with the 1st of July because under Con-
21 gressional rules a member of Congress can draw all of his
22 salary out over -- salary for a two-year period he can draw it
23 out in 18 months. So that the last six months of any election
24 year if you have drawn it out you don't get any compensation.
25 So I had no income coming in from the Congressional office.

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1 my Congressional office at that time.

2 Each check that became available at that time was
3 turned back over to the Riggs National Bank and applied toward
4 the advances that I received on my salary.

5 Q Did there come a time in the spring of 1976 when
6 she indicated to you that she wanted to leave her job?

7 A Well, I remember her coming to me and talking about
8 her position. She was very much agitated and frustrated
9 because of certain personnel problems that she had in Detroit
10 and in Washington and she named individuals that were, accord-
11 ing to her perspective, giving her a hard time or she was
12 having difficulty with them. She also mentioned that she was
13 having a tax problem that was becoming burdensome to her as
14 a result of her salary and so on and but the thing that she
15 stressed at that particular time was the frustrations that
16 were being generated by these personnel problems in Detroit
17 and in Washington.

18 "Look", she said, "I think part of my problem is
19 the fact that I'm a woman," and most of the employees in both
20 these offices were female. I had, you know, a mix, of course,
21 but from a numerical standpoint they were mostly female. All
22 of the problems that she was having were with female employees
23 and she says, "You know, maybe you ought to bring a man in
24 here." I remember her specifically saying that, "You ought
25 to bring a man in here to take control of this office and

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1 control of these women so that we can have some -- so you can
2 have some peace and harmony and take care of your business
3 because you are too busy to be getting involved in all of this
4 'Who shot John' within the Congressional office."

5 So I listened to her at that point and said, "Well,
6 you know, tell me who these people are. Let me try to resolve
7 some of these problems," and I set out to talk to some in-
8 dividuals.

9 Q Why did you not want her to go?

10 A I did not know. She was performing most satisfac-
11 torily to me and I told her that. I said that, "I wanted to
12 stay and I need you to stay and, you know, with your experience
13 and I'm a rather private person. I don't like to" -- she was
14 handling personal things for me, my personal bills and things
15 of that type. I just don't like to break in new people and
16 people get involved in your business and whatnot and for all
17 those reasons I asked her to stay.

18 Q Did she ever indicate to you that she wanted to leave
19 because she was dissatisfied with her salary arrangement?

20 A Well, she said -- yes, yes. That's correct.

21 Q What did she say?

22 A She said that she was having a tax problem; that she
23 was beginning to have a tax problem I think, you know, based
24 upon the higher level of salary and apparently she wasn't having
25 enough deducted or something of that nature but anyway it was

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1 a tax problem and that's what she mentioned at that particular
2 time. At the same time she was talking about these other per-
3 sonnel problems.

4 Q At any time did she ever indicate to you that she
5 was not -- she had been unhappy or was unwilling to give or
6 offer to you the money from her salary that she had offered
7 to you over the previous period of time?

8 A No. That had nothing to do with it. She did not
9 mention that at all at that time. She talked about these
10 personnel problems. She talked about her tax problems, but
11 she did not, according to my recollection, make any reference
12 along those lines.

13 Q Did she ever indicate to you that she thought that
14 what she was doing was in any way improper and that she wanted
15 to stop it?

16 A No. She did not say it like that. She wanted to
17 be relieved of the burden of these personnel problems and she
18 further said that the salary was creating a tax problem for
19 her. I said, "Well, you know, what about reverting back to
20 your roll as personal secretary and as executive secretary
21 to me and we'll go ahead and follow your recommendation. We
22 will bring in somebody else. I will look for a man as you
23 suggested to bring in in order to effectuate better management
24 control in the office."

25 That was my offer.

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1 Q Would that have included a decrease in her salary?

2 A Oh yes, if she was going to revert back because at
3 all times her salary was commensurate with her position.

4 Q Did there come a time when she agreed to do that?

5 A Yes. She stated at that time that -- well, at first
6 she said that she didn't think that arrangement was going to
7 be satisfactory. I think she said that -- something about,
8 "Well, you're going to be dealing with the same people."

9 We have a relatively small office although there were
10 40 people, which sounds like a lot of people. It is a lot of
11 people. In another sense of the word it's a small office and
12 the space is small and there is a great amount of proximity
13 and you can't isolate people. So she really -- she really
14 wasn't all of that -- she was obviously not enthused about that
15 kind of a prospect and so stated it.

16 So I said, "Well, I still make the offer." She said,
17 "Well, I think I would rather just be released."

18 That was an election year, 1976, a Presidential elec-
19 tion year and I was heavily involved in that. Coleman Young and
20 I had -- were early supporters of Carter. There was a Presi-
21 dential Primary in that state for the first time or for the
22 second time as a matter of fact and that was important. So I
23 said, "Well, stay with me through the primary at least, my
24 primary," which was in August. She finally agreed to do that.

25 Q All right. And she went on and she continued at the

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1 lower salary?

2 A That's correct. Her salary was reduced then to
3 20 some odd thousand dollars.

4 Q Was there ever an indication by her that she did not
5 voluntarily afford you the use of those funds in her salary
6 that she did during that period of time?

7 A Not at all. Not at all. She was willing to do it.
8 She loaned me the money.

9 Q Tell me about that.

10 A Well, she went to the bank during one of these occa-
11 sions and borrowed a thousand dollars to loan me to help pay
12 some of my bills. There was never a time that I can remember
13 when she expressed any unwillingness to continue making her
14 salary available, portions of her salary available to supplement
15 my needs and to pay the bills, not that I can remember.

16 Q Did you ever make that a condition of her employment?

17 A Of course not, of course not. She could have quit
18 any time she wanted to. Her paycheck went into her account.
19 I was sitting here during the testimony. She said that all of
20 her money went into her own account. There was no separate
21 account. I had no control over her account. She responded
22 to a question about whether I was a signatory or had any con-
23 trol over her bank account. I had no control over it.

24 She testified to that sitting right in this chair,
25 so she could spend her money for whatever she wanted whenever

001101

1 she wanted and if she had any unwillingness to continue making
2 her salary available to me for personal affairs or for business
3 affairs or Congressional representation affairs she could have
4 cut it off any time she wanted to.

5 MR. POVICH: Your Honor, could we take a break for
6 a moment?

7 THE COURT: If you want a break, we will take a
8 break.

9 (Recess.)

10 (The jury returned to the courtroom.)

11 BY MR. POVICH:

12 Q Mr. Diggs, I would like to direct your attention to
13 September, 1975, in Detroit and ask you whether or not during
14 that period of time you began to incur some additional and
15 extraordinary expenses in the operation of the Detroit office,
16 September, 1975, approximately?

17 A Yes sir.

18 Q Could you tell us what they were?

19 A Well, as I recall I had discussions about reorganizing
20 the offices and providing more and better facilities to service
21 our constituents. That was based upon an analysis by myself
22 and my advisors that I needed to shore up my services back
23 home. I had become so involved through my other roles in
24 the Congress as Chairman of the House District Committee and
25 Chairman of the Subcommittee on Africa that people were

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1 beginning to talk about this and saying, you know, in effect,
2 "What's Diggs doing for Detroit".

3 MR. KOTELLY: Objection, Your Honor, as to what
4 other people were saying.

5 THE COURT: Yes. I think you have made your point,
6 Mr. Diggs.

7 THE WITNESS: Yes sir.

8 BY MR. POVICH:

9 Q In connection with that did you begin or did you
10 have some expenses with respect to assisting your constituency
11 that you had not had before or had not had to that extent be-
12 fore?

13 A Well, that's certainly true. I needed to shore up
14 that Detroit operation which generated some additional expenses
15 and I had no other source, no special source to draw upon.

16 Q You had no unofficial office account?

17 A That's correct.

18 Q What is an unofficial office account?

19 A Well, an unofficial office account is an account
20 which many members had to -- that was funded by various sup-
21 porters by fund raising and by contributions from special
22 interests and so forth and some refer to it as a slush fund
23 but it was an office fund designed to take care of expenses
24 that were not covered by any official allowances.

25 Q You mean because of the limitations involved?

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1 A That's correct. That's correct because the limita-
2 tions were very severe. In 1975 the expenses for running your
3 District Office or offices, however you want to put it, you
4 are talking about \$2,000 a year to cover all of the expenses
5 for a District operation and you are talking about in my case
6 an operation that was designed to serve 400,000 people in the
7 City of Detroit.

8 Q Did you at that time also have a van, a mobile
9 van that you used in order to service your constituency?

10 A Yes sir. That was one of the recommendations that
11 grew out of the analysis of my needs locally and remember that
12 my district covers a pretty wide area. It has a lot of older
13 people in it. As a matter of fact, it has more older people
14 in it than any other Congressional District in the whole state.
15 These are poor people that in many instances cannot afford the
16 bus fare to come over to an office or find it convenient to
17 walk in all cases to the neighborhood. So I had a meeting
18 with the office and I said, "Look, we are not telephone opera-
19 tors here. I want you to, you know, get up and get out into
20 the community."

21 I saw the van as a way of not only making it con-
22 venient for my constituency to be afforded the services that
23 I had to offer but also it served as a vehicle because these
24 were -- this van was scheduled to go out into the community.
25 It served the purpose of getting the people out of my office

001104

1 and into these various areas so they can deal directly with
2 them.

3 Q Were you afforded at that time the opportunity to
4 use rent free any space in the Federal building?

5 A Yes. That prerogative is one afforded any member of
6 Congress who cares to use it.

7 Q Did you seek --

8 A And if space is available in the local Federal
9 building.

10 Q Did you seek to use that?

11 A I have never used space in the Federal building.

12 Q Why not?

13 A Well, simply because of the profile of my constitu-
14 ency. You are talking about -- the Federal building in the
15 City of Detroit is located in the downtown area in a great big
16 building that has probably twelve stories or something like
17 that. You have got to get downtown. You have got -- there is
18 no parking; there is no free parking. You have got to get
19 downtown and the Congressional offices that are located in
20 there are up on an upper floor and it is very inconvenient.
21 It is not visible. You can't look at that great big massive
22 building and tell anything about it.

23 So that was part of the reason and the other reasons
24 relate to my desire to be closer to the people, to have a
25 storefront office in a neighborhood where people could see that

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1 such a service was available and people were available to help
2 them deal with various levels of government and I dealt with
3 various levels of government.

4 It wasn't confined because the Congressman is the
5 only locally-elected official that has an office. The members
6 of the state legislature aren't afforded any offices. The
7 city councilmen are downtown in the great big city county
8 building and so therefore we not only get traffic concerning
9 constituent services from people with Federal problems but also
10 from other areas, from people that have city problems that
11 can't reach the city councilmen or problems that relate to the
12 state and they can't reach -- and even from other Congressional
13 districts they come into that office because I am the senior
14 member of the delegation.

15 People have been dealing with Diggs longer than they
16 have dealt with other people and a lot of people have been used
17 to dealing with me. My district in addition to that has changed
18 its boundaries several times and a lot of people who used to
19 live in the District now live in other Districts and they pre-
20 fer to come back to deal with us because we have a reputation
21 for quality service and dedicated service for constituents
22 period.

23 Q Is it during this period of time that you began the
24 television show "The Congressman Speaks" or the radio show
25 "The Congressman Speaks"?

001106

1 A Yes. I had a radio program in the evening and I
2 started one in the daytime because I made certain surveys and
3 determined that I could reach a lot of people -- this is all
4 on Sunday -- I could reach a lot of people on Sunday morning
5 that I could not reach at night when the competition for these
6 big television shows and so forth was such that I was losing
7 a lot of listeners that have traditionally listened to me over
8 the air. I have been on the radio since 1945 when I first came
9 out of the army.

10 So I created this morning show which was really a
11 part, a segment of a spiritual music show and a church kind
12 of program that went from six in the morning until church time
13 at eleven and I went on about ten or ten thirty in the morning
14 so I could reach more people.

15 Q In the evening show as well what kind of discussions
16 did you have? What kind of topics did you have on the House
17 of Diggs show which was in the evening; is that correct?

18 A The evening show was the House of Diggs show that I
19 started back in 1945. Well, that was a show that, wherein I
20 made talks about issues, local issues, national issues. It
21 was through that program, for example, in 1956 that I raised
22 \$10,000 in connection with the Montgomery Bus Boycott situation
23 and took the money down to Martin Luther King.

24 MR. KOTELLY: Your Honor, I'm going to object. This
25 has absolutely nothing to do with the time period 1973 to 1976.

001107

1 THE COURT: Sustained. We have been through that,
2 Mr. Diggs.

3 BY MR. POVICH:

4 Q Do you recall we showed Mrs. Stultz some transcripts
5 from the show of the House of Diggs; is that correct?

6 A Yes sir.

7 Q They have been marked in evidence. I won't show
8 them to you now, but those are transcripts of the shows you
9 have had?

10 A That's right. They were public broadcasts and some-
11 times I interviewed personalities of various types.

12 Q At that time also did you embark upon a television
13 program?

14 A That's correct because in the fall of 1975 the first
15 black-owned television station in the entire nation opened
16 up in Detroit, WGPR, and I had been instrumental in the estab-
17 lishment of that enterprise. They had certain problems in
18 dealing with the Canadian Government, for example, because it
19 was located right down on the river and there were Canadian
20 interests that felt that the beam from this television set
21 interfered with people of the Canadian television and I helped
22 them with that and with various other matters.

23 Q Where did you go to make the recordings for those
24 programs?

25 A Those programs, with I think only one or two exception

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1 were done here in Washington at the House recording studio.

2 Q Did you also embark upon a campaign for additional
3 advertising? I think we saw some of the ads here that were
4 circulated in the Michigan Chronicle.

5 A Well, I began, as part of my new program to let
6 people know about the Diggs Community Service Centers, indicate
7 through that advertising the schedule of my mobile vans, the
8 location of the stationary offices and something about some of
9 the people that were involved in it, the office hours and
10 things of that type and I invited people to use our services.

11 Q As a result of these additional expenses were you
12 able to find you had money to pay for them within the allowance
13 system that had been established?

14 A No, I did not.

15 Q Did there come a time in which you sat down and had
16 any discussion with anybody concerning how these bills might
17 be paid for?

18 A Yes.

19 Q What was that? With whom and what was the discussion

20 A The discussion was with Mr. Ofield Dukes who had been
21 a long-time associate of mine, friend of mine and advisor and
22 who I had engaged to be director of what I called "Special
23 Projects".

24 Q So Mr. Dukes engaged, did he not, in "Special Pro-
25 jects", advertising and programs such as you have talked about:

001109

1 is that correct?

2 A That was one of the functions but certainly now the
3 entire function because Ofield Dukes was also involved in
4 developing programs that were designed to shore up my Detroit
5 interests. He even got involved in the reorganization of my
6 office in terms of the utilization of the personnel within my
7 office so that I could use them more effectively.

8 Q From time to time did Ofield Dukes bill you, send
9 bills for expenses which had been incurred which he believed
10 had been incurred with respect to advertisements for you for
11 the Congressional office in the Michigan Chronicle and with
12 other media?

13 A Yes sir. Yes sir.

14 Q What was his procedure for billing you for those
15 programs?

16 A Well, I guess it took the normal course. Those bills
17 didn't come direct to me. I didn't handle it but I guess he
18 sent a bill in for expenses that related to his representation
19 of me in connection with these various functions.

20 Q In addition and when those bills came in was he re-
21 imbursed for the expenses that he had forwarded on your behalf?

22 A That is correct.

23 Q In addition to that did you have any discussions with
24 respect to how other bills in the District might be paid, for
25 instance, the utilities and the additional office expense, if

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1 any, which you had?

2 A With Mr. Dukes?

3 Q No, with anyone else other than Mr. Dukes. With Mr.
4 Matlock or any other members of the staff?

5 A Oh, yes, yes.

6 Q Tell us how that came about.

7 A Well, you mentioned Mr. Matlock. Mr. Matlock paid
8 the office expenses and related expenses for the Detroit District
9 office.

10 Q Was he reimbursed for those expenses through his
11 salary?

12 A Yes sir, that's correct.

13 Q Was there any indication from him that he was un-
14 willing or did not wish to engage in that form of filling out
15 his expenses which he would be compensated for through salary
16 payment?

17 A Not at all and I have known Mr. Matlock since about
18 1950 and have had very close relationships with him and if he
19 at any time had felt that he didn't want to make his salary
20 available to pay those expenses he would have been able to say
21 it and would have said it to me.

22 Q Did Mr. Dukes ever indicate to you at any time that
23 he did not feel that he should be reimbursed by increasing
24 his salary for the expenses which he had incurred?

25 A Never engaged in any such conversation with me at
all.

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1 Q Did he ever indicate to you that he thought there was
2 anything improper in doing that?

3 A No, he didn't, and Mr. Dukes would have indicated it
4 very forcefully if he felt so.

5 Q All right. Did there come a time when Mr. Matlock's
6 salary was no longer used in order to pay for the Congressional
7 office expenses which had been incurred by the office and you
8 in Detroit?

9 A Yes sir.

10 Q How did that come about?

11 A Well, that came about -- well, I guess it must have
12 been near the end of 1976 or the beginning of 1977, but because
13 at that point the Obey Commission which had been established
14 by the House to go into the question of allowances for members
15 and the adequacy of these allowances had made their recommenda-
16 tion that allowances --

17 MR. KOTELLY: Objection, Your Honor, as to any recom-
18 mendations from the Commission.

19 THE COURT: That was subsequent to this time.

20 MR. POVICH: No, Your Honor. This indictment goes
21 into 1977. We are talking about the end of 1976.

22 MR. KOTELLY: We asked if the recommendations, that
23 relates to the period 1976, Your Honor. If not, we submit that
24 that is irrelevant.

25 MR. POVICH: Your Honor --

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1 THE COURT: Come to the bench, gentlemen.

2 (At the bench:)

3 MR. POVICH: Mr. Kotelly, you brought the indictment
4 in in this case. I know you don't like 1977 but it says that.

5 THE COURT: Address the Court.

6 MR. POVICH: I'm sorry, Your Honor.

7 Your Honor, Mr. Kotelly may have liked to redraw
8 the indictment but the indictment goes into 1977.

9 THE COURT: What date in '77?

10 MR. POVICH: It goes into March, I believe, February,
11 March of 1977.

12 THE COURT: Do you have the indictment, Mr. Patterson

13 THE CLERK: Yes sir. -

14 MR. KOTELLY: It will probably be in the charging
15 language of the last paragraph, Your Honor. Mr. Marcy has
16 indicated to me that it would --

17 THE COURT: What is the date of the House action in
18 this Obey Report?

19 MR. POVICH: January 3rd.

20 MR. CARL: That is the effective date.

21 MR. POVICH: January 3rd is the effective date.
22 Matters came up before that.

23 THE COURT: When did Mr. Matlock discontinue to pay?

24 MR. KOTELLY: End of December of '76. There has been
25 no testimony that payments were made after that at any period.

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1 The address was when Halson Young was one of the employees
2 listed and that's the reason those extra months are included
3 in there because Halson Young was charged as far as later pay-
4 ments.

5 MR. POVICH: There were two payments in January but
6 they probably related to the December bill but nevertheless
7 the payments were there in the checks if you list them by date,
8 are listed in January. But Your Honor, it goes to the -- it
9 is relevant to the intent because it goes to the circumstances
10 under which it was stopped. He wasn't stopped by Mr. Matlock
11 and Mr. Diggs because someone told him it was unlawful or be-
12 cause Mr. Matlock said he didn't want to do it anymore or be-
13 cause he felt there was anything improper. It was stopped
14 because the allowance was increased and the allowance is now
15 permitted, the payment of these expenses out of Clerk Hire,
16 directly out of Clerk Hire. That's all I want to get out of
17 him. I think it is very relevant.

18 THE COURT: Well, you make it clear this decision
19 was made only after this report..

20 MR. POVICH: I'm sorry.

21 THE COURT: Provided you make it clear that this
22 practice was adopted by him only after the report was made.

23 MR. POVICH: Yes. It was adopted after he was ad-
24 vised the allowances were going to be increased and he could
25 take money from Clerk Hire. That's when he stopped it.

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1 THE COURT: You can take money out of Clerk Hire
2 allocation but not out of the employees in Clerk Hire.

3 MR. POVICH: You can transfer; that's correct.

4 THE COURT: But not from the employees. You can do
5 it from the allocation for Clerk Hire.

6 MR. POVICH: It depends on the mechanism, Your Honor.

7 THE COURT: It is pretty clear you have got to do
8 it out of the allocation.

9 MR. WATKINS: Your Honor, may I be heard? There is
10 a check that was introduced by the Government dated January 6,
11 1977, that is Government's Exhibit 48.

12 THE COURT: Yes. My point is that under this change
13 allocations may be shifted but you can't go to the employees
14 and say, "I want your money."

15 MR. POVICH: I'm not saying that that happened.

16 THE COURT: You understand my feeling. All right.

17 (In open Court:)

18 BY MR. POVICH:

19 Q You indicated that Mr. Matlock had never given any
20 indication to you that he did not wish to do this voluntarily.
21 My next question to you is did there come a time in which Mr.
22 Matlock stopped making payments for Congressional expenses out
23 of his salary of Clerk Hire?

24 A Yes sir.

25 Q Would you tell us how that came about?

001115

1 A That came about in the latter part of 1976. It would
2 be at the end of the year because in January the House had
3 adopted the rules which became effective allowing office ex-
4 penses that were not allowed before, that is a larger amount
5 of money. They consolidated accounts and permitted official
6 expenses to be paid that were not so defined and characterized
7 before and in addition to that they permitted each member to
8 transfer \$15,000 out of their Clerk Hire Account, meaning the
9 account they had to pay people with, they were permitted to
10 transfer \$15,000 out of that account at any time into the
11 allowance account in order to cover these official expenses
12 that had not been defined or had been redefined under the new
13 rules.

14 Q From your experience what had been the practice in-
15 sofar as the paying for -- what funds were available in
16 addition to the unofficial office accounts, what funds had
17 been available to members for use for paying office expenses,
18 district expenses, telephone, telegraph, any of the expenses
19 that they would incur in the performance of their duties as
20 a Congressman when those expenses exceeded the dollar limita-
21 tions in any of the allowances? What funds had they drawn
22 upon?

23 A I don't quite understand your question, Mr. Povich.

24 Q I'm sorry. I will strike it. It's my fault.

25 Did Congressmen have available to them if they sought

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1 in addition to unofficial office accounts, campaign contribu-
2 tions after the campaign that might be utilized in some offi-
3 cial capacity to pay their expenses?

4 A That's correct. That's correct.

5 Q Did you have funds such as that available to you?

6 A You mean campaign funds?

7 Q Yes.

8 A No sir.

9 Q Did you conduct campaigns in order to generate that
10 type of funds to run your offices?

11 A I did not have fund raisers. I operated in a dif-
12 ferent fashion. I always operated independently of any con-
13 tributions from special interests with the exception of a few
14 contributions from the labor unions. I have got the UAW
15 headquarters in my district so obviously I accept some funds
16 from them which are very modest and from some labor organiza-
17 tions, but in terms of having a fund raiser or campaign I think
18 the record will show that in the last 20 years I have not col-
19 lected \$20,000 in the last 20 years for campaign purposes.

20 Q Notwithstanding the fact that you say you were de-
21 pressed and in need of financial funds to run your office?

22 A That's correct, and I passed up money I could have
23 gotten. I represent a district that has General Motors in it
24 and all kinds of interests of that type and I have never solicit
25 any funds and they certainly haven't voluntarily given me any.

001117

1 Q Why not?

2 A Well, from my days in Lansing to my days in Washing-
3 ton that kind of interest doesn't feel that my vote is con-
4 sistent with their interests.

5 MR. KOTELLY: Objection. Objection. This has nothing
6 to do --

7 THE COURT: Sustain the objection.

8 BY MR. POVICH:

9 Q You have heard the testimony of Mr. Under Secretary
10 Newsome in this courtroom, the first witness that testified
11 for the defense. Was it accurate?

12 MR. KOTELLY: Objection, Your Honor. May we approach
13 the bench?

14 THE COURT: Yes.

15 (At the bench:)

16 MR. KOTELLY: Your Honor, I would submit that the
17 testimony of Mr. Newsome was brought in for a very narrow,
18 specific purpose to base his opinion. Whether it is true or
19 not true is immaterial. The man has stated --

20 THE COURT: I will permit him to testify on that.
21 Don't drag it out.

22 MR. POVICH: I'm not going to, Your Honor.

23 (In open Court:)

24 BY MR. POVICH:

25 Q Do you recall the testimony of Mr. Newsome in which

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1 he related the instance in which it was 1972 or 1973 when he
2 was, I think, Assistant Secretary of State for African Affairs
3 and you were Chairman of the House Committee on Africa; is
4 that correct?

5 A Yes sir.

6 Q He related the instance in which you asked him to
7 come to your office and you had given him a letter which you
8 had received and said you were incensed --

9 MR. KOTELLY: Object to the leading question, Your
10 Honor.

11 MR. POVICH: I just want to get through it briefly,
12 Your Honor.

13 THE COURT: I will allow leading questions for that
14 purpose.

15 BY MR. POVICH:

16 Q He indicated you were incensed you had received such
17 a letter and you had asked that the State Department be noti-
18 fied and handled in a proper manner?

19 A That's correct.

20 Q Was his testimony accurate insofar as you are able
21 to recall?

22 A Yes, it was.

23 Q Did you consider the matter a serious matter and
24 treat it as such?

25 A I treated it very seriously and was quite upset about
the whole matter.

001119

1 Q Did he treat it as a serious matter?

2 A He treated it very seriously. He is a career foreign
3 service officer and very professional.

4 Q What is your best recollection as to the amount of
5 money which was offered to you in that letter from that head
6 of State?

7 A Well, it was in five figures and it was over \$20,000
8 but I think perhaps less than \$50,000 annually. It was in that
9 category and I think it was closer to 50 than it was to 20.

10 Q Mr. Diggs, I want to ask you, on the occasion when
11 you signed the Payroll Authorization form and placed Jeralee
12 Richmond on your Congressional Payroll, was it your intent
13 to violate any laws of the United States?

14 A No sir.

15 Q When you authorized the payroll and salary payment
16 to George Johnson for payment of salary to him was it your
17 intent at any time to violate any law of the United States?

18 A No sir.

19 Q Now, when you increased the salary of Jean Stultz
20 and she received additional salary in which she paid some
21 personal bills and many of your office expenses was it your
22 intention at that time to violate any laws of the United States?

23 A No sir. I felt that she had every right to do what
24 she wished to do with her salary.

25 Q When you increased the salary of Mr. Matlock in which

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1 he paid office expenses and was reimbursed through his salary
2 account was it your intent at that time to violate any laws of
3 the United States?

4 A Absolutely not. I felt the same way that I felt
5 about the other questions that you have asked.

6 Q And when Mr. Dukes billed you for expenses he in-
7 curred in representing you both here and in Detroit to bill
8 the additional amount and his salary was increased by you
9 through the Payroll Authorization Form was it your intent to
10 violate any laws of the United States?

11 A Absolutely not. I would not have jeopardized my
12 Congressional career on that kind of a basis.

13 MR. POVICH: I have no further questions, Your Honor.
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001121

CROSS EXAMINATION

1
2 BY MR. KOTELLY: ' .

3 Q Mr. Diggs, you have testified you did not have
4 political fund raisers. Is that true during the period of
5 1973 through the end of 1976?

6 A I think that's generally true. I didn't say that I
7 never had any fund raisers.

8 Q Well, did you have fund raisers during that period
9 of time?

10 A It's possible.

11 Q You don't remember?

12 A I don't remember specifically.

13 Q How did you raise funds to run for elected office
14 during those years?

15 A Well, I did have some monies, as I testified. I had
16 contributions from some interests, labor unions, for example,
17 and from some other interests.

18 Q Did you solicit campaign funds from constituents
19 in your district?

20 A Well, not from my constituents if you are talking
21 about the 13th Congressional district, because I represent a
22 poor district, Mr. Kotelly.

23 Q Never send out any letters seeking contributions?
24 When I say "you" I am talking about you as a Congressman as
25 well as any campaign fund on your behalf.

001122

1 Well, yes, there have been solicitations made
2 through the mails on occasions.

3 Q Do you have a campaign committee for your election
4 in 1976?

5 A That is in compliance with the election requirements,
6 yes.

7 Q Was Ofield Dukes a person that was some kind of an
8 officer on your campaign committee?

9 A Yes, that's correct.

10 Q Did you attend fund raisers for the Diggs for
11 Congress Campaign Committee in December of 1975 at the
12 Sheraton Park Hotel here in Washington?

13 A Yes, yes.

14 Q That was a fund raiser on your behalf; is that
15 correct?

16 A That was one of the fund raisers. I said that I
17 did have some fund raisers.

18 Q Well, can you tell us how many?

19 A Well, you have that record. I assume you have
20 others.

21 Q I am asking you, sir. You were present. You were
22 involved in the campaign, not I.

23 A Well, I can merely say that if you have the record
24 of that particular campaign fund raiser, obviously it was
25 held and I was there and I know about it.

001123

1 Q Mr. Diggs, you don't remember any other fund raiser
2 for political purposes?

3 A Well, not in specific terms because, Mr. Kotelly,
4 I indicated that I did not have fund raisers in the traditional
5 sense of the word.

6 Q Have there been any nonpolitical fund raisers on
7 your behalf to raise money to give you personally?

8 A Oh, I think there have been testimonials.

9 Q How many testimonial dinners have been given on your
10 behalf for the purpose of raising money for you?

11 A Well, the two that I can best remember is one here
12 in Washington after I became Chairman of the House District
13 Committee. There was a testimonial given in honor of my
14 assuming that.

15 There was another testimonial in 1965 when Martin
16 Luther King came to Detroit, the only time that he has ever
17 spoken at anybody's testimonial during his life, at a
18 testimonial at that time.

19 Q That was in 1965?

20 A That was about 1965.

21 Q The testimonial that was given to you on your
22 behalf after you assumed the chairmanship of the District of
23 Columbia Committee, was that in June of 1973?

24 A It could be. I don't remember the specifics, but I
25 do remember the occasion.

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1 Q Was it called the "Salute to Congressman Diggs"?

2 A That sounds reasonable.

3 Q And as a result of that fund raiser, did you receive
4 \$10,000 for you personally?

5 A No; I did not.

6 Q You never received a check for \$10,000?

7 A No, sir.

8 Q Did you receive any money from that "Salute to
9 Congressman Diggs"?

10 A There were some monies collected and turned over to
11 me, but I don't remember the amount.

12 Q When you say that it was not \$10,000, was it close
13 to \$10,000?

14 A It could be. I just don't remember.

15 Q \$10,000 would have been a significant amount of
16 money to you back in 1973; would it not?

17 A I can merely attest to the fact that I do not
18 remember the amount of money. I know it was in four figures.
19 That's all I remember.

20 MR. KOTELLY: Your Honor, I would ask this be
21 marked for identification Government's Exhibit No. 83.

22 THE CLERK: Government's Exhibit No. 83 marked for
23 identification.

24
25
001125

1 (The above-mentioned document
2 was marked as Government's
3 Exhibit No. 83 for identifi-
4 cation.)

5 BY MR. KOTELLY:

6 Q Congressman Diggs, I show you Government's Exhibit
7 No. 83 for identification.

8 A Yes, sir.

9 Q I ask you to look at it and ask you if you recognize
10 that check?

11 A I recognize the check in terms of the deposit stamp
12 on the back of it.

13 Q Looking at that check, do you recall receiving that
14 check after the "Salute To Congressman Diggs" fund raiser?

15 A Well, Mr. Kotelly, this has a stamp on the back
16 "Pay to the Sergeant at Arms, For Deposit Only to the Account
17 of Charles C. Diggs, Jr." It was deposited, obviously, and I
18 acknowledge it, period.

19 Q And the amount of that check?

20 A \$9,640 some-odd cents.

21 Q Mr. Diggs, you have testified about a portrait
22 that you commissioned to have hung in the District of
23 Columbia Committee. Did you order that portrait around the
24 time of this fund raiser?

25 A No, I don't recall that because I -- the portrait

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1 matter was handled originally by Dorothy Corker. She's the
2 one that went into the whole matter, looked up all of the
3 facts pertaining to the matter, negotiated with the
4 portrait --

5 Q Mr. Diggs, would you please answer the question I
6 am asking you. I think we could progress faster on this
7 matter.

8 A Fine.

9 Q You were aware monies had to be paid for that
10 portrait; is that correct?

11 A Yes. I have testified to that.

12 Q Did you at any time suggest that the portrait be
13 paid for out of the funds that you had raised on your behalf
14 for the "Salute to Congressman Diggs"?

15 A I do not remember making any such suggestion
16 concerning those funds, no.

17 Q Do you remember what you did with the funds that
18 were raised on your behalf and deposited to your checking
19 account at the Sergeant-at-Arms?

20 A Well, if it went into my account it was to be used
21 for any number of reasons.

22 Q Do you remember what you used that money for?

23 A I do not remember specifically, just like I
24 wouldn't remember what any deposit was put in there for.

25 Q You did not attempt to pay for that portrait then

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1 out of the monies from your checking account?

2 A No. I have already testified that that was paid
3 for by Jean Stultz.

4 Q We will get to that in a little bit.

5 Congressman Diggs, at some point in time did you
6 become the President of the House of Diggs?

7 A Yes, sir.

8 Q When was that?

9 A Oh, --

10 Q Approximately what year?

11 A I guess 1945 when I came out of the Army.

12 Q For how long a period did you remain the president
13 of the House of Diggs?

14 A I guess I remained president of that up until the
15 time that it merged with the Stenson Funeral Home in Detroit.

16 Q Do you remember when that was?

17 A That was in October, 1975.

18 Q Did you have any further position as an officer
19 after the merger between the Stenson Funeral Home and the
20 House of Diggs?

21 A Yes.

22 Q What was your official position after the merger?

23 A I think I was vice-president of an entity called
24 Diggs-Stenson which was really composed of just the House of
25 Diggs. It was not composed of the combined assets of the two

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1 corporations.

2 Q How long did you remain as the vice-president after
3 the merger?

4 A Oh, that was less than a year.

5 Q During the period of let's say 1973 through the time
6 of the merger were you receiving any salary or compensation
7 from the House of Diggs?

8 A Would you repeat the period.

9 Q 1973 to the time of the merger.

10 A I received compensation from time to time.

11 Q Did you receive it regularly?

12 A I did not receive it regularly.

13 Q Could you indicate to us how much you received it
14 in the years 1973, 1974 and until the time of the merger?

15 A I couldn't remember that, Mr. Kotelly.

16 Q You have no idea at all?

17 A The House of Diggs was in very poor financial shape.
18 That's the reason that it merged, and the payment of my
19 salary and the payment of many people's salary was done on a
20 very erratic basis.

21 Q The House of Diggs during the 1960s and during the
22 1970s was a very prominent funeral establishment in Detroit;
23 is that not true?

24 A Would you repeat the period, please?

25 Q In the '60s and in the early part of the 1970s up

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1 through the time of the merger.

2 A Well, by "prominent" would you --

3 Q Well known.

4 A Well known, yes, of course.

5 Q And Congressman, is it not true that you, Charles
6 C. Diggs, Jr., your name is associated with the House of
7 Diggs' name?

8 A Oh, yes.

9 Q You have made it no secret as to your connection
10 with that funeral home?

11 A Not at all.

12 Q Now, you have testified about a period of time when
13 your congressional offices were in the same building as the
14 House of Diggs Funeral Home?

15 A Yes, sir.

16 Q During that period of time persons with funeral
17 problems would come to the House of Diggs; true?

18 A People seeking the services of a mortician; is that
19 what you mean?

20 Q Yes, sir.

21 A Yes, sir.

22 Q And if they had problems of a nature that they
23 thought a congressman could help they would be able to also
24 go to your offices at the House of Diggs?

25 A That was a tradition that we afforded the public,

001130

1 that's correct.

2 Q Now, you had a staff working at the House of Diggs,
3 a congressional staff working at the House of Diggs in your
4 offices on the second floor; is that correct?

5 A For what period, Mr. Kotelly, please?

6 Q During the time period that your offices were at
7 the House of Diggs.

8 A Well, for what period, Mr. Kotelly?

9 Q Well, would you restate when did you have
10 congressional offices in the House of Diggs?

11 A Congressional offices beginning in January of 1955
12 until 1963 when that building was torn down and then at
13 another subsequent period at a different location, 1201 East
14 Grant Boulevard, to be exact.

15 I don't recall exactly how long we were there, but
16 we were there until that particular establishment was de-
17 activated.

18 Q During the period of time that you had a Congress-
19 ional district office in the House of Diggs you had a
20 congressional staff working there; is that correct?

21 A That's correct.

22 Q You have also indicated that there were persons
23 working on the staff of the House of Diggs who had, you know,
24 different business relations with the mortuary business,
25 correct?

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1 A Well, there were -- there was not everybody, if I'm
2 understanding your question correctly.

3 Q The question is did the House of Diggs have their
4 own staff of employees?

5 A Yes, that's correct.

6 Q Now, you have testified that Jeralee Richmond
7 began working at the House of Diggs in 1949 or 1950?

8 A That's correct.

9 Q And that she worked there until around 1962?

10 A That's correct.

11 Q Was it at that time that Mrs. Richmond began to
12 work for Diggs Enterprises or --

13 A She began to work for Diggs Enterprises sometime
14 during that period. I don't recall exactly when she made the
15 transition.

16 Q From 1949 until 1962, was Mrs. Richmond receiving
17 her salary from the House of Diggs?

18 A Well, at one she started out, as I recall, at the
19 House of Diggs and then she began receiving it from Diggs
20 Enterprises.

21 Q Did she receive any congressional salary during that
22 period of time?

23 A Not to my recollection, no.

24 Q Now, you were present when Mrs. Richmond testified.
25 Did you hear her say during that period of time she was doing

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1 constituent services when she was an employee of the House of
2 Diggs?

3 A She did testify to that.

4 Q Was that true?

5 A That's correct.

6 Q The same type of constituent services that she was
7 doing after 1974 when she started working on your congressional
8 staff?

9 A Well, in terms of the generalities you are talking
10 about a different time period. The volume was not the same,
11 because as I pointed out, at that time in the earlier days the
12 funeral home where these offices were located were right
13 across the street from the housing project, and that in itself
14 with thousands of poor people who could only qualify for
15 public housing, that in itself generated a great amount of
16 constituent services. In addition to that the House of Diggs
17 radio program was --

18 Q We are just talking now about the offices themselves.

19 A Well, I am trying to explain about the differences
20 because as I understood your question you are trying to ask
21 me to equate the nature of services and perhaps even the
22 volume that period versus the later period.

23 Q Yes, sir, by Jeralee Richmond.

24 A By Jeralee Richmond; is that correct?

25 Q I'm asking you were the same kind of constituent

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1 services that she rendered when she was working for the House
2 of Diggs back in the '50s up until the early '60s as she did
3 after May of 1974?

4 A I'd say in a general sense, yes, sir.

5 Q That's all I'm asking, Mr. Diggs.

6 Now, looking at the time period of 1970 through
7 May of 1974 when Jeralee Richmond came back to work with you
8 were constituents still coming to the House of Diggs during
9 that period of time?

10 A Yes, sir.

11 Q How many funeral homes did you have at that time?

12 A The time period, please?

13 Q 1970 through May of 1974.

14 A We had two funeral homes.

15 Q And at what point in time did you start being
16 aware that you were having financial difficulties?

17 A Aware personally?

18 Q Yes, that the House of Diggs had financial problems?

19 A Oh, the House of Diggs had been having financial
20 problems prior to that time.

21 Q Prior to 1970?

22 A Prior to 1970, yes.

23 Q Were accounts receivable becoming a major problem
24 in the early 1970s, '71, '72, '73?

25 A Accounts receivable, Mr. Kotelly, had really always

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1 been a problem with the House of Diggs and with any other
2 black mortician.

3 Q With almost any mortician, not necessarily black;
4 isn't that true?

5 A Particularly black morticians because the require-
6 ments of the market, the demand of the market are much
7 different, I can assure you.

8 Q I will rely on your expertise in that area,
9 Mr. Diggs.

10 Now, as far as the work of collecting accounts
11 receivable prior to May of 1974, did you have employees at
12 the House of Diggs who were doing that work?

13 A Yes.

14 Q How many employees did you have working on accounts
15 receivable?

16 A Oh, at its height I can remember a supervisor of
17 accounts receivable, a couple of field people and probably at
18 least one clerical because when you talk about accounts
19 receivable you are really talking about servicing people.

20 That is we had to actually take people in order to
21 get our funds. We had to -- there again the difference in our
22 market were, you know, where people walk in and you just give
23 them a bill and pay it ten days later; you don't do that in
24 our market. You have got to take the people to the insurance
25 company, help them file their claim, take an assignment on the

001135

1 policy in order to make sure you get the money. You have got
2 to take an associate security. You have to take them out to
3 to the Veterans Administration and all these sort of things.
4 You have to take them to the bank to get a loan or something.

5 Q I think you have explained the problems in getting
6 the money.

7 Immediately prior to May of 1974, did you have
8 persons on your staff that were working on accounts receivable?

9 A In that broad sense of the term, that is correct.

10 Q Now, when Jeralee Richmond began working in May of
11 1974 were there any new concerns about accounts receivable for
12 the House of Diggs?

13 A I wouldn't call them new. It's an institutional
14 problem, a professional problem.

15 Q You have testified to that.

16 A Yes, sir.

17 Q At the time that you hired on Jeralee Richmond did
18 you tell her that one of the reasons you were hiring her was
19 because of the terrible situation in the accounts receivables
20 situation was at the House of Diggs?

21 A Do you want me to tell you what I told her? Is that
22 what you are asking?

23 Q I am asking did you tell her that as one of the
24 reasons you were hiring her, was problems with the accounts
25 receivable at the House of Diggs?

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1 A I told her among her functions when she worked at
2 the funeral home was to look after these accounts.

3 Q Was that the main reason that you talked to her
4 and hired her in May of 1974?

5 A It was not the main reason.

6 Q Did Jeralee Richmond replace anyone at the House of
7 Diggs in May of 1974?

8 A No, she did not and there were other people there.
9 My daughter was there. I didn't need Jeralee Williams to
10 collect accounts. I had other people there that did that.

11 Q So, that Jeralee Richmond was not important so far
12 as accounts receivables?

13 A Not solely. That's the point that I'm making, and
14 that's the point that you apparently are trying to make.

15 Q I'm trying to establish some facts, Mr. Diggs. That
16 is all.

17 A Yes, sir.

18 Q You have indicated that Jeralee Richmond did not
19 replace anyone at the House of Diggs in May of 1974?

20 A No, she did not.

21 Q She was just added on to the staff at that time?

22 A That's right, because her function was not solely
23 related to the House of Diggs in a functional fashion.

24 Q Prior to May of 1974 were the employees at the House
25 of Diggs also rendering the same services that they had done in

001137

1 earlier years as far as constituents who come in with problems
2 at the House of Diggs would be taken care of if they could
3 be?

4 A That was the general instruction. Everybody didn't
5 get involved in it, but that was the general instruction and
6 the general tradition of the firm.

7 Q Did you have any other employees prior to May of
8 1974 who were working at the House of Diggs who may have been
9 handling these constituent services on your congressional
10 payroll prior to May of '74?

11 A Prior to May of 1974? I just don't remember,
12 Mr. Kotelly.

13 Q Your testimony is that it was not your main purpose
14 when you had the meeting with Jeralee Richmond to hire her
15 for the purposes of handling the accounts receivable at the
16 House of Diggs?

17 A That's correct. I testified that I offered to bring
18 her to Washington and suggested that she come to Washington,
19 which was her home. She had made the decision to stay in
20 Detroit.

21 Q That is correct, but did you tell her at that time
22 that you would get her a job in Detroit?

23 A After she said that her husband preferred to stay
24 in Detroit I told her that I would find a job for her in
25 Detroit.

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1 Q You testified that sometime, a few days later, that
2 you were able to find out that you had a position. Strike
3 that. Rephrase it.

4 You testified earlier that at some point in time
5 after you talked to Jeralee Richmond that you found out that
6 there was a job available in Washington as well as a job
7 available in Detroit and it was at that point that you offered
8 to have her come to Washington. Do you recall testifying to
9 that?

10 A Yes, but I don't know what distance you are talking
11 about here in terms of time. As I recall, we met with Jeralee
12 on a Sunday and she went to work, I think, that very next
13 week.

14 Q I am talking about some time earlier when she first
15 talked to you about getting a job and you mentioned for her to
16 come to Washington.

17 A Well, when she first talked to me it was over the
18 telephone, and I was in Washington. I was at Bethesda Naval
19 Hospital and she talked to me on the telephone.

20 Q Did you suggest to her that you had an opening both
21 in Detroit and in Washington?

22 A I don't know whether it came up at that particular
23 time. I was in the hospital bed.

24 Q How many conversations did you have with Jeralee
25 Richmond after that telephone conversation when you were in

001139

1 the hospital before the meeting that took place in Detroit?

2 A I would not remember.

3 Q Was there more than one?

4 A I would not remember, Mr. Kotelly.

5 Q At what point in time did you tell her you had job
6 openings in both Detroit and Washington?

7 A That was at the meeting in Detroit.

8 Q You had a job opening at that time in the Detroit
9 office?

10 A That's what I indicated to her.

11 Q That was in May of 1974?

12 A Yes, sir.

13 Q And yet you did not put her on your payroll until two
14 months later or at least one month later?

15 A That's correct.

16 Q You did not put her on the payroll for May of 1974?

17 A I think the record will indicate that.

18 Q Why didn't you put her on immediately if you had a
19 job position available for her?

20 A Because even though a slot was available, Mr. Kotelly
21 the funds may not have been available sufficient to cover at
22 that time, and I felt that I could make it up by putting her
23 on when more funds were available, and I did put her on in
24 August after Dorothy Corcker died and we made different
25 arrangements.

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1 Q You didn't know then that Dorothy Corcker was going
2 to die, did you?

3 A Dorothy Corcker in May was on her death bed.

4 Q So, you were planning ahead at the time she passed
5 away that you would be able to put Jeralee Richmond on the
6 payroll; is that what you are testifying?

7 A Well, Dorothy Corker --

8 Q Were you planning ahead, Mr. Diggs, in allocating
9 the monies that Ms. Richmond could make waiting for Dorothy
10 Corker to die?

11 A Well, the two things were not tied together.

12 Q I'm asking you when you put -- you had Jeralee
13 Richmond go to work for you. How did you know where you were
14 going to get these monies available to you?

15 A Well, I knew that Dororthy -- I knew that funds
16 would be available.

17 Q You started saying that you knew Dorothy and then
18 you stopped.

19 A Well, I can finish that particular sentence. Namely
20 I knew Dorothy Corker was going to be dead within the next
21 30-60 days because I was visiting her and then talking with
22 her doctor, her 80-year old mother and all of that stuff on a
23 daily basis.

24 Q So, you were planning ahead then. That was my
25 question.

001141

1 A Well, if you call that planning ahead, yes, sir.
2 That's the answer.

3 Q During the period of May of 1974 until the time
4 of the merger were there instructions at the House of Diggs
5 that Jeralee Richmond was the only person that should be
6 talking to constituents?

7 A Not necessarily. Not necessarily.

8 Q Is it true if a constituent walked in, whatever
9 staff member at the House of Diggs was there would talk to the
10 individual?

11 A Well, no, that's not necessarily true also. It was
12 generally known that Jeralee Richmond was the prime person for
13 that purpose, but if she was not there she was gone out to
14 lunch. If she had gone out, gone to my congressional office
15 on Woodward Avenue or someplace like that, then that inquiry
16 was taken care of. At least a message was taken so when
17 Jerallee got back she would get in touch with that particular
18 individual.

19 Q My question was let's take it from the times that
20 Jerallee Richmond was actually at the House of Diggs Funeral
21 Home.

22 A Yes, sir.

23 Q If she was there, were there instructions to the
24 staff all congressional inquiries should go to Jeralee
25 Richmond?

001142

1 A Yes, sir.

2 Q Was Mrs. Richmond given instructions that if there
3 were constituent problems make contact with your district
4 office?

5 A Would you repeat that question?

6 Q Did Jeralee Richmond have instructions from you that
7 if there were constituent problems that she should contact the
8 district office?

9 A If she needed to contact them.

10 Q What instructions did you give her as to when she
11 should contact the district office and when she shouldn't?

12 A If she needed to contact the district office either
13 in Detroit or in Washington, depending upon the nature of
14 the constituent service that was being requested.

15 Q Mr. Diggs, the defense entered into evidence during
16 the cross examination of Mrs. Richmond some kind of a sheet
17 that had related to inquiries she made for a man that was
18 looking for a job with Civil Service. Do you remember that
19 sheet?

20 A I remember the sheet, yes, sir.

21 MR. KOTELLY: Mr. Povich, could you assist us with
22 the numbers?

23 BY MR. KOTELLY:

24 Q Mr. Diggs, have you tried to locate additional
25 work sheets for Jeralee Richmond to show how much work she was

001143

1 doing for you as the congressman?

2 A I have attempted to locate many records.

3 Q Were you --

4 A During this occasion.

5 Q Were you able to locate any of the records of
6 Jeralee Richmond which would reflect that she was doing
7 constituent services for you during the period of May, '74
8 until the merger?

9 A What kind of record, Mr. Kotelly?

10 Q Like I show you now. Defense 34 for identification,
11 I ask you if you recognize that form.

12 A Yes, I recognize the form. I devised it.

13 Q Have you tried to locate any additional copies of
14 this form that relate to Jeralee Richmond and her work for
15 constituent services?

16 A I have attempted to locate additional records
17 pertaining to matters pertaining to this entire --

18 Q I'm only asking about this, sir, and have you found
19 any additional ones?

20 A I have not found any additional ones.

21 Q Thank you.

22 Congressman Diggs, on several occasions, mostly in
23 relation to your testimony about Ofield Dukes, you talked
24 about a need to shore up your operation in Detroit?

25 A Yes.

001144

1 Q Did the hiring of Jeralee Richmond have anything to
2 do with your shoring up your needs in Detroit?

3 A No, that was a separate transaction based on giving
4 somebody a job that needed a job that I knew and could help
5 me.

6 Q Now, you testified that there was nothing wrong with
7 having Jeralee Richmond working at the House of Diggs?

8 A That's correct.

9 Q And I just make it clear there has been no argument
10 from the Government on that point. But you have testified that
11 she could work anywhere in the State of Michigan on your
12 behalf; correct?

13 A Yes, sir.

14 Q Did you read that in the regulations for the House
15 Committee on Administration?

16 A Well, I knew that to be the fact.

17 Q How did you know that to be the facts?

18 A I have seen it in various documents and I have
19 heard members of Congress say it in conversations and so forth.

20 Q Now, you say you have read it in various documents.
21 Have you ever looked at the regulations of the House Committee
22 on Administration?

23 A From time to time, yes.

24 Q For the purpose of determining what would be proper
25 and what would be not proper regarding your allowances?

001145

1 A I have looked at the regulations from time to time
2 for various reasons.

3 Q Can you recall having ever looked at them for the
4 purpose of determining what would be proper or improper use of
5 your various allocations or allowances?

6 A Mr. Kotelly, I have already admitted and counsel has
7 admitted --

8 Q I am asking you to answer my question, Mr. Diggs.
9 Please do that.

10 I am asking if you recall on any of the occasions
11 you looked at the regulations on the House Committee on
12 Administration for the purpose of determining what was proper
13 or improper as to the uses of your allowances. That's the
14 only question I am asking, sir.

15 A Well, I have looked at it.

16 Q You do recall on occasion having looked at it for
17 that purpose?

18 A For that purpose?

19 Q That's what I am asking you, sir.

20 A I have looked at it for that purpose.

21 Q Thank you, sir.

22 When did George Johnson start doing accounting work
23 for you?

24 A Oh, after he succeeded the Dick Austin firm. That
25 must have been -- well, let's see. Dick Austin was elected as

001146

1 Wayne County auditor, first black --

2 Q Mr. Diggs, if you could just --

3 A I'm trying to refresh my memory because Dick Austin
4 closed up his firm because of an election.

5 Q If you could think to yourself and then answer the
6 question I would appreciate that, sir.

7 A I think it was in the latter part of -- it was some-
8 time in the '60s or early '70s, somewhere in there.

9 Q Did Mr. Johnson begin first working on your personal
10 accounting work, or did he first begin with the House of
11 Diggs or was it both at the same time?

12 A I don't know which came first. He was -- he's been
13 doing it. I don't recall which came first.

14 Q Would they be near the same time?

15 A Well, they could be. I don't really know. I don't
16 really know.

17 Q You have also testified that Mr. Johnson did
18 accounting work for other members of your family; is that
19 correct?

20 A That is correct. That is correct.

21 Q When did he begin doing that?

22 A Well, as far as my daughter is concerned, that was
23 subsequent because she was a student and she didn't start
24 working and needing somebody to do her tax work until later
25 on. So, therefore, you are talking about in addition to the

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1 House of Diggs, you are talking about myself and my mother.

2 I think probably my oldest son at one time, Charles C. Diggs,

3 III. He was the oldest member of the family.

4 Q The accounting work that Mr. Johnson did for members
5 of your family, would he individually bill the member of the
6 family, or would he bill you?

7 A He would bill individual members of the family.

8 Q When he did accounting work for you personally,
9 would he bill you or would he send the bill elsewhere?

10 A He sent me bills.

11 Q Would he send the bills to you here in Washington?

12 A Either to me here in Washington or he could have
13 sent them to the Detroit Congressional Office or to the funeral
14 home.

15 Q Do you recall whether he sent the bills to you here
16 in Washington?

17 A I don't recall specifically, but they all ended up
18 here, Mr. Kotelly, is all I am saying. Anything addressed to
19 me personally was forwarded here to me in Washington.

20 Q How frequently did you receive bills from Mr. Johnson
21 back let's say in 1972 and the early part of 1973?

22 A I don't recall, but I guess I would assume that he
23 did it on a monthly basis.

24 Q Do you recall receiving bills on a monthly basis
25 from George Johnson?

001148

1 A I do not recall that specifically, no, sir.

2 Q During that period of 1972 and the beginning of
3 1973, were you paying George Johnson out of your own personal
4 funds for his accounting work?

5 A The period again, please?

6 Q 1972 through the first half of 1973 were you paying
7 George Johnson out of your own personal funds for his account-
8 ing work for you, personally?

9 A Some monies were paid by me. Other monies were paid
10 by the House of Diggs as part of my compensation.

11 Q So, that the House of Diggs was paying, instead of
12 paying compensation to you would be paying part of your bill,
13 personal bill with Mr. Johnson; is that your testimony?

14 A Sometimes that happened; that's true.

15 Q Were you given notice as to when the House of Diggs
16 was paying for your personal portion of the bill out of what
17 would have been compensation for you?

18 A I would assume so.

19 Q You don't know.

20 A I would assume so.

21 Q Are you assuming that the House of Diggs paid
22 Mr. Johnson for debts owed personally by you?

23 A I know they did. I know they did.

24 Q I'm asking you whether you received notice from
25 the House of Diggs that that's what they were doing?

001149

1 A Well, I know that they were paying bills for me that
2 were for services rendered by George Johnson from time to
3 time, yes.

4 Q Did you receive reduction in your bills from George
5 Johnson to reflect that the House of Diggs had paid George
6 Johnson?

7 A Mr. Kotelly, I do not remember receiving any such
8 bills or the details in connection with it.

9 Q Do you recall during that period of time paying out
10 of your own personal checking account any checks to George
11 Johnson?

12 A I don't recall specifically.

13 Q Have you looked through your checking account
14 records?

15 A No, sir.

16 Q You have not?

17 A Well, I certainly haven't. Why would I for that
18 particular item.

19 Q In June of 1973 when you had discussions with
20 George Johnson, you mentioned meeting him at you thought it
21 was Coleman Young's fund raiser or some other political
22 affair?

23 A Yes, sir.

24 Q Did Mr. Johnson talk to you about the outstanding
25 bill at the House of Diggs?

A No.

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1 Q It was not raised at all?

2 A I do not recall it being raised at that kind of a
3 function.

4 Q Was it a concern of yours that there was a large
5 outstanding bill at the House of Diggs?

6 A I was concerned about all bills at the House of
7 Diggs.

8 Q Do you recall receiving a letter from George Johnson
9 saying that he would have to discontinue his services to the
10 House of Diggs and to you personally because of outstanding
11 bills?

12 A I don't recall specifically but I could accept that
13 he did send such a letter.

14 Q But you have no such recollection of that?

15 A Not in a personal sense but I would concede that he
16 sent a letter because we did owe him money.

17 Q You do not recall having any conversation with Mr.
18 Johnson at that political party about that outstanding bill?

19 A Not at that political party, no sir.

20 Q Are you certain that that conversation did not occur?

21 A I am certain that it did not occur at a political
22 party, yes sir.

23 Q Do you know which political party I am referring to,
24 one that you first mentioned to George Johnson about the possi-
25 bility he was going to work for you on the committee staff or

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1 your personal staff?

2 A The fund-raiser for Coleman Young or something akin
3 to it which has been referred to here, yes sir.

4 Q As long as we are talking about the same event.

5 A Yes sir. Yes sir.

6 Q Is it your testimony that there was no conversation
7 during that meeting, that particular meeting in which the bill
8 that was owing either to the House of Diggs or by your per-
9 sonally to George Johnson was brought up and mentioned?

10 A I am testifying to that extent, yes sir.

11 Q You are positive of that?

12 A I'm positive of that.

13 Q So that when George Johnson testified that that
14 subject did come up most likely at your initiation that he
15 would be incorrect in that matter?

16 A I am testifying that I did not make any such repre-
17 sentations to Mr. George Johnson on that occasion period.

18 Q So then my question is is Mr. Johnson incorrect?

19 MR. WATKINS: I'm going to object, Your Honor. It is
20 for the jury to determine.

21 THE COURT: Sustained. Sustained.

22 BY MR. KOTELLY:

23 Q Congressman Diggs, at that function or that party
24 did you directly offer a job to George Johnson to work on either
25 your staff or the Committee?

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1 A The conversation at that party you are talking
2 about?

3 Q Yes.

4 A Yes, I made an offer to him.

5 Q And the offer was to work on what? Was it the
6 Committee or the staff?

7 A It was in connection with my official representation,
8 my Congressional work here in Washington.

9 Q You did not mention that you were anxious to have
10 him work on a committee assignment?

11 A Well, I mentioned to him that this was a possibility.
12 I talked generally in terms of my needs and one of the needs
13 that was emphasized was the kind of expertise that he had that
14 related to my committee work.

15 Q And what type of actual accounting work did you
16 expect, if any, for George Johnson to do either for your
17 committee or for your own personal staff?

18 A Well, I was not hiring nor did I represent any posi-
19 tion to Mr. Johnson in connection with his accounting capacity.

20 Q So that you were not interested in his expertise and
21 knowledge as an accountant?

22 A No, I was not. I already had access to that in a
23 different setting.

24 Q Mr. Diggs, isn't it a fact that you offered the job
25 to George Johnson for the purpose of paying for either your

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1 personal bills or the House of Diggs bills that were owing to
2 George Johnson?

3 A That is absolutely untrue.

4 Q Did you have any conversations with Jean Stultz at
5 the time that you told her to put George Johnson on the payroll
6 that maybe this would take care of the bill of George Johnson?

7 A I had a conversation with Jean Stultz but I did not
8 have a conversation with her according to what you just said.

9 Q You were present when Jean Stultz testified to that
10 fact; were you not?

11 A I was present when she testified period.

12 Q You have no recollection of making that statement to
13 Jean Stultz?

14 A I did not make that representation to Jean Stultz,
15 flatly.

16 Q After George Johnson went to work for you on your
17 staff how frequently did you meet with George Johnson?

18 A Well, I think there were only two or three times
19 when George came to Washington. I was going back to Detroit
20 oh, every other week, and I saw George just about every time
21 I came back.

22 Q Did you have meetings with George Johnson specifically
23 for the purpose of talking to him about your Congressional
24 concerns in Congressional matters?

25 A The meetings that I had with George Johnson covered

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1 the entire range of my relationship with him.

2 Q You would talk to him about the House of Diggs
3 business and any concerns you had regarding that; is that cor-
4 rect?

5 A Yes sir.

6 Q And you talked to him about any accounting work or
7 concerns regarding tax matters that you may have had personally
8 with George Johnson at these meetings?

9 A That is correct and in addition to that I talked to
10 him about my official representation in Congress in relation
11 with him.

12 Q You have indicated during your testimony that George
13 Johnson was involved in ICBIF?

14 A Yes sir.

15 Q Which you founded, correct?

16 A Yes sir.

17 Q There were other persons in your community that were
18 also involved in ICBIF; is that correct?

19 A Everybody who was -- who had any kind of reputation
20 for dealing with black business problems, yes sir.

21 Q Was George Johnson in some official capacity in
22 ICBIF? Did they have officers?

23 A Yes sir.

24 Q Was George Johnson an officer?

25 A Not in the earlier days of the organization. I know

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1 he became and was very active. If he eventually held an office,
2 I don't remember just off the top of my head.

3 Q So that your interest was the fact that George
4 Johnson was involved in ICBIF and conversations you would have
5 with him about those problems?

6 A Yes sir.

7 Q Now, did you have conversations with other persons
8 who were also equally involved in ICBIF, equally being equal
9 to George Johnson?

10 A Oh, yes sir. Walter MacMertry, Larry Daws. In fact,
11 ICBIF, the advisory board, the group that was pulled together
12 was pulled together specifically from the community of people
13 who dealt with black business enterprises and that included
14 the heads of businesses and people who had accounting back-
15 grounds, black economic development interests and matters re-
16 lating thereto.

17 Q Was Walter MacMertry a businessman?

18 A Walter MacMertry is a small business specialist. He
19 is now the President of ICBIF.

20 Q Did you have conversations with Walter MacMertry
21 about his expertise in the area of small business development?

22 A Oh yes, yes sir. He is one of my principle advisors
23 on this question.

24 Q Did you have him on your staff at any time and pay
25 him a Congressional salary?

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1 A I have not had the services of Walter in that capacity

2 Q Have you ever had any personal debts outstanding
3 for any period of time to Walter MacMertry?

4 A To Walter MacMertry personally?

5 Q Yes sir.

6 A No sir.

7 Q Larry Daws, what position did he have?

8 A Larry was one of the original group. He came to the
9 first meeting. He had just arrived in the community. He was
10 the Deputy Director of the Internal Revenue Service, the first
11 black to hold that particular position, and I think Larry was
12 -- he was an officer and a member of the Board of Directors.

13 Q Did you consult with Mr. Daws about problems relating
14 to ICBIIF in the black community?

15 A Yes sir, day and night.

16 Q Did you ever put Mr. Daws on your Congressional staff
17 and pay him a salary?

18 A No sir. Larry Daws was a neighbor of mine. He lived
19 right in back of me.

20 Q I think you have answered my question, sir.

21 During the time that George Johnson was working for
22 you on your Congressional staff did he ever indicate to you
23 that he was not receiving any Congressional-type work?

24 A Would you repeat that question?

25 Q Did Mr. George Johnson during the time that he was

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1 on your staff ever complain to you that he was not getting
2 any Congressional work?

3 A He wished that he could get more Congressional work.

4 Q That's not my question.

5 Did he complain he wasn't getting any Congressional
6 work?

7 A No sir.

8 Q He never once mentioned that.

9 A I don't remember any such -- I don't remember any
10 such flat expression as that at all.

11 Q He appeared satisfied with the money he was receiving
12 from you on the Congressional staff and the work that he was
13 doing?

14 A I do not recall any such complaints.

15 Q Do you recall any statements to you by George John-
16 son that his bills for accounting were much greater than the
17 money he was receiving in his Congressional salary and there-
18 fore he needed more money from the Congressional salary?

19 A I don't recall that conversation as you have con-
20 structed it, no sir.

21 Q At the time that you first hired George Johnson did
22 you talk to him about specifically what his duties were going
23 to be?

24 A I told him that I wanted him as a special consultant
25 with respect to black economic problems, economic development

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1 problems, small business matters and things relating to that
2 kind of background.

3 Q When did you tell him that?

4 A Well, I indicated it first in our meeting in a
5 general sense, in our meeting at this gathering because I said,
6 "I need you for the purpose of providing me with this kind of
7 expertise in connection with all of these duties that are press-
8 ing upon me."

9 Q Did you tell Mr. Johnson what his salary was going
10 to be at that time?

11 A No. Salary was not mentioned at that time.

12 Q How did you determine how much money to pay George
13 Johnson?

14 A Well, that was done by the Administrative Assistant.
15 That at least made a recommendation -- the people who were --

16 Q Well, the person you are referring to as the Admin-
17 istrative Assistant is Jean Stultz; is that not correct?

18 A That's correct. That's correct.

19 Q During the period of time George Johnson worked there?

20 A That's correct.

21 Q You are saying she decided on her own what George
22 Johnson should make?

23 A In terms of making a recommendation she looked at the
24 payroll. That was one of the functions of an Administrative
25 Assistant, to look at the payroll and to determine how much

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1 money was available to take care particularly when I was deal-
2 ing with people who were consultants, because the people who
3 were the regular employees, if you want to use that expression,
4 those amounts, those salaries were standard and generally the
5 people on a consulting basis were paid from funds that were
6 left after the regular people were paid.

7 Q Did you generally follow the recommendations of
8 Jean Stultz?

9 A In connection with what, sir?

10 O About payment of salary to George Johnson.

11 A Yes.

12 Q Would you always follow her recommendations?

13 A I don't know whether I always followed them but I
14 would use her as a guideline because she had the information.
15 I didn't get involved in those kinds of details.

16 Q She had the information as to the money available
17 but did she have information available as to how much George
18 Johnson was doing on your behalf?

19 A Well, that was not her prerogative. That was not her
20 decision to make.

21 Q It was only you who had knowledge as to how much
22 George Johnson was supposedly doing for you in a Congressional
23 capacity; is that not true?

24 A I don't know whether she knew how much he was doing
25 but in terms of direction and in terms of the direct knowledge

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1 of the information he was providing and its relation to me,
2 I was the only one that made that decision. Merely Jean
3 Stultz would be the first person to receive a form from the
4 House Finance Office indicating how much money was available
5 for Clerk Hire and she would go over that and we would have
6 a discussion between us as to any adjustments that would be
7 made and any new appointments or anybody being terminated.

8 Q Congressman Diggs, are you saying there was no re-
9 lationship between what George Johnson got as a salary and
10 what he was doing for you as a Congressman? Is that what you
11 are testifying to?

12 A I am saying that George Johnson was paid according
13 to our ability to pay him at any given month.

14 Q And if you had monies available to you, some excess
15 money, would you give it to George Johnson for that particular
16 month?

17 A Well, I would pay George Johnson that particular
18 month according to funds that were available and that would
19 depend upon many factors and that sometimes he would get more
20 money than at other times.

21 Q But would he get more money than he would earn work-
22 ing as a consultant for you in a Congressional capacity?

23 A No. I think that he received compensation that was
24 consistent with the services that he was rendering me as I
25 saw it.

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1 Q But you have indicated that the salary was based
2 though on the funds that were available.

3 A Well, of course. I couldn't go above a certain
4 amount and so therefore it had to be based upon that.

5 O Do you recall any occasions where a salary for a
6 particular month was set to a Payroll Authorization form,
7 was submitted for George Johnson and then because of needs to
8 pay other employees additional monies that George Johnson's
9 salary would then be decreased that very same month?

10 A Well, that's entirely possible.

11 Q Would that have been your decision?

12 A In the final analysis, yes.

13 Q Did George Johnson ever complain to you about the
14 fluctuations in the salary that you gave him?

15 A I could anticipate that he would because some of the
16 months that I have seen listed indicate that that particular
17 month he got a very small amount.

18 Some months he got less, you know, like two or \$300
19 or something.

20 THE COURT: We will take a ten-minute recess.

21 (Recess.)

22 (Jury not present.)

23 MR. KOTELLY: Your Honor, might I inquire how late
24 we are sitting tonight?

25 THE COURT: How much more do you have of the witness?

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1 MR. KOTELLY: I imagine a half hour but I would like
2 to break for the evening before I finally decide to quit. I
3 did not know Mr. Diggs was going to testify today and I have
4 not prepared it as completely as I had wanted to.

5 THE COURT: Five o'clock is a good time to break.

6 MR. KOTELLY: I appreciate that.

7 MR. POVICH: Could I be heard on that just for a
8 minute?

9 THE COURT: Come to the bench.

10 (At the bench:)

11 THE COURT: Yes sir?

12 MR. POVICH: Your Honor, I would prefer to finish
13 up if possible with this witness. I will tell you why.

14 THE COURT: I understand. One gets tired.

15 MR. POVICH: I know that but I can tell you in the
16 interest of my client the strain is a little much and if we
17 could possibly finish I would appreciate it. Your Honor, a
18 half hour isn't going to take us much past the time that you
19 usually finish and we could at least get it out of the way and
20 I could get on to other matters.

21 MR. KOTELLY: Your Honor, this is the second case
22 I have tried with Mr. Povich and I have always acquiesced to
23 Mr. Povich's request to have an evening to finish up a cross-
24 examination of a witness.

25 MR. POVICH: Well, you know, I don't mean to be --

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1 MR. KOTELLY: I understand the strain of the client.

2 MR. POVICH: The man is under a great deal of strain
3 and I would like to see him finish if possible. It is an
4 enormous advantage to have Mr. Kotelly to have the night to
5 prepare more complete examination but on the other hand it
6 places him under considerable strain.

7 THE COURT: I guess that's true of all of us. I
8 think five o'clock is a good time.

9 MR. POVICH: Could I inquire tomorrow whether or not
10 if we close early tomorrow do you plan on any rebuttal or can
11 we plan on instructions and closing statements right after-
12 wards?

13 MR. KOTELLY: If there is rebuttal it will be very
14 short.

15 THE COURT: Do you have instructions that I can look
16 at over the evening?

17 MR. KOTELLY: The Government has.

18 MR. WATKINS: I think we have them. I think they
19 are in a form that they can be typed up and gotten to Your
20 Honor this evening.

21 THE COURT: All right. It would be helpful if I
22 could look at them.

23 Now, you furnish to me instructions, proposed in-
24 structions on the two sections of the Code involved?

25 MR. KOTELLY: Yes.

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1 THE COURT: Did you have anything else?

2 MR. KOTELLY: We have three additional proposed
3 instructions that we have typed up and ready to give to the
4 Court.

5 THE COURT: All right.

6 MR. WATKINS: Your Honor, how late are you generally
7 here? Should we plan to bring these to your chambers or plan
8 to bring them to your home?

9 THE COURT: I will probably leave about six o'clock
10 tonight. I have got a couple people coming in.

11 MR. WATKINS: Just if we can get here before six?

12 THE COURT: Yes, otherwise bring them by and put them
13 in the mailbox.

14 MR. WATKINS: At your home?

15 THE COURT: Yes.

16 MR. KOTELLY: Should I give these to your lawclerk?

17 THE COURT: Yes. Give them to her.

18 (In open Court:)

19 THE COURT: Bring in the jury.

20 (The jury returned to the courtroom.)

21 THE CLERK: You may retake the stand, sir.

22 CROSS EXAMINATION RESUMED

23 BY MR. KOTELLY:

24 Q Mr. Diggs, did you have conversations with Mr. George
25 Johnson about Congressional matters each and every month he

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1 worked on your staff?

2 A Each and every month, yes sir.

3 Q Would you have more than one of these conversations
4 with Mr. Johnson each and every month during the time he
5 worked with you?

6 A I would say so, yes sir. Yes sir.

7 Q What would be the maximum number of separate con-
8 tacts you would have had with George Johnson regarding Con-
9 gressional matters?

10 A Well, I was, as I indicated -- George came to
11 Washington only two or three times so that with those excep-
12 tions all conversations took place in Detroit. I came to
13 Detroit about every other week so twice a month I would have
14 these conversations face to face, although there were occasions
15 when I would talk to him on the telephone.

16 Q How frequently would you discuss Congressional
17 matters with Mr. Johnson over the telephone?

18 A Oh, that could vary. I can't be more specific
19 about telephone calls.

20 Q Was the most frequent way that you discussed the
21 matters with Mr. Johnson in person?

22 A I don't know whether I would say the most frequent.
23 I discussed with him on the telephone. I don't remember the
24 number of telephone calls as well as I can recall the face-to-
25 face conversations and because I know that that would require

001166

1 me coming back to Detroit for the most part and I know that I
2 came back to Detroit about every other weekend, sometimes
3 every week, but on the average every other week.

4 Q Would you call George Johnson on the telephone spe-
5 cifically to talk to him about Congressional problems?

6 A I have.

7 Q And not discuss anything else?

8 A Well, it was very seldom when I would talk to George
9 Johnson that I would not talk about other things, so I would
10 say that that pattern was followed on the telephone, generally
11 speaking, as it was on face-to-face encounters.

12 Q Did you ever ask George Johnson to submit to you
13 any written memorandum regarding any Congressional concern
14 of yours?

15 A Written memorandum?

16 Q Yes sir.

17 A No sir.

18 Q Did you ever ask George Johnson to do any research
19 on your behalf relating to any Congressional matter?

20 A Yes.

21 Q What type of research?

22 A Well, research pertaining to the subject matter of
23 based upon which I brought him into my employment.

24 Q What specifically did you ask Mr. Johnson to do
25 research on?

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1 A On small business matters, black enterprise, black
2 economic development.

3 Q What type of research did you ask him to do?

4 A Just research.

5 Q What type of research, going to a library, talking
6 to people?

7 A I left that up to George Johnson. I didn't tell him
8 to go to the library or where to go.

9 Q But you told him to do research?

10 A Yes, and I assumed that he was doing research.

11 Q Did Mr. Johnson report back to you with this infor-
12 mation that he had obtained from research?

13 A On occasions, yes.

14 Q But this would not be in writing?

15 A No. That was not a requirement.

16 Q He would wait for you to come to Detroit in order
17 to report to you?

18 A Well, our telephone conversations constituted re-
19 porting.

20 Q Were these lengthy conversations?

21 A Some.

22 Q Were you satisfied with the research George Johnson
23 did for you?

24 A I was always satisfied with George Johnson's resources
25 and resourcefulness.

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1 Q Did you ever ask George Johnson to contact anyone
2 on your behalf regarding Congressional matters?

3 A Well, regarding Congressional matters in the sense
4 of my Congressional interests which were the subject matters
5 that I have just described.

6 Q Have you ever asked him to contact anyone on your
7 behalf relating to a Congressional matter?

8 A Well, in connection to a Congressional matter --
9 well, if by "Congressional matter" you mean the subjects
10 that I have indicated that represented our common interests
11 then the answer is yes.

12 Q Who did you ask George Johnson to see?

13 A To see?

14 Q On your behalf?

15 A Well, it would be people that would be connected
16 with that particular -- those particular subjects.

17 Q Can you name one person that you asked George Johnson
18 to go and see on your behalf?

19 A Well, Walter MacMertry, for example, Larry Daws.

20 Q On your behalf?

21 A Yes sir.

22 Q You could not contact those individuals directly?

23 A Well, in some instances I could and I have.

24 Q For what purpose did you ask George Johnson to con-
25 tact Mr. MacMertry and Mr. Daws?

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1 A For purposes of discussions about matters of mutual
2 interest pertaining to the subjects of black economic develop-
3 ment, small business loans and things of that type.

4 Q On how many occasions did you send Mr. Johnson to
5 talk to Mr. MacMertry and Mr. Daws on your behalf?

6 A I didn't say, sir, that I sent him. I said I asked
7 him to make contact with them about certain subjects and the
8 extent of those and the frequency I could not tell you.

9 Q Did George Johnson ever work for you on legislative
10 matters?

11 A No sir.

12 Q Did George Johnson have any conversations with you
13 at the time that he left?

14 A He indicated that he was -- yes. He indicated he
15 was moving his offices from downtown Detroit which was located
16 in my Congressional district further out into the first -- into
17 what was actually the first Congressional district, way out
18 almost near the outskirts of the city.

19 Q Did you tell George Johnson that it didn't matter
20 where in the city or even in the state that he was, that he
21 could still work for you?

22 A I don't know whether that -- if that subject came
23 up at that conversation I would have given him that answer.

24 Q Do you remember whether you did tell him that?

25 A Well, I don't remember the conversation at that

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1 particular point in that kind of detail.

2 Q Did George Johnson tell you that he was uncomfortable
3 receiving Congressional salary checks and that is the reason
4 that he wanted to terminate the employment on the staff?

5 A He told me that he was moving out of the District.
6 That is what I remember most vividly.

7 Q Do you remember most vividly Mr. Johnson telling
8 you that he was uncomfortable receiving Congressional payroll
9 salary?

10 A I don't remember that most vividly, no sir.

11 Q Do you remember it even less vividly?

12 A Well, I don't remember it even less vividly.

13 Q Do you remember it at all?

14 A No, I do not.

15 Q Did you try to dissuade George Johnson from leaving
16 your staff salary or staff payroll rather?

17 A Well, if -- yes, yes.

18 Q What did you say to George Johnson?

19 A Well, I told him that I had had a very satisfactory
20 relationship with him and I was hopeful that he would be able
21 to continue but if he wished to terminate that I hoped that I
22 could call upon him and his expertise in the future.

23 Q Now, he left your employment at the end of December
24 of 1974; is that correct?

25 A I missed the date, sir.

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1 Q December of '74, the end of December, '74?

2 A If that's what the record shows, yes sir.

3 Q After that time did you continue to have contacts
4 with George Johnson?

5 A Oh yes, yes.

6 Q Did you have contacts with him with the same fre-
7 quency as before he left your staff?

8 A December of '74?

9 Q We are talking about January, '75.

10 A January, '75 and on not as frequently, that's cor-
11 rect, sir.

12 Q Was George Johnson doing any House of Diggs work
13 during those first months of 1975?

14 A I'm sure he was.

15 Q Was he doing personal work for you at tax time in
16 1975?

17 A He handled my tax work, that's correct. Yes sir.

18 Q So did you have frequent contact with him about
19 those matters?

20 A Well, I had contact with him about those matters.

21 Q Did you have discussions with George Johnson during
22 these meetings about the same matters of interest to you,
23 minority business opportunities, SBA problems, any problems
24 relating to any of the development in the City of Detroit?

25 A Not as frequently as we had when he was in my

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1 Congressional employment.

2 Q Was there a reason why you didn't talk to George
3 Johnson about these matters?

4 A Well, I mean circumstances change. In January you
5 are talking about January, 1975. I had other people that I
6 could draw upon both in Detroit and in Washington. That was
7 part of the reason.

8 Q You didn't consider George Johnson's information and
9 expertise invaluable to you?

10 A Well, we just talked about it most frequently. I
11 didn't suggest that we didn't talk about it at all.

12 Q Did George Johnson say he wanted to talk to you
13 about it less frequently?

14 A I don't recall him saying that, no.

15 Q Did he say he would only talk to you if you paid
16 him?

17 A No, no.

18 George Johnson and I have known each other for years.

19 Q And you continued to have conversations with him
20 about the very same matters as you had previously been paying
21 him for?

22 A Well, under different circumstances and less fre-
23 quency and all of that.

24 Q What are the different circumstances, sir?

25 A The different circumstances is that the man was no

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1 longer on my payroll.

2 Q So you felt that since he wasn't on your payroll
3 that you couldn't talk to him because he was -- even in spite
4 of the fact he was a long-time associate of yours?

5 A Well, that's your construction, not my construction.

6 MR. POVICH: I think he is arguing with the witness.

7 THE COURT: Yes, he is arguing. He has answered your
8 question.

9 BY MR. KOTELLY:

10 Q There was one question I wanted to ask or a couple
11 questions I wanted to ask about Jeralee Johnson before I got
12 too far away from the subject so let me ask you now.

13 A Yes sir.

14 Q When Jeralee Johnson went to work for the House of
15 Diggs in May of 1974 --

16 THE COURT: Jeralee Richmond.

17 BY MR. KOTELLY:

18 Q Sorry. Jeralee Richmond, when she went to work in
19 May of 1974 for the House of Diggs or at the House of Diggs
20 did she receive a House of Diggs salary?

21 A No.

22 Q Did you talk to Jeralee Richmond as to how much time
23 she would be spending on constituent problems at the House of
24 Diggs when she was located there?

25 A I simply told her to make herself available for

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1 constituents who came into that building or called that
2 building for these kinds of surfaces.

3 Q You heard Jeralee Richmond's testimony that she
4 spent about 20 per cent of her time on constituent's services?
5 Would that be a correct estimate based on your knowledge of
6 what she was doing?

7 A Based upon her testimony that I heard in this court-
8 room I would accept what she said.

9 Q Would you also accept that she worked a larger per-
10 centage of her time on constituent problems in her previous
11 employment at the House of Diggs than when she did after?

12 A Mr. Kotelly, what she did after she finished taking
13 care of my Congressional business was her business and I had
14 nothing to do with that.

15 Q In other words, you were paying her a salary for the
16 20 per cent of the time that she was there?

17 A I was paying her for her availability to serve my
18 constituents in that office, either those who came in or those
19 who called on the phone. Now what she did beyond that, how
20 much time she spent, was not my concern.

21 Q But you were also an official of the House of Diggs
22 at that time; were you not?

23 A Well, an official technically, yes.

24 Q And it was not your concern that she should receive
25 compensation for the time she spent on accounts receivable at

001175

1 the House of Diggs?

2 A I had nothing to do with that. My daughter was
3 running the funeral home. She is a licensed funderal director.

4 Q Did you talk to your daughter about whether or not
5 Jeralee Richmond should receive a salary from the House of
6 Diggs?

7 A I never had any discussions with my daughter about
8 these matters. It was entirely up to her.

9 Q I would like to turn to Jean Stultz, please. At
10 what point in time did Jean Stultz become the office manager
11 in your Congressional staff?

12 A Oh, it must have been in the early part of January,
13 the early part of 1973, because Dorothy Corker had been my
14 AA, my Administrative Assistant and office manager in the
15 Congressional office and in January of 1973 she moved over to
16 the House District Committee as Chief of Staff and Jean Stultz
17 began to move into that set of duties that Dorothy had over
18 in that office.

19 Q Was she also in January of 1973 handling duties --

20 MR. WATKINS: Your Honor, I'm going to object. Mr.
21 Diggs indicated it was early '73. He couldn't place a date
22 and I object to Mr. Kotelly trying to pin him down to January
23 when he said he couldn't.

24 MR. KOTELLY: I misunderstood Mr. Diggs.

25 BY MR. KOTELLY:

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1 Q Was it in January of 1973 that Dorothy Corker left
2 your staff and went over to the committee that you were the
3 chairman of?

4 A Yes sir.

5 Q How long after that did you assign Dorothy Corker's
6 duties to Jean Stultz?

7 A Oh, I would say that those duties, most of those
8 duties were -- well, they had been in transition. I would
9 say that most of those duties were transferred pretty soon
10 after that particular point.

11 Q Now, "pretty soon" is relative. Could you give us
12 a little better idea of what you mean?

13 A Well, in the month of January then.

14 Q So in the month of January Jean Stultz started to
15 assume the duties of the office manager, understanding the
16 fact that Dorothy Corker was still in sort of a transition
17 period; is that correct?

18 A Yes, that's correct.

19 Q Was Jean Stultz also your personal secretary in
20 January of 1972?

21 A That's correct because Eileen Tillett, who had been
22 my personal secretary, left my employment at the end of Decem-
23 ber of 1972, I guess it was.

24 Q Were you satisfied with Jean Stultz' work when she
25 took over the additional duties as office manager?

001177

1 A Yes, yes.

2 Q Did she need a long time to start assuming these
3 duties and being able to handle them professionally?

4 A Well, she went through an orientation period. That
5 was a continuing operation because there were just so many
6 changes that were taking place in my life, congressionally
7 speaking, at that time.

8 Q We are talking about Mrs. Stultz' duties and respon-
9 sibilities and whether she was able to assume them.

10 A She was able to -- she was satisfactorily making
11 the transition, yes sir.

12 Q Now, Jean Stultz in January of 1973, was she sub-
13 mitting recommendations to you for the payroll of the staff
14 members on your personal staff?

15 A Yes.

16 Q That was one of her functions?

17 A That's correct.

18 Q She was also handling your bank accounts; is that
19 correct?

20 A She was handling my financial affairs, that's
21 correct.

22 Q All right. Was she handling the balancing of your
23 checkbook or the writing of your checks?

24 A Well, she was handling my financial affairs. I don't
25 know about balancing checkbooks and all that but she had charge

001178

1 of that particular function, yes.

2 Q Would she write the checks and give them to you for
3 your signature?

4 A Most of the time.

5 Q Do you remember any time that you authorized Jean
6 Stultz to sign your name for you?

7 A On a check?

8 Q On a check.

9 A No. That was -- I think in most instances, if not
10 every instance, any check out of that account would be signed
11 by me personally.

12 Q Did you have in that period of time, 1973 through
13 the end of '76, any additional checking accounts other than
14 the House Sergeant at Arms Account?

15 A No sir.

16 Q That was your only account then?

17 A Yes sir.

18 Q In that period of 1973 through the end of 1976.

19 Let's go to the beginning of 1976, if you can, and
20 try to recollect that time period. Was anyone other than
21 Jean Stultz handling your financial matters?

22 A At the beginning of 1976?

23 Q Yes, 1973, let's say, to the end of 1975.

24 THE COURT: What is your question?

25 The end of '75 or the beginning of '76?

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1 MR. KOTELLY: Either way, Your Honor, December 1st
2 of '75, January 1st of '76. I don't think there is any dis-
3 tinction as to that day but I'm trying to focus your time
4 frame from January of '73 to the end of 1975.

5 MR. POVICH: What is the question, Mr. Kotelly?

6 BY MR. KOTELLY:

7 Q The question was, was Jean Stultz the only person
8 who was handling your financial matters?

9 A As far as I can recollect sitting here, Mr. Kotelly,
10 yes sir.

11 Q Now, in 1976 was the year that Jean Stultz actually
12 left your employment at the end of August, correct?

13 A That's correct, yes sir.

14 Q During those first eight months of 1976 had anyone
15 else assumed the duties of handling your financial matters
16 besides Jean Stultz?

17 A The first eight months, I am not quite sure because
18 Lorraine Westbrook came into the picture and I'm not quite
19 sure whether during that period that you are talking about
20 whether Westbrook began to handle any of this business. I just
21 don't remember.

22 Q Now during the period that Jean Stultz was handling
23 your financial matters did you meet with her at least once
24 a month to discuss which bills were to be paid and which bills
25 were to be ignored?

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1 A I met with Jean Stultz at least once a month to go
2 over these matters, yes sir.

3 Q Would Jean Stultz give you a piece of paper listing
4 all your creditors and the amounts due each month?

5 A As I recall that was the procedure that she followed
6 from her predecessor.

7 Q And you discussed with Jean Stultz based on this
8 sheet of paper which creditors to pay and which ones to ignore?

9 A Our discussions revolved around the list of creditors
10 that she had outlined, a schedule of accounts payable.

11 Q Did Jean Stultz ever talk to you in terms of a
12 special account?

13 A Talk to me in terms of a special account?

14 Q Did she ever use that term?

15 A That expression was used, yes, yes.

16 Q Did you know what Jean Stultz meant when she talked
17 about that?

18 A Of course I knew what she meant.

19 Q What did she mean?

20 A She referred to bills that she was paying from her
21 salary on a personal basis and on the basis of Congressional-
22 related expenses that she was paying.

23 Q The special account, did it refer to bills or to money
24 that was available to pay those bills?

25 A It referred to monies, I believe, but it was -- it

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1 generally just referred to those transactions period.

2 Q Did Jean Stultz tell you each month how much money
3 that she had available to pay your bills?

4 A Each month during what period, Mr. Kotelly?

5 Q During the period of time she was handling your
6 financial matters.

7 A Well, during what particular period? There are
8 differences.

9 Q Well, what are the differences?

10 A Well, you tell me the period and I will tell you.
11 I will be more definitive.

12 Q The beginning of 1973 through March of 1976.

13 A In that period -- well, in the beginning of 1973
14 and '73, as I have already testified, she paid for the picture.
15 She paid I believe a telephone bill for the Detroit --

16 Q That's not my question, Mr. Diggs.

17 A That's the only way I can answer you, sir, unless
18 you are going to get specific about the period in question.
19 I will have to divide it up that way because we are talking --

20 Q Mr. Diggs, let me ask the question.

21 THE COURT: Not both of you at once, and besides,
22 I told you gentlemen at the bench that we would recess around
23 5:00 o'clock. It is now 5:05 and I want to let the jury go at
24 this time. We will resume tomorrow morning at 9:30.

25 The Court thinks you have heard enough today. I
want you to be sure to understand what you are hearing.

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1 Sometimes we all get a little bit tired toward the end of the
2 day.

3 So we will recess at this time until 9:30. Remember
4 what I previously told you. Don't discuss the case among
5 yourselves. Don't let anybody talk to you about it and don't
6 talk to anybody about it. You are excused until 9:30 tomorrow
7 morning.

8 (Jury excused.)

9 Gentlemen, we don't have any preliminaries tomorrow
10 so we will get started promptly.

11 (Whereupon, at 5:10 o'clock p.m. the above-
12 entitled matter was recessed, to reconvene at
13 9:30 o'clock a.m. on October 5, 1978.)
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001183

1 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

9 TRANSCRIPT OF PROCEEDINGS

10 Washington, D. C.

11 October 5, 1978
12

13 The above-entitled matter came on for further
14 hearing at 9:30 o'clock a.m. in open court before:

15 HONORABLE OLIVER GASCH
16 UNITED STATES DISTRICT JUDGE.

17 APPEARANCES:

18 ON BEHALF OF THE GOVERNMENT:

19 JOHN KOTELLY, ESQUIRE
20 ERIC MARCY, ESQUIRE.

ON BEHALF OF THE DEFENDANT:

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

-oOo-

JUDITH B. MOORE, CSR
Official Court Reporter

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1 P R O C E E D I N G S

2 THE CLERK: Criminal Case No. 78-142, Case of United
3 States versus Charles Diggs. For the Government Mr. John Kotelly
4 and Mr. Eric Marcy. For the Defendant Mr. David Povich, Mr.
5 Robert Watkins and Mr. Bernard Carl.

6 THE CLERK: Are we ready to proceed, Mr. Povich?

7 MR. POVICH: Yes.

8 THE COURT: All right. Bring in the jury.

9 (whereupon, the jury returned to the courtroom.)

10 THE COURT: Good morning, ladies and gentlemen.

11 Counsel may proceed.

12 THE CLERK: Mr. Diggs, will you retake the stand?

13 Your Honor, the witness has been previously sworn.

14 THE COURT: Yes sir.

15 Whereupon,

16 CHARLES C. DIGGS, JR.

17 defendant herein, resumed the witness stand by and in his own
18 behalf, and having been previously sworn was further examined
19 and testified as follows:

20 CROSS EXAMINATION (Resumed)

21 BY MR. KOTELLY:

22 Q Mr. Diggs, when we recessed yesterday we were just
23 beginning or I was just beginning to question you about the
24 special account of Jean Stultz. You indicated yesterday, is
25 it correct, that the special account was the monies from her

001185

own personal account that were available to spend on your expenses; is that correct?

A Mr. Kotelly, the special account was a reference to a list of items. It did not represent any special account in any other sense of the word.

Q Right. I'm not suggesting that it was a special checking account or anything. What I'm asking you, though, is the special account referred to money, did it not, money that would be available to pay for expenses on your behalf?

A No. It was a broader reference than that. I don't recall how the term special account came about. It was used in reference to Congressional bills and my personal bills.

Q Wouldn't Mrs. Stultz ask you, "Shall I pay certain bills out of the special account"?

A We went over the entire accounts payable when we got together about once a month. There was a listing of all accounts and accounts that I paid, accounts that she paid, accounts that were related to Congressional matters and accounts that related to my personal matters.

Q Mr. Diggs, my question was didn't Jean Stultz say to you on occasion, "Shouldn't I pay this bill out of the special account"?

A She may have used that reference from time to time but it had a general meaning. It was not a specific meaning.

Q Well, even in the general meaning did it mean the

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1 monies that were available to spend for your expenses?

2 A It meant, as I have stated, Mr. Kotelly. It meant
3 it was a general reference to the process of our going over
4 accounts both personal and Congressional that I would be paying
5 and that she would be paying.

6 Q Each month during this period of time that Jean Stultz
7 was paying for your expenses did Jean Stultz at the beginning
8 of the month when you would sit down and go over your bills
9 tell you how much was available to you out of her salary? .

10 A We talked about this in a general fashion because I
11 don't know whether she could say each month what was available.
12 It was not done on that kind of a basis.

13 Q You would go over the expenses, tell Jean Stultz which
14 bills to pay and which bills not to pay; is that correct?

15 A Well, she would ask me because we would have a list
16 of accounts payable both personal and Congressional, some bills
17 that I would be paying out of my own salary and my own account,
18 some bills that she would be paying. We would go over that
19 account and there would be a mutual discussion about it.

20 I did not prioritize these items based upon my own
21 sole judgment. She would sometimes -- she would ask me. Other
22 times she would make her own suggestions because she is the
23 one that was dealing with the creditors.

24 Q Would you tell her which bills that she should pay?

25 A It wasn't --

001187

1 Q Is the answer yes or no?

2 Did you tell her which bills to pay?

3 A I told her on some occasions which bills to pay,
4 yes sir. That's correct. And she told me which bills to pay.

5 Q But it was your decision as to whether to pay them
6 or not; isn't that true?

7 A In the final analysis I made such decisions and she
8 made some decisions.

9 Q If she made a recommendation to pay certain bills and
10 there were other priorities you felt should be paid you would
11 make that decision; is that correct?

12 A Now you are talking about the process that actually
13 happened.

14 Q Is that correct or incorrect?

15 A The process you just described is how it happened,
16 that is correct.

17 Q So then you would tell Jean Stultz whether she should
18 pay a bill either out of your checking account or out of her
19 own personal funds?

20 A And she would tell me what, by the same token, she
would tell me.

21 Q Tell you what?

22 A She would tell me about her priorities, about what
23 bills that were pressing her as a result of contacts that
24 were being made to the office to her specifically by these

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1 creditors because I was not talking to these creditors. She
2 was the one that was talking to them.

3 Q We are talking about your creditors, correct?

4 A That's correct.

5 Q She would tell you which of your creditors was pressing
6 her and based on that would make recommendations?

7 A That is correct, but by "your creditors" we are
8 talking about not only the personal creditors but creditors
9 that were pressing concerning bills that were congressionally-
10 related because there wasn't enough money available to cover
11 all those particular matters.

12 Q But they were pressing Congressman Diggs, not the
13 House of Representatives; isn't that correct?

14 A Well, the bills were in my name in both instances,
15 that's correct.

16 Q And they were bills incurred by you, not by the House
17 of Representatives. You were the one who made the decisions
18 that certain expenses should be incurred; did you not?

19 A I would say generally.

20 Q There were other expenses that were incurred in the
21 general course of running your district offices; is that cor-
22 rect?

23 A That's correct. I did not incur all of the expenses.
24 Many expenses were incurred by other people.

25 Q Other people than your staff?

001189

1 A Well, yes. Bills could be incurred in the district
2 office, for example.

3 Q By your staff?

4 A By the staff. They could be incurred in Washington
5 by the staff.

6 Q I asked you other than the staff. You are saying
7 -- you are referring to expenses incurred by your staff?

8 A My staff, that is correct.

9 Q Who were acting on your behalf?

10 A That is correct.

11 Q Now, you testified yesterday about the portrait that
12 was presented to the District of Columbia Committee and you
13 indicated that that portrait cost about \$2500, correct?

14 A That is correct.

15 Q Now, did you ask Dorothy Corker who had been with
16 you a long period of time as to whether she herself could pay
17 for this portrait?

18 A As best as I can reconstruct that conversation I asked
19 -- she came to me saying that it was time --

20 Q Mr. Diggs, my question was did you ask Dorothy Corker
21 whether she could pay for that portrait, yes or no? Did you
22 or did you not ask her?

23 A Whether she could personally pay for it?

24 Q Yes.

25 A No, I did not ask her.

001190

1 Q Did you ask any civic group whether they could raise
2 the funds for this portrait to donate it on your behalf?

3 A No, I did not.

4 Q The fact that you had become Chairman of the District
5 of Columbia Committee was a great pride to many people; was it
6 not?

7 A Yes, it was.

8 Q But you did not seek their assistance in presenting
9 this portrait of you to hand in the committee offices or chambers
10 there were at the House of Representatives?

11 A No, I did not seek any such assistance.

12 Q At the time that you talked to Jean Stultz about
13 paying for this portrait did you believe that she was financially
14 independent?

15 A Well, she came to me as a result of a conversation.

16 Q I ask you, sir, did you consider that Jean Stultz
17 was financially independent?

18 That's all my question is.

19 A You have to reframe your question, Mr. Kotelly, be-
20 cause I do not understand it in that context.

21 Q At the time that you discussed Jean Stultz paying
22 this \$2500 for your portrait to hand in the House of Representa-
23 tives did you think she was wealthy?

24 A No. I don't know what her financial condition was,
25 Mr. Kotelly.

001191

1 Q Did you have any impression at all that she came from
2 great wealth?

3 A I knew nothing about Jean Stultz' assets or liabilities.
4

5 Q Did she ever mention to you that she had a family to
6 support or were you aware that she had a family to support?

7 A I was aware that she had two grown daughters.

8 Q Do you have any knowledge as to whether she had to
9 support in any way these two children?

10 A I had no personal knowledge of her obligations in
11 that regard.

12 Q You did not consider it unusual for an employee of
13 yours to spend \$2500 for a portrait of yourself to hand in
14 the District of Columbia Committee?

15 A It was an unusual gesture and without question her
16 willingness to do it I considered unique.

17 Q Did you try to dissuade her in any way from spending
18 that kind of money on a donation to the House of Representatives
19 on your behalf?

A No, I did not try to persuade her.

20 Q And you didn't try to pay for this portrait out of
21 the funds that you received from the Salute for Congressman
22 Diggs' fund raiser?

A I did not attempt to provide the funds in that
23 fashion, I didn't.

001192

1 Q Now, in addition to paying for that portrait during
2 those months of November and December of 1973 and the early
3 months of 1974 Jean Stultz paid for other expenses relating to
4 the House of Representatives expenditures; is that correct?

5 A From time to time, that is correct.

6 Q From time to time or every month?

7 A I am not aware that she paid for expenses in 1973
8 and '74 on a month-to-month basis.

9 Q You went over the bills each month; did you not?

10 A That's right.

11 Q The first part of November of 1973 there are two
12 exhibits in evidence that were cashiers checks, one to J.
13 Daniel Clipper and the other to Michigan Bell Telephone.

14 A Daniel Clipper was the portrait office; that's cor-
15 rect.

16 Q Michigan Bell was an obligation for telephone ex-
17 penses in Detroit, Michigan, correct?

18 A In Detroit, Michigan, in my district office.

19 Q Correct?

20 A That's correct.

21 Q Nobody is disputing that sir.

22 Didn't you tell Jean Stultz to pay that \$200 to
23 Michigan Bell Telephone?

24 A Yes.

25 Q You told her?

001193

1 A Yes.

2 Q This was not volunteered on her behalf that, "Any-
3 thing else that I can pay for?"

4 A Well, you said I told her to pay it. She expressed
5 a willingness to pay it. She expressed a willingness to pay
6 it. I asked her to pay it is a better way to put it.

7 Q In early December of 1973 there was a cashiers check
8 to Barnett's Caterers and also payment of monies to Gandel's
9 Liquors that were paid for out of Jean Stultz' salary. Did
10 you tell her to pay those expenses?

11 A I did not tell her to pay it. I asked her to pay
12 it. I asked her if she would help out on that occasion be-
13 cause she had the money to do so.

14 Q Were you asking any of your other staffers to help
15 you out by making these payments during that period of time?

16 A No, I did not.

17 Q Jean Stultz was the only one?

18 A Yes sir.

19 Q And you had no idea as to what her financial condition
20 was at that time?

21 A No, no. I had no idea.

22 Q In early January of 1974 Jean Stultz purchased a
23 cashiers check for J. Daniel Clipper for that portrait for
24 \$1270?

25 A Yes sir.

001194

1 Q Did you ask her to make that second payment on your
2 behalf?

3 A I asked her if she was willing to help out in connec-
4 tion with that expense of a portrait and that was done in two
5 payments. One payment was done on or about the fall of '73 and
6 the rest of it was paid in January of '74, as I can best recol-
7 lect.

8 Q In early February of 1974 Jean Stultz purchased a
9 cashiers check made payable to the Sergeant at Arms for your
10 checking account and it was deposited in your checking account,
11 \$734. Did you ask her to do that?

12 A I do not recall that particular item.

13 Q Was Jean Stultz in the habit of putting money into
14 your checking account without you knowing about it?

15 A I do not recall that particular item, Mr. Kotelly.

16 Q In March of 1974, the early part of March, Jean
17 Stultz purchased money orders and cashiers checks in the amount
18 of \$1430 for Detroit Edison, for David Ramage for the house
19 restaurant and One-Stop Lock. Did you ask her to make those
20 payments for you?

21 A All of those payments came out of the same process
22 that I have described, namely going over the bills that were
23 on a list and making a determination as to how these bills
24 would be paid.

25 Q And she just voluntarily said, "Let me pay \$1430 of

001195

1 your bills for the month of March of 1974"?

2 A She expressed a willingness to do so; that's correct.

3 Q Did you ever question this practice of hers to be
4 giving you that much money?

5 A Question the practice?

6 Q Yes.

7 Didn't you think there was anything improper about
8 one of your employees giving you half of her salary?

9 A I do not consider it improper, Mr. Kotelly, and I
10 don't know whether your reference to half her salary repre-
11 sents the actual fact.

12 Q Would you like me to show you her checks and for you
13 to add them up and then show you the money orders?

14 A I can't look at her checks and make that kind of a
15 determination.

16 Q In March of 1974 I indicated to you there were \$1430
17 in cashiers checks and money orders.

18 If the Court will indulge me one moment I will show
19 them to you.

20 Congressman Diggs, I show you Government Exhibits
21 46E, 46F, 45A and 45B and ask you to look at these four docu-
22 ments, looking at the date, the payee and the amount of money.

Have you had an opportunity to look at those?

23 A Yes sir.

24 Q The dates on those four documents, can you read them

001196

1 on the copies there?

2 A This is a check made payable to House Restaurant for
3 \$500.

4 Q The date?

5 A On the 6th of March of 1974.

6 Q I would ask you to look at the other three documents
7 also, please, and ask you as to the date. Are they all the
8 same date on those four?

9 A March 6, 1974, for a check to House Majority which
10 is the printer and the service agent for the democratic members
11 of the House for \$900 and this looks like March the 6th, as
12 best I can see, a check made payable to Detroit Edison. I can't
13 quite make out the amount.

14 Q Does it appear to be \$13.59?

15 A I can't really quite make it out.

16 Q Further assistance to you may be in the bottom
17 corner which also reflects the amount of money.

18 A \$13.59. This is a check made payable to the One-Stop
19 Lock Company and I'm not quite sure -- I can't quite read this,
20 frankly.

21 Q Can you see the date on it?

22 A It's on the 6th of March, 1974.

23 Q Does it appear to be around \$17, again maybe if you
24 look in the right-hand corner?

25 A Yes, it looks approximately that amount.

001197

1 Q I would ask you if you could just mentally add up the
2 sums of those four documents. Do they appear to be about \$1430?

3 A A little over \$1430, that's correct, that particular
4 month.

5 Q Now, the payments of those documents was on March
6 the 6th, 1974, according to the documents, correct?

7 A That's correct.

8 Q And you from your knowledge of the payment of salaries
9 at the House of Representatives, the payment that Jean Stultz
10 would have received immediately before that would have been
11 some time at the end of February of that year, correct?

12 A All members -- all employees are paid at the end of
13 the month; that's correct.

14 Q I would ask you to look at the top check on Govern-
15 ment's Exhibit 6C and the top check on Government's Exhibit
16 3C. Those are in evidence and it is stipulated that those
17 were the checks for Jean Stultz that were deposited in her
18 checking account.

19 A Yes. I see the checks. Yes sir.

20 Q Can you total up the amount of those two checks, the
top two checks that are both -- first of all what date are on
those checks?

21 A The Exhibit 6C, February 28, 1974; \$863.29 made payable
22 to Jean Stultz and you said the top -- all right. The top on
23 -- that's Exhibit 6C that I just read.

001198

1 On Exhibit 3C the top check, dated February the 28,
2 1974, is for \$1270.68 made payable to Jean Stultz.

3 Q So would the total be slightly more than about
4 \$2100 for that particular month?

5 A Eight and six, that is the net of her check?

6 Q That is correct, her take-home pay.

7 A Her take-home pay?

8 Q And it's slightly over \$2100; is that correct?

9 A It adds up to approximately that amount net after
10 the deductions were made for income tax and for her retirement
11 and insurance and savings bonds that she was taking out and
12 any other deductions; that's correct. That's her net pay.

13 Q So is it not correct to say that for those paychecks
14 that she spent more than half of her pay on bills relating to
15 your expenses?

16 A Well, it indicates that she received that amount
17 during the month of February and these checks indicate that
18 these checks were purchased in the amount indicated and I assume
19 that these checks were purchased by her?

20 Q They have been received in evidence for that purpose;
that's correct.

21 A That's correct. That's correct. These checks, all
of which are related to my congressional representation, repre-
sent payment that she made from her checking account presumably
or with her funds for these four items that particular month.

001199

Q She voluntarily made these payments; is that your testimony?

A Oh, yes. There is no question about it being voluntarily made.

Q So that she voluntarily paid over \$1400 for your expenses out of her salary of \$2100 for that month take-home pay?

A She voluntarily paid that amount of money out of her net salary for that month for House Restaurant for \$500 which could have covered any number of things. I very seldom use it myself personally so it must have been a reception of some type. House Majority, the \$900 check, the majority and minority has a person in charge of providing Congressional services, printing, things of that type and that would reflect an account there. I don't know over what period of time. The other check, the Detroit Edison check is for the light bill at my district office in Detroit and the One-Stop Lock Company check bill that she paid was again for the district office in Detroit; that's correct.

Q Did Jean Stultz personally benefit from the payment of any of those four either cashiers checks or money orders?

A You would have to ask Jean Stultz that, Mr. Kotelly.

Q You know how those expenses were incurred. They were incurred on your behalf.

A They were incurred on behalf of my official

001200

1 representation in which all of my employees are involved.

2 Q But did she benefit from the payment of those four
3 expenses?

4 A I do not know whether she directly benefited from
5 these checks.

6 Q Is there any question as to the payment to One-Stop
7 Lock as to whether there was a benefit to Jean Stultz from
8 paying that expense for broken locks at your district office?

9 A I do not know whether this directly benefited Jean
10 Stultz. It directly took care of repairing a lock or replacing
11 a lock on the district office in Detroit. That's all I can
12 say.

13 Q Can you think of any way that Jean Stultz would be
14 benefited by repairing a lock on your district office in
15 Detroit, Michigan?

16 A Jean Stultz was at that time the chief administrative
17 officer and to the extent that she had responsibility for the
18 district offices I'm sure she felt that it benefited her in
19 that -- could benefit her in that sense of the word that it
20 provided security for an office over which she had responsibility.

21 Q You consider that a benefit to Jean Stultz?

22 A In that sense of the word.

23 Q The payment of the light bill to Detroit Edison, do
24 you consider that in any way a benefit to Jean Stultz that she
25 paid -- that the payment was made? The lights at the district

001201

1 office, did that benefit Jean Stultz who worked her in
2 Washington?

3 A Not in a direct fashion, no.

4 Q The payment to David Ramage, the House Majority,
5 which is the printer, did Jean Stultz benefit personally from
6 payment of that bill?

7 A No.

8 Q The House Restaurant, assuming that it was for some
9 reception or function, do you know if Jean Stultz attended
10 that reception?

11 A I don't know what this figure represents, House
12 Restaurant. No one can make a bill out the House Restaurant
13 unless it is a member of Congress. Often times we have groups
14 come up, individuals come up that have receptions on the Hill.
15 The House Restaurant caters these affairs and the bill is sent
16 to the Congressman and it's up to the Congressman to get reim-
17 bursement or seek reimbursement from those individuals. So
18 I cannot look at the House Restaurant payment for the House
19 Restaurant in this form, looking at this check, and make a
20 judgment as to what it was used for. It certainly was not
21 used for any meals for me.

22 Q That would take a lot of meals, wouldn't it, Congress-
23 man?

24 My question is -- well, in your answer you said that
25 it's up to the Congressman to see that he gets the money from

001202

whatever group ran up that bill; is that correct?

2 A As it relates to the House Restaurant.

3 Q Right.

4 A That's correct.

5 Q Did you try to find, you know, some group that would
6 be responsible to pay that had caused these expenses to be
7 incurred?

8 A I would have to, Mr. Kotelly, see an invoice from
9 House Restaurant that would indicate in some fashion the time
10 that this expenditure was made and then try to relate it to
11 whatever the circumstances was at that time. I don't know
12 whether this represented one transaction or several transactions
13 I just can't tell you.

14 Q But at least it is clear from the fact that Jean
15 Stultz paid for that cashiers check to the House Restaurant
16 that she and not some other group paid for one or more bills
17 that caused that money to be incurred or expenses to be in-
18 curred?

19 A It shows that she paid for it at that instant but
20 beyond that it doesn't show anything.

21 Q I would like to show you Government's Exhibits 46B
22 and 46C and ask you to look at the dates on those documents.

23 THE COURT: 46C and what?

24 THE WITNESS: 46C, Your Honor, and 46B.

25 THE COURT: Thank you.

001203

1 THE WITNESS: 46C is a check dated January the 4,
2 1974, made payable to J. Daniel Clipper for \$1270. J. Daniel
3 Clipper I specifically remember is the artist that did the
4 portrait and this was the balance due on that picture, that
5 portrait of some \$2400.

6 BY MR. KOTELLY:

7 Q I'm sorry, Congressman Diggs. The cashiers check to
8 Daniel Clipper is in what amount?

9 A It's for \$1270 even.

10 Q Let me take back this document so we don't confuse
11 things. I didn't realize I had given you that one cashiers
12 check, but let me ask you about that one.

13 A It can be confusing, Mr. Kotelly.

14 Q I don't want to confuse you, sir.

15 The check would have been the salary check for Jean
16 Stultz which would have immediately preceded that early January,
17 1974 payment, would have been some time in the middle or late
18 December of 1973; is that correct?

19 A I don't know what the relationship is between her
20 income and the payment of this in terms of the time element,
whether she paid for it out of funds that she had at a particu-
21 lar time or what. I can't tell you that.

22 Q That was not what I was asking.

23 A Then reframe your question, sir.

24 Q My question was the check that would have preceded

001204

1 that cashiers check would have been a salary check some time
2 in late December, 1973?

3 A She was paid at the end of 1973 in the month of
4 December, yes. She received a check.

5 Q I would ask you to look at the top checks on 3B and
6 6B, please. I first ask you, these are treasury checks which
7 have been stipulated were paid to Jean Stultz and deposited
8 in her account.

9 A Yes sir.

10 Q I would ask you first of all to look at the dates of
11 those two documents, the top ones.

12 A On Exhibit 3B the top checks, December the 20, 1973,
13 the check is for \$1270.86 and it is a salary check so that
14 represented the net amount of her salary by that particular
15 check.

16 Q And the other check?

17 A Exhibit 6B dated December 20, 1973, is for \$859.95
18 made payable to Jean Stultz and that is marked as a salary check
19 which represents her salary by reason of that check for the
20 month of December.

21 Q Again for the month of December the total would be
22 slightly over \$2100 take-home pay; is that correct?

23 A Take-home pay, that would be the net amount after
24 all of the deductions were taken out.

25 Q Finally I will show you 46A and 46B which are in

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evidence. These are cashiers checks from Riggs Bank. I would ask you to look at the dates of those two documents.

A This is Government's Exhibit 46B dated the 2nd of November, 1973, made payable to Michigan Bell Telephone Company for \$250.

Q And the other document is dated what, sir?

A The other document is 46A and I might add, Mr. Kotelly, that the telephone number in question that this was designed to cover, I believe, is on here.

Q I don't think there is any dispute that it relates to a district office telephone bill.

A Yes sir. The Exhibit 46A is a check made payable to Daniel Clipper, the portrait artist, for a thousand dollars and that's November the 2nd, 1973, and that represented the first payment presumably with respect to the portrait which Jean Stultz ultimately paid off in January.

Q The total of those two cashiers checks purchased November 2nd of 1973 is \$1250; is that correct?

A Yes sir, yes sir.

Q The salary check of Jean Stultz that would have immediately preceded November the 2nd would have been the end of October of 1973; is that correct?

A Jean Stultz was paid at the end of each month.

Q I show you Government Exhibits 3A and 6A and ask you to look at the top check on each of those two pages and ask

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1 you these are checks which have been stipulated that were paid
2 to Jean Stultz as salary and deposited in her checking account
3 at the Riggs Bank.

4 A Yes sir.

5 Q I would ask you to look at those checks. First of
6 all, what are the dates on the top checks of each of those
7 two pages?

8 A The date, October 31, 1973. It is a check made
9 payable to Jean Stultz, \$1270.86 and it was a salary check
10 that represented her net salary out of that check for the
11 month of October.

12 The next check you presented here, Exhibits 6A,
13 represents a check made payable -- a salary check made payable
14 to Jean Stultz, as I mentioned, October 31, 1973, for \$871.28.

15 Q Again the total of those two checks is slightly over
16 \$2100 take-home pay for that month of October, '73?

17 A After deductions it would appear that this totals up
18 about a little over \$2,000 for that particular month, that's
19 correct.

20 Q You say after deductions. The salary check only
-1 reflects the amount of money from the gross after deductions,
22 correct?

23 A Well, that's the point I'm making. You are talking
24 about a net pay, a net pay here, not a gross pay, and I think
25 that's a very important distinction because the deductions that

001207

1 we are talking about cover federal taxes, D.C. income taxes,
2 it covers a retirement that is directly beneficial and tied
3 into the salary of the employee. You are talking about insurance
4 standard insurance that is tied to her base pay and then an
5 optional insurance that one can take out and you are talking
6 about a savings bond and I know that Jean Stultz took out
7 savings bonds out of her paycheck every month which directly
8 benefited her.

9 Q Do you know how large that savings bond was each
10 month?

11 A I have never seen one of them. I don't know.

12 Q So you then don't really know how large; it could
13 have been just a \$25 savings bond?

14 A It could have been.

15 Q Which costs \$18.75?

16 A I don't know. It could have been that. That was
17 her own prerogative.

18 Q All right. Now, as far as the taxes that she had to
19 pay out of the gross salary she couldn't use that for her own
20 personal benefit at the time that she received her check, could
she? That's deducted by the Office of Finance?

21 A Well, taxes are deducted by the Office of Finance and
22 paid to the Federal Government for taxes so that obviously is
23 a benefit.

24 Q She can't use the money to pay for any expenses she

001208

1 might have, can she?

2 A The expense of her income tax, yes.

3 Q She can't use it for any of her living expenses on
4 her day-to-day living, you know, any financial debts that she
5 might incur?

6 A Well, I don't know what her options are under those
7 circumstances.

8 Q You know she has to pay taxes, don't you?

9 A She has to pay taxes but under what circumstances,
10 whether she didn't declare any dependents so she could draw more
11 or whether she could skip a month, she didn't have to elect to
12 have withholding taken out every month. All of this is under
13 her own control.

14 Q That has nothing to do though with what the take-home
15 pay is?

16 A Well, it certainly does because she has the option to
17 elect how she wants these taxes to be deducted or whether she
18 wants them at all as far as the District of Columbia, for
19 example, is concerned. She could -- I know she could completely
20 waive that and pay it off in a lump sum so she has all of these
21 elections.

22 Q Now, Congressman Diggs, I have showed you a number
23 of cashiers checks and money orders and showed you a number of
24 salary checks to Jean Stultz.

25 A Yes sir.

001209

1 Q I know you have testified that you don't know for
2 a fact as to where the money came from that Jean Stultz used
3 to pay for your expenses, the ones that I have just showed you
4 in cashiers checks and money orders. Is that your testimony?

5 A Mr. Kotelly, I have said in this courtroom and I re-
6 peat now that Mrs. Stultz made available to me her salary, part
7 of her salary to pay these expenses, all of these expenses that
8 I have.

9 Q I misunderstood you.

10 A That is reflected in these individual items. I have
11 already made that statement in this courtroom.

12 Q I misunderstood you, Mr. Diggs. I'm sorry. Let me
13 ask the question now.

14 If you understood that the money was coming from her
15 salary that she was paying for these various money orders and
16 cashiers checks for your expenses didn't you question the large
17 amount of money that she was paying? You have \$1400 being paid
18 in one month; you have \$1250 being paid in another month; you
19 have got another \$1200 that third month from a woman who is
20 taking home \$2100.

21 Didn't you question that at all, the amount of those
22 monies?

23 A No, I did not question, Mr. Kotelly, and Mrs. Stultz
24 did not question it, which is more important.

25 Q That's all I'm asking. That is for the jury to

001210

1 decide.

2 Mr. Diggs, did you have any other employee on your
3 staff paying for your personal expenses, personal?

4 A Personal expenses?

5 Q Personal expenses.

6 A No sir.

7 Q Did you ever have Dorothy Corker when she was working
8 on your staff and when she was alive paying for your personal
9 expenses?

10 A By Dorothy Corker you are talking about the late
11 Dorothy Corker?

12 Q Yes.

13 A No, she did not.

14 Q She had been with you for a long period of time; had
15 she not?

16 A She came to Washington with me in January of 1955 and
17 stayed until she died in 1974.

18 Q So approximately 19 years that she was with you?

19 A That's correct.

20 Q During that time she never volunteered to pay for
21 any of your personal expenses?

22 A No sir.

23 Q You mentioned on your direct testimony that you were
24 having financial difficulties in 1973. Do you recall testifyin-
25 to that on direct?

001211

1 A I had financial difficulties in 1973, '74, '75 and
2 I have financial difficulties right now, Mr. Kotelly.

3 Q Fine. The financial difficulties that you had in
4 1973, were these relating to personal debts and expenditures?

5 A They were related to expenses that were ordinary
6 expenses, that were extraordinary because 1973 was an extremely
7 active year for me in many ways that generated a great deal of
8 extraordinary expenses.

9 Q Now, in 1973 do you recall what your gross income
10 was?

11 A I think as a member of Congress in 1973 I think we
12 were getting \$42,500 gross pay.

13 Q Gross pay is all I'm asking you about. Do you recall
14 that year, 1973, how much income you received from the House
15 of Diggs?

16 A In 1973 I received no income or little income from
17 the House of Diggs.

18 MR. KOTELLY: Your Honor, I would ask this be marked
19 -- I believe we are at 84 -- for identification.

20 THE CLERK: Government's Exhibit 84 marked for identi-
21 fication.

22 (Whereupon, Government's Exhibit
23 84 was marked for identification.)

24 BY MR. KOTELLY:

25 Q Mr. Diggs, I show you Government Exhibit 84 for

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1 identification and I ask you to look at the top portion of
2 that document and I would ask you if that helps to refresh
3 your recollection as to whether you received any gross income
4 from the House of Diggs in 1973?

5 A This is a Government Exhibit 84, Wage and Tax
6 Statement, from the House of Diggs and this is a copy of my
7 Wage and Tax Statement for that particular time.

8 Q Right. Does it refresh your recollection as to the
9 fact that you received a gross income from the House of Diggs
10 of over \$17,000 for that 1973.

11 A It reflects that there was income -- the gross income
12 was \$17,055.50 and then it goes on to indicate the taxes that
13 were withheld from that.

14 Q I'm only talking about gross.

15 A That's reflected here in the Wage and Tax Statement
16 for the year 1973. I don't read these things well because I
17 have never filled out one of these matters but you are talking
18 gross income?

19 Q That's all.

20 A And my net income was only about 56 percent of my
21 gross income, so if it was seventeen-five then you are talking
22 about maybe \$9,000 or somewhere like that that I actually
23 received.

24 Q Your wife was also working during 1973 as well as
25 later years; is that not correct?

001213

1 A My wife is employed.

2 Q In 1973 where was she employed?

3 MR. POVICH: Objection, Your Honor.

4 THE COURT: You may come to the bench.

5 (At the bench:)

6 MR. POVICH: What is the relevancy of that?

7 THE COURT: Don't ask questions of him.

8 MR. POVICH: I'm sorry. I object on the grounds of
9 relevancy.

10 THE COURT: I suppose if she had an income she could
11 be asked to pay some of his expenses as well as this woman who
12 worked for him.

13 MR. KOTELLY: That's correct. I didn't think it was
14 sensitive as to where she works. If it was sensitive I wouldn't
15 ask it.

16 MR. POVICH: The whole grounds for inquiry --

17 MR. KOTELLY: This man is claiming financial diffi-
18 culties. I think the jury should have some knowledge as to
19 what kind of gross income he was getting each year.

20 MR. POVICH: I object, Your Honor.

21 MR. KOTELLY: It is a way to evaluate as to whether
22 this whole thing is believable or unbelievable.

23 THE COURT: You can ask him the question.

24 (In open Court:)

25 BY MR. KOTELLY:

001214

1 Q Mr. Diggs, where did your wife work in 1973?

2 A My wife has been employed by the Department of State
3 as a career foreign service officer since I think 1971.

4 Q Government's Exhibit 84 for identification, would
5 that refresh your recollection as to her salary during that
6 year, 1973, and that's the gross salary I'm asking about?

7 A Her salary as reflected in this earnings statement,
8 her gross salary was \$16,757.64 out of which \$3,167.41 was
9 withheld for Federal income tax, giving her a net of about
10 \$13,000 at that time.

11 Q Does that appear to be accurate as to what her gross
12 salary was?

13 A Well, this is an earnings statement, sir, from the
14 Department of State and I would assume that it authenticates her
15 net income at that time from that source.

16 Q So is it accurate to say that your gross income for
17 congressional salary, for House of Diggs salary and your wife's
18 salary is about \$76,000 gross?

19 A I'd have to add up those figures.

20 Q You have the three earnings statements before you,
21 sir.

22 A It would appear to be somewhere in that neighborhood
23 from a gross standpoint but net income is the key to a person's
24 earning capacity.

25 Q You talked about unusual expenses that you had in

001215

1 1973. You redecorated your home in that year through Woodward
2 & Lothrop; did you not?

3 A 1973?

4 Q Yes sir.

5 A I believe so.

6 Q You believe so or do you know so?

7 A I don't recall the year that the home was decorated
8 because that went on over a period of time. It may have been
9 all in one year; it may not have been.

10 MR. KOTELLY: Court will indulge me one moment.

11 MR. POVICH: Your Honor, could we go to the bench,
12 please?

13 (At the bench:)

14 MR. POVICH: Your Honor, I'm going to object. We
15 are getting far afield of the question in this case as to how
16 much money he owed other creditors that this woman did not pay
17 for. I don't think we can go into his financial situation as
18 to who he owed and how much money he owed and what his situation
19 was with other people unrelated to this case. It is just an
20 attempt to embarrass him. It is prejudicial. It is not rele-
21 vant. It is not probative. He has gone far enough now. He has
22 indicated what his total source of income is and he has indicated
23 that he has had some bills.

24 THE COURT: I am inclined to agree with that, Mr.
25 Kotelly. I don't want to drag out this case.

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1 MR. KOTELLY: I am not going to but if I could make
2 one representation to the Court --

3 THE COURT: All right.

4 MR. KOTELLY: In August of 1973 Mr. Diggs charged
5 over \$20,000 at Woodward & Lothrop for redecorating his home.
6 I think that is quite significant to the question of how he
7 incurred all these great debts and whether or not it was
8 voluntary on Jean Stultz to pay for his expenses.

9 MR. POVICH: Then Your Honor, we have to get into
10 the whole issue of refinancing homes, forfeitures and every-
11 thing as to funds and I don't want to have to chase all these
12 rabbits every time he puts up an expense to prove where the
13 heck the money came from. We have serious problems. This man
14 had homes refinanced.

15 THE COURT: Let me ask you this question. Does your
16 evidence indicate he has paid that \$20,000?

17 MR. KOTELLY: He did it several years later, yes.

18 THE COURT: Does that have anything to do with his
19 '73 picture?

20 MR. KOTELLY: We are talking about incurring debts.

21 MR. POVICH: It doesn't contradict anything that he
22 said with respect to incurring debts. He said he was in great
23 debt and he was.

24 MR. KOTELLY: I'm inquiring about only one substantial
25 debt that he incurred that had nothing to do with his congressio

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1 representation or representation of minority groups or his
2 interest in Africa or anything else.

3 MR. POVICH: It has nothing to do with this case,
4 Your Honor.

5 THE COURT: Well, it may for the reason that he was
6 asking these employees to pay his bills, congressional and
7 personal, and there is some evidence of that, just as it may
8 be some evidence that he was financially embarrassed.

9 MR. POVICH: Your Honor, these were bills -- if Mrs.
10 Stultz was paying them, she was aware of these bills. I mean
11 I don't see how this is probative.

12 THE COURT: Whether in fact she did it voluntarily
13 or whether she did it under pressure.

14 MR. POVICH: How does a bill from Woodward & Lothrop
15 which was not paid off until several years later as a result
16 of refinancing a home have anything to do with whether or not
17 she was being pressured in 1973? We are really getting far
18 afield.

19 MR. KOTELLY: Your Honor, I submit this is one of
20 the creditors dunning her all the time.

21 MR. POVICH: She never testified to that, Your Honor.
22 There is no testimony that was a particular bill that ever gave
23 her any problem. She never said she handled that bill, she
24 paid any money for that bill; had nothing to do with anything
she ever did for the Congressman. Now it is being dragged into

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1 this case.

2 The probity is really miniscule and the prejudice,
3 Your Honor, is just incredible. Now we have to go back and
4 chase down how he paid all these bills, when they were paid,
5 under what circumstances they were paid and it is certainly
6 speculative at this point as to what effect, if any, it had
7 on Jean Stultz. He never asked her that.

8 Did he ever ask her? Did she pay those bills or was
9 she forced to pay these bills, because the Congressman was in
10 such financial condition? In fact, when I asked her about his
11 financial condition she said she didn't know.

12 MR. KOTELLY: That's true. She didn't know his source
13 of income.

14 MR. POVICH: How is this relevant if she didn't
15 know?

16 MR. KOTELLY: It is an expense, an expense incurred,
17 a debt right in the very time period when Jean Stultz is volun-
18 tarily supposed to have been paying all this money.

19 MR. POVICH: She said she didn't know anything about
20 his financial condition.

21 MR. KOTELLY: She knew his debts, Your Honor.

22 MR. POVICH: If she didn't know about it, Your Honor,
23 I can't see how it is relevant. It's just being dragged in to
24 embarrass him.

25 THE COURT: How many expenses are you going into?

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1 MR. KOTELLY: Just this one because it is so sub-
2 stantial and unusual.

3 MR. WATKINS: Your Honor, may I be heard?

4 What this will require, it seems to me, for this
5 to be fair after Mr. Kotelly puts this in to try and go back
6 and reconstruct all of the Congressman's bills and debts in
7 1973. That's the only way we can do this. We are at the
8 eleventh hour at this trial. It would be unfair for this
9 evidence to go in without us having an opportunity to do that
10 and I would think that that is not something the Court would
11 allow.

12 Now, if Mr. Kotelly puts it in we are going to have
13 to go out, get an accountant and gather up all his checks and
14 start sitting down figuring up what his bills were and how
15 they were paid. I think that is the only way we can rebut it.
16 If Mr. Kotelly puts that in we are put at a severe and unfair
17 disadvantage, I think on an issue that is really not in the
18 case. For that reason I think it shouldn't be allowed.

19 THE COURT: The only basis on which I would consider
20 it relevant and germane is that the defense has created the
21 impression that he ran up these bills because of his extraordi-
22 nary representation of constituents and that kind of thing.
23 That is out; this should be out. I think we should try it
solely on the question of whether he called upon his staff to
pay his bills or whether they did it voluntarily and of their

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own free will.

MR. POVICH: Your Honor, if it should be out let's not proceed with it further, especially where Mrs. Stultz has not indicated that had in any way affected her judgment in this case. When I asked her specifically if she was aware of his financial condition she told me in no uncertain terms no. Now, I don't see how we can now drag this in.

THE COURT: Wait a minute. She did testify that each month creditors were harassing the Congressman. She was the buffer. She received the complaints. Each month she took up with him what could be paid. To that extent she knew his financial picture. She didn't know his overall financial picture.

MR. WATKINS: Yes, that's correct.

MR. POVICH: But she did not indicate this bill was a particular problem to him or that she ever dealt with this bill.

THE COURT: She didn't indicate anyone was a particular problem. She did not mention any particular bill except she said creditors were harassing him each month threatening suit.

MR. POVICH: Fine.

THE COURT: So from that extent she knew his financial picture. Nobody asked her and I don't think it was germane to the issue who were the principal creditors who were making the most noise.

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1 MR. POVICH: Your Honor, an outstanding bill of that
2 size under collateral situations in this case is so prejudicial
3 that it is just like telling them they don't pay their taxes
4 or he hasn't paid his taxes or anything else. It would just
5 absolutely turn this whole case around on whether he pays his
6 bills or not and that's not what the case is about.

7 THE COURT: The case is about his having his bills
8 paid by his staff. That's what it is about.

9 MR. POVICH: This is not one of them, Your Honor.
10 This is not one of them, not one of them at all. If it had
11 been any payment with respect to this bill I would say fine,
12 go ahead. But this has nothing to do with this.

13 MR. KOTELLY: Except for the timing, Your Honor.

14 THE COURT: Let me ask you this: When did the Con-
15 gressman make any payments on this bill?

16 MR. KOTELLY: He incurred -- he purchased the items
17 in August of '73. It was several years later before he made
18 payments on any of it.

19 THE COURT: I think under that circumstance I would
20 say that that is not an issue in this case since it wasn't paid
21 during this period.

22 MR. KOTELLY: Your Honor, if I could say one more thing.
23 because of the timing of the incurrance of this debt we submit
24 it is very relevant to whether Jean Stultz, knowing about Woodie'
25 debt along with all the other debts would voluntarily start

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1 paying out of her own money knowing this man is going out and
2 charging \$20-some thousand dollars in expenses to redecorate
3 his house. This is just a frivolous expenditure that didn't
4 have to be made yet this man is making it out.

5 THE COURT: I don't think we can pass on whether his
6 expenditures were frivolous or otherwise. They may well have
7 been frivolous but we are not trying him on whether he was a
8 good business manager. We are not trying him on whether he
9 had all these interests outside of the 13th District and the
10 District of Columbia Committee and Africa. That's not an issue
11 in the case. The issue is solely whether he borrowed money or
12 at least allowed his staff to pay these debts.

13 MR. POVICH: Thank you, Your Honor.

14 THE COURT: All right.

15 (In open Court:)

16 BY MR. KOTELLY:

17 Q Mr. Diggs, you have indicated your gross income in
18 1973 for you and your wife was around \$76,000. Do you recall
19 what your gross income was in 1974?

20 A No sir, I do not recall.

21 MR. KOTELLY: I ask this be marked Government's
22 Exhibit 85 for identification.

23 THE CLERK: Government's Exhibit Number 85 marked for
24 identification.

25 (Whereupon, Government's Exhibit

001223 85 was marked for identification

BY MR. KOTELLY:

Q Congressman Diggs, in 1974, of course, you did receive a congressional salary. Would that have been around \$42,500?

A The congressional salary is steady at that time.

Q I would show you Government's Exhibit 85 for identification and ask you if this would refresh your recollection as to any salary you may have received from the House of Diggs for that year?

A It shows a net income -- you have to excuse me, Mr. Kotelly. I don't fill out these forms and I don't really know about them.

Well, after the income tax was taken out of some \$3800 and then the Social Security and other things I can't quite make out what the net income of this is from this check, sir.

Q Let me see if I can assist you, sir, because that is not a great copy.

I would ask you to look at column ten. Do you have difficulty reading that?

A Well, column ten appears to be the gross income, Mr. Kotelly.

Q Could you tell us then, please, what is the gross income, recognizing that that is gross and not net?

A It would appear to be -- if this is the column --

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1 it's \$14,850. In my tax bracket that comes out to about 7,000.

2 MR. KOTELLY: I ask this be marked Government's
3 Exhibit Number 86 for identification.

4 THE CLERK: Government's Exhibit 86 marked for identi-
5 fication.

6 (Whereupon, Government Exhibit
7 86 was marked for identification.

8 BY MR. KOTELLY:

9 Q Mr. Diggs, I show you Government's 86 for identifica-
10 tion. I would ask you just to look at the middle document and
11 ask you if that helps refresh your recollection as to the
12 amount of salary for your wife during 1974?

13 A This Exhibit, Wage and Tax Statement for 1974 for my
14 wife J. Hall Diggs, indicates that the salary, presumably a
15 gross salary, is \$18,532.40 and Federal withholding out of that
16 was \$3,624.13, so she had a net income there that was like
17 about \$14,000.

18 Q Would it be correct that the total for the gross
19 income from the House of Representatives, the House of Diggs
20 and from your wife's gross income the total is \$75,000?

21 A Mr. Kotelly, I'm going to deal in terms of net in-
22 come because gross income --

23 Q I'm asking you a question, sir.

24 A -- because gross income is grossly misleading.

25 Q I'm asking questions regarding gross income. I'm

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1 sure your attorney can ask you any other questions he wishes
2 to. Please answer my questions.

3 A Well, from a gross income standpoint it would appear
4 to add up somewhere in that general neighborhood.

5 Q Thank you, sir.

6 Turning to 1975 I would ask you if you have a recol-
7 lection as to your total gross income for you and your wife
8 for that year?

9 A No sir, I do not.

10 MR. KOTELLY: I ask this be marked Government's
11 Exhibit 87 for identification.

12 THE CLERK: Government's Exhibit 87 marked for iden-
13 tification.

14 (Whereupon, Government's Exhibit
15 87 was marked for identification.)

16 BY MR. KOTELLY:

17 Q Mr. Diggs, I show you Government's Exhibit 87 for
18 identification and ask you if you recognize that signature at
19 the bottom of that document?

20 A My signature is at the bottom of this document and it
21 was signed the 15th of December of 1976. There is another
22 signature on here, the Alexander Graham Company, were certified
23 public accountants that prepared the tax form.

24 Q Would that document refresh your recollection as to
25 your gross income in 1975 for you and your wife?

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1 A Well, you have got two sets of figures here. One is
2 the gross figures and the other is what appears to be the
3 net figures.

4 Q Again, Mr. Diggs, I'm only asking you for the gross
5 figures. Does that refresh your recollection as to your gross
6 income?

7 A I'm sorry. I don't read these forms well because
8 I have never filled out an income tax form. They have always
9 been filled out by someone else.

10 Q You are quite lucky.

11 A But it would appear that this would be \$71,164.

12 MR. POVICH: Objection, Your Honor.

13 MR. KOTELLY: If I might assist Mr. Diggs?

14 THE COURT: Yes.

15 BY MR. KOTELLY:

16 Q Would this figure in column nine in any way assist
17 you as to the gross income?

18 A The figure in column nine, whatever that is, \$66,859.

19 Q Does that appear to be gross income from salaries?

20 A It says -- number nine, it says "Wages, salaries,
21 tips and other employee compensation", which I presume is the
22 gross figure.

23 Q Does that appear to be accurate as to what your gross
24 income was for that year?

25 A If that line represents gross income then that's what

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1 it is and it looks like \$20,000 coming out of that for taxes
2 and otherwise. So we paid an income tax on much less than
3 that.

4 Q I was merely asking you as to gross income.

5 A Yes sir.

6 Q The last year I will ask you about is 1976. Do
7 you have a recollection as to your gross income for you and
8 your wife as to that year?

9 A No sir.

10 MR. KOTELLY: I ask this be marked Government's
11 Exhibit 88 for identification.

12 THE CLERK: Government's 88 marked for identification.
13 (Whereupon, Government's Exhibit
14 88 was marked for identification.

15 BY MR. KOTELLY:

16 Q Mr. Diggs, I show you what has been marked Government's
17 Exhibit 88 for identification and ask you if that would refresh
18 your recollection as to your gross salary and your wife's
19 gross salary in 1976?

20 A This Exhibit 88 is a Wage and Tax Statement, 1976,
21 for Charles C. Diggs, Jr. Federal Income Tax withheld \$12,171.60
22 wages, \$44,600.

23 Q That's your gross?

24 A And the state and local taxes withheld \$1367.68.

25 Q Mr. Diggs, I'm only asking you about your gross salary,

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1 please.

2 A Then it appears, sir, for Charles C. Diggs, Jr. to
3 be \$44,600 gross.

4 Q And for Janet Diggs what is her gross salary?

5 A J. H. Diggs it says \$4,515.16 Federal Income Tax
6 withheld; wages, \$22,999.60 gross; and \$895.05 FICA income
7 employee tax withheld. It says a total net wage apparently
8 it's \$15,300.

9 Q Again, Mr. Diggs, I'm asking you about gross wages,
10 s ir.

11 A Yes.

12 Q Could you give us the total gross wage for you and
13 your wife in 1976? I'm asking you gross, not net, gross.

14 A Yes sir. It would appear to be about \$59,000,
15 \$60,000, thereabouts, yes sir.

16 Q Thank you, sir.

17 Mr. Diggs, you indicated that when Jean Stultz first
18 started paying expenses that they were related to the House of
19 Representatives primarily; is that correct, at the beginning?

20 A I can remember the portrait bill, yes sir, and we
21 have in this colloquy, we have covered two other items, the
22 telephone bill and another bill. Those were congressionally-
23 related in that generic sense.

24 Q You indicated at some later time that you asked
25 Jean Stultz if she could help you pay your own personal bills;

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1 is that correct?

2 A There came a time when I had that discussion with her
3 and she indicated she was willing to help.

4 Q The discussion you had with her, was it you who
5 initiated the discussion as to whether she would pay your per-
6 sonal expenses?

7 A Well, Jean Stultz was dealing with my personal bills
8 and all of my other personal matters. She was dealing with
9 my whole financial picture. I think it came out of a discus-
10 sion that we had which we continually had about my financial
11 affairs. It came out of a discussion which indicated just how
12 bad off I was financially.

13 Q Were you the one who initiated the discussion as to
14 whether she would pay your personal bills?

15 A I don't know who spoke first in that conversation,
16 sir.

17 Q If you don't know, just please say so.

18 A Yes sir.

19 Q Now, Mr. Diggs, during this conversation did she seem
20 eager to pay these financial bills for you?

21 A I don't understand what you mean by "eager".

22 Q Did she give you any resistance, say, "Gee, I don't
23 know whether I can do that or not," or anything like that that
24 would cause you to think the opposite.

25 A I don't recall any such reaction.

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1 Q She just was very neutral about it?

2 A I just don't recall what the reaction was. The only
3 thing that I can recall was she expressed a willingness to
4 help me out. It was just as simple as that.

5 Q Did you consider these payments by Jean Stultz on
6 your behalf as gifts to you?

7 A It was not discussed in that fashion, Mr. Kotelly.
8 We didn't talk about gifts or loans or anything like that.
9 She just indicated that she was willing to help me out and that
10 was it.

11 Q Did you consider it a loan?

12 A I considered it her willingness to help me out,
13 period.

14 We didn't use expressions like that. We didn't have
15 any conversation like that where we talked about whether it
16 was going to be a gift or a loan or anything like that.

17 Q Mr. Diggs, was there any discussion regarding her
18 payments out of her salary check as to whether she expected you
19 at some date to pay her back?

20 A She did not so express herself.

21 Q Did she ever indicate to you that you would have to
22 pay any interest on the loan that she was paying out of her
23 salary?

24 A No sir.

25 Q So then you don't believe that that was a loan as far

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1 as the monies coming out of her salary to pay your expenses?

2 A I can merely say that the conversation was exactly
3 the way I said it was.

4 Q Could you under any circumstance consider that as
5 a loan?

6 A Consider it a loan?

7 Q Yes.

8 A I did not consider it a loan at that time.

9 Q Then you must have considered it a gift. What else
10 could it have been?

11 A Well, Mrs. Stultz is the one to ask that question,
12 the way I see it.

13 Q You had no concern regarding whether or not that was
14 a gift from Jean Stultz?

15 A She had no concern at that time.

16 Q I'm asking about your concern.

17 A She had no concern and I had no concern at that time.

18 Q Now, as a member of Congress you pass legislation
19 and vote on legislation relating to tax matters; do you not?

20 A Yes, I do.

21 Q And you are aware that there is a requirement for a
22 gift tax of gifts over \$3,000?

23 A I know that there is such a thing as a gift tax.

24 Q Did you ever advise Jean Stultz that she was going to
25 have to pay a gift tax for the money that she was paying for _

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your expenses?

2 A That subject never came up during the conversation.
3 That was merely about my particular financial situation that
4 she knew about and she wanted to help me out and she was willing
5 to help me out.

6 Q Did you tell Jean Stultz to pay for your expenses
7 by buying cashiers checks and money orders? Yes or no; did
8 you?

9 A No.

10 Q You never told her that?

11 A No sir.

12 Q Did you ever tell Jean Stultz not to keep records
13 and that you were going to make a good politician out of her?

14 A No. I never made that expression.

15 Q That's not the fact then?

16 A No. She kept records. There are records all over
17 this place.

18 Q That's not what I'm asking you. I'm asking you did
19 you tell her not to keep records?

20 A I did not tell her not to keep records. I presume
21 that's why she kept records.

22 Q Did you ever ask her to make sure she kept records
23 of all of the payments she was making on your behalf?

24 A No sir, I did not.

25 Q Were you aware that she was buying cashiers checks and

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1 money orders to pay for your expenses?

2 A I knew she was paying for my expenses and I knew
3 that -- I knew the form it took, cashiers checks, money orders,
4 checks written on her personal account on some occasion.

5 Q So that you knew that that was one of the ways that
6 she was paying for your expenses was by buying cashiers checks
7 and money orders?

8 A One of the ways, that's correct.

9 Q Did you also have knowledge that she was paying for
10 it out of her personal checking account?

11 A I know that she was paying -- that she was writing
12 checks on occasions under those circumstances.

13 Q As far as the payment of your office expenses, besides
14 Jean Stultz, Felix Matlock and Ofield Dukes did any other em-
15 ployee on your staff pay for office expenses out of their
16 salary?

17 A I know that Jean Stultz paid for those expenses.
18 I know that Felix Matlock paid for office expenses and I know
19 that Ofield Dukes paid for office expenses.

20 Q I'm asking you if anyone else did.

21 A I do not recall anyone else in that sense of the word.

22 Q Did you consider at any time having someone in your
staff in Detroit who was an attorney pay for office expenses
out of his salary?

23 A No sir.

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1 Q You never considered that fact?

2 A No sir, not at all.

3 Q You never had any discussions with Jean Stultz about
4 having this attorney pay for office expenses?

5 A I never had any such discussions.

6 Q Did you have discussions with Jean Stultz that Felix
7 Matlock should be the particular person to pay for the office
8 expenses in Detroit?

9 A I remember that discussion.

10 Q And the fact that Felix Matlock was picked, was that
11 because he was a loyal employee and long-time employee of yours?

12 A No. It was because Mr. Matlock was the senior em-
13 ployee in the Detroit office. He was acquainted with the
14 office expenses and it would just appear logical that was the
15 person. The other people in the office generally did not have
16 that kind of experience to handle it.

17 Q During the period of time that Felix Matlock was
18 paying for your office expenses, which would have been -- let's
19 just look at the period of time in '75 through the end of 1976
20 -- there were other persons in the Detroit office who had more
21 job responsibilities and duties who had a supervisory position
22 as to Felix Matlock; were there not?

23 A Well, there were other people that played other roles,
24 that's correct. I have a staff in both of my district offices,
25 that's correct.

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1 Q You had an employee named Cessandra Fisher; did you
2 not?

3 A Yes, I did.

4 Q Was she in charge of the Detroit office or offices?

5 A No, she was not in charge of the office.

6 Q Was Felix Matlock in charge of the office or offices
7 in Detroit?

8 A Mr. Matlock was in charge. Mr. Matlock's experience
9 and roles in the Congressional office was always in a supervisory
10 capacity.

11 Q Did he supervise Cessandra Fisher?

12 A I think they were working in separate offices, if I'm
13 correct. There may have been some overlapping but I'm not
14 certain.

15 Q Did you put anyone in the Detroit office who was
16 above Felix Matlock and who would supervise Mr. Matlock at
17 any time between mid-'75 and 1976?

18 A No. Felix Matlock had a direct relationship with
19 me because of the length of time that he had been associated
20 with me. There were times when he went through other people in
21 Washington, for example, who didn't have to talk directly to
22 me but Felix Matlock was sort of an independent agent in that
23 sense of the word.

24 Q You were aware, were you not, that in mid-75 to the
25 end of '76 time period that Felix Matlock was buying money

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1 orders and cashiers checks and paying for these expenses?

2 A I was aware that Mr. Matlock was paying office
3 expenses for the district office. I wasn't particularly aware
4 of the instruments that he was using.

5 Q On occasion weren't you given money orders or cashiers
6 checks purchased by Felix Matlock in which you endorsed them
7 and had them to pay for some of your office expenses?

8 A There may have been some occasions but they -- that
9 was not the common way of doing business, the common practice
10 of Mr. Matlock paying for these expenses.

11 Q What was the common way that Mr. Matlock paid these
12 expenses?

13 A Well, as I recall, originally all of these matters
14 were paid in Washington.

15 Q Not by Mr. Matlock?

16 A Well, anything that Mr. Matlock -- all bills, all of
17 the bills in the district office when they arrived they were
18 forwarded to Washington and then subsequent to that time Mr.
19 Matlock would be informed about the amount and he would send the
20 money up, as I understand it, made out to the creditor and then
there came a time --

21 Q What kind of instrument though would he send the
22 money to Washington? He wouldn't send any cash, would he?

23 A No. It was not cash. That's correct.

24 Q Do you remember personal checks coming from Felix

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1 Matlock in the name of the creditor that was sent to Washington
2 to pay bills?

3 A No, I never saw any of those instruments, Mr. Kotelly,
4 This was all handled between Mr. Matlock and the person who
5 was handling these matters in the Washington office. I had
6 no contact with that at all.

7 Q Well, you indicated that the money orders and cashiers
8 checks were not the normal way that Mr. Matlock paid the ex-
9 penses and I'm trying to find out what were the normal ways.

10 A Well, the original process involved him sending the
11 bill to Washington and then subsequently sending the money to
12 Washington to pay these official or district expenses and then
13 there came a time, because that process involved sending it to
14 Washington and sending the money back because the creditors
15 were down in Detroit, then there came a time when he was in-
16 structed by Mrs. Stultz when the bills came to pay them right
17 there in Detroit because they were all Detroit bills related to
18 the district office and he was in the district office and that's
19 how it happened.

20 Q My question to you was what was the normal way he
21 paid them? What kind of instrument would he use?

22 A Well, I never saw any. I very seldom saw it. I can
23 just merely say that he probably paid for it in check form or
24 money order.

25 Q Are you speculating? Are you guessing?

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1 A I'm just merely saying I have no direct personal
2 knowledge as to all of the instruments that he used in each one
3 of these transactions because you are talking about several
4 transactions a month.

5 Q I'm not talking about any transactions and I --

6 A I very seldom came in contact with this kind of
7 operation.

8 Q Mr. Diggs, if you could answer the questions, if you
9 know, and if you don't know then indicate that, I think we would
10 have less problems.

11 As far as Felix Matlock paying bills did you tell each
12 month Jean Stultz which bills you wanted Mr. Matlock to pay?

13 A No sir.

14 Q Did Jean Stultz have conversations with you as to
15 the outstanding bills at the district office and the fact that
16 they needed to be paid?

17 A That was rarely the case. She dealt directly with Mr.
18 Matlock and whatever she evaluated the legitimacy of a bill to
19 be then she directed Mr. Matlock to pay it.

20 Q Isn't it a fact that you were the one who decided which
21 bills Mr. Matlock should pay at the district office and which
22 bills he should not pay?

23 A No. I do not enter into the relationship between Mr.
24 Matlock and Mrs. Stultz when Mrs. Stultz was there.

25 Q There was frequent fluctuations in Mr. Matlock's

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1 salary from that period of mid-1975 to the end of 1976; was
2 there not?

3 A Well, I don't know. I'd have to see the records on
4 that.

5 Q You did sign the payroll authorization form each
6 month; did you not?

7 A Oh, yes, yes.

8 Q I will show you from March of 1975 through the end
9 of January 1 of '77, Government's Exhibits 7K through 7R. I
10 ask you to look at each of them and ask you if you can identify
11 them and recognize them as payroll authorization forms that you
12 signed on behalf of Felix Matlock?

13 A Exhibit 7K is the payroll authorization form for
14 Felix Matlock, effective date March, 1975, and it is signed by
15 me.

16 Q Just look at all of them and see if there are any
17 there that you do not recognize as being payroll authorization
18 forms that you signed.

19 A All but one appear to be my signature.

20 Q Which one does not appear to be your signature?

21 A They were all typed; that is Felix Matlock's name
22 was typed in all of these which indicates that the form was
23 prepared by someone else and that someone else would be Jean
24 Stultz during that period and I signed it.

25 Q Which one do you think that you did not sign?

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1 A Well here is one which is made out to Mr. Matlock
2 which is not typed.

3 Q What is the exhibit number on that, sir?

4 A Sir, this is Exhibit Number 7R. It is not typed.
5 It is filled in. It's printed.

6 Q The effective date on that document?

7 A The effective date is the first of January of 1977.

8 Q Now, that was a time period when Randall Robinson
9 was your Administrative Assistant and Jean Stultz was no longer
10 working for you; is that correct?

11 A That's correct, sir.

12 Q I would ask you then to --

13 A I'm not sure about the signature here, frankly.

14 Q I would ask you to look at the payroll authorization
15 forms in front of you.

16 A Yes sir.

17 Q The first one has the effective date of July, 1975;
18 is that correct?

19 A Yes sir.

20 Q And it shows a gross annual salary of \$14,500?

21 A Yes sir.

22 Q The next payroll authorization form is effective date
23 August 1, 1975, for gross annual salary of \$25,300; is that
24 correct?

25 A There was a salary adjustment made in August of 1975.

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1 I might add that there was a salary adjustment made in March,
2 the first one, because there are three things that this form
3 is designed to accomplish, Mr. Kotelly. One is the appointment;
4 one is the salary adjustment; and one is the termination.

5 Q Salary adjustment up or down, correct?

6 A That's true.

7 Q You don't know whether that was an upward adjustment
8 or downward adjustment?

9 A I could not tell on this form, no sir, but on the
10 first of March, 1975, the gentleman had a salary adjustment
11 and his gross annual salary was for that particular month
12 \$14,500 and that -- well, there is another figure here.

13 Q I'm only concerned with gross.

14 A Yes sir.

15 Q Since you raised the question that the first document
16 which was effective in March showed a salary adjustment let
17 me just show you the month preceding, which is 7J, which is in
18 evidence and ask you whether you can tell whether Mr. Matlock's
19 salary increased or decreased in March?

20 A Well, March 1st, 1975, salary adjustment is \$15,678.83
21 and the next month it went down to fourteen-five.

22 Q It was a decrease; was it not?

23 A It was a decrease for that particular month. I
24 emphasize this reflects the monthly pay.

25 Q That's correct. Now, are there any payroll

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1 authorization forms between April and August of 1975?

2 MR. POVICH: Your Honor, I don't wish to interrupt
3 but there is a list of these numbers on one piece of paper and
4 the witness could see the date of the change and the amount of
5 the change instead of having to go through each one of the
6 payroll authorizations. It is a Government exhibit and it is
7 all itemized.

8 MR. KOTELLY: Your Honor, these are the documents
9 this man signed and sent to the Office of Finance. These are
10 the best evidence he should rely on in looking at as to what
11 was going on with these authorization forms.

12 THE COURT: Counsel is simply suggesting a way that
13 might save a little time. We are all interested in saving as
14 much time as we can; however, if you feel the documents signed
15 by the witness should be shown him you may do so.

16 MR. KOTELLY: Thank you, Your Honor.

17 BY MR. KOTELLY:

18 Q Are there any payroll authorization forms, and the
19 Government's Exhibit numbers will run chronologically as to date
20 -- between April '75 and August of '75?

21 A Let me first of all say, Mr. Kotelly, that the February
22 1st one that you handed me is not my signature on it.

23 Q All right.

24 A Now, back to what is your question again, please?

25 Q Between March of '75 and August of '75 are there any

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1 payroll authorization forms?

2 A No sir. It goes -- according to what you have
3 handed me?

4 Q Yes sir.

5 A Exhibit 7K is March 1st and Exhibit 7L salary ad-
6 justment is August the 1st, 1975, yes sir.

7 Q So if you have all the payroll authorization forms
8 that would reflect a constant salary of \$14,500 between March
9 1, '75 and the end of July of '75?

10 A Well, all I can say is that I have in my hand here
11 the March 1st payroll authorization form showing a salary
12 adjustment and the next is August 1, 1975.

13 Now I can't explain, you know, what happens between
14 those months. Anything could happen. You may not even have
15 the forms here; I don't know.

16 Q Assuming you have been handed all of the payroll
17 authorization forms relating to Felix Matlock would that not
18 reflect then that there was no change in Mr. Matlock's salary
19 from March 1, 1975, through the end of July of 1975?

20 A I cannot tell what this reflects, Mr. Kotelly.

21 Q Based on the assumption.

22 A Unless I either saw the forms in question or a list
23 as defense counsel has just suggested.

24 Q Mr. Diggs, you have all the payroll authorization
25 forms relating to Mr. Matlock for the period in time.

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1 A Well, if it's on that assumption then --

2 Q That's what I ask you.

3 A All right. On that assumption then between March
4 the 1st and August the 1st there are no forms and the presump-
5 tion is that there were no changes in the salary because these
6 are payroll authorization forms. They do not have to be made
7 out each month, only made out for appointments, salary adjust-
8 ments or terminations, yes sir.

9 Q Now, August, effective August 1, 1975, Mr. Matlock's
10 salary will be \$25,300; is that correct?

11 A Yes sir. That's what's on this form.

12 Q Did Jean Stultz talk to you about why Mr. Matlock's
13 salary should be raised to \$25,300?

14 A I would not remember, Mr. Kotelly, a conversation
15 on or about that time over three years ago.

16 Q August of 1975 you testified on direct you started to
17 incur some large new expenses; is that not correct?

18 A Well, I had started to incur expenses or had expenses
19 at that particular time but you asked me if I had a conversa-
20 tion specifically with her in connection with this matter at
21 this particular time and I just don't recall such a conversa-
22 tion.

23 Q Wouldn't it have been your normal practice?

24 A But I can merely say that adjustments in salaries and
25 appointments or terminations were in each instance signed by me

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1 and presumed to have been discussed with me.

2 Q Signed by you and you were the only one authorized
3 to make those decisions; isn't that correct?

4 A I am the person whose signature is required by the
5 House Finance Office in order to effectuate any of the action
6 on these forms and these forms, as I indicated, have all been
7 signed by me with the exception of the February 1, 1975, form
8 and that you handed me, sir, and the one on the 1st of January,
9 1977.

10 Q Okay. Now, would it have been your normal practice
11 to have discussed salary changes with Jean Stultz?

12 A Yes sir.

13 Q Would it have been your normal practice to ask her
14 why is Felix Matlock receiving \$25,300 effective August 1, 1975?

15 A It was our normal office practice to discuss changes
16 in the payroll period.

17 Q Isn't it a fact that you would have been aware that
18 the increase in salary was for the purpose of paying district
19 office expenses?

20 A Well, I have said that Felix Matlock paid the district
21 office expenses, yes.

22 Q So the increase --

23 A Yes.

24 Q So the increase that would have been effective August
25 1, 1975, was for that purpose and that purpose alone?

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1 A Well, I can merely say that Felix Matlock paid the
2 office expenses out of his salary; that's correct.

3 Q September 1, 1975, is there a payroll authorization
4 form effective that date where Mr. Matlock's annual salary is
5 \$35,500?

6 A That is so reflected in this form, yes sir.

7 Q Do you remember discussing with Mrs. Stultz the
8 fact that Felix Matlock would be receiving that large a salary?

9 A I do not remember the specific discussion but I
10 repeat, Mr. Matlock paid office expenses out of his salary.

11 THE COURT: What was that date?

12 MR. KOTELLY: Effective September 1, 1975, Your Honor.

13 THE WITNESS: Yes sir.

14 BY MR. KOTELLY:

15 Q Mr. Diggs, were you not concerned with the overall
16 salaries of your employees to make sure that they remained
17 within the limits prescribed by Congress?

18 A Well, they had to remain within the limits prescribed
19 by Congress.

20 Q Did you discuss with Mrs. Stultz as to whose salary
21 should be increased and whose salary should be decreased in
22 order to juggle your figures to stay within your maximum?

23 A We had discussions concerning salary adjustments.

24 Q You were not concerned about staying within your
25 maximum?

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1 A Well, one had to be concerned about that. That was
2 a requirement and the only requirement.

3 Q Mr. Diggs, isn't it a fact that you would try to use
4 every penny each month of your clerk hire allowance to pay your
5 employees in their salaries?

6 A I don't know whether I used every cent of the clerk
7 hire every month or whether I used every cent of any allowance
8 every month.

9 Q Do you recall months during the period of let's say
10 July of '75 and the end of 1976 where you returned monies to
11 the United States Treasury for unused Clerk Hire Allowance?

12 A I don't recall offhand, Mr. Kotelly, but I'm sure
13 their records would so reflect.

14 Q Would that have been unusual if you returned funds
15 to the Treasury out of the Clerk Hire Allowance?

16 A I don't think it would be unusual, no sir.

17 Q You testified earlier on cross examination regarding
18 the salary for George Johnson and that his salary would be
19 based on what monies were available; did you not?

20 A That may have happened at a given month or a given
period but it was not something that occurred on a monthly
21 basis.

THE COURT: Ten minute recess.

(Recess period)

(Jury not present.)

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1 THE COURT: Counsel, come to the bench, please.

2 (At the bench:)

3 THE COURT: How much more of this do you have?

4 MR. KOTELLY: I can only estimate about an hour.

5 THE COURT: I don't think you have to go into every
6 one of these transactions. You can dissipate the force and
7 effect of what you have shown by this.

8 Now, it isn't up to me to give you any strategy
9 suggestions but I am concerned about the utilization of time.

10 MR. KOTELLY: I realize that, Your Honor, but I have
11 had numerous discussions with Mr. Silbert and Mr. Caputi and
12 they feel what I'm doing is essential and that I should progress
13 the same way that I have been.

14 THE COURT: Well, I'm in charge of Courtroom 21, as
15 you well know.

16 MR. KOTELLY: I am not suggesting they are running
17 this.

18 THE COURT: I'm not going to have this thing dragged
19 out any more than necessary.

20 MR. KOTELLY: I'm not trying to, Your Honor. I'm not
21 being repetitious, I don't think. I think I'm just following
22 through every area.

23 THE COURT: You can be overly meticulous, too.

24 MR. KOTELLY: I didn't realize that I was trying to
25 be overly meticulous, Your Honor.

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1 THE COURT: Well --

2 MR. KOTELLY: I will try to move it along as quickly
3 as I can.

4 THE COURT: All right. You know how I feel about it.

5 MR. KOTELLY: Yes, Your Honor.

6 (In open Court:)

7 (Whereupon, the jury returned to the courtroom.)

8 CROSS EXAMINATION (Resumed)

9 BY MR. KOTELLY:

10 Q Congressman Diggs, asking you again to look at those
11 payroll authorization forms for Mr. Matlock --

12 A Yes sir.

13 Q Is it correct that the payroll authorization effective
14 October 1, 1975, Mr. Matlock's annual salary is \$21,479.16?

15 A What date was that, sir?

16 Q Effective October 1, 1975.

17 A Yes sir.

18 Q The next payroll authorization form effective Novem-
19 ber 1st is \$30,000; is that correct?

20 A February is. It says 15,000.

21 Q I'm asking about November, 1975.

MR. POVICH: Your Honor, this is the problem we have.

He is reading from the summary and he is asking the witness
to look at the individual papers. Now, I think if he's going
to question him from that document the witness ought to have

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1 the benefit of it too.

2 MR. KOTELLY: I don't mind giving him a copy of it
3 but I'm asking questions regarding the payroll authorization
4 forms, Your Honor.

5 THE COURT: You may proceed but let's move along as
6 best we can.

7 THE WITNESS: You are asking me to compare?

8 BY MR. KOTELLY:

9 Q No comparison. I'm just asking you.

10 A November the 1st, 1975, yes sir.

11 Q Gross income \$30,000?

12 A November, I'm sorry. Gross annual salary for the
13 month of November of 1975 was \$30,000 gross, that's correct.

14 Q January of '76, January 1, the gross annual salary
15 is \$25,000, correct?

16 A For the month of January of 1976 it was \$25,000.

17 Q And effective March 1, 1976, the gross annual salary
18 is \$37,000?

19 A For the month of March his salary was calculated at
20 that gross annual salary.

21 Q \$37,000?

22 A \$37,000, yes sir.

23 Q Did you question Mrs. Stultz regarding the payment of
Felix Matlock of a gross annual salary of \$37,000?

24 A No sir.

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1 Q You knew at the time, did you not, that that money
2 was not merely Mr. Matlock's salary but it also included pay-
3 ment for office expenses?

4 A I knew it was Mr. Matlock's salary, sir.

5 Q Are you saying that you had no knowledge that Mr.
6 Matlock was paying for office expenses out of his salary?

7 A I have already stated, sir, that Mr. Matlock was, in
8 fact, paying office expenses out of his salary, yes sir.

9 Q My question previously, sir, was when you were paying
10 Mr. Matlock and submitted those payroll authorization forms
11 reflecting \$37,000 of the annual salary for Felix Matlock, that
12 you knew that that not only included Mr. Matlock's take-home
13 salary to keep but it also included what he had to pay out of
14 his salary for district office expenses?

15 A Mr. Matlock was paying district office expenses.

16 Q And you knew that it was coming out --

17 A Out of his salary.

18 Q And out of his salary that was based on the fact that
19 you had submitted payroll authorization forms reflecting that
20 Mr. Matlock's salary was \$37,000?

21 A Mr. Matlock was paying office expenses out of his
22 salary for that particular month.

23 Q And months following that?

24 A Well, whatever particular month.

25 Q Every month from August of 1975 until the end of

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1 December of 1976?

2 A Well, I don't remember the exact period you are talking
3 about but he paid office expenses out of his monthly salary
4 and in those months he paid off office expenses, whatever those
5 months were.

6 Q You were not aware that it was every month?

7 A I was not aware that it was every month. There may
8 have been some months when he didn't. I don't remember.

9 Q You did not have discussions with Jean Stultz each
10 month regarding payment by Feliz Matlock out of his salary?

11 A No sir, no sir.

12 Q In the end of August of 1976, Mrs. Stultz left your
13 employment. After that did you have personal contact during
14 the month of October, November, December, did you have personal
15 contacts with Felix Matlock and tell him what expenses he should
16 pay out of his salary?

17 A I had personal contacts with Felix Matlock during
18 that period as I did in previous periods.

19 Q Would you mind answering my whole question? I asked
20 you did you have contact with him for the purpose of telling
21 him to pay district office expenses?

22 A He continued to pay district office expenses.

23 Q Not at your direction?

24 A Let's see. That was after Jean Stultz left?

25 Q Yes sir. September, October, November, December of

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1 1976.

2 A '76?

3 Q Yes sir.

4 A After she left I know he continued to pay office
5 expenses, Mr. Kotelly, but I don't recall when we sat down or
6 when we talked about it or anything like that. I can't remember
7 that.

8 Q Were there occasions when you would sit down and talk
9 with Felix Matlock about what expenses he should pay?

10 A There may have been when I came back to Detroit, yes
11 sir, because all the bills were down there.

12 Q Were you aware as to how much money that Felix Matlock
13 had available from his salary during those months after Jean
14 Stultz left?

15 A No sir, I did not know that.

16 Q You weren't concerned with how much money Mr. Matlock
17 had available to him to pay for office expenses?

18 A Mr. Matlock paid the office expenses out of his
19 salary and it just sort of continued after she left.

20 Q Your testimony is that it was not at your direction?

21 A Well, he continued paying office expenses out of his
22 salary after Jean Stultz left until, as far as I can recall,
23 until the end of that year because beginning in January of '77
24 it ceased.

Q But is it your testimony though that you did not tell

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1 Mr. Matlock specific payments each month that he should be
2 making?

3 A The bills came in, sir, to the district office. Mr.
4 Matlock had the bills. He knew what the expenses were and he
5 just proceeded to pay them out of his salary period. Wasn't
6 any discussion necessary.

7 Q Did you have a promise to make payments to Maxine
8 Young?

9 A Sir?

10 Q Did you have a promise to make payments to Maxine
11 Young? You do know who Maxine Young is; do you not?

12 A Maxine Young is former state representative and now
13 a Wayne County Commissioner in the City of Detroit.

14 Q There was some type of a testimonial or fund raiser
15 probably, was a testimonial for Maxine Young in which you pur-
16 chased some space in a brochure that was published for that
17 occasion; is that not true?

18 A I don't remember specifically but it could be. I was
19 a supporter of hers and she is a supporter of mine. We have
20 known each other a long period, yes.

21 Q Isn't it a fact you told Mr. Matlock to pay Maxine
22 Young a hundred dollars as part payment for that advertisement
23 in the testimonial brochure?

24 A Well, I think that the request for my participating
25 in that brochure program, as you refer to it, came into the

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1 office and Mr. Matlock -- it was turned over to Mr. Matlock and
2 he asked me whether or not I wanted us to make that kind of a
3 contribution and I would have said yes to that.

4 Q During that period of time after Jean Stultz left
5 you had bills at the House Recording Studio; is that not true?

6 A Yes sir.

7 Q Those bills would have come to your Congressional
8 office in Washington; would they not?

9 A The recording studio, yes sir. I think those bills
10 did come directly to the Washington office.

11 Q There was no reason to send those to the Detroit
office, was there?

A No sir, no sir.

Q If Mr. Matlock paid any bills for the House Recording
Studio wouldn't that have been at your direction?

A If the bill came in to the Washington office and if
it were given to me, under those circumstances it could have
happened that way.

Q What other way could it have happened?

A Well, it could have come into the office and somebody
else could have sent it down there or something. I don't know.

Q Who had the authority to tell Felix Matlock what bills
to pay and what bills not to pay after Jean Stultz left?

A Well, after Jean Stultz left she was replaced by
Randall Robinson who was the Administrative Assistant over both

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1 offices in Washington and in Detroit.

2 Q Is it your testimony that it was Randall Robinson
3 who would have told Felix Matlock to pay a House Recording
4 Studio bill out of his salary?

5 A No, I didn't say that. I merely said Randall Robinson
6 was in charge of the office and had supervision over the
7 district offices in the City of Detroit.

8 Q What I'm asking you about is who told Felix Matlock
9 to pay bills for the House Recording Studio?

10 A I don't know precisely.

11 I can merely say that Felix Matlock paid the bill as
12 reflected in the records that you have.

13 Q Bills from WJLB during those last four months of
14 1976 would have been sent to Ofield Dukes; would they not?

15 A I'm not sure about that. I would say that most of
16 them were, yes sir.

17 Q Do you recall telling Felix Matlock to pay WJLB bills
18 during that four-month period after Jean Stultz left?

19 A I know that he paid these bills. I don't recall a
20 specific conversation telling him to pay it.

21 Q Is it your testimony that Felix Matlock would pay
22 these bills on his own during that period of September through
23 the end of December of 1976?

24 Is that your testimony?

25 A Not in every instance.

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1 Q Would you say in a great majority of instances?

2 A I just don't remember, Mr. Kotelly. I really don't.

3 Q The bills --

4 A I know that he paid the bills. That's all, and that's
5 all I can tell you.

6 Q The bills that Felix Matlock was paying, were they
7 all out of his salary?

8 A Yes sir, all out of his salary as far as bills re-
9 lating to the office expenses of my Congressional office is
10 concerned, that's correct. Yes sir.

11 Q Did you ever send a personal check of yours to Felix
12 Matlock for the purpose of paying -- for Mr. Matlock to pay
13 district office expenses by purchasing money orders or cashiers
14 checks?

15 A I just don't remember, sir. I don't remember.

16 Q Have you looked at your checking accounts in prepara-
17 tion for your testimony here at trial?

18 A Looked at my checking account?

19 Q Yes sir.

20 A No sir, not looking for any particular items or
anything like that.

21 Q Would it be likely that you would have sent a personal
check to Felix Matlock, to Mr. Matlock personally for Mr. Matlock
22 to then convert either to cashiers checks or money orders or
23 cash to pay an office expense?

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1 A I can't answer that question. I don't know.

2 Q Was that your practice to do it that way?

3 A I don't recall -- I didn't have any special practices.
4 Most of my bills are paid by check and I did pay some of the
5 office expenses down in Detroit from time to time myself,
6 personally.

7 Q Surely, but by check, correct?

8 A By check, by cash sometimes. We had a petty cash
9 fund to cover expenses such as parking fees and things like
10 that. There were other sorts of things that I paid out of
11 my pocket many a time.

12 Q What sort of things do you consider petty cash?

13 A Well, we had a little petty cash fund. I think it
14 was a hundred dollars maybe, somewhere in that neighborhood,
15 to reimburse people for parking and things like that, maybe
16 getting some coffee for the office, things like that.

17 Q Did you ever pay any office expenses by paying cash
18 directly to the person who had the obligation or who you owed
19 money to for office expenses?

20 A I may have.

21 Q Do you recall any?

22 A I don't recall specifically. I can merely recall
- that I have paid office expenses for the district offices out
- of my own personal funds many times because of the limitations.

23 Q Right, but when you say out of your personal funds

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1 are you referring to your checking account that you mailed
2 checks or sent checks to pay for offices?

3 A I can merely say --

4 MR. POVICH: Your Honor, he has answered this question
5 about three different ways now, three different times. He said
6 checks; he said cash.

7 MR. KOTELLY: I'm trying to find out exactly which
8 way that was the majority and the circumstances of the minority,
9 Your Honor.

10 MR. POVICH: I think he has exhausted his recollection
11 on the matter, Your Honor.

12 THE COURT: It would seem so, Mr. Kotelly.

13 MR. KOTELLY: Your Honor, if I could just ask one
14 question to tie this together.

15 THE COURT: One.

16 BY MR. KOTELLY:

17 Q Mr. Diggs, can you recall paying any office expense
18 of let's say over \$200 in cash?

19 A I cannot recall.

20 Q Thank you, sir.

21 Now, you testified about Ofield Dukes. Regarding Mr.
22 Dukes did you specifically have conversations with him as to
23 if there were any expenses incurred by him how they were to
24 be handled?

A I'm sure that there was some conversation at some

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1 point.

2 Q Did you advise Mr. Dukes if he had any expenses that
3 he should just submit the expenses to your office in Washington?

4 A Well, he submitted his expenses in that fashion so
5 I assume it came out of some kind of conversation on that
6 particular subject in that way.

7 Q Were you advised by Jean Stultz that there were
8 bills being submitted by Mr. Dukes and that they were to be
9 paid for out of his salary?

10 A I don't recall any specific conversation with Jean
11 Stultz about that. I know I can merely say that Mr. Dukes
12 paid expenses related to his representation of me out of the
13 salary that was paid to him.

14 Q Was your arrangement with Mr. Dukes that he would pay
15 the expense first and then be reimbursed or that he would re-
16 ceive the money in advance and then out of that money pay for
17 the expenses?

18 A Mr. Kotelly, there wasn't any arrangement. That word
19 has a certain connotation. Now, Mr. Dukes paid the expenses
20 that were related to his official representation, period.

21 Q And Mr. Dukes was the man that you looked to to coordi-
nate your communications and media concerns?

22 A That was one of his functions, yes sir.

23 Q In that context Mr. Dukes had duties relating to the
24 programming on WJLB radio?

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1 A He had some functions relating to that particular
2 activity, yes sir.

3 Q And he had functions relating to your receiving some
4 media coverage or press coverage in the Michigan Chronicle?

5 A Yes sir. He was a former assistant editor of that
6 newspaper, yes sir.

7 Q His duties also involved the television program in
8 Detroit that was recorded at the House Recording Studio?

9 A Yes sir. He was a producer listed on the credits
10 as producer of the program.

11 Q Now, did you have discussions with Mr. Dukes that he
12 should pay out of his salary for let's say the recording at the
13 House Recording Studio for the television program?

14 A I know that Mr. Dukes did pay some of the expenses
15 relating to House Recording out of his salary, that's correct.

16 Q Did you specifically ask him to do that?

17 A I know that he paid it.

18 Q That's not what I asked, sir. Did you specifically
19 ask him to pay it?

20 A I may have. I don't remember.

21 Q Did you specifically ask Mr. Dukes to pay bills for
22 advertising at the Michigan Chronicle in order that those bills
23 would be taken care of?

24 A Well, he paid those expenses.

25 Q That's not what I asked, sir. Did you ask him to pay

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1 for it?

2 A There may have been some occasions when it came out
3 of a conversation that we had, period. I don't remember any
4 specific instructions to him in connection with a specific
5 transaction, no sir.

6 Q Regarding advertisements in the Michigan Chronicle
7 were you also aware of advertisements by the House of Diggs
8 in that same newspaper?

9 A Yes, I was aware of that.

10 Q And would you receive weekly the Michigan Chronicle?

11 A Yes sir. I still do. I have a subscription to it.

12 Q In looking at the newspaper would you notice ads of
13 the House of Diggs at the time that the House of Diggs was
14 still a single entity?

15 A Yes. I have seen the House of Diggs ad in the
16 Michigan Chronicle, yes sir.

17 Q Have you also seen ads for the Diggs team or the
18 Diggs mobile van in the Michigan Chronicle?

19 A Yes, I remember those very vividly.

20 Q As far as bills for advertising in the Michigan
Chronicle for advertisements for the House of Diggs, who was
21 to pay those?

A The House of Diggs.

22 Q After the merger with the Stenson Funeral Home who
was to pay for the advertisements that the House of Diggs may

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1 have had, debts already incurred?

2 A Well, the Diggs/Stenson or the successor organization
3 to the original House of Diggs.

4 Q They were going to take over all obligations of the
5 House of Diggs?

6 A Well, the merger -- they bought the assets of the
7 House of Diggs and therefore any bills that came after the
8 merger were their obligation to pay.

9 Q I was talking about bills before, that were incurred
10 before the merger. How were they to be paid after the merger?

11 A After the merger?

12 Q Yes sir.

13 A Well, they bought the assets and the liabilities of
14 the House of Diggs.

15 Q So Diggs/Stenson then should have paid for any House
16 of Diggs bills that had been incurred prior to the merger; is
17 that your testimony?

18 A If there are any such bills that were pending then
19 that -- then the bills, they had all of the bills. They took
20 the bills. They took the whole file. They had -- everything
was turned over to them.

Q Now, did you have conversations with Jean Stultz
regarding the payment of a House of Diggs bill at the Michigan
Chronicle sometime shortly after the merger in 1975?

A I don't remember any such conversation. I don't

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1 remember any such conversation.

2 Q Do you recall directing Ofield Dukes or having Jean
3 Stultz direct Ofield Dukes to pay a Michigan Chronicle ad that
4 had been run for the House of Diggs?

5 A I do not recall any such conversation.

6 Q Also in late 1975 did you have conversations with
7 Jean Stultz regarding any House of Diggs bills at WJLB that
8 the Stenson Funeral people would not pay for because they had
9 been incurred prior to the merger?

10 A All I can remember is that the bills that were incurred
11 were turned over. There may have been some discussion about it.
12 I don't remember anything specific about that.

13 Q Do you remember a specific bill?

14 A I didn't have any obligation.

15 Q You personally did not have any?

16 A Well, I didn't have any obligation to pay House of
17 Diggs bills after the merger.

18 Q Did Jean Stultz talk to you about some problems with
19 a House of Diggs bill?

20 A No, no. We didn't talk about House of Diggs bills.

21 Q I would show you what has been marked Government's
22 Exhibits 58 and 57A which have been identified and testified
23 to by Mr. Dukes as having both been sent together to Jean
24 Stultz and ask you to look at it.

25 A Yes sir.

001265

1 Q I ask you if you remember receiving that memo and
2 that attached bill from Jean Stultz with the inquiry that's
3 on the memo?

4 A I don't remember receiving the memorandum.

5 It's got in writing on it -- it says, "Mr. Diggs,
6 shouldn't this bill go to HOD?"

7 Q "HOD" is House of Diggs?

8 A Is House of Diggs. That's what it says on here. But
9 I don't remember the memorandum or -- and it is a question, so
10 there is no answer to it.

11 Q Do you recall telling Mrs. Stultz to find out about
12 that bill from WJLB?

13 A I do not recall this. I don't recall the memorandum
14 and as I said, this is a question with no answer and I do not
15 have the answer.

16 Q Do you remember Mrs. Stultz telling you that Diggs/
17 Stenson would not pay for that particular bill because it had
18 been incurred before the merger?

19 A I do not recall that, sir.

20 Q Do you remember telling Mrs. Stultz to have Mr. Dukes
21 pay that bill?

22 A I do not recall that either.

Q Do you have any explanation as to why Ofield Dukes
would pay a bill for the House of Diggs radio show on WJLB?

A I have no such explanation.

001266

1 Q Thank you, sir.

2 MR. POVICH: Your Honor, I would like to ask that
3 last question and answer be stricken. There was testimony in
4 this case from Ofield Dukes as to why that was paid. I think
5 it is improper to turn around and ask him --

6 THE COURT: Overruled.

7 BY MR. KOTELLY:

8 Q During that period of time, October through the end
9 of December of 1975, there were also bills that were being
10 incurred by you as a Congressman for different radio shows on
11 WJLB; is that correct?

12 A Would you give me the period again, Mr. Kotelly?

13 Q October, 1975 through the end of December, 1975, a
14 radio program that was different from the House of Diggs program.

15 A Yes sir. We started a program called "The Congressman
16 Speaks".

17 Q Did you have discussions with Mr. Dukes as to how
18 those bills were to be paid?

19 A Mr. Dukes assumed payment for those bills. It was
20 a public service program that actually came out of a suggestion
21 that he made.

22 Q Did you seek to have the radio station broadcast your
23 tape free as a public service?

24 A I don't know. Mr. Dukes handled all of that so I
25 really don't know.

001267

1 Q Did you seek to have a sponsor pay for this "Congress-
2 man Speaks" radio program on WJLB?

3 A Mr. Dukes handled all of that, sir. I just don't
4 know.

5 Q Did you have any conversations with Mr. Dukes that
6 Felix Matlock should pay out of his salary WJLB bills during
7 that period of time from October, 1975 through the end of
8 December of 1975?

9 A I don't recall any such discussion frankly.

10 Q Now, you testified that Mr. Dukes was incurring some
11 expenses and would pay for these expenses out of his salary,
12 correct?

13 A Mr. Dukes?

14 Q Yes.

15 A Yes, that's correct.

16 Q And that some time around February or March of 1976
17 did Mr. Dukes have conversation with you that he wished to stop
18 that arrangement?

19 A I just don't recall such a conversation.

20 Q After March of 1976 do you recall Mr. Dukes paying
for any expenses either relating to the Michigan Chronicle,
21 WJLB or the house recording studio?

A I do not so recall, sir.

22 Q Do you recall that Mr. Dukes stopped making those
23 payments for those three organizations in 1976?

001268

1 A If Mr. Dukes ceased paying any of these bills, I don't
2 remember when he ceased paying them.

3 Q Well, did he cease at some point in time?

4 A I just don't know. I don't know whether that went
5 on the entire period of his employment by me. I just don't
6 know.

7 Q Did you ever have to make arrangements that someone
8 else would be paying for those particular bills, either Michigan
9 Chronicle or WJLB or the House Recording Studio, during 1976?

10 A My best recollection, sir, is that Ofield Dukes was
11 handling the whole operation and that's all I can remember.

12 Q When during the period of time of 1975, do you recall
13 on occasion receiving payroll authorization forms from Jean
14 Stultz to increase the salary of Ofield Dukes?

15 A I don't recall receiving such forms but these forms
16 would indicate that I signed it and authorized it, yes sir.

17 Q Were any of the payroll authorization forms that you
18 submitted, were they of any concern to you as far as the amount
19 of money that was being paid to Ofield Dukes?

20 A Well, I signed authorizing Mr. Dukes to be paid that
month whatever the gross salary was.

Q Based on what, based on the services he was performing?

A Based on the submission of the form in question. I
haven't seen the form.

Q Do you remember what Mr. Dukes' normal salary was in

001269

1 1974-1975?

2 A I don't recall specifically. I think it was about
3 a thousand a month, something in there.

4 Q Twelve thousand a year?

5 A Something like that, yes sir.

6 Q I show you Government's Exhibits 10M, 10N, 10O, 10P.

7 A Yes sir.

8 Q I ask you first to look at the signature on each of
9 those and ask you if you signed those payroll authorization
10 forms for Ofield Dukes?

11 A 10M, 10N, and 10O appear to be my signature. 10P is
12 not my signature.

13 Q 10P is what date, sir?

14 A That is February the 1st, 1976.

15 Q Now, on the first three documents will you tell us
16 what the effective date in annual salary is for Mr. Dukes?

17 A This is a payroll authorization form, Government's
18 Exhibit 10M, Ofield Dukes, effective date August 1, 1975, salary
19 adjustment \$12,000.

20 Q Which you have indicated was his normal salary?

21 A As I can best recall it was his salary for that
22 particular month.

23 Q Fine. The next payroll authorization I believe is
24 12N.

25 A 12N, yes sir.

001270

1 Q The effective date and the salary, gross annual
2 salary for that payroll authorization form?

3 A The effective date is November 1, 1975, and that
4 month -- he was paid on an annual basis but that month he
5 was paid \$37,300, that is on an annual basis, one-twelfth of
6 that amount in other words, for that month.

7 Q Correct. Now, Congressman Diggs --

8 THE COURT: What was that month?

9 THE WITNESS: November 1st, Your Honor, of 1975.

10 BY MR. KOTELLY:

11 Q So that month, Congressman Diggs, the salary was in-
12 creased, was it not, so that Mr. Dukes could pay office expenses?

13 A Well, this reflects that his salary was one-twelfth
14 of \$37,300 for that particular month, yes sir.

15 Q Mr. Diggs, wasn't that in order to enable Ofield
16 Dukes to either pay bills or to reimburse him for previously-
17 paid bills by Mr. Dukes?

18 A Well, I have stated that Mr. Dukes did pay bills re-
19 lating to his responsibility for his official representation.

20 Q Is there any question in your mind that that payroll
21 authorization form was submitted for the purpose of either
22 giving Mr. Dukes money to pay a bill or to reimburse him for a
23 paid bill?

24 A I could not correlate this salary with any expendi-
25 tures, Mr. Kotelly.

001271

1 Q Are you saying that that payroll authorization form
2 would reflect what you had determined would be Mr. Dukes' salary
3 for himself?

4 A Well, it reflects what Mr. Dukes got that particular
5 month.

6 Q You submitted that form?

7 A And I have stated and I repeat that he did pay ex-
8 penses relating to his official representation of me, yes sir.

9 Q Mr. Diggs, is there any doubt in your mind that that
10 payroll authorization form 12, I believe we are at N, am I
11 correct?

12 A 10N, yes sir.

13 Q That that payroll authorization form was submitted
14 to the Office of Finance for the purpose of enabling Mr. Dukes
15 to pay for office expenses?

16 A There is no doubt in my mind that this form was submitt
17 to the Office of Finance to pay Mr. Dukes this amount of money
18 that month.

19 Q For the payment of office expenses in addition to his
20 salary?

21 A It was submitted to pay Mr. Dukes that amount of
22 money that month, Mr. Kotelly.

23 That's all this form is for.

24 Q Is there any doubt in your mind that when you sub-
25 mitted that form to the Office of Finance that the purpose wasn't

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1 to pay Mr. Dukes a salary plus for him to pay office expenses?

2 MR. WATKINS: Objection, Your Honor.

3 THE COURT: The question has been asked several times
4 but it hasn't been answered. Can you answer it, Mr. Diggs?

5 THE WITNESS: Well, Your Honor, I paid the gentleman
6 that amount of money that particular month. I don't know what
7 the gentleman is trying to -- it sounds like he is trying to
8 correlate the amount of his salary to some expenditures that
9 he may have incurred for that particular month and I have
10 stated that this is what I paid him that month and I further
11 stated that Mr. Dukes paid expenses relating to his official
12 representation of me on a standard basis period.

13 BY MR. KOTELLY:

14 Q (And you have testified that Mr. Dukes' salary was
15 \$12,000 a year or \$1,000 a month?)

16 A Well, salary -- his services for the month that you
17 showed me, what was it, for August of 1975, was \$12,000 or
18 one-twelfth of that amount.

19 Q That was your recollection as you testified even
20 before you were shown those payroll authorization forms; was it
21 not?

22 A That was my recollection of Mr. Dukes' salary when
23 he began his employment by me, yes sir.

24 Q And that \$1,000 a month gross was intended by you
25 to be compensation for Mr. Dukes for his personal services to

001273

you as a Congressman?

2 A That was his beginning salary, yes sir.

3 Q Now, the payroll authorization form that I have been
4 asking you about, 10N, is more than double the normal \$1,000
5 a month gross that you have testified that Mr. Dukes received.

6 A Well --

7 Q More than double, is it not?

8 A Yes, yes.

9 Q Do you recall doubling Mr. Dukes' salary for what he
10 was to have himself personally for his services to you as a
11 Congressman?

12 A I authorized the payment of Mr. Dukes in both in-
13 stances and, you know, the reason for it could be related to
14 any number of things. Maybe he had more expenses that month;
15 I don't know.

16 Q Then it was related to expenses; was it not?

17 A I said he paid expenses. I said that. I have said
18 that.

19 MR. WATKINS: I object, Your Honor. If he would please
20 let the witness answer the question, he's been doing this con-
stantly.

THE COURT: I think the question has been asked and
answered and you can make argument on it but you don't need to
argue with the witness.

21 BY MR. KOTELLY:

001274

1 Q During the times that you submitted payroll authoriza-
2 tion forms for Ofield Dukes and for Felix Matlock during periods
3 of time when they were to pay monies for district office ex-
4 pense, the amount of money shown on the payroll authorization
5 form was not intended to be pure salary for their personal
6 benefit; is that correct?

7 THE COURT: I think he has answered that. It is
8 repetitious.

9 MR. KOTELLY: I am asking a general question.

10 THE COURT: He has answered that for both those
11 people. Let's get on to something else.

12 BY MR. KOTELLY:

13 Q Now, Mr. Diggs, regarding the payments that were
14 being made by Jean Stultz out of her salary you have indicated
15 that that began with the portrait that she indicated she would
16 buy or pay for?

17 A That's my best recollection, yes sir.

18 Q And that was some time in the fall of 1973; is that
19 correct?

20 A That's my best recollection, yes sir.

21 Q You have seen the two cashiers checks, one dated
22 November 2nd of '73 and January 2nd or 3rd of 1974 to J. Daniel
23 Clipper and you have indicated that those reflect the times
24 that she made the payments; is that correct?

25 A Yes sir.

001275

1 Q In October of 1973 Jean Stultz was your office manager,
2 correct?

3 A She went through several changes. October, '73 doesn't
4 quite -- you say October of 1973?

5 Q Yes. She was already your office manager?

6 A Yes, that's correct.

7 Q I believe your testimony was yesterday that Jean
8 Stultz became office manager some time in January of '73 when
9 Dorothy Corker went over to the District of Columbia Committee?

10 A Somewhere in that period, yes sir.

11 Q And she assumed the role of office manager as well as
12 your personal secretary and her responsibilities were that of
13 the office manager although she had to sort of learn the ropes;
14 is that correct?

15 MR. POVICH: Your Honor, this is repetitious.

16 THE COURT: Get on to the new point. Get on to some-
17 thing you haven't already elicited testimony on.

18 BY MR. KOTELLY:

19 Q Jean Stultz had duties of an office manager in January
20 of 1973, correct?

21 A On or about that time, yes sir.

22 Q Did her responsibilities change after she became office
23 manager in January of 1973?

24 A Well, they broadened, yes, considerably.

25 Q After she became office manager did she change any

001276

1 further?

2 A She broadened.

3 Q In what way?

4 A Well, she took in broader responsibilities. It gave
5 her, for example, supervision over the offices in Detroit.

6 Q That was her duty when she became the office manager,
7 correct?

8 A That was one of her duties, yes sir.

9 Q What I'm asking, and maybe I'm not making it clear,
10 once Jean Stultz was made the office manager, whenever that was,
11 whether it was January or February, 1973?

12 A Yes sir.

13 Q Did she then assume any additional responsibilities
14 over and above the ones that she had in January or February of
15 1973 when she became the office manager? That's my question,
16 in later months?

17 A Somehow I'm not understanding your question, Mr.
18 Kotelly.

19 Q Let me try and rephrase it, then.

20 In January or February, 1973, she was the office
21 manager.

22 A Yes sir.

23 Q She was also your personal secretary?

24 A Yes sir.

25 Q She handled your financial matters?

001277

1 A Yes sir.

2 Q She was also, as you testified, the focal point in
3 your staff office for District of Columbia Committee matters?

4 A Yes sir.

5 Q Correct?

6 A Yes sir.

7 Q She kept your appointment books?

8 A Yes, yes.

9 Q This was all in January or February of 1973?

10 A Thereabouts, yes.

11 Q Can you think of any other major responsibilities
12 that Jean Stultz had in January or February of 1973 or have I
13 named most of the major ones?

14 A Well, you have certainly named major ones and that's
15 enough right there.

16 Q Fine. I'm asking though are there any other major ones
17 I have omitted?

18 A Well, my responsibility in connection with the African
19 Subcommittee, she had links and responsibilities relating to
20 that particular activity.

21 Q That was in January or February of '73, correct?

22 A January, February of '73, yes sir.

23 Q Any other major ones I have omitted? I don't want to
24 be unfair.

25 A Well, that was an election year. Coleman Young's

001278

1 announcement had been made and I was heavily involved in elect-
2 ing the first black mayor of Detroit, so she had some responsi-
3 bilities pertaining to that in Detroit over and above just
4 her normal supervision of the district offices for congressional
5 purposes.

6 Q In January and February of '73?

7 A I would say so.

8 Q Fine. Any other major responsibilities at that time?

9 A None that I can just recall off the top of my head.

10 Q Now, after January or February of 1973, let's say
11 March, April, May, June, July, etcetera, did Jean Stultz receive
12 any new major responsibilities in your office?

13 A I just don't remember, Mr. Kotelly. You have covered
14 some very, very major areas there.

15 Q I intended to.

16 I'm asking you can you remember any new major respon-
17 sibilities?

18 MR. POVICH: Your Honor, that question has been
19 asked. Obviously Mr. Kotelly has a particular one in mind. Why
20 doesn't he just ask the witness.

21 MR. KOTELLY: I want to make certain that I'm giving
22 the witness a fair chance to answer, Your Honor.

23 THE COURT: Let's assume he has answered all he can
24 recall so pass on to the next part of your question.

25 BY MR. KOTELLY:

001279

1 Q You have testified earlier that Dorothy Corker recom-
2 mended to you that Jean Stultz receive a raise. Do you recall
3 that testimony on direct?

4 A Yes, that's right. Dorothy Corker was making those
5 decisions in those days.

6 Q And Dorothy Corker was on your District of Columbia
7 Committee?

8 A Well, she went on the Committee in January of '73
9 when I became Chairman of the House District Committee, that's
10 correct.

11 She was their Chief of Staff.

12 Q She was authorized to make recommendations to you
13 regarding the salary of persons on the staff at the District of
14 Columbia Committee?

15 A Yes.

16 Q And Jean Stultz made recommendations to you regarding
17 salaries for the staff on your Congressional staff?

18 A Not at that particular time. There were residuals of
19 Dorothy Corker's responsibility, original responsibility in my
20 congressional office that carried over and there just wasn't
much that happened in my congressional office at that time
that Dorothy didn't know something about. My recollection is
that she continued to pass judgment on matters of that type.

Q For how long a period of time did she continue to
make recommendations to you regarding the payroll of your staff,

001280

1 your personal staff?

2 A I don't recall specifically how long that took place.
3 We were in the process of many changes at that time and I just
4 don't remember.

5 Q Was it a year, more than a year?

6 A I just don't remember, Mr. Kotelly.

7 Q Now, at what point in time did Dorothy Corker recom-
8 mend this raise for Jean Stultz, if you know?

9 A Recommend which raise, Mr. Kotelly?

10 Q The raise that you testified about that was recom-
11 mended by Dorothy Corker.

12 MR. POVICH: What point in time?

13 BY MR. KOTELLY:

14 Q I'm asking you, sir. You testified yesterday that
15 Dorothy Corker recommended a raise for Jean Stultz and I'm
16 asking you when was that?

17 MR. POVICH: Your Honor, there was testimony con-
18 cerning two different -- I can think of at least two.

19 THE COURT: Suppose you rephrase your question.

20 BY MR. KOTELLY:

21 Q Around the time that you had conversations with
22 Dorothy Corker about the payment of \$2500 for this portrait
23 was Dorothy Corker also having conversations with you about
24 raising Jean Stultz' salary?

25 A That's correct.

001281

1 Q Was it before or after the mention of Jean Stultz
2 being able to pay the \$2500?

3 A I don't recall the sequence in that context, Mr.
4 Kotelly. Miss Corker had identified Jean Stultz as the poten-
5 tial office manager. Once she moved more into the District
6 operation and I just don't recall whether that recommendation
7 came before the other discussion about paying the portrait
8 or not.

9 Jean Stultz paid for the portrait out of her salary,
10 period.

11 Q Isn't it a fact, Mr. Diggs, that the increase in
12 her salary was for the purpose to enable her to pay for that
13 portrait?

14 A Mr. Kotelly, Mrs. Stultz paid for the portrait out
15 of her salary.

16 Q Wasn't the increase in her salary that was recommended
17 by Dorothy Corker for the purpose of enabling Jean Stultz to
18 pay for that portrait?

19 A I know that she paid for it out of her salary. I
20 know that Dorothy Corker made a recommendation about an increase
21 in her salary. That was concurred in by me and that's what
22 happened.

23 Q The salary that you were paying to Jean Stultz each
24 month after she went to work for you, was that intended to pay
25 her for the services that she was rendering to you as a

1 Congressman?

2 A Yes sir.

3 Q Is it your testimony there was no intention on your
4 part to ever give her any monies for the purpose of assisting
5 her in paying your bills?

6 A Mr. Kotelly, I have said that Mrs. Stultz paid bills
7 out of her salary.

8 Q That's not my question, sir.

9 My question is isn't it a fact that her salary at
10 times was increased or made large enough so that she could pay
11 your bills?

12 A I authorized the salary for -- signed the salary form
13 for Mrs. Stultz and she paid my bills. Those are two separate
14 propositions.

15 Q And I'm asking you isn't it a fact that they were
16 connected?

17 A The only thing I can tell you is that I authorized
18 the payment of the bill or the payment of her salary and she
19 authorized the payment of any bills out of her salary in connec-
20 tion with the transactions that have been discussed here.

21 Q Are you denying that her salary was inflated and in-
22 creased for the purpose of paying your bills?

23 MR. KOTELLY: I'm asking simply if he denies it.

24 MR. POVICH: I think this is repetitious. I thought
25 he went into it yesterday and we had moved on to other witnesses.

001283

1 MR. KOTELLY: I barely started with Jean Stultz
2 yesterday, Your Honor, barely started with her.

3 THE COURT: Can you answer that question?

4 THE WITNESS: Sir, Your Honor, I can say I am not
5 denying. I say positively that Jean Stultz paid bills out of
6 her salary for my personal expenses and for congressional
7 representation of me in my official capacity.

8 BY MR. KOTELLY:

9 Q Mr. Diggs, if you are not denying you increased her
10 salary for the purpose of paying bills you are admitting that
11 you increased her salary.

12 THE COURT: Don't argue with the witness. You can
13 draw whatever conclusions you wish to in your argument to the
14 jury but you don't have to argue with the jury.

15 MR. KOTELLY: I'm sorry, Your Honor.

16 THE COURT: All right.

17 BY MR. KOTELLY:

18 Q Mr. Diggs, I show you Government's Exhibit 75 which
19 is a chart that was prepared by the FBI agent, James Reed, and
20 ask you if you have had an opportunity to previously look at
this document and are familiar with it?

21 A Well, I'm not familiar with it, sir. I know --

22 Q Have you looked at it before?

23 A I looked at it, not in an analytical way because a
matter like this would be turned over to my lawyers.

001284

1 Q Did you hear Agent Reed's testimony yesterday regard-
2 ing that chart?

3 A I was here at the time he testified, yes sir.

4 Q And you know from having looked at it and hearing
5 the testimony that that chart, Government's Exhibit 75, reflects
6 the payroll information for Jean Stultz, correct?

7 A Well, it says, "Payroll Analysis, Jean Stultz,
8 October, 1972 through August of 1976."

9 Q Thank you.

10 I would ask you to look at the fourth column for
11 September, 1973 and October, 1973.

12 A The fourth column, sir?

13 Q Yes, total gross annual salary.

14 A October, 1973, her gross was \$33,670.80 on an annual-
15 ized basis.

16 Q And the month before?

17 A And the gross --

18 MR. POVICH: Excuse me. What is the exhibit number
19 you are on?

20 THE WITNESS: 75.

21 BY MR. KOTELLY:

22 Q You have indicated in October of '73 that the total
23 annual salary reflects \$33,000-some-odd, correct?

24 A That was -- the one-twelfth of that was the gross
25 amount that she received or which was accredited to her account

001285

1 that month. The net was 2122.14, according to this.

2 Q Correct. I'm only asking about the gross annual
3 period.

4 The month before October, 1973 is September, 1973.

5 A Yes sir.

6 Q What is the figure in the fourth column for the
7 total annual gross salary figure right above the 33,000 you
8 just read?

9 A 1-12, \$14,000, which is 1100-some-odd dollars.

10 Q The fourth figure is the total gross annual salary.

11 A But that, sir, is the rate of pay and I think that's
12 important to --

13 MR. KOTELLY: Your Honor, I would ask the witness
14 not to argue with me and for the Court to instruct him not to
15 argue.

16 THE COURT: Can you answer the question from the
17 exhibit?

18 THE WITNESS: I can read the figure, sir.

19 BY MR. KOTELLY:

20 Q I am asking that, please.

21 A 14,000 dollars, yes sir.

22 Q Can you explain any changes in responsibilities that
23 Jean Stultz had that would have caused her salary to jump from
24 \$14,000 to \$33,000 as reflected on the payroll authorization
25 forms?

001286

1 A Well, she was expanding in her responsibilities at
2 that time. She was in an expansion pattern, that's correct.

3 Q And you authorized more than double her salary; is
4 that correct?

5 A I signed her authorization form, yes sir, for that
6 particular month.

7 Q October of 1973 is the date that the 33,000 figure
8 was achieved; is that correct?

9 A Her annualized salary for that particular month was
10 at that level, yes sir.

11 Q In order to be totally fair so we can talk to you
12 about the total monthly gross, that would be \$2800 according
13 to the chart for that figure?

14 A That was the gross pay for that particular month.

15 Q The salary check for Jean Stultz for the month of
16 October, 1973, the increase would have been reflected at the
17 end of October according to your testimony earlier.

18 A Each employee is paid at the end of the month, yes
19 sir.

20 Q And you testified that November 2, 1973, was the pay-
21 ment of \$1250 both to J.P. Daniel Clipper for the portrait and
22 \$250 for Michigan Bell; is that correct?

23 A Well, I'm recalling the exhibits that you submitted
24 and I concurred in that explanation, yes sir.

25 THE COURT: I think while you are pausing we will

001287

1 send the jury to lunch. We have two sequestered juries and
2 we should remember that they want to eat.

3 Ladies and gentlemen, this is a good time to recess
4 for your lunch. Be back at two o'clock. Don't discuss the
5 case among yourselves; don't let anybody talk to you about it;
6 and don't talk to anybody about it.

7 All right.

8 (Whereupon, the jury left the courtroom.)

9 THE COURT: You may step down, Mr. Diggs.

10 Counsel, come to the bench, please.

11 (At the bench:)

12 THE COURT: Now, I'm going to tell you to stop this
13 repetition. You are not going to get this man, who is an
14 intelligent witness, to agree with your theory of the case
15 but you have got a basis for arguing your case to the jury.
16 So argue your case to the jury; don't argue it with the witness.

17 MR. KOTELLY: Yes, Your Honor.

18 THE COURT: I have tried to tell you that several
19 times. Now, how much more have you got?

20 MR. KOTELLY: I am nearing the end. I would imagine
21 about 20 minutes.

22 THE COURT: Well, let's look over your additional
23 stuff and don't let's put in any repetition because you have
24 got the basis for your argument and you don't have to argue with
25 the witness.

001288

All right.

(In open Court:)

THE COURT: Court will recess until two o'clock.

(Whereupon, at 12:25 o'clock p.m. the above-entitled
matter was recessed for lunch.)

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001289

AFTERNOON SESSION

THE COURT: Do either of you have any matters you want to bring to my attention at this time?

MR. KOTELLY: No, Your Honor.

MR. WATKINS: No, Your Honor.

THE COURT: All right. Bring in the jury.

(Whereupon, the jury returned to the courtroom.)

THE COURT: Mr. Diggs, would you resume the stand, please.

Whereupon,

CHARLES C. DIGGS, JR.

defendant herein, resumed the witness stand, and having been previously sworn was further examined and testified as follows:

CROSS EXAMINATION (Resumed)

BY MR. KOTELLY:

Q Mr. Diggs, Randall Robinson became a member of your personal staff in August of 1976; is that correct?

A Yes, that's correct.

Q Did he become the Administrative Assistant as soon as he joined your staff?

A That is correct.

Q What was Jean Stultz' position in that month of August of 1976, which would have been her last month with you?

A I think -- well, she was not Administrative Assistant. It was a transitional period and she was not Administrative

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1 Assistant. I can merely say she was not Administrative
2 Assistant but she was the senior person in the office other
3 than Mr. Robinson.

4 Q Prior to Mr. Robinson's coming there did you use the
5 term "Administrative Assistant" or "Office Manager" inter-
6 changeably for Jean Stultz?

7 A Yes, that's correct.

8 Q She was at all times prior to Mr. Robinson's coming
9 on board your senior person in your office; is that correct?

10 A When she moved into that position she became the
11 number one person; that's correct.

12 Q She was the number one person up until the time that
13 Randall Robinson came in August of 1976?

14 A That's correct.

15 Q Now, Congressman Diggs, did you ever receive any
16 blank money orders from Felix Matlock?

17 THE COURT: Have we been into that?

18 MR. KOTELLY: Not at all, Your Honor.

19 THE WITNESS: I don't remember offhand, Mr. Kotelly.

20 BY MR. KOTELLY:

21 Q Do you recall some time in September of 1976 talking
22 to Felix Matlock about paying \$100 by money order to Maxine
23 Young and also for him to give you some blank money orders so
24 that you could pay expenses?

25 A We could have had that discussion. I don't remember

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1 that discussion in that kind of detail.

2 Q If Felix Matlock had given you money orders you would
3 have known that it was from his inflated salary; would you not?

4 A If he had given me money orders I would have known
5 that he would have given me money orders.

6 Q But if you had told him to give you the money orders
7 to pay expenses you would have known that the money orders
8 had come from monies in his salary; would you not?

9 A I could have assumed that or I could have assumed
10 that he could have gotten the money from some other source.

11 Q Congressman Diggs, I show you Government's Exhibit
12 48E, F, F1 and F2 and ask you to look at these four documents
13 and ask you if your signature appears on each of those docu-
14 ments?

15 A Yes. They appear to be my signature. That's correct.

16 Q Do you remember giving those four money orders to
17 Ruth Rox to cash in September of 1976?

18 A I don't remember specifically but this is my signa-
19 ture and --

20 Q I'm asking if you do have a recollection of the
21 occurrence and the event?

22 A I don't have a specific recollection of this occur-
23 rence but it would appear that this is correct.

24 Q The only reason that you say it appears to be correct
25 is because your signature appears on those four money orders?

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1 A Because my signature is on these money orders and
2 because I recognize my writing in the name of Ruth Rox, her
3 address, as the payee of these money orders, yes.

4 Q Since you do not have any direct recollection of those
5 money orders is it correct to assume then that you do not know
6 what, if anything, you would have done with any money Ruth
7 Rox would have given you?

8 A No, I do not. I can simply say that this is September
9 of 1976, a presidential election year, just before the election.
10 There may have been expenses in connection with that and/or
11 office expenses or anything. I don't remember, but I do know
12 that that date is just before the presidential election.

13 Q But your answer is you do not remember what particular
14 you did with any cash you may have received?

15 A Not especially. This shows that I -- it has my sig-
16 nature on it and my writing on it and it's quite obvious that
17 that transaction took place, yes.

18 Q I show you Government's Exhibit 480 and ask you if
19 you recall Felix Matlock giving that money order to you in
20 blank and your filling it out and giving it to Lorraine
21 McDaniels Westbrook?

22 A Well, this is certainly my signature on the purchasing
23 side. The remainder of the money order is printed in ink but
24 not by me.

25 Q Do you recall receiving a blank money order from

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1 Felix Matlock which you filled out and gave to Lorraine
2 McDaniels Westbrook?

3 A I do not recall, sir, no.

4 What's the date of this?

5 Q No date appearing on it. It should have been some-
6 where around November, 1976.

7 A Yes, it looks like November of '76.

8 I do not remember that but that is my signature,
9 yes sir.

10 Q Fine.

11 Congressman Diggs, there are a number of allowances
12 that the House of Representatives earmarks certain monie s for
13 during this period of 1973 through the end of 1976, various
14 allowances being Clerk Hire Allowance, District Office Expense
15 Allowance, District Leasing, District Telephone, Washington
16 office telephone, and there were probably a few others in
17 addition to that, leasing of equipment and stationery allow-
18 ances, correct?

19 A That's correct.

20 Q Of those allowances would checks be made out from the
Office of Finance, made out in your name and sent to you, to
21 your knowledge?

22 A Both allowances that were paid by Treasury check were
made out to me as an individual. There were other allowances
23 that constituted accounts against which you could get credit

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and therefore no, it was not a cash kind of a transaction.

2 Q There were also allowances where the Office of
3 Finance would send the check directly to the creditor; is that
4 not true?

5 A That's correct. The District Lease, for example,
6 for the offices, those checks went direct to the landlord or
7 in the case of the van it went direct to the person from whom
8 we have leased it.

9 Q Regarding the allowance for District Office expenses
10 would those checks be made out personally to you?

11 A All checks for the District Office Allowance in that
12 context are made out to the member.

13 Q In each quarter you could claim up to a maximum of
14 \$500 during the period 1975-1976 for reimbursement or for
15 payment for District Office expenses; is that correct?

16 A It was for reimbursement of any expenditures up to
17 that amount for office expenses. There came a time when it
18 was said not office expenses but expenses outside of the
19 District of Columbia. I don't recall where the line of demarca-
20 tion came, but that was the process, \$2,000 for the office
21 expense for the entire year to cover all of these expenses
22 or any and all expenses. That was as far as the Government
23 went at that particular time.

24 Q Did you set up a special checking account to handle
25 District office expenses?

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1 A No sir.

2 Q You made no attempt to segregate the funds that you
3 received from vouchers for District Office reimbursements?

4 A No special account was set up for that particular
5 purpose.

6 Q At the time?

7 A It was a reimbursement check, Mr. Kotelly, so there-
8 fore it was not something that one would normally set up some
9 separate account for.

10 Q Reimbursement?

11 A Reimbursement to the member for expenses that he
12 incurred and paid for.

13 Q And each time that you submitted a voucher for a
14 particular quarter it was because you had expended personal
15 funds up to the maximum of \$500 and were asking for a reimburse-
16 ment?

17 A It was reimbursement for expenses for that particular
18 office; that's correct.

19 Q And that was your practice during 1975-1976?

20 A Yes. That was the congressional practice.

Q I'm asking about your practice, sir.

21 A Well, it was an institutional practice. Every member
22 of Congress got the same thing.

23 Q I'm asking was that your practice?

24 A My practice, yes, yes.

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1 Q Thank you, sir.

2 Now, Congressman Diggs, when you decided to place
3 or increase the salaries of Felix Matlock and Ofield Dukes
4 for the purpose of paying office expenses did you tell anyone
5 at the Office of Finance that these payroll authorization forms
6 that you were submitting included an inflated amount of money
7 that was reflected on those payroll authorization forms?

8 A All that was required, Mr. Kotelly, and is still
9 required in the payroll authorization form -- there are three
10 types of actions. One is the appointment; one is the salary
11 adjustment; and one is termination. That's all that is re-
12 quired.

13 Q I'm asking you did you tell anyone at the Office of
14 Finance what you were actually doing in inflating salaries for
15 the purpose of having Mr. Dukes and Mr. Matlock pay office
16 expenses?

17 A That's all --

18 Q Yes or no, sir. Did you tell anyone at the Office
19 of Finance?

20 A I did not tell anybody and the word "inflation"
21 "inflated salary" is in your context. I don't accept it.

22 Q It was not inflated?

23 A I do not accept that terminology.

24 Q You did increase the salary with the knowledge that
25 the employee was not going to be able to personally benefit

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1 from the monies that he was receiving each month in his payroll
2 check?

3 A Mr. Kotelly, I have said and I repeat that I paid
4 those salaries according to the stipulations that I just indi-
5 cated.

6 Q There is a House Committee on Administration in the
7 House of Representatives; is that correct?

8 A That's correct.

9 Q And the Committee on Administration passes on
10 questions as to whether there are proper expenditures asked
11 for by a member of Congress; do they not?

12 A They pass on many questions. They pass on many
13 questions.

14 Q Including the question as to how monies should be
15 used to pay for office expenses and other allowances, correct?

16 A No, not in all cases, no. There may be some cases
17 but not in all cases.

18 Q Congressman Diggs, did you talk to any member or staff
19 person at the House Committee on Administration regarding your
20 practice of having Mr. Matlock and Mr. Dukes pay for office
21 expenses out of their salary?

22 A I did not talk to House Administration concerning
23 Mr. Matlock about anything.

24 Q Or Mr. Dukes?

25 A Or Mr. Dukes.

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1 Q There is a Committee on Standards of Official Conduct
2 which is also referred to as the Ethics Committee, correct?

3 A Yes sir.

4 Q And you are familiar with the members of that
5 Committee back in the time period '73 to the end of '76?

6 A I know that there was such a Committee operative
7 at that time and still is.

8 Q Did you at any time discuss with any member or
9 person on the staff of the Committee on Standards of Official
10 Conduct about the question of having Mr. Matlock and Mr. Dukes
11 pay for office expenses out of their salary?

12 A I did not speak to the Committee about that particu-
13 lar matter, no.

14 Q Now, the Committee on Standards of Official Conduct
15 from time to time issue advisory opinions; do they not?

16 A I suppose they do.

17 Q You don't know?

18 A Well, I suppose they do, you know. That's -- that
19 would be expected.

20 Q Have you ever received "Dear Colleague" letters from
21 the Committee, Ethics Committee regarding advisory opinions?

22 A Well, "Dear Colleague" letters are sent to all members
23 of the Congress and I presume that I could have received such
24 a communication from that particular source.

25 Q Could have or would have?

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1 A Well, a "Dear Colleague" is sent to all members of
2 the House so any "Dear Colleague" whether it comes from that
3 Committee or comes from a member trying to get you to support
4 a piece of legislation, a "Dear Colleague" is a traditional
5 form of sending a communication to all members of the House.

6 They are not individually addressed. They are not
7 even in envelopes. They are just sent out on a mimeographed
8 form.

9 Q Would you consider it important to read an advisory
10 opinion from the Ethics Committee if one was sent to you?

11 A The mail that comes into the office, Mr. Kotelly,
12 once it is received by the receptionist is turned over to the
13 Administrative Assistant and they make a distribution and that's
14 the only mail that I see is mail that is put on my desk. If
15 they put that kind of communication on my desk I would have
16 received it. If they didn't, I would not have.

17 Q Do you read the Congressional Record that is published
18 by the House of Representatives?

19 A Sometimes.

20 Q And in the Congressional Record are speeches on the
21 floor of the House, assertions that may be made by members of
22 Congress; is that correct?

23 A That is correct, plus articles and other extraneous
24 material that can be placed in there.

25 MR. KOTELLY: Your Honor, I have Congressional Record

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1 Volume Number 119, Part 18, pages 22479 to 23744, 93rd Congress,
2 First Session, June 30, 1973, to July 12, 1973. I would ask
3 that the next exhibit number be marked on page 23693. If
4 we could maybe later substitute a xerox of this page without
5 putting an actual sticker on this page, because this comes
6 from the Library of the D.C. Bar.

7 THE COURT: Any objection, counsel, to substitute
8 a xerox copy for the bound page?

9 THE CLERK: Government's Exhibit 89 marked for
10 identification.

11 (Whereupon, Government's Exhibit
12 89 was marked for identifica-
13 tion.)

14 MR. KOTELLY: I'm sorry, Your Honor, 23691 at the
15 bottom and the following page is 23692.

16 THE COURT: Did you show it to counsel?

17 MR. KOTELLY: Yes sir.

18 THE COURT: All right.

19 MR. POVICH: May we approach the bench, Your Honor?

20 THE COURT: Yes.

21 (At the bench:)

22 MR. POVICH: Your Honor, this is an advisory opinion
23 of the House Committee on Ethics which is published in the
24 Congressional Record on July 12, 1973.

25 THE COURT: July 12, '73?

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1 MR. POVICH: Yes, and I don't know what use the
2 Government plans on making of it but before they do it I would
3 like to know what the proffer is with respect to it.

4 MR. KOTELLY: Fine. Your Honor, this advisory
5 opinion which was in the Congressional Record on July the 12,
6 1973, just a few short months before as a matter of fact
7 around the same time that George Johnson was put on salary
8 but also at the time just shortly before Jean Stultz'
9 salary was increased, Mr. Matlock's salary was increased and
10 also Mr. Dukes' salary was increased, the advisory opinion
11 reflects that the Clerk Hire Allowances are to be rendered for
12 personal services of the staff member and that the member of
13 Congress should not enter into any agreements where the staff
14 member pays out of his salary any monies or any benefits
15 directly to the member of Congress or on his behalf.

16 I would submit that I am allowed to question Mr.
17 Diggs regarding his knowledge of that advisory opinion since
18 there has been brought up by the defense the issue as to common
19 understanding by having put on Victor Fisher, that even if Mr.
20 Diggs is not knowledgeable of this advisory opinion that we
21 should be allowed to introduce it into evidence as an official
22 document for the basis of showing what the common understanding
23 was.

24 We have heard testimony about common practices. I
25 think common understanding includes an advisory opinion that

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1 this is inappropriate. We have to rebut the testimony that
2 Your Honor allowed yesterday through Victor Fisher.

3 MR. CARL: Your Honor, I think the Government doesn't
4 show the defendant was aware of that particular document.

5 THE COURT: The only way to tell about that is to
6 ask him?

7 MR. CARL: The problem, Your Honor, is that it
8 suggests because it is an official document that that is a rule
9 of conduct of the House. It is not. It is an advisory
10 opinion and the Committee is allowed only to issue advisory
11 opinions concerning the general propriety of conduct and viola-
12 tion of an advisory opinion is not a violation of the House
13 Committee regulations.

14 THE COURT: I understand it is not a violation of
15 the law. Just maybe some evidence that would be germane to
16 the ultimate issue.

17 MR. POVICH: Your Honor, I think the initial inquiry
18 should be whether or not he saw that opinion.

19 MR. WATKINS: And if he hasn't I think that should
20 bring the issue to an end.

21 MR. KOTELLY: Your Honor, if that argument holds,
22 any person who has not read a criminal statute --

23 MR. CARL: Your Honor, it is not a rule of conduct.

24 MR. KOTELLY: This is an advisory opinion as to what
25 the regulations of the House of Representatives mean when they

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say that the Clerk Hire Allowance is for compensation for the discharge of official duties.

MR. CARL: Your Honor, that is not accurate. It is the advice of the Committee on the general propriety of the conduct of a member of the House. It does not say it is an interpretation of regulations of the House Administration Committee. It does not say it is an interpretation of the statute. It does not make it clear it is even an interpretation in the official sense of the House Rules.

It is advice to the member of Congress as to general propriety of the conduct of his office.

THE COURT: I think it is proper. I will allow it.

MR. KOTELLY: Thank you, Your Honor.

THE COURT: All right.

MR. WATKINS: Your Honor, are you going to allow him to inquire if he knows of this?

THE COURT: First question, yes. But I will allow it to be brought in. It's an official document of the House.

MR. POVICH: But Your Honor --

THE COURT: I have ruled. I may be wrong, but I have ruled.

(In open Court:)

MR. CARL: Your Honor, may I approach the bench a moment?

THE COURT: I have ruled on this matter, Mr. Carl.

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1 BY MR. KOTELLY:

2 Q Mr. Diggs, I show you a copy of the Congressional
3 Record dated July 12, 1973, page 23691 at the bottom and the
4 next portion here. Would you quickly look at that?

5 A I have looked.

6 Q Look at it yourself, sir. I'm not asking you to
7 read it out loud.

8 A There are several things on this page.

9 Q Let me point it out to you again, sir.

10 Beginning with this heading to there, following
11 page first column and that is all.

12 A All right. I have read it.

13 Q Mr. Diggs, what I have just shown to you purports to
14 be an advisory opinion of the Ethics Committee. Do you recall
15 having read that advisory opinion in the Congressional Record
16 around July of 1973?

17 A No sir, I do not.

18 Q Do you recall having received an advisory opinion
19 from the Ethics Committee which has identical language to what
20 was inserted in the Congressional Record around that time?

21 A No sir, I do not.

22 Q Mr. Diggs, did you have any conversations with your
23 colleagues or any member of your staff regarding the advisory
24 opinion of the Ethics Committee regarding their opinion as to
25 the proper use of the Clerk Hire Allowance?

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1 A I recall no such conversation.

2 Q At the time that you put or you had Mr. Matlock
3 and Mr. Dukes paying for your expenses out of their salaries
4 did you talk to any lawyer about whether that was proper or
5 improper?

6 A No sir, I did not.

7 Q Did you talk to anyone at all about whether your
8 having Mr. Dukes and Mr. Matlock pay for office expenses was
9 a proper way of handling the payment of office expenses?

10 A No sir, I did not.

11 MR. KOTELLY: I have no further questions of this
12 witness, Your Honor.

13 THE COURT: Mr. Povich?

14 MR. POVICH: Would Your Honor indulge me for a minute?

15 THE COURT: Certainly.

16 MR. POVICH: I have no further questions.

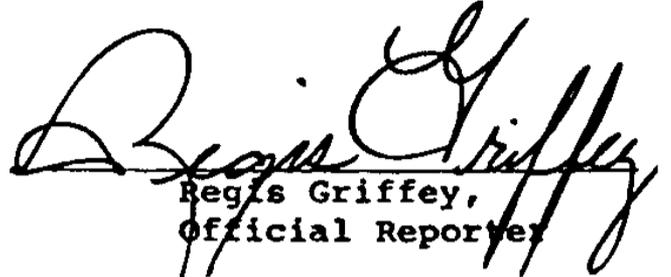
17 THE COURT: All right. You may step down, Mr. Diggs.

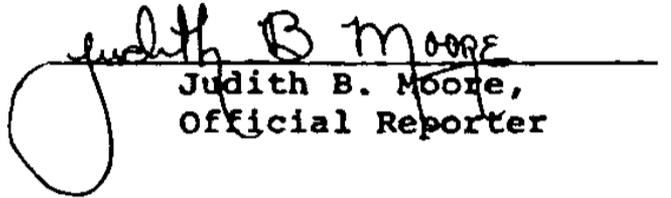
18 (Witness excused.)

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CERTIFICATE OF COURT REPORTERS

I do hereby certify that the foregoing transcript of proceedings before the Honorable Oliver Gasch, United States District Judge, and heard on the dates aforesaid, is a true and complete transcript of the said proceedings as requested.


Regis Griffey,
Official Reporter


Judith B. Moore,
Official Reporter

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