

1 Q Did you apply for re-employment with the House of
2 Diggs in the spring of 1974.

3 A Yes. I asked.

4 Q Would you tell us what the circumstances were under
5 which you applied for re-employment?

6 A I approached Mrs. Juanita Diggs or the congressman --
7 I don't remember which first -- but I did ask for employment.

8 Q Who is Juanita Diggs?

9 A Mr. Diggs' divorced wife.

10 Q What was Juanita Diggs' relationship to the House of
11 Diggs when you re-applied for employment?

12 A I believe she was controlling -- I'm not positive
13 of her capacity.

14 Q Did there come a time when you contacted Congressman
15 Diggs?

16 A I called him at Bethesda Hospital.

17 Q Where did you call him from?

18 A My home.

19 Q In Detroit?

20 A Yes.

21 Q When was that?

22 A It was in May, the first part of May, around the
23 1st or 2nd of May.

24 Q Of what year?

25 A '74.

000654

1 Q Would you describe the conversation you had with
2 Congressman Diggs in that telephone call?

3 A After we finished, after we discussed his ailment
4 and possibly being hospitalized we went into the subject of
5 the operation of the funeral home, the status of the funeral
6 home.

7 Q Could you tell us what Congressman Diggs said at
8 that time?

9 A That if I was ready to come back to work and if he
10 mentioned at that point the actual -- I don't know whether
11 we got into a figure discussion or not at that time but I do
12 know --

13 Q What do you mean "a figure discussion"?

14 A On the accounts receivables.

15 Q Of the House of Diggs?

16 A Yes, sir.

17 Q As a result of that telephone conversation, did you
18 meet with Congressman Diggs?

19 A Yes, I met with him.

20 Q When was that?

21 A It was May.

22 Q How long after the telephone call?

23 A Within a week.

24 Q Where did this meeting take place?

25 A On West Boston Boulevard in Detroit.

000655

1 Q Who was present at the meeting?

2 A The congressman, Mrs. Juanita Diggs and the two
3 older children that were involved with the funeral home at that
4 time.

5 Q What did Congressman Diggs talk about at the meeting
6 on that Sunday?

7 A The general condition of the funeral home.

8 Q Could you be a little more explicit?

9 A Well, the financial conditions of it. The money
10 wasn't being collected and wasn't coming in properly as it
11 should for operational purposes.

12 Q What was your connection with this discussion?

13 A What was my connection? I may have raised the
14 question as to what procedure was now being used or who was
15 doing it. As to actual discussion I don't remember word-for-
16 word.

17 Q Did you get a job as a result of this meeting?

18 A Yes, I did.

19 Q Was there any discussion at the meeting as to how
20 much money you would be paid?

21 A No, it was not.

22 Q Any discussion as to how you would be paid?

23 A No, it was not.

24 Q Did you leave that meeting on West Boston Boulevard
25 with the congressman?

000656

1 A Yes. We both left at the same time.

2 Q Was there a discussion as you were leaving?

3 A Yes, sir.

4 Q -- concerning how you would be paid?

5 A He was going to his car; I was going to mine, and
6 we stopped and talked.

7 Q What, if anything, did the congressman say?

8 A We went over the principles -- we went over the
9 status of the general condition of the account and then he
10 said that I would be paid on the congressional payroll, paid
11 from.

12 Q Was there any discussion at that meeting or during
13 this subsequent conversation that he told you that you would
14 be paid from the congressional payroll that the subject of
15 doing any congressional work came up?

16 A No, it did not.

17 Q Did you then report to work at the House of Diggs?

18 A Yes.

19 Q When was that?

20 A The Monday after that Sunday we met.

21 Q Still back in May of 1974?

22 A Yes, May of '74.

23 Q Where did you report to work?

24 A At the funeral home on Dexter.

25 Q How long did you work at the funeral home on Dexter?

000657

1 A Until the 20th of May when we moved.

2 Q Where did you move to?

3 A On Myers.

4 Q Was that also a funeral home?

5 A Yes, sir.

6 Q Was there a congressional office at either one of
7 these funeral homes?

8 A Not as such.

9 Q What were your duties as you came to know them after
10 you began working for the House of Diggs in May of 1974?

11 What were your duties? What were your responsibilities?

12 A My responsibilities were to work on the accounts
13 receivable, collect what I could collect, and take care of the
14 miscellaneous people that came to the office or called the
15 office for what we called constituency services.

16 Q Can you give us some estimation during this period
17 of time -- let me ask this question first.

18 How long did you work at the House of Diggs Funeral
19 Home? Did there come a time that you moved to the congressional
20 office full-time?

21 A In August of '76.

22 Q Between July of '74 and August of 1976 can you
23 give us some idea as to how much of your time was spent with
24 the accounts receivable and doing House of Diggs work and how
25 much was spent with what you have characterized as

000658

1 constituency work?

2 A I would say in the area of 20 percent.

3 Q Twenty percent of what?

4 A My time.

5 Q Was spent?

6 A On constituency work. I didn't keep a record so I
7 have no way of knowing.

8 Q Did there come a time that the Diggs Funeral Home
9 merged with the Stenson Funeral Home?

10 A Yes.

11 Q Do you recall approximately when that was?

12 A It was in the fall of '75.

13 Q How was your job affected as a result of that
14 merger, if it was affected?

15 A It wasn't really affected. I did the same thing
16 that I was doing. I stayed at Myers for a period of time and
17 then after they moved the complete operation out over to
18 Stenson's then I was on assignment, I guess you would call it.

19 Q On assignment to the Stensons?

20 A No, I never took the instructions from Mr. Stenson.
21 I mean I respected him.

22 Q But you indicated that you were on assignment?

23 A Yes. I went back to Myers.

24 Q The funeral home on Myers?

25 A Yes.

000659

1 Q Who owned the funeral home on Myers after the merger?

2 A I guess it was Diggs/Stenson.

3 Q Did you know if Congressman Diggs had any connection
4 with the funeral home at that time?

5 A After the merger?

6 Q Yes.

7 A No, he did not, to my knowledge.

8 Q What did you do at the Myers Road funeral home?

9 A Assembled the old records.

10 Q What kind of old records?

11 A Funeral records.

12 Q How long did you do this?

13 A About a period of two or three months, I guess. I
14 went back to 1930, back in the 30's.

15 Q Collecting records that went back to the 30's?

16 A Yes. I got back to the 30's.

17 Q Who told you during that period of time, July of
18 '74 through August of '76, where to work?

19 A You are saying July?

20 Q July -- well, May of '74.

21 A Congressman Diggs.

22 Q Did you ever receive from May, 1974, through July or
23 August of 1976, any salary from the House of Diggs?

24 A No, sir.

Did you ever receive any salary from the

000660

1 Diggs/Stenson Funeral Home during that period?

2 A No, sir.

3 Q Did you receive a United States Treasury Check each
4 month from July, 1974 through July, 1976?

5 A Yes.

6 MR. MARCY: Your Honor, these have previously been
7 marked for identification.

8 BY MR. MARCY:

9 Q I would show you Government's Exhibits 15-A through
10 15-M. Can you identify those?

11 A Yes.

12 Q What are they?

13 A They are salary checks that I received.

14 Q Why is it that you can identify them?

15 A By the endorsements.

16 Q And they have your endorsement on them?

17 A Yes. Those that hasn't has my husband's.

18 Q How were those checks delivered to you?

19 A At the address printed on the front through the
20 mail.

21 Q Through the U. S. Mail?

22 A Yes.

23 Q You mentioned that you performed some what you
24 characterized as constituent services both in the 1950's and
25 also from July, 1974 through July or August of 1976?

000661

1 A Yes.

2 Q From July, 1974 through July, 1976, did you handle
3 more constituent complaints or less constituent complaints
4 than you handled in the 1950's when you worked for the House
5 of Diggs?

6 A It was less.

7 Q You handled less?

8 A Less.

9 Q And during the 1950's you were paid by the House of
10 Diggs?

11 A The House of Diggs and Diggs Enterprises.

12 Q Let me refer you to Government's Exhibit 15-A.
13 Would you describe what Government's Exhibit 15-A is?

14 A It's a check.

15 Q Is that A?

16 A Yes.

17 Q What is the date on the top check?

18 A July 31st, '74.

19 Q What is the amount of that check?

20 A \$525.18.

21 Q What is the date on the second check?

22 A August 30.

23 Q Of what hear?

24 A '74.

25 Q What is the amount of that check?

000662

1 A \$1,449.79.

2 Q Do you know why those checks -- there is approximately
3 a thousand dollars difference between them?

4 A It was three months involved?

5 Q You had been working for the House of Diggs for
6 three months?

7 A Yes.

8 Q Were you paid by either the U. S. Treasury or the
9 House of Diggs for May and June of '74?

10 A I received no moneys from the House of Diggs.

11 Q Is my understanding correct that this August check
12 was to pay you for May and June?

13 A For the back pay, yes.

14 MR. MARCY: May I have the Court's indulgence for
15 a moment?

16 THE COURT: Yes.

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

18 THE COURT: Mr. Watkins?

19 MR. WATKINS: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. WATKINS:

22 Q Miss Richmond?

23 A Yes, sir.

24 Q How are you this afternoon?

25 Just relax.

000663

1 Now, I want to direct your attention to 1974. You
2 came back from South Carolina; is that correct?

3 A That's correct.

4 Q And you wanted work; is that right?

5 A Yes.

6 Q And you talked with Mrs. Juanita Diggs about work?

7 A Yes.

8 Q And she referred you to the congressman; did she not?

9 A Something of that nature, yes.

10 Q And the congressman said to you in that meeting
11 something to the effect that "If you move to Washington your
12 chances would be better"?

13 A Had I moved to Washington the chances would have
14 been better of employment.

15 Q All right. You understood that to mean that the
16 congressman would employ you in his congressional office in
17 Washington; is that correct?

18 A I guess that was the general assumption, yes.

19 Q It was after that in May of 1974 that you received
20 a call from Juanita Diggs, Mrs. Juanita Diggs, to call
21 Congressman Diggs in the hospital?

22 A Yes, sir.

23 Q You had a conversation with him in the hospital?

24 A Yes.

25 Q And that ultimately resulted in a meeting with him

000664

1 at Juanita Diggs' house on Boston Road sometime later on that
2 month; is that right?

3 A Yes, sir. Yes, sir.

4 Q All right. Now, there was a meeting inside the
5 house with Mrs. Diggs, Congressman Diggs, and his children,
6 correct?

7 A Two of the older ones, yes.

8 Q Okay. And as you were leaving you had some conversa-
9 tion with Congressman Diggs about your duties at the funeral
10 home, correct?

11 A Yes.

12 Q In that conversation you indicated not only you
13 would be doing accounts receivable but that you would be
14 doing miscellaneous work; isn't that correct?

15 A Miscellaneous, yes.

16 Q And miscellaneous work meant for you what?

17 A The things that had been going on since I went to the
18 funeral home in '49.

19 Q Tell me what that is.

20 A Working with the folks that came in with their
21 problems.

22 Q Would it be fair to say you mean constituent work?

23 A Yes. That's what we call it now.

24 Q What did you call it then, ma'am?

25 A Just cases. Folks came in with problems.

000665

1 Q What kinds of problems did they come in with? I'm
2 talking about in 1949 now. What kinds of problems did they
3 come in with?

4 A They have -- it was called Welfare back then. It's
5 now Social Services, but they had welfare problems and rental
6 problems, insurance problems. Social Security was not too
7 popular back then. It was just general problems with the
8 persons.

9 Q All right. Part of your duties in 1949 was handling
10 those people with problems; is that correct?

11 A Yes, sir.

12 Q Trying to help them solve their problems?

13 A Yes, sir.

14 Q Now, so when you left that parking lot after that
15 meeting with Mr. Diggs you knew that your duties at the funeral
16 home would consist of two aspects; is that correct?

17 A It was a general understanding.

18 Q And those two aspects would be constituent services,
19 to put it in present-day language; is that correct?

20 A Correct.

21 Q And in addition you would be doing accounts
22 receivable, working trying to collect moneys on the Diggs
23 Funeral Home?

24 A Yes, sir.

25 Q All right. Why was it you would be doing constituent

000666

1 services at a funeral home, Mrs. Richmond?

2 A That was the pattern that was going on when I
3 started with the company in 1949.

4 Q Tell us why.

5 A Why was it started?

6 Q Sure.

7 A I really don't know other than his father, I imagine.
8 started it before he did. It just proceeded that Diggs
9 would help you, sir.

10 Q You say what? I'm sorry.

11 A That Diggs would help you.

12 Q Would it be fair to say that the Diggs Funeral Home
13 was a focal point of the community for problems?

14 A It was at that time.

15 Q Would it be fair to say if you could go to the
16 Diggs Funeral Home Congressman Diggs or his staff would help
17 you with their problems?

18 A Yes.

19 Q When you talked to Congressman Diggs in May of 1974
20 you knew that that was the kind of work that you were going
21 to be doing?

22 A I assumed because I was not told differently.

23 Q All right. Fine. And you went to work for
24 Congressman Diggs doing constituent work and accounts receivable
25 very soon thereafter; is that right?

000667

1 A Yes, sir.

2 Q The next week?

3 A It was the next day after the meeting.

4 Q All right. The next day after the meeting?

5 A Yes.

6 Q You did spend a portion of your time performing
7 constituent services; isn't that right?

8 A Those that came in that I was able to handle.

9 Q And that was you said about 20 percent?

10 A I'd say about 20.

11 Q Now, in the fall of 1975 there was a merger,
12 Diggs/Stenson. Stenson Funeral Home and Diggs Funeral Home
13 merged; is that correct.

14 A Correct.

15 Q And you remained, I think you said, at the Myers
16 Avenue office, right?

17 A Yes, sir.

18 Q And your duties didn't change there, did they?

19 A No, they didn't.

20 Q You continued to do constituent work as well as
21 accounts receivable?

22 A I did.

23 Q All right.

24 A They did not move the operations out for awhile.

25 Q Now, so that was 1975. You were still at -- well,

000668

1 Diggs/Stenson merged funeral home in January of 1976; were you
2 not?

3 A Yes.

4 Q All right.

5 THE CLERK: Defendant's Exhibit No. 34 marked for
6 identification.

7 (Defendant Exhibit No. 34 was
8 marked for identification.

9 BY MR. WATKINS:

10 Q Now, Mrs. Richmond, I show you what has been marked
11 as Defendant's Exhibit 34. Can you identify it?

12 A Yes, I can.

13 Q Would you tell the ladies and gentlemen of the jury
14 what it is?

15 A This was an employment case for a constituent that
16 had filed with the Civil Service Branch here in Washington
17 for jobs.

18 Q All right. Are you finished?

19 A Go on.

20 Q Would it be fair to say, Mrs. Richmond, this is a
21 pre-printed form?

22 A Yes. That's a pre-printed form.

23 Q Are you writings on it at any place?

24 A This is my writing.

25 Q All right.

000669

1 A Right here.

2 Q What is the date of that form?

3 A January 4th, 1976.

4 Q That was the time you were working at Diggs/Stenson
5 Funeral Home, the merged operation?

6 A Yes, sir.

7 Q And you said this was an employment case; is that
8 right?

9 A Yes. ——.

10 Q Would you tell us what happened there? Does that
11 refresh your recollection so you can tell us exactly what
12 happened, what your part in producing that form was?

13 A The gentleman had filed the application for fire
14 protection here in Washington.

15 Q For what, ma'am?

16 A A fire protection job.

17 Q Let me stop you for a minute. Did the gentleman
18 come into the office?

19 A No. It was by phone.

20 Q It was by phone. All right. You talked to him on
21 the phone, right?

22 A Yes.

23 Q Go on and tell us what happened.

24 A And he wanted to find out what was the status of his
25 case and I in turn called --

000670

1 Q You what, ma'am?

2 A I in turn called the Washington office because this
3 is where he originally filed it. They gave me the information
4 that he would have to proceed to gather information from the
5 point of filing, which would have been here in Washington.

6 Q And you hung up the phone and then called him and
7 told him what he had to do; is that right?

8 A Yes.

9 Q Then you marked "Closed" on the case?

10 A It should have been.

11 Q Mrs. Richmond --

12 (The witness was crying.)

13 THE WITNESS: I'm sorry.

14 BY MR. WATKINS:

15 Q That's all right.

16 A That is the procedure.

17 Q Is that the procedure you followed in this case?

18 A Yes.

19 Q All right. Now, moving from January, 1976 on
20 there came a time, did there not, when you started to go into
21 the congressman's congressional office part-time as opposed
22 to spending your full five days at the funeral home, correct?

23 A Correct.

24 Q Now, you went in about one day a week of a five-day
25 week; is that correct?

000671

1 A Yes.

2 Q And at whose direction was it that you went to the
3 congressman's office one day a week?

4 A Congressman Diggs.

5 Q So until August, 1976, when you went into the
6 congressman's office full-time you were going there on a
7 part-time basis and still doing your work at the funeral home?

8 A Yes.

9 Q And at the funeral home you were doing still
10 constituent work when they called as well as accounts
11 receivables?

12 A Right, correct.

13 Q Now, Mrs. Richmond, you were subpoenaed to testify
14 at a grand jury in this case; is that correct?

15 A That's correct.

16 Q When you received that subpoena did you call
17 Congressman Diggs?

18 A Yes, I did.

19 Q And you told him you were going to be testifying in
20 front of a grand jury, correct?

21 A I'm pretty sure that was the conversation because
22 I told him I had received the subpoena.

23 Q Right. And he told you, did he not, there was
24 nothing for you to do but tell the truth?

25 A That's correct.

000672

1 MR. WATKINS: Thank you, Mrs. Richmond.

2 One other thing.

3 BY MR. WATKINS:

4 Q When you received that subpoena you were upset,
5 weren't you?

6 A Still am.

7 Q We will let you get out of here.

8 THE COURT: Anything else, gentlemen?

9 MR. MARCY: I just have three brief questions,
10 Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. MARCY:

13 Q Mrs. Richmond, showing you again Defendant's
14 Exhibit 34, was there anything more involved than making a
15 phone call in that complaint?

16 A Not from Detroit and I don't know what happened on
17 this. Not from Detroit and that's all I could do was make a
18 telephone call here.

19 Q How long would you estimate that telephone call
20 took?

21 A The actual call, it may not have taken long, but I
22 think this is one of the lady's writing in the office. I'm
23 not sure. It may have taken her some time to get the Civil
24 Service and get a status.

25 Q I'm only referring to your action.

•

000673

1 A About three or four minutes, I guess, five.

2 Q You indicated that you were doing some of these
3 constituent services back in the period of 1949, 1950, 1951?

4 A That's right.

5 Q During that period of time was Charles C. Diggs, Jr.,
6 a congressman?

7 A No, he was not.

8 Q When you worked at the house of Diggs from July,
9 1974 -- May --

10 A Wait a minute. Did you say '49 and what?

11 Q From '49 to 1954.

12 A Yes. He was not a congressman.

13 Q Going to the next question, while you were working
14 at the House of Diggs from 1974 through 1976 were there other
15 people working at the House of Diggs who were doing what you
16 have referred to as constituent services?

17 A When I went back in '74 it was a very limited force.
18 Now, what they did as individuals, I don't know.

19 Q Were the other people in the House of Diggs paid by
20 the House of Diggs?

21 A I assume they were. I have no way of knowing.

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

23 MR. WATKINS: One question.

24
25 000674

1 RECROSS-EXAMINATION

2 BY MR. WATKIN:

3 Q Mrs. Richmond, isn't it true that in 1949 to 1954
4 Congressman Charles Diggs or Mr. Charles Diggs was not a
5 congressman at that time but he was a State Senator in
6 Michigan; isn't that correct?

7 A That is correct.

8 Q Thank you, Mrs. Richmond.

9 THE COURT: May the witness be excused, gentlemen?

10 MR. MARCY: Yes, Your Honor.

11 THE COURT: You are finally excused. Thank you.

12 (Witness excused.)

13 MR. MARCY: The Government would call Lorraine
14 Westbrook.

15 Whereupon,

16 LORRAINE WESTBROOK

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

20 DIRECT EXAMINATION

21 BY MR. MARCY:

22 Q Would you please state your full name?

23 A Lorraine Westbrook.

24 Q Where do you live?

25 A Washington, D. C.

000675

1 Q Where do you work?

2 A U. S. House of Representatives.

3 Q Who do you work for?

4 A Congressman Charles C. Diggs, Jr.

5 Q How long have you worked for Congressman Diggs?

6 A Five and a half years.

7 Q What is your present position with Congressman Diggs?

8 A Executive Secretary.

9 Q Have you in the past had occasions to cash Treasury
10 checks and money orders for the congressman?

11 A Yes, I have.

12 Q Do you recall cashing a U. S. Treasury check in July
13 of 1976?

14 A I think so, yes.

15 MR. MARCY: Your Honor, this has previously been
16 marked as Government's 22-E.

17 BY MR. MARCY:

18 Q Showing you what has been marked as Government's
19 22-E can you identify that?

20 A By my signature, yes.

21 Q Is that an endorsement on the back?

22 A Yes, it is.

23 Q Is there another endorsement ahead of that?

24 A Yes. It is Congressman Charles C. Diggs, Jr.'s
25 signature.

000676

1 Q Who is that check made payable to?

2 A To the congressman.

3 Q What is the date of the check?

4 A July 6th.

5 Q Of what year?

6 A '76.

7 Q Did the congressman give you that check to cash?

8 A Yes, he did.

9 Q Did you cash it?

10 A Yes.

11 Q Where did you cash it?

12 A By the stamp on the back, at my bank, at the time
13 that I was doing business at the bank that I used.

14 Q What bank is that?

15 A National Bank of Washington.

16 Q What, if anything, did you do with the proceeds of
17 that check?

18 A I must have given it to him. It must have been just
19 given to him.

20 Q In cash?

21 A Yes.

22 Q What is the amount of that check?

23 A \$500.

24 Q Does it indicate in the left-hand corner what it's
25 for?

000677

A. No, it doesn't. It says "Vouchers" on it. I guess that would be an indication.

Q Thank you.

Showing you what's been marked as Government's
Exhibit 48-O, a money order, do you recognize that?

A Yes, I do.

Q How do you recognize that?

A. My name is on it.

Q On both of these signatures was your name different in 1976 than it is now?

A Yes. McDaniels was my married name.

Q And your present name is Westbrook?

A. Yes.

Q Referring to that Government Exhibit would you describe what it is?

A. It's a personal money order.

Q In the amount of?

A. \$286.33.

Q Do you recognize any of the handwriting on that
money order?

A Yes. The handwriting is mine.

Q Is there any handwriting of the congressman on that
money order?

A His signature.

Q Do you recall the congressman giving you that check

000678

1 to cash?

2 A I guess he must have given it to me if I made it
3 payable to me.

4 Q Did you cash that check?

5 A Yes, I did.

6 Q Where did you cash that check?

7 A National Bank of Washington.

8 Q What, if anything, did you do with the proceeds that
9 you received from cashing that check?

10 A I must have given it to him.

11 Q Where is that check drawn?

12 A The National Bank of Detroit.

13 MR. MARCY: Thank you.

14 I have no further questions, Your Honor.

15 MR. WATKINS: No question, Your Honor.

16 THE COURT: May the witness be excused, gentlemen?

17 MR. MARCY: Yes, Your Honor.

18 THE COURT: Thank you. You are excused.

19 (Witness excused.)

20 MR. MARCY: Your Honor, Government would call
21 George Johnson.

22 Whereupon,

23 GEORGE JOHNSON

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

000679

1 follows:

2 DIRECT EXAMINATION

3 BY MR. MARCY:

4 Q Mr. Johnson, will you please state your full name?

5 A George Gentry Johnson.

6 Q What is your present address?

7 A My present address is 1875 Golf Ridge Drive South,
8 Bloomfield Hills.

9 Q What state is that in?

10 A The State of Michigan.

11 Q Where did you live prior to that?

12 A 1847 Littlefield, Detroit.

13 Q What is your profession?

14 A CPA.

15 Q Could you tell me some of your background?

16 A I was employed by General Motors. And I was also
17 employed by the International CPA firm as a supervisor,
18 Detroit office, and I'm a graduate of Hawaiian State Accounting
19 and I have some work on my masters in management also.

20 Q Do you have a company now?

21 A Yes, I do.

22 Q What is the name of that company?

23 A The name of the company is George Johnson and
24 Company, professional corporation, Detroit.

25 Q What business do you engage in in that corporation?

000680

1 A Accounting, auditing, tax work, tax planning,
2 management, consulting along with computerized services.

3 Q How many accountants do you have working for your
4 company?

5 A Total accountants about 11. Total office para-
6 professionals, administrative staff, about 19, 20 people.

7 Q Where is the George Johnson Company located?

8 A 19838 James Cousins, Detroit.

9 Q Do you know Congressman Charles C. Diggs?

10 A Yes, I do.

11 Q When did you first meet him?

12 A I first met him personally or first knew of him?

13 Q Personally.

14 A Personally I first met him the fall of 1971.

15 Q Would you tell us the circumstances?

16 A 1971, yes.

17 Q Would you tell us the circumstances under which you
18 met Congressman Diggs?

19 A A friend of mine told me that the House of Diggs
20 needed an accounting system and he set up -- a friend of
21 mine set up a meeting and at that meeting I gave the
22 congressman a proposal to establish an accounting system.

23 Q House of Diggs?

24 A For the House of Diggs.

25 Q Did the congressman retain you at that time?

000681

1 A Yes, he did.

2 Q Did you establish an accounting system in the House
3 of Diggs?

4 A Yes, I did. The firm did.

5 Q Would you indicate what sort of system you put into
6 the House of Diggs?

7 A It was basically cancelled receipts, disbursements,
8 payroll, inventory control and an overall management system
9 related to the financial system.

10 Q Did there come a time that you began doing any
11 personal accounting work for Congressman Diggs?

12 A Yes, there did.

13 Q When did that happen?

14 A The firm had gotten and completed the 1970 tax
15 return for the congressman.

16 Q Did you then take that over in succeeding years?

17 A Yes, right.

18 Q What was the status of your account with the House of
19 Diggs and with Congressman Diggs in the spring of 1973?

20 A At one time the bill had gotten behind.

21 Q Do you recall approximately it was?

22 A I would say it was less than 10,000 and more than
23 2,000. I can't recall exactly how much it was.

24 Q What, if anything, did you do to try to collect that
25 bill?

000682

1 A I mailed a letter -- well, of course, called up the
2 House of Diggs. Then I mailed a letter to the House of
3 Diggs stating that services would discontinue.

4 Q Do you know whether you sent a copy of that to
5 Congressman Diggs?

6 A I believe I did send him a copy.

7 Q Did there come a time in the spring or early summer
8 of 1973 that you met Congressman Diggs?

9 A Can you relate it to a meeting or --

10 Q Where the subject of your past-due bill came up?

11 A Yes. I did meet him. After a Democratic Party
12 affair I attended, a cocktail party, and the congressman was
13 there along with at least 25 other people and I believe at
14 that point he came up.

15 Q Do you recall approximately when this cocktail party
16 took place?

17 A Early June, 1971, I believe.

18 1973, I guess.

19 Q Do you recall what the Democratic Party was for?

20 A I can't recall. I remember it was in Coble Hall
21 but the exact person giving the speech I can't recall or any-
22 thing from it.

23 Q At that cocktail party you had a discussion with
24 Congressman Diggs?

25 A Yes, I did.

000683

1 Q What was the general subject of the discussion?

2 A We covered -- I can recall about three points at
3 least that we touched upon. One point was in general at least
4 the fact that House of Diggs bill.

5 Q Do you know who brought that subject up, the House
6 of Diggs bill?

7 A I don't know who brought it up, however, usually,
8 as stated to the grand jury, I don't bring out accounting
9 fees, let's say, in public, so he probably brought it up. I
10 can't say for sure though.

11 Q What else did you discuss besides the past-due bill
12 at the House of Diggs?

13 A We discussed also the fact that I did need some
14 additional funds as far as because my cash flow or at least
15 cash sum and such as that was fairly low and also we talked
16 about the possibility of myself going on the congressional
17 staff at least in the sense that there would be a position
18 for it I could possibly render. My background could be used.

19 Q Who brought up the subject of your going on the
20 congressional staff?

21 A That would have, you know, it would have had to have
22 been the congressman.

23 Q After that did you go on the congressional staff?

24 A Yes, I did.

25 Q Do you recall when you went on the congressional staff?

000684

1 A The 1st of July, 1973.

2 Q At that cocktail party were there any discussions
3 as to what your duties and responsibilities would be?

4 A No, other than my background -- at least there
5 would be something that would fit my background as far as --
6 I assume that it would financial account-type work.

7 Q Was there any discussion as to what your salary
8 would be?

9 A No, there wasn't.

10 Q Beginning in July of 1973 did you begin receiving
11 Treasury checks?

12 A Yes, I did.

13 Q Showing you what's previously been marked as
14 Government's Exhibit 18-A through 18-H can you identify those?

15 A Yes. These are checks that I received. My name is
16 on the front, address, home address; signature is on the back.
17 These are checks that I received.

18 Q How did you receive those checks?

19 A Through the mail at 18467 Littlefield.

20 Q Through the U. S. Mail?

21 A Yes.

22 Q Did you begin doing any congressional work after you
23 began receiving these Treasury checks?

24 A As far as congressional work related to any accounting
25 financial work, working on the House, at least when I started

000685

1 receiving these checks no, I didn't.

2 Q Did there come a time that you had a conversation
3 with Congressman Diggs concerning getting some congressional
4 work?

5 A Yes, there was.

6 Q Could you tell us about that conversation?

7 A This has been over five years ago. I can't say
8 exactly what was said, however, I'm quite sure it was stated
9 at the time some work at least would be coming.

10 Q The congressman said that some work would be coming?

11 A Yes, I'm quite sure.

12 Q Was any work forthcoming?

13 A I didn't at least do any, you know, financial or
14 accounting work for Congress.

15 Q Did there come a time that you left the employ of
16 Congressman Diggs?

17 A Yes, there was.

18 Q By that I mean from the congressional payroll?

19 A Yes.

20 Q Would you tell us the circumstances leading up to
21 your leaving the congressional payroll?

22 A As far as I looked at the amount of funds, at least
23 that I had received, and I looked at -- I hadn't gone ahead
24 and gotten into any financial work. It was just a situation
25 that began to bother me and so I got -- I stated I wanted to

000686

1 get off of the payroll. Although I stated that since I was
2 leaving the city as well as leaving the District, in my own
3 mind I just couldn't rationalize receiving those checks.

4 Q When did you leave the congressional payroll?

5 A The last of 1974, I believe, '74.

6 Q During the period of time that you received these
7 Treasury checks, from July, '73, through the last part of
8 '74, did you receive a regular salary?

9 A No, I did not.

10 Q Do you know how your salary was set?

11 A No, I don't know.

12 Q Could you give us a range of what the checks were
13 that you received?

14 A The checks were from low amounts, something like
15 maybe 130, \$150, for example, and I see one here for \$2,000.
16 Gross was approximately \$2700. So there was a wide range.

17 Q During that period of time that we have discussed
18 did there come a time that you felt you were performing more
19 work than you were being paid for by the Treasury?

20 A Yes. That did happen.

21 Q When I say "work" was that congressional work or
22 House of Diggs work?

23 A It was House of Diggs work in the sense that I
24 looked at my time charts. At least they exceeded the amount
25 of money that I was receiving, at least the firm's time chart.

000687

1 Q Did you bring that to Congressman Diggs' attention?

2 A I'm quite sure I did.

3 Q What, if anything, happened?

4 A I received a telephone call from -- I'm quite sure
5 of this. I received a telephone call from Jean Stultz.

6 Q As a result of that telephone call what happened?

7 A I received a telephone call from Jean Stultz and she
8 informed me --

9 Q Without telling us what Jean Stultz said to you
10 can you tell us what happened as a result of that telephone
11 call?

12 MR. POVICH: Your Honor, not as a result of the
13 telephone call. What happened next.

14 BY MR. MARCY:

15 Q After that telephone call what happened next in
16 regards to your salary check?

17 A It went up.

18 Q Did you perform work for the House of Diggs and for
19 Congressman Diggs in a personal capacity during the period of
20 July, 1973, through December, 1974?

21 A Yes, sir, I did.

22 Q What sort of work was that?

23 A Tax planning, Internal Revenue exam, representation
24 and consulting work.

25 Q Did there come a time that --

000688

1 A Did you say congressman or House of Diggs?

2 Q I asked you what kind of work you did for the
3 congressman and the House of Diggs.

4 A And also for House of Diggs preparation of financial
5 statements and tax returns and other -- various other things.

6 Q Did there come a time that you began applying your
7 Treasury checks to the House of Diggs bill?

8 A Yes. Not applying. I adjusted at least the House
9 of Diggs statements. .

10 Q Was that done at the direction or at the explicit
11 direction of Congressman Diggs?

12 A No, it wasn't.

13 Q How did you come to do that?

14 A I stop and I look back now and I just don't know.
15 I have funds coming in on one side and I had charges at least
16 over here and I don't know, you know. I know that he did come
17 and say to me, "George, go ahead and adjust these checks at
18 least against the bills." That I can say for sure.

19 As far as how it came about, I look back and it just
20 doesn't sound too intelligent. I just don't know, but I did
21 do it.

22 Q Did you make an adjustment for the approximate total
23 amount of the money that you received?

24 A Yes, I did.

25 Q And you reduced the House of Diggs bill by that

000689

1 amount?

2 A Yes, I did.

3 MR. MARCY: May I have the Court's indulgence for
4 a minute?

5 I have no further questions, Your Honor.

6 THE COURT: Mr. Povich?

7 CROSS-EXAMINATION

8 BY MR. POVICH:

9 Q Mr. Johnson, you said that you entered into a
10 discussion with Mr. Diggs in which as a result of that it
11 was your understanding that you would begin to do some work
12 for him with respect to his congressional activities; is that
13 correct?

14 A It was told to me. I thought it would be on the
15 African Committee at least, House Committee. I would start
16 doing some financial accounting at least for him.

17 Q You had had other contacts with Mr. Diggs; had you
18 not?

19 A Yes. Prior to early June, '73, I had earlier
20 contacts with him, correct.

21 Q Had you been interested in similar matters that were
22 matters he had concerned himself with at that time?

23 A Such as?

24 Q Economic development for black businessmen and
25 minorities?

000690

1 A Yes. I still have an interest, yes, deep interest.

2 Q The discussions that you had, you came away from
3 them and they were good-faith discussions; were they not, that
4 you believed you would be assisting him in such ways as he
5 would call upon you to help him?

6 A If you are asking me if we talked about various,
7 let's say minority development, yes. We discussed --

8 Q And you went back and you thought in terms of the
9 amount of time you might have to come back to Washington in
10 connection with this type of work?

11 A Originally from when we first -- at least the
12 discussion I can recall going on with my wife that evening
13 and discussing how much time I may have to at least spend
14 here, that I told you before.

15 Q Now, let me ask you this. The time that you spent
16 with Congressman Diggs, it was not limited, was it, to the
17 representation of him in connection with just his tax returns
18 or tax audit, was it? Was that the only thing that you ever
19 discussed with him? Is that the only subject that ever came
20 up for discussion?

21 A No.

22 Q I would like you to think back, if you could, to the
23 other problems or other matters which were discussed during
24 this period of time. This would be the period of time that
25 was 1973 and 1974.

000691

1 Did they include such things as ICBIF?

2 A Yes.

3 Q Tell me about ICBIF and what that was involved with,
4 what your concern was and what his involvement was with
5 ICBIF.

6 A ICBIF, Inner City Business Improvement Forum, is an
7 organization in the City of Detroit that was established to
8 promote minority businesses and to assist minority businesses
9 and as far as since basically most of my clients at least
10 minority businesses are related, at least I had an interest in
11 it and he also expressed at least an interest in it.

12 Q Did you discuss the problems that your clients were
13 having and his concern about how that program was going?

14 A Well, not necessarily that program but other
15 programs, yes, we did discuss it.

16 Q What were some of the other programs that you
17 discussed with him?

18 A Well, we talked about the entirety of -- I can't
19 recall because this has been -- if you hadn't brought it up
20 at least ICBIF I wouldn't have known that, but we discussed
21 several things as far as the overall economic development of
22 businesses, how the different programs were working and at
23 least I can now recall one conversation at least on financing
24 of businesses. That was an item at least how the banks were
25 going about financing, giving loans to businesses, minority

000692

1 businesses.

2 Q He was interested and you discussed at times you
3 did not have black opportunity with respect to the Renaissance
4 Center in Detroit? Was he not concerned with that and were you
5 not concerned with that?

6 A Yes. He has a good memory. We did talk about that.

7 Q Can you tell the ladies and gentlemen of the jury
8 what the Renaissance Center is?

9 A Renaissance Center is located in downtown Detroit
10 and it's basically a development that some say even Ford at
11 least started to put together to go ahead and revitalize the
12 downtown area. We have office space, hotels, restaurants and
13 it's going through a second phase as far as development for
14 downtown Detroit.

15 Q The city is quite proud of that?

16 A Yes, and it's really worked out well.

17 Q It is right on the water front, is it not?

18 A Correct.

19 Q They advertise the hotel as the largest in the
20 world, don't they?

21 A I don't know that to be a fact.

22 Q Mr. Diggs' concerns initially with that were with
23 respect to employment opportunity for construction workers in
24 the actual building of that; is that not correct?

25 A Yes, I think I can recall now he did express some

000693

1 concern about minority contractors would get their fair
2 share at least of the work with the Renaissance Center.

3 Q And the Center is up essentially now but after it
4 was up did he not express a concern and did you not express
5 the opportunities for employment in the building once it
6 was?

7 A Yes. I can recall that coming up, yes.

8 Q Now, the Center itself is in addition to the hotel
9 and office space it has shops or areas for businesses; does it
10 not?

11 A Yes.

12 Q What was his concern with respect to the option and
13 availability of those shops for minority businessmen,
14 particularly blacks in the district?

15 A He had a concern as a matter of fact with the
16 fashion shops, let's say, if they would just be the larger
17 chains coming or at least be larger -- well, non-minority,
18 let's say, businesses coming in. That was a concern. Or,
19 you know, if minority business people would have an opportunity
20 to, you know, participate because it was something that
21 should take off fairly well and was a matter of would
22 minorities participate after it was up.

23 Q The Renaissance Center was in downtown Detroit?

24 A Yes, it is in downtown Detroit.

25 Q Is that his 13th District down there?

000694

1 A Yes, it is.

2 Q Now, in addition to the Renaissance Center and
3 those matters was he also concerned and did you have
4 discussions with him concerning the policies and the manner
5 in which the Small Business Administration policies affected
6 minorities in Detroit?

7 A Yes, I believe we discussed that.

8 Q Was one of his primary concerns whether or not the
9 Small Business Administration was going to make funds available
10 or particularly after 1967 when there appeared to have been a
11 decline in the ability or the willingness of the Administration
12 to help minorities?

13 MR. MARCY: Your Honor, I am going to object to
14 Mr. Povich testifying.

15 THE COURT: I will say the same thing to you I said
16 to Mr. Watkins earlier at the bench: You are making this man
17 your witness so don't ask him leading questions.

18 BY MR. POVICH:

19 Q Can you think of other matters particularly that you
20 and Mr. Diggs may have discussed during this period of time
21 and may I suggest to you, if I could, Your Honor --

22 THE COURT: No. Don't ask leading questions. If
23 he knows what he and Mr. Diggs talked about, the kind of things
24 for which he might bill Mr. Diggs for his time, he may
25 testify.

000695

1 MR. POVICH: Yes, sir.

2 THE WITNESS: This is over five years ago. I can't
3 recall all the details as far as what we discussed and I
4 didn't keep any memos on it.

5 I can recall one at least concern tied in to the
6 Small Business Administration as well as with some of the
7 banks around the city. I expressed a concern and he expressed
8 a concern to me at least about if the banks were really let's
9 say doing the job that they should as far as with minority
10 businesses or if it had gone back to a pre-1967, let's say,
11 period. It was a matter of if they're really -- and I just
12 don't -- if they are doing at least their jobs as far as tied
13 into businesses or if they are setting aside a certain amount
14 for certain contractors or certain people or if they are just
15 going ahead and giving the money to a few that the PR people
16 are saying they are doing a good job when they are not.

17 BY MR. POVICH:

18 Q Have you thought of something else you said?

19 A No. Something else at least tied in with that same
20 conversation, something about minority contractors. I can't
21 recall. This has been over five, six years, but we did
22 discuss these businesses.

23 Q Mr. Johnson, just to tie this thing in, the time
24 you spent with Mr. Diggs and you had these discussions in
25 addition to other matters that you did, you billed him for all

000696

1 this time; did you not?

2 A Yes, I did.

3 Q Now, is it fair to say that with respect to him that
4 you billed him for the time you worked on his returns and
5 perhaps assisted him in his IRS matters, Internal Revenue
6 Matters. Who did you bill all of the other time that you
7 spent with him to?

8 A There are several bills going out. Can you ask me
9 the question -- I can off from the beginning.

10 Q I will save you some time. Essentially did the
11 people in your office post those or post that time or bill
12 that time posted and then perhaps bill it later to the House
13 of Diggs?

14 A Yes. We have charge numbers and the staff members
15 charge the time to a particular charge number, yes.

16 Q Mr. Johnson, drawing back on your recollection now,
17 if you could, if Mr. Diggs had inquired at the end of say
18 1975, the period that or 1974, it was 1973 and 1974 that you
19 had received the checks; is that correct?

20 A Correct.

21 Q If at the end of that period of time or shortly
22 thereafter he had inquired as to the House of Diggs as to how
23 much time you had billed, actually billed the House of Diggs,
24 what to the best of your recollection, what type of information
25 would he have received as of that date?

000697

1 A. You mean as far as a total amount of charges for
2 services?

3 Q. Yes, yes.

4 A. I would say we are talking about 35, \$40,000: I
5 can't say exactly.

6 Q. If he was asked, "Well, how much have we paid, what
7 type of figure; how much does the House of Diggs pay
8 Mr. Johnson during this period of time," what type of figure
9 would he have received?

10 A. From this right here I can't say exactly. I'm just
11 guessing.

12 Q. Your best estimate.

13 A. From particular amounts I can recall I would say
14 \$15,000.

15 Q. So if he inquired --

16 A. It was, you know, out of six or seven -- about 15,
17 I'd say.

18 Q. Or if he called up and said, "How much? The
19 difference is what we still owe Mr. Johnson"; is that correct?

20 A. How do you mean?

21 Q. If he said -- you say he has paid \$15,000. At the
22 end of that period of time --

23 THE COURT: I don't understand your question,
24 Mr. Povich. Are you trying to get the witness to see what is
25 in Mr. Diggs' mind

000698

1 MR. POVICH: No, sir. I'm trying to find out --

2 THE COURT: Suppose you rephrase it.

3 MR. POVICH: If I understood --

4 THE COURT: If he had called would you have said --

5 it's too hypothetical.

6 BY MR. POVICH:

7 Q What would your record reflect, Mr. Johnson, with
8 respect to the amount you said about \$15,000 that had been
9 paid?

10 A Correct.

11 THE COURT: Mr. Johnson, do you have these records?

12 THE WITNESS: No, I don't, so I can't -- this is
13 why I just can't give you an answer. Without the record I
14 can't say.

15 BY MR. POVICH:

16 Q How much money would you say that the House of Diggs
17 owed him still if he had already paid \$15,000?

18 A Without any adjustments we are talking about roughly
19 25,000 or 20,000.

20 Q Now, in addition to that you billed him, did you not,
21 during this period of time?

22 A I don't know if I billed him or not during the
23 period of time.

24 Q Has the Government shown you any records?

25 A I did. Without something directly in front of me I

000699

1 can't really say but I did see some records where I did bill
2 him at least sometime. The exact period of time, I can't say.

3 THE CLERK: Defendant's Exhibit No. 35 marked for
4 identification.

5 (Defendant Exhibit No. 35 was
6 marked for identification.)

7 BY MR. POVICH:

8 Q Mr. Johnson, I show you what is marked as Defendant's
9 Exhibit No. 35 for identification and ask if you can tell me
10 what that is?

11 A This is an invoice submitted to Congressman Diggs
12 for the period of time October 1st, '74 through May 31, '75
13 and it shows "For consultation of the Internal Revenue
14 Service regarding years '72 to '73 and also preliminary work
15 on 1974 return for \$2400."

16 Q Now, attached to that are certain computer-type
17 documents; are there not?

18 A Yes. These are the firm's computer records where
19 time was accumulated.

20 Q Can you tell from those records -- I know they are
21 very hard to read -- but can you tell from them when they
22 began, the computer records began?

23 A The records begin, it appears as it -- well, it is
24 August 15, '74.

25 Q Now, the first record that appears there, however,

000700

1 includes a balance which has been carried from an earlier
2 period; is it not?

3 A Correct.

4 Q So that although the first record would be from
5 August, 1974, it includes previous time; does it not?

6 A Yes, it does. There is a balance here for --

7 Q Would you look through those records just briefly
8 and see if it is not fair to say that during the period of
9 time, certainly at some point before August when that time
10 there is included, through August, '74, 1974 and 1975, you
11 charged to his account the time which you spent on his matters?

12 A Yes. This represents at least my time alone, the
13 staff's time as far as the charge to Congressman Diggs in
14 this period of time.

15 Q And that would be only for doing IRS work, in other
16 words his returns and his audits? Essentially is that what
17 you were charging for; is that correct?

18 A Yes. I can tell by the coding here "IRS exam" and
19 also there is a standard coding in here for income tax return.

20 Q Is it fair to say -- I am doing this to save time.
21 Is it fair to say you accumulate your hours?

22 A Correct.

23 Q And at some point you then bill; is that correct?

24 A Correct.

25 Q And those records reflect that you accumulated the

000701

1 hours at your hourly rate or the hourly rate of the person
2 that was doing the work; is that correct?

3 A. Correct.

4 Q. Then at some point you would make the decision to
5 bill it out; is that correct?

6 A. Correct.

7 Q. When you billed it out is that what you called an
8 adjustment?

9 A. Well --

10 Q. -- in that file?

11 A. Well, I have to give you some detail. At least on
12 this we have an adjustment. We reduced the unpaid bill and
13 transferred it and it appears at least in the adjustment
14 column so that is the way the computer system used to work.

15 Q. So the adjustment would take it out of the unbilled;
16 put it in the billed and that would mean an invoice went out?

17 A. That's correct.

18 Q. Is it fair to say that represents only the time you
19 worked on Congressman Diggs, on his personal return and his
20 personal tax matters; is that correct?

21 A. If the systems was working properly as far as
22 charging of time this should be only the time worked on his
23 account.

24 Q. And the other time -- you billed out all your time,
25 though, with Congressman Diggs, did you not, not on that

000702

1 necessarily but all the time you billed out on either one
2 account or another?

3 A I can see this here I did bill out at least all of
4 my time here. It is here. I can say it is before me so I
5 can say I did bill out all of my time.

6 Q Did there come a time when you sent him the bill?

7 A Well, yes. This right here was mailed to him in
8 Washington, his office.

9 Q It included a period '74 and into 1975; did it not?

10 A It did.

11 Q Is it fair to say or do you have a recollection
12 that an amount remained unpaid and I believe you filed a
13 lawsuit against him to collect?

14 A Yes. We attempted to collect on this, correct.
15 I referred it to an attorney.

16 Q Now, just let me finish up. We'll just be a couple
17 of minutes.

18 You said you made a decision that you were going
19 to leave the district; you were leaving the 13th District
20 and leaving the city and you indicated to the congressman that
21 you wanted to terminate your association; is that correct?

22 A Yes. It was -- I informed him at least at the time
23 that I was leaving and I wanted to go ahead and terminate our
24 relationship because of the whole situation. I just didn't
25 care for it.

000703

1 Q At that time there was a substantial outstanding
2 bill still with the House of Diggs; was it not?

3 A Yes, there was.

4 Q You either brought suit or threatened to bring suit
5 with respect to that balance as well?

6 A Yes, at a later time. I continued to do work at
7 least for the House of Diggs and I also at least personally
8 when the balance got at least substantially higher for us
9 that I couldn't describe him as a client but I figured at
10 least one day I would receive the funds.

11 Q You were a little uncomfortable. You had Republican
12 clients; did you not?

13 A Yes, I have Republican clients.

14 Q Were you somewhat uncomfortable about associating
15 with the congressman as a Democrat?

16 A Well, I wouldn't say as a Democrat. At times I do
17 have, you know, Republican clients and at that particular time
18 one particular party I could think of who didn't, you know,
19 like the idea tremendously. I do have 'Republican clients,
20 yes.

21 Q In fact, Congressman Diggs' office asked you to be
22 included in a picture in the newspaper as being part of the
23 staff and you declined to do so because you felt that it may
24 offend perhaps some of your Republican clients?

25 A That is correct.

000704

1 MR. POVICH: I have no further questions.

2 THE COURT: Do you have anything else or can we take
3 a recess at this time?

4 MR. MARCY: Your Honor, I have got maybe five
5 minutes.

6 THE COURT: We will take a recess.

7 (Recess.)

8 THE COURT: Bring in the jury.

9 (Jury present.)

10 THE WITNESS: I was asked a question earlier and
11 I would just like to correct the record. I believe the
12 question was did I decline. This is four or five years ago
13 and I can't recall in detail if I declined to take the photo.
14 I believe I did take the photo but I can't recall what reason
15 I gave later but I stated that I didn't want it at least
16 published so I could just like to correct that.

17 REDIRECT EXAMINATION

18 BY MR. MARCY:

19 Q Mr. Johnson, did your leaving the staff or your
20 resigning from the congressional payroll in December of 1974
21 have anything to do with the fact that you had some
22 Republican clients?

23 A No. No. As far as that, I can't recall that being
24 a major factor at least.

25 Q What was the reason that you left Congressman Diggs'

000705

1 employ in December of 1974?

2 A It was a situation where I just didn't feel
3 comfortable as far as receiving these checks here.

4 Q You indicated that you billed Congressman Diggs
5 individually for the work that you performed for him
6 individually; is that correct?

7 A On the invoice at least that was given to me here
8 I did bill him individually.

9 Q Did the congressman ever pay you from his checking
10 account for any of those bills?

11 A No, I can't recall him at least ever paying.

12 Q You mentioned that you had some discussions with
13 Congressman Diggs concerning economic development; is that
14 true?

15 A Yes, yes.

16 Q Was a meeting ever called for the specific purpose
17 of discussing economic development?

18 A I can't recall one, no.

19 Q Did you ever contact anybody on behalf of Mr. Diggs
20 to discuss with them economic development on behalf of
21 Mr. Diggs?

22 A I can't immediately recall.

23 Q Did you ever do any research on Congressman Diggs'
24 behalf into economic development?

25 A As far as library work, tax work, no. I can't

000706

1 recall that either.

2 Q Did you write or assist in writing any legislation
3 for Congressman Diggs in the field of economic development?

4 A The answer to that is no.

5 Q Did you ever write any memorandum to the congressman
6 or on behalf of the congressman concerning economic development?

7 A If I ever sent him a letter or any -- I can't recall
8 at least. We had a lot of correspondence. I can't recall it.

9 Q You also mentioned at some other occasion policies
10 of the Small Business Administration were discussed between
11 you and Congressman Diggs; is that correct?

12 A Yes, yes.

13 Q Was there a meeting set up to discuss specifically
14 policies of the Small Business Administration?

15 A No, I can't recall. A meeting wasn't set up let's
16 say directly for that, to answer your question.

17 Q Did you ever have any contact with anybody on behalf
18 of Congressman Diggs to discuss the policies of the Small
19 Business Administration?

20 A I can't recall.

21 Q Did you do any research on behalf of the Congressman
22 into the policies of the Small Business Administration?

23 A On behalf of the Congressman, no.

24 Q Did you ever assist in writing any legislation
25 concerning the Small Business Administration?

000707

1 A No.

2 Q -- at the behest of Congressman Diggs?

3 A No.

4 Q Did you ever write any memos to him or on his behalf
5 concerning policies of the Small Business Administration?

6 A I can't recall ever writing -- let's say we discussed
7 it. I can't recall putting -- writing any memos to him, at
8 least. We discussed it but I can't recall ever writing any
9 memos to him on it.

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

11 THE COURT: All right. Anything else?

12 RECROSS-EXAMINATION

13 BY MR. POVICH:

14 Q Mr. Johnson, do you recall a payment by the House
15 of Diggs? I know you don't have your records but do you
16 recall an instance in which September of 1973, which would have
17 been two or three months after you went on the payroll,
18 receiving a specific amount of money from the House of Diggs
19 in payment for your fees, a fairly substantial sum?

20 A I can recall during the period of time receiving
21 \$6,000 payment.

22 Q Was that about --

23 A I'm quite sure it was exactly 6,000 or 64 or \$6200.
24 It was approximately \$6,000.

25 MR. POVICH: Could I have this marked as Defendant's

000708

1 Exhibit 36?

2 THE CLERK: Defendant's 36 marked for identification.

3 (Defendant Exhibit No. 36 was
4 marked for identification.)

5 THE WITNESS: I believe it was approximately six.
6 I'm not exactly sure of the amount.

7 BY MR. POVICH:

8 Q I just show you a page. Can you identify that?
9 Do you know what that is?

10 THE COURT: Does that have a marking?

11 MR. POVICH: Yes, Your Honor. It is Exhibit No. 36.

12 THE WITNESS: It's the check register used by the
13 House of Diggs. I see an amount, George Johnson & Company on
14 September 23rd of '74 for \$6,216.93.

15 BY MR. POVICH:

16 Q Right. And that was during the period of time that
17 you were working for the congressman?

18 A Yes.

19 MR. POVICH: I have no further questions.

20 THE COURT: Anything else?

21 MR. MARCY: Just one or two questions.

22 FURTHER REDIRECT EXAMINATION

23 BY MR. MARCY:

24 Q Did that payment have anything to do with the loan?
25 Are you aware of that?

000709

1 A I remember there was a loan made by City National
2 Bank and I believe immediately --

3 THE COURT: A loan to him, sir?

4 THE WITNESS: A loan to the House of Diggs, I'm sorry,
5 and immediately after that I received a check. That one I'm
6 quite sure that's what it is, but it stands out -- at least
7 I remember that amount.

8 BY MR. MARCY:

9 Q Do you know where the money came from?

10 A The money came from City National Bank at least as
11 far as the loan. It was immediately after a loan had been
12 received.

13 Q Did that totally wipe out the House of Diggs'
14 indebtedness to you?

15 A I really don't know. It should -- I really can't
16 say. I really don't know. I really don't know.

17 Q Did you continue to perform accounting services for
18 the House of Diggs and Congressman Diggs after that time?

19 A Yes, I did.

20 MR. MARCY: I have no further questions.

21 MR. POVICH: Nothing, Your Honor.

22 THE COURT: May the witness be excused?

23 MR. MARCY: Yes, Your Honor.

24 THE COURT: You may be excused. Thank you.

25 (Witness excused.)

000710

1 MR. KOTELLY: May we approach the bench, Your Honor?

2 THE COURT: Yes.

3 (At the bench:)

4 MR. KOTELLY: Your Honor, I'm afraid we did not do
5 as good a scheduling job today as we thought we had. I had
6 expected these witnesses to take us much longer. We have no
7 further witnesses today. We have three more witnesses to put
8 on Tuesday morning. They are not going to be very lengthy
9 witnesses. We should have it wrapped up in two hours for the
10 three witnesses.

11 At this time we would ask though that Your Honor,
12 if we could have published to the jury Exhibits 52, A through
13 D, which are the ads from the Michigan Chronicle which are in
14 evidence at this time.

15 THE COURT: My practice is not to give exhibits to
16 the jury during the case.

17 MR. KOTELLY: Then I withdraw the request. I didn't
18 know your practice.

19 THE COURT: But we have nothing further to do until
20 5:00 since you have no witnesses. How long do you anticipate
21 this will take?

22 MR. KOTELLY: Publishing these to the jury? Just a
23 few minutes for them to pass it among themselves for them to
24 look at it, Your Honor.

25 THE COURT: They are in evidence?

000711

1 MR. KOTELLY: Yes, they are, Your Honor.

2 THE COURT: Might as well spend a few minutes doing
3 that.

4 (In open Court:)

5 MR. KOTELLY: Your Honor, may I just pass them to
6 the jury?

7 THE COURT: Yes. This exhibit is in evidence,
8 ladies and gentlemen. Since we don't have any more witnesses
9 this afternoon you may look at the exhibits briefly.

10 Counsel come to the bench, please.

11 (At the bench:)

12 THE COURT: On this character evidence you gentlemen
13 have your memorandum?

14 MR. POVICH: It's not quite finished, Your Honor.
15 We thought we would maybe give it to you Monday. I won't
16 be here but the other people will be.

17 THE COURT: Well do that. I have the Government's
18 memorandum.

19 MR. POVICH: All right. That will help us.

20 THE COURT: All right. Now, I intend to tell the
21 jury we are not going to meet on Monday because of a religious
22 holiday. We will meet on Tuesday. All right.

23 (In open Court:)

24 THE COURT: Ladies and gentlemen, we will next meet
25 on Tuesday morning at 9:30. Monday is a religious holiday.

000712

1 For that reason we won't be here Monday.

2 Remember what I previously told you. Don't discuss
3 the case among yourselves. Don't let anybody talk to you
4 about it and don't talk to anybody about it. So until
5 Tuesday we will see you later.

6 (The jury left the courtroom.)

7 MR. POVICH: Your Honor, I would like to perhaps
8 say a little bit more about the matter I discussed this
9 morning with you because of the importance of it and to make
10 sure --

11 THE COURT: You may come to the bench.

12 (At the bench:)

13 MR. POVICH: I would like the record to be as
14 complete as it can be as far as the information I have as of
15 this time and so that I can advise the Court I am not asking
16 you to -- I know you have ruled but since we do have a little
17 time I would like to make this for the record.

18 In connection with the presentation of character
19 evidence in this case and the preparation of witnesses who
20 would be prepared to testify in this case, Your Honor, we
21 did not expect an offer of the former President of the United
22 States to appear on behalf of Mr. Diggs, the defendant.

23 THE COURT: You don't mean he just volunteered out
24 of the air. You mean you requested him to appear and he
25 agreed to do so?

000713

1 MR. POVICH: I didn't ask him to appear here, Your
2 Honor. I learned just yesterday evening after we returned
3 to the Court that he had indicated a desire that -- or
4 willingness to appear and he would like to appear. I also was
5 told, however, that because of commitments which he had which
6 had been set a long, long time in advance, and my understanding
7 from someone in our office who has worked with him, that these
8 commitments are set up long in advance because of the Secret
9 Service and other problems and that it would simply be
10 impossible for him to be in Washington. He was going to be
11 on the West Coast and he would be very happy to help if it
12 could be done either by way of letter or deposition.

13 We immediately advised the person that, of course,
14 a letter would never be sufficient and there had to be an
15 opportunity for cross-examination and the appearance of
16 counsel and that we would request since we had a day off
17 Monday perhaps the Court would permit us to take his deposition
18 on Monday since that was the one day that he indicated --
19 I'm sorry -- Monday or Wednesday was the one day in the
20 morning at 9:30 that he felt that he could be deposed on the
21 matter consistent with his schedule already set up sometime in
22 advance.

23 I indicated to him that I did not think that the
24 testimony would take long but the person I was talking to was
25 not the President but that it would require that both counsel

000714

1 be present and, of course, the defendant be present if he
2 so chose to be and that I would request the Court allow us to
3 take his deposition on the West Coast on Monday since that
4 was the day that would not interfere with the trial date.

5 I did not consider, Your Honor, asking you to
6 continue the trial on a day in which you were prepared to sit
7 but since Monday was an off-day anyway because of the Jewish
8 holiday I thought that that timing was very good.

9 When I came in this morning I, of course, advised
10 Your Honor properly of this offer. I have participated in
11 many cases, civil cases and criminal cases. I have never
12 taken the deposition of Mr. Ford in a criminal case. I have
13 taken it at a civil trial and, you know, sometimes you go up
14 and can take them when people can appear for lots of reasons.
15 The reasons are almost just a matter of convenience. Here,
16 of course, we have a different situation. We have a witness
17 we feel has something to contribute, albeit character evidence,
18 but nevertheless something to contribute because of his
19 own personality, his own character, his own position in our
20 community. We think it is very much an issue in this case.
21 It has nothing to do with specific acts or anything such as
22 that. It would just be straight character evidence.

23 There is no question in this case, Your Honor, this
24 individual knows this man and it is not a cameo appearance.
25 They are from the same state. They have known each other their

000715

1 entire political life. The man is a man who can testify,
2 who has an opinion with a basis for that opinion and good
3 basis and a long association and I would ask Your Honor to
4 consider this again. I ask the Government to consider it
5 again in allowing us to go and have his deposition taken on
6 Monday, which is a day this Court is not sitting.

7 Now, I know that Mr. Kotelly, we are interrupting
8 his case, but in essence, Your Honor, Tuesday is the last
9 day of his case. He only has two witnesses left, Mr. Clarence
10 Robinson and Randall Robinson and that is the end of his case.

11 MR. KOTELLY: And one more witness.

12 MR. POVICH: The inconvenience is more to us and
13 we are just beginning our case and we would very much love to
14 have that day in Washington, but the witness is sufficiently
15 important to us that we would forego that in order to have
16 his testimony presented to the jury here.

17 Under those circumstances, Your Honor, I would ask
18 for the Government to reconsider its objection and if it
19 persists in its objection for the Court to reconsider its
20 decision.

21 THE COURT: What you might do in the light of your
22 representations, you are not expecting to ask the witness
23 about specific incidents but just write out what you expect
24 the testimony to be.

25 MR. POVICH: When I say "specific instances" I just

000716

1 expect a straight character testimony. "I have known him. I
2 have known him from the following associations with him."

3 THE COURT: Well following associations with him,
4 I thought you were going to say that your testimony would
5 be in line with the form previously used. "I know him. I know
6 other people in the community who know him and his reputation
7 among those people is such and such." If that's what you
8 expect the Government might have one response. If you wish
9 to go into specific instances then I think you have a horse
10 of another color and I have had enough. I haven't had very
11 much time to look at the authorities which my clerks are
12 working right now after having received the Government's
13 memo and I think that this is the kind of testimony if you are
14 going beyond the mere bare bones type of approach we used
15 to have, if you are going beyond that I think you ought to
16 be in the presence of the Court who can rule upon objections.

17 MR. POVICH: Your Honor, I'm not offering specific
18 incidences. I'm only offering it with respect to President
19 Ford. I'm only offering, "How long have you known him?" "I
20 have known him in the following respects." I am not going to
21 say whether he acted honestly or dishonestly in any particular
22 instance.

23 THE COURT: What do you mean "the following respects"?

24 MR. POVICH: "How long have you known him?" "I first
25 met him when we entered Congress."

000717

1 THE COURT: Why don't you write it out. Let them
2 consider it and then I will entertain that objection. They
3 may have no objection.

4 MR. POVICH: Your Honor --

5 THE COURT: I am affording you the opportunity of
6 getting a reconsideration of it. If that isn't satisfactory I
7 will rule right now.

8 MR. POVICH: I was thinking I had what he once said
9 about Mr. Diggs in an official document. It was at the
10 presentation at his swearing in as Chairman of the District
11 Committee.

12 THE COURT: I think that is different. There was
13 no indictment pending at that time.

14 MR. POVICH: I will certainly do what Your Honor
15 suggests and perhaps my problem is that today is Saturday.

16 THE COURT: I understand.

17 MR. POVICH: When would Your Honor want to have
18 something, how soon in order to allow us the time?

19 THE COURT: I expect to be home tonight. I expect
20 to go to a religious observance tomorrow known as the Red
21 Mass, although I am not a Catholic. Following that there is
22 going to be a brunch as I understand it. I am invited to that.

23 So the sooner you make up your mind on this thing
24 and can make representations to me, the sooner I can decide it.

25 MR. POVICH: Yes, sir.

000718

1 THE COURT: I suppose you want to buy an airline
2 ticket if you are going out there?

3 MR. POVICH: I can't go. I would love to go.

4 THE COURT: You couldn't go but Mr. Watkins could.

5 MR. POVICH: Mr. Watkins could go.

6 THE COURT: Nobody would be working on your case and
7 you have got to present it next week except you can't do it.
8 You have got a religious commitment.

9 MR. POVICH: That's right. Not Monday. Not Monday.

10 THE COURT: All right. The ruling stands until
11 something is submitted in writing.

12 MR. POVICH: Thank you.

13 MR. WATKINS: Thank you, Your Honor.

14 THE COURT: All right.

15 (In open Court:)

16 THE MARSHAL: Court will stand recessed until
17 Tuesday morning.

18 (Whereupon, at 4:35 p.m., the above-entitled matter
19 was recessed.)

20
21
22
23
24
25
000719

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA

4 vs.

) Criminal No. 78-142

5 CHARLES C. DIGGS, JR.,

6 Defendant.

7

8 TRANSCRIPT OF PROCEEDINGS

9 Washington, D. C.

10 October 3, 1978

11 The above-entitled matter came on for further hear-
12 ing at 9:30 o'clock, a.m., before:

13 HONORABLE OLIVER GASCH
14 UNITED STATES DISTRICT JUDGE.

15 APPEARANCES:

16 ON BEHALF OF THE GOVERNMENT:

17 JOHN KOTELLY, ESQUIRE
ERIC MARCY, ESQUIRE.

18 ON BEHALF OF THE DEFENDANT:

19 DAVID POVICH, ESQUIRE
20 ROBERT WATKINS, ESQUIRE
BERNARD CARL, ESQUIRE.

21 -oo-

22 JUDITH B. MOORE, CSR
Official Court Reporter
23 -oo-

24
25 000720

PROCEEDINGS

THE CLERK: Criminal Case 78-142, case of United States versus Charles C. Diggs.

THE COURT: Mr. Povich, I will hear you.

MR. POVICH: Thank you, Your Honor.

THE COURT: Are there witnesses in the court?

MR. POVICH: Yes.

THE COURT: They may step out.

THE CLERK: All witnesses in Criminal Case 78-142
in the case of United States versus Charles C. Diggs, please
retire to the witness room accompanied by the Deputy Marshal.

MR. POVICH: May it please the Court?

THE COURT: Yes.

MR. POVICH: We are here this morning on a matter of the admissibility of testimony from Mr. Under Secretary Newsome, who is presently the Under Secretary of State for Political Affairs.

I am not sure; he is either the No. 3 or No. 4 person in the Department of State.

Mr. Newsome during a considerable period of time was the Assistant Secretary of State for African Affairs. He came into contact with the defendant, who held the position of Chairman of the Subcommittee on Africa in the House of Representatives.

During the course of that period of time, I think

000721

1 from 1969 through 1973, when he held the position of the
2 Assistant Secretary for African Affairs, and since that time,
3 he has had contact with the defendant.

4 I would like to put him on the stand to have him
5 testify --

6 THE COURT: First, we will have the legal argument
7 as to whether that type of testimony is admissible. That's
8 what I understand we were here for.

9 MR. POVICH: Yes, sir; but I think --

10 THE COURT: That's what we will do.

11 MR. POVICH: Could I proffer what his testimony
12 would be?

13 THE COURT: No. I want to hear whether or not it's
14 proper under the circumstances of this case to have specific
15 acts adduced as part of the defense. That's the question.

16 I recognize we are confronted with a new rule. We
17 are confronted with only one case passing on this that's been
18 brought to my attention, the Benadetto case, which is quite
19 comparable insofar as the Second Circuit said, that refusal
20 to accept bribes in four other instances should not have been
21 deduced as specific act testimony.

22 MR. POVICH: I didn't know in those four instances,
23 Your Honor, that one had been offered in the Benadetto case.
24 There was no indication a bribe had even been offered.

25 It's like asking a person if he ever acted unlawfully.

000722

1 in any other instance.

2 I think that case is clearly distinguishable and
3 doesn't even reach the case we have here.

4 THE COURT: This bribe wasn't accepted.

5 MR. POVICH: It was offered, Your Honor. It was
6 an instance in which this individual was offered an opportu-
7 nity to profit handsomely from the performance of his duty
8 as a congressman profits handsomely.

9 There is no indication in that case that anyone
10 was ever offered a bribe that anyone gave him a chance to
11 act improperly.

12 Of course, the Court of Appeals is going to come
13 in and say' he never acted improperly; perhaps he never had
14 a chance to do otherwise. We have a very different situation
15 here.

16 I'll address that, Your Honor, at this point if
17 you wish. I know that concerns you. I read the case but
18 it immediately was the first thing that struck me. It would
19 be like saying in your dealings with this person over the
20 last ten years, have you ever saw him commit an unlawful act,
21 and the answer was no.

22 I would agree with Your Honor and the Court of
23 Appeals and anybody else who ruled on that, that that would
24 have been an improper question. We don't have that situa-
25 tion here.

000723

1 The question that this person would respond to
2 would be the following questions, "Do you have an opinion
3 of his honesty and integrity of the defendant and whether
4 he is a truthful person." Answer is yes.

5 "On what observations and contact with the defendant
6 do you base your opinion?" The answer would be the following,
7 which I have already outlined.

8 The answer would be, "I had contact with him during
9 that period of time and on an occasion, which I consider to
10 be relevant to this matter, he called me to his office and
11 he advised me that he had been offered a bribe by an African
12 head of state. He showed me the letter from the African
13 head of state. He told me that he was very concerned with
14 it. He wanted me to know about it immediately. He wanted
15 me to handle it in my official capacity as the Under Secre-
16 tary of State for African Affairs.

17 "He wanted me to make a memorandum of it. He wanted
18 to reject that offer. He did not feel that a reply was
19 necessary and wanted my advice on that matter.

20 "I told him that I agreed with him that the reply
21 was not necessary. I told him that we would handle the
22 matter, that I would make a memorandum of it, and it would
23 be kept in the file.

24 "He wanted assurance that the matter would be
25 retained in the files so that if there was ever a question

000724

1 about it that the State Department would be able, or he would
2 be able to corroborate what had happened."

3 He followed the advice, the letter was turned over,
4 a memorandum was made, Your Honor.

5 Mr. Under Secretary Newsome's recollection is that
6 the matter came, it was an annual retainer or offer to assist
7 the head of this African state with respect to matters of
8 Congress, that the retainant was in the amount of five figures
9 and on an annual basis, Your Honor.

10 That is the recollection, precise recollection of
11 the defendant as well. We have in this case no question of
12 the fact that this event took place, which is one of the prob-
13 lems Courts get into, and I can understand where you have
14 some question you would have to chase it down and go into
15 a mini-trial. That fact isn't present here.

16 It is clear that it happened. It's clear that it's
17 probative. It's clear that it's relevant.

18 It's performance of his duties as a congressman.
19 This is an attempt to prove it from those activities which
20 the Government in this case says is precisely what this
21 gentleman does.

22 It's an instance in which this man was offered
23 supplement at a time when he was under financial duress. He
24 rejected it, handled it in a commendable manner, notified
25 the appropriate authorities and the appropriate authorities

000725

1 took the appropriate action.

2 We are dealing with two people, Your Honor, who
3 are at the highest level of our Government. We have the lead-
4 ing authority on African affairs in the Congress. We have
5 what is now perhaps the third man from the Secretary of State.

6 I think this evidence is so probative, it's so
7 helpful to the jury in deciding whether or not this person
8 did what he did as a matter of a crime or whether it was per-
9 haps done for some other purpose. It's so indicative, Your
10 Honor, of whether or not he is a criminal, whether or not
11 he has a criminal mind, a criminal intent in addition to his
12 character. It goes to the very things that we put character
13 in evidence about.

14 I can't imagine anything more probative. It's incon-
15 ceivable to me.

16 THE COURT: Very well. I know you feel very
17 strongly about it. But at the same time, the Court is called
18 upon to make an objective and fair decision on this matter.

19 MR. POVICH: I'm not asking Your Honor --

20 THE COURT: Now, there are certain distinctions,
21 it seems to me, between an American citizen like the Congress-
22 man refusing to sell his country out for a bribe by a foreign
23 nation. You have got the question of patriotism there. You
24 don't have that in the issue before this jury.

25 MR. POVICH: It's a question, Your Honor -- it

000726

1 depends on how you put the question.

2 If the Government wants to distinguish that matter,
3 they have the right to do so.

4 If they want to say he turned it down because he
5 was a patriot, that's fine.

6 I, Your Honor, think it is just as probative of the
7 fact he does not seek to profit from his position as a United
8 States Congressman, and that's what this case is about. He
9 does not seek to profit from that position.

10 That to me, if you want to narrow it and say he
11 didn't do it because he was a patriot, he didn't do it because
12 it had some treasonous aspects of it which the Government now
13 tries to distinguish it on. Let the Government argue that
14 to the jury.

15 I suggest, Your Honor, that it's perhaps one of
16 the best indications of what this man is made of and whether
17 he sought to profit.

18 THE COURT: And this is 1972, isn't it?

19 MR. POVICH: Yes, it is, '72 or '73. We are not
20 certain, Your Honor.

21 THE COURT: You don't have any evidence of this
22 thing besides what these two men are prepared to testify;
23 is that right? You have lost the letter, you have lost the
24 correspondence?

25 MR. POVICH: I haven't lost anything, Your Honor.

000727

1 The State Department --

2 THE COURT: I'm talking about the evidence is not
3 available; let's put it that way.

4 MR. POVICH: As a result of the way it was handled
5 by the United States Government, Your Honor, by the very
6 Government that is prosecuting this case, has nothing to do
7 with the defendant.

8 The defendant took every step he could to make sure
9 this matter was handled appropriately. The testimony would
10 so indicate that. We have people here from the State Depart-
11 ment. There is no question in Mr. Newsome's mind that the
12 matter occurred and that, Your Honor, is just is precisely
13 part of the problem.

14 If this were debated, if this were a question
15 which were in issue, did this or did this not happen, I would
16 say, all right, Your Honor doesn't want to hold a mini-trial,
17 but I can't believe that the United States Attorney in this
18 case is going to doubt Mr. Newsome's word when he says this
19 is what happened. The fact of the matter is not in issue.

20 THE COURT: Well, I will hear from the Government.

21 MR. KOTELLY: May it please the Court, regarding
22 the factual matters that Mr. Povich has proffered, the Govern-
23 ment has, is willing to accept Ambassador Newsome's word that
24 Mr. Diggs contacted him and advised him as to this letter
25 that purportedly was a form of a bribe.

000728

1 However, Ambassador Newsome is unable to testify
2 as to what Mr. Diggs did after that time. Ambassador Newsome
3 can only testify as to what he himself knows of the initial
4 information.

5 Now, what Mr. Diggs did afterwards, the Government
6 has no way of knowing. Apparently, only Mr. Diggs knows and
7 maybe the head of the African Government who correspondenced
8 with Mr. Diggs.

9 We are not willing to concede that there were no
10 further contacts between Mr. Diggs and the head of state
11 because we don't know. So that in terms of no factual dis-
12 putes, we would submit that there is a factual dispute.

13 The claim is that on one occasion Mr. Diggs advised
14 the State Department of this approach. That is all that the
15 Ambassador Newsome's testimony goes to, nothing further.

16 It does not show that in fact Mr. Diggs did not
17 later change his mind, have other contacts or was just never
18 contacted again by the head of the foreign state. So, we
19 submit that the evidence itself is not that clearcut as Mr.
20 Povich would indicate.

21 An example that I can think of immediately that
22 comes to mind of this type of a situation was in the Donald
23 Robinson case. When Mr. Robinson was first approached by
24 what he thought were members of the Mafia, he reported it
25 to Earl Silbert and other members of the United States

000729

1 Attorney's office. They took no action at that time.

2 Later, of course, Mr. Robinson did have further
3 contacts with the people that he thought were Mafia members.
4 Now, obviously, if these people were not police officers,
5 Mr. Silbert would never have known about the later contacts
6 between Mr. Robinson and these individuals and I think that's
7 a good example of human nature!.

8 They may take a position at one time and change
9 their mind at a later time. That's the reason why this evi-
10 dence of prior behavior is really a quicksand because human
11 behavior is not that consistent that people can say that at
12 one moment because this man did an honest act, that that would
13 rule the rest of his life.

14 Human nature varies and an individual will at one
15 time have the strength to resist temptation and another time
16 he would not have that type of resistance.

17 The Federal Rules clearly set out that there is
18 certain type of character evidence that is admissible in order
19 for the jury to determine as to whether this man's prior
20 character circumstantially would reflect on whether or not
21 he did the alleged acts in the indictment.

22 The Rules specifically call for either representation
23 or opinion testimony as to general character. It specifically
24 precludes testimony of specific acts of prior conduct.

25 The only exception that is gone into is Rule 405(b)

000730

1 which talks about specific acts being admissible in the case
2 in which the character or a trait of character of a person
3 is an essential element of the charge claim or defense.

4 If in reading the advisory opinions as to what this
5 relates to, it is clearly a very minority type of situation
6 in which such evidence can come in where character itself
7 is in issue.

8 We would submit that character is not an issue in
9 this case. Honesty, integrity, truthfulness are not elements
10 of the offense, nor are they elements of the defense. The
11 type of situation they are talking --

12 THE COURT: That's where I have problems with the
13 position you are taking. Obviously, this is a specific intent
14 crime, and bad character is one of the hallmarks of specific
15 intent. And I think that we are in a fairly foggy area here
16 and I have got to be objective about my decision.

17 So tell me why it isn't part of the defense to show
18 that the defendant is not of good character.

19 MR. KOTELLY: Your Honor, first, specific intent
20 is usually an element in almost every offense.

21 THE COURT: Well, it is in this offense.

22 MR. KOTELLY: This offense, as well as all other
23 major felonies.

24 THE COURT: It is in bribery.

25 MR. KOTELLY: That's true, but specific intent is

000731

1 frequently an element and bad character in that case would
2 always be relevant to any case in which specific intent or
3 specific intent to defraud are elements of the case.

4 So that if the Court were to adopt a rule that
5 prior good acts could be introduced as part of the defense
6 that the defendant did not act in bad faith, then this type
7 of evidence would come in in every single case.

8 But, to be more specific in this instance, Your
9 Honor, we think that the advisory committee notes on 405(b)
10 are very clear as to what was intended.

11 I'm reading from the second paragraph of the advisory
12 committee notes:

13 "Of the three methods of proving character provided
14 by the rule, evidence of specific instances of conduct is
15 the most convincing. At the same time it possesses the greatest
16 capacity to arouse prejudice, to confuse, to surprise and to
17 consume time."

18 Subsequently, the Rule confines the use of evidence
19 of this kind to cases in which character is in the strict
20 sense in issue and hence deserving of a searching inquiry.

21 When character is used circumstantially and hence
22 occupies a lesser status in the case, proof may be only by
23 reputation and opinion.

24 Now, we have set forth examples, Your Honor, as
25 to when the character or character trait is a specific issue,

000732

1 in which reputation such as chastity or incompetence is a
2 specific issue in the case.

3 But here, you know, honesty and integrity are not
4 specific issues. It is merely the evidence of reputation
5 which circumstantially the jury could find that the individual
6 acted in conformance with his usual reputation at the time
7 of the alleged offense, if they believe the character testi-
8 mony and give it weight and credence.

9 We would submit that that is the reason the Rules
10 have set out that it is intended that reputation and opinion
11 be in general nature, that it's not to be specific instances.
12 Otherwise, the case, you know, a whole man's life could be
13 paraded in front of a jury as proof that this man did not
14 commit the offense charged.

15 We would submit that the people who made up these
16 rules could never have intended such a result, that 405(b)
17 is a very, very narrow, very, very limited circumstance in
18 which specific acts can be introduced.

19 THE COURT: Now, in what type of situation do you
20 believe the Rules is intended to apply?

21 MR. KOTELLY: 405(a), of course, the Rule.

22 THE COURT: I understand 405(a).

23 MR. KOTELLY: 405(b) is the example we gave in our
24 memo, was when chastity is in issue, or when there is incompe-
25 tence in issue.

000733

1 Your Honor, I can only believe that the Rule was
2 intended to include some common law-type offenses that may
3 appear in Federal Court in civil matters or because there
4 really are no federal crimes in which I can remember that
5 character or a character trait is in issue, either in the
6 defense or of the offense itself.

7 There are no cases that have cited 405(b) in terms
8 of relying on it as an element of either the offense or the
9 defense. I would submit from reading the advisory opinion
10 that it was intended that very, very narrow, as they refer,
11 very strict sense.

12 And we would submit that the issue here is not the
13 question of, you know, is Charles Diggs an honest man, a man
14 of integrity, a man of truthfulness as part of the offense
15 itself.

16 The question is here, did he submit payroll vouchers
17 or payroll authorization forms which had misleading and false
18 information which caused the use of the mails, and which
19 defrauded the United States both as to the authorization
20 forms that were submitted, as well as to the scheme that he
21 devised.

22 We would submit that honesty and integrity,
23 although it may be relevant as to opinion testimony and reputa-
24 tional testimony, it is not the specific conduct of prior
25 acts which are relevant to the issues in this case.

000734

1 As I stated before, this man could bring in his
2 whole history, step by step, every single good act that he
3 did, every honest act that he did. Did the fact he may have
4 filed his income taxes and they were audited and found they
5 would not be fined would be relevant information that he
6 wasn't dishonest at that time?

7 I could go on and on for examples, Your Honor, but
8 it was clearly not the intent of the Federal Rules to open
9 up a criminal trial to a life history of the defendant.

10 THE COURT: But it is part of the defense that he
11 is a person of good character.

12 MR. KOTELLY: And the character testimony should
13 be the way Michaelson allowed it except the way it's extended
14 by the Federal Rules for opinion, Your Honor, but nowhere
15 has character testimony been allowed for specific proof of
16 good conduct or lawful conduct in the past.

17 THE COURT: Of course, we are on a new rule. We
18 only have such cases as Benadetto that go into that.

19 MR. KOTELLY: Also, we have the advisory notes of
20 the committee to reflect as to what they were thinking of
21 at the time that they propounded this new rule, Your Honor,
22 and nowhere do they say that this is suppose to be, you know,
23 a preferred way to go.

24 The Rule, the note that I just read to Your Honor
25 indicated that it was intended to be, you know, in a very

000735

1 limited and strict sense that this would be applied, not
2 as just an opening up the flood gates to allow all sorts of
3 testimony about prior good acts to come into evidence.

4 I would submit to the Court that if 405(b) was
5 intended to make such a sweeping change in the law of evidence
6 that this advisory note would have been far more clear as
7 to that, was their intent--but their intent is, you know,
8 it's spelled out that it wasn't intended as that.

9 Consequently, Rule 405(b) confines the use of evi-
10 dence of this kind -- specific acts -- to cases in which
11 character is in the strict sense in issue and hence
12 deserving of a searching inquiry.

13 We would submit that this is not such a case at
14 all, that Mr. Povich has twisted the concept of the defense.
15 to prove that this man because he may have done a lawful act
16 in the past, somehow reflects directly on his conduct and
17 the issues in this trial.

18 We would submit that they can only show that circum-
19 stantly by opinion and reputation testimony and nothing
20 further.

21 THE COURT: The standard instruction on character,
22 as I recall it, is to the effect that a person of good charac-
23 ter, good moral character would be unlikely to do the type
24 of act that he is charged with doing. And that that alone
25 may create reasonable doubt in the mind of the jury.

000736

1 Without it, the jury might be convinced that he
2 was guilty, but with it they might have a reasonable doubt.

3 Now, that was the instruction we use to give even
4 prior to the change in the rules.

5 MR. KOTELLY: Yes, that's from Michaelson.

6 THE COURT: This seems to open up something differ-
7 ent.

8 MR. KOTELLY: It certainly does, Your Honor. No
9 longer are we talking about circumstantial evidence of reputa-
10 tion.

11 THE COURT: Yes. It's reputation and opinion.

12 MR. KOTELLY: And opinion. But the question --

13 THE COURT: I have no doubt that the Ambassador
14 could give testimony as to his opinions. It's a question
15 of whether the defense should be permitted to offer testimony
16 as the basis for that opinion.

17 MR. KOTELLY: That's a slightly different issue
18 as we view it, Your Honor, rather than 405(b) exception.

19 If I might address that other matter?

20 THE COURT: Yes, yes.

21 MR. KOTELLY: Your Honor, again in our second memor-
22 andum, which we supplied to the Court yesterday, we argued
23 that it was the intent of the Federal Rules not to allow
24 character witnesses to go into specific details as to what
25 they base their opinion on.

000737

On Page 2 of our memorandum, we quote from Judge Weinstein, who was one of the promulgators of the Federal Rules where he is quoted as saying:

"There was some fear expressed on the part of government attorneys that opinion witnesses would be permitted on direct to testify to specific incidents supporting their opinion. This was not the intent of the draftsman who expected the witness to be asked only in general terms to describe the nature of the familiarity as a basis for the opinion."

Accordingly, a paragraph was added at the end of the advisory committee note to make that clear. The advisory opinion note which Judge Weinstein refers to states as follows:

"Opinion testimony on direct in these situations ought in general to correspond to reputation testimony as now given, i.e., be confined to the nature and extent of the observation and acquaintance upon which the opinion is based."

Again, Your Honor, I would submit that it's clear from the advisory notes that the advisory group did not intend to open up reputation and opinion testimony as being the way to introduce the whole history of the defendant as far as all of his good acts on prior occasions.

They intended merely that the witness who was

000738

1 testifying as to opinion or reputation in the community be
2 confined to just generally stating the time period he knew
3 the individual, the general types of contacts he would have
4 with him, then state that opinion or state the reputation,
5 but it was not intended to be a new way for the defense to
6 bring in a lot of miscellaneous matters as far as specific
7 conduct which would then require the Government to respond
8 and try and refute and rebut all of their specific instances
9 that they bring forth.

10 We would submit that it's clear that the Federal
11 Rules were not intended to broaden the law in that regard.
12 and that a reading of the advisory notes spell it out.

13 In the paragraph I just indicated, that the
14 advisory committee was not intending to just open up this
15 whole field, that they were expecting that the law that
16 had been following Michaelson would be continued to be
17 followed even though they have expanded the law to allow
18 personal opinion testimony rather than reputation in the
19 community.

20 The Federal Rules as far as character made only
21 really that one significant change and the advisory opinion
22 goes quite far to make clear that is the one area they were
23 concerned with changing, allowing a person to give his
24 personal opinion of reputation rather than going through
25 the convoluted form of community reputation, but in no

000739

1 other way were they trying to change the law of character
2 testimony.

3 Character evidence properly introduced can still
4 be circumstantial evidence that the jury can consider and
5 they can acquit based on character testimony. But that
6 character testimony has to be general testimony and not as
7 to specific instances.

8 The third issue that the defense has raised is
9 that the specific acts are evidence that relate to intent
10 and motive and, Your Honor, we cite the Drew case, which
11 is the case that's recognized in this jurisdiction when such
12 evidence can be introduced, when they can show a close link
13 between the prior activities and the present activities.

14 If it is a continuing transaction or if it is a
15 significant type incident, that would bring forth either
16 identity or have some reflection on motive or intent. We
17 would submit that as to whether or not Mr. Diggs received
18 a bribe offer and refused it sometime in 1972, has absolutely
19 nothing to do with the issue as to whether he inflated his
20 employees' salaries in '73, '4, '5 and '6, for the purposes
21 of their kicking back money for his personal expenses and
22 his business expenses.

23 The two types of incidents are totally divorced
24 from one another. There are numerous aspects that are
25 different. As far as dealing with a foreign head of state

000740

1 versus dealing with employees who are close and loyal to
2 you, who you can trust, the type of offense is totally
3 different, the time periods are totally different.

4 We would submit that if the Government had tried
5 to introduce evidence of a bribe, let's say a year before
6 the time of this kickback scheme as proof somehow of motive
7 and intent in the case that the Court clearly would not
8 have allowed us to do so.

9 The crimes are not similar under Drew and clearly
10 would not be permitted to have any evidentiary value as to
11 proof of motive or intent and we would submit if the
12 Government is precluded from introducing such evidence,
13 the defendant should also be precluded from introducing
14 their evidence. It is not close enough of a link to say
15 it has direct bearing on those issues and we would submit
16 that the only value that the prior activities could have
17 is general reputation, which circumstantially, the jury
18 can find that he acted in accordance with his general reputa-
19 tion.

20 But not proof of the prior behavior as a direct
21 proof that this man had not the intent nor the motive to
22 commit this crime.

23 Mr. Povich in his memorandum, misstates, I would
24 submit, the Government's evidence as to the motives in this
25 case. The Government has not tried to elicit testimony that

000741

1 Mr. Diggs was impoverished and, therefore, that was his
2 reasons for causing the inflated salaries for kickbacks,
3 for expenses and for personal expenses and business expenses.

4 Miss Stultz, who testified, indicated clearly she
5 did not know what the financial condition of the Congressman
6 was. She knew that there were creditors calling.

7 She knew that the Congressman would tell her which
8 ones to pay and which ones not to pay, but she had no knowl-
9 ledge as to his outside sources of income or what he did with
10 his money.

11 All she knew about were those people who were in
12 contact with her. Now, we would submit that this was not
13 evidence of motive as to why he would inflate the salaries
14 of his employees.

15 Frankly, Your Honor, the Government is at a loss
16 to understand why he did it, but we would submit that for
17 the defense to now raise the spectre that the Government
18 has tried to introduce evidence of motive and, therefore,
19 they are entitled to rebut it, is creating a strawman in
20 this case.

21 The Government's evidence merely is that he did
22 the act which we have charged and as far as his motivations
23 it is, you know, open really to speculation.

24 He maybe could have been a voluntary deadbeat if
25 he wanted to, if he just wanted to hoard his money away and

000742

1 decided that's the way he was going to handle his financial
2 affairs, just ignore his creditors and keep his money for
3 himself, it wouldn't reflect at all as to his motives as
4 to why he would inflate his employees' salaries to pay the
5 expenses.

6 We have no evidence in this case that this man
7 was financially destitute merely that he had creditors;
8 some were being paid and some weren't being paid.

9 So, we would submit under any theory of the defense
10 that the testimony regarding the specific act that happened
11 a year before the alleged incident is not admissible as
12 direct evidence of prior behavior and can only come in as
13 part of general reputation testimony for the various charac-
14 ter traits and only as a general and not as to the specific
15 instances upon which it is based.

16 THE COURT: All right.

17 Now, Mr. Povich, I read Benadetto somewhat differ-
18 ently than you do. You say there was no evidence that there
19 were four bribe offers.

20 Now, let me read to you what Judge Fineberg wrote.

21 MR. POVICH: Yes, sir.

22 THE COURT: Benadetto's counsel had made clear
23 he intended to call as witnesses employees of meat packing
24 companies not referred to in the indictment. This evidence
-1 was to show that Benadetto had not solicited or attempted

000743

1 or accepted any money and, therefore was a person of good
2 character, not likely to have taken bribes.

3 Defense counsel later lived up to his word and
4 did present such testimony from four witnesses who were
5 employed by four other meat processing companies.

6 Now, had you read that?

7 MR. POVICH: Yes, sir.

8 THE COURT: And you still think there was no offer
9 of bribes from four other meat packing concerns?

10 MR. POVICH: I read that, Your Honor, as saying
11 he didn't solicit any, and none was offered to him.

12 I'm sorry, Your Honor, that's the way I read it.

13 THE COURT: I don't have your ability to exclude
14 things perfectly plain to me from the reading of Judge
15 Fineberg's opinion.

16 MR. POVICH: I'm sorry, Your Honor, that's the
17 way -- I didn't see anything there that was at all comparable
18 to the situation here.

19 The man, as I understand that, he had not solicited.

20 THE COURT: It was on all fours with what he was
21 charged with in the indictment. You don't have any issue
22 of conflict of interest so far as nations are concerned.
23 It was another or four other meat packing concerns offering
24 bribes, and testimony presented to that effect and turned
25 down and, therefore, evidence of good character.

000744

1 character involved in the crime. They didn't have to set
2 out 405(b) in order to allow that kind of testimony. That
3 had long been permitted, Your Honor. It didn't take any-
4 thing as dramatic as 405(b) for the permission to use opinion
5 testimony of the individual, as opposed to reputation, in
6 order to allow that kind of testimony.

7 Indeed, the cases have recited my recollection
8 is went back prior to the adoption of the Rule. So that
9 there was already a recognized exception within the common
10 law on this issue that would allow that type of testimony.

11 It didn't need anything as dramatic as 405(b) to
12 permit that. I don't think it had ever been denied; it had
13 always been permitted.

14 The Government's argument, Your Honor, from the
15 text writers is that the Court does not wish to allow this
16 type of testimony because there are certain counterbalancing
17 factors which are involved.

18 The factors as Mr. Kotelly says are prejudice,
19 surprise, consumption of time. He adds a fourth, not parading
20 a man's life.

21 Let me deal with the first three. There is no
22 prejudice here. There is no surprise here. There is no
23 consumption of the time.

24 We have an isolated instance with an isolated wit-
25 ness. I am not seeking to parade this man's life in front

000745

1 That was the defense theory of that case.

2 MR. POVICH: Your Honor, I don't think, as I read
3 that opinion, there was never any evidence offered or
4 proffered that this individual was offered a bribe by the
5 four meat packing companies, simply that he dealt with those
6 four meat packing companies; he did not solicit a bribe
7 from them and was not offered it.

8 I'm sorry I read it differently than Your Honor.
9 I could be mistaken, but that's the way I read it. I gave
10 Your Honor my best recollection of it.

11 I have a portion of the opinion. I don't have
12 the whole opinion.

13 Your Honor, may I just address briefly a couple
14 of things and answer a question which you directed to Mr.
15 Kotelly?

16 THE COURT: Certainly.

17 MR. POVICH: You asked him, I thought rather
18 pointedly, what examples he thought there would be of the
19 situation under 405(b) as it now reads.

20 He said he gave you two examples of what might
21 be included as a situation which would be encompassed by
22 that rule. He gave you the situation of the chastity of
23 a woman and I believe the second was incompetence.

24 Your Honor, those have been long standing exceptions,
25 though the situation with respect to reputation and

000746

1 of the Court with respect to this witness.

2 I'm asking him about an isolated instance during
3 a very relevant period of time in a professional association
4 with this man, when they were dealing as between representa-
5 tives of the Government and in the Congress and representa-
6 tive of the Government, the highest levels, in the Department
7 of State.

8 All of these countervailing factors could be used
9 as a hypothetical suggestion which might prompt a text
10 writer to say, be careful, Your Honor, before you allow this,
11 because it may lead to further problems which aren't
12 present in this case. They are just not present.

13 And so I suggest to you that although the Court
14 should admit it with caution and carefully and under restric-
15 tions, that nevertheless in this instance, it is probative,
16 probative, Your Honor, of several issues in the case as Your
17 Honor has indicated, I can't think of anything more than
18 the character traits of honesty and integrity and truthful-
19 ness here -- very, very probative.

20 It makes sense. The jury will understand it. They
21 won't be confused. Your Honor can put in whatever limiting
22 instruction the Government asks with respect to how this
23 testimony is to be used.

24 I ask for such a limited instruction if you feel
25 that there is going to be any confusion on the jury as to

000747

1 how it is to be received.

2 The Government can offer such a suggestion, but
3 it's very, very probative of what I think to be the critical
4 issues in this case.

5 THE COURT: There is a word usage had in connection
6 with this. The word "circumstantial."

7 MR. POVICH: Yes, sir.

8 THE COURT: It seems to me at best this is circum-
9 stantial.

10 MR. POVICH: Well, Your Honor --

11 THE COURT: If it's circumstantial, it should not
12 be admitted.

13 MR. POVICH: A jury has to decide in this case
14 an issue, an element of the offense which I don't believe
15 there has ever been direct evidence of, in few, if any,
16 cases, Your Honor, in few if any cases.

17 All of this evidence is circumstantial evidence,
18 Your Honor. We don't have a smoking gun in this case. We
19 don't have that type of evidence. It's all circumstantial.
20 They have to make a evaluation.

21 I suggest, Your Honor, that we give them the best
22 most probative evidence under the clearest instructions and
23 let them make that evaluation.

24 I don't think that because it's circumstantial
25 that it prohibits it. In fact, I think Your Honor will recall

000748

1 They use to give the instruction I guess they do
2 on circumstantial evidence and Your Honor knows that instruc-
3 tion says that although the evidence may be circumstantial,
4 it may nevertheless be very probative and very helpful and
5 the deciding factor.

6 Many cases are made on nothing but circumstantial
7 evidence, so I don't think that that prohibits it, Your Honor,
8 or indeed limits it.

9 This is a hard case for the jury to decide; I would
10 hope it's a hard case for them to decide, and I think this
11 is a factor which would help them to do so, and I think it's
12 relevant and it's rational and I would like to see them have
13 that.

14 If there is a problem, Your Honor, I think the prob-
15 lem can be handled by a matter of instruction when it is
16 received and how it is received and how it is to be considered
17 by them.

18 THE COURT: All right. Anything else, Mr. Kotelly?

19 MR. KOTELLY: Just briefly on that last matter,
20 Your Honor.

21 As far as circumstantial evidence, Courts have long
22 understood that the reputation of a person, which means his
23 conduct over a long period of time, can be circumstantial
24 evidence as to the defense and the elements of the offense,
25 but one specific incident we submit does not have that same

000749

1 weight of circumstantial connection that a long history of
2 reputation has and, therefore, one isolated incident should
3 not be admitted as circumstantial evidence that he did not
4 commit the offenses that are charged in the indictment.

5 THE COURT: All right. I will take a brief recess
6 and let you gentlemen know my opinion.

7 (Whereupon, a short recess was taken.

8 AFTER RECESS

9 9:40 a.m.

10 THE COURT: Gentlemen, this is a difficult and
11 unusual situation with which the Court is confronted.

12 I think it's almost a matter of first impression.

13 I note Moore considers the matter and reaches this
14 conclusion, that opinion testimony on direct in these
15 situations ought in general to consider the reputation. This
16 is to testimony now given. It has been confined to the nature
17 and extent of the observation and acquaintance upon which
18 the opinion is based.

19 It refers to Rule 701 of the new Federal Rules
20 which permits lay opinion testimony. I think what I will
21 do in this case is to permit the Ambassador briefly to state
22 the basis of his opinion.

23 Mr. Povich, I am not going to allow him to expatiate
24 on it, which your public relations man did.

25 MR. POVICH: That was the Government's witness,

Your Honor.

000750

1 THE COURT: That I understand, but he was also
2 Mr. Diggs' friend and associate.

3 MR. POVICH: I am sure, Your Honor, the Under
4 Secretary will be more professional.

5 THE COURT: So, you may tell the Ambassador as to
6 my ruling. We will take his testimony when the Government
7 has concluded its presentation.

8 MR. POVICH: Thank you, Your Honor.

9 THE COURT: Bring in the jury.

10 (Whereupon, at 9:42 a.m., the jury entered the
11 courtroom)

12 MR. POVICH: May we approach the bench for a moment;
13 perhaps I misunderstood what you said.

14 THE COURT: All right.

15 (Thereupon, counsel for both parties approached
16 the bench and conferred with the Court, as follows:)

17 THE COURT: The Ambassador may be called this after-
18 noon when the Government has concluded its case.

19 MR. POVICH: And if in response to the question --

20 THE COURT: He may express an opinion as to the
21 truth and veracity and moral character of the defendant and
22 you may ask him on what basis have you to express that
23 opinion and he may testify that Mr. Diggs came to him in
24 connection with this bribe offer and said he had turned it
25 down, and that and that only.

000751

1 I'm not going to let you go into a whole lot of
2 other material.

3 MR. POVICH: Just so I'm clear and I don't violate
4 the Court's admonition, I would like to inquire on a couple
5 of things.

6 He would say that Mr. Diggs called up and came to
7 him and advised him of the offer, showed him the letter of
8 the amount to the best of his recollection, that Mr. Diggs
9 turned it down and asked him to take care of the matter
10 appropriately with the Department of State and that he did
11 so.

12 THE COURT: All right.

13 MR. POVICH: That would not violate Your Honor's
14 admonition.

15 THE COURT: No, but I want it briefly and concisely
16 given and not a lot of atmosphere.

17 MR. POVICH: There will be no atmosphere, Your Honor.

18 THE COURT: All right.

19 (Thereupon, the proceedings had at the bench
20 were concluded; counsel returned to their seats at
21 counsel table and the proceedings were resumed,
22 as follows:)

23 THE COURT: Good morning, ladies and gentlemen.

24 It may be of some interest to you Court and counsel
25 have been busy with this case since 8:30 this morning

000752

1 concerning certain legal aspects.

2 You may proceed, gentlemen.

3 MR. MARCY: The Government would call Mr. Clarence
4 Robinson.

5 Whereupon,

6 CLARENCE A. ROBINSON

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

10 DIRECT EXAMINATION

11 BY MR. MARCY:

12 Q Mr. Robinson, would you please give us your full
13 name?

14 A Clarence A. Robinson.

15 Q Where do you live, Mr. Robinson?

16 A Residence, 1724 Allison Street, Northwest, Washingt-
17 on.

18 Q What is your business?

19 A I'm a real estate broker.

20 Q Where are your offices?

21 A 1750 Pennsylvania Avenue, Northwest.

22 Q How long have you been a real estate broker?

23 A Over 25 years.

24 Q Do you know Mr. Diggs?

25 A Oh, yes, I know Mr. Diggs.

000753

1 Q How long have you known Mr. Diggs?

2 A I met him when he first came to Congress.

3 Q How do you know Mr. Diggs?

4 A Well, personally, socially and as a client.

5 Q Have you ever had any financial dealings with Mr.
6 Diggs?

7 A Well, I sold him his present residence.

8 Q Were you connected with a second trust that was
9 taken out on that residence?

10 A Yes. At the time of the sale of the property, the
11 first trust did not equal what we had planned on and the
12 seller decided that he would take back a second trust for
13 a year on an interest basis.

14 Q When was that second trust taken out?

15 A Well, you have my file which you have had.

16 MR. MARCY: Your Honor, I have had this marked as
17 Government's Exhibit No. 72.

18 THE COURT: Very well.

19 THE CLERK: Government's Exhibit 72 marked for
20 identification.

21 (Document marked Government's
22 Exhibit 72 for identification)

23 BY MR. MARCY:

24 Q Mr. Robinson, if you could look at your file and
25 tell us if there is anything in there that refreshes your

000754

1 recollection as to when the second trust was taken out?

2 A It was taken out at the time of the purchase of
3 the property from February 1972.

4 Q Did there come a time --

5 Let me ask you this first. What was your role in
6 the second trust?

7 A Well, it was part of the sales transaction.

8 Q Were you a trustee on the second trust?

9 A I was. I decided to become one, and one of the
10 title officers was the other trustee.

11 Q Did there come a time you were asked to collect
12 the principal amount of that second trust from Mr. Diggs?

13 A Yes.

14 Q Do you recall approximately when that was?

15 A Well, I received a letter from the Thomas J. Owens
16 Company, stating that they had a request from the Union Turst
17 Bank to collect payment, which meant the possibility of fore-
18 closure.

19 And at the bottom of the letter it stated that in
20 order to stop the foreclosure proceedings that I should get
21 in touch with the Union Turst Bank, Mr. Zinza, who is the
22 trust officer.

23 And I went to see Mr. Zinza, and explained to him
24 the fact that this was a Member of Congress, sort of said
25 to him, because I happened to know the officers of the bank,

000755

1 that it was a good brother and I wanted to help him as much
2 as I could. And he gave me some instructions as to what to
3 do.

4 Q Did you have contact with Mr. Diggs after that
5 conversation with Mr. Zinza?

6 A Yes, I called his office and an appointment was
7 set up for me to talk with him, and I went to see him and
8 we discussed the payment of the second trust.

9 And at that moment he said, "Well, you know, I
10 don't have the money right now, but what shall I do?"

11 And previous conversation with the trust department
12 was such that if I got a partial payment on it and promise
13 to pay the additional amount sometime soon, that that would
14 be satisfactory.

15 Q Was there an amount chosen at the time or recom-
16 mended by you?

17 A I selected the amount, approximately half of it.

18 Q How much was that?

19 A It was \$1500.

20 Q Did there come a time you were paid \$1500?

21 A Yes. The first \$1500 I collected within the next
22 week or so.

23 Q Do you know the date that you collected that amount
24 of money?

25 A Well, November the 24th, 1975.

000756

1 Q Who did you collect that money from?

2 A I collected it from the Congressman, but it was
3 handed directly to me by Mrs. Stultz, who came out of his
4 office to do so. It's right close by.

5 Q What was the form of payment that was given to you
6 on that day?

7 A The form of payment were three \$300 money order,
8 one \$100 money order and a check for \$500, which totaled the
9 \$1500.

10 Q How were you able to determine that?

11 A Well, by adding it up, of course, but then I made
12 some copies of it so I would have it and it's in the file.

13 Q Could you remove those?

14 I believe they are marked as Government's Exhibits
15 72-A and 72-B.

16 Did you make those Xerox copies of 72-A and 72-B?

17 A Yes.

18 Q When were they made?

19 A Well, they were made immediately after I received
20 them.

21 Q Let me show you Government's Exhibit 22-B, which
22 is in evidence, and ask you to compare that with Government's
23 Exhibit 72-A. Does that appear --

24 A Well, the numbers match.

25 Q Does that appear to be the U.S. Treasury check that

000757

1 you received that day?

2 A Yes, sir.

3 Q Is there a notation in the lower left-hand corner
4 of that check as to what it's for?

5 A Well, there's room for something to be written in,
6 but it's blank.

7 Q I'm referring right here.

8 A Oh, printed on the check it says "voucher." Is
9 that what you mean?

10 Q Yes.

11 A Yes.

12 MR. MARCY: Your Honor, I would move Government's
13 Exhibits 72-A and 72-B into evidence at this time.

14 THE COURT: Counsel wish to be heard?

15 MR. WATKINS: May I see it, please?

16 No objection, Your Honor.

17 THE COURT: Received.

18 THE CLERK: Government's Exhibit 72-A and 72-B
19 received in evidence.

20 (Government's Exhibits 72-A
21 and 72-B for identification
22 were received)

23 BY MR. MARCY:

24 Q Mr. Robinson, did there come a time you collected
25 the remainder of the outstanding principal from Mr. Diggs

000758

1 on that second trust?

2 A Yes. In the letter that was sent to the Thomas
3 J. Owens Company, they lifted the foreclosure request and
4 they were pleased they were receiving payment and that addi-
5 tional amount would be paid to finish it out within 60 days.

6 Q Did there come a time that you collected the addi-
7 tional amount that was due?

8 A Well, yes. I personally went, because they had
9 received a letter -- well, I received a letter, really, that
10 they hated to bother me, but would I look into the matter
11 and get the additional amount.

12 And I in turn went to see Congressman Diggs and
13 made an appointment the following week and I collected the
14 money.

15 Q Do you recall when that was?

16 A It was in February.

17 Q Of 1976?

18 A Yes, approximately two months later.

19 Q How did you --

20 A There was a receipt here. Oh, yes, here it is --
21 February 25.

22 Q How did you receive payment for that?

23 A The receipt reads:

24 "Currency in the amount of \$1303, representing
25 final payment of the note Charles C. Diggs held by
Union Trust Bank." 000759

1 Q Who did you receive that from, from Mrs. Stultz
2 or from the Congressman or someone else?

3 A Well, I received it from the Congressman, but it
4 was handed to me by Mrs. Stultz.

5 Q And that was in cash?

6 A That was in cash, yes.

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

8 MR. KOTELLY: Excuse me one moment, Your Honor.

9 MR. MARCY: Let me ask one more question, Mr. Robinson

10 BY MR. MARCY:

11 Q After you received Government's Exhibit 72-A and
12 -B, which are the Treasury check and the money order, what
13 did you do with those money orders and checks?

14 A The following day I think that was in the afternoon,
15 the following day I went to the bank and delivered them to
16 the bank.

17 Q To which bank?

18 A To the Union Trust Bank, directly to Mr. Zinza,
19 who is the trust officer that I have worked with.

20 Q And to your knowledge, were they credited to Mr.
21 Diggs' account in paying off that second trust?

22 A Oh, yes.

23 Q And also --

24 A Because the bank held the note, so that was a very
25 simple matter, and they gave me the receipt.

000760

1 Q Also the currency you mentioned you received in
2 February?

3 A Absolutely.

4 MR. MARCY: I have no further questions.

5 THE COURT: Mr. Watkins.

6 CROSS-EXAMINATION

7 BY MR. WATKINS:

8 Q Good morning, Mr. Robinson.

9 A Good morning, Mr. Watkins.

10 Q I'm going to hand you Government's Exhibit 72-A --
11 I'm sorry, 72-A and -B and Government's Exhibit 22.

12 Those documents relate to the payment of money to
13 you on November 24, 1975?

14 A Yes, sir.

15 Q 1975?

16 A 1975; yes, sir.

17 Q Now, you said in your direct testimony that those
18 documents were handed to you by Mrs. Stultz; is that right?

19 A Yes. That's true, the Congressman said if I had
20 any further conversation to call.

21 Q I'm only asking you, Mr. Robinson, if those docu-
22 ments were handed to you by Mrs. Stultz?

23 A Correct, yes, sir.

24 Q Now, did you have any conversation with Mrs. Stultz
25 about those documents?

000761

1 A No, sir.

2 Q Did you say to Mrs. Stultz on that day anything
3 like, "Jean, I know you got the money for him"?

4 A Did I?

5 Q Yes.

6 A Well, I say no, but I think I'd like to add to
7 that that I never discuss a client's business with staff
8 or employees. So I'd have no occasion.

9 Q So on that day you did not say to Jean, to Mrs.
10 Stultz, "Jean, I know you got the money for him"?

11 A No, sir.

12 Q Did she reply to you -- let me strike that.

13 Did you ask Jean why she got the money?

14 A No, sir.

15 Q Did she ever reply to you, "Hell, Clarence, I'd
16 do that for anyone; he's going to lose his home"?

17 A Absolutely not, no.

18 Q So it's your testimony, Mr. Robinson, that no such
19 conversation ever occurred; is that correct?

20 A That's correct.

21 Q If I told you that Mrs. Stultz testified to such
22 a conversation --

23 MR. KOTELLY: Object, Your Honor.

24 THE COURT: Sustained.

25 MR. WATKINS: Thank you, Mr. Robinson. I have no
further questions.

000762

1 THE COURT: Anything else?

2 REDIRECT EXAMINATION

3 MR. MARCY: There is only one other thing, Your
4 Honor. Mr. Robinson read from a receipt which was in his
5 folder and I would ask that be marked Government's Exhibit
6 72-C for identification.

7 BY MR. MARCY:

8 Q Mr. Robinson, where is the receipt that you referred
9 to earlier?

10 THE CLERK: Government's Exhibit 72-C marked for
11 identification.

12 (Document was marked Govern-
13 ment's Exhibit 72-C for
14 identification)

15 MR. MARCY: We have no further questions, Your Honor.

16 THE COURT: May the witness be excused?

17 MR. MARCY: Yes, Your Honor.

18 THE COURT: You may be excused.

19 Thank you.

20 (Witness excused)

21 MR. KOTELLY: Our next witness is Randall Robinson,
22 Your Honor.

23 (Continued on the following page:)

24
25
000763

1 Whereupon,

2 RANDALL M. ROBINSON

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

6 DIRECT EXAMINATION

7 BY MR. KOTELLY:

8 Q Would you please state your full name for the
9 record?

10 A Randall Maurice Robinson.

11 Q Mr. Robinson, where do you presently live?

12 A I live at 10 Park Valley Road, Silver Spring.

13 Q Are you presently employed?

14 A Yes, I am the Executive Director of Trans-Africa
15 Foreign Policy Interest Group.

16 Q Where are your offices?

17 A At 1325 18th Street, Suite 202.

18 Q Mr. Robinson, do you know an individual named
19 Congressman Charles C. Diggs, Jr.?

20 A Yes.

21 Q How long have you known him?

22 A I met the Congressman, I think, in 1972, at Harvard
23 University.

24 Q Did you have occasion to be employed by Congressman
25 Diggs?

000764

1 A Yes.

2 Q During what period of time?

3 A I was employed by the Congressman from August 1st
4 of 1976, until May 15 of 1978.

5 Q May 15th of this year?

6 A Yes.

7 Q What was your position during that time with
8 Congressman Diggs?

9 A I was his administrative assistant.

10 Q Mr. Robinson, could you state briefly to the jury
11 your education and background prior to starting work for
12 Congressman Diggs?

13 A I have a Bachelor's degree from Virginia Union Uni-
14 versity and a Law degree from Harvard Law School.

15 Q And did you have any employment after law school
16 prior to working for Congressman Diggs?

17 A Yes, I was a Ford Foundation Fellow in Dar es
18 Salaam, Tanzania.

19 I worked for the Lawyers Committee for Civil Rights
20 here in Washington for the Committee.

21 Lawyer with Roxbury Civic Center in Roxbury, Massa-
chusetts.

22 I worked with Congressman William Clay then with
the Lawyers Committee before coming to Congressman Diggs.

Q During the approximately year and a half that you

000765

1 worked for Congressman Diggs, could you indicate to the jury
2 your general responsibilities?

3 A My responsibility was to supervise staff and run
4 the administrative operation, the three offices, the Washington-
5 ton office and the two Detroit offices.

6 Q Who did you replace, if you know?

7 A Well, I replaced, if one can call it replacement,
8 Jean Stultz. She did not have the breadth of responsibilities
9 that I did. -----

10 Q Was there any overlap in the time that you were
11 in the office and Jean Stultz was in the office?

12 A One month, yes.

13 Q For one month?

14 A Yes.

15 Q Now, Mr. Robinson, after you began to work in
16 August of 1976, for Congressman Diggs, during that year of
17 1976, what responsibilities did you have regarding the payroll
18 of the staff?

19 A Well, I would recommend to the Congressman the
20 hiring and firing of staff and would recommend salary level.

21 Q And did you have conversations with the Congressman
22 regarding salary levels of members of the staff?

23 A Yes, I would recommend.

24 Q Mr. Robinson, do you know an individual named
25 Felix Matlock?

000766

1 A Yes.

2 Q How do you know Mr. Matlock?

3 A Mr. Matlock worked at the time in the Detroit
4 office on Woodward Avenue.

5 Q Did you have any conversations with Congressman
6 Diggs during 1976, regarding Mr. Matlock's salary?

7 A Yes.

8 Q Could you relate to the jury what those conversa-
9 tions were?

10 A Well, it was of a piece with my full evaluation
11 of staff operations. I determined that Mr. Matlock did not
12 give a product that justified the salary that he had been
13 receiving and recommended that his salary be lowered.

14 Q Do you recall what salary Mr. Matlock had been
15 receiving when you made your recommendation?

16 A Something in the middle thirties. I can't be more
17 specific than that.

18 Q Do you recall what your recommendation was to have
19 it reduced to?

20 A Yes. I recommended that his salary be lowered to
21 \$22,000, I think.

22 Q And how did the Congressman react to your recommen-
23 dation?

24 A He complied.

25 Q Did you make recommendations as to the salary

000767

1 changes for any other employees at that time?

2 A No, not salary changes. I don't recall any.

3 Q Mr. Robinson, again directing your attention to
4 those last several months of 1976, when you were the adminis-
5 trative assistant, those periods in '76 would have been Octo-
6 ber through the end of December, correct?

7 A August 1 through the end of December.

8 Q You were the administrative assistant as of August
9 1st?

10 A Yes.

11 Q What connection did you have regarding the payment
12 of any expenses incurred in your District in Michigan?

13 A Well, I didn't pay any of those expenses.

14 Q And do you know who was paying the expenses during
15 that period of time?

16 A I instructed my assistant, Marcia Mills, to determine
17 how the office bills in Detroit had traditionally been paid.
18 She reported back to me --

19 MR. WATKINS: Object.

20 BY MR. KOTELLY: . . .

21 Q Without going into specific conversations, what
22 did you learn as to how the expenses were being paid?

23 A My understanding was that Mr. Matlock paid the
24 Detroit office expenses.

25 Q During that last calendar quarter of 1976, did you

000768

1 have any responsibility regarding submitting any vouchers
2 for reimbursement for District office expenses?

3 A No. If I recall correctly, the official expense
4 account had been already depleted before I arrived.

5 Q Mr. Robinson, I show you what has been admitted
6 in evidence as Government's Exhibit 21-F.

7 Mr. Robinson, I show you Government's Exhibit 21-F,
8 which is in evidence and ask you to look at that document;
9 I ask you if you can identify that document?

10 A That's the quarterly application, quarterly over
11 Congress at least, application for 500 of the 2,000 allotted
12 per Congressman for official expenses.

13 Q And what quarter was this for?

14 A Apparently, this is for the last quarter of 1976,
15 of that Congress.

16 Q Would you have been the administrative assistant
17 during that period of time?

18 A Yes, I was.

19 Q When that was applied for?

20 A Yes.

21 Q Did you have any responsibilities regarding the
22 submitting of a voucher like this in the last quarter of 1976;
23 when I say "like this," Government's Exhibit 21-F?

24 A I don't recall. I may have had the voucher prepared
25 for the Congressman's signature.

000769

1 Q During that last quarter of 1976, did you have any
2 connection with obtaining monies as reimbursement for District
3 office expenses?

4 A I'm afraid I don't follow the question. Is that
5 not the question you just asked?

6 Q I think it's slightly different. As to that last
7 quarter of 1976, did you personally handle any monies for
8 the purpose of District office expenses?

9 A Oh, no, no.

10 Q Now, Mr. Robinson, during the time that you were
11 the administrative assistant, I ask you what was your starting
12 salary?

13 A I think 275.

14 Q And did you have any changes in your salary during
15 the time that you were the administrative assistant?

16 A Yes. I left the staff at 34-and-some dollars;
17 I don't recall exactly.

18 Q Do you recall when it was you were increased to
19 34,000 something?

20 A No, I don't recall.

21 Q Mr. Robinson, directing your attention to sometime
22 in October of 1977, did you have occasion to receive a
23 subpoena to bring certain materials to a grand jury in the
24 District of Columbia?

25 A Yes.

000770

1 Q Do you recall exactly when that was?

2 A No.

3 Q And do you know whether any other members on your
4 staff received identical subpoenas?

5 A Yes. My assistant, Marcia Mills, and Loraine
6 Westbrook.

7 Q After receiving the subpoena, did you deliver any
8 materials to the grand jury?

9 A Yes.

10 Q What type of materials did you deliver to the grand
11 jury?

12 A Office files.

13 Q Did you indicate to the jury as best you can what
14 type of office files they were and where they were located?

15 A I think they were payroll files largely and other
16 kinds of personnel files going back as far as 1971, '72, or
17 as far back as we could reconstruct any files.

18 They were located in two places, my office had wall
19 file cabinets and the work room where the balance of the
20 staff works has wall file cabinets, so they were both within
21 the two work offices of the congressional office.

22 Q And that is Congressman Diggs' congressional office?

23 A Yes.

Q Do you know whether there were any files relating
to creditors?

000771

1 A No, not -- official creditors or personal creditors?

2 Q Both or either?

3 A Yes. There were files relating to official bills,
4 yes.

5 Q Do you recall the volume of documents that you sub-
6 mitted to the grand jury?

7 A I would guess, I think, something in the area of
8 three or four standard box sizes.

9 Q How many trips did you make to deliver those docu-
10 ments to the grand jury?

11 A Just one.

12 Q And do you recall who you turned the documents over
13 to?

14 A Yes.

15 Q Who was that?

16 A Eric Marcy.

17 Q Do you recall whether anyone assisted you when you
18 arrived at the courthouse in bringing the boxes in?

19 A Yes. I came in with Miss Westbrook and Miss Mills.

20 Q Did you have any contact with any members of the
21 FBI during the time that you brought the documents to the
22 courthouse?

23 A I'm not certain that I did. I had been to the court-
24 house before and had contact with a member of the FBI, testi-
25 fied before the grand jury, and I'm confused as to whether

000772

1 that person of the FBI was there on the second occasion or
2 not.

3 MR. KOTELLY: If the Court will indulge me one
4 moment.

5 THE COURT: Yes.

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

7 THE COURT: Mr. Watkins.

8 CROSS-EXAMINATION

9 BY MR. WATKINS:

10 Q Good morning, Mr. Robinson.

11 A Good morning.

12 Q In your direct testimony you referred to an item
13 called "District office expenses"; is that correct?

14 A Yes.

15 Q And you referred to an allowance called "District
16 office allowance"; is that correct?

17 A Yes.

18 Q That 's a short form notation for the actual cate-
19 gorization of that allowance, isn't it?

20 A Yes.

21 Q And the proper categorization of that allowance
22 is allowance for expenses outside the District of Columbia;
23 is that correct?

24 A Yes.

25 Q Now, you also mentioned that you were subpoenaed

000773

1 to bring certain documents to the courthouse; is that right?

2 A Yes.

3 Q And those documents that you brought to the court-
4 house were in Congressman Diggs' office; is that right?

5 A Yes.

6 Q And they were his files; is that correct?

7 A Yes.

8 Q And he was then a Congressman at that time and in
9 control of that office; is that correct?

10 A Yes.

11 Q And he gave you no resistance in terms of allowing
12 you to bring those boxes of documents to the courthouse, did
13 he?

14 A No.

15 Q Now, I want to direct your attention, Mr. Robinson,
16 to August of 1976. You testified that you and Mrs. Stultz
17 overlapped for the month of August in 1976, when you came
18 on; is that correct?

19 A Yes.

20 Q All right; and when you came on, Mrs. Stultz'
21 duties consisted of primarily running the office; is that
22 correct?

23 A Yes.

24 Q And she was responsible for handling and super-
25 vising the files; is that correct?

000774

1 A Yes.

2 Q And it's fair to say, is it not, that those files
3 were in horrible shape?

4 A Yes.

5 Q Documents weren't filed properly, sometimes files
6 were not kept, documents were found behind and under drawers?

7 MR. KOTELLY: Your Honor, I am going to object to
8 Mr. Watkins testifying here.

9 MR. WATKINS: I'm sorry, Mr. Kotelly. I will
10 rephrase.

11 BY MR. WATKINS:

12 Q Mr. Robinson, your title was administrative assis-
13 tant; is that right?

14 A Yes.

15 Q Now, the Congressman is formally in charge of that
16 office and responsible for the administration; is that right?

17 A Yes.

18 Q Did he engage in the day-to-day administration of
19 the office?

20 A No.

21 Q He left that to you; is that correct?

22 A Yes.

23 Q And for the month that you were there, he left that
24 to Mrs. Stultz as well?

25 A Yes.

000775

1 Q And would it be fair to say that he was interested
2 in other matters, policy matters?

3 A Yes.

4 Q And he relied on you and Mrs. Stultz while you were
5 there to run the administrative aspects of the office?

6 A Yes.

7 Q Would it be fair to say then he spent most of his
8 time on matters such as Africa because he was Chairman of
9 the Subcommittee on Africa?

10 MR. KOTELLY: Objection, Your Honor, this is irrele-
11 vant; he has already asked the question and received the
12 information as to who was running the day-to-day administra-
13 tion of the office.

14 THE COURT: I think so. If you want to call this
15 gentleman back as your witness, you may do so.

16 BY MR. WATKINS:

17 Q Well, Mr. Robinson, what did Congressman Diggs
18 spend his time on in the office?

19 MR. KOTELLY: Objection, Your Honor. Irrelevant.

20 THE COURT: You may answer.

21 BY MR. WATKINS:

22 Q Mr. Robinson?

23 A He spent very little, if any, of his time on
24 administrative matters. He spent a large part of his time
25 on policy questions of Africa and the District of Columbia.

000776

1 Q Now, Mr. Kotelly asked you about your responsibilities
2 with regard to payroll during that period from August
3 of 1976, through the end of the year.

4 When you took over your job, you learned that the
5 Congressman had great discretion in setting salaries; is that
6 correct?

7 A Yes.

8 Q In fact, they have complete discretion in setting
9 salaries; isn't that right?

10 A Yes.

11 Q A Congressman can pay a consultant, if you will,
12 37 or the maximum amount of money if he so desires whether
13 or not that consultant does one or two or three things; is
14 that correct?

15 A Yes.

16 Q And he could pay someone who worked daily in his
17 office for doing case work the minimum salary, could he not?

18 A Yes.

19 Q And so it's fair to say that a Congressman's discretion
20 is pretty much unlimited between the maximums and the
21 minimums set by Congress in what he can pay his employees?

22 A Entirely.

23 Q You learned, did you not, that there are no job
24 descriptions for employees that work for congressmen?

25 A No.

600776A

1 Q There are no job descriptions; is that right?

2 A There are none, no official descriptions imposed
3 by the Congress, no.

4 Q All right. Now, Mr. Robinson, Mr. Kotelly also
5 asked you about changes that you recommended in the running
6 of the office, specifically with regard to salaries; is that
7 right?

8 A Yes.

9 Q And I take it you initiated a number of changes
10 in the office when you came aboard?

11 A Yes.

12 Q And did Mr. Diggs resist any of those changes?

13 A No.

14 MR. WATKINS: Your Honor, may I have the Court's
15 indulgence for a moment?

16 THE COURT: Yes.

17 BY MR. WATKINS:

18 Q Now, Mr. Robinson, I want to go back a moment to
19 the question of the administration of the office. You indi-
20 cated that Mr. Diggs had difficulty or did not spend his
21 time on running the day to day operation of the office.

22 Now, what was his capacity or did you observe his
23 ability to hire and fire people?

24 A I think Mr. Diggs was reluctant to participate in
25 either of those two activities.

000777

1 Q Either hiring or firing?

2 A Yes.

3 Q Did you observe what factors he placed an emphasis
4 on before he decided to -- or let's rephrase that question.

5 Did you observe what factors were important to him
6 in deciding whether to hire or fire someone?

7 MR. KOTELLY: Objection, Your Honor, this is not
8 relevant at all to the issues in this case.

9 THE COURT: Sustained.

10 BY MR. WATKINS:

11 Q When you recommended that certain people be hired
12 and their salary reduced, did Mr. Diggs have difficulty in
13 doing that?

14 MR. KOTELLY: Objection, Your Honor.

15 THE COURT: I think it's been answered. He said
16 Mr. Diggs followed his recommendations.

17 BY MR. WATKINS:

18 Q Mr. Robinson, did you observe Mr. Diggs' abilities
19 to fire persons who had been on the staff for a long time
20 with him?

21 A Yes.

22 Q What were they?

23 A It was great difficulty. He had compassion for
24 persons with whom he had been associated for some long period
25 of time.

000778

1 Q Would it be fair to say he had difficulty firing
2 them?

3 A Yes.

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

5 THE COURT: Anything else?

6 MR. KOTELLY: Just a few questions, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. KOTELLY:

9 Q Mr. Robinson, Mr. Watkins asked you about the discre-
10 tion of a congressman in setting the salaries. From your
11 experience working in Congressman Diggs' office, did that
12 discretion or payment of salaries include payment of expenses
13 in the office out of those salaries?

14 A Not during my tenure, no.

15 Q Did you have any direct knowledge that any
16 employee's salary was going to pay for either personal or
17 House of Representatives expenses on behalf of Congressman
18 Diggs?

19 A No.

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

21 THE COURT: Anything else?

22 MR. WATKINS: No questions, Your Honor.

23 THE COURT: May the witness be excused, gentlemen?

24 MR. KOTELLY: Yes, Your Honor.

25 THE COURT: Thank you. You are excused.

000779 (Witness excused)

1 MR. KOTELLY: May we approach the bench, Your Honor?

2 THE COURT: Yes.

3 (Thereupon, counsel for both parties approached
4 the bench and conferred with the Court, as follows:)

5 MR. KOTELLY: Your Honor, I would ask permission
6 to recall very briefly a witness who testified on the first
7 day of trial, that is John Lawler from the Office of Finance.

8 The only two areas that I wish to question him on
9 are regarding the payment of consultants on a congressman's
10 staff, which was brought up by Mr. Dukes during his testimony
11 Saturday and also about one voucher check which was missing
12 at the time Mr. Lawler testified, but which we have since
13 gotten.

14 I would like to have him identify it. It's just
15 for that limited purpose we would ask to recall him.

16 MR. WATKINS: Mr. Kotelly told us about that last
17 night, Your Honor. We have no objection.

18 THE COURT: Thank you.

19 MR. POVICH: My understanding is that after him,
20 you are going to put on your FBI agent.

21 MR. KOTELLY: That's correct.

22 MR. POVICH: How long do you anticipate his testi-
23 mony will be?

24 MR. KOTELLY: There are -- his testimony is in two
25 phases, Your Honor. The first phase will be identify certain

000780

1 documents that were turned over to him by Randall Robinson
2 or Felix Matlock, and after that we will be moving in the
3 bulk of our evidence.

4 The second phase of his testimony will regard the
5 testimony of summary charts that he has prepared based on
6 the exhibits in this case, so that I would ask the Court to
7 have a break and to excuse the jury while we at least go
8 through the exhibits to see as to their admissibility before
9 we get into the second phase.

10 THE COURT: All right.

11 MR. POVICH: Could I inquire generally?

12 THE COURT: Sure.

13 MR. POVICH: I don't believe we -- do you think
14 you will rest and we should be prepared to argue the motion?

15 MR. KOTELLY: I'm still hopeful of finishing by
16 12:30.

17 THE COURT: All right.

18 MR. POVICH: Thank you.

19 MR. WATKINS: Thank you.

20 (Thereupon, the proceedings had at the bench
21 were concluded; counsel returned to their seats at
22 counsel table, and the proceedings were resumed,
23 as follows:)

24 MR. KOTELLY: Your Honor, we would call John Lawler.

25 THE CLERK: Your Honor, the witness has been prev-
iously sworn.

000781

1 THE COURT: You may resume the stand, Mr. Lawler.

2 You are still under oath.

3 Whereupon,

4 JOHN LAWLER

5 was recalled as a witness by and on behalf of the
6 Government and, having been previously duly sworn,
7 was examined and testified further as follows:

8 DIRECT EXAMINATION

9 BY MR. KOTELLY:

10 Q Would you again state your full name for the record?

11 A John Lawler.

12 Q And your present position?

13 A I am the Chief of the Office of Finance at the U.S.
14 House of Representatives.

15 Q Are you the same John Lawler who testified last
16 Wednesday in this trial?

17 A Yes.

18 Q Mr. Lawler, during the period of 1973 through the
19 end of 1976, was a member of Congress permitted, according
20 to the regulations of the House of Representatives, to hire
21 consultants on his personal staff?

22 A Yes. they could hire employees and designate them
23 consultants.

24 Q If a person was designated or hired as a consultant,
25 how were expenses insured by the consultant to be handled,

000782

1 as far as payments?

2 A In the same manner as any other employee would be
3 reimbursed.

4 Q And could you again state the manner that expenses
5 were to be reimbursed?

6 A In the case of travel expense, an employee would
7 incur the expense directly and then upon a properly completed
8 voucher sent to us, we would reimburse that employee for
9 travel.

10 Q And during the period of 1973 through the end of
11 1976, did the regulations allow the clerk hire allowance to
12 be used for that purpose for persons who would be considered
13 a consultant?

14 A The regulations stated that the clerk hire allow-
15 ance was for the payment of compensation to employees for the
16 performance of official duties.

17 Q Did the compensation for performance of official
18 du*ies include expenses incurred --

19 MR. POVICH: Objection, Your Honor. I think he
20 answered the question and I question whether or not he is
21 competent to give an opinion on the other matter.

22 THE COURT: You may ask the question.

23 BY MR. KOTELLY:

24 Q Do you have an answer to the question, Mr. Lawler?

25 A May I have you repeat the question, please?

000783

1 BY MR. KOTELLY:

2 Q The clerk hire allowance you have testified was as
3 payment for -- well, I am afraid I am even going to misrepre-
4 sent exactly what you said. The clerk hire allowance, would
5 you again repeat exactly what the clerk hire allowance is for?

6 A It's used to pay compensation of employees in the
7 performance of official duties.

8 Q My question was the compensation for the performance
9 of official duties, did that include any expenses which were
10 incidental to the employment?

11 A The regulations in that time period didn't have any
12 specific definition as far as official duties. It's silent
13 on the question of what it might include.

14 Q Mr. Lawler, I now show you what you have identified
15 previously and is now in evidence and that is Government's
16 Exhibit 20, which is a ledger card for what, sir?

17 A Government Exhibit 20 is a ledger card for the
18 official expense allowance in the District office for Congress-
19 man Charles Diggs.

20 Q And Government's Exhibit 21-A through 21-F, which
21 are admitted into evidence, would you again just identify
22 that for the record?

23 A The Exhibit 21-A through 21-F are copies of the
24 voucher or the request for reimbursement for the expenses in
25 the Congressional District for Congressman Diggs.

000784

Q I now show you a document which you were not shown last week, Government's Exhibit 22, which has previously been identified by Lorraine McDaniels Westbrook and I would ask you if you can identify that document?

A Yes.

Q How do you identify it?

A The check is the original on the prescribed format of the Treasury of the United States, the House of Representatives account. It's identified by our checking account symbol number.

In addition, the check number agrees with the number on our ledger account card for a district office quarterly payment in the amount of \$500. The check is made payable to Charles C. Diggs, Jr.

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

CROSS EXAMINATION

BY MR. WATKINS:

Q Good morning, Mr. Lawler.

A Good morning.

Q Mr. Kotelly asked you about whether Congressmen could hire consultants. You indicated they could hire employees and call them consultants; is that correct?

A That's correct.

Q And have you checked your records to determine

000785

1 whether there are any employees hired as consultants?

2 A Yes.

3 Q For what years did you check your records?

4 A The public disclosure document for 1975 and 1976,
5 and also the current period.

6 Q Do you recall how many consultants were listed on
7 the public disclosure documents for 1975?

8 A No. The resume didn't recap totally the total num-
9 ber of employees designated as consultants.

10 Q What did your review consist of?

11 A It indicated that there were in several instances
12 employees that were titled or designated consultant or some
13 derivation of the word "consultant." It may have said
14 "district office consultant" or "legal consultant."

15 Q When you say you didn't break it down, how did you
16 break down your analysis or your review of the records?

17 A My review was just casually paging through the
18 public disclosure documents. In one of the years I recall
19 I think nearly 20 separate instances where employees were
20 designated a consultant or some derivation of "consultant."

21 Again, that review would be at least that many,
22 but there could have been more.

23 Q At least that many in one of the years, '75, '76
24 and '77?

25 A Yes.

000786

1 Q Mr. Lawler, what public disclosure documents are
2 you referring to?

3 A This document is the report of the Clerk of the
4 House.

5 Q Do you have one of those with you?

6 A Yes, I do.

7 Q May I see it, please?

8 A Yes.

9 THE CLERK: Defendant's Exhibit No. 37 marked for
10 identification.

11 (Document marked Defendant's
12 Exhibit 37 for identification)

13 BY MR. WATKINS:

14 Q Mr. Lawler, I show you what has been marked as
15 Defendant's Exhibit 37 for identification. Can you identify
16 it first?

17 A Yes.

18 Q All right. Would you tell the ladies and gentlemen
19 of the jury what it is?

20 A This is a public record document formally titled
21 "Report of the Clerk of the House." This particular document
22 covers the period January 1, 1976, through June 30, 1976.

23 In essence, it's a recapitulation of every dollar
24 expended by the Finance Office on behalf of the U.S. House
25 of Representatives. It includes both personnel and

000787

1 non-personnel information. This report is prepared by our
2 office.

3 Q Now, Mr. Lawler, I take it what you did was you
4 flipped through the pages of this document and other documents
5 like that and determined, what did you say in one year there
6 were approximately 20?

7 A Yes.

8 Q You said at least 20, I think is what you said.

9 A Yes, again the review wasn't so comprehensive that
10 every person was reviewed for their job title.

11 Q But you merely flipped through those documents,
12 that document and documents like that, and determined there
13 were 20 consultants or people named as consultants in that
14 document?

15 A Or some derivation of consultant, right.

16 Q That report is one volume. Are there any additional
17 volumes published by the House similar to that? Let me
18 rephrase the question.

19 How often is a volume like that published?

20 A Its' presently published every 90 days during the
21 time period until 1977, it was published every six months.
22 So there are two documents for each year.

23 Q I see. Fine.

24 Mr. Lawler, is it -- you are in charge of the
25 Finance Office; is that correct?

000788

1 A Yes.

2 Q And is it proper for a congressman to have a person
3 on both his personal staff and a committee staff if he's a
4 committee chairman?

5 A Yes, if the position on the committee staff is not
6 one that's designated professional.

7 Q Well, to make sure I understand and the jury under-
8 stands, you are allowed under the rules to have a person,
9 let's take a secretary, a secretary on your committee staff;
10 is that right?

11 A Yes.

12 Q And that person at the same time can be on the
13 personal staff and be paid from both staffs; is that correct?

14 A Yes, that is correct.

15 Q And that is not improper?

16 A No.

17 Q Mr. Lawler, how far back do you have the documents,
18 the public documents that are similar to or for different
19 periods that are similar to -- let me rephrase.

20 How far back do Reports of the Clerk of the House
21 go containing the lists of expenditures for the Clerk of the
22 House?

23 A The report in this form goes back to 1970. Payroll
24 information contained in payroll journals of the House is
25 kept forever. In this particular format, though, from 1970
through the present.

000789

1 Q Now, Mr. Lawler, in your capacity as Chief of the
2 Finance Office, is there an account that is sometimes referred
3 to as "district office account"?

4 A Yes.

5 Q Now, the official name for that account is for
6 "Expenses Outside the District of Columbia"; is that correct,
7 or let me refer to the period from '73 to 1976.

8 A During that time period, as I recall, that had two
9 titles. After 1975, it was retitled as you indicated.

10 Q Which way; I'm sorry?

11 A Expenses Outside the District of Columbia.

12 Q Do you know if that was limited to only district
13 office expenses or did it include all expenses outside the
14 District of Columbia?

15 A Prior to 1975, the regulations surrounding that
16 allowance stated that the expenses were in the district office
17 but effective at the beginning of the Congress in 1975, it
18 was restated then to include expenses outside of the District
19 of Columbia.

20 When we refer to "district" in the first case, we
21 mean the congressional district in the respective state that
22 the member is representing.

23 Q So that would mean that in the entire district,
24 any expenses incurred in the entire district would be payable
25 out of that allowance?

000790

1 A Until 1975, the regulations also had the term
2 "office expenses" in the regulation surrounding that allowance.

3 Q After 1975?

4 A After 1975, the word "office" was deleted and it
5 just said "expenses outside the District of Columbia."

6 MR. WATKINS: Fine. Thank you, Mr. Lawler.

7 REDIRECT EXAMINATION

8 BY MR. KOTELLY:

9 Q Just a few more questions, Mr. Lawler.

10 Regarding the change in 1975, in the title of that
11 allowance, "expenses outside the District of Columbia," was
12 that intended to include all expenses of the Member of
13 Congress outside the District of Columbia?

14 MR. WATKINS: Objection, he's not competent to
15 testify about what that was intended to mean. Those regulations
16 speak for itself.

17 THE COURT: I sustain that objection.

18 BY MR. KOTELLY:

19 Q Mr. Lawler, during the period of 1975 to 1976, were
20 there other allowances administered by you that related to
21 expenses outside the District of Columbia?

22 A Yes.

23 Q Such as?

24 A It would include travel for the Congressman and
25 a separate allowance, travel for the staff. The district

000791

1 office telephone and the equipment lease allowance also
2 included equipment in district offices.

3 Of course, the district office rental allowance
4 by definition was in the district.

5 Q How about leasing of district offices?

6 A Yes. The leasing of district office space by
7 definition in the district.

8 Q And were these separate or the same allowance as
9 the expenses outside the District of Columbia allowance?

10 A No, they were specifically stated as a separate
11 allowance.

12 Q Mr. Lawler, you have indicated the Report of the
13 Clerk of the House, which reflects certain job titles or job
14 positions of certain staff members of congressmen. That was
15 the item you were referring to, correct?

16 A Yes. It lists other information, but among the
17 information includes job title.

18 Q And where does that information come from that you
19 place in the Report of the Clerk of the House?

20 A From the payroll authorization form.

21 Q I show you Government's Exhibits 10-A through 10-P,
22 which are admitted in evidence, payroll authorization forms
23 of Ofield Dukes, and ask you what his position title was
24 during the time of those payroll authorization forms?

25 A Government Exhibit 10-A through 10-P lists Ofield

000792

1 Dukes as Director of Special Projects.

2 Q Do any of those documents reflect he was a consul-
3 tant?

4 A They do not.

5 Q Mr. Lawler, do committees of the House of Repre-
6 sentatives, are they allowed to hire consultants?

7 A Yes.

8 Q And the hiring by a committee of a consultant, is
9 that the same or different than the hiring by a Member of
10 Congress of a consultant?

11 A Again, a Member may hire an employee designated
12 consultant. The regulations for committees are separately
13 stated between the hiring of an employee and the hiring of
14 a consultant. There are certain regulations that are spec-
15 ifically addressed regarding the employment or the hiring
16 of consultants.

17 Q By the committees?

18 A Yes, by committees.

19 Q Do the regulations relate to the payment of
20 expenses of consultants?

21 A Yes, they do.

22 Q Are there such regulations relating to the hiring
23 by a Member of a consultant as far as the payment of expenses?

24 A Referring to congressional office now?

25 Q Yes.

000793

1 A There are regulations that address themselves to
2 the employment of consultants from Members' congressional
3 funds, not the clerk --

4 Q Is it specific references you are talking about?

5 A Yes, the official expenses allowance.

6 Q How does that relate to the clerk hire allowance?

7 A It is separate.

8 Q Mr. Lawyer, as far as the salary paid to a staff
9 member of a Member's personal staff, are there benefits that
10 are deducted from the employees' wages?

11 A Yes.

12 Q What type of benefits?

13 A The standard employment benefits, particularly in
14 the Federal Government, including the withholding of Federal
15 and State taxes, deductions for health plans, life insurance,
16 retirements, also allocations to savings institutions and
17 the purchase of government bonds.

18 Q Are any of these benefits that are deducted from
19 an employee's salary related to the amount of money that the
20 employee earns?

21 A Yes, two of the benefits.

22 Q Which two are they?

23 A Retirement and life insurance.

24 Q And the deductions for retirement and life insurance
25 are based on what consideration?

000794

A The gross annual appointed salary.

MR. KOTELLY: No further questions, Your Honor.

THE COURT: Anything else, gentlemen?

MR. WATKINS: Yes, I have one, Your Honor.

RECROSS EXAMINATION

BY MR. WATKINS:

Q Showing you Government's Exhibit 10-A through 10-P, would you review those documents and tell me whether they indicate Mr. Dukes was on the Congressman's personal staff or on a committee staff?

A Government Exhibit 10-A through 10-P, all exhibits relate entirely to the appointment of Ofield Dukes on Congressman Diggs' personal congressional staff.

MR. WATKINS: Thank you, Mr. Lawler.

I have no further questions.

MR. KOTELLY: Noticing further, Your Honor.

THE COURT: May the witness be finally excused?

MR. KOTELLY: Yes, Your Honor.

THE COURT: You are finally excused. Thank you.

(Witness excused)

MR. KOTELLY: Your Honor, there are four stipulations that the Government and Defense have entered into and I ask permission to read the stipulations into evidence at this time.

THE COURT: Do you know of the stipulations?

000795

1 MR. WATKINS: Yes, sir.

2 THE COURT: You concur in this and Mr. Diggs concur
3 in this?

4 MR. WATKINS: Yes, Your Honor.

5 THE COURT: All right.

6 MR. KOTELLY: Stipulation No. 1:

7 It is hereby stipulated and agreed to by the parties
8 that Government's Exhibits 3-A through 3-N and 6-A through
9 6-F are United States Treasury checks prepared in the ordinary
10 course of business by the Office of Finance, House of Repre-
11 sentatives, and each check made payable to Jean G. Stultz.

12 It is further stipulated and agreed to that Govern-
13 ment's Exhibits 3-A through 3-N and 6-A through 6-F were
14 transmitted by the Office of Finance to the Riggs National
15 Bank, Washington, D. C., and deposited on or about the date
16 set forth on the checking account of Jean G. Stultz.

17 Stipulation No. 2:

18 It is hereby stipulated and agreed to by the parties
19 that Government Exhibits 23-A through 23-M, 45-I through ..
20 45-M, 45-X and 46-G are personal checks, money order or
21 cashier's checks which were received by the financial institu-
22 tion named as the payee on each exhibit in the amount appearing
23 on each exhibit, was credited to the personal automobile or
24 mortgage loan account of Charles C. Diggs, Jr.

25 It is further stipulated and agreed to that

000796

1 Government's Exhibits 23-S, 45-C, 45-D, 45-F, 45-Y, 45-Z,
2 46-A, 46-C, 46-E, 46-F, 48-P, 49, 50-G, 50-H, 50-O, 50-Z,
3 50-AA, 50-BB, 50-EE, 50-LL and 51-C are personal checks,
4 money orders or cashier's checks which were received by the
5 payee on each exhibit in the amount appearing on each exhibit
6 as credited to the account of Charles C. Diggs, Jr.

7 It is further stipulated and agreed to that Govern-
8 ment's Exhibits 22-C and 46-D were deposited to the personal
9 checking account of Charles C. Diggs, Jr., at the House
10 Sergeant at Arms.

11 It is further stipulated and agreed to that Govern-
12 ment's Exhibit 36-B is a check written by defendant and
13 debited to his personal checking account at the House Sergeant
14 at Arms.

15 Stipulation 3:

16 It is hereby stipulated and agreed to that Govern-
17 ment's Exhibit 56-C and 64-A are copies of two checks from
18 the checking account of Ofield Dukes. Government Exhibit
19 64-B is a copy of a Union 1st cashier's check numbered
20 03-06566, which were all kept in the ordinary course of busi-
21 ness by Union 1st National Bank of Washington.

22 Your Honor, in connection with the next stipulation,
23 we would ask this be marked Government's Exhibit 45-CC,
24 which I have already showed to Mr. Patterson.

25 THE CLERK: Government's Exhibit 45-CC marked for
identification.

000797

1 (Document marked Government's

2 Exhibit 45-CC for identification)

3 MR. KOTELLY: It is hereby stipulated and agreed
4 to by the parties that Government Exhibit 45-CC is a money
5 order which was sold and after it was negotiated, it was kept
6 in the ordinary course of business by the Riggs National
7 Bank.

8 Your Honor, at this time there are a few exhibits
9 that we would like to move into evidence.

10 Would Your Honor prefer it be done?

11 THE COURT: Have you concluded your stipulations?

12 MR. KOTELLY: Yes, Your Honor.

13 THE COURT: Ladies and gentlemen, the stipulation
14 is an agreed statement of fact. You may accept it as undis-
15puted evidence in the case.

16 All right.

17 MR. KOTELLY: Your Honor, at this time the Government
18 would move into evidence Government's Exhibit 3-A through
19 3-N and 6-A through 6-F, which are Treasury checks referred
20 to in the stipulation, as well as through the testimony of
21 John Lawler. I move those into evidence at this time.

22 THE COURT: Do you gentlemen wish to be heard on
23 any of those exhibits?

24 MR. WATKINS: No, Your Honor.

25 MR. POVICH: No.

000798

1 THE COURT: They will be received.

2 THE CLERK: Government's Exhibits 3-A through

3 3-N received in evidence, and 6-A through 6-F received in
4 evidence.

5 (Government's Exhibits 3-A

6 thru 3-N and 6-A thru 6-F

7 for identification received)

8 MR. KOTELLY: We would move into evidence Govern-
9 ment's Exhibits 12-A through 12-R, which are Treasury checks
10 to Ofield Dukes, which were identified by Mr. Dukes and
11 Mr. Lawler.

12 MR. POVICH: No objection.

13 THE COURT: Received.

14 THE CLERK: Government's Exhibit 12-A through 12-R
15 received in evidence.

16 (Government's Exhibit 12-A thru

17 12-R for identification received)

18 MR. KOTELLY: Government's Exhibit 15-A through
19 15-M, which are Treasury checks of Jefalee Richmond, which
20 were identified by Mr. Lawler and Miss Richmond, salary
21 checks.

22 MR. POVICH: No objection, Your Honor.

23 THE COURT: Received.

24 THE CLERK: Government's 15-A through 15-M, like
25 in Mary, received in evidence.

000799

1 (Government's Exhibit 15-A thru
2 .
3 15-M for identification received)
4

5 MR. KOTELLY: Government's Exhibit 18-A through
6 18-H, which are Treasury checks to George Johnson identified
7 by Mr. Lawler and Mr. Johnson as salary checks for Mr.
8 Johnson.

9 MR. POVICH: No objection.

10 THE COURT: Received.

11 THE CLERK: 18-A through 18-H received in evidence.

12 (Government's Exhibit 18-A thru
13 18-H for identification received)

14 MR. KOTELLY: Government's Exhibit 22-A, which is
15 a voucher check dated July 24, 1975, which was identified
16 by Mr. Lawler as a reimbursement for district office expense
17 and also identified by Miss Stultz and Mr. Chrisman.

18 MR. POVICH: No objection.

19 THE COURT: Received.

20 THE CLERK: Government's Exhibit 22-A through
21 22-F received in evidence.

22 (Government's Exhibit 22-A thru
23 22-F for identification received)

24 MR. KOTELLY: I was going to go through B. It was
25 just "A," Your Honor.

26 22-B was a voucher check dated November 24, 1975,
27 also identified by Mr. Lawler as a voucher reimbursement

000800

1 check and identified also by Clarence Robinson today.

2 MR. POVICH: No objection.

3 THE COURT: Received.

4 THE CLERK: 22-B received.

5 MR. KOTELLY: 22-C, which is a voucher check dated
6 January 21, 1976, identified by Mr. Lawler as a reimbursement
7 for district office expenses and is also included in the
8 stipulation that it was placed in the banking account of Mr.
9 Diggs at the Sergeant of Arms. That is Stipulation No. 2.

10 MR. POVICH: No objection.

11 THE COURT: Received.

12 THE CLERK: 22-C received in evidence.

13 MR. KOTELLY: 22-D is a voucher check dated May
14 5th, 1976, identified by Mr. Lawler as a reimbursement for
15 district expenses, also identified by Mr. Chrisman and Miss
16 Stultz.

17 MR. POVICH: No objection.

18 THE COURT: Received.

19 THE CLERK: 22-E received.

20 MR. KOTELLY: 22-E, July 26, 1976, voucher identified
21 by Mr. Lawler and Miss Westbrook that she cashed that check.
22 That is "E."

23 MR. POVICH: No objection.

24 THE COURT: Received.

25 THE CLERK: 22-E received in evidence.

000801

1 MR. KOTELLY: 22-F, which is a voucher check dated
2 October 2nd, 1976, identified previously by Mr. Lawler as
3 reimbursement for district office expenses and also identified
4 by Ruth Rox.

5 MR. POVICH: What date, October 2nd, '76?

6 MR. KOTELLY: Yes.

7 MR. POVICH: No objection.

8 THE COURT: Received.

9 THE CLERK: 22-F received in evidence.

10 MR. KOTELLY: Government's Exhibit 56-A and -B,
11 which are two personal checks identified by Ofield Dukes.

12 MR. POVICH: Would Your Honor indulge me a moment?
13 No objection.

14 THE COURT: Received.

15 THE CLERK: Government's Exhibit 56-A and -B
16 received in evidence.

17 (Government's Exhibit 56-A and
18 56-B for identification was
19 received)

20 MR. KOTELLY: Government Exhibit 56-C, which is
21 a microfilm copy of a personal check of Ofield Dukes, was
22 identified by Mr. Dukes, and is part of the Stipulation
23 No. 3.

24 MR. POVICH: No objection.

25 THE COURT: Received.

000802

1 THE CLERK: Government's Exhibit 56-C received
2 in evidence.

3 (Government's Exhibit 56-C for
4 identification was received)

5 MR. KOTELLY: Government's Exhibit 60, which is
6 a personal check of Ofield Dukes, which is identified by Mr.
7 Dukes and Mr. Sheeran of WJLB.

8 MR. POVICH: No objection.

9 THE COURT: Received.

10 THE CLERK: Government's Exhibit 60 received in
11 evidence.

12 (Government's Exhibit 60 for
13 identification was received)

14 MR. KOTELLY: 64-A and 64-B, which are copies of,
15 64-A is a copy of Mr. Dukes' personal check to cash, and
16 64-B is a Xerox copy of a Union 1st cashier's check, which
17 are identified by Mr. Dukes as well as Stipulation No. 3.

18 MR. POVICH: No objection.

19 THE COURT: Received.

20 THE CLERK: Government's Exhibit 64-A and 64-B
21 received.

22 (Government's Exhibit 64-A and
23 64-B for identification were
24 received)

25 MR. KOTELLY: Government's Exhibit 66, which is

000803

1 a summary of money orders that were purchased on two specific
2 dates which are identified by Miss Alfano from the National
3 Bank of Detroit.

4 MR. POVICH: Your Honor, we have a problem with
5 that. We are not going to agree to that.

6 May we come to the bench?

7 THE COURT: Yes.

8 (Thereupon, counsel for both parties approached
9 the bench and conferred with the Court, as follows:)

10 MR. POVICH: Your Honor, that represents, this is
11 not a business document. It represents essentially some notes
12 she made in connection with the preparation of her testimony.
13 It has no authenticity. We have no backup documents with
14 which to support it and I would object to it as there is no
15 basis for its admissibility into evidence.

16 MR. KOTELLY: Your Honor, it is my recollection
17 of the testimony, this is a summary that she prepared based
18 on documents from the National Bank of Detroit.

19 THE COURT: Miss Alfano?

20 MR. KOTELLY: Yes, Your Honor.

21 THE COURT: When did she testify?

22 MR. KOTELLY: She testified on Saturday, Your Honor.
23 No, I'm sorry, it was Friday. Which day did Miss Stultz have
24 to leave?

25 THE COURT: Was she before or after Matlock?

000804

1 MR. KOTELLY: Before Matlock. They were the last
2 two witnesses on Thursday, Miss Alfano and Miss Allen.

3 You recall Miss Stultz had to break up her testimony
4 and I squeezed in the two.

5 THE COURT: How about Jeralee Richmond, was she
6 before her?

7 MR. KOTELLY: Yes, much before. Miss Richmond
8 testified Saturday. Miss Alfano was on Thursday afternoon,
9 Your Honor.

10 MR. POVICH: Don't you have these checks?

11 MR. KOTELLY: Yes. She read the information into
12 evidence.

13 THE COURT: I remember the name but I don't remember
14 much about her testimony.

15 THE COURT: She was custodian from the National
16 Bank of Detroit. She was the last witness on that Thursday
17 before Miss Stultz resumed the stand Friday.

18 THE COURT: Oh, yes. Miss Alfano.

19 What are those numbers?

20 MR. KOTELLY: 66 is the government exhibit number,
21 Your Honor.

22 THE COURT: What are the numbers of the document?

23 MR. KOTELLY: They relate to dates that certain
24 of the money orders were purchased.

25 THE COURT: She testified from bank records?

000805

1 MR. KOTELLY: Yes, Your Honor.

2 MR. POVICH: She testified from the summary which
3 she said she prepared from records back at home in Detroit.

4 MR. KOTELLY: That's correct.

5 THE COURT: This is a list showing dates of issue?

6 MR. KOTELLY: Yes, Your Honor.

7 MR. POVICH: Date of issue or date of purchase.

8 MR. KOTELLY: Date of purchase. Date of issue I
9 think is the same.

10 THE COURT: What is the identification number?

11 MR. POVICH: 66 for identification.

12 THE COURT: I will receive it.

13 THE CLERK: Government's 66 received in evidence.

14 (Government's Exhibit 66 for
15 identification was received)

16 MR. KOTELLY: Your Honor, the Government's last
17 witness will be Jim Reed.

18 THE COURT: Perhaps that would be a good time for
19 a 10-minute recess.

20 (Whereupon, at 11:05 a.m., a short recess was
21 taken.

22 AFTER RECESS

23 11:18 a.m.

24 THE COURT: Bring in the jury.

25 (The jury returned to the courtroom)

26 000806

1 MR. KOTELLY: James Reed.

2 Whereupon,

3 JAMES MILTON REED

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

7 DIRECT EXAMINATION

8 BY MR. KOTELLY:

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

10 A James Milton Reed.

11 Q Where are you presently employed?

12 A I'm employed by the Federal Bureau of Investigation.

13 Q What is your position with the FBI?

14 A Special Agent.

15 Q How long have you been a Special Agent with the
16 FBI?

17 A Nine years.

18 Q Could you state briefly your education and background
19 prior to joining the FBI?

20 A I graduated from Penn State University in 1966,
21 with a major in Accounting, and between 1966 and 1969, when
22 I joined the FBI, I worked in public accounting for a CPA
23 firm in industrial accounting and I served two years in the
24 Armed Forces, United States Army.

25 Q After joining the FBI in 1969, did you receive any

000807

1 additional training in the area of accounting?

2 A Yes. I attended in-service training.

3 Q And what is your present position within the Bureau
4 relating to your accounting work?

5 A I'm designated Special Agent (Accountant), and I'm
6 rated fully qualified, which is our highest rating based on
7 a scale of one to four.

8 Q Mr. Reed, were you involved in an investigation
9 of Charles C. Diggs, Jr.?

10 A Yes, I was.

11 Q When did you first become involved in that investi-
12 gation?

13 A April 27, 1977.

14 Q Mr. Reed, in connection with your investigation,
15 did you receive any documents or materials from a Randall
16 Robinson?

17 A Yes, I did.

18 Q When did you receive such documents?

19 A November the 1st, 1977.

20 Q Could you state to the jury the circumstances of
21 your physically receiving these documents?

22 A Randall Robinson brought the items to the John
23 Marshall side of the courthouse. He brought a total of eight
24 boxes. I met him at his automobile or a taxi -- I can't
25 recall which it was -- with an accounting technician from

000808

1 our office and we carried the eight boxes to the Fraud
2 Section of the United States Attorney's office on the third
3 floor.

4 Q Was anyone with Mr. Robinson at that time that you
5 observed?

6 A Yes. I believe at the same time Marcia Mills or
7 Miles was with him and also Lorraine Westbrook McDaniels,
8 I believe her name is.

9 Q After you received these eight boxes from Mr.
10 Robinson, what if anything did you do with them?

11 A First day, accounting technician and I spent a
12 couple hours just looking through the boxes to see exactly
13 what we had received.

14 Q To your knowledge, the eight boxes that you received,
15 have they been physically present here in court during these
16 proceedings?

17 A Yes, they have. I personally brought them up one
18 day last week and they were brought into the courtroom.

19 Q Mr. Reed, would you state to the jury the type of
20 records that were contained in these eight boxes you received
21 from Randall Robinson?

22 A Yes. Three of the boxes dealt with personal
23 expenses of the Congressman, and those three boxes contained
24 102 separate folders.

25 There was another box that dealt with miscellaneous

000809

1 personal expenses, mostly I believe for the year 1973.

2 There were 19 folders in that particular box.

3 There were two boxes that dealt with business type
4 expenses of the Congressman, and there were 36 separate folders
5 in those boxes.

6 There was one box which contained appointments and
7 calendars for the years 1971 through 1977, for the Congressman,
8 and there was one other box which had miscellaneous items.

9 There were check stubs, cancelled checks. There
10 were a few ledgers where someone had attempted to keep a
11 record of certain expense or personal accounts.

12 Q After you initially reviewed these documents with
13 this accounting technician, what if anything did you do later?

14 A Well, later I went through all of the evidence.
15 I was specifically looking for customer's copies of money
16 orders or cashier's checks.

17 I was looking for any references I could find to
18 special account funds, any lead-type information. Whenever
19 I would find an item which I felt would probably be certainly
20 introduced in evidence, I would initial it, date it, and
21 at that time I put all of the evidence back into the original
22 folders and I kept a record of what I found in the folders.

23 Q Agent Reed, I'm going to show you a number of docu-
24 ments and ask you if you can identify these documents.

25 Mr. Reed, I first show you what's been marked

000810

1 Government's Exhibit 25-A and -B, which have previously been
2 identified by Miss Stultz and ask you if you can identify
3 those documents?

4 A Yes, I can identify them.

5 Q How do you identify them?

6 A My initials.

7 Q What are those two documents, just briefly?

8 A 25-A is a letter from Charles C. Diggs to Joseph
9 Daniel Clipper, advising him that --

10 Q When I say briefly, just describe the type of docu-
11 ment that is, sir, and 25-B.

12 A 25-B is a photocopy of a cashier's check for \$1,000.

13 Q Made payable to?

14 A Daniel Clipper.

15 Q I next show you Government's Exhibit 26-A and -B,
16 which were previously identified by Jean Stultz, and ask
17 you if you can identify those documents?

18 A Yes. I can.

19 Q How do you identify them?

20 A My initials are on them.

21 Q What are they?

22 A 26-A is a letter from Jean Stultz to Mr. John J.
23 Conman, Michigan Bell Telephone.

24 Q And 26-B?

25 A 26-B, there are two items here, the Treasury check

000811

1 for \$450, and you also have Riggs cashier's check for \$250,
2 payable to Michigan Bell Telephone.

3 Q I next show you Government's Exhibit 27-A and
4 -B for identification, which were previously identified by
5 Jean Stultz, and ask you if you can identify that?

6 A Yes, I can.

7 Q How do you identify it?

8 A My initials are on them.

9 Q And what is 27-A and -B?

10 A 27-A is a letter from Mrs. Jean Stultz to Mr.
11 Armstead H. Barnett, Sr.

12 Q On that document, are there any references to any
13 money orders or cashier's checks?

14 A Yes. States, "Enclosed you will find a cashier's
15 check for \$5525."

16 Q Any identifying numbers were mentioned in that
17 letter?

18 A Yes. At the bottom it says, "Enclosure, Cashier's
19 check No. 245758 in the amount of \$525."

20 Q And 27-B for identification, would you briefly
21 describe what that is?

22 A This is a, appears to be a bill from Barnett Caterers
23 to the House of Representatives, attention Mrs. Jean Stultz.
24 The total bill is for \$716.42.

25 Q Are there any personal figures on that document?

000812

1 A Yes, there are.

2 Q Fine. I next show you Government's Exhibit 28 for
3 identification, which was previously identified by Miss
4 Stultz, and ask you if you can identify that document?

5 A Yes, I can.

6 Q How do you identify it?

7 A By my initials.

8 Q What is that document?

9 A This is a customer copy of a personal money order
10 drawn on Riggs National Bank payable to Gandel's Liquors;
11 at the bottom it is signed or has the name Charles C. Diggs,
12 Jr.

13 MR. KOTELLY: I ask Government's 29 for identifica-
14 tion be marked at this time.

15 THE COURT: All right.

16 THE CLERK: Government's Exhibit 29 marked for
17 identification.

18 (Document marked Government's
19 Exhibit 29 for identification)

20 BY MR. KOTELLY:

21 Q I show you Government's Exhibit 29 for identifica-
22 tion and ask you if you can identify it?

23 A Yes, I can.

24 Q How do you identify it?

25 A My initials.

000813

1 Q What is Government's Exhibit 29?

2 A This is a Riggs cashier's check payable to J.

3 Daniel Clipper in the amount of \$1,270.

4 Q I next show you Government's Exhibits 30-A and
5 30-B, which were previously identified by Miss Stultz, and
6 ask you if you can identify that document?

7 A Yes, I can.

8 Q How do you identify it?

9 A By my initials.

10 Q What are those two documents?

11 A 30-A is an invoice from David R. Ramage, Clerk,
12 Majority Room, House of Representatives.

13 Q And the 30-B for identification was what?

14 A One thing -- that is a cashier's check for \$900
15 payable to House Majority.

16 Q I next show you Government's Exhibit 31-A and
17 31-B for identification, which were previously identified
18 by Miss Stultz, and ask you if you can identify those docu-
19 ments?

20 A Yes, I can.

21 Q And how?

22 A By my initials.

23 Q And what are those documents?

24 A 31-A is a bill from Detroit Edison Company for
25 \$13.39 -- excuse me -- well, you have two numbers, 13.39,

000814

1 and then after a certain date it's 13.59.

2 Q And 31-B for identification, briefly what is that?

3 A That's a Riggs customer copy of a personal money
4 order. It's payable to the Detroit Edison for \$13.59, and
5 the name that appears in the lower right-hand is Congressman
6 Charles C. Diggs, Jr.

7 Q I next show you Government's Exhibit 31-C and
8 31-D for identification, previously identified by Miss Stultz
9 and ask you if you can identify those documents?

10 A Yes, I can.

11 Q How do you identify them?

12 A By my initials.

13 Q Briefly, what are those two documents?

14 A 31-C is a Riggs money order, copy of it, payable
15 to One Stop Lock Company in the amount of \$17; lower right
16 hand appears the name Congressman Charles C. Diggs, Jr.

17 31-D is a bill from One Stop Lock and there is a
18 notation on there, "paid 3/18/74, money order 791186."

19 MR. KOTELLY: Your Honor, I ask Government's Exhibits
20 32-A and -B be marked for identification.

21 THE COURT: Very well.

22 THE CLERK: Government's Exhibit 32-A and -B
23 marked for identification.

24 (Documents marked Government's

25 Exhibit 32-A and 32-B for

000815 identification)