

1 BY MR. KOTELLY:

2 Q Were you present back in May or June of '77, at  
3 meetings with Miss Stultz and Mr. Beizer and Mr. Marcy of  
4 the United States Attorney's office?

5 A I was present at one such and I brought her for  
6 another such and I did not remain. She was here on occasions  
7 when I did not attend.

8 Q Did Mr. Marcy and Mr. Beizer advise your client  
9 of her constitutional rights?

10 A Not in my presence they did not.

11 Q Are you certain of that?

12 A I am certain of that. I advised her of her rights  
13 but they did not advise her not in my presence.

14 Q Well, you advised your client of her rights?

15 A I did.

16 Q Did she invoke her constitutional rights when she  
17 first met with the prosecutors in May and June of 1977?

18 A I had discussions regarding her rights.

19 Q With whom?

20 A Mr. Marcy.

21 Q And what promises were made back in May or June  
22 of 1977?

23 A No specific promise was made at that time to me.

24 Q So there was no promise of immunity for your client  
25 at that time?

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1 A At that particular time, no.

2 Q When was the first time that you brought that  
3 matter up with the United States Attorney's office?

4 A I brought it up at that time. You say the first  
5 time?

6 Q Yes.

7 A At that time I was concerned about it.

8 Q Did you request immunity for your client back in  
9 May or June of 1977?

10 A On that occasion that was my concern.

11 Q Did you request it, Mrs. Roundtree?

12 A As best I could, I did.

13 MR. KOTELLY: Your Honor, I see no reason to further  
14 cross-examine Mrs. Roundtree because, obviously, memories  
15 and recollections of that event differ greatly between Mr.  
16 Beizer, Mr. Marcy and Mrs. Roundtree, and also the testimony  
17 in the grand jury.

18 THE COURT: All right. I take it there is nothing  
19 else, Mr. Watkins?

20 MR. WATKINS: Nothing, Your Honor.

21 THE COURT: Thank you, Miss Roundtree.

22 THE WITNESS: Thank you, Your Honor.

23 (Witness excused)

24 THE COURT: Do you want to come to the bench?

25 MR. WATKINS: Yes.

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

3 MR. WATKINS: Since I had Mrs. Roundtree under  
4 subpoena, I would like to know whether I'm going to be allowed  
5 to present this matter to the jury so I can release her or  
6 have her come back tomorrow.

7 THE COURT: Can you gentlemen agree as to what she  
8 would say if recalled?

9 MR. POVICH: We can't agree, Your Honor.

10 THE COURT: As to what she would say. That's the  
11 function of the witness. I mean Mr. Kotelly and Mr. Marcy  
12 disagree with what she says but if you can agree that if she  
13 were recalled and sworn as a witness she would testify in  
14 substance as follows, if you can write that out, we can spare  
15 her a little time.

16 MR. WATKINS: I don't think Mrs. Roundtree has any  
17 problem with the time, Your Honor. I would like to present  
18 her testimony to the jury, a stipulation is a dry set of facts.

19 Mrs. Roundtree's testimony, as I elicited this after-  
20 noon, took less than five minutes and that's all I would be  
21 asking her about. I don't see that there should be any need  
22 to prolong it.

23 THE COURT: That she once went to the U.S. Attorney's  
24 office in May or June with her client. At that time she asked  
25 for immunity as well as she could, but it wasn't granted then.

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1 when she was at the bench.

2 MR. WATKINS: That's not her testimony, Your Honor.  
3 Her testimony is she was promised a letter before her client  
4 would testify and she didn't get that letter before her client  
5 testified.

6 THE COURT: She didn't testify to that.

7 MR. WATKINS: I beg your pardon, Your Honor.

8 THE COURT: You mean this afternoon?

9 MR. WATKINS: Yes.

10 MR. POVICH: Yes, she did and that presumes, Your  
11 Honor, there was a promise which was made which was going  
12 to be incorporated in the letter.

13 THE COURT: Was there any statement as to when the  
14 letter would be supplied or when this promise was made?

15 MR. WATKINS: Yes. The promise was made earlier  
16 in the summer. She understood that she was to get the  
17 letter whenever her client took the stand and that's why we  
18 had this situation where Mrs. Stultz turned to Your Honor  
19 and said, "May I address the Court?" Because she hadn't  
20 received the letter.

21 And that's what caused the bench conference and that  
22 is the fact that I think has to be elicited, that Mrs. Stultz  
23 or Mrs. Roundtree was promised on behalf of Mrs. Stultz a  
24 letter before she testified and she didn't get that letter.

25 THE COURT: Well, whenever she testified she got

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1 the direct promise which was satisfactory to her and so again  
2 I say the witness who is testifying after a grant of immunity  
3 is more vulnerable to argument that the testimony is colored  
4 by the grant of immunity than the witness who hasn't gotten  
5 such a promise and you have got right now at the bench  
6 conference, the representation of the District Attorney  
7 that she would not be prosecuted. So all the testimony is  
8 subject to the immunity.

9 MR. WATKINS: Your Honor, first, Mrs. Stultz  
10 attempted not to testify because she didn't have immunity  
11 in the sense that she didn't have the letter that she understood  
12 that she was to get.

13 THE COURT: I understand that, Mr. Watkins, but  
14 she didn't testify until she got the immunity.

15 MR. WATKINS: While we know it at the bench, I  
16 think the jury has the right to know that as well.

17 THE COURT: She testified and I don't have it recorded  
18 in my notes, but Regis' notes would reflect it. I don't know  
19 whether you can read Regis' notes or not, but there was  
20 testimony from the witness that she had talked to Mrs. Roundtree  
21 in the witness room and she was satisfied of the promises  
22 the Government had made, or something like that, was the  
23 reason it was made.

24 MR. WATKINS: She fought Mr. Povich.

25 THE COURT: Not everybody loves Mr. Povich, you  
know that.

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1 MR. WATKINS: Most people do, Your Honor.

2 THE COURT: I'm sure they do but not the witnesses  
3 that you seek to interrogate.

4 MR. WATKINS: What happened was Mrs. Stultz was  
5 asked on Redirect by Mr. Kotelly whether any promises had  
6 been made and Mrs. Stultz gave a fantastic answer. I mean  
7 it was fantastic to me because here at the bench, Mr. Kotelly  
8 promised that she was going to get immunity, and she answered  
9 Mr. Kotelly, no.

10 Mr. Kotelly sits down and Mr. Povich gets up and  
11 says to her, "Now, Mrs. Stultz, you were given immunity weren't  
12 you?" And she says, "No." That's one.

13 THE COURT: I don't recall her saying that. I know  
14 she was given immunity.

15 MR. WATKINS: We all know she didn't, but the question  
16 is what she testified.

17 THE COURT: She got the immunity before she testified  
18 didn't she?

19 MR. POVICH: She wasn't given immunity until she  
20 took the stand and that was not --

21 THE COURT: She didn't testify until she got the  
22 immunity.

23 MR. POVICH: Yes, but that was not the truth.

24 THE COURT: She stated her name and address; that's  
25 all she stated.

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1           Then Mr. Watkins called to my attention that she  
2 was trying to communicate with me and why. That's when we  
3 had the bench conference.

4           MR. POVICH: Her testimony was she did not have  
5 immunity was not correct. She had been offered immunity.  
6 She had been told you will get the letter confirming it  
7 before trial. She waited. Miss Roundtree waited.

8           They were somewhat incensed they didn't have the  
9 letter. She was put on the stand. She was asked questions.  
10 She tried to interrupt you to say "I don't have my letter;  
11 I'm not going to rely on just what the Government told me  
12 about immunity," and that's when we had the problem.

13           But her answer that she had not been granted immunity  
14 was wrong and not only that, they held her hostage until she  
15 did testify. They didn't give her that letter. They didn't  
16 give her even though Mrs. Roundtree will testify and that's  
17 important.

18           THE COURT: That's where you leave me because a  
19 person who has not been promised immunity is likely to be  
20 less under the gun. One who has immunity can go ahead unless  
21 they commit perjury.

22           MR. POVICH: She did go ahead. She did go ahead.  
23 Right at one point she just cut loose, but the point was they  
24 had her really up tight before hand because she was either  
25 going to testify the way they wanted or she wasn't going to

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1 get her letter.

2 MR. WATKINS: You see, Your Honor, for us, we under-  
3 stand what the promise of immunity is by the prosecutor.  
4 Mrs. Stultz understood, as I heard her testimony, that her  
5 promise would be, was only good when it was contained in a  
6 written document. That's why she didn't want to testify and  
7 it was only after we came to the bench that Mrs. Roundtree  
8 learned that Mr. Kotelly didn't intend to give her that letter  
9 until after Mrs. Stultz testified and that's the problem.

10 MR. POVICH: That's the critical point, Your Honor.

11 MR. WATKINS: That's the critical point.

12 MR. POVICH: I have never heard of a situation  
13 where a prosecutor says that I will give you immunity in the  
14 form of a letter, but only after you testify, Madam Witness,  
15 only after you testify. Why is that?

16 THE COURT: The "only" is something you are adding,  
17 isn't it?

18 MR. KOTELLY: Yes, yes. Absolutely.

19 MR. POVICH: Let's put it this way, Your Honor.  
20 If you are entitled to the letter, you should have had it  
21 before and not after the trial.

22 THE COURT: I agree with that, however, I know that  
23 getting ready for trial there were times when I had to get  
24 ready for trial. I'm glad I don't have to anymore, but  
25 there were times when I had to get ready for trial and you

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1 just have a lot of things to do and sometimes things you  
2 should do you don't do.

3 MR. WATKINS: Mr. Kotelly said he didn't intend  
4 to give her a letter after she testified.

5 THE COURT: Is that correct?

6 MR. KOTELLY: It is my representation I told Mrs.  
7 Roundtree orally my promise was binding and that she had a  
8 promise her client wasn't going to be prosecuted.

9 She said to me, "What happens if you and Mr. Marcy  
10 and Mrs. Roundtree all die sometime in the next few weeks?"

11 I said, "I will get you a letter if that would satisfy  
12 you and put it in writing but my oral promise is binding."

13 Mrs. Roundtree understood that but wanted something  
14 to preserve it. I waited, Mr. Watkins, for you to finish  
15 and I would like to have an opportunity to say mine.

16 MR. WATKINS: I'm sorry, Mr. Kotelly.

17 MR. KOTELLY: I submit the defense in this case  
18 twisted around what Mrs. Stultz said and are trying in some  
19 way to impeach her, not on her inconsistent testimony, but  
20 because they are trying to make it appear now that there is  
21 some kind of a business involved as to what her understanding  
22 was and what she had knowledge of.

23 Miss Stultz said that the promise had been made and  
24 she had been assured by her lawyer that she was not going  
25 to be prosecuted, but there would be no immunity. There

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1 has not been a formal immunity in this case. The Government  
2 has not gone through the formal procedures of getting approval  
3 of the Attorney General and then applying to the Court for  
4 such immunity.

5 The informal immunity has the same effect, but to  
6 her it is just a promise of the prosecution that she is not  
7 going to be prosecuted and that is what was given two weeks  
8 ago when her lawyer asked us for it.

9 In May or June of '77 she was warned of her rights,  
10 told she was not getting immunity at that time and asked if  
11 she would waive her rights. She waived them and testified.  
12 And that's clear on the grand jury transcript and Mr. Watkins  
13 must know that.

14 MR. WATKINS: I know that, Your Honor, but it is  
15 clear that each time a witness takes the stand in a proceeding  
16 regardless of whether she waived her testimony, waived her  
17 Fifth Amendment rights in a prior proceeding, she is again  
18 exposing herself to prosecution unless she gets another grant  
19 of immunity and Mrs. Roundtree said, you know, "I want that  
20 grant of immunity or a promise from the prosecution in writing  
21 and she will not testify unless she gets that."

22 And that's what she tried to do and Mr. Kotelly and  
23 I would like to have those notes because I am certain and  
24 I was surprised that Mr. Kotelly said "I will give you --  
25 it's my intention to give you a letter of immunity after the  
trial."

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1 THE COURT: Where is that?

2 MR. WATKINS: I'm sure that's in whoever took the  
3 notes at the bench conference that day and I think that's  
4 important, Your Honor, because that indicates that Mr. Kotelly  
5 had the ability to hold this witness to say what he wanted  
6 under pains of penalty of being prosecuted.

7 That was the way she viewed it and it's not what  
8 we understand, it's what was the view in her mind, and in  
9 her mind she was not clear until she got that letter, and  
10 that's the problem that we have and that's why I'm concerned  
11 about this and I think the jury ought to know that she was  
12 of a mind to testify the way the prosecution wanted her to  
13 until she got that letter.

14 MR. KOTELLY: Your Honor, Miss Stultz is the only  
15 person who can testify to that and they did not cross-  
16 examine her on that issue and this extrinsic evidence doesn't  
17 go to what her state of mind was at all.

18 MR. POVICH: I cross-examined her. After you learned  
19 that you extracted the answer that no promise had been made  
20 which was the furthestest thing from the truth, I thought I  
21 should have cleared it up.

22 MR. KOTELLY: Your Honor, I would ask that portion  
23 of the transcript be transcribed. It was the last.

24 THE COURT: I don't know how we are going to do  
25 it. This girl can read the notes, but she's been working

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1 since 8:00 o'clock.

2 MR. KOTELLY: It's only a few questions, Your Honor.  
3 The last few questions on Redirect and the first couple ques-  
4 tions on Recross.

5 MR. POVICH: The bench conference I think is what  
6 should be transcribed.

7 MR. KOTELLY: They are arguing Miss Stultz made  
8 a misstatement of truth in her testimony as to no promises  
9 made. I submit they are taking this totally out of context  
10 as to when she was saying there were no promises made.

11 She was referring back to when she first came to  
12 Mr. Beizer's office after her records had been subpoenaed  
13 from Riggs bank and defense counsel have totally ignored that  
14 portion of her testimony when she said no promises were made  
15 at that time.

16 MR. WATKINS: I don't recall her making any statement  
17 about that time but I know that certainly she said there were  
18 no promises made and you and I know that is not correct.

19 THE COURT: The only way we can get this is by having  
20 a transcript and I don't have the heart to ask this girl to  
21 transcribe some other reporter's notes after having been  
22 transcribing herself since 8:30 this morning.

23 MR. WATKINS: Your Honor, may I suggest a solution?  
24 Mrs. Roundtree I am sure she would like to be released from  
25 the subpoena, but is there a time later on in the week when

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1 that portion of the transcript --

2 THE COURT: How long do you gentlemen expect to  
3 be going?

4 MR. WATKINS: Probably until Thursday unless the  
5 witnesses go faster than we expect.

6 THE COURT: Well, I'm glad to hear that. A very  
7 close friend of mine died this morning about 6:00 o'clock  
8 and she had extracted a promise from me to give the memorial  
9 address, a Lady Lewis, whose husband for many years repre-  
10 sented the London Times here in Washington.

11 She was a very close friend of mine whom I had known  
12 since I was in grade school, so I'm glad I will be available  
13 for that on Saturday afternoon.

14 MR. WATKINS: I'm sure you will be available on  
15 Saturday afternoon, Your Honor.

16 THE COURT: Now, you tell me, you're young and  
17 pretty but you can't transcribe all night. When do you think  
18 you might get to those notes in which these gentlemen --

19 (Discussion with the reporter off the record.)

20 LeCount, what do we have tomorrow morning?

THE CLERK: We have two arraignments and a status  
hearing.

THE COURT: All right, I think we can do that.

(Whereupon, at 5:05 p.m. the above-entitled  
matter was adjourned, to reconvene on October 4, 1978.)

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF COLUMBIA  
3

4 UNITED STATES OF AMERICA ]

5 vs. ] Criminal No. 78-142

6 CHARLES C. DIGGS, JR., ]

7 Defendant. ]  
8

9 EXCERPT OF PROCEEDINGS

10 Washington, D. C.

11 October 4, 1978  
12

13 The above-entitled matter came on for further  
14 hearing at 9:30 o'clock, a.m., before:

15 HONORABLE OLIVER GASCH  
16 UNITED STATES DISTRICT JUDGE.

17 APPEARANCES:

18 ON BEHALF OF THE GOVERNMENT:

19 JOHN KOTELLY, ESQUIRE  
20 ERIC MARCY, ESQUIRE.

21 ON BEHALF OF THE DEFENDANT:

22 DAVID POVICH, ESQUIRE  
23 ROBERT WATKINS, ESQUIRE  
24 BERNARD CARL, ESQUIRE.

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JUDITH B. MOORE, CSR  
Official Court Reporter

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P R O C E E D I N G S

THE CLERK: Criminal Case 78-142, case of United States versus Charles C. Diggs. For the Government Mr. John Kotelly and Mr. Eric Marcy. For the Defendant Mr. David Povich, Mr. Robert Watkins and Mr. Bernard Carl.

(Jury not present.)

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

MR. POVICH: Sorry, Your Honor.

THE COURT: Good morning.

MR. POVICH: Good morning.

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

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

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

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

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

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

4 THE COURT: Yes.

5 (At the bench:)

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

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

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

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

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

20 "No, they were not."

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

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

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

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

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

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

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

19 THE COURT: All right. Fine.

20 MR. WATKINS: Thank you, Your Honor.

(In open Court:)

21 THE COURT: Bring in the jury.

(Jury returned to the courtroom.)

22 THE COURT: Good morning, ladies and gentlemen.

23 Counsel may come to the bench.

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1 (At the bench:)

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

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

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

7 MR. WATKINS: These are.

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

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

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

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

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

4 MR. WATKINS: Certainly. I agree.

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

7 MR. KOTELLY: Absolutely no challenge.

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

13 MR. POVICH: Your Honor --

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

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

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

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

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

3 (In open Court:)

4 MR. WATKINS: Mrs. Coretta Scott King.

5 Whereupon,

6 CORETTA SCOTT KING

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

10 DIRECT EXAMINATION

11 BY MR. WATKINS:

12 Q Good morning, Mrs. King.

13 A Good morning.

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

16 A Coretta Scott King.

17 Q Where do you live, Mrs. King?

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

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

22 A Yes, I am.

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

25 A Yes, I do.

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

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

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

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

9 BY MR. WATKINS:

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

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

15 MR. KOTELLY: Objection, Your Honor.

16 THE WITNESS: -- in 1957.

17 THE COURT: Sustained.

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

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

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

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1 a very narrow facet of the case.

2 BY MR. WATKINS:

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

5 A Yes, I have.

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

8 A Yes, it has.

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

11 A Yes, I do.

12 Q What is that opinion, Mrs. King?

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

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

17 A Yes, I do.

18 Q What is your opinion?

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

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

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

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

2 I have no further questions, Your Honor.

3 THE COURT: All right. Mr. Kotelly?

4 CROSS EXAMINATION

5 BY MR. KOTELLY:

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

8 A Good morning.

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

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

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

15 A Not all of them, just some of them

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

21 MR. POVICH: Your Honor, I object.

22 THE COURT: Overruled.

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

25 BY MR. KOTELLY:

001004

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

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

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

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

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

11 A Not personally.

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

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

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

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

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

21 THE WITNESS: Thank you, Your Honor.

22 (Witness excused.)

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

25 Ambassador Andrew Young.

001005

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

3 I would like to call the Reverend Jesse Jackson.

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

8 THE COURT: All right.

9 Whereupon,

10 JESSE LOUIS JACKSON

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

14 DIRECT EXAMINATION

15 BY MR. WATKINS:

16 Q Good morning, Reverend Jackson.

17 A Good morning.

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

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

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

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

001006

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

3 A Yes.

4 Q How long have you known him?

5 A For approximately 14 years.

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

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

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

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

16 MR. WATKINS: Thank you, Your Honor.

17 BY MR. WATKINS:

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

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

23 Q That was what year, sir?

24 A Approximately 1964.

25 Q Did you have occasion to meet and associate with

001007

1 him at a later time?

2 A Ever since that time.

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

5 A Yes, but other matters as well.

6 Q For instance?

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

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

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

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

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

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

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

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

001008

1 established.

2 BY MR. WATKINS:

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

6 A Yes.

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

9 A Yes, I do.

10 Q What is that opinion?

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

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

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

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

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

23 CROSS EXAMINATION

24 BY MR. KOTELLY:

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

001009



1 from the Department of Justice.

2 A Yes sir.

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

6 A No.

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

9 A No.

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

12 A No.

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

16 A No.

17 MR. KOTELLY: Nothing further, Your Honor.

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

19 THE COURT: All right.

20 REDIRECT EXAMINATION

21 BY MR. WATKINS:

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

24 A Correct.

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

001010

1 that his financial matters: is that correct?

2 A That's correct.

3 MR. WATKINS: Thank you, Reverend Jackson.

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

6 THE WITNESS: Thank you, sir.

7 (Witness excused.)

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

9 THE COURT: Yes.

10 (At the bench:)

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

15 THE COURT: Do you have another witness?

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

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

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

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

001011

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

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

11 MR. POVICH: I have three character witnesses.

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

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

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

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

22 THE COURT: Six.

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

24 THE COURT: Right.

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

001012

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

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

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

8 THE COURT: How much time do you want?

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

10 THE COURT: All right.

11 (In open Court:)

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

14 (Recess.)

15 (Jury not present.)

16 MR. POVICH: The witness is here.

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

18 (Jury returned to the courtroom.)

19 THE COURT: Mr. Watkins?

20 MR. WATKINS: Ambassador Andrew Young, please.

21 Whereupon,

22 ANDREW YOUNG

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

001013

DIRECT EXAMINATION

BY MR. WATKINS:

Q Good morning.

A Good morning.

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

A Andrew Young. I live now in New York.

Q What is your occupation, sir?

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

Q Do you know Congressman Charles C. Diggs?

A Yes, I do.

Q How long have you known him?

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

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

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

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

001014

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

3 A Yes, I would say so.

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

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

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

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

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

19 Q Thank you very much, Ambassador.

20 THE COURT: Mr. Kotelly?

21 CROSS EXAMINATION

22 BY MR. KOTELLY:

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

25 A Good morning.

001015



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

3 A That's correct.

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

6 A No, I did not.

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

10 A No, I did not.

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

14 A No, I did not.

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

18 A No, I did not.

19 Q Do you have any --

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

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

001016

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

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

5 A No.

6 Q Maybe we have some misunderstanding.

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

9 BY MR. KOTELLY:

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

13 A No, I didn't.

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

15 THE COURT: Yes.

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

17 THE COURT: Mr. Watkins?

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

20 THE COURT: Yes.

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

23 THE COURT: Yes.

24 (At the bench;)

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

001017

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

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

4 MR. KOTELLY: Maybe I misheard him.

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

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

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

11 (In open Court:)

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

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

15 (Witness excused.)

16 MR. POVICH: Would Your Honor indulge me?

17 THE COURT: Certainly.

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

20 Whereupon,

21 COLEMAN YOUNG

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

25 DIRECT EXAMINATION

001018

1 BY MR. WATKINS:

2 Q Good morning, sir.

3 Would you state your name for the record?

4 A Coleman Young.

5 Q Where do you live, Mr. Young?

6 A Detroit, Michigan.

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

8 A Yes.

9 Q What is that office?

10 A Mayor of the City of Detroit.

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

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

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

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

001019

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

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

12 Q Thank you, Mr. Mayor.

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

15 A Yes, I do.

16 Q What is it?

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

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

22 A Yes, I do.

23 Q What is that?

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

001020

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

5 Q Thank you, Mr. Mayor.

6 THE COURT: Mr. Kotelly?

7 CROSS EXAMINATION

8 BY MR. KOTELLY:

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

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

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

19 Q Did you see him frequently?

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

22 Q In Detroit?

23 A In Detroit, yes.

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

001021



1 Congressional office in Washington?

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

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

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

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

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

13 Q It was after 1976.

14 A Then I would have no knowledge then.

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

17 A No, of course not.

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

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

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

001022

1 the House of Diggs Funeral Home in Detroit?

2 A No, I do not.

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

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

5 I have no further questions.

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

7 THE WITNESS: Thank you, Your Honor.

8 (Witness excused.)

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

10 THE COURT: Yes.

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

12 Victor Fischer.

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

14 THE COURT: Yes.

15 (At the bench:)

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

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

001023

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

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

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

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

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

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

001024

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

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

17 MR. POVICH: We have no materials.

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

20 MR. POVICH: There is a report.

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

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

001025

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

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

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

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

001026



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

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

9 THE COURT: Did you use the expression?

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

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

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

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

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

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

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

8 MR. WATKINS: Thank you, Your Honor.

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

11 (In open Court:)

12 Whereupon,

13 VICTOR JOEL FISCHER

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

17 DIRECT EXAMINATION

18 BY MR. CARL:

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

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

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

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

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

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

6 A That's correct.

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

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

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

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

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

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

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

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

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

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

2 THE COURT: Come to the bench.

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

4 Withdraw it.

5 BY MR. CARL:

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

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

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

16 A That's correct.

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

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

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

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

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1 their constituents an important issue in that survey?

2 A Yes, it was.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 THE COURT: It may be marked.

25 THE CLERK: It has already been marked 38.

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1 BY MR. CARL:

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

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

9 THE COURT: Yes.

10 (At the bench:)

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

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

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

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

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

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

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

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1 recognized an ongoing practice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 THE COURT: I agree with you.

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

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

21 (In open Court:)

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

23 THE COURT: All right.

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

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1 Fischer has been reading from and identified.

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

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

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

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

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

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

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

20 MR. KOTELLY: Certainly, Your Honor.

21 THE COURT: We will take a brief recess.

22 (Recess.)

23 (Jury not present.)

24 THE COURT: Ready to proceed?

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

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1 THE COURT: Bring in the jury.

2 (The jury returned to the courtroom.)

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

4 CROSS EXAMINATION

5 BY MR. KOTELLY:

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

8 A No, I'm not.

9 Q Where are you presently employed?

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

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

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

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

18 A That's correct.

19 Q How many days did this survey take place?

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

23 Q So just a little more than two weeks?

24 A That's right.

25 Q How many persons on your Commission were actually

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1 conducting this survey?

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

4 Q Were they interviewing separately or in teams?

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

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

10 A 153.

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

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

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

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

21 A Yes, I am.

22 Q Did you assist in preparing that document?

23 A Yes, I did.

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

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

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

7 A Yes, it was.

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

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

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

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

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

25 BY MR. KOTELLY:

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

3 A That's right.

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

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

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

11 A No direct relationship.

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

14 A Absolutely.

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

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

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

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

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

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

3 MR. KOTELLY: We will get to practices.

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

6 You may answer the question, if you can.

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

9 BY MR. KOTELLY:

10 Q Yes.

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

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

16 Q Next category is gifts.

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

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

21 THE COURT: All right.

22 BY MR. KOTELLY:

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

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1 A No.

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

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

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

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

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

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

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

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

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

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

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

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

15 A That is correct, yes.

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

19 A That's right.

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

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

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

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

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

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

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

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

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

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

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

6 A Yes. That was the general purpose.

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

11 A No.

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

15 A No.

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

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

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

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1 A I have no direct knowledge of that.

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

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

8 A That's right.

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

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

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

18 A We did not ask that direct question.

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

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

25 Q From whom?

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

2 --

3 Q Of the Commission or of the Congressmen?

4 A Of the Commission, the senior staff.

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

8 A We are all employees of the House.

9 Q Of the staff of a member of Congress?

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

11 Q Let me ask you some further questions then.

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

17 A That's right.

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

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

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

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

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

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

7 A That's right.

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

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

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

14 A That's correct.

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

17 (At the bench:)

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

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

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

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

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

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

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

4 (In open Court:)

5 MR. KOTELLY: Mr. Fischer, just a final question.

6 I'll strike that.

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

9 THE COURT: All right. Mr. Carl?

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

11 THE COURT: All right.

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

13 THE COURT: Thank you. You are excused.

14 (Witness excused.)

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

17 THE COURT: Yes.

18 (At the bench:)

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

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

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

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

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

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

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

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

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

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

21 THE COURT: Think nothing of it.

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

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

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

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

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

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

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

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

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

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

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

23 (A discussion was held off the record.)

24 (In open Court:)

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

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

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

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

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

15 (Whereupon, at 11:55 o'clock a.m. the above-  
16 entitled matter was recessed for lunch.)  
17  
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23  
24  
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A F T E R N O O N   S E S S I O N

(Jury not present.)

THE COURT: Counsel ready to proceed?

MR. POVICH: Yes sir.

THE COURT: Bring in the jury.

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

THE COURT: All right.

(The jury returned to the courtroom.)

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

THE COURT: Yes.

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

CHARLES C. DIGGS, JR.

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

DIRECT EXAMINATION

BY MR. POVICH:

Q Would you state your full name, please?

A Charles Coles Diggs, Jr.

Q Are you a United States Congressman from the 13th

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1 District of Michigan?

2 A Yes sir.

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

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

6 Q Where were you educated?

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

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

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

16 Q Where did you attend college?

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

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

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

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1 later, actually in February, 1943.

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

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

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

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

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

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

22 Q Where did you go from there?

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

25 Q What kind of business were they in, Congressman

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1 Diggs?

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

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

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

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

11 A To the Michigan State Senate.

12 Q When was that?

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

14 Q Where were you elected from?

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

19 Q What happened in that year?

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

22 Q From which District was that?

23 A From the 13th District of Michigan.

24 Q Can you describe that District for us?

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

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

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

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

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

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

20 THE COURT: All right.

21 (At the bench:)

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

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

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

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

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

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

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

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

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

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

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

20 MR. POVICH: I am, Your Honor.

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

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1 characterization of counsel, but seek to avoid.

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

6 MR. POVICH: Yes sir.

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

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

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

21 THE COURT: All right.

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

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1 THE COURT: All right. .

2 (In open Court:)

3 BY MR. POVICH:

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

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

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

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

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

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

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1 pertinent to these kinds of references.

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

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

8 THE WITNESS: Yes sir.

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

12 THE WITNESS: Yes sir.

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

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

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

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

8 BY MR. POVICH:

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

14 A Yes sir.

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

17 When did it first begin?

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

25 Q How long did she work for you?

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

3 Q And she worked at the funeral home?

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

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

16 A That's correct.

17 Q Could you describe what the office situation was?

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

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

24 THE COURT: Yes.

25 THE WITNESS: We are talking about the beginning of

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

3 Q You mean '55 to '62.

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

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

11 A That's correct, actually.

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

14 A Yes sir, on the second floor.

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

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

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

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

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

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

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

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

10 MR. POVICH: Yes sir.

11 BY MR. POVICH:

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

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

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

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1 1963 or thereabouts.

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

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

10 Q What did you tell her?

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

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

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

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

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

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

4           And that's how it all began.

5           Q     Did you finally hire her?

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

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

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

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

15          A     Yes, yes.

16          Q     What was that?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 A Yes sir.

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

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

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

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

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

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

5 THE COURT: I will permit the answer.

6 BY MR. POVICH:

7 Q Yes sir? Do you remember the question?

8 A Would you repeat the question, please?

9 Q Yes sir.

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

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

25 Well, his eyebrows raised. He was quite interested

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 A Yes sir. I referred to that.

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

25 A Absolutely not.

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1 Q Or for the House of Diggs?

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

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

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

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

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

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

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

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

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

24           A     Not at any time at all.

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

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1 crediting those amounts?

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

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

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

14 THE COURT: What is the exhibit number?

15 MR. POVICH: Exhibit 36, Your Honor.

16 THE COURT: All right.

17 BY MR. POVICH:

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

21 A Yes sir.

22 Q She testified in this case.

23 A Yes sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Q Additional people?

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

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

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

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

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

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

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

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

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

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

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

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

8 A Yes, that's correct.

9 Q What circumstances prompted that?

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

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

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

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

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

25 THE COURT: Very well.

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

4 MR. POVICH: I will refrain it.

5 THE COURT: All right.

6 BY MR. POVICH:

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

10 A Well --

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

14 THE COURT: Suppose you put it that way.

15 BY MR. POVICH:

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

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

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

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

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

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

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

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

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

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

6           BY MR. POVICH:

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

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

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

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

25          Q     Was Mrs. Stultz aware of it?

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

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

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

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

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

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

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

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

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

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

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

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

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1 that be stricken from the record, Your Honor.

2 This is totally improper testimony.

3 THE COURT: Sustained.

4 BY MR. POVICH:

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

6 A I had the discussion with Mrs. Stultz.

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

9 A That's correct.

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

12 A That's correct.

13 Q And what was your answer?

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

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

18 A She paid for the portrait.

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

21 A Well, --

22 Q Was her salary increased?

23 A Beg pardon?

24 Q Was her salary increased?

25 A Yes. Dorothy Corker had made that recommendation and

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1 her salary was increased.

2 Q By you?

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

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

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

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

15 A That's correct.

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

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

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

25 Q Were there any other office expenses that she paid

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1 after that conversation with you?

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

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

18 MR. KOTELLY: Your Honor, I object.

19 THE COURT: Yes. I sustain that objection.

20 BY MR. POVICH:

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

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

24 Q 1973 to 1974.

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

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

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

4 A Yes, she did.

5 Q Can you tell us how that came about?

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

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

15 Q How long did that continue?

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

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1 my Congressional office at that time.

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

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

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

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

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

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

9 Q Why did you not want her to go?

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

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

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

21 Q What did she say?

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

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

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

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

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

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

25 That was my offer.

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

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

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

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

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

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

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

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

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1 lower salary?

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

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

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

9 Q Tell me about that.

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

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

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

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

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

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

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

9 (Recess.)

10 (The jury returned to the courtroom.)

11 BY MR. POVICH:

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

17 A Yes sir.

18 Q Could you tell us what they were?

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

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

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

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

7 THE WITNESS: Yes sir.

8 BY MR. POVICH:

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

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

16 Q You had no unofficial office account?

17 A That's correct.

18 Q What is an unofficial office account?

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

25 Q You mean because of the limitations involved?

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

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

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

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

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

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

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

7 Q Did you seek --

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

10 Q Did you seek to use that?

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

12 Q Why not?

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

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

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

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

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

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

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

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

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

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

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

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

3 BY MR. POVICH:

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

6 A Yes sir.

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

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

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

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

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

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

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

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

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

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

14 A No, I did not.

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

18 A Yes.

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

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

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

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1 is that correct?

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

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

13 A Yes sir. Yes sir.

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

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

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

22 A That is correct.

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

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1 any, which you had?

2 A With Mr. Dukes?

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

5 A Oh, yes, yes.

6 Q Tell us how that came about.

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

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

12 A Yes sir, that's correct.

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

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

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

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

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

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

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

9 A Yes sir.

10 Q How did that come about?

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

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

19 THE COURT: That was subsequent to this time.

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

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

25 MR. POVICH: Your Honor --

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1 THE COURT: Come to the bench, gentlemen.

2 (At the bench:)

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

5 THE COURT: Address the Court.

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

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

9 THE COURT: What date in '77?

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

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

13 THE CLERK: Yes sir. -

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

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

19 MR. POVICH: January 3rd.

20 MR. CARL: That is the effective date.

21 MR. POVICH: January 3rd is the effective date.  
22 Matters came up before that.

23 THE COURT: When did Mr. Matlock discontinue to pay?

24 MR. KOTELLY: End of December of '76. There has been  
25 no testimony that payments were made after that at any period.

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1 The address was when Halson Young was one of the employees  
2 listed and that's the reason those extra months are included  
3 in there because Halson Young was charged as far as later pay-  
4 ments.

5 MR. POVICH: There were two payments in January but  
6 they probably related to the December bill but nevertheless  
7 the payments were there in the checks if you list them by date,  
8 are listed in January. But Your Honor, it goes to the -- it  
9 is relevant to the intent because it goes to the circumstances  
10 under which it was stopped. He wasn't stopped by Mr. Matlock  
11 and Mr. Diggs because someone told him it was unlawful or be-  
12 cause Mr. Matlock said he didn't want to do it anymore or be-  
13 cause he felt there was anything improper. It was stopped  
14 because the allowance was increased and the allowance is now  
15 permitted, the payment of these expenses out of Clerk Hire,  
16 directly out of Clerk Hire. That's all I want to get out of  
17 him. I think it is very relevant.

18 THE COURT: Well, you make it clear this decision  
19 was made only after this report..

20 MR. POVICH: I'm sorry.

21 THE COURT: Provided you make it clear that this  
22 practice was adopted by him only after the report was made.

23 MR. POVICH: Yes. It was adopted after he was ad-  
24 vised the allowances were going to be increased and he could  
25 take money from Clerk Hire. That's when he stopped it.

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1 THE COURT: You can take money out of Clerk Hire  
2 allocation but not out of the employees in Clerk Hire.

3 MR. POVICH: You can transfer; that's correct.

4 THE COURT: But not from the employees. You can do  
5 it from the allocation for Clerk Hire.

6 MR. POVICH: It depends on the mechanism, Your Honor.

7 THE COURT: It is pretty clear you have got to do  
8 it out of the allocation.

9 MR. WATKINS: Your Honor, may I be heard? There is  
10 a check that was introduced by the Government dated January 6,  
11 1977, that is Government's Exhibit 48.

12 THE COURT: Yes. My point is that under this change  
13 allocations may be shifted but you can't go to the employees  
14 and say, "I want your money."

15 MR. POVICH: I'm not saying that that happened.

16 THE COURT: You understand my feeling. All right.

17 (In open Court:)

18 BY MR. POVICH:

19 Q You indicated that Mr. Matlock had never given any  
20 indication to you that he did not wish to do this voluntarily.  
21 My next question to you is did there come a time in which Mr.  
22 Matlock stopped making payments for Congressional expenses out  
23 of his salary of Clerk Hire?

24 A Yes sir.

25 Q Would you tell us how that came about?

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1           A     That came about in the latter part of 1976. It would  
2 be at the end of the year because in January the House had  
3 adopted the rules which became effective allowing office ex-  
4 penses that were not allowed before, that is a larger amount  
5 of money. They consolidated accounts and permitted official  
6 expenses to be paid that were not so defined and characterized  
7 before and in addition to that they permitted each member to  
8 transfer \$15,000 out of their Clerk Hire Account, meaning the  
9 account they had to pay people with, they were permitted to  
10 transfer \$15,000 out of that account at any time into the  
11 allowance account in order to cover these official expenses  
12 that had not been defined or had been redefined under the new  
13 rules.

14           Q     From your experience what had been the practice in-  
15 sofar as the paying for -- what funds were available in  
16 addition to the unofficial office accounts, what funds had  
17 been available to members for use for paying office expenses,  
18 district expenses, telephone, telegraph, any of the expenses  
19 that they would incur in the performance of their duties as  
20 a Congressman when those expenses exceeded the dollar limita-  
21 tions in any of the allowances? What funds had they drawn  
22 upon?

23           A     I don't quite understand your question, Mr. Povich.

24           Q     I'm sorry. I will strike it. It's my fault.

25                 Did Congressmen have available to them if they sought

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1 in addition to unofficial office accounts, campaign contribu-  
2 tions after the campaign that might be utilized in some offi-  
3 cial capacity to pay their expenses?

4 A That's correct. That's correct.

5 Q Did you have funds such as that available to you?

6 A You mean campaign funds?

7 Q Yes.

8 A No sir.

9 Q Did you conduct campaigns in order to generate that  
10 type of funds to run your offices?

11 A I did not have fund raisers. I operated in a dif-  
12 ferent fashion. I always operated independently of any con-  
13 tributions from special interests with the exception of a few  
14 contributions from the labor unions. I have got the UAW  
15 headquarters in my district so obviously I accept some funds  
16 from them which are very modest and from some labor organiza-  
17 tions, but in terms of having a fund raiser or campaign I think  
18 the record will show that in the last 20 years I have not col-  
19 lected \$20,000 in the last 20 years for campaign purposes.

20 Q Notwithstanding the fact that you say you were de-  
21 pressed and in need of financial funds to run your office?

22 A That's correct, and I passed up money I could have  
23 gotten. I represent a district that has General Motors in it  
24 and all kinds of interests of that type and I have never solicit  
25 any funds and they certainly haven't voluntarily given me any.

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1 Q Why not?

2 A Well, from my days in Lansing to my days in Washing-  
3 ton that kind of interest doesn't feel that my vote is con-  
4 sistent with their interests.

5 MR. KOTELLY: Objection. Objection. This has nothing  
6 to do --

7 THE COURT: Sustain the objection.

8 BY MR. POVICH:

9 Q You have heard the testimony of Mr. Under Secretary  
10 Newsome in this courtroom, the first witness that testified  
11 for the defense. Was it accurate?

12 MR. KOTELLY: Objection, Your Honor. May we approach  
13 the bench?

14 THE COURT: Yes.

15 (At the bench:)

16 MR. KOTELLY: Your Honor, I would submit that the  
17 testimony of Mr. Newsome was brought in for a very narrow,  
18 specific purpose to base his opinion. Whether it is true or  
19 not true is immaterial. The man has stated --

20 THE COURT: I will permit him to testify on that.  
21 Don't drag it out.

22 MR. POVICH: I'm not going to, Your Honor.

23 (In open Court:)

24 BY MR. POVICH:

25 Q Do you recall the testimony of Mr. Newsome in which

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1 he related the instance in which it was 1972 or 1973 when he  
2 was, I think, Assistant Secretary of State for African Affairs  
3 and you were Chairman of the House Committee on Africa; is  
4 that correct?

5 A Yes sir.

6 Q He related the instance in which you asked him to  
7 come to your office and you had given him a letter which you  
8 had received and said you were incensed --

9 MR. KOTELLY: Object to the leading question, Your  
10 Honor.

11 MR. POVICH: I just want to get through it briefly,  
12 Your Honor.

13 THE COURT: I will allow leading questions for that  
14 purpose.

15 BY MR. POVICH:

16 Q He indicated you were incensed you had received such  
17 a letter and you had asked that the State Department be noti-  
18 fied and handled in a proper manner?

19 A That's correct.

20 Q Was his testimony accurate insofar as you are able  
21 to recall?

22 A Yes, it was.

23 Q Did you consider the matter a serious matter and  
24 treat it as such?

25 A I treated it very seriously and was quite upset about  
the whole matter.

001119

1 Q Did he treat it as a serious matter?

2 A He treated it very seriously. He is a career foreign  
3 service officer and very professional.

4 Q What is your best recollection as to the amount of  
5 money which was offered to you in that letter from that head  
6 of State?

7 A Well, it was in five figures and it was over \$20,000  
8 but I think perhaps less than \$50,000 annually. It was in that  
9 category and I think it was closer to 50 than it was to 20.

10 Q Mr. Diggs, I want to ask you, on the occasion when  
11 you signed the Payroll Authorization form and placed Jeralee  
12 Richmond on your Congressional Payroll, was it your intent  
13 to violate any laws of the United States?

14 A No sir.

15 Q When you authorized the payroll and salary payment  
16 to George Johnson for payment of salary to him was it your  
17 intent at any time to violate any law of the United States?

18 A No sir.

19 Q Now, when you increased the salary of Jean Stultz  
20 and she received additional salary in which she paid some  
21 personal bills and many of your office expenses was it your  
22 intention at that time to violate any laws of the United States?

23 A No sir. I felt that she had every right to do what  
24 she wished to do with her salary.

25 Q When you increased the salary of Mr. Matlock in which

001120

1 he paid office expenses and was reimbursed through his salary  
2 account was it your intent at that time to violate any laws of  
3 the United States?

4 A Absolutely not. I felt the same way that I felt  
5 about the other questions that you have asked.

6 Q And when Mr. Dukes billed you for expenses he in-  
7 curred in representing you both here and in Detroit to bill  
8 the additional amount and his salary was increased by you  
9 through the Payroll Authorization Form was it your intent to  
10 violate any laws of the United States?

11 A Absolutely not. I would not have jeopardized my  
12 Congressional career on that kind of a basis.

13 MR. POVICH: I have no further questions, Your Honor.  
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001121



CROSS EXAMINATION

BY MR. KOTELLY:

Q Mr. Diggs, you have testified you did not have political fund raisers. Is that true during the period of 1973 through the end of 1976?

A I think that's generally true. I didn't say that I never had any fund raisers.

Q Well, did you have fund raisers during that period of time?

A It's possible.

Q You don't remember?

A I don't remember specifically.

Q How did you raise funds to run for elected office during those years?

A Well, I did have some monies, as I testified. I had contributions from some interests, labor unions, for example, and from some other interests.

Q Did you solicit campaign funds from constituents in your district?

A Well, not from my constituents if you are talking about the 13th Congressional district, because I represent a poor district, Mr. Kotelly.

Q Never send out any letters seeking contributions? When I say "you" I am talking about you as a Congressman as well as any campaign fund on your behalf.

001122

1 Well, yes, there have been solicitations made  
2 through the mails on occasions.

3 Q Do you have a campaign committee for your election  
4 in 1976?

5 A That is in compliance with the election requirements,  
6 yes.

7 Q Was Ofield Dukes a person that was some kind of an  
8 officer on your campaign committee?

9 A Yes, that's correct.

10 Q Did you attend fund raisers for the Diggs for  
11 Congress Campaign Committee in December of 1975 at the  
12 Sheraton Park Hotel here in Washington?

13 A Yes, yes.

14 Q That was a fund raiser on your behalf; is that  
15 correct?

16 A That was one of the fund raisers. I said that I  
17 did have some fund raisers.

18 Q Well, can you tell us how many?

19 A Well, you have that record. I assume you have  
20 others.

21 Q I am asking you, sir. You were present. You were  
22 involved in the campaign, not I.

23 A Well, I can merely say that if you have the record  
24 of that particular campaign fund raiser, obviously it was  
25 held and I was there and I know about it.

001123

1 Q Mr. Diggs, you don't remember any other fund raiser  
2 for political purposes?

3 A Well, not in specific terms because, Mr. Kotelly,  
4 I indicated that I did not have fund raisers in the traditional  
5 sense of the word.

6 Q Have there been any nonpolitical fund raisers on  
7 your behalf to raise money to give you personally?

8 A Oh, I think there have been testimonials.

9 Q How many testimonial dinners have been given on your  
10 behalf for the purpose of raising money for you?

11 A Well, the two that I can best remember is one here  
12 in Washington after I became Chairman of the House District  
13 Committee. There was a testimonial given in honor of my  
14 assuming that.

15 There was another testimonial in 1965 when Martin  
16 Luther King came to Detroit, the only time that he has ever  
17 spoken at anybody's testimonial during his life, at a  
18 testimonial at that time.

19 Q That was in 1965?

20 A That was about 1965.

21 Q The testimonial that was given to you on your  
22 behalf after you assumed the chairmanship of the District of  
23 Columbia Committee, was that in June of 1973?

24 A It could be. I don't remember the specifics, but I  
25 do remember the occasion.

001124

1 Q Was it called the "Salute to Congressman Diggs"?

2 A That sounds reasonable.

3 Q And as a result of that fund raiser, did you receive  
4 \$10,000 for you personally?

5 A No, I did not.

6 Q You never received a check for \$10,000?

7 A No, sir.

8 Q Did you receive any money from that "Salute to  
9 Congressman Diggs"?

10 A There were some monies collected and turned over to  
11 me, but I don't remember the amount.

12 Q When you say that it was not \$10,000, was it close  
13 to \$10,000?

14 A It could be. I just don't remember.

15 Q \$10,000 would have been a significant amount of  
16 money to you back in 1973; would it not?

17 A I can merely attest to the fact that I do not  
18 remember the amount of money. I know it was in four figures.  
19 That's all I remember.

20 MR. KOTELLY: Your Honor, I would ask this be  
21 marked for identification Government's Exhibit No. 83.

22 THE CLERK: Government's Exhibit No. 83 marked for  
23 identification.

(The above-mentioned document  
was marked as Government's  
Exhibit No. 83 for identification.)

BY MR. KOTELLY:

Q Congressman Diggs, I show you Government's Exhibit No. 83 for identification.

A Yes, sir.

Q I ask you to look at it and ask you if you recognize that check?

A I recognize the check in terms of the deposit stamp on the back of it.

Q Looking at that check, do you recall receiving that check after the "Salute To Congressman Diggs" fund raiser?

A Well, Mr. Kotelly, this has a stamp on the back "Pay to the Sergeant at Arms, For Deposit Only to the Account of Charles C. Diggs, Jr." It was deposited, obviously, and I acknowledge it, period.

Q And the amount of that check?

A \$9,640 some-odd cents.

Q Mr. Diggs, you have testified about a portrait that you commissioned to have hung in the District of Columbia Committee. Did you order that portrait around the time of this fund raiser?

A No, I don't recall that because I -- the portrait

001126



1 matter was handled originally by Dorothy Corker. She's the  
2 one that went into the whole matter, looked up all of the  
3 facts pertaining to the matter, negotiated with the  
4 portrait --

5 Q Mr. Diggs, would you please answer the question I  
6 am asking you. I think we could progress faster on this  
7 matter.

8 A Fine.

9 Q You were aware monies had to be paid for that  
10 portrait; is that correct?

11 A Yes. I have testified to that.

12 Q Did you at any time suggest that the portrait be  
13 paid for out of the funds that you had raised on your behalf  
14 for the "Salute to Congressman Diggs"?

15 A I do not remember making any such suggestion  
16 concerning those funds, no.

17 Q Do you remember what you did with the funds that  
18 were raised on your behalf and deposited to your checking  
19 account at the Sergeant-at-Arms?

20 A Well, if it went into my account it was to be used  
21 for any number of reasons.

22 Q Do you remember what you used that money for?

23 A I do not remember specifically, just like I  
24 wouldn't remember what any deposit was put in there for.

25 Q You did not attempt to pay for that portrait then

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1 out of the monies from your checking account?

2 A No. I have already testified that that was paid  
3 for by Jean Stultz.

4 Q We will get to that in a little bit.

5 Congressman Diggs, at some point in time did you  
6 become the President of the House of Diggs?

7 A Yes, sir.

8 Q When was that?

9 A Oh, --

10 Q Approximately what year?

11 A I guess 1945 when I came out of the Army.

12 Q For how long a period did you remain the president  
13 of the House of Diggs?

14 A I guess I remained president of that up until the  
15 time that it merged with the Stenson Funeral Home in Detroit.

16 Q Do you remember when that was?

17 A That was in October, 1975.

18 Q Did you have any further position as an officer  
19 after the merger between the Stenson Funeral Home and the  
20 House of Diggs?

21 A Yes.

22 Q What was your official position after the merger?

23 A I think I was vice-president of an entity called  
24 Diggs-Stenson which was really composed of just the House of  
25 Diggs. It was not composed of the combined assets of the two

1 corporations.

2 Q How long did you remain as the vice-president after  
3 the merger?

4 A Oh, that was less than a year.

5 Q During the period of let's say 1973 through the time  
6 of the merger were you receiving any salary or compensation  
7 from the House of Diggs?

8 A Would you repeat the period.

9 Q 1973 to the time of the merger.

10 A I received compensation from time to time.

11 Q Did you receive it regularly?

12 A I did not receive it regularly.

13 Q Could you indicate to us how much you received it  
14 in the years 1973, 1974 and until the time of the merger?

15 A I couldn't remember that, Mr. Kotelly.

16 Q You have no idea at all?

17 A The House of Diggs was in very poor financial shape.  
18 That's the reason that it merged, and the payment of my  
19 salary and the payment of many people's salary was done on a  
20 very erratic basis.

21 Q The House of Diggs during the 1960s and during the  
22 1970s was a very prominent funeral establishment in Detroit;  
23 is that not true?

24 A Would you repeat the period, please?

25 Q In the '60s and in the early part of the 1970s up

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1 through the time of the merger.

2 A Well, by "prominent" would you --

3 Q Well known.

4 A Well known, yes, of course.

5 Q And Congressman, is it not true that you, Charles  
6 C. Diggs, Jr., your name is associated with the House of  
7 Diggs' name?

8 A Oh, yes.

9 Q You have made it no secret as to your connection  
10 with that funeral home?

11 A Not at all.

12 Q Now, you have testified about a period of time when  
13 your congressional offices were in the same building as the  
14 House of Diggs Funeral Home?

15 A Yes, sir.

16 Q During that period of time persons with funeral  
17 problems would come to the House of Diggs; true?

18 A People seeking the services of a mortician; is that  
19 what you mean?

20 Q Yes, sir.

21 A Yes, sir.

22 Q And if they had problems of a nature that they  
23 thought a congressman could help they would be able to also  
24 go to your offices at the House of Diggs?

25 A That was a tradition that we afforded the public,

001130

1 that's correct.

2 Q Now, you had a staff working at the House of Diggs,  
3 a congressional staff working at the House of Diggs in your  
4 offices on the second floor; is that correct?

5 A For what period, Mr. Kotelly, please?

6 Q During the time period that your offices were at  
7 the House of Diggs.

8 A Well, for what period, Mr. Kotelly?

9 Q Well, would you restate when did you have  
10 congressional offices in the House of Diggs?

11 A Congressional offices beginning in January of 1955  
12 until 1963 when that building was torn down and then at  
13 another subsequent period at a different location, 1201 East  
14 Grant Boulevard, to be exact.

15 I don't recall exactly how long we were there, but  
16 we were there until that particular establishment was de-  
17 activated.

18 Q During the period of time that you had a Congress-  
19 ional district office in the House of Diggs you had a  
20 congressional staff working there; is that correct?

21 A That's correct.

22 Q You have also indicated that there were persons  
23 working on the staff of the House of Diggs who had, you know,  
24 different business relations with the mortuary business,  
25 correct?

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1 A Well, there were -- there was not everybody, if I'm  
2 understanding your question correctly.

3 Q The question is did the House of Diggs have their  
4 own staff of employees?

5 A Yes, that's correct.

6 Q Now, you have testified that Jeralee Richmond  
7 began working at the House of Diggs in 1949 or 1950?

8 A That's correct.

9 Q And that she worked there until around 1962?

10 A That's correct.

11 Q Was it at that time that Mrs. Richmond began to  
12 work for Diggs Enterprises or --

13 A She began to work for Diggs Enterprises sometime  
14 during that period. I don't recall exactly when she made the  
15 transition.

16 Q From 1949 until 1962, was Mrs. Richmond receiving  
17 her salary from the House of Diggs?

18 A Well, at one she started out, as I recall, at the  
19 House of Diggs and then she began receiving it from Diggs  
20 Enterprises.

21 Q Did she receive any congressional salary during that  
22 period of time?

23 A Not to my recollection, no.

24 Q Now, you were present when Mrs. Richmond testified.  
25 Did you hear her say during that period of time she was doing

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1 constituent services when she was an employee of the House of  
2 Diggs?

3 A She did testify to that.

4 Q Was that true?

5 A That's correct.

6 Q The same type of constituent services that she was  
7 doing after 1974 when she started working on your congressional  
8 staff?

9 A Well, in terms of the generalities you are talking  
10 about a different time period. The volume was not the same,  
11 because as I pointed out, at that time in the earlier days the  
12 funeral home where these offices were located were right  
13 across the street from the housing project, and that in itself  
14 with thousands of poor people who could only qualify for  
15 public housing, that in itself generated a great amount of  
16 constituent services. In addition to that the House of Diggs  
17 radio program was --

18 Q We are just talking now about the offices themselves.

19 A Well, I am trying to explain about the differences  
20 because as I understood your question you are trying to ask  
21 me to equate the nature of services and perhaps even the  
22 volume that period versus the later period.

23 Q Yes, sir, by Jeralee Richmond.

24 A By Jeralee Richmond; is that correct?

25 Q I'm asking you were the same kind of constituent

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1 services that she rendered when she was working for the House  
2 of Diggs back in the '50s up until the early '60s as she did  
3 after May of 1974?

4 A I'd say in a general sense, yes, sir.

5 Q That's all I'm asking, Mr. Diggs.

6 Now, looking at the time period of 1970 through  
7 May of 1974 when Jeralee Richmond came back to work with you  
8 were constituents still coming to the House of Diggs during  
9 that period of time?

10 A Yes, sir.

11 Q How many funeral homes did you have at that time?

12 A The time period, please?

13 Q 1970 through May of 1974.

14 A We had two funeral homes.

15 Q And at what point in time did you start being  
16 aware that you were having financial difficulties?

17 A Aware personally?

18 Q Yes, that the House of Diggs had financial problems?

19 A Oh, the House of Diggs had been having financial  
20 problems prior to that time.

21 Q Prior to 1970?

22 A Prior to 1970, yes.

23 Q Were accounts receivable becoming a major problem  
24 in the early 1970s, '71, '72, '73?

25 A Accounts receivable, Mr. Kotelly, had really always

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1 been a problem with the House of Diggs and with any other  
2 black mortician.

3 Q With almost any mortician, not necessarily black;  
4 isn't that true?

5 A Particularly black morticians because the require-  
6 ments of the market, the demand of the market are much  
7 different, I can assure you.

8 Q I will rely on your expertise in that area,  
9 Mr. Diggs.

10 Now, as far as the work of collecting accounts  
11 receivable prior to May of 1974, did you have employees at  
12 the House of Diggs who were doing that work?

13 A Yes.

14 Q How many employees did you have working on accounts  
15 receivable?

16 A Oh, at its height I can remember a supervisor of  
17 accounts receivable, a couple of field people and probably at  
18 least one clerical because when you talk about accounts  
19 receivable you are really talking about servicing people.

20 That is we had to actually take people in order to  
21 get our funds. We had to -- there again the difference in our  
22 market were, you know, where people walk in and you just give  
23 them a bill and pay it ten days later; you don't do that in  
24 our market. You have got to take the people to the insurance  
25 company, help them file their claim, take an assignment on the

001135

1 policy in order to make sure you get the money. You have got  
2 to take an associate security. You have to take them out to  
3 to the Veterans Administration and all these sort of things.  
4 You have to take them to the bank to get a loan or something.

5 Q I think you have explained the problems in getting  
6 the money.

7 Immediately prior to May of 1974, did you have  
8 persons on your staff that were working on accounts receivable?

9 A In that broad sense of the term, that is correct.

10 Q Now, when Jeralee Richmond began working in May of  
11 1974 were there any new concerns about accounts receivable for  
12 the House of Diggs?

13 A I wouldn't call them new. It's an institutional  
14 problem, a professional problem.

15 Q You have testified to that.

16 A Yes, sir.

17 Q At the time that you hired on Jeralee Richmond did  
18 you tell her that one of the reasons you were hiring her was  
19 because of the terrible situation in the accounts receivables  
20 situation was at the House of Diggs?

21 A Do you want me to tell you what I told her? Is that  
22 what you are asking?

23 Q I am asking did you tell her that as one of the  
24 reasons you were hiring her, was problems with the accounts  
25 receivable at the House of Diggs?

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1           A     I told her among her functions when she worked at  
2 the funeral home was to look after these accounts.

3           Q     Was that the main reason that you talked to her  
4 and hired her in May of 1974?

5           A     It was not the main reason.

6           Q     Did Jeralee Richmond replace anyone at the House of  
7 Diggs in May of 1974?

8           A     No, she did not and there were other people there.  
9 My daughter was there. I didn't need Jeralee Williams to  
10 collect accounts. I had other people there that did that.

11          Q     So, that Jeralee Richmond was not important so far  
12 as accounts receivables?

13          A     Not solely. That's the point that I'm making, and  
14 that's the point that you apparently are trying to make.

15          Q     I'm trying to establish some facts, Mr. Diggs. That  
16 is all.

17          A     Yes, sir.

18          Q     You have indicated that Jeralee Richmond did not  
19 replace anyone at the House of Diggs in May of 1974?

20          A     No, she did not.

21          Q     She was just added on to the staff at that time?

22          A     That's right, because her function was not solely  
23 related to the House of Diggs in a functional fashion.

24          Q     Prior to May of 1974 were the employees at the House  
25 of Diggs also rendering the same services that they had done in

001137

1 earlier years as far as constituents who come in with problems  
2 at the House of Diggs would be taken care of if they could  
3 be?

4 A That was the general instruction. Everybody didn't  
5 get involved in it, but that was the general instruction and  
6 the general tradition of the firm.

7 Q Did you have any other employees prior to May of  
8 1974 who were working at the House of Diggs who may have been  
9 handling these constituent services on your congressional  
10 payroll prior to May of '74?

11 A Prior to May of 1974? I just don't remember,  
12 Mr. Kotelly.

13 Q Your testimony is that it was not your main purpose  
14 when you had the meeting with Jeralee Richmond to hire her  
15 for the purposes of handling the accounts receivable at the  
16 House of Diggs?

17 A That's correct. I testified that I offered to bring  
18 her to Washington and suggested that she come to Washington,  
19 which was her home. She had made the decision to stay in  
20 Detroit.

21 Q That is correct, but did you tell her at that time  
22 that you would get her a job in Detroit?

23 A After she said that her husband preferred to stay  
24 in Detroit I told her that I would find a job for her in  
25 Detroit.

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1 Q You testified that sometime, a few days later, that  
2 you were able to find out that you had a position. Strike  
3 that. Rephrase it.

4 You testified earlier that at some point in time  
5 after you talked to Jeralee Richmond that you found out that  
6 there was a job available in Washington as well as a job  
7 available in Detroit and it was at that point that you offered  
8 to have her come to Washington. Do you recall testifying to  
9 that?

10 A Yes, but I don't know what distance you are talking  
11 about here in terms of time. As I recall, we met with Jeralee  
12 on a Sunday and she went to work, I think, that very next  
13 week.

14 Q I am talking about some time earlier when she first  
15 talked to you about getting a job and you mentioned for her to  
16 come to Washington.

17 A Well, when she first talked to me it was over the  
18 telephone, and I was in Washington. I was at Bethesda Naval  
19 Hospital and she talked to me on the telephone.

20 Q Did you suggest to her that you had an opening both  
21 in Detroit and in Washington?

22 A I don't know whether it came up at that particular  
23 time. I was in the hospital bed.

24 Q How many conversations did you have with Jeralee  
25 Richmond after that telephone conversation when you were in

001139

1 the hospital before the meeting that took place in Detroit?

2 A I would not remember.

3 Q Was there more than one?

4 A I would not remember, Mr. Kotelly.

5 Q At what point in time did you tell her you had job  
6 openings in both Detroit and Washington?

7 A That was at the meeting in Detroit.

8 Q You had a job opening at that time in the Detroit  
9 office?

10 A That's what I indicated to her.

11 Q That was in May of 1974?

12 A Yes, sir.

13 Q And yet you did not put her on your payroll until two  
14 months later or at least one month later?

15 A That's correct.

16 Q You did not put her on the payroll for May of 1974?

17 A I think the record will indicate that.

18 Q Why didn't you put her on immediately if you had a  
19 job position available for her?

20 A Because even though a slot was available, Mr. Kotelly  
21 the funds may not have been available sufficient to cover at  
22 that time, and I felt that I could make it up by putting her  
23 on when more funds were available, and I did put her on in  
24 August after Dorothy Corcker died and we made different  
25 arrangements.

001140

1 Q You didn't know then that Dorothy Corcker was going  
2 to die, did you?

3 A Dorothy Corcker in May was on her death bed.

4 Q So, you were planning ahead at the time she passed  
5 away that you would be able to put Jeralee Richmond on the  
6 payroll; is that what you are testifying?

7 A Well, Dorothy Corker --

8 Q Were you planning ahead, Mr. Diggs, in allocating  
9 the monies that Ms. Richmond could make waiting for Dorothy  
10 Corker to die?

11 A Well, the two things were not tied together.

12 Q I'm asking you when you put -- you had Jeralee  
13 Richmond go to work for you. How did you know where you were  
14 going to get these monies available to you?

15 A Well, I knew that Dorothy -- I knew that funds  
16 would be available.

17 Q You started saying that you knew Dorothy and then  
18 you stopped.

19 A Well, I can finish that particular sentence. Namely  
20 I knew Dorothy Corker was going to be dead within the next  
21 30-60 days because I was visiting her and then talking with  
22 her doctor, her 80-year old mother and all of that stuff on a  
23 daily basis.

24 Q So, you were planning ahead then. That was my  
25 question.

001141



1           A     Well, if you call that planning ahead, yes, sir.  
2     T hat's the answer.

3           Q     During the period of May of 1974 until the time  
4     of the merger were there instructions at the House of Diggs  
5     that Jeralee Richmond was the only person that should be  
6     talking to constituents?

7           A     Not necessarily. Not necessarily.

8           Q     Is it true if a constituent walked in, whatever  
9     staff member at the House of Diggs was there would talk to the  
10    individual?

11          A     Well, no, that's not necessarily true also. It was  
12    generally known that Jeralee Richmond was the prime person for  
13    that purpose, but if she was not there she was gone out to  
14    lunch. If she had gone out, gone to my congressional office  
15    on Woodward Avenue or someplace like that, then that inquiry  
16    was taken care of. At least a message was taken so when  
17    Jeralee got back she would get in touch with that particular  
18    individual.

19          Q     My question was let's take it from the times that  
20    Jeralee Richmond was actually at the House of Diggs Funeral  
21    Home.

22          A     Yes, sir.

23          Q     If she was there, were there instructions to the  
24    staff all congressional inquiries should go to Jeralee  
25    Richmond?

001142

1 A Yes, sir.

2 Q Was Mrs. Richmond given instructions that if there  
3 were constituent problems make contact with your district  
4 office?

5 A Would you repeat that question?

6 Q Did Jeralee Richmond have instructions from you that  
7 if there were constituent problems that she should contact the  
8 district office?

9 A If she needed to contact them.

10 Q What instructions did you give her as to when she  
11 should contact the district office and when she shouldn't?

12 A If she needed to contact the district office either  
13 in Detroit or in Washington, depending upon the nature of  
14 the constituent service that was being requested.

15 Q Mr. Diggs, the defense entered into evidence during  
16 the cross examination of Mrs. Richmond some kind of a sheet  
17 that had related to inquiries she made for a man that was  
18 looking for a job with Civil Service. Do you remember that  
19 sheet?

20 A I remember the sheet, yes, sir.

21 MR. KOTELLY: Mr. Povich, could you assist us with  
22 the numbers?

23 BY MR. KOTELLY:

24 Q Mr. Diggs, have you tried to locate additional  
25 work sheets for Jeralee Richmond to show how much work she was

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1 doing for you as the congressman?

2 A I have attempted to locate many records.

3 Q Were you --

4 A During this occasion.

5 Q Were you able to locate any of the records of  
6 Jeralee Richmond which would reflect that she was doing  
7 constituent services for you during the period of May, '74  
8 until the merger?

9 A What kind of record, Mr. Kotelly?

10 Q Like I show you now. Defense 34 for identification,  
11 I ask you if you recognize that form.

12 A Yes, I recognize the form. I devised it.

13 Q Have you tried to locate any additional copies of  
14 this form that relate to Jeralee Richmond and her work for  
15 constituent services?

16 A I have attempted to locate additional records  
17 pertaining to matters pertaining to this entire --

18 Q I'm only asking about this, sir, and have you found  
19 any additional ones?

20 A I have not found any additional ones.

21 Q Thank you.

22 Congressman Diggs, on several occasions, mostly in  
23 relation to your testimony about Ofield Dukes, you talked  
24 about a need to shore up your operation in Detroit?

25 A Yes.

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