

BEFORE THE SENATE OF THE STATE OF ARIZONA  
SITTING AS A COURT OF IMPEACHMENT

In the Matter of the )  
Impeachment of: )  
 )  
EVAN MECHAM, Governor )  
of the State of Arizona. )

Phoenix, Arizona  
March 18, 1988  
9:05 a.m.

TRIAL VOLUME 15

BEFORE THE HONORABLE FRANK X. GORDON,  
PRESIDING OFFICER

For the Board of Managers: Storey & Ross  
By William P. French, Esq.  
and  
Brown & Bain  
By Paul Eckstein, Esq.

For the Respondent: Jerris Leonard, Esq.  
and  
Craft & Loesch  
By Winfred O. Craft, Jr., Esq.

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(602) 266-2601

Reported by: David R. Minder  
and  
Robert M. Ferrara

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I N D E X

<u>WITNESS</u>	<u>DIR</u>	<u>CR</u>	<u>REDIR</u>	<u>RECR</u>	<u>VOIR DIRE</u>
MECHAM, EVAN					3291
PHELPS, GARY	3298	3311			
JOHNSON, CHARLES R.	3326	3336	3359		
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<u>NO.</u>	<u>DESCRIPTION</u>	<u>IN EVIDENCE</u>
41	Press Release	3308
34	Statement	3374

Phoenix, Arizona  
March 18, 1988  
9:05 a.m.

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2  
3 THE PRESIDING OFFICER: Thank you, ladies and  
4 gentlemen. The Court of Impeachment is reconvened. Show  
5 the presence of the Board of Managers, a majority of the  
6 Board of Managers, and their counsel, and counsel for the  
7 respondent.

8 I have a new microphone on now, and evidently  
9 it isn't working. Do the Senators in the back row hear  
10 me?

11 Can you hear me now? All right. Thanks.

12 We're reconvened, the presence of a majority  
13 of the Board of Managers, their counsel, and counsel for  
14 respondent.

15 We will resume at this point with Governor  
16 Mecham on -- I'm sorry. I cut off the call of the roll.

17 THE CLERK: Senator Alston?

18 SENATOR ALSTON: Present.

19 THE CLERK: Senator Brewer?

20 SENATOR BREWER: Present.

21 THE CLERK: Senator Corpstein?

22 SENATOR CORPSTEIN: Here.

23 THE CLERK: Senator De Long?

24 SENATOR DE LONG: Present.

25 THE CLERK: Senator Gabaldon?

1 SENATOR GABALDON: Here.  
2 THE CLERK: Senator Gutierrez?  
3 SENATOR GUTIERREZ: Here.  
4 THE CLERK: Senator Hardt?  
5 SENATOR HARDT: Here.  
6 THE CLERK: Senator Hays?  
7 SENATOR HAYS: Yeah.  
8 THE CLERK: Senator Henderson?  
9 Senator Higuera?  
10 SENATOR HIGUERA: Present.  
11 THE CLERK: Senator Hill?  
12 SENATOR HILL: Here.  
13 THE CLERK: Senator Kay?  
14 SENATOR KAY: Here.  
15 THE CLERK: Senator Kunasek?  
16 SENATOR KUNASEK: Here.  
17 THE CLERK: Senator Lunn?  
18 SENATOR LUNN: Here.  
19 THE CLERK: Senator MacDonald?  
20 SENATOR MacDONALD: Present.  
21 THE CLERK: Senator Mawhinney?  
22 SENATOR MAWHINNEY: Present.  
23 THE CLERK: Senator Osborn?  
24 SENATOR OSBORN: Present.  
25 THE CLERK: Senator Pena?

1 SENATOR PENA: Here.  
2 THE CLERK: Senator Rios?  
3 SENATOR RIOS: Present.  
4 THE CLERK: Senator Runyan?  
5 Senator Sossaman?  
6 SENATOR SOSSAMAN: Here.  
7 THE CLERK: Senator Steiner?  
8 SENATOR STEINER: Here.  
9 THE CLERK: Senator Stephens?  
10 SENATOR STEPHENS: Here.  
11 THE CLERK: Senator Stump?  
12 SENATOR STUMP: Present.  
13 THE CLERK: Senator Taylor?  
14 SENATOR TAYLOR: Present.  
15 THE CLERK: Senator Todd?  
16 SENATOR TODD: Here.  
17 THE CLERK: Senator Usdane?  
18 SENATOR USDANE: Here.  
19 THE CLERK: Senator Walker?  
20 SENATOR WALKER: Here.  
21 THE CLERK: Senator West?  
22 SENATOR WEST: Present.  
23 THE CLERK: Senator Wright?  
24 SENATOR WRIGHT: Here.  
25 THE CLERK: Senator Henderson?

1 THE PRESIDING OFFICER: Senator Usdane?

2 SENATOR USDANE: Mr. Presiding Officer, I move that  
3 Senator Henderson and Runyan be excused from attending  
4 today's proceeding.

5 THE PRESIDING OFFICER: Under Rule 19, that requires  
6 a concurrence of two-thirds of the members of the Senate.  
7 All those in favor signify by saying "aye." All opposed  
8 say "no."

9 The "ayes" appear to and do have it, and it's  
10 so ordered.

11 The roll indicates that 28 members of the  
12 Senate are present, and two are excused.

13 All right. We will resume, then, with  
14 Governor Mecham on the stand answering questions of the  
15 Senators. And I have at this point Senators Hill and  
16 Gutierrez as having questions.

17 Are there others now? Senator Todd, Senator  
18 Osborn. I'll take those two next, Todd, Osborn, and  
19 Walker.

20  
21 EVAN MECHAM,  
22 a witness herein, after having been previously duly sworn,  
23 was examined and testified as follows:

24  
25 THE PRESIDING OFFICER: Good morning, Governor.

1                   Senator Mawhinney, did you finish with your  
2 questions?

3                   SENATOR MAWHINNEY: No, sir, but I'd like to yield  
4 right now to the other Senators while I figure out what  
5 I've got left.

6                   THE PRESIDING OFFICER: All right. We'll get back  
7 to you then.

8                   Senator Hill.

9                   SENATOR HILL: Thank you, Mr. Presiding Officer.

10                   Good morning, Governor.

11                   THE WITNESS: Good morning, Senator Hill.

12                   SENATOR HILL: We dealt yesterday a lot with Lee  
13 Watkins' employment background and his skills and what  
14 have you. Are you aware if Lee Watkins had a degree in  
15 social work or an extensive background in any type of  
16 working welfare system?

17                   THE WITNESS: No, I don't believe that I am.

18                   SENATOR HILL: I didn't, either. And I think it's  
19 always interesting to point out that he did work in the  
20 Senate in the capacity of coordinating some efforts with  
21 the homeless with the City of Phoenix for a period of  
22 time. And I guess my only comment to that would perhaps  
23 be that he was homeless in the past and that qualified  
24 him. I don't know. We dealt a lot on that.

25                   Also, we had some exhibits yesterday that

1 showed some transactions that went into the courts dealing  
2 with sale of cars from Mecham Pontiac, and for a minute  
3 there, Governor, I thought you were selling those cars.  
4 But I looked a little further, and it appeared that there  
5 were salesmen who were involved in those transactions.

6           And it's probably a leading question, but it  
7 would appear to me, Governor, that if, when you're selling  
8 Pontiacs, and somebody came back every time and says, "I  
9 want to get out of this deal," and if you said, "Okay,  
10 you're out of this deal," it would appear to me that your  
11 salesmen would lose their commissions and you'd quickly  
12 not have any salesmen working for you.

13           And that, to me, appears to be a business  
14 practice, and somehow I thought that got missed yesterday,  
15 and I wanted to point that out. You don't have to  
16 respond, but I sometimes find it interesting what happens  
17 when you look at some of this stuff.

18           Thank you, Mr. Presiding Officer.

19           THE PRESIDING OFFICER: Senator Gutierrez.

20           SENATOR GUTIERREZ: Thank you, Mr. Presiding  
21 Officer.

22           Good morning, Governor.

23           THE WITNESS: Good morning, sir.

24           SENATOR GUTIERREZ: Let me follow up on some  
25 questions -- or on a question that I asked yesterday, and

1 because of the time limitation yesterday, I neglected to  
2 bring it up. But you, yesterday, made an allegation that  
3 there had been, in effect, theft of an article, that is,  
4 the Curtis report, that in effect a member of DPS had  
5 taken that document. You indicated yesterday, also, that  
6 you had an eyewitness, or rather you had somebody who  
7 verified this for you.

8 Governor, could you tell me, please, and go  
9 through it step by step, how you came to find out that  
10 Beau Johnson stole, committed theft of this document?

11 THE WITNESS: You've put it a little stronger than  
12 I would, Senator. I have -- I have verification of what  
13 was told me. I never made a big issue out of it. It was  
14 told to me, and was reaffirmed that a -- by -- to the  
15 person affirming that to me by one of the officers,  
16 officers in the DPS.

17 I think if we want to get into proof,  
18 however, we probably need to call people and who told who,  
19 and do that. I'm just going from what was furnished to  
20 me, Senator, and I've not made a big issue of it.

21 SENATOR GUTIERREZ: Well, Governor, I guess  
22 yesterday -- clearly, it seems to me that the taking of a  
23 paper, an article from somebody's desk, whether it's my  
24 desk, your desk, or anybody else's desk, is theft without  
25 any type of permission, and the article clearly does not

1 belong to that person. And I -- perhaps, at least in your  
2 opinion, "theft" is a strong word, but I believe that it  
3 is, in fact, theft.

4           Again, Governor, can you tell me -- and I  
5 don't want to know who the person is, although we may at a  
6 later date. Can you tell me how this person came to find  
7 out, verified that, in effect, Beau Johnson had taken the  
8 Curtis report off somebody's desk?

9           THE WITNESS: It was verified by a person at DPS  
10 headquarters, Senator.

11           SENATOR GUTIERREZ: How did this person come to  
12 find out that Beau Johnson had taken the Curtis report?

13           THE WITNESS: He was the one that delivered it to  
14 the DPS headquarters, was apparently observed to do that,  
15 Senator.

16           SENATOR GUTIERREZ: So what you're saying,  
17 Governor, is that your friend at DPS observed Beau Johnson  
18 deliver the Curtis report to the DPS headquarters when the  
19 Curtis report, in effect, had not been disseminated to the  
20 general public, much less to members of your -- other  
21 members of your staff?

22           THE WITNESS: Well, that's true. And I don't know  
23 that we ought to call it a Curtis report. A report seems  
24 to be the word that someone would use that was asked  
25 for -- I did not solicit anything. This was some

1 suggestion from Thad Curtis that we glanced over, and I'd  
2 be glad to show you my copy, but I think the newspaper  
3 printed them.

4 It was not something that we did duplicate  
5 and distribute. It was never discussed in a staff  
6 meeting. It was never given, really, consideration. It  
7 was not taken up. And I merely pointed that out as one of  
8 a number of things that caused me to be less than totally  
9 supportive of continuing Beau in that position.

10 But as I say, I never made a big issue of it  
11 when it hit -- when it came out public. I didn't, if  
12 you'll recall. I never commented on it, never did. All  
13 the comments came from someone else. I also -- you know,  
14 there were some -- some -- some things taken from my desk  
15 by Donna Carlson, but I didn't say she stole anything off  
16 my desk.

17 SENATOR GUTIERREZ: Well, Governor, you have to  
18 understand, at least from my perspective, that you made  
19 some allegations yesterday, and at least to fairness for  
20 all parties concerned, that we ought to have at least more  
21 information on that. Because if in fact that did occur,  
22 that this report, or whatever we want to call it, was  
23 taken off your desk, or somebody's desk without  
24 permission, that, to me, constitutes perhaps some type of  
25 law violation.

1           In addition, it constitutes a violation of  
2 whatever policies, written or unwritten, DPS had with  
3 regards to your administration and the security. So I  
4 think, to be fair to everybody, that is the reason why I  
5 asked that question. It is, I think, extremely difficult  
6 to sort out the truth when we have, perhaps, allegations,  
7 and those allegations need a little bit more substantial  
8 evidence before we proceed on them.

9           Let me ask one final question. You indicated  
10 a couple days ago that, I believe, you felt that you had  
11 good cause to terminate Director Milstead. You decided  
12 not to for a variety of reasons. Could one suggest that  
13 not following through the termination of Colonel Milstead,  
14 even though -- and because you had the good cause, was in  
15 effect perhaps not fulfilling your responsibility as the  
16 chief executive officer of the state?

17           THE WITNESS: I suppose you could say that,  
18 Senator. I don't know that there's anyplace in the laws  
19 or the Code of running the office of government -- for  
20 Governor, for acting or not acting. There's something if  
21 you act improperly, but I don't know of anything for lack  
22 of actions. Believe me, I wish I had have done that. We  
23 wouldn't be sitting in this body in this action today had  
24 I done so. So, believe me, I have highly repented of  
25 that.

1                   But at the time, I did so on what I thought  
2 at the time was the best judgment. And we were very, very  
3 busy doing many things, and I -- I really had a war going  
4 on with the Attorney General, and I didn't need too many  
5 others, and so I wasn't too anxious to engage in too many  
6 others. So, that was a judgment call. I could very well  
7 have done it, and I think had the cause, and today wish I  
8 had.

9                   SENATOR GUTIERREZ: Thank you, Governor.

10                  THE PRESIDING OFFICER: Senator Todd is next.

11                  SENATOR TODD: Good morning, Governor Mecham.

12                  THE WITNESS: Good morning, Senator Todd.

13                  SENATOR TODD: The war with the Attorney General  
14 was going on all year?

15                  THE WITNESS: Well, unfortunately it started a  
16 little earlier than we would like to have seen it, but I  
17 didn't know we were in a war until late in the summer,  
18 Senator. I just knew that it was hard to get anything  
19 done with the Attorney General's Office.

20                  SENATOR TODD: Governor, yesterday Senator Sossaman  
21 asked you a few questions about the availabilities of an  
22 attorney, an Attorney General, person from the Attorney  
23 General's Office to you. Do you remember what your answer  
24 was then?

25                  THE WITNESS: I think I recall that, Senator.

1           SENATOR TODD: And was it that you had counsel  
2 available to you all the time?

3           THE WITNESS: No, no, it wasn't that I had counsel  
4 available to me all the time. It was that on specific  
5 occasions, we could ask for opinions, and we could get  
6 those, and could get legal advice. It was not available,  
7 you know, what you'd say readily, but reasonably so.

8                       I don't believe I complained that we couldn't  
9 get opinions or some legal advice, things looked up,  
10 granting that we had plenty of time to do so.

11           SENATOR TODD: Governor, did Mr. Colter and you  
12 have direct-line access to your counsel from the Attorney  
13 General's Office?

14           THE WITNESS: Direct line -- what do you mean by  
15 direct line, Senator?

16           SENATOR TODD: Well, Governor, as you're aware, in  
17 state government, there is a published number for the  
18 agency, and then there are extensions for the individuals  
19 that work in the agency. And so my question is to you:  
20 Did you and Mr. Colter have the private telephone number  
21 of your counsel in the Attorney General's Office?

22           THE WITNESS: Well, when you say our counsel, as I  
23 said yesterday -- and, perhaps, Mr. Colter would ring  
24 direct to -- if we had anything close to anyone, and as I  
25 mentioned yesterday, it was according to the subject being

1 discussed. The -- for example, Jessica handled a number  
2 of the items, but other people would handle different  
3 items. So it was not one person that was available to use  
4 at all times, and I presume that he had the number that  
5 would ring through to some of these different people.

6 Whenever I talked to anyone over there, I  
7 generally talked to either Mr. Corbin or Mr. Twist. Doris  
8 always got them for me. I presume she may have had  
9 numbers that would put her through.

10 SENATOR TODD: Governor, did Mrs. Funkhouse on  
11 occasion provide to you her home phone so that you could  
12 call her on occasion?

13 THE WITNESS: I don't recall her furnishing that to  
14 me, but perhaps she did to Mr. Colter, Senator. I'm not  
15 aware one way or the other.

16 SENATOR TODD: Governor, are the number of written  
17 formal opinions to your office in the number of six?

18 THE WITNESS: The number of six?

19 SENATOR TODD: Governor, how many formal written  
20 opinions did you ask for from the Governor -- from the  
21 Attorney General last year?

22 THE WITNESS: Oh, I can't tell you, Senator. I  
23 really don't know. I didn't personally ask for all of  
24 them, and yet the Governor's office, I'm sure other  
25 members of the staff -- we could certainly, I'm sure, look

1 that up and give you that figure.

2 SENATOR TODD: Governor, I think the concern is  
3 your characterization of the situation with you and the  
4 Attorney General is, in your words, you were in a war with  
5 the Attorney General's Office.

6 Is it a fair number that you asked for, and  
7 received eight or ten written opinions from the Attorney  
8 General's Office last year?

9 THE WITNESS: Senator, that hasn't been an item  
10 that I've kept track of numerically. I would be glad to  
11 have it looked up and give you the exact figure, however.

12 SENATOR TODD: Governor, if you did in fact get,  
13 let's say, eight, asked for and received eight written  
14 opinions from the Attorney General's Office during the  
15 course of a year, how many times would you say you  
16 received communications, written memos, telephone calls  
17 with advice, or whatever, from the Attorney General as  
18 your counsel, that is privileged, sir, during the year?

19 THE WITNESS: Senator, I think you're assuming that  
20 I am the one who personally handles all those details,  
21 which I do not. The things that I need to know and the  
22 number of things that I had to keep track of, I never  
23 tried to keep track of that. I asked others and had staff  
24 to do the majority of it.

25 Again, I'll repeat, that if you need to know

1 those, I'll get them for you. I'm sure we kept track of  
2 them. I didn't. I did not try to keep track.

3 I characterized the war because I believe  
4 that's what was listed by probably my favorite newspaper  
5 one day when I saw after I thought -- Attorney General  
6 Corbin and I thought that we had things sort of patched up  
7 when he called me, and in a very emotional state, about  
8 the fact that Steiger was trying to get some things  
9 through to unwind his department, and I assured him that  
10 nothing would happen without him being brought into  
11 consultation.

12 I really tried to get along with him in every  
13 case that we could, and got together and talked that --  
14 but I think that was the headline, that we were at war,  
15 and I think it was quoting him, not me. So I just  
16 reiterated what he has said.

17 SENATOR TODD: Governor, would you think that some  
18 eight written opinions from the Attorney General's Office  
19 to you in a period of a year, your first year in office  
20 there, was an average number or an extraordinary number?

21 THE WITNESS: Senator, if a written opinion is part  
22 of the legal advice you're looking for, there's a lot of  
23 other things. I rather think we had reason, perhaps, for  
24 more than eight written opinions. I would think that  
25 there were more, but I'm talking off the top of my head

1 once again.

2 If you'd like, I'll just be glad to look it  
3 up and furnish you with the information, and for the  
4 benefit of all Senators.

5 SENATOR TODD: Well, Governor, I think it's  
6 important for us to understand your characterization of  
7 your feeling towards the office and towards the Attorney  
8 General as we listen to the evidence in the case in  
9 Article I.

10 THE WITNESS: M'hum.

11 SENATOR TODD: May I ask you a question about Mr.  
12 Watkins?

13 THE WITNESS: Certainly.

14 SENATOR TODD: You stated in testimony that you met  
15 Mr. Watkins in the campaign of '82; is that correct?

16 THE WITNESS: I think that's when it was, Senator,  
17 to the best of my recollection.

18 SENATOR TODD: In describing Mr. Watkins, would you  
19 describe him as active in the campaign?

20 THE WITNESS: Well, he wasn't particularly active.  
21 He helped some, then offered to raise some money,  
22 introduced me to some people, and I think did raise some  
23 money in '82, but not real active.

24 SENATOR TODD: So, Governor, then in '86, Mr.  
25 Watkins was back with you as a participant. Was he a

1 vital participant in the '86 campaign?

2 THE WITNESS: He didn't really take a part in the  
3 campaign operation, except for fund-raising, and he  
4 assisted Ralph Watkins, no relation to Lee, was the  
5 Chairman of the Finance Committee, and Lee -- Lee and  
6 Ralph got acquainted and got together, and Lee helped  
7 Ralph quite a little bit in raising money, having  
8 meetings, things of that nature.

9 SENATOR TODD: Governor Mecham, you were aware of  
10 Lee Watkins' interests in your campaign and participation  
11 in your campaign. So was he an important person to your  
12 campaign?

13 THE WITNESS: I think you could say that, Senator.  
14 I think that all the people were important, yes.

15 SENATOR TODD: In reference to the visit from Mr.  
16 Hawkins to your office on Friday evening, Mr. Hawkins  
17 would come up to your office and report to you on the  
18 events of the day?

19 THE WITNESS: Not very often. Occasionally.

20 SENATOR TODD: Governor, what is "often"?

21 THE WITNESS: I might see Mr. Hawkins to sit down  
22 and talk to him on the average of once a week.

23 SENATOR TODD: So would it be fair for us to say  
24 that Max Hawkins, as the Director of the Department of  
25 Administration, reported to you weekly, on a weekly basis?

1 THE WITNESS: Senator, he reported as the occasion  
2 needed. We didn't have a regular reporting time. He was  
3 busy and I was busy. If I needed something, I could ring  
4 him on the phone or ask him to come up, and that was on  
5 the basis -- it was not a regular reporting day, but I --  
6 just estimating, that perhaps we talked for a few minutes  
7 once a week.

8 SENATOR TODD: On Friday evening, the 13th, was  
9 this a regular reporting session for Mr. Hawkins to you,  
10 or was it special?

11 THE WITNESS: We didn't have a regular, as I've  
12 said before, Senator, a regular reporting time. This was  
13 a time when he had a subject to take up with me, and also  
14 to report on the assignment that he had received through  
15 Dr. Burke earlier that day.

16 SENATOR TODD: So, Governor, in that particular  
17 session that he reported to you on Friday evening, the  
18 13th, was he specific and precise in his report to you on  
19 what he found out?

20 THE WITNESS: Well, I thought he was specific and  
21 precise, on the one, as I said -- as I said yesterday, he  
22 said that he had talked to both people involved, had  
23 interviewed them both, and that he said it was a bunch of  
24 hot air and it would go away. I think that was quite  
25 specific and precise.

1           SENATOR TODD: In that report, Governor, to you  
2 from Max Hawkins, do you remember him using any of the  
3 phrases that have been written in the testimony? I'm  
4 referring to descriptions and expletives.

5           THE WITNESS: I need a little more direction,  
6 Senator. In what report? In what testimony? Are you  
7 talking about the tape, or the -- what?

8           SENATOR TODD: Governor Mecham, I was asking a  
9 question about how specific Max Hawkins was to you in his  
10 report on Friday evening of the conversations reported to  
11 him after he had finished his investigation. And I think  
12 that my purpose in asking the question was to find out if  
13 he used precise words of expletives and descriptions of  
14 the conversation.

15          THE WITNESS: Senator Todd, when Max Hawkins talked  
16 to me, he always used good language. I remember -- I  
17 remember never hearing Max say things that wouldn't be  
18 nice to speak in all kinds of public. I'm not used to  
19 being addressed by anyone very often using expletives. I  
20 don't use them myself, and as a result, I think that our  
21 level of conversation generally goes along quite decent  
22 English and pretty good language.

23                   The report, as I was -- as I said before, he  
24 made a very brief report. He talked to both people.  
25 The -- it's a bunch of hot air and it will go away. Those

1 were specifically his words.

2 SENATOR TODD: Governor Mecham, do you remember our  
3 discussion during the '78 campaign at Carrow's Restaurant?

4 THE WITNESS: You have me a little, Senator. It's  
5 a little hard for me to remember nine years ago, so I'm  
6 not too well remembering. You'll have to refresh my  
7 memory.

8 SENATOR TODD: Well, Governor, my point was asking  
9 in -- to find out if, during the '78 campaign, when we had  
10 our first confrontation, that your premise and your  
11 campaign platform was about the same as it was in '86.

12 THE WITNESS: I think my general attitude has been  
13 generally the same towards government, Senator, all the  
14 time I've been involved.

15 SENATOR TODD: Has your attitude changed towards  
16 Representatives and Senators since '78?

17 THE WITNESS: Towards Representatives and Senators?

18 SENATOR TODD: My question was: Has your attitude  
19 toward Representatives and Senators changed since 1978?

20 THE WITNESS: Oh, I don't recall what you're  
21 characterizing, Senator. I have a healthy respect for  
22 Senators and Representatives. I think I understand a  
23 little bit of what the problems are you have in the  
24 Legislature.

25 I'm sure some of the Senators and

1 Representatives I agree with and some I don't agree with,  
2 and I think the attitude is that probably I like them all  
3 and like some better than others, and that's probably --  
4 I'm probably not too different than anyone else. But I  
5 recognize the things that you have to put up with as a  
6 member of the Legislature, and I think I have a healthy  
7 respect for your position and your problems and what  
8 you're trying to do as you represent your people.

9 SENATOR TODD: Governor Mecham, do you remember our  
10 visit as -- when you were Governor Elect?

11 THE WITNESS: I remember us talking, Senator.

12 SENATOR TODD: Do you recall any specifics of the  
13 conversation as to my telling you who my constituents are  
14 and my interests and concerns in the legislative process?

15 THE WITNESS: I don't know that I can remember that  
16 in detail, Senator. I have had many, many, many  
17 conversations, and to tell you that I could remember in  
18 detail what our conversation was, frankly, I could not.

19 SENATOR TODD: Governor Mecham, in the discussion  
20 that we had when you were Governor Elect, and I told you  
21 that I was from Tempe, and represented the constituency of  
22 Arizona State University, did that surprise you?

23 THE WITNESS: Certainly not. I would expect you  
24 to.

25 SENATOR TODD: So, Governor Mecham, it doesn't

1 surprise you that I advocate for my constituents in any  
2 way, does it?

3 THE WITNESS: Not at all.

4 SENATOR TODD: During the testimony that you gave  
5 the day before yesterday afternoon, you told, in answer to  
6 a question, your rationale for not getting along too well  
7 with the legislature and vetoing some of the bills that  
8 you didn't understand.

9 Do you remember what you told us that you  
10 only veto bills for?

11 THE WITNESS: Bills that hurt, did damage.

12 SENATOR TODD: So, Governor Mecham, the bills that  
13 hurt and damaged the State of Arizona would be primary  
14 targets of your veto; is that correct?

15 THE WITNESS: That's -- that's the primary one,  
16 Senator. And I guess I could put my tongue in my cheek,  
17 and the bill you're leading up to, I could probably say  
18 the same. I didn't want to see our Petrified Forest --  
19 our petrified wood taken away and disbursed. But in  
20 reality, I had my tongue in my cheek, Senator, and would  
21 confess to you and to all here that that was the one veto  
22 I made that was not totally serious, and that I can argue  
23 as we did, and say it was done because of that, but I'm a  
24 little human.

25 I probably didn't have a real good reason to

1 do that, Senator, and perhaps if -- I should say to you  
2 that maybe I should publicly apologize to you for putting  
3 my tongue in my cheek and vetoing that bill of yours.

4 SENATOR TODD: Governor Mecham, I don't think that  
5 was the intent of my question. I heard you say on the  
6 stand that the only reason you vetoed bills is that they  
7 hurt the State of Arizona.

8 THE WITNESS: M'hum.

9 SENATOR TODD: And so I had designed a series of  
10 questions to see if that was in fact the case.

11 Did we have a disagreement on the budget  
12 early on in the session last year, Governor Mecham? Did  
13 you and I disagree?

14 THE WITNESS: Oh, I think so, Senator Todd. I  
15 think you and I have had a disagreement on the budget  
16 primarily for the Board of Regents, and that's an  
17 understandable thing. I'm looking at the overall pie, I  
18 think, and we had a disagreement as to the amount of money  
19 that should be going to the Board of Regents.

20 SENATOR TODD: Governor Mecham, did you, during  
21 last year, have an opportunity to tell your side of the  
22 legislative process in the press?

23 THE WITNESS: Yes, I had an opportunity. I did not  
24 avail myself it very much, Senator. I think I was rather  
25 careful in my comments to the press, and endeavored to not

1 be at all inflammatory or anything. I did not take my  
2 arguments particularly, in basic principle on occasion,  
3 but was pretty careful at what I said to the press.

4 SENATOR TODD: Governor Mecham, did you attack  
5 certain Senators and Representatives in the article that  
6 appeared in the paper and in an attempt to impugn their  
7 integrity?

8 THE WITNESS: I do not recall ever having done  
9 that, Senator. I -- I don't recall ever having returned  
10 in the attacks, the many attacks by people on me. I don't  
11 recall ever have commenting on their attacks on me.

12 SENATOR TODD: Well, Governor, if we've learned  
13 something, we've learned that we don't refer to newspapers  
14 around here and the articles, but that's what I was  
15 referring to, was your article that appeared in a  
16 newspaper personally attacking the Chairman of the  
17 Appropriations Subcommittee dealing with university  
18 budgets.

19 That was about during the process of the  
20 time, Governor, wasn't it, that the Fossil Bill came  
21 upstairs to the ninth floor?

22 THE WITNESS: The time of the what?

23 SENATOR TODD: Towards the end of the session,  
24 Governor, did the state Fossil Bill appear on the ninth  
25 floor?

1 THE WITNESS: Sometime late in the session, I  
2 think, Senator.

3 SENATOR TODD: And, Governor, had we had our  
4 disagreement earlier?

5 THE WITNESS: I'm not sure what the time frame was,  
6 Senator. We may very well have done, m'hum.

7 SENATOR TODD: Governor, do you remember discussing  
8 the real reason you vetoed the bill with two  
9 Representatives?

10 THE WITNESS: No, I don't recall that.

11 SENATOR TODD: Do you remember a conversation with  
12 Representative North<sup>on</sup> concerning Senate Bill 1444 last  
13 year?

14 THE WITNESS: No, I really don't.

15 SENATOR TODD: Do you remember a conversation with  
16 Representative George Weiss not too long ago in reference  
17 to Senate Bill 1444 last year?

18 THE WITNESS: I don't recall that conversation.

19 SENATOR TODD: So, Governor, is it fair to say that  
20 the statement yesterday, day before yesterday, where the  
21 only reason that you veto bills is because they damage the  
22 state -- is that still a true statement?

23 THE WITNESS: Yes, Senator, that's a very true  
24 statement. I have told you that I vetoed a bill with  
25 tongue in cheek, but I gave the reason. If you want to

1 debate that, I'll debate it with you. That's the reason I  
2 said I didn't have to -- I didn't have to like anything,  
3 but if I found that it -- it did some damage. I can go  
4 ahead and make my point that that particular bill would do  
5 some damage, and I can justify my points.

6 My policy, Senator -- and I've already  
7 covered with you, that if it hurts your feelings, and what  
8 we did was not all totally in serious business, that I  
9 apologize. I think that does not change my policy at all.  
10 And probably I learned one thing, that perhaps you, in my  
11 case, Senator, will always be very serious in everything  
12 talked about.

13 And you and I have had some pretty good  
14 conversations. We've had some mutual interest in flying,  
15 had you up to my office, had an opportunity to talk things  
16 over, and I've always thought that we, in private  
17 conversation, got along all right. And I think I have  
18 taken care of that. But, yes, that's my policy, and I'll  
19 stand by it.

20 SENATOR TODD: Governor, after we disagreed on the  
21 university budgets, is that when -- is that when my name  
22 went on the list?

23 THE WITNESS: What list, Senator?

24 SENATOR TODD: Well, we're aware, Governor, that  
25 you kept a list on those of us that disagreed with you.

1 THE WITNESS: Senator, that is the greatest  
2 falsehood that has ever been propagated, that I had a list  
3 of people that didn't agree. I don't have to keep a list.

4 Maybe I should -- maybe I should give you my  
5 philosophy in life, Senator, and I learned this a long  
6 time ago. And that is that you don't keep a list of  
7 people who disagree and agree with you, because on one  
8 issue -- and I'm sure this would apply to the people here.  
9 And when I sat in this body right here, and I sat back the  
10 second seat from the back, right in front of Senator Hays,  
11 I sat in this body when there were four Republicans and 24  
12 Democrats. And I'll have to tell you my philosophy.

13 I went along on everything that I could, and  
14 everything that I couldn't, I disagreed on the principles.  
15 And when I needed to speak, I spoke, and when I didn't, I  
16 kept my mouth shut. I had -- I made a lot of friends,  
17 because I found that the -- on one issue where you  
18 disagree, and sometimes friends disagree, we'll find that  
19 there are times when we will have a disagreement, but you  
20 don't get angry at people because they disagree, or if you  
21 do, you certainly don't let it stay, because the people  
22 that are with you on an issue today might be some of the  
23 same ones that are against you on an issue tomorrow.

24 And I -- I kind of philosophize a little bit  
25 about me and my wife. We've gotten along fine for almost

1 43 years, and, you know, we only agree on about eight out  
2 of ten issues. And I certainly, if I got angry at her on  
3 the two that we don't agree on, made an enemy out of her,  
4 I'd ruin a perfectly good marriage, so I don't do that.

5 I think you and I disagreed on the university  
6 budget, Senator, but I have an idea that you and I have  
7 agreed on many issues. So I'm certainly not going to try  
8 to make an enemy out of you. I'm going to try to convince  
9 you, I'm going to try to sell you on my way of thinking,  
10 but I'm not going to put you on any list if we disagree on  
11 one issue. I'm hoping that we agree or you get my support  
12 over an issue the next day that we both agree on.

13 SENATOR TODD: Well, Governor, if I didn't go on to  
14 the list, you just remembered my name when the 1444 came  
15 along. Is that a fair assessment?

16 THE WITNESS: Senator, I'm sorry I have wounded you  
17 so deeply with that veto. I say that in all sincerity.  
18 Obviously, from your questioning this morning, it did  
19 wound you very deeply, and I really didn't mean to wound  
20 you deeply. I have discussed everything about that, and  
21 that's -- and so you have my apologies for wounding you.  
22 Had I known that would have wounded you, I would have  
23 found a way to do something different.

24 SENATOR TODD: Governor, I will accept your apology  
25 for wounding me, but what about the constituents that

1 wanted that particular piece of legislation signed into  
2 law by the Governor of the State of Arizona after it  
3 passed the House by good numbers and in the Senate by good  
4 numbers? That doesn't count? That still damages the  
5 state, and therefore you vetoed the bill. I understand  
6 that.

7 May I ask you another question.

8 THE WITNESS: Certainly. I'm yours, Senator. I'm  
9 here as long as you want me.

10 SENATOR TODD: The disagreement with the Attorney  
11 General's Office, I think, still bothers a lot of us,  
12 because it seems to have directed the course of action on  
13 your part.

14 Do you feel that your attitude towards the  
15 office may have had some degree of effect on your attitude  
16 on the 13th, Governor, when you, as the Governor, were  
17 called by Director Milstead and asked the question to go  
18 to the Attorney General?

19 THE WITNESS: I missed something. Did my attitude  
20 towards the Attorney General have something to do with it?

21 SENATOR TODD: That's correct. Would you say your  
22 attitude was good, average, or poor towards the Attorney  
23 General at noon, on Sunday, the 15th?

24 THE WITNESS: Realistic, Senator, was my attitude  
25 towards the Attorney General. I don't know whether you

1 class a realistic attitude good, poor, or bad. I don't  
2 know.

3 It is the fact that after having starting  
4 early in the year, time after time after time after time,  
5 having an Attorney General which surprisingly does things  
6 to attempt to embarrass and to investigate, and turn  
7 around without the courtesy, the common courtesy, if you  
8 please, of ever picking up a telephone, and only one time  
9 did the Attorney General have the courtesy to ever pick up  
10 a telephone and call me before a blast in the press.

11 Being told, for example, that I had -- that  
12 we had broken open meeting laws, and that coming out in  
13 the press, when in reality we hadn't, only one indication  
14 out of probably -- well, a number of large press releases  
15 that we had broken the open meeting laws, one time, was  
16 that a potential relating to the him mini-Grace  
17 Commission's first meeting when probably it was  
18 inadvertently, the door was closed by my Press Secretary.  
19 I didn't know it. The press felt they had been shut out.  
20 Realistically, they had a right to assume that, because I  
21 guess Bellus told them to stay out.

22 I thought it was a private lunch thing.  
23 The -- we did do some bills there, not realizing that it  
24 was some initial business -- and so perhaps that was the  
25 one time that that was justified. Other times, just

1 meetings that had no correlation to that. I think the  
2 time when it was so serious that we discussed but didn't  
3 go to the Bar Association to question the ethics of the  
4 Attorney General relative to what he did there.

5           The different, the different things and the  
6 statements, and then the -- I've heard the word "paranoid"  
7 used, and it's usually the newspaper tries to aim that in  
8 my direction. But his was a very paranoic response when  
9 we talked about his concern that we -- that we were far --  
10 what we considered the good of the state, asking the  
11 board -- our cabinet officers to give us input as to how  
12 well they were getting along with the monopoly situation  
13 relative to legal representation by the Attorney General.

14           And there are, for example, in the Racing  
15 Commission, the Attorney General was very unresponsive and  
16 determined to decide who could be in the Racing  
17 Commission -- we had a hard time to get a different  
18 Representative there instead of one who was really getting  
19 in the way of the business and literally pushing his  
20 weight around. He wasn't giving legal advice. He was  
21 still trying to sort of run the commission. So, Senator,  
22 the examples are legion.

23           Now, under those circumstances, then put  
24 yourself in my position of the middle of October, and find  
25 yourself as the target of a grand jury investigation, that

1 the first time you know about it, it's in the newspapers,  
2 and it becomes a daily play in the newspaper. Now, I  
3 doubt that since mid-October of 1987, I doubt that there  
4 has been five days in a row when the Phoenix newspapers  
5 have not listed with me and says I am the target, and then  
6 I'm the indicted, and then I am this every day. And of  
7 course, a grand jury investigation is supposed to be a  
8 secret affair. This was the most un-secret secret affair  
9 I ever heard of.

10 So, under those circumstances, I believe my  
11 response relative to the Attorney General was realistic  
12 when I said to the Director, I said, "He's out to hang me,  
13 and I'm not going to help him."

14 Now, when I talked with him, and I mentioned  
15 his response to me, and I thought -- I'm going back to  
16 talking about Attorney General Corbin. When I assured  
17 him, and he could find no place where any assurance of  
18 mine had not been good up to that time, that we were going  
19 to make no recommendations on anything relative to his  
20 office. Naturally, it would have to go through and bring  
21 the legislative leadership in, or whoever was involved,  
22 and talk with any changes there. And he left the phone in  
23 good spirits, I thought.

24 And yet, to find that he goes out and says we  
25 are at war, and literally attacks me, Senator, I -- I

1 believe I have a right to say that that was a realistic  
2 appraisal and a realistic attitude towards the Attorney  
3 General.

4 SENATOR TODD: Governor, would it be then realistic  
5 to say that you were upset with him?

6 THE WITNESS: That's the understatement of the day,  
7 sir.

8 SENATOR TODD: Governor, would it be also realistic  
9 to say that in the sequence of events where we're trying  
10 to pass a budget over here, and in all of the process,  
11 trying to understand how this relationship is going on,  
12 that -- I'll leave that, Mr. Presiding Officer, and I'll  
13 sit down and quit for a minute.

14 Thank you.

15 THE PRESIDING OFFICER: Senator Osborn?

16 SENATOR OSBORN: Thank you, Mr. Presiding Officer.

17 Good morning, Governor Mecham.

18 THE WITNESS: Good morning, Senator Osborn.

19 SENATOR OSBORN: Governor, I want to sketch in  
20 quickly, if I can, the two differing versions of the  
21 encounter between Lee Watkins and Peggy Griffith, and then  
22 I have a couple of questions for you.

23 THE WITNESS: All right.

24 SENATOR OSBORN: On the one hand, we have a  
25 description of that encounter by Max Hawkins, who,

1 incidentally, appears to be the only person who  
2 interviewed both of the principals.

3 THE WITNESS: Yes.

4 SENATOR OSBORN: And he describes it as a spat, a  
5 bunch of hot air that would go away, and dismisses it as  
6 such. And of course, if that were the case, then we  
7 wouldn't have an awful lot to argue about here.

8 On the other hand, we have Mrs. Peggy  
9 Griffith's version, which is sinister and foreboding in  
10 many respects. And I read just a couple of sentences from  
11 Exhibit No. 10, which is her statement. She quotes Lee as  
12 saying, "she had a big mouth, and there are some friends  
13 of the Governor who are very angry, and if she does not  
14 keep her mouth shut, she will take a long boat ride and  
15 never come back." We've all heard that over and over.

16 "We won't do it until spring or possibly  
17 summer." And, "California is not far enough. She should  
18 going to Wisconsin and change her name," and other remarks  
19 in that vein, and of a serious incident, indeed, if we are  
20 to believe that version. But the two versions are worlds  
21 apart, worlds apart.

22 And my question, Governor, is: Do you have  
23 an explanation for the wide disparity between the two  
24 versions, between which, sooner or later, this Senate must  
25 decide which to choose?

1           THE WITNESS: An explanation, Senator, I don't know  
2 that I do. I think -- I don't think the versions are what  
3 you have to choose from, Senator. I think -- I thought  
4 this was all based on whether I had tried to obstruct the  
5 looking into this. I thought that's what this was all  
6 about. I didn't know whether that was to try to find who  
7 of them was telling the truth.

8           Now, quite frankly, I have read what Peggy  
9 has said, and I have never heard from Lee exactly what he  
10 said. Max Hawkins talked to both of them, and in his idea  
11 of talking to both said here's some people that were, you  
12 know, a bunch of hot air. I presumed shooting off their  
13 mouth. I think we can understand that. I certainly can,  
14 knowing these two people, both of them known quite well to  
15 me, and both of them being rather excitable people.

16           I recall Lee's statement of Terri -- the  
17 statement of Terri Fields, saying they embraced each other  
18 and kissed each other, and this was, you know, all love  
19 and kisses. And then, interestingly enough, the reports  
20 that I'm supposed to have obstructed are all wrong.

21           We have a report by Lieutenant -- by Frank  
22 Martinez. He doesn't say anything about the seriousness  
23 of it. He just says that there was a threat. Peggy  
24 herself says she was going to give me the whole story.  
25 She said she didn't give the whole story to them. And

1 yet, because -- and that's the information they had to  
2 work on.

3           So when we get down to it, Senator, I was  
4 dealing strictly on what I knew. I knew nothing of a  
5 death threat. I knew nothing of a serious nature. I  
6 would hope that this body would give me cognizance of the  
7 fact that if I thought there was something serious, that I  
8 would have been the first one to see that -- heavens, if  
9 this was an imminent death threat, we would have got ahold  
10 of Chief Limbs and had him arrest Lee Watkins and restrain  
11 him, and go from there, if we would have thought that was.

12           So, with the information I had, Senator, I  
13 didn't think that, after we got the report back, it was  
14 serious, and so that's what I was operating on.

15           SENATOR OSBORN: Mr. Presiding Officer, Governor  
16 Mecham, I understand what you're saying. I wonder if I  
17 might repeat the question.

18           THE WITNESS: Sure, go ahead, sir. I'm sorry if I  
19 didn't properly answer it.

20           SENATOR OSBORN: You were acquainted with all four  
21 of the principals here, and at one time or another I  
22 believe all of them were appointees of yours --

23           THE WITNESS: Yes.

24           SENATOR OSBORN: -- perhaps directly, or  
25 indirectly; Peggy Griffith, Lee Watkins, Donna Carlson,

1 and Max Hawkins?

2 THE WITNESS: Yes.

3 SENATOR OSBORN: And what is puzzling to me is how  
4 this Court can have before it two such widely varied  
5 versions of an encounter between two of those people. And  
6 I want to give you an opportunity, Governor, here, while  
7 we're still on Article I, to provide this Court with your  
8 explanation or your theory of how we can have such two  
9 widely disparate versions of the same incident, if you  
10 have a theory.

11 THE WITNESS: Well, it's unfortunate that we don't  
12 have word for word out of Lee of what he actually said,  
13 and then that would be what you're talking about.  
14 Donna -- or I mean Peggy has -- she's written three  
15 different things that sometimes have varied a little bit  
16 in her attitude. I think we have to go back -- but as far  
17 as exactly what each said, I never got the benefit of what  
18 each said. I have what is written here, and I just have  
19 Lee saying that isn't what was said. I have never got  
20 from Lee exactly what he did say. I didn't talk to either  
21 one of them, stayed away from it.

22 When it became a grand jury situation, it was  
23 not proper for me to get involved in talking to them and  
24 going farther. Had it not been for that, I would have  
25 brought them in and say, hey, this thing is -- let's get

1 this thing going, and knock their heads together or  
2 whatever it took, but I thought that's what Max had done,  
3 and that didn't solve it. But then, of course, it was  
4 beyond that, and I didn't know that at the time.

5 I think what really happened, Senator, is  
6 that in the parking lot, they talked, and I think what you  
7 have to put into proper perspective is what Lee was  
8 talking about. He wasn't talking about Donna as a grand  
9 jury witness. I sincerely doubt that he ever thought of  
10 her as a grand jury witness. Certainly there was no  
11 intent of anybody to bother her from testifying to the  
12 grand jury. Nobody felt anybody had anything to worry  
13 about when anybody said the grand jury.

14 But Donna was justifying her exit from the  
15 ninth floor. I was still in the Pacific when she  
16 resigned, and she was then going to the press and talking  
17 all about the expose on the ninth floor of all the  
18 terrible things that they have done. And it was a purely  
19 human thing, anybody justifying what they've done.  
20 Naturally they want to look right to the world, and so  
21 that's what she did.

22 And so Lee was not pleased, nor was anyone  
23 around me pleased that Donna was out suddenly talking  
24 about all these exposes. Some of the things she said were  
25 somewhat factual and some weren't, and it was displeasing.

1 It was in that framework that he was telling her, I think,  
2 that she should keep her mouth shut.

3 In other words, it's fine to resign and  
4 leave, but, you know, don't try to blast everybody and  
5 just keep going on and on and giving things for the  
6 publicity mill. So I think that's what you have, and  
7 said, well, she ought to keep her mouth shut.

8 As far as actually what he said, I sincerely  
9 don't believe Lee ever felt that there would ever be any  
10 material -- any bodily harm to Donna Carlson. If I  
11 thought that, I would have acted immediately. So that's  
12 as near as I can tell.

13 My theory is, a couple of people that know  
14 each other well chomping at each other a little bit,  
15 joking. And then when Peggy brings Lee -- looks him up.  
16 He doesn't go looking for her. I think if he was looking  
17 for her -- in fact, her account, the DPS account was he  
18 grabbed her arm. Donna's account was he never laid a hand  
19 on me.

20 See, there's so many discrepancies in this.  
21 And Terri Fields saying that there was really nothing said  
22 there in front of her, and then Donna -- or I mean Peggy  
23 looked Lee up. Lee didn't go following up to say, I'm  
24 going to really put a fear into her. And then they get  
25 talking, and we have the two people who had the

1 conversation with no outside acts.

2           Therefore, I think we have really worked to  
3 make a mountain out of a molehill, but I understand you're  
4 trying to get the fore. That's the best theory I can give  
5 you, Senator.

6           SENATOR OSBORN: Thank you, Governor.

7           THE PRESIDING OFFICER: Senator Walker was next.

8           SENATOR WALKER: Mr. Presiding Officer.

9           Good morning, Governor.

10          THE WITNESS: Good morning, Senator.

11          SENATOR WALKER: Governor, I believe it was  
12 Thursday, and possibly yesterday, that you said that you  
13 did not have any legal counsel; is that correct?

14          THE WITNESS: Did not what?

15          SENATOR WALKER: Did not have any legal counsel.

16          THE WITNESS: Senator, I didn't have. I didn't  
17 have legal counsel on my staff on the ninth floor.

18          SENATOR WALKER: Okay.

19          THE WITNESS: Oh, excuse me, except for the short  
20 time when I had John McGowan there.

21          SENATOR WALKER: Okay. You did not have legal  
22 counsel on your staff working for you in November of 1987?

23          THE WITNESS: That is correct.

24          SENATOR WALKER: Mr. Craft was not legal counsel  
25 for you?

1 THE WITNESS: He couldn't be, that's correct.

2 SENATOR WALKER: Dr. Burke was not legal counsel  
3 for you?

4 THE WITNESS: That is correct.

5 SENATOR WALKER: I believe you testified that  
6 statutes say you cannot have legal counsel; is that  
7 correct?

8 THE WITNESS: I cannot have legal counsel without  
9 the specific permission of the Attorney General's Office.

10 SENATOR WALKER: And you did not have that  
11 permission, did you?

12 THE WITNESS: I did not.

13 SENATOR WALKER: Okay. My question is, Governor:  
14 If Mr. Craft was not your legal counsel in November of  
15 1987, did you believe that you had an attorney-client  
16 relationship?

17 THE WITNESS: No. He was not giving me legal  
18 advice.

19 SENATOR WALKER: So you did not have an  
20 attorney-client relationship in November of 1987?

21 THE WITNESS: That's correct.

22 SENATOR WALKER: So nothing that you and Mr. Craft  
23 said in conversations in November of 1987 could be  
24 misconstrued as an attorney-client relationship?

25 THE WITNESS: That is correct.

1 SENATOR WALKER: No confidentiality there?

2 THE WITNESS: That's correct.

3 SENATOR WALKER: Thank you.

4 Governor, now, you have mentioned on a number  
5 of occasions that Lee Watkins was blowing hot air, have  
6 you not?

7 THE WITNESS: That was -- that was how Mr. Hawkins  
8 reported it to me, and that fits Lee's nature.

9 SENATOR WALKER: Governor, you were aware of the  
10 incident with Mr. Watkins and Ron Ludders, were you not?

11 THE WITNESS: Yes, ma'am.

12 SENATOR WALKER: Governor, was that hot air?

13 THE WITNESS: Well, Ron Ludders didn't think it was  
14 hot air, Senator.

15 SENATOR WALKER: Governor, you were aware of  
16 assault charges against Lee Watkins. Was that hot air?

17 THE WITNESS: The what?

18 SENATOR WALKER: The assault charges against Lee  
19 Watkins, was that hot air?

20 THE WITNESS: Well, the ones that I knew, Senator,  
21 had been 20-some years ago, and I sort of -- I've sort of  
22 felt that we don't go too back and hold against anybody  
23 everything they did. It was a misdemeanor. I don't count  
24 that.

25 I didn't agree with that. I've never been

1 involved with such myself, but I didn't feel that perhaps  
2 that was what would wipe him out for the rest of his life,  
3 and I think members before this body here would probably  
4 agree inasmuch that Lee has worked for a number of people  
5 in this body.

6 SENATOR WALKER: I know that, Governor. But did  
7 you consider that act an act of hot air?

8 THE WITNESS: The one that was characterized to me  
9 as hot air, Senator, was the one that Lee -- that Max  
10 reported, and that is the issue here. I don't believe I  
11 passed a value judgment on the act of 20-some years  
12 before.

13 SENATOR WALKER: Well, Governor, assaulting your  
14 wife because she was PMS, would you consider that an act  
15 of hot air?

16 THE WITNESS: Assaulting --

17 SENATOR WALKER: Your wife, because she was PMS,  
18 would you consider that an act of hot air?

19 THE WITNESS: I'm not aware of that.

20 SENATOR WALKER: Would you consider that act a  
21 matter hot air?

22 THE WITNESS: Oh, I don't think a physical assault  
23 on anybody would be hot air, no. I don't think so at all.

24 SENATOR WALKER: Would you agree with me, Governor,  
25 that sometimes Mr. Watkins' acts were not always actions

1 of hot air?

2 THE WITNESS: Oh, yes, I would agree with that.

3 SENATOR WALKER: Governor, it perplexes me, if you  
4 thought the acts or the conversation between Watkins and  
5 Griffith was hot air, why did you tell Cameron Harper on  
6 November 16th that you thought it was an act of hot air?

7 THE WITNESS: Senator, we didn't get that far into  
8 the conversation. I told Cameron Harper, and I wasn't  
9 going to recall -- recall that I was under subpoena to go  
10 and be a witness in a grand jury. He wanted to get into  
11 an item that was off limits, and I told him, which was  
12 very true -- he brought in and he says, well, it was an  
13 implication of a death threat.

14 Well, I didn't know anything that there was  
15 an implication of a death threat, and I told him, and  
16 that's really all I told him, is that I don't know that  
17 that is. And the other thing is perhaps my Chief of Staff  
18 knew. I did not.

19 SENATOR WALKER: Governor, I'd like to go back to  
20 Colonel Milstead. I believe you testified Thursday that  
21 you had cause to terminate Colonel Milstead?

22 THE WITNESS: If I desired, I felt I had cause,  
23 yes, ma'am.

24 SENATOR WALKER: Governor, can you tell us when you  
25 first discovered you had cause to terminate Colonel

1 Milstead?

2 THE WITNESS: Oh, I think it was along late in the  
3 summer. We had the number of things, some of -- some of  
4 which I mentioned yesterday, that were, I thought, just  
5 cause to terminate him, yes.

6 SENATOR WALKER: Governor, would you share with us  
7 again what those things were?

8 THE WITNESS: The use of state property, the use  
9 of, particularly, automobiles, the use of manpower to do  
10 things that were not state business. And those, to me,  
11 were not as serious as the manner of handling personnel.

12 Senator, I could bring before you today about  
13 20 people that some perhaps justifiably cashiered out of  
14 DPS, but am not -- people whose lives were destroyed,  
15 people who, as Captain Ayers was, was put the next thing  
16 to bankruptcy to settle, people who their infractions  
17 were, as in the case of Captain Ayers, just that he didn't  
18 give Debbie Milstead the proper efficiency rating, things  
19 that said that you're not using your resources which  
20 belong to the state as you should be.

21 Also, this perhaps would be a matter of  
22 judgment, but the manner of using the resources that are  
23 there to do what the state needs done with the Department  
24 of Public Safety, that -- just a number of those.

25 SENATOR WALKER: Governor, did you testify that it

1 cost perhaps three or \$400,000 to do an investigation by  
2 the Department of DPS in order to terminate some people?

3 THE WITNESS: That was the estimate that was given  
4 to me, Senator.

5 SENATOR WALKER: Governor, why didn't you terminate  
6 Colonel Milstead when you found out about this?

7 THE WITNESS: I didn't terminate him because we  
8 were busy doing a lot of other things, and it would create  
9 quite a ripple, I guess you would say, or a great deal of  
10 opposition. There's been a number of people in this body  
11 itself tell me that under no circumstances did they want  
12 me to get rid of Colonel Milstead, and quite a number in  
13 the House over on the other side. And I took those  
14 seriously and felt that I had to -- if and when I decide  
15 that he would be terminated for cause, his was a different  
16 situation than a department head who was not, one that  
17 just served at my pleasure -- interestingly enough, when  
18 he and I first talked, he said that's how he served, and  
19 that he didn't have a contract, and I didn't need to worry  
20 about that. Yet at the same time, he was telling his  
21 officers that I couldn't fire him. They didn't need to  
22 worry, as some of these rumors were going. But it was a  
23 judgment call, Senator, that that was not a time to do  
24 that.

25 SENATOR WALKER: Governor, would it be fair to say

1 that politics played a part in your decision not to  
2 terminate Colonel Milstead?

3 THE WITNESS: Totally fair, you bet.

4 SENATOR WALKER: Now, Governor, you're aware that  
5 your testimony as to the conversation and Colonel  
6 Milstead's testimony as to the conversation that you had  
7 on Sunday are quite alike. As a matter of fact, some of  
8 the things that you said in your testimony has almost been  
9 verbatim to some of the things that Colonel Milstead said  
10 in his testimony about that conversation.

11 Governor, why did you find it necessary to  
12 tell Colonel Milstead not to take Frank down to give a  
13 statement to the Attorney General?

14 THE WITNESS: I didn't. I didn't tell him not to  
15 take him down and give a statement. I told him that -- I  
16 thought surely they had already made a statement. I  
17 thought law enforcement officers always made a statement  
18 in a report immediately on anything, and thought surely  
19 they had the statement. He didn't ask for a statement.  
20 He said they wanted to take Frank down and either question  
21 him or interrogate him. I don't remember which word he  
22 used.

23 This was Sunday. I knew Frank was off on  
24 Sunday. I saw no reason for that. That was the thrust of  
25 that. I saw no reason. Monday would be plenty of time.

1 I still did not know all the background of all the things  
2 that they had been up to. I didn't know, for example,  
3 that Colonel Milstead had been back in town and working  
4 with Steve Twist through the night on Saturday night. I  
5 didn't know any of these things. The first I knew is when  
6 he said that.

7 Mine was simply from the point of the fact  
8 that there was an incident that we had already looked  
9 into. Why the crisis for the Attorney General to question  
10 Martinez? And he told me nothing that would give me any  
11 indication that there was anything different than what I  
12 was assuming, that they were just wanting to sort of stick  
13 their nose into this thing.

14 SENATOR WALKER: Now, Governor, you testified  
15 earlier that you thought a threat, any threat, was  
16 serious; is that correct?

17 THE WITNESS: That I --

18 SENATOR WALKER: Thought a threat, any threat, was  
19 serious. Is that correct?

20 THE WITNESS: Well --

21 SENATOR WALKER: I believe you testified to that  
22 yesterday.

23 THE WITNESS: Relatively speaking, a threat would  
24 be serious, Senator.

25 SENATOR WALKER: Okay. Now, Governor, my question

1 is: You believe a threat is serious. You're being  
2 informed by your Director of Public Service that a threat  
3 has been lodged against a former employee. Do you believe  
4 that had it been someone in your family who had been  
5 threatened, that DPS and the Attorney General would have  
6 acted in a correct manner if they said, "I do not want to  
7 ruin one of my officer's days off. This is not very  
8 important. We can take care of it tomorrow"?

9 THE WITNESS: Senator, nothing inconsistent in my  
10 attitude. If anybody thought there was a threat to  
11 someone's welfare, number one, you would secure that  
12 person. This particular person, I'll remind you, DPS said  
13 it happened Wednesday, and then they weren't sure, and  
14 Peggy said Thursday, and Peggy herself didn't report it  
15 until Friday, and they didn't -- and I received it Friday  
16 noon, and nobody seemed to be concerned about talking to  
17 the one who supposedly made the threat, and nobody seemed  
18 to be too concerned about talking on the one threatened  
19 against, Senator.

20 I find this all totally inconsistent with  
21 anybody feeling that there was a life-threatening threat  
22 here. I think, as I've said before, that this is probably  
23 a historic occasion in the history of Arizona, when  
24 something of this size has been built into a multi-million  
25 dollar thing that has tied this body up for this long and

1 cost this much money with this little. And might I  
2 underline that with a fact?

3 My relationship with the Attorney General is  
4 well-known, and if he would threaten to investigate  
5 something between Mr. Craft and I, and if he would do this  
6 and this and this, and if he reached and picked me out of  
7 at least 50 people who have filed changes, in other words,  
8 redone their political reporting, and picked me out as the  
9 one who he says must have criminal intent, then I believe  
10 you would have to say that he's determined. And if he had  
11 found an ounce, one ounce of legal basis for me  
12 obstructing justice, he would have certainly tried to get  
13 an indictment against me and not had me tried by this  
14 body, but had me tried -- this body can take away the  
15 office that I hold, but he would have tried to get me into  
16 a court of law that could take away my freedom and put me  
17 under bars if he could convict me of such a charge.

18 SENATOR WALKER: Governor, I think he is, but  
19 that's not the point.

20 Governor, you relayed to me that you knew  
21 about the series of events happening from Wednesday on to  
22 Sunday when Colonel Milstead told you about it. Now, did  
23 he tell you all about this, you know, Wednesday, Thursday,  
24 Friday, Saturday, Sunday, for example, through that whole  
25 series of events when he called you Sunday?

1           THE WITNESS: No. I'm not even sure how much he  
2 knew. He said, in effect -- I'll just paraphrase. He  
3 said that Beau -- that Peggy told Frank, and Frank told  
4 Beau, and Beau told Chilcoat, and Chilcoat told Phelps,  
5 and Phelps told the Attorney General, and this was all  
6 news to me. But Colonel Milstead also did not tell me  
7 what anybody said. It was a threat, that there was a  
8 threat. He did not say a death threat. He did not  
9 mention felony to me. He did not mention any of those  
10 things that would have, perhaps, given me perhaps a naive  
11 layman relative to law and legal terms and criminal terms,  
12 but he gave me nothing that would indicate that at all.

13           SENATOR WALKER: Okay. Then you did not know  
14 whether it was a serious threat or not, you did not know  
15 how long it was going on, but you still didn't want to  
16 ruin Officer Martinez' Sunday, so you thought it could  
17 wait until Monday; is that correct?

18           THE WITNESS: My attitude -- yes, that's correct.  
19 My attitude was that this thing has been going on here for  
20 a period of time. In fact, I was flabbergasted to know  
21 there had not be a report made yet. Nobody told me that.  
22 I hadn't got any report, but I didn't know of all the  
23 things that were going on around. My report had been that  
24 it's hot air and it will -- it will go away.

25                           And so I didn't know any of those things, and

1 that -- my behavior, if that's what you're questioning  
2 relative to, not thinking it was important -- Officer  
3 Martinez was not a participant. He was a conduit.

4 What -- I know he was not a witness. He didn't know. Why  
5 would he have to be runned down on Sunday when Monday's  
6 just, you know, just 20 hours away? Why can't we wait and  
7 let's get everybody together and start talking about this  
8 in instead of finding ways to make this an international  
9 incident?

10 SENATOR WALKER: I understand, Governor.

11 Is that why you told Colonel Milstead,  
12 "Without a witness you don't have a case," and, "I'm not  
13 going to help you help the Attorney General to hang me"?

14 THE WITNESS: My words, I think, was that the  
15 Attorney General is trying to hang me, and I'm not going  
16 to help him.

17 SENATOR WALKER: So, Governor, is it fair to say  
18 that you were concerned about the political ramifications  
19 of this on Sunday afternoon?

20 THE WITNESS: Of course. You're always concerned  
21 about the political ramifications. This is a political --

22 SENATOR WALKER: Governor, is it fair to say that  
23 you put your political career ahead of the good of the  
24 state of the people of Arizona on Sunday afternoon?

25 THE WITNESS: Certainly not.

1 SENATOR WALKER: Thank you.

2 THE WITNESS: Definitely not.

3 THE PRESIDING OFFICER: It appears to be time for  
4 our morning recess, and I have at this time five more  
5 Senators who wish to ask questions. Senator Mawhinney  
6 wishes to reclaim his rights, Senator Kay is there,  
7 Kunasek, Higuera, and West, and Senator Stump. We've got  
8 a lot more. I won't even write them down.

9 THE WITNESS: Is it fair to say I'm glad they love  
10 me, Judge?

11 THE PRESIDING OFFICER: We'll stand at recess until  
12 10:30.

13 (Recessed at 10:17 a.m.)

14 (Reconvened at 10:37 a.m.)

15 THE PRESIDING OFFICER: Thank you, ladies and  
16 gentlemen. The Court of Impeachment is reconvened. Show  
17 the presence of a majority of the Board of Managers, their  
18 counsel, and counsel for the respondent.

19 The Governor will resume on questions from  
20 the Senators. I think, Senator Mawhinney, you're the next  
21 to resume.

22 SENATOR MAWHINNEY: Yes, sir. I need the witness.

23 THE WITNESS: I apologize, sir.

24 THE PRESIDING OFFICER: That's all right. Senator  
25 Mawhinney will resume with you, Governor Mecham.

1 SENATOR MAWHINNEY: Mr. Presiding Officer, Governor  
2 Mecham.

3 THE WITNESS: Yes, Senator.

4 SENATOR MAWHINNEY: Exhibit 11, I wonder if --  
5 which is Colonel Milstead's statement, I wonder if the  
6 Governor could get that.

7 THE WITNESS: Thank you.

8 SENATOR MAWHINNEY: In the course of your  
9 testimony, Governor, you've gone through a number of the  
10 quotes in here, and said some are inaccurate, some are  
11 wrong, and some are, as I recall, close to what was said.

12 Now, we have a bunch of quotes in here, and I  
13 have to tell you that I am now confused about which you  
14 say are close to the point -- and I don't need them to be  
15 precisely accurate, but would reflect your conversation  
16 with the Director.

17 The first one that I see coming down here is  
18 in the top half of the third paragraph, and it says,  
19 "Well, if you want my permission for them to talk to the  
20 Attorney General, you can't have it. The answer is no."

21 Would you tell me if you recall that as being  
22 part of the conversation?

23 THE WITNESS: It's not correct inasmuch as that he  
24 has put this in the vernacular that we were talking about  
25 two people. I said, "If you're asking for my permission,

1 the answer is no." But he's talking about them. Beau was  
2 never -- the only time Beau was ever brought up in our  
3 conversation was when I brought it up, not when he did.  
4 We were strictly talking about Frank Martinez.

5 SENATOR MAWHINNEY: So it was, "Well, if you want  
6 my permission for him to talk to the Attorney General, you  
7 can't have it"?

8 THE WITNESS: Yes, and that's in the context of  
9 what we're talking about here. Here's a Sunday. I wasn't  
10 trying to keep him from handing in a report or any of them  
11 getting in and talking with Frank.

12 SENATOR MAWHINNEY: Okay. And then the other, the  
13 witness business, I think there has been no contest. You  
14 said earlier that that's right, with the "What does your  
15 witness say? What does your witness say?" And, "No,  
16 who's your witness?" That's relatively accurate?

17 THE WITNESS: Yes. I don't remember this  
18 repetitive thing that he says here. In other words, I  
19 knew, for example, that Frank wasn't a witness. Who was  
20 the witness? And, you know, where were they? Here we've  
21 got something I don't know anything about, really, except  
22 what little I have already reiterated.

23 SENATOR MAWHINNEY: And the businesses about, "No,  
24 who's your witness? Do you mean Peggy? What is she  
25 saying?" Did you say that?

1 THE WITNESS: Yes, I think I'm asking what she's  
2 saying.

3 SENATOR MAWHINNEY: Did you say, "Without her, you  
4 don't have a case"?

5 THE WITNESS: Yes. I don't know what they're doing  
6 without having somebody that tells them what happened.

7 SENATOR MAWHINNEY: "Sounding very angry," which is  
8 an editorial comment, I guess, "he said, 'I want Beau  
9 transferred. He should never have talked to anyone until  
10 he talked to me about this.'"

11 Did you say that?

12 THE WITNESS: This is where the departure is  
13 extensive, Senator. This comes -- this is when I said --  
14 talked to him about the whole program of what he and I had  
15 agreed on, and that the security of the ninth floor had  
16 been totally breached, and that this, you know, the whole  
17 way of handling this, he should have come to me, and that  
18 I wanted him transferred, and that I told him that I  
19 wanted Sergeant Wright put in his place. He has left all  
20 of those things, which was actually a much bigger part of  
21 our conversation than anything else.

22 SENATOR MAWHINNEY: But to the degree that it's  
23 here, it's accurate, but he left --

24 THE WITNESS: Well, I told him, yes, to transfer  
25 Beau. Yes, m'hum.

1 SENATOR MAWHINNEY: Okay. Were you angry?

2 THE WITNESS: Oh, I think I was somewhat angry. I  
3 don't get very angry, Senator, but I was somewhat  
4 perturbed, you bet.

5 SENATOR MAWHINNEY: "I have looked into it and it's  
6 nothing serious. There's nothing to this."

7 Did you say that?

8 THE WITNESS: Essentially, yes. Essentially,  
9 m'hum.

10 SENATOR MAWHINNEY: "I don't want Frank or Beau  
11 giving any statements to the Attorney General. The  
12 Attorney General is out to hang me, and I'm not going to  
13 help him in any way."

14 THE WITNESS: Once again, we weren't even talking  
15 about Beau. Statements were not mentioned, only  
16 interrogation or questioning was mentioned. In my mind, I  
17 would have thought that statements would have already been  
18 handed in to whoever they were to hand in to.

19 SENATOR MAWHINNEY: The next part is what? "The  
20 Attorney General is out to hang me and I'm not going to  
21 help him in any way."

22 You, just a moment ago, said that that was  
23 accurate?

24 THE WITNESS: Yes.

25 SENATOR MAWHINNEY: And, "I don't want you to help

1 him get me. Don't tell the Attorney General anything."

2 Accurate?

3 THE WITNESS: No, that's not accurate, huh-uh.

4 SENATOR MAWHINNEY: Last paragraph on the page  
5 where he says something to the effect that he has to  
6 cooperate with the Attorney General. It's one of his  
7 requirements. The phrase on that line is a quote  
8 supposedly from you: "Never. Don't give him any help."  
9 Did you say that?

10 THE WITNESS: No, I didn't. I have no recollection  
11 of saying that.

12 SENATOR MAWHINNEY: Okay. Yesterday you said  
13 something to the effect that you felt that Lieutenant  
14 Johnson had perjured himself?

15 THE WITNESS: Yes, I did.

16 SENATOR MAWHINNEY: Lieutenant Johnson's -- we have  
17 an advantage. I guess we have several in this forum,  
18 Governor, but one of them is that we have copies of the  
19 transcripts. And I have a transcript of Lieutenant  
20 Johnson's testimony, and I wanted to go through it just to  
21 the degree to find out where you believe he perjured  
22 himself.

23 THE WITNESS: He perjured himself. If we can take  
24 his testimony, I'll go through it. Do you have something  
25 that maybe -- or should I just generally tell you in the

1 interest of time, Senator?

2 SENATOR MAWHINNEY: I think I can tell you the  
3 things that I think you're going to talk about, and maybe  
4 we can do that.

5 "Lieutenant Johnson, is there any question  
6 in your mind but that Governor Mecham understood  
7 the severity of the problem created by Lee Watkins'  
8 threat?

9 "As far as what he did, he didn't ask me to  
10 repeat anything at all.

11 "You assume he understood what you said to  
12 him?

13 "I assume that he did, yes."

14 "Do you recall saying it was a possible  
15 felony?

16 "ANSWER: Yes."

17 How about that series?

18 THE WITNESS: Totally false, totally false.

19 "Felony" was never mentioned. And once again, I think if  
20 you go back to Dr. Burke's testimony, Dr. Burke pretty  
21 much danced around everything and didn't say anything very  
22 definite, but he was very definite that he never heard  
23 "death threat" or never heard "felony."

24 SENATOR MAWHINNEY: Dr. Burke said: "For them we  
25 always went in to the Governor. He was available

1 at that time, as I recall. We went in to the  
2 Governor, and Lieutenant Johnson basically reported  
3 to the Governor what had taken place and what had  
4 been recited to her in terms of a threat to Donna  
5 Carlson by Lee Watkins, the threat being made to,  
6 basically, Peggy Griffith."

7 And then they asked: "Do you remember the  
8 phrase 'death threat' being used?"

9 And Dr. Burke -- I don't have the answer, but  
10 as I recall, he said no, he does not recall that.

11 "So the meeting at approximately noon on  
12 November 13th, the following people were present:  
13 Yourself, Governor Mecham, Lieutenant Johnson and  
14 Fred Craft; is that correct?"

15 And Dr. Burke says: "Yes, as I recall. And  
16 Mr. Smith may have been there. I'm not sure."

17 And then Senator Usdane asked: "Yes, Dr.  
18 Burke. Doctor, at that meeting, Lieutenant  
19 Johnson, in your presence, described for Governor  
20 Mecham the threat that had allegedly been made on  
21 Donna Carlson's life; is that correct?"

22 "THE WITNESS: Yes.

23 "SENATOR USDANE: But I understand you  
24 testified that you didn't hear the exact wording,  
25 but you did testify that you clearly understood

1           that he was reporting a threat to her life; is that  
2           correct?

3                     "DR. BURKE: Yes, that's correct, that it  
4           was a serious threat."

5                     A threat to her life compared to a death  
6           threat, it seems that the conversation in the office, the  
7           Governor's office with the four or five of you comes down  
8           to the nub of one of the questions we have here, which is:  
9           Did you have reason to believe that something serious had  
10          been threatened and that something had to happen regarding  
11          this? Were you aware that there was a threat against the  
12          life?

13                    Dr. Burke was aware that there was a threat  
14          against the life. He felt Lieutenant Johnson, from his  
15          testimony, made that clear to you. And yet you represent  
16          that you didn't hear anything like that, that there was no  
17          threat against the life.

18                    Can you recall once again and testify once  
19          again what you believe Lieutenant Johnson reported to you?

20                    THE WITNESS: Yes, and I can even strengthen that  
21          with Dr. Burke's actions, Senator. And that is the fact  
22          that he heard no "death threat." I heard no "death  
23          threat." He heard no "felony." I heard no "felony." We  
24          heard no "warning." We heard not even the word "serious."  
25          Now, we didn't hear that.

1           Now, may I please ask you to just, for a word  
2 picture here, you have a former United States Attorney.  
3 You have a man who has been the head of a law school, who  
4 has taught law for a long time. You have a man who has  
5 been a high official in the Department of Justice. You  
6 have another lawyer trained in the law. Me, I am not.  
7 Perhaps words are not as significant to me. But we have  
8 two people, a Chief of Staff who is there to assist me.

9           Do you, for one moment, join me -- can you,  
10 for one moment, think that if these two friends, staff  
11 members, people to help, for one moment, if they  
12 recognized that it was life-threatening, would have let me  
13 pass it off in less than what could have appeared to be a  
14 way to handle it? And then, Senator, I would hope that  
15 your opinion of me is not such that you think that if I  
16 had any consciousness that this was a serious death  
17 threat, that I would pass it off and say, "Well, it's a  
18 personnel matter," and turn it into a personnel matter if  
19 it had been conveyed to me that it was anything else? I  
20 hope you wouldn't.

21           SENATOR MAWHINNEY: Governor, I guess that's one of  
22 the key points that we have to worry about. Apparently  
23 Lieutenant Johnson's confident that he told you the  
24 seriousness of the threat. Apparently Dr. Burke, your  
25 Chief of Staff, was convinced that not only was it a

1 serious threat against the life of Donna Carlson, but that  
2 also, that it already had been reported to the Department  
3 of Public Safety, and he anticipated that they would  
4 report that to the Attorney General, and that there would  
5 be an investigation. So he thought whatever you were  
6 doing was merely going down another door to have a dual  
7 investigation on the administrative side of this, turning  
8 it over to Max Hawkins. He was convinced a real threat  
9 existed. He was convinced a real serious problem existed,  
10 that DPS was involved. And yet, you heard none of that?

11 THE WITNESS: When was he convinced of that,  
12 Senator?

13 SENATOR MAWHINNEY: According to his testimony,  
14 right then, sir. According to his testimony, he said that  
15 he is under the impression that the Department of Public  
16 Safety had already been brought into it, that he  
17 anticipated, as former officer of the Justice Department,  
18 that the Attorney General would be brought into it, and  
19 that a serious investigation would take place. And he  
20 thought what you were doing was running a dual track, an  
21 administrative thing.

22 THE WITNESS: That's a terrible indictment of Dr.  
23 Burke, a terrible indictment of knowledge if that's what  
24 he thought, because if he could sit, and he knew nothing  
25 more than I knew, we did not know any case that this had

1 been reported to anyone. Lieutenant Johnson could have  
2 some -- there could be a little more recognition of that  
3 if Lieutenant Johnson had come in -- keep in mind that  
4 he's known this for some time. Also keep in mind that his  
5 reason for coming to see me was not to report it to me,  
6 but to get me to listen to Peggy Griffith. That was what  
7 she come up and asked him to do. On her testimony, she  
8 said, I gave them nothing but an overview. I wanted to  
9 tell the story to the Governor.

10 Do you realize that at this point, she had  
11 not apparently even told them exactly what she later wrote  
12 down and said was done? Do you realize that?

13 Now, Dr. Burke said that if he had have  
14 thought that -- I don't know where he would have got the  
15 information. Lieutenant Johnson didn't tell him there was  
16 another deal. He is now, by hindsight, apparently saying,  
17 well, I assumed this and I assumed that. Pray, tell me,  
18 in a busy day, in a power-packed time, in a few hours'  
19 time, which we now have, after five months, dissected  
20 almost minute by minute, and had many divergent opinions,  
21 we are now passing judgment on what was in everyone's  
22 mind. And I can assure you of what was in mine. And I  
23 don't know where he would have got any other information.

24 And then on top of that, and you'll have your  
25 opportunity to question Mr. Craft on this, I believe when

1 I said that Mr. Johnson had perjured himself, I think  
2 you'll find that his statement that he made -- and can you  
3 imagine, can you imagine people investigating, law  
4 enforcement people investigating, not sitting down and  
5 making reports? All right -- or Colonel Milstead is not  
6 being made until Monday, and Officer Martinez, and  
7 Lieutenant Johnson not making their reports until Sunday,  
8 until after they get the Attorney General's Office, and  
9 then the reports being fallacious, not even writing down  
10 the exact time that it happened?

11 SENATOR MAWHINNEY: Governor, there's clearly two  
12 events that everybody saw that I don't think you saw at  
13 the time. One was the alleged death threat. We won't  
14 call it death threat any more.

15 THE WITNESS: That would make me happy, because I  
16 didn't hear one. Thank you.

17 SENATOR MAWHINNEY: Okay. But somebody heard a  
18 threat against Donna Carlson's life. I have to tell you  
19 that where I come from, a threat against somebody's life  
20 is almost as good as a death threat. I can't discern the  
21 difference in that.

22 THE WITNESS: It would be to me, too, Senator. If  
23 I had heard that, it would have been the same to me, too,  
24 and I really would have acted differently.

25 SENATOR MAWHINNEY: I believe that I just read that

1 that's what Dr. Burke heard. Senator Usdane asked the  
2 question:

3 "Doctor, at that meeting, Lieutenant  
4 Johnson, in your presence, described for Governor  
5 Mecham the threat that had been allegedly been made  
6 on Donna Carlson's life; is that correct?"

7 The witness, Dr. Burke: "Yes."

8 So you believe that he heard something that  
9 you didn't hear, or that he's using what he knows now to  
10 fill in gaps in his memory?

11 THE WITNESS: Senator, I have just used some things  
12 to tell you that I do believe I hold Dr. Burke in higher  
13 esteem, and to think that he would serve me so poorly, and  
14 what I said, it would be a terrible indictment of him,  
15 that if I knew at that time it was a life-threatening  
16 threat, under no circumstances would he have said -- would  
17 have failed to speak up. He wasn't a bashful person. He  
18 never was. He gave his opinion on everything and anything  
19 when asked, and often when not. I don't say that in a  
20 derogatory manner. He was a man who speaks his mind.

21 So, it was not a matter that anybody was  
22 inhibiting him from talking. And when I turned to him and  
23 said this -- Lee works for Max Hawkins down at  
24 Administration, should get the two of them together and  
25 get this thing squared away.

1 SENATOR MAWHINNEY: Did Peggy work for Max Hawkins?

2 THE WITNESS: No, she didn't. But Lee Watkins, who  
3 is supposedly the perpetrator of this, the threatener, he  
4 did, and ask them to get together with the two of them and  
5 get this squared away. And then in about a 90-second  
6 interview, that's what happened, and then we went back to  
7 other things.

8 Now, at no time ensuing was the word "death  
9 threat" used, was there any conversation the rest of the  
10 day, was there anybody saying, well, I wonder if this  
11 really is serious. Is this serious? I wonder if that  
12 not -- Lee really mean to do her bodily harm.

13 Don't you think -- I do, at least -- that if  
14 that had been the case, if anybody had thought that,  
15 surely as we went down to have a hamburger, that would  
16 have come up?

17 SENATOR MAWHINNEY: Don't you think the point was  
18 that not Donna's life was in jeopardy, really, but a  
19 threat had been made to influence her testimony at the  
20 grand jury hearing on Monday, that the message from Lee  
21 was, keep your mouth shut when you go before the grand  
22 jury or you'll be in trouble? Wasn't that the key to the  
23 the death threat, and that she had to go actually and  
24 testify before her life would be in danger?

25 THE WITNESS: No, Senator.

1           SENATOR MAWHINNEY: Didn't the Department know that  
2 and didn't the Attorney General know that, and didn't  
3 everybody know that, that if she keeps her mouth shut on  
4 Monday, being a good girl, then nothing would happen to  
5 her? Isn't that what we read here?

6           THE WITNESS: Not at all, not at all. I'm sorry if  
7 you've come to that conclusion. You've missed the total  
8 point of it. You have missed the details that's  
9 important. The important details were not the grand jury.  
10 The grand jury was something that nobody talked about.

11           Do you realize that all of us were grand jury  
12 witnesses? Donna wasn't to be singled out as a grand jury  
13 witness. All of us, including Lee and everyone, was grand  
14 jury witnesses. Heavens, if we were tampering with  
15 witnesses, any one of us can be tampered with. She was  
16 not singled out. But you miss the point.

17           Donna had resigned, and was -- and was, as  
18 often as possible, getting her name in the paper, talking  
19 about how bad things were on the ninth floor, and how  
20 embarrassing this was and that. It was nothing to do with  
21 the grand jury. I think if you could roll a computer tape  
22 out of Lee Watkins' mind, the grand jury never entered his  
23 mind. It certainly wouldn't have entered mine, and that  
24 it was talking about the daily recounts in the newspapers  
25 of what she was saying, the exposes from the ninth floor,

1 and all this that we did or didn't do while there. That's  
2 what he was talking about.

3 SENATOR MAWHINNEY: Even if he was talking about --  
4 if you believe that's what he was talking about in that  
5 hearing room where the two of them sat together, do you  
6 believe enough that it was a bunch of hot air?

7 THE WITNESS: Yes, I do. I certainly do.

8 SENATOR MAWHINNEY: You mentioned earlier,  
9 Governor, that we wouldn't be here at this trial if you  
10 had fired Ralph Milstead?

11 THE WITNESS: That's right.

12 SENATOR MAWHINNEY: Do you mean to suggest that if  
13 you had a new director at the Department of Public Safety  
14 that you had put into place, and that a threat on the life  
15 of somebody existed among members of your staff, that that  
16 would not be reported to the police and to the Attorney  
17 General?

18 THE WITNESS: I think that if I had had a director  
19 who wasn't trying to undermine me, Senator, and in all  
20 sincerety, the first thing he would have done is picked up  
21 the phone and called me and talked about this and  
22 communicated on what was going on, and would have brought  
23 me up to date, and would have said while I was out of  
24 town, this is what happened, Governor.

25 You need to be brought up to speed. That

1 isn't what he did. And if I had had one who was working  
2 with me instead of at cross purposes, we would have  
3 perhaps communicated periodically when he had anything to  
4 bring up. This was a total out of the blue. The man  
5 never called me before all that time.

6 SENATOR MAWHINNEY: You mentioned earlier that this  
7 was not a crisis as far as you were concerned. This was  
8 just, you know, suddenly, Ralph Milstead calls you on a  
9 Sunday?

10 THE WITNESS: M'hum.

11 SENATOR MAWHINNEY: And you said, well, that's not  
12 a crisis. He never even talked to you, according to your  
13 testimony, in the office. Calling you on a Sunday ought  
14 to have triggered something in your mind, shouldn't it?

15 THE WITNESS: Sure, sure. Sure did.

16 SENATOR MAWHINNEY: It did?

17 THE WITNESS: Uh-huh.

18 SENATOR MAWHINNEY: So you knew something serious  
19 was going on?

20 THE WITNESS: No, no, I didn't know of anything  
21 serious. I knew that there was another expose in the  
22 newspaper going on, and that he and Mr. Corbin and Steve  
23 Twist were hatching it up. And I knew good old Sam  
24 Stanton is going to have another byline on Monday morning.

25 SENATOR MAWHINNEY: But Peggy Griffith had talked

1 to you the night before and said the Attorney General and  
2 DPS are messing in our investigation?

3 THE WITNESS: No, she didn't say that.

4 SENATOR MAWHINNEY: She didn't say that?

5 THE WITNESS: No. The word "investigation"?  
6 Please, Senator, let's stick to what she said.

7 SENATOR MAWHINNEY: Yes, I'm going to try to do  
8 that. I don't want -- I don't have a staff of folks to  
9 run around and find these things. If somebody can find  
10 Peggy Griffith's statement first, it would be helpful.

11 I have Exhibit 10, which is Peggy's  
12 statement, Governor. And on the sixth page,  
13 three-quarters of the way down, it starts with:

14 "The Governor said, 'Peg, it's okay. Don't  
15 be concerned. Don't let this interrupt your  
16 weekend. It's okay. I want you to have a good  
17 weekend.' I stated, 'Who the hell is messing with  
18 this investigation? Excuse me, Evan. I'm really  
19 angry.'"

20 THE WITNESS: I don't hear the word  
21 "investigation," Senator. I listened primarily -- and  
22 then she said she doesn't have some other things here that  
23 she said. She said that somebody from the Attorney  
24 General was trying to get her and somebody from DPS was  
25 trying to get her, and that she wasn't talking to anybody,

1 and that her husband could protect her, and she wasn't --  
2 nobody could make her talk. And I -- and I said to her  
3 words to the effect, "Nobody can make you talk, Peggy.  
4 Just don't worry about it. We'll look into this Monday.  
5 Have a good weekend."

6 SENATOR MAWHINNEY: Do you believe that Peggy  
7 perjured herself here?

8 THE WITNESS: I don't think so, no.

9 SENATOR MAWHINNEY: Just that she's wrong?

10 THE WITNESS: She's -- Senator, she's going back  
11 apparently from memory as so many things in this case are  
12 going back, and I remember quite vividly the fact that  
13 Peggy was disturbed about this, and that the thrust of her  
14 conversation was essentially that. I heard nothing about  
15 investigation, because I don't know that Peggy knew  
16 anything. I knew nothing about any investigation.

17 If she said the word, I didn't hear it. But  
18 she wrote this substantially after it happened. I believe  
19 this is dated January 19th. These events happened, what?  
20 November -- middle of November?

21 SENATOR MAWHINNEY: Friday the 13th, as I recall,

22 THE WITNESS: Maybe I will be superstitious on  
23 Friday the 13th from hereafter.

24 SENATOR MAWHINNEY: As far as you're concerned,  
25 right up until the time all this blew in the newspaper, it

1 was a personnel spat, a lot of hot air reported to you by  
2 the Director of Administration?

3 THE WITNESS: Senator, I still think it was.  
4 Nothing has ever been brought out to show anything  
5 different.

6 SENATOR MAWHINNEY: Do you believe, then, when we  
7 talked yesterday about manufacturing the incident, do you  
8 believe that Lieutenant Johnson, Lieutenant Colonel  
9 Phelps, Colonel Milstead, to a lesser degree, Peggy, the  
10 Attorney General, Steve Twist, Mr. Cudahy, and an  
11 unidentified investigator named Crawford, and other people  
12 who, I guess, I can't even think of now, were all in some  
13 kind of conspiracy designed to put you in the position  
14 you're in today?

15 THE WITNESS: I think that this has been -- this  
16 was an opportunistic position and event that the -- they  
17 seized upon to put this together in this manner, and I  
18 also see that I think the good sense of most everybody  
19 looking, both you in this body and the people out across  
20 this land can see that there isn't one shred of real  
21 evidence, that had there been, that the Attorney General  
22 would have tried to cite me in a grand jury on a criminal  
23 nature, that he didn't. I think that's the biggest proof  
24 you have, Senator. I think that's the one.

25 And had -- he had that opportunity, but

1 instead, he backed off and used this as a publicity thing  
2 to surround more controversy and more what-not, hoping  
3 that he could get what he did get. And, yes, I think that  
4 that's part of the thing, is that I need to be removed  
5 from the office, and this is part of the way to do it.

6 SENATOR MAWHINNEY: And the basis for this on the  
7 Attorney General's side is that there was a threat by you  
8 and your administration to decrease his influence or the  
9 amount of lawyers that existed in his office?

10 THE WITNESS: Senator, I can't say that. I don't  
11 know what goes on in his mind. I've been so amazed what  
12 goes on in his mind that I can't. I don't -- you know, he  
13 may -- he may very well have felt that. I really don't  
14 know. I assured him that he had no threat from me, but I  
15 don't know what goes on in his mind. I wish I did.  
16 Perhaps we could straighten it out.

17 SENATOR MAWHINNEY: You can't think of any other  
18 reason that he would have?

19 THE WITNESS: Oh, I mentioned some other items,  
20 but, you see, we get into total speculation, you know, as  
21 to why. Heavens, I wasn't a lot of people's favorite for  
22 this office, and they decided not to wait until the next  
23 election, and those people are very powerful. One runs a  
24 newspaper and some others have some very high places in  
25 the special interests of this state. And so --

1           SENATOR MAWHINNEY: Do you think they're operating  
2 in concert with the Attorney General?

3           THE WITNESS: Yes, I do.

4           SENATOR MAWHINNEY: Do you believe that the  
5 Attorney General instigated the complaint to the grand  
6 jury, or did somebody bring him a complaint relative to  
7 the loan?

8           THE WITNESS: Oh, I don't -- you know, you're  
9 asking opinions, and we're just speculating here, Senator.  
10 It's been the most interesting thing to me that we have  
11 looked over and have a stack about that high of people  
12 that have really, by his own words, violated the campaign  
13 finance disclosure law, and had made new -- you know, had  
14 to make amended reports.

15                   And, you know, we didn't fail to disclose  
16 anything. We didn't itemize it separately, and yet, I am  
17 the only one in the history of this state that he has made  
18 a different statement about. He's -- Mr. Pell, who was a  
19 city councilman, who didn't even file for a couple of  
20 years, he -- well, he had sickness in the family, and this  
21 type of thing, and the different things -- the  
22 two-on-your-side situation that Ted Humes brought up to  
23 him and pointed out that here was a committee totally in  
24 violation of this law from January of 1985 through October  
25 of 1986. Strange thing when Mr. Humes -- maybe you don't

1 know of this illustration. Maybe you should.

2 But, Mr. Humes went in this campaign for the  
3 Corporation Commission and said, Mr. Attorney General,  
4 here is a group that has put some money, some very  
5 prominent names on this committee, and put some money,  
6 operated as a committee, and put money into my opponent's  
7 campaign, and did not formulate themselves as a committee,  
8 and they have contributed money, totally, totally shut and  
9 dried against the law, but do you think --

10 SENATOR MAWHINNEY: Do you think, Governor --

11 THE WITNESS: Could you give me the forbearance,  
12 please?

13 SENATOR MAWHINNEY: You bet.

14 THE WITNESS: Then two days later, this committee  
15 files. Now, they don't file for 20 months, 20 months, and  
16 then they file once it's brought to the Attorney General's  
17 opinion, two days later, and then he turns around and  
18 tells -- tells Mr. Humes, there's nothing to it. I've  
19 looked into it and there's no problem.

20 Now, my attorneys tell me I didn't violate  
21 the law. This one was a pure violation, but the Attorney  
22 General didn't think so. So time after time after time --  
23 so does that -- to me, it smacks of a little bit of  
24 discriminatory action, shall we say.

25 SENATOR MAWHINNEY: Do you think, Governor, that

1 maybe the Attorney General listened to the campaign  
2 statements and listened to the campaign promises and  
3 listened to the rhetoric associated with the office, and  
4 saw that you were willing to hold other people to higher  
5 standards than just the letter of the law, but that what  
6 was right and what was clear and what was fair, and maybe  
7 he felt that he ought to hold you to those standards, too?

8 THE WITNESS: Senator, are you suggesting that --  
9 first of all, I didn't hold myself to the standards, and  
10 second of all, are you assuming -- are you suggesting that  
11 I should live a different standard according to the law  
12 than other people just because I campaigned on high  
13 standards? Is that what you're suggesting?

14 SENATOR MAWHINNEY: No, sir. I suggested that  
15 based on our conversation yesterday, you thought that  
16 corruption involved people who manipulated, but within the  
17 law, within the law, and that legal corruption, you said,  
18 was one of the worst and most widespread problems that we  
19 had.

20 I was wondering, as you made that kind of  
21 campaign rhetoric available to everybody in this state,  
22 that just maybe, in the mind of the Attorney General, he  
23 felt that you then ought to be held to the same standards  
24 of not just obeying the law, but being clear, being above  
25 it, and showing everywhere and in every respect that you

1 were going to be better than the law even though it let  
2 you out of certain small and minor ways that you didn't  
3 have to, for example, explain the full basis of loans, for  
4 example?

5 THE WITNESS: Senator, let's review that. I have  
6 never felt that I shouldn't be held strictly accountable  
7 to any law, and let's go back over that. I expect to  
8 acquit myself in a court of law, that proves and points  
9 that there was no intention, in fact, that there was no  
10 act to violate the law, either the spirit of it or the  
11 letter of it. I many times explained that and will  
12 explain it as many times as anyone wishes, a the words  
13 that were given to the one who prepared it, he felt he was  
14 following. The fact that there are two different laws --  
15 and we'll get into that in the third count of this, when  
16 it found out that there are provisions, and I think two of  
17 the foremost or three of the foremost attorneys on that  
18 particular part of the law shows that we were well within  
19 the law in what we did.

20 We did not have any intention nor do we think  
21 we did, nor did we have any desire or any knowledge of any  
22 breaking of any law. Had I, Senator -- I can tell you, as  
23 God is my witness today, that had I broken a law that was  
24 really breaking a law, you wouldn't see me here today. I  
25 would at one stroke of my pen have resigned from the

1 office and gone back to private life.

2 SENATOR MAWHINNEY: Thank you, Governor.

3 THE PRESIDING OFFICER: Next is Senator Kunasek.

4 SENATOR KUNASEK: Thank you, Mr. Presiding Officer.

5 I have just one issue I would like to expand on just a  
6 little. It's been touched on, I believe, by Senator  
7 Mawhinney, Senator Walker, Senator Gutierrez, and it  
8 relates to the motive factor that we're trying to  
9 determine here. And I'd like to determine, perhaps, the  
10 degree of motivation that may have been present here.

11 My curiosity, to the motives that Colonel  
12 Milstead may have had in pursuing this matter, and in  
13 trying to delve back into the history of the situation, I  
14 went back to the last time of confirmation, and lo and  
15 behold, I found that his confirmation, there was a roll  
16 call requested.

17 Now, roll calls in the confirmation process  
18 of the Senate are very rare, probably been six to ten in  
19 the six years that I have been here. They are so rare, so  
20 that you have a basis of comparison, that we have already  
21 had 18 roll calls in this Court of Impeachment, yet one  
22 was requested for Colonel Milstead. And when I saw the  
23 voting pattern there, it indicated to me that perhaps my  
24 vote was cast at this time without full knowledge.

25 So, I would like to know, Governor -- you did

1 indicate in your testimony yesterday and in your responses  
2 here today that you did have cause to dismiss Colonel  
3 Milstead. When the issue first came up this past summer,  
4 you will probably recall that I was one of the ones that  
5 outlined to you the problems that might erupt if Colonel  
6 Milstead was released, because he does have a contract for  
7 a time certain.

8 THE WITNESS: M'hum.

9 SENATOR KUNASEK: And with those reasons, you may  
10 or may not have been influenced whether or not you should  
11 go forward with his dismissal. But you have cited some of  
12 the causes that you have had here this morning.

13 Can you share with me and with us here today  
14 any other causes that may have had more justification for  
15 your wanting to dismiss Colonel Milstead, perhaps causes  
16 that he was aware that you knew that could have increased  
17 his level of motivation?

18 THE WITNESS: Senator, I think a number of other  
19 things. I am reticent to start calling the roll on  
20 Colonel Milstead of things that are hearsay evidence or  
21 others that have certain -- certainly his private life  
22 would come into being, and I believe even parts of that  
23 that could be questionable as far as a person of his -- of  
24 the office that he holds, that I think those would come  
25 into account.

1           However, relative to the type of life -- in  
2 fact, I heard him on this witness stand say that he  
3 married Debbie Milstead in 1978, and yet many, many  
4 people, several have said that Bruce Babbitt called him in  
5 and he himself said that he had to marry her because he  
6 couldn't appoint somebody who was living with a woman  
7 without wedlock. It is against the law in Arizona to  
8 participate in those actions without benefit of matrimony,  
9 that is, that would be a pretty heady thing for someone in  
10 a position of the top law enforcement officer in the state  
11 system.

12           A number of those things had -- that's what I  
13 had intended to do, had we got to that point, was to sit  
14 down and then actually take a period of time and do a  
15 thorough investigation and see if in fact these were  
16 causes that would hold up. I felt there was ample,  
17 Senator. But aside from saying one, two, three, four,  
18 five, six, there was -- I know that, for example, the last  
19 time he came and talked to me in my office, that  
20 apparently, I think there -- I think it was in one of  
21 those rumor times, and he came in, and he had a man  
22 stationed outside, I was told, outside in the outer office  
23 there as you get off the elevator on the ninth floor, with  
24 a portable radio, or telephone, whichever, to call someone  
25 at headquarters. It was only speculated to me that it was

1 called for a reason that -- well, and the word was passed,  
2 well, that everything is okay. So apparently he was  
3 operating on a very hyper basis.

4 A number of things come back to me. For  
5 example, I knew I -- and I never paid any attention to the  
6 political aspects of it, and yet he may have felt I did.  
7 I knew that he had openly supported Mrs. Warner in the  
8 campaign. That did not matter to me. That was a  
9 political consideration, and he was in a totally  
10 nonpolitical job, and this type of thing. So I passed up  
11 all of it -- many of those things. I was only going to  
12 work on specifics that would stand up on the basis of  
13 cause, Senator.

14 SENATOR KUNASEK: Governor Mecham, at that time did  
15 you have reason, since you had some of those suspicions,  
16 to review the officers' oath of office that they verbally  
17 take and also sign at that time?

18 THE WITNESS: I have not reviewed that, no.

19 SENATOR KUNASEK: To the point of his not feeling  
20 it important enough to notify you in a timely fashion,  
21 when he learned about this was, I believe by his  
22 testimony, at 4:30 in the afternoon on Friday, and yet he  
23 didn't talk to you about it until about noon on Sunday, is  
24 there any reason, do you have any understanding as to why  
25 it may not have been important or important enough Friday

1 afternoon at 4:30, but yet it was important enough Sunday  
2 at noon?

3 THE WITNESS: Senator, I can only speculate. I  
4 know that, for example, that Assistant Attorney General  
5 Steve Twist, from what was relayed to me, apparently, as  
6 this is unfolded later on, felt that he had all of us on  
7 the ninth floor caught in some kind of a conspiracy that  
8 they were down putting together on Saturday night when he  
9 was trying to get ahold of Ray Russell, when it was  
10 reputed that Peggy Griffith had not been able to see me,  
11 had gone and seen Ray Russell and come out of his office  
12 crying.

13 That was one of the reports, totally untrue,  
14 but that was another one of the -- one of the reports that  
15 surrounded this. I can only conclude that the decision  
16 was made that this is something that we may have them on,  
17 worked on it, suddenly called over the weekend, called a  
18 grand jury into the case on this, went before a grand  
19 jury.

20 And keep in mind that as late as Tuesday,  
21 that when I went as a grand jury witness, I was told by  
22 the Attorney General that I was not a subject or a target.  
23 And consequently, as late as Tuesday, with all the things  
24 they had done, had no determination that I had done  
25 anything to obstruct justice myself. And with all of this

1 going on, and then when they didn't get an indictment, it  
2 had to be developed through the French report in the  
3 House, and make an issue out of it in a political forum  
4 where it couldn't stand up in a legal forum.

5 SENATOR KUNASEK: So then in other words, Friday  
6 afternoon, when he heard about it, in his mind he had  
7 other more important things to do than to notify you that  
8 this potentially could develop into that?

9 THE WITNESS: Well, I think the important things  
10 were to be a part of working this out with his good  
11 friends in the Attorney General's Office to really see if  
12 there was a way to entrap members on the ninth floor.

13 SENATOR KUNASEK: Thank you very much.

14 THE PRESIDING OFFICER: Senator West is next.

15 SENATOR WEST: Thank you, Presiding Officer.

16 Good morning, Governor Mecham.

17 THE WITNESS: Good morning, Senator West.

18 SENATOR WEST: Governor Mecham, I understand you  
19 had a nice and hopefully relaxed weekend last weekend. I  
20 believe you were in northern Arizona?

21 THE WITNESS: Yes, sir.

22 SENATOR WEST: And during your tour through  
23 northern Arizona, where I believe that you have a lot of  
24 support, a lot of friends --

25 THE WITNESS: Yes, yes, we do.

1           SENATOR WEST: Are the newspaper reports accurate  
2 and are the TV clips accurate that you asked the voters,  
3 the constituents of northern Arizona, and I presume by  
4 that the whole state, to write their Senators or contact  
5 their Senators and vote in opposition to impeachment?

6           THE WITNESS: Senator, what I told them was -- some  
7 asked me some questions, because I heard in the beginning  
8 of this, Judge Gordon, from this podium, instruct you  
9 Senators here that you should not talk to anybody, and yet  
10 that this was a political trial. And I said those two are  
11 totally in conflict with each other. The people who are  
12 elected to represent you people are elected to represent,  
13 and I don't know of -- unless we have changed our system  
14 of government, I totally do not understand anybody who can  
15 be involved in a political trial -- this is not a jury in  
16 a court of law. This is a political trial.

17                   And who -- and with all due respect to my  
18 friend Judge Gordon, and I do view him as a friend, and  
19 we've always gotten along pretty well, he and I, but this  
20 is one of those cases where you can have friendly  
21 disagreements. I was flabbergasted that he would tell you  
22 of this body that you shouldn't talk to your constituents  
23 because this is a political trial.

24                   And unless we have changed our system of  
25 government, then the people have every right to contact

1 those who represent them, and your actions here are in  
2 effect representative. And I said that, Senator, and I  
3 said I believe that the people in the House of  
4 Representatives and the Senate need to hear from you.

5 SENATOR WEST: Governor, then your answer is yes?

6 THE WITNESS: Yes, with additions, yes.

7 SENATOR WEST: Governor, then do you feel that we  
8 should vote on this, on what probably is the most serious  
9 vote that any Senator will have take in their life on this  
10 floor, its awesome responsibility, and do you feel that we  
11 should vote based on the telephone calls, the letters, and  
12 the contact with our constituents, or should we vote on  
13 the merits of the case, the facts and the evidence that  
14 are presented here by both sides?

15 THE WITNESS: Senator, you should vote on the  
16 facts, and only the facts. But you've got a lot of people  
17 looking over your shoulder on what those facts are, and I  
18 might point out that I have heard so many times -- I have  
19 had no less than my good friend Jack Londen look me in the  
20 eye and say, "I have checked around and counted the votes,  
21 and you're going to get convicted. You're going to get  
22 convicted." I've heard that so many times.

23 Do you know what I've said each time? I have  
24 said I have more confidence in the Senators than to think  
25 that they've all made up their mind before this. I have

1 confidence in you, Senator, that you will look at the  
2 facts and you'll base it on the evidence, and as I see the  
3 evidence, you don't have any for conviction, so I expect  
4 to get all of you to vote acquittal.

5 SENATOR WEST: So, Governor, it's your  
6 recommendation to us, then, although we should listen to  
7 our constituents, which I think we all know to do, but  
8 that ultimately, when that time comes, we will vote on the  
9 facts and the evidence that's been presented to us?

10 THE WITNESS: I certainly recommend that, Senator.

11 SENATOR WEST: Do you feel and believe that that is  
12 in compliance with the oath that we took before this  
13 Court, and are you familiar with that oath that each of us  
14 took?

15 THE WITNESS: I didn't read the oath, Senator.

16 SENATOR WEST: Governor, I don't want to recite it,  
17 because it's somewhat lengthy, but it is Rule 11, page 5  
18 and 6 of the Rules of the Court, where each of us have  
19 taken an oath before our God to be impartial and to weigh  
20 the evidence.

21 Now, switching on, Governor, I am somewhat  
22 concerned, because you obviously have very strong  
23 feelings, and you have demonstrated strong feelings. I  
24 think many of us who serve in public office get there  
25 because we do have strong feelings.

1           In those strong feelings, you seem to have  
2 some hostility towards Lieutenant Johnson, who, by the  
3 way, I do not know. And I'd like to know who in  
4 particular, particularly who, gave you the information  
5 that led you to believe that Lieutenant Johnson took that  
6 information from your office, from the office on the ninth  
7 floor to the Department of Public Safety.

8           THE WITNESS: Senator, may I correct one thing? I  
9 don't have any hostilities for Lieutenant Johnson.  
10 Disappointment, but not hostility. There is a great  
11 difference there.

12           The other -- the person who told that, if you  
13 would like to call an inquiry into that, I would be glad  
14 to furnish you the information. Short of that, I would  
15 rather not do that.

16           SENATOR WEST: Governor, I'm asking you for that  
17 name.

18           THE WITNESS: Senator, I'd rather not give you that  
19 name.

20           SENATOR WEST: Governor, you have brought serious  
21 charges against Lieutenant Johnson, some I think that  
22 could impede his career, certainly some that could throw a  
23 light on these proceedings. You talk yourself about  
24 shreds of real evidence, and I'm asking you for that shred  
25 of real evidence in this case and the charges you brought

1 against Lieutenant Johnson, to inform this body who that  
2 individual was.

3 THE WITNESS: Senator, if there was any part of  
4 this case, the decision or the necessity to have that  
5 information would be -- it would be very simple to do so,  
6 and then I would think we should go ahead and call in  
7 those people who are involved in that. If there was  
8 any -- if that was really it, and if you desire to do so,  
9 certainly we'll cooperate with you to do so.

10 But I don't think that it is, under these  
11 circumstances, proper for me to do so under these  
12 circumstances, because I see nothing that would assist and  
13 help. I'll certainly be glad on any other occasion or at  
14 any other time, if we want to look into this, and if any  
15 of you would like to call for an inquiry into that, be  
16 most happy to give you all the information I know and have  
17 you call in all the people and be involved.

18 SENATOR WEST: Governor, each of us are  
19 unfortunately forced to make a decision on this particular  
20 Article, Article I, based on the voracity of Colonel  
21 Milstead or yourself. We have heard Colonel Milstead. We  
22 have heard those allegations to discredit him. We have  
23 heard you. We have heard those allegations to discredit  
24 you and to support you.

25 You have brought charges against Lieutenant

1 Johnson, and in my judgment, your voracity is at stake on  
2 those charges, and I think you should tell us who it was  
3 that gave you that information.

4 THE WITNESS: Senator, I beg to differ with you. I  
5 brought no charges against Lieutenant Johnson. I have not  
6 brought charges against him. If I brought charges against  
7 him, it would be formerly to say he stole something, which  
8 was mentioned here, off from Jim Colter's office. I have  
9 not done that.

10 I included that in a number of things as a  
11 pattern of things why I was uncomfortable with him, and  
12 did not think that he should remain there. Had I really  
13 wanted to bring charges, I would have done so and done it  
14 while I was up on the floor. If it should come to that,  
15 then it would be a formal hearing.

16 SENATOR WEST: Governor, that was my mistake. You  
17 certainly have brought serious allegations against  
18 Lieutenant Johnson, against his integrity, against his  
19 faithfulness to you and to the State of Arizona, if in  
20 fact he did the things that are alleged. And for the once  
21 and last time, I would like to know who it was that gave  
22 you that information.

23 THE WITNESS: Senator, I respectfully will not  
24 answer that question under these circumstances.

25 SENATOR WEST: Okay, Governor. Certainly I -- I'm

1 not sure of your prerogative, but I certainly wanted to  
2 see if you have the prerogative to answer the question  
3 when you know the answer.

4 Governor, apparently you feel that -- and you  
5 feel strongly, apparently, that there is a group, large  
6 group, to get you. You said yesterday, and as sometimes I  
7 have a propensity to do, you're prone to use strong  
8 language. And you said yesterday that, I believe, words  
9 to the effect, I'm paraphrasing, but that Pat Murphy hated  
10 you.

11 Do you feel he really hates you, Governor?

12 THE WITNESS: You know, as I was a young boy  
13 growing up, my dad one time taught me, in a little truism,  
14 he said, "Son, if it looks like a duck and it walks like a  
15 duck and it quacks like a duck and it swims like a duck,  
16 your pretty good assumption is that it's a duck." And  
17 when I read all the things that Pat Murphy has said about  
18 me and written about me and caused about that, I have  
19 to -- I've looked, and it's pained me. I have met with  
20 him and tried to talk with him, and it's pained me a great  
21 deal.

22 I think that this doesn't do good for  
23 Arizona, this battle between, you know, his working so  
24 hard to discredit me and hopefully remove me from this  
25 office, and I can only come to that assumption. He has

1 not told me that he hated me. I just am using the duck  
2 theory when I make that assumption.

3 SENATOR WEST: Governor, again using the duck  
4 theory, is your answer to my question yes?

5 THE WITNESS: Do I think he hates me?

6 SENATOR WEST: Yes, sir.

7 THE WITNESS: Yes, I said that. I think he does.

8 SENATOR WEST: Do you think Bob Corbin hates you?

9 THE WITNESS: Oh, I don't know that Bob hates me.  
10 I think Bob is just kind of -- kind of working with some  
11 people -- I don't know that I'd say Bob hates me, no.

12 SENATOR WEST: Do you think Steve Twist hates you?

13 THE WITNESS: Steve is a very ambitious individual.  
14 I don't know whether love or hate is part of his dole. I  
15 think Steve just sees getting me out of the way as one  
16 more way of becoming Attorney General. He's just an  
17 overly ambitious young man.

18 SENATOR WEST: Jim Skelly, does he hate you?

19 THE WITNESS: Who?

20 SENATOR WEST: Jim Skelly?

21 THE WITNESS: I would hope not. I don't really  
22 know what goes on in his mind. He's been very vitriolic,  
23 and ascribed to me many, many things, but I would hope he  
24 didn't.

25 SENATOR WEST: Speaking of Representative Skelly,

1 just an aside, and then we'll get back, how do you feel  
2 about the FBI's report on the allegations that you raised  
3 against Representative Skelly?

4 THE WITNESS: The FBI found problems with a federal  
5 entry into it. I have read the case, Senator, and my real  
6 inclination was that I thought the House Ethics Committee  
7 ought to look into it and talk to Mr. Skelly. I have read  
8 the report. I thought it was very serious.

9 I don't think it's a case for the federal  
10 officers, but when your other officers -- when your  
11 Attorney General goes ahead and joins in to force the  
12 Racing Commission to get rid of an investigation where one  
13 horse was substituted for another one, and the  
14 Representative owns half the horse, and he was there, and  
15 then he comes participates in the meeting to get the -- to  
16 get the investigation stopped, and then his partner tells  
17 some other people, well, I just made one call downtown and  
18 got off the hook on this, I think it should be aired  
19 properly for Mr. Skelly's benefit, so that if what the  
20 investigation that the Racing Commission has made, quite  
21 an extensive investigation, and was going forward with a  
22 hearing, until it was literally stopped by the Attorney  
23 General, I think that would be best to air it out. And  
24 that's really what, for his good, that we were looking  
25 for.

1 SENATOR WEST: Let me try again, Governor.

2 How do you feel about the FBI's report on  
3 Representative Skelly?

4 THE WITNESS: Well, I feel, as they said, they  
5 don't really have the ability to get into it because it  
6 doesn't have a federal entry path for them to get in and  
7 make a thorough investigation themselves.

8 SENATOR WEST: So the report I read, it was  
9 basically vindicating him?

10 THE WITNESS: No, no, he wasn't vindicated, as I  
11 saw. No. The facts are there, and I didn't see them  
12 going and going through and telling anybody that the horse  
13 wasn't substituted, and that he didn't own half of it, and  
14 that he wasn't there, and that the investigation that was  
15 made by the man in the Racing Commission, and the fact  
16 that they looked at the -- at the difference in the  
17 horses, and that it couldn't have been that easy, and they  
18 talked to the jockey, and what the jockey said -- no, I  
19 didn't see any of those things, Senator, that all those  
20 things were wrong, and I didn't see it.

21 SENATOR WEST: Governor, you said twice that  
22 Representative Skelly owned half the horse. You've said  
23 it here twice this morning.

24 THE WITNESS: That's my impression. Maybe it's a  
25 third. I think he bought it for a dollar.

1           SENATOR WEST: Governor, you've said twice, and now  
2 you've more or less inferred for the third time, that  
3 Representative Skelly owned one-half of the horse that is  
4 alleged to have been substituted.

5           THE WITNESS: M'hum. That's my impression,  
6 Senator.

7           SENATOR WEST: That's your impression, but is it  
8 accurate, Governor?

9           THE WITNESS: Well, I think it was accurate. I'm  
10 going from memory, and looking at an investigation by the  
11 Racing Department, and I think it is. It's as best I can  
12 recollect, and also the information I had, and I think it  
13 was pretty good information.

14           SENATOR WEST: Governor, going back to Mr. Murphy  
15 and his hate campaign. And again, I guess "hate" is such  
16 a strong word. I don't know a stronger word in the  
17 English language. We look through the English language,  
18 and I guess for every word that we have for a human being  
19 to praise one another and to speak well of one another, we  
20 have five or six words to despair a human being, and  
21 certainly "hate" is a very strong word.

22                       Do you feel that most of the people who  
23 disagree with you and disagree with your policies and the  
24 way you govern hate you, or --

25           THE WITNESS: Oh, no, of course not. I have seen

1 just very, very, very few people in my life who I felt  
2 evidenced real hate. Pat Murphy is one of the very few  
3 examples that I've ever known.

4 SENATOR WEST: You don't feel that perhaps maybe  
5 Mr. Murphy, for whatever reason, perhaps may not respect  
6 you, may not agree with the way you govern, but you feel  
7 it, much further than that, I take it. You feel very  
8 strongly about that?

9 THE WITNESS: Senator, I have -- I have no way  
10 other to express it. I'm sorry. I wish I could give you  
11 a greater comfort level with how I feel, but that's the  
12 one I have, so I have to be factual.

13 SENATOR WEST: Governor, I appreciate that, and the  
14 way you feel, it doesn't make any difference to me as far  
15 as comfort level goes. Those are your feelings, and you  
16 have to own those, not me.

17 Mr. Presiding Officer, I'd like to go back to  
18 you, sir, and to ask you, under Rule 22, to direct the  
19 witness to answer my question on Lieutenant Beau Johnson.

20 MR. LEONARD: Mr. Presiding Officer?

21 THE PRESIDING OFFICER: Yes, Mr. Leonard.

22 MR. LEONARD: May we have short recess to consult  
23 with our client?

24 THE PRESIDING OFFICER: I would appreciate the  
25 gallery not entering into laughter when questions are

1 directed to the chair. It is a serious matter that we're  
2 arriving at at this point. I had hoped we would not be  
3 brought to this point. It is something we should discuss,  
4 because in my opinion, the chair has the authority only by  
5 virtue of an order by this Court to direct a witness to  
6 answer a question.

7           And I can direct him to answer the question,  
8 but unless the body itself wishes to back that up by  
9 something further, by a majority vote, I would not wish to  
10 pursue it. So I would like to have you think strongly  
11 about that, Senator, before you force me to do that.

12           SENATOR WEST: Mr. Presiding Officer, at this time,  
13 with your permission, and permission of Mr. Leonard, I  
14 will back off of that request. Certainly during the lunch  
15 hour, let all of us reflect on whether or not that's  
16 important to the proceeding, because I certainly don't  
17 want to put the Governor or anybody else in the position  
18 that would not be the proper and appropriate position.

19           But I am concerned when the Governor of the  
20 State of Arizona makes allegations, serious allegations  
21 that will affect the job of a person in the State of  
22 Arizona, and then not, under oath, and then not  
23 substantiate those with the data that he says that he has.

24           Now, Governor Mecham, I would like to go on  
25 to some other questions. In a recent letter to precinct

1 committeemen that you sent out in the last two or three  
2 days, part of the letter quotes you: "My actions have  
3 unified and strengthened the party through good  
4 party-recommended appointments, and my legislative  
5 programs."

6 Governor Mecham, I want to take you back,  
7 sir, to August of 1987, and I believe it was in August of  
8 1987, certainly my date and days could be inaccurate, but  
9 I believe it was August 21st, which is a Friday, late in  
10 the afternoon in your office, you interviewed then the  
11 acting director of the Department of Insurance, Susan  
12 Gallinger, for a possible appointment as the Director to  
13 the Department of Insurance.

14 Could you tell us what transpired in that  
15 interview with Miss Gallinger, your impressions of her,  
16 and what -- well, I've got to get off that compound stuff.  
17 Just take one at a time. Just go through and basically  
18 tell us what your impression of Miss Gallinger --

19 THE WITNESS: I was quite impressed with her. She  
20 was a very sharp young lady.

21 SENATOR WEST: Do you feel she was competent?

22 THE WITNESS: Oh, I think so, m'hum.

23 SENATOR WEST: Did you have any reason to feel she  
24 was not proficient in the job she had undertaken?

25 THE WITNESS: Well, she was applying for the job

1 of -- she had been the assistant, and in the -- as the  
2 other director of the Department of Insurance had not been  
3 around much, she had been essentially operating the  
4 department, and she certainly seemed qualified to me.

5 SENATOR WEST: Did you, in any way, look at her in  
6 the eye and ask her if she wanted the job?

7 THE WITNESS: I can't recall in detail. I probably  
8 did. I didn't really want to interview anybody that I  
9 didn't think was interested, and certainly that's why she  
10 was there.

11 SENATOR WEST: After you asked her if she wanted  
12 the job, did you infer to her that the job was hers  
13 subject to some checking over the weekend?

14 THE WITNESS: No, I don't recall doing that,  
15 Senator. I hadn't made up my mind.

16 SENATOR WEST: You don't recall that you inferred  
17 to her the job was hers, but you had to do some checking  
18 over the weekend, and I think she may have closed with a  
19 statement something to the effect, "Governor, I will serve  
20 you well. I think that you will be proud of my service to  
21 you," words to that effect?

22 THE WITNESS: She very well could have done, as she  
23 was asking for the job. She wanted the job, and I think I  
24 also asked her if she wasn't chosen, if she'd like to stay  
25 on as the deputy director. And I think at the time she

1 told me no.

2           So we talked about both of those, because I  
3 remember her saying that. I don't remember the total  
4 details of the other, but she was certainly one of the  
5 prime candidates.

6           SENATOR WEST: On that Friday, was there any other  
7 leading candidates besides her?

8           THE WITNESS: Yes, yes, there was.

9           SENATOR WEST: Who were they, Governor?

10          THE WITNESS: Oh, there was Vern -- there was the  
11 present director was being pushed by a number of people,  
12 and then there was a Mr. Robson, who was being proposed,  
13 and was being touted by a number of people.

14          SENATOR WEST: Governor, who was proposing and  
15 touting and pushing Mr. Robert Robson?

16          THE WITNESS: Well, the primary touter was Donna  
17 Carlson.

18          SENATOR WEST: And who were the secondary touters,  
19 Governor?

20          THE WITNESS: And then there were some people in  
21 the insurance industry that was touting both, and there  
22 was Jack Londen was one of them. In fact, I asked Jack to  
23 check him out, because I talked to him. I said check him  
24 out for me, because I was going to be -- not going to be  
25 able to do it or have it done, and it was late. I said he

1 came from Idaho. He's been a former state official up in  
2 Idaho, and Jack is the national committeeman. He knows a  
3 number of the people in party circles. Let's check him  
4 out and make sure he's all right.

5           There was -- there was some other people in  
6 the industry that was pushing for him, one fellow that he  
7 had worked for. I don't remember all their names now.  
8 Probably could go back into my notes and find those,  
9 Senator.

10           SENATOR WEST: Governor, talking to Mr. Londen, did  
11 he contribute to your campaign?

12           THE WITNESS: Yes, he did.

13           SENATOR WEST: Do you know how much?

14           THE WITNESS: I don't recall, no.

15           SENATOR WEST: Approximately?

16           THE WITNESS: I don't recall.

17           SENATOR WEST: Did he sign one of the notes, cosign  
18 one of the notes?

19           THE WITNESS: I think he did, m'hum. Yes, I think  
20 one of the 5,000 -- but it wasn't a contribution, Senator.

21           SENATOR WEST: We understand your feeling,  
22 Governor. That was just a loan, or signature --

23           THE WITNESS: I wish he had have contributed 5,000.  
24 I don't think he did that.

25           SENATOR WEST: After the conversation with Miss

1 Gallinger and you left for the weekend, where did you go  
2 that weekend, Governor?

3 THE WITNESS: I don't recall, Senator. I'd have to  
4 look at my calendar.

5 SENATOR WEST: Is it possible you went to Laguna  
6 Beach, you and Mrs. Mecham, and spent the weekend with Mr.  
7 Londen?

8 THE WITNESS: No, it isn't possible. I've been  
9 invited. I've never been to Laguna Beach. I've never  
10 been to his home.

11 SENATOR WEST: You've never been to Laguna Beach or  
12 been to his home?

13 THE WITNESS: I've never been to his home in Laguna  
14 Beach. I've been to his home in the Biltmore Estates on  
15 occasions.

16 SENATOR WEST: Did you talk to Mr. Robson about the  
17 appointment in the Biltmore Estates?

18 THE WITNESS: No, I talked to him in my home,  
19 Senator.

20 SENATOR WEST: On the following Monday morning,  
21 August 24th, I believe it was the following Monday  
22 morning -- yes, the following Monday morning, on August  
23 24th, you got a very nice letter, did you not, from the  
24 Londen Insurance Companies extolling your free enterprise  
25 spirit, what a terrific person you were, how grateful Mr.

1 Londen was that you appointed Mr. Robson?

2 THE WITNESS: I don't recall, but I very well could  
3 have done. I'd be glad to look at it and remind myself,  
4 if you've got it there.

5 SENATOR WEST: I'd be glad to share a copy of Mr.  
6 Londen's letter to with you. He does go on to extoll your  
7 virtues and how grateful he was that you appointed Mr.  
8 Robson, and even goes on to say that he now intends to  
9 "immediately investigate redomesticating our top tier  
10 company, Lincoln Heritage Life Insurance Company, from  
11 Illinois to Arizona" as a result of your actions, and I  
12 put in "as a result of your action." "And I suspect this  
13 to be a first of long moves to Arizona by companies that  
14 have previously stayed away, and Arizona citizens will  
15 greatly benefit from this new influx."

16 This is a very praiseworthy letter from Mr.  
17 Londen to you for the tremendous appointment that you had  
18 just made with Mr. Robson. And you don't remember that  
19 letter?

20 THE WITNESS: Senator, I've had so many letters  
21 praising me that I don't remember any time any single one  
22 of them.

23 SENATOR WEST: It's a little different for us,  
24 Governor. We only get one or two a year, and we tack them  
25 on the wall.

1 THE WITNESS: I do get a lot of them, and very few  
2 of them have anything to do with appointments.

3 SENATOR WEST: How did the Robson appointment work  
4 out?

5 THE WITNESS: It didn't work out very well,  
6 Senator.

7 SENATOR WEST: What happened, Governor?

8 THE WITNESS: Well, this is one of those times I've  
9 chuckled when Donna has forgot to tell people about the  
10 embarrassments of the ninth floor, because probably the  
11 strongest link for appointing Mr. Robson was the fact that  
12 she said he had been like a father to her, had known her  
13 since she was a teenage child, and was really -- really  
14 listened to her more than anything, and finally I said,  
15 well, I talked to this fellow, and to appoint him.

16 The other thing relative to what Mr. Londen  
17 was stating was that the industry did not like the way the  
18 department had been represented in the industry, whether  
19 they're right or wrong, and I got some word that we really  
20 ought to make a change and get somebody different, and  
21 that it would be a good signal, that we were more  
22 business-oriented if we did put someone else in. So, I  
23 think that's what he was actually talking about.

24 But Mr. Robson made some very undesirable  
25 remarks to some of the people, some of the -- particularly

1 the lady folks over there, and we couldn't, of course, put  
2 up with that at all. And so we gave him an opportunity to  
3 resign, in about two or three days.

4 SENATOR WEST: Governor, I believe that's correct.  
5 I believe my recall is that in the first day, by 5 o'clock  
6 that evening, he had made some very inappropriate remarks  
7 to most of the top female members of staff on the first  
8 day of the duty; is that correct?

9 THE WITNESS: M'hum, he made some, and we were  
10 very -- we were very -- it was just totally inappropriate,  
11 and I just couldn't believe that a sane man that came with  
12 good recommendations could do that. But we did --

13 SENATOR WEST: And then by -- I believe those  
14 remarks were reported to you and your staff through that  
15 time, Dr. Russell, and at that time he was counseled but  
16 continued to be let on, and then Tuesday and Wednesday,  
17 the inappropriateness seemed to continue, and we got  
18 written statements, as you're aware of, from people over  
19 there, and where they had had all that they could take,  
20 and you're either going to have resignations of him of the  
21 senior staff people over there or you were going to have  
22 to do something with Mr. Robson. I distinctly remember a  
23 meeting between Representative Meredith, myself, and some  
24 of the staff and Dr. Russell.

25 Were you ever informed of the meeting that we

1 had?

2 THE WITNESS: I don't recall about that now,  
3 Senator. I know when the first report of this came to me,  
4 that we looked into it immediately. I got him over, sat  
5 him down, talked to him, and said what on earth is going  
6 on. And he said -- well, he denied what he had done, what  
7 he was being accused to, and but the -- and this, and kind  
8 of -- and I assured him of what the standard had to be,  
9 and then it was obvious by the second report that there  
10 was a problem there, and so we just acted on it  
11 immediately. I don't remember all of the particular  
12 details.

13 SENATOR WEST: I, for one, and I think -- don't  
14 want to speak for any other Legislators. I don't have  
15 that authority. I certainly can speak for some of the  
16 people in the insurance industry, are grateful for the  
17 immediate action you did take after recognizing the  
18 mistake you did make.

19 However, I would quarrel with one of your  
20 observations this morning. I personally was contacted by  
21 Jack Londen and Mike Callen, as other Legislators were,  
22 the inference being that this was his appointment, and he  
23 felt very strongly because a couple of us were critical of  
24 the appointment from the onset, and he felt very strongly  
25 that Mr. Robson should not only be appointed, but should

1 be confirmed, and one of the reasons was the letter, and  
2 Mr. Londen was taking credit for the letter, not Mrs.  
3 Carlson.

4 THE WITNESS: Well, I leaned harder on Donna.  
5 Quite frankly, Mr. Londen didn't really know Mr. Robson  
6 very well when I pinned him down as we were talking. He  
7 did not -- I asked him how well he knew him, and he didn't  
8 know him very well at all. But he -- I think the category  
9 of his support was that, well, here's a man that's a  
10 little bit more of a business-oriented man rather than  
11 just a state bureaucrat, and of course people in  
12 businesses are always suspicious of state bureaucrats, and  
13 so that's why they were -- there was a great deal of  
14 opposition. I know that there was legislative support for  
15 the young lady that had been the assistant director, but  
16 the industry was --

17 SENATOR WEST: That probably killed her, huh?

18 THE WITNESS: Pardon?

19 SENATOR WEST: That probably hurt her?

20 THE WITNESS: Oh, no. Senator, I believe she's the  
21 only one you supported, because I appointed many people on  
22 your recommendation, and you think you know that.

23 SENATOR WEST: Governor, I'm not going to get to  
24 that.

25 THE WITNESS: Well, I think it's in light of what

1 we're saying.

2 SENATOR WEST: Let's do set it out, then, Governor,  
3 because I have on file over there, as you know, a large  
4 list of recommendations of people back when you had an  
5 individual and couldn't find people to appoint. I sent  
6 over a number of people of which you appointed one.

7 THE WITNESS: Oh, I can find a number of more than  
8 one, Senator. If your memory is that faint, I'll renew it  
9 for you.

10 SENATOR WEST: Well, Governor I'd be glad for you  
11 to help me, because I can use all the help I can get. I'm  
12 getting a lot of constituents' mail, and as a result of  
13 your tour of northern Arizona, and as a result of other  
14 things that extoll your virtues, and want me to, as other  
15 Senators, to vote to support you, because failure to do so  
16 would mean that we champion organized crime, and if you're  
17 not Governor, organized crime is going to come back into  
18 the State of Arizona. Can you tell me what programs you  
19 have to eradicate organized crime from Arizona?

20 THE WITNESS: I don't know of anything I've said  
21 that -- on what you're talking about, but organized crime,  
22 Senator, is at the basis of the whole system. The -- and,  
23 yes, I'll tell you that we're not doing much against  
24 organized crime in Arizona, because we've got an Attorney  
25 General that every time somebody talks to him about an

1 investigation, he says, I'm spending my time on the  
2 Governor. And I can cite you some of those. And we  
3 really are not making any real push into that. We really  
4 aren't.

5           And organized crime isn't something you can  
6 reach out and just put your finger on. You got to stop  
7 the wrong things that's being done, and then you've got to  
8 go from there. I think you know a good deal about it as  
9 well as I do, Senator. And until we get an Attorney  
10 General who really does want to work against organized  
11 crime, oh, yes, we have this and this, once in awhile  
12 through his time, but until we get that to where we really  
13 do want to work together and get all of our law  
14 enforcement and our Attorney General and all of our county  
15 attorneys working in sort of a concert action to do that,  
16 we aren't going to make very much headway on it.

17           SENATOR WEST: Governor, it's kind of hard to get  
18 everybody to work today if there's warfare going on out  
19 there that doesn't appear to be appropriate leadership.

20                     By the way, did Attorney General Corbin, did  
21 he support the recall effort in opposition to Governor  
22 Evan Mecham?

23           THE WITNESS: I really have no idea. His opinion,  
24 and I suppose that he put his opinion properly, really  
25 sort of stopped the recall effort, but then he suggested

1 they go to the Supreme Court, and it got unwound so they  
2 could get sort of unlimited money from all sources without  
3 really having to report it, but I can't tell you that.

4 SENATOR WEST: Are you aware of any statements that  
5 he has made publicly or privately where he supported the  
6 recall against Governor Evan Mecham?

7 THE WITNESS: Offhand, I can't. I think he had  
8 another exit in mind other than recall.

9 SENATOR WEST: Do you know whether he signed a  
10 recall petition?

11 THE WITNESS: No, I really don't. I have not  
12 looked into that.

13 SENATOR WEST: Do you support the recall against  
14 him?

15 THE WITNESS: Yes, I do.

16 SENATOR WEST: And you have signed a recall  
17 petition?

18 THE WITNESS: Yes, I have, m'hum.

19 SENATOR WEST: Governor, getting back to my  
20 question on organized crime, this is serious to most of  
21 us, because the allegation is if you're not Governor,  
22 organized crime is going to move back in. I still want to  
23 get back to my original question.

24 What programs do you have that you have  
25 implemented as eradicating organized crime from the State

1 of Arizona?

2 THE WITNESS: Senator, I believe you know as well  
3 as I that the Governor is not the enforcer of the law.  
4 He's the executive of the executive branch of the  
5 government. The Governor is not the one who does it.  
6 He's the one that gives leadership and works to get the  
7 people working together to facilitate the things.

8 I think the attempt that I have made and  
9 certainly as I have given constantly accolades to the  
10 Legislature for doing so, and in helping, and yesterday it  
11 was brought out that the Attorney General's Office was  
12 assisting in that, that I think that if we can wipe out  
13 drugs, Senator, essentially wipe them out, that that will  
14 reduce all kinds of crime by at least 50 percent. I would  
15 think that that's the crown jewel of what we're talking  
16 about.

17 My idea was to start there. Let's get  
18 everybody galvanized, organized, working together in the  
19 Alliance for a Drug Free Arizona, and in doing so, then we  
20 have stopped this fantastic flow of money through Arizona  
21 which itself finds itself sifting over into so many other  
22 things, then we will have the resources. We won't have to  
23 be spending so much there. We'll have the resources to  
24 really work hard on organized crime. So that's the center  
25 part of it, sir.

1           SENATOR WEST: Governor, following up on the  
2 organized crime question, the same question would go  
3 towards pornography. What programs have you had to  
4 eradicate the State of Arizona from pornography,  
5 pornographic material, et cetera?

6           THE WITNESS: Senator, as you well know, the  
7 Governor doesn't make the laws. I have asked the  
8 Legislature to put some -- that my predecessor, who vetoed  
9 those laws -- for example, in my own home town in  
10 Glendale, just a little ways from my business, is a store  
11 that my city tried to get out of operation, and they were  
12 sued. The suit went to court. A judge threw out the  
13 statute as being unconstitutional. And legislative  
14 proposals that reached the desk of my predecessor were  
15 vetoed.

16           And I have openly invited the Legislature to  
17 act, and I understand the limit of my authority. I cannot  
18 go out and -- I have done what I can do, and that is to --  
19 I believe the president calls it job-owned. I have  
20 job-owned for it. I am anxiously awaiting legislation to  
21 come through this and the body across the mall, and would  
22 love to see a bill that would cure that and give the  
23 cities and the towns of this state an opportunity legally  
24 to wipe out this, what I consider a very cancerous sore,  
25 and also ties in some very undesirable elements in the

1 criminal area, because of the excessive profits they make  
2 in the pornographic businesses.

3 SENATOR WEST: Governor, other than job-owning,  
4 have you recommended in either one of your State of the  
5 State addresses a program dealing with the eradication of  
6 pornography and organized crime from the State of Arizona?

7 THE WITNESS: Senator, I think, as I said, we're --  
8 I have wanted to start on drugs, and I have asked and  
9 hoped and talked to members who were working on laws on  
10 pornography. I also have found that I -- you know, the  
11 time I've been in this office, have learned two or three  
12 lifetime's of experience, and after I have learned now  
13 that it's a little better if some of you propose things  
14 instead of me proposing them, because it gets a little  
15 better reception, and I would sooner do it that way, and  
16 that's what I have attempted to do.

17 SENATOR WEST: I learned that, Governor, with my  
18 drug bill.

19 Governor, again, with your State of the  
20 State, either one of your State of the States, 1987, 1988,  
21 have you proposed programs to eradicate organized crime or  
22 pornography in the State of Arizona?

23 THE WITNESS: Senator, I seem to be missing what  
24 you're after.

25 SENATOR WEST: I'm asking in your State of the

1 States before this Legislature, did you propose programs  
2 for the eradication of pornography or organized crime out  
3 of Arizona?

4 THE WITNESS: "Programs," you have a trick word  
5 there for me. Apparently this I'm not responding to,  
6 because I've answered the question several times, so I'm  
7 trying to find out what you want.

8 SENATOR WEST: Governor, with all due respect, sir,  
9 you have replied to my question, but you have not answered  
10 it.

11 THE WITNESS: A program -- I have approached it as  
12 I thought was a program. I guess in yours, it wasn't,  
13 Senator. I have attempted to. Perhaps I fell short.

14 SENATOR WEST: Is it outlined in your State of the  
15 State address to the Legislature?

16 THE WITNESS: The State of the State does not  
17 specifically outline given things. The State of the State  
18 is designed to give an overview of what you see needing to  
19 be done. It says -- it gives parameters of what we're  
20 trying to do. It does not specifically say, I want you to  
21 do this, and this and this. It outlines parameters.  
22 Under those circumstances, as I see it, it has done its  
23 duty.

24 SENATOR WEST: Mr. Presiding Officer, I'm going to  
25 have one more question. I'd like to finish up before

1 lunch, if at all possible, and will attempt to so neither  
2 Governor Mecham nor I have to go through after lunch.

3 One other question on organized crime or  
4 pornography, Governor. Have you worked with any group in  
5 the Legislature, any group or single Legislators to  
6 propose legislation dealing in organized crime or  
7 pornography?

8 THE WITNESS: Senator, yes. Yes, I have, m'hum.

9 SENATOR WEST: Who, Governor, and what was your  
10 proposal?

11 THE WITNESS: It was asking them -- for example,  
12 those who were working in the pornographic -- it was two  
13 or three members in the House, Leslie Johnson, and a few  
14 of those, that were working on some legislation there, and  
15 we worked with a number of the people.

16 My beginning, as I have told you before, is  
17 the drug bill, and a whole lot of people worked on that,  
18 and had the proposal, and as far as I'm concerned, that's  
19 where we work on organized crime until we solve that one,  
20 and we've all -- you, among so many others, has worked  
21 diligently on that particular proposal.

22 SENATOR WEST: Governor, just on this last  
23 question -- not last question, but to sum this up, do you  
24 feel if Evan Mecham is not the Governor of the State of  
25 Arizona, that it opens the door for organized crime,

1 pornography and gambling to erode at a faster rate in  
2 Arizona?

3 THE WITNESS: Senator, if I didn't believe that I  
4 was -- would do a much better job against that than  
5 anybody else, I would quickly go back to private life. It  
6 may not be that I can, but I do believe that everybody  
7 else has an agenda that ties into the wrong forces in this  
8 state. And consequently, I think it leaves the room for  
9 those elements to flourish in the state. I sincerely  
10 believe that.

11 SENATOR WEST: Okay. Mr. Presiding Officer,  
12 Governor Mecham, my last area that I want to get into, Mr.  
13 Craft, in the first week, began to lay a foundation in his  
14 arguments that a mutiny had occurred, and apparently the  
15 mutiny referred to was a mutiny in the Department of  
16 Public Safety.

17 Do you agree with that statement?

18 THE WITNESS: Yes, sir, I do.

19 SENATOR WEST: Do you think the Director of the  
20 Department of Public Safety, Ralph Milstead, is guilty of  
21 mutinous services?

22 THE WITNESS: He was using that as a descriptive  
23 phrase. I guess we would need to get the dictionary out  
24 and see what mutiny is, and then start going from there.  
25 But in a general descriptive phrase, it means, yes,

1 revolting against the given authority, I think would be  
2 the case, and as it's typified that, I would say yes.

3 SENATOR WEST: Governor, you obviously have the  
4 dictionary out.

5 THE WITNESS: No, I don't. There's one right here.

6 SENATOR WEST: You're pretty good, because it means  
7 to rise against lawful or constitutional authority  
8 particularly in a naval or military service, and I recall,  
9 a mutiny in government is where somebody disobeys a direct  
10 or lawful order; is that correct?

11 THE WITNESS: I think that in the military sense it  
12 is, yes. As I said, I was paraphrasing and using that as  
13 a descriptive phrase, in a specific thing.

14 SENATOR WEST: Do you feel that Director Milstead  
15 is guilty of mutinous service?

16 THE WITNESS: I think -- I think we've covered that  
17 pretty well.

18 SENATOR WEST: Just yes or no, sir?

19 THE WITNESS: Well, yes, I do, m'hum.

20 SENATOR WEST: And I believe that Director Hawkins  
21 believes that Director Milstead is also guilty of mutinous  
22 service, although he does not use that word, but he says:  
23 "Chief Milstead violated the Governor's order by meeting  
24 with the Attorney General just an hour after being told  
25 not to do so."

1                   That would be mutinous, too, would it not?

2                   THE WITNESS: You're asking me to comment on  
3 somebody else's statement. I did not make that statement.  
4 Mr. Hawkins, I think, made it. I told Mr. Milstead to not  
5 take Frank down on Sunday, but that was only part of what  
6 we're talking about, a mutinous thing. It was certainly  
7 we should all work together. And when you get a group  
8 that's working counter to what the administration is  
9 trying to do in the best interests of the state as a  
10 whole, we have to make it much more broad, not a narrow  
11 one-act term, Senator.

12                  SENATOR WEST: Governor, mutiny is ultimate, and  
13 it's a heavy charge, particularly from the military, it is  
14 used to result in death.

15                  THE WITNESS: Wouldn't suppose that we'd take  
16 Colonel Milstead out and shoot him. I would protect him  
17 at all odds against that.

18                  SENATOR WEST: How about his professional life?

19                  THE WITNESS: Pardon?

20                  SENATOR WEST: How about his professional life?

21                  THE WITNESS: His professional life is of his own  
22 making, sir, not mine.

23                  SENATOR WEST: Governor, we have your statements  
24 under oath here this morning that you believe Colonel  
25 Milstead committed mutiny. We have Director Hawkins'

1 statement on Exhibit 24 where he states that Director  
2 Milstead violated your order. Those are two people, you  
3 and Director Hawkins -- Director Hawkins was your  
4 appointee to investigate that Director Milstead violated  
5 your order, and Director Milstead said that your order was  
6 not to go to the Attorney General or cooperate with the  
7 Attorney General, and for that, Fred Craft, you, and Mr.  
8 Hawkins, by implication, have indicated that that's  
9 mutinous.

10 Thank you.

11 THE WITNESS: Okay.

12 THE PRESIDING OFFICER: We'll take our noon recess  
13 at this time. Senator Stump, did you have something you  
14 wanted to --

15 SENATOR STUMP: Mr. Presiding Officer, I'm going to  
16 have some consideration about something we're going to do  
17 when we come back regarding whether the Governor should be  
18 ordered to answer a question, I believe; is that right?

19 THE PRESIDING OFFICER: I'm going to ask Senator  
20 West to finish at 2 o'clock with how he wants to proceed  
21 on what he suggested at that point. How you want to get  
22 together and talk about what problems this may raise is up  
23 to you. And I will ask the question at 2 o'clock, whether  
24 you wish me to further order this witness to answer the  
25 question he was asked.

1           We'll stand at recess. And, Governor, we'll  
2 expect you back at 2 o'clock.

3           (Recessed at 12:07 p.m.)

4           (Reconvened at 2:05 p.m.)

5           THE PRESIDING OFFICER: Thank you, ladies and  
6 gentlemen. The Court of Impeachment is ready to convene.  
7 We are waiting for one more member of the Board of  
8 Managers.

9           (Pause in the proceedings)

10          The Court of Impeachment may now reconvene.  
11 The majority of the members of the Board of Managers are  
12 present, their counsel is present, and counsel for the  
13 Governor.

14          As a matter of housekeeping, Motion No. 83 is  
15 a motion for a protective order filed by the Attorney  
16 General on behalf of the Secretary of State.

17          The subpoena they are seeking proper  
18 investigation from sought documents by 10:00 this morning,  
19 today, and I understand that respondent's counsel and the  
20 Secretary of State's office are attempting to work out  
21 something on this subpoena, and unless they resolve the  
22 problem, argument will be heard at 9:00 a.m. Monday  
23 morning, and the Secretary of State's office will not be  
24 considered in contempt pending further order of the Court.

25          All right. Before we proceed with the

1 witness, Governor Mecham, I would ask Senator West if he  
2 has a further request or wishes to pursue his request to  
3 the Presiding Officer to order Governor Mecham to answer  
4 the question that he previously sought the Presiding  
5 Officer's order.

6 MR. LEONARD: Mr. Presiding Officer.

7 THE PRESIDING OFFICER: I am sorry, Mr. Leonard.

8 MR. LEONARD: I believe that if Senator West would  
9 withhold that request for just a few minutes or so, I  
10 think the witness is prepared to make a statement with  
11 respect to it.

12 THE PRESIDING OFFICER: All right. We will let the  
13 witness make that statement.

14 You may call Governor Mecham back to the  
15 stand.

16 THE PRESIDING OFFICER: Good afternoon, Governor  
17 Mecham.

18 THE WITNESS: Yes, Mr. Presiding Officer. With  
19 your permission, I'll make a statement that perhaps will  
20 clarify the thing that sort of had us tangled up.

21 Yesterday afternoon, late, I think the  
22 subject came up relative to, as I have reviewed a little  
23 of my testimony relating to Beau Johnson and the report  
24 called the Curtis report, and stated that I found, and  
25 later was verified by some people, that he was the one

1 that handed it to the head people at DPS. I put this in  
2 the context of why I felt unsettled about that in one of  
3 many things as we were speaking yesterday afternoon.

4 This morning, of course, it was said, was  
5 brought up again as to why I hadn't charged him, and that  
6 it was a very serious thing.

7 I want to point out that I hadn't any  
8 intention of charging him. I have since found out that,  
9 or the report that I had, quite frankly, and that I didn't  
10 really want to make it that formal in answer to Senator  
11 West's inquiry, but the word that I had is verifiable,  
12 which I do not know to be true and wanted to really set it  
13 up with some other tribunal where it could be looked at  
14 and found out if it was true.

15 I did not have the proof then and I do not  
16 have proof now. It was reported to me by Lee Watkins that  
17 Colonel Chilcoat had told him that Beau Johnson was the  
18 one that brought the report to DPS. I knew that DPS had  
19 it, that somebody had taken it to them, and used that as  
20 the idea. But I had not felt that I had proof, there was  
21 no investigation launched into it, I never formally  
22 accused him of that, and don't here now accuse him.

23 But I think that the way I used it would give  
24 the inference that I was using it as a fact, and I  
25 certainly want to set the record straight, that I am not

1 accusing him. I didn't really mean to accuse him, and  
2 that if anybody wants to follow-up on that and look into  
3 it, then certainly I would cooperate in every way to do  
4 so.

5 THE PRESIDING OFFICER: Senator West, does that  
6 satisfy your question?

7 SENATOR WEST: Mr. Presiding Officer, certainly I  
8 came back from lunch prepared not to push Governor Mecham  
9 to answer that question here. I was going to raise the  
10 issue that the Governor, under oath, had testified that  
11 this was in fact happened, and towards that end the  
12 reputation of a peace officer in the State of Arizona had  
13 been impugned, in my judgment, had been damaged, certainly  
14 his career enhancement had been curtailed, at least, and  
15 perhaps severely damaged, particularly, would be severely  
16 damaged if those allegations were correct.

17 I think that since it was brought out here in  
18 public, the Governor has testified under oath that he  
19 doesn't even need to be under oath to make a true  
20 statement, that he should share with this body and the  
21 people of the State of Arizona the name of those people in  
22 making the allegation. Because when you have careers and  
23 reputations at stake, and the way that they are being  
24 smeared and kind of indiscriminately maligned in this  
25 process, I think we have an obligation to protect each and

1 every, including Governor Mecham's, reputation and career.

2 So anytime anybody wants to malign a human  
3 being or an individual, I think it should be done very,  
4 very carefully and on facts, strictly based on facts. And  
5 towards that end I certainly can accept what the Governor  
6 has said with his statement at this time.

7 But I would also point out today that  
8 Governor Mecham also indicated that Representative Skelly  
9 owned a 50 percent interest in the horse at Prescott.  
10 Further investigation over the noon hour indicates that  
11 Representative Skelly owned no interest in that, but,  
12 again, cavalierly those allegations were made.

13 I think that we need to be very careful how  
14 we make these allegations, what we say about a fellow  
15 human being, and I certainly will follow my own advice,  
16 try to, and I hope others will, and towards that I  
17 appreciate what Governor Mecham has said. I would sense  
18 it somewhat of a pullback from his stated position  
19 previously, and hopefully we will find another tribunal,  
20 another organization to get through, if in fact people are  
21 stealing things off of Governor Mecham's desk or anyone's  
22 desk, that is improper, inappropriate. That is something  
23 the DPS had not needed to nor -- it was an internal  
24 document belonged to the Governor, that was his, and I  
25 think in fact it was stolen, it is a theft, and that we

1 need to know about that, particularly in view, in light of  
2 the things that have happened.

3 But I thank Governor Mecham and his attorney,  
4 and Mr. Presiding Officer, I thank you for your  
5 courtesies.

6 THE PRESIDING OFFICER: Thank you.

7 The next Senator that indicated he had  
8 questions is Senator Higuera.

9 SENATOR HIGUERA: Thank you, Mr. Presiding Officer.

10 Having heard Senator West, I'll also pull  
11 back on a couple of questions, not totally at least one  
12 question that I had. I do believe that I am a human being  
13 and you are also, sir, Mr. Governor, and I'll not ask a  
14 question that I had ready for you.

15 I don't think it is right, and Senator West  
16 and I discussed it about two minutes ago, but I'll ask the  
17 following question as I seek to thread through the tunnel  
18 of darkness and truth and your veracity and that of  
19 Colonel Milstead's.

20 Governor, did Colonel Milstead faithfully  
21 execute the laws as your director of the Department of  
22 Public Safety? Yes or no.

23 THE WITNESS: Would you repeat it again, Senator?  
24 I missed part of your question.

25 SENATOR HIGUERA: Yes, Governor. Did Colonel

1 Milstead faithfully execute the laws as your director of  
2 the Department of Public Safety? Yes or no.

3 THE WITNESS: I think the answer to that is no. If  
4 you want a yes or a no.

5 SENATOR HIGUERA: Okay, Governor. I am going to  
6 Article 5, Section 4 of the Constitution -- and I do  
7 believe that you took an oath -- and it says: The  
8 Governor shall transact all executive business with the  
9 officers of government, civil and military and may require  
10 information in writing from the officers in the executive  
11 department upon any subject relating to the duties of  
12 their respective offices and take care that the laws are  
13 faithfully executed.

14 Governor, you had an opportunity to do  
15 exactly what you, what was asked of you when you took that  
16 oath of office. Why didn't you?

17 THE WITNESS: I believe I've covered that. I think  
18 that if you wanted to hold that, that everybody at any  
19 time who does not faithfully execute every law out of  
20 38,000 people, and you want to hold the Governor liable, I  
21 am -- he's in a pretty bad way. I don't think that I can  
22 be that responsible. If there are things that come to my  
23 attention that need attention, or those which I look at,  
24 but, I think that I didn't -- I think my previous time in  
25 telling you took care of that. I explained to you

1 relative to the situation with Colonel Milstead and why I  
2 did what I did, and I think that's, you know, I don't  
3 think I can elaborate on it, Senator.

4           SENATOR HIGUERA: Thank you, Governor. That is why  
5 I made reference to your veracity and that of Colonel  
6 Milstead. I feel that is why we are here, at least on  
7 this charge, and that is all, sir, his word against yours,  
8 and what took place, and that sort of thing. That is why  
9 I am being very specific and not getting away from the  
10 subject matter before us.

11           Governor Mecham, you have stated that one of  
12 your priorities was to fight organized crime, am I  
13 correct?

14           THE WITNESS: That is correct.

15           SENATOR HIGUERA: Is it not true that you proposed  
16 to cut DPS by transferring 300 officers, around 300  
17 officers from the Criminal Investigations Bureau? Yes or  
18 no.

19           THE WITNESS: The answer is no.

20           SENATOR HIGUERA: Thank you.

21           THE PRESIDING OFFICER: Senator Kay was next.

22           SENATOR KAY: Thank you, Mr. Presiding Officer.

23           Governor Mecham, recognizing that these  
24 proceedings are costing almost \$100 a minute, and  
25 acknowledging that I have never been --

1 THE WITNESS: Are you including my costs as well?

2 SENATOR KAY: Yes. Ourselves, only about 50.

3 Acknowledging that I have never been confused  
4 with Clarence Darrow, I am only going to -- and I am sure  
5 you will be relieved and the whole world will be  
6 relieved -- that I am only going to ask one question.

7 When Sam Steiger was testifying a week ago  
8 today, this morning, and on cross-examination by  
9 Mr. Eckstein, he mentioned that Director Sam Lewis had  
10 told Sam Steiger that Lee Watkins had told him he could  
11 bring down the Mecham administration and was entitled to a  
12 good position. At the time Sam Steiger said that Lewis  
13 had told him that, he was amazed, and I think Director  
14 Lewis had also mentioned that in his direct testimony  
15 before this Court.

16 Sam Steiger then went on to say that he told  
17 you sometime in the summer of last year about what  
18 Mr. Watkins had said, and he characterized your reaction  
19 as being concerned and quoting you as saying: It sounds  
20 likely, that you questioned the source of this information  
21 and you then said that you would take care of it.

22 Yesterday on cross-examination by  
23 Mr. Eckstein, you indicated that you did not recall the  
24 conversation with Sam Steiger where Sam, Mr. Steiger, had  
25 related Director Lewis' account that I just referred to,

1 and then you added that had you known this you would have  
2 brought Mr. Watkins in to discuss that particular  
3 allegation.

4 Does my account, sir, refresh your memory  
5 that Mr. Steiger had said this, or are you suggesting that  
6 Mr. Steiger's account is contrived?

7 THE WITNESS: Well, I do not recall such a  
8 conversation, Senator. I have had so many conversations  
9 that I do not claim to have good enough recall to recall  
10 everything that was said in this, since this would have  
11 been of so little concern to me because, you know, the  
12 things that are of concern you remember better than things  
13 that you are unconcerned about. This would have been of  
14 such little concern I would have paid it little or no  
15 problem.

16 I would invite anyone in this body or in the  
17 administration or in the State of Arizona that knew  
18 anything that could bring my administration down. I would  
19 say I know a fellow who would love to get ahold of -- Sam  
20 Stanton, and you will see your picture on page 1 of the  
21 Arizona Republic. I would invite anyone to do it, would  
22 not be of concern to me. I would not know nothing that  
23 Lee would know. I would like the world to know anything  
24 about it. It was not of concern to me, so he could have  
25 said, I could have said that. I could have even got ahold

1 of Lee and said what are you talking about; if I did, he  
2 would have probably said he didn't say it, so I don't  
3 know.

4 SENATOR KAY: Thank you.

5 THE PRESIDING OFFICER: Next is Senator Stump.

6 SENATOR STUMP: Governor Mecham, communications  
7 between human beings is kind of a fragile thing at times.  
8 You have testified that you had no knowledge, certainly no  
9 intent or no understanding, that you could have possibly  
10 been obstructing justice.

11 When you were talking with Colonel Milstead,  
12 given your mind frame at that time, and the thought you  
13 had regarding how you perceived the Attorney General as  
14 being not willing to make something out of nothing, just  
15 for putting it in the papers and for making you look bad,  
16 would you say it would be fair to characterize your  
17 attitude at the time that you might have felt that you  
18 were actually promoting justice as a lot of folks would  
19 think of justice as being something that's right and what  
20 you perceived that was going on was wrong?

21 THE WITNESS: Well, my primary concern and my  
22 thought processes really never went to a case of what I  
23 guess of justice at that, because I was unaware that there  
24 was a question relative to justice, Senator. I really was  
25 not aware of that. I was aware that we had had an

1 altercation between two people, I thought it had been  
2 handled, and so I don't think I was weighing anything  
3 between what was just and unjust. It would be  
4 self-serving to say that those people who were trying to  
5 beat up on me and unjust and I was for justice, which  
6 would be for me to get them off my back.

7 But on the other hand, to promote justice I  
8 certainly want things that are right and just for  
9 everybody and everybody's rights to be protected and  
10 everybody's safety to be protected.

11 At this particular time I don't know that I  
12 would say that that was even that deep into my thinking  
13 process, we were dealing with it on a Sunday, and we are  
14 discussing some issues in the improper activities, what  
15 happened with the security detail, what we do with Frank  
16 Martinez on a Sunday, and that was kind of the whole  
17 thing.

18 SENATOR STUMP: In the area of communications and  
19 how people say things, just a little speculation and see  
20 what you think of it.

21 We have heard that Peggy say, testify, that  
22 Lee Watkins made a threat that if Donna didn't keep quiet  
23 she would take a long boat ride, or that there was friends  
24 of the Governor, I think was part of the term. But then  
25 when Mr. Hawkins was up there he said that he talked with

1 Lee and with Peggy, and that he came back with a story  
2 that Lee had said that there were crazies out there and  
3 she might end up getting harmed.

4 Do you think he could have said to her  
5 "friends of the Governor," knowing that there are some  
6 folks that are really on the very conservative end that  
7 consider the principles that you believe in so very  
8 vehemently, and a lot of people look at them as being too  
9 far right or crazy, do you think it would have been  
10 possible that he had that in mind and he just said  
11 "friends of the Governor" and did not really mean friends  
12 as somebody that you knew?

13 THE WITNESS: Well, Senator, I would hate to think  
14 that I had any friends, and I have heard by the grapevine,  
15 I have talked to none of you directly, but I have heard by  
16 the grapevine that there is even some of this body who  
17 have received some threats recently. I would hate to  
18 think that anyone who was a friend of mine would threaten  
19 anybody. I certainly don't know of any, and the  
20 characterizing that it would be some of my friends, I  
21 haven't the foggiest idea what he would be talking about,  
22 because I'm totally on the other side. I don't have to  
23 agree with people or like them to say that they should be  
24 protected by the law, and so certainly wouldn't be any  
25 part of mine.

1           He could have said -- he could have said  
2 anything. I wish he would have come here, and I wish you  
3 could ask him what he said. I guess I would kind of like  
4 to know exactly what he did say myself now.

5           THE PRESIDING OFFICER: Senator Rios was next.

6           SENATOR RIOS: Thank you, Mr. Presiding Officer.  
7 \$100 a minute. I'll take a couple hundred dollars worth  
8 of time here.

9           Governor, with your indulgence, I would like  
10 to take some time to clarify a point that was made by one  
11 of my distinguished colleagues on this floor. That has to  
12 do with the reconfirmation of Director Milstead, and this  
13 was back in 1985.

14           The comment was made that on a roll call  
15 vote, Director Milstead was reconfirmed in 1985 by 19  
16 "aye" votes, five "no" votes, and six not voting.

17           I have from the journal, the Senate Journal  
18 of 1985 here, a record of who voted how -- interesting to  
19 see who did not vote -- but nevertheless, I was one of the  
20 no votes in 1985, and the reason I wanted to clarify the  
21 comments that were made regarding that reconfirmation  
22 vote, because I think it left the impression that possibly  
23 those voting no or against the reconfirmation knew  
24 something that maybe the other Senators did not know. And  
25 I want to make it clear, because I was one of the no votes

1 and I was probably the Senator that was lobbying for no  
2 votes against Ralph Milstead, that the record clearly  
3 shows that the reason that that was done had to do only  
4 and solely for one reason, and that was the 1983 copper  
5 strikes in Clifton and Morenci.

6 It was more of a protest vote than anything  
7 else. During that situation, as many of you recall, the  
8 peace-loving company of Phelps Dodge was engaged in union  
9 busting. Governor Babbitt at that time ordered DPS and  
10 the National Guard to maintain peace in the area. We  
11 received, or some of us legislators here, received  
12 complaints from people in that area, of police brutality,  
13 et cetera.

14 The role that DPS was playing, obviously,  
15 some of those complaints that we received were correct,  
16 based on some of the judgments that have been awarded by  
17 courts against the state and against DPS. And I  
18 understand there was a \$480,000 judgment in favor of the  
19 United Steel Workers of America against the state and DPS  
20 because of what happened in the Clifton-Morenci area.

21 Just recently in the newspaper we read about  
22 some individual plaintiffs that have settled out of court  
23 in respect to what transpired in the Clifton-Morenci area.

24 The unfortunate thing of all of this is that  
25 those judgments will be paid by the taxpaying people of

1 this state.

2 But getting back to the point that I want to  
3 make, is the reconfirmation vote in 1985 was a protest  
4 vote for the role that was played by DPS, and it was not a  
5 reflection on the director's reputation or integrity as an  
6 individual, but as a protest vote for the role that the  
7 department played in that particular scene.

8 I remember during the testimony provided by  
9 Director Milstead before our judiciary committee in 1985  
10 he indicated, yes, indeed there were some bad apples from  
11 DPS that were down in the Clifton-Morenci, and that as  
12 soon as he discovered or found out about these bad apples,  
13 he did have them removed. But I just wanted to clarify  
14 the issue on that reconfirmation vote.

15 Thank you.

16 THE PRESIDING OFFICER: Senator Corpstein was next.

17 SENATOR CORPSTEIN: Thank you, Mr. Presiding  
18 Officer.

19 Mr. Presiding Officer, Governor, I am a  
20 little bit confused. Earlier today, I believe it was  
21 today or maybe it was late yesterday, you said Lee was  
22 involved in a grabbing of the shirt and there was a torn  
23 pocket, I think, and a bent clip on the pen.

24 Thursday morning when you testified to  
25 Mr. Craft, I mean on direct, cross-examination, I believe

1 it was around 9:30 yesterday morning, you said there was a  
2 quote, and I am reading you the question asked: Have you  
3 heard of the day before or two days before about another  
4 serious altercation between the employees that work for  
5 the State?

6 Answer: Oh, yeah, I heard they had a fist  
7 fight down in the cafeteria, but I didn't go referee that  
8 either.

9 To me a fist fight is different than a  
10 grabbing of the shirt or tearing of the pocket.

11 Could you clarify that, please, Governor?

12 THE WITNESS: It was reported to me, Senator, it  
13 was a matter of speaking like here, something came to my  
14 attention. This was bringing out the fact that the  
15 altercation between employees really isn't something that  
16 I am into refereeing, just speaking and using that as an  
17 example, maybe it was a poor one, Senator, that is what I  
18 was pointing out, is that that was an assault on two  
19 people upon each other. There was no arrests, there was  
20 no grand jury investigation, there was no inquiry into it.

21 Some people got them, I don't know how they,  
22 how much they hurt themselves, and yet, something that  
23 wasn't that was being really, has become a tremendous  
24 statewide incident.

25 I guess I was just trying to put it in that

1 light, Senator, that relative to two instances that did  
2 happen about the same time. I don't condone fist  
3 fighting, incidentally. Since I don't get involved in it  
4 myself, I'd just as soon nobody else did.

5 THE PRESIDING OFFICER: Are there other Senators  
6 who have questions?

7 Senator Brewer and then Senator Hardt.

8 SENATOR BREWER: Thank you, Mr. Presiding Officer.

9 Governor, do you feel that your  
10 administration might have handled the alleged threat  
11 differently had they had the complete criminal background  
12 on Lee Watkins?

13 THE WITNESS: Senator, when you say "the complete  
14 criminal background," I have heard some things talked  
15 about here, so maybe I don't have it. There were two  
16 elements in Lee Watkins' background. One was when he was  
17 eighteen years old or thereabouts, he was involved in a  
18 holdup, an unarmed robbery of something, and spent some  
19 time in jail for that.

20 Then not too long after that he was in an  
21 assault on a person that was -- ended up being, I believe,  
22 convicted of a misdemeanor.

23 From the standpoint of those items, and, yes,  
24 I do recall that he had torn Ron Ludders' shirt, to me I  
25 am not so sure I guess that can be a criminal background,

1 but he didn't look like he was a man of real violent  
2 nature.

3 Now, the thing, had I had any indication that  
4 this was being looked at by anybody different than the  
5 short view that I was given in a busy day of two people on  
6 what information I had, I don't know that it would have  
7 been handled different; I wish it had been handled  
8 different. I wish that others would have said this thing  
9 looks like it may be more serious than that. I wish  
10 Dr. Burke would have said, "Governor, maybe this is more  
11 serious than handled as a personnel matter, maybe it ought  
12 to go through law enforcement." We would have made a  
13 different decision.

14 I wish Lieutenant Johnson would have said "I  
15 have already reported this to DPS," and he reported it to  
16 the Attorney General and everybody is all upset about this  
17 wondering what is going on. I would have said I think we  
18 ought to get everybody to get -- do we need to have Lee  
19 arrested, let's get to the bottom of it.

20 So, I don't think the nature of the  
21 background, I didn't view him as -- I viewed him as an  
22 excitable person as I viewed Peggy Griffith as an  
23 excitable person, but I didn't view this in life  
24 threatening violence.

25 SENATOR BREWER: Governor, would you not agree that

1 a professional, well trained DPS officer, if he had heard  
2 the threat, that he would determine that it was serious?  
3 And I base that on previous testimony from Colonel Phelps,  
4 who indicated that he had known something about a gambling  
5 debt and that some type of threat was made at that point,  
6 and in the Ludders affair, the article that was referred  
7 to here in the hearing, in the trial, with the allegations  
8 between Watkins and his wife over in Mesa, if a well  
9 trained professional DPS officer was aware of the criminal  
10 background that you had alluded to, plus this other  
11 information, would you not agree that he would take that  
12 threat seriously?

13 THE WITNESS: I don't know. You know, if he did, I  
14 wish he would have informed me. I just went on, went on  
15 information I had. I would think that if they took it  
16 seriously, I was rather amazed at Colonel Phelps'  
17 testimony that he went through this and he kept backing up  
18 my attitude towards the security, but I just wished he  
19 would have picked up the telephone and talked to me. I  
20 wish he would have conveyed that to me. There just was  
21 nobody conveying to me that there was anything serious. I  
22 wish they would have done it.

23 So if they are that well trained and that  
24 concerned, I really think that they should have relayed  
25 that concern and said we are, you know, from our

1 experience, why, we think this really is a problem, and  
2 told me. I would have certainly listened very quickly and  
3 completely had they done so.

4 SENATOR BREWER: Well, Governor, I get the  
5 impression throughout the trial that you have indicated  
6 and other people have indicated that Mr. Watkins was a  
7 bunch of hot air and several other different adjectives.  
8 And not having his background and the records, I would  
9 tend to think that you truly believed that it was a lot of  
10 hot air. Not knowing if you would have had that  
11 information, I would assume, then, your office, you, your  
12 administration would have looked at the threat seriously.

13 THE WITNESS: If we thought it was serious, we  
14 thought it was life threatening in any way, we would have  
15 done -- you see, still nothing bears out, and it is so  
16 easy for people to come back -- you see, you mentioned  
17 something that has never been mentioned to me, a gambling  
18 debt. I never heard of a gambling debt. I never heard of  
19 an altercation with his wife. I never heard of any of  
20 these things, so I don't have that in my thought process  
21 to tell.

22 I know of two things. I know of one that was  
23 shown to me when he was hired, that he had an assault 22  
24 years before, and then later on revealed that he had been  
25 in this robbery as a young man, so I viewed that with

1 great concern. I did not have anything on the others that  
2 has been spoken of, and I am not sure whether they are  
3 hearsay; I haven't seen anything on them. But they are  
4 all used to build up the aura that this is a violent,  
5 criminal minded man, and I think that's been built up to  
6 make this a much more serious threat than any of us  
7 thought it was at the time, because I do believe, that the  
8 DPS officers themselves, Colonel Phelps and all of them,  
9 would have been in more communication and wouldn't have  
10 been all this in the background: Well, Twist wants to  
11 talk to him; well, we are not going to let him talk to  
12 him. Nothing wrong with him talking to him as far as I am  
13 concerned. And I don't know why statements weren't made,  
14 I don't know why reports weren't made, I don't know why  
15 DPS didn't quickly have an investigation themselves.

16 I don't know why they suddenly, suddenly  
17 these kind of investigations get whipped off, so to some  
18 places I thought law enforcement agencies made the  
19 investigation, I have talked to a number of people on this  
20 and then after the investigation is made, if there is  
21 sufficient evidence to indicate a crime has been done,  
22 then you go to the prosecutor with it, you know, Phoenix  
23 Police Department, doesn't call up the County Attorney or  
24 the City Attorney every time they turn around and say will  
25 you investigate this. No. They investigate and then if

1 they have the information, they take it then to the  
2 prosecutor. Not so here; DPS didn't do any investigating,  
3 so they said.

4 SENATOR BREWER: I understand, Governor. You have  
5 been asked and you have answered a barrage of questions  
6 for the last couple of days, and I have kind of been  
7 waiting for a very obvious direct question to be asked. I  
8 am going to ask you now.

9 Governor, did you knowingly attempt to  
10 obstruct justice?

11 THE WITNESS: Under no circumstances, Senator. I  
12 wouldn't dare, any circumstances.

13 SENATOR BREWER: Thank you.

14 THE PRESIDING OFFICER: Senator Hardt.

15 SENATOR HARDT: Governor, I am not one of the big  
16 talkers. I won't cost you a lot of money.

17 During questioning by Senator West, Governor,  
18 you have indicated that you had been up in the, in what I  
19 call my district. I think you are aware of that. And he  
20 asked you a question as to whether you had told the people  
21 to call us down here and your answer was, I might have  
22 said call your legislators --

23 THE WITNESS: Senator, I asked the people, when I  
24 am in an area I'll say call your legislator, call your  
25 Senator, and in your case, I would have probably said call

1 Senator Hardt, I would recommend they call you. They love  
2 you and I think you ought to hear from them.

3 SENATOR HARDT: That was in a lighter vein. That  
4 is what I was going to say; my feelings were going to be  
5 hurt if you didn't mention my name.

6 THE WITNESS: I always do.

7 SENATOR HARDT: I am always looking for free  
8 publicity.

9 THE WITNESS: Senator, I have a high consideration  
10 for you, and I find in your district that other people do  
11 and certainly would always say that.

12 THE PRESIDING OFFICER: Senator Todd.

13 SENATOR TODD: Governor Mecham, as an elected  
14 official we have learned together we should listen to our  
15 constituents and respond to our constituents, have we not?

16 THE WITNESS: You bet.

17 SENATOR TODD: I need to ask you a couple of  
18 questions in response to a constituent input in the last  
19 few hours.

20 Do you resent us as Senators asking you  
21 questions?

22 THE WITNESS: Not at all, not at all. I am here  
23 willingly and I really have really appreciated, Senator,  
24 this opportunity. I think this has been a good forum, and  
25 I have been very grateful. As the press asked me last

1 night as I was leaving, they said, are you getting now  
2 getting the chance to tell your side of the story, and I  
3 said yes, I appreciate it.

4 I'm appreciative to this body that this has  
5 been a wide open opportunity to do so, and I hope I have  
6 not appeared to resent any question. I think you have a  
7 right to ask me any question you want.

8 SENATOR TODD: Isn't it our way to arrive at a  
9 truthful situation through the asking of questions and the  
10 receiving of answers?

11 THE WITNESS: You bet. You bet. I'm all for it.

12 SENATOR TODD: Governor, some of your supporters  
13 resent us asking you questions, and I would only say,  
14 would you tell them that you don't resent us asking  
15 questions in trying to get to both sides of this story.

16 THE WITNESS: Senator, for whoever is watching in  
17 the State of Arizona today, I will tell anybody to let --  
18 nobody should resent, certainly I don't resent you asking  
19 any questions. You are here, the House threw you a hot  
20 potato over here, you have got to handle it and you are  
21 handling it.

22 I have no resentment, and you are doing what  
23 you feel you should do. And I am whole-heartedly in  
24 accordance with you doing that, sir.

25 Please, anybody in Arizona, don't resent the

1 Senators from asking questions; in fact, from this  
2 standpoint you have given me a great opportunity, and I  
3 think this exchange, I think it has been enlightening to  
4 the people across the state, and for that I am grateful  
5 and I hope all of you are. Besides, look how much it  
6 would cost us if we were paying for it; we are only paying  
7 10,000 an hour.

8 SENATOR TODD: Governor, your office and people in  
9 your office made nine requests for Attorney General  
10 opinions and you received eight. Is that correct?

11 THE WITNESS: Senator, I didn't do any checking on  
12 that. My answer is still the same as this morning. As I  
13 said, if you want to know how many that I know about, I'll  
14 go look them up. I would have assumed that it would be  
15 substantially higher than that, and I would assume that we  
16 received more, but if that is what you say, you have  
17 undoubtedly looked it up. I'll take your figures.

18 SENATOR TODD: I asked the question, and the answer  
19 that I received from the office was nine inquiries, nine  
20 requests for opinions, and eight written opinions  
21 returned.

22 Do you believe me?

23 THE WITNESS: I'll accept your word, Senator, yes.

24 SENATOR TODD: Do you also believe me when I tell  
25 you that there were in fact over 80 responses in written

1 memos or written letters coming to you in the course of  
2 Attorney General's answers to your questions, requests to  
3 your counsel that was available to you, and all protected  
4 by attorney-client privileges, would you believe me if I  
5 told you that?

6 THE WITNESS: I'll accept your word, Senator, you  
7 bet.

8 SENATOR TODD: To some of us who feel that the  
9 characterization of your position with the Attorney  
10 General may be somewhat exaggerated, find that these  
11 particular numbers are hard to correlate with a war from  
12 the Attorney General's Office, and that is the reason that  
13 I asked you the questions. And it is the reason that I  
14 tried so very hard to get to the answers, and I appreciate  
15 you answering my question.

16 THE WITNESS: Fine, thank you.

17 THE PRESIDING OFFICER: Other questions by  
18 Senators?

19 Senator West.

20 SENATOR WEST: Mr. Presiding Officer, Governor  
21 Meham, hopefully that you and I weren't going to have to  
22 go through this again, Senator Todd, I appreciate your  
23 response; I think everybody appreciates your response to  
24 Senator Todd's question, but I just want to take it one  
25 step further, because I think the next question needs to

1 be asked.

2 Do you feel to date, I think that is as far  
3 as we can go, do you feel to date that this trial, this  
4 impeachment process, has been fair and impartial and that  
5 you have had a fair and adequate opportunity to vindicate  
6 yourself?

7 THE WITNESS: I have had an opportunity to get my  
8 total side of the story, Senator West, to present our  
9 side, and to have an exchange. And frankly, I am enjoying  
10 the relationship and the talking back and forth with you  
11 more than I do the attorneys. I guess that just goes to  
12 show that I think this is the most fruitful part of it,  
13 quite frankly.

14 SENATOR WEST: I think you as a businessman learn,  
15 like I as a businessman, a long time ago, we get a lot  
16 more resolved when we go eyeball to eyeball and keep the  
17 attorneys somewhere else. I think it lessens --

18 Excuse me, Your Honor. I'll sit down.

19 THE WITNESS: Remember, the Judge is an attorney,  
20 too.

21 THE PRESIDING OFFICER: And proud of it, sir.

22 THE WITNESS: I'll add one thing, if I may, may I  
23 be just --

24 THE PRESIDING OFFICER: Certainly. You have  
25 already.

1 THE WITNESS: I hope that in sometimes life has to  
2 have a little levity. I hope that nothing I said, I  
3 certainly kid the attorneys, you know, along, but I think  
4 all of us have a high respect for the legal profession,  
5 and, of course, in government we recognize, as I said, I  
6 found that I need literally to be shackled to an attorney  
7 that is -- so I don't believe anybody has a greater  
8 appreciation for them today than I do, so I just want to  
9 say that, and I think that goes for also unless anybody  
10 thinks we are picking on the attorneys.

11 THE PRESIDING OFFICER: No other questions?

12 Mr. Leonard.

13 MR. LEONARD: Mr. Presiding Officer, if I may be so  
14 presumptuous to interject a legal problem in the midst of  
15 these proceedings and voir dire the Governor solely with  
16 respect to the question of Mr. Craft's appearance as a  
17 witness.

18 THE PRESIDING OFFICER: You may do so.

19  
20 VOIR DIRE EXAMINATION

21 BY MR. LEONARD:

22 Q. Governor, this is a legal and technical  
23 matter which we must bring to your attention. As you  
24 know, Mr. Craft has been subpoenaed by this body as a  
25 witness and is willing to testify. But he acts as your

1 attorney, and has in this proceeding since I think about  
2 the 24th of February.

3 Do you have any objections to Mr. Craft  
4 testifying with respect to any knowledge that he might  
5 have on this Article, This first Article of Impeachment  
6 prior to, that is, knowledge prior to February 24th of  
7 1988?

8 A. Not at all; none whatsoever.

9 MR. LEONARD: In view of that answer, Mr. Presiding  
10 Officer and Mr. Chief Justice, I would point out to the  
11 Presiding Officer that the rules of the Supreme Court ER  
12 3.7, admonition generally that a lawyer not be a witness.  
13 The comments with respect to that rule, however, address  
14 the usual situation where a lawyer is being called either  
15 on his client's behalf or by the adversary party.

16 I am not about to try to render an opinion of  
17 any kind, but I would at least appreciate the Presiding  
18 Officer possibly nodding his head that under these unusual  
19 circumstances that if Mr. Craft were to testify, that he  
20 would not be in violation of that particular rule of the  
21 Supreme Court of the State of Arizona.

22 THE PRESIDING OFFICER: I would be happy to say  
23 that in my research and all that I have read about  
24 impeachment, I have never seen a situation like this  
25 before, and I think I mentioned before that I believed

1 Rule 3.7 was intended for situations in a normal trial  
2 where the lawyer himself made the choice to either be a  
3 witness or was called by the other side, and I don't think  
4 it applies to a situation like this, where the Senators  
5 themselves have asked that he be a witness, so I as one  
6 person vote, out of five members of my Court, will give  
7 you an informal expression that I do not believe that  
8 Mr. Craft would be guilty of any unethical conduct if he  
9 did so under the conditions of this case.

10 MR. CRAFT: Thank you, Your Honor.

11 THE PRESIDING OFFICER: May this witness be  
12 excused?

13 Governor, you are excused, sir, subject to  
14 being recalled if you are asked and don't leave the  
15 country, please.

16 THE WITNESS: I won't even leave the state.

17 THE PRESIDING OFFICER: Senator Gutierrez, you had  
18 a matter.

19 SENATOR GUTIERREZ: Thank you, Mr. Presiding  
20 Officer.

21 Yesterday there was some discussion about the  
22 issue of conflict of interest, specifically about two  
23 members of the Board of Regents.

24 Mr. Presiding Officer, I would like to read  
25 into the record to clarify that matter, to un muddy the

1 waters, if I may, with regards to that issue, it is a  
2 letter that was sent by the Attorney General's Office,  
3 Mr. Bob Corbin to Mr. Herb Chanen and Mr. Donald Pitt.  
4 Most of you know they are members of the Board of Regents.  
5 The letter goes as follows, and they are identical with  
6 the exception of the salutation.

7 Re: Conflict of Interest Allegations in  
8 connection with the Cotton Farm Property.

9 My office has closed its investigation into  
10 allegations of conflict of interest in connection  
11 with the cotton farm property. We have considered  
12 our investigative findings in light of the  
13 requirements of Arizona's Conflict of Interest Law,  
14 A.R.S. 38-503, and have determined that the  
15 allegations of conflict of interest are unfounded.

16 Our principal findings are as follows:

17 1. Both Mr. Chanen and Mr. Pitt made known  
18 any interest they had in the Cotton Farm Project in  
19 both the Arizona Board of Regents minutes and the  
20 Arizona Board of Regents conflict of interest  
21 files.

22 2. Both Mr. Chanen and Mr. Pitt abstained  
23 from voting on the Cotton Farm Lease.

24 3. Neither Mr. Chanen nor Mr. Pitt made any  
25 efforts to influence any other Arizona Board of

1 Regents member with regard to the lease of the  
2 Cotton Farm Property.

3 4. The Cotton Farm Property was leased  
4 after a public competitive bidding process.

5 We appreciate your full cooperation with our  
6 investigation.

7 I think it was necessary, Mr. Presiding  
8 Officer, to do so, so there aren't any uncertainties, so  
9 there is a crystal clear idea on what the two members of  
10 the Board of Regents and their activities and that  
11 everything was done above board, everything was done  
12 legally, and everything to the best of my knowledge is  
13 correct.

14 Thank you, sir.

15 THE PRESIDING OFFICER: Thank you, Senator.

16 We are at a stage now when I would ask  
17 counsel for the respondents: Are there any other  
18 witnesses?

19 MR. LEONARD: Mr. Presiding Officer, we do not. I  
20 am informed, however, that there may be a couple of  
21 housekeeping matters. Maybe the Presiding Officer would  
22 like to hold those until after the Board of Managers  
23 rebuttal witnesses, if they have them.

24 We have no further witnesses or evidence and  
25 we rest.

1 THE PRESIDING OFFICER: The respondents rest. I'll  
2 take care of the disposing of unurged motions after all  
3 the evidence is in in this matter.

4 All right. We will then ask --

5 Senator Hardt?

6 SENATOR HARDT: Mr. Presiding Officer, I just had a  
7 comment that we are having trouble hearing Mr. Leonard in  
8 the back, and I would appreciate it, I think we have told  
9 him a couple of times, but it is easy to forget when you  
10 are sitting up there, I know that, in the future, sir,  
11 would you please speak into the mike so that we can hear  
12 you.

13 THE PRESIDING OFFICER: Thank you, Senator Hardt.

14 MR. LEONARD: Maybe it is because I am not speaking  
15 loud enough, maybe something is wrong with this mike. I  
16 appear to be speaking as loud as I ordinarily do.

17 THE PRESIDING OFFICER: Can you hear him now?

18 SENATOR HARDT: Yes.

19 MR. LEONARD: I'll try to speak up a little bit.

20 THE PRESIDING OFFICER: Senator Kay.

21 SENATOR KAY: Parliamentary inquiry: Senator  
22 Walker had asked that witness Peggy Griffith be returned,  
23 and the body has voted to have the testimony of  
24 Mr. Craft. I wonder if the Presiding Officer could tell  
25 the body whether Mrs. Griffith is going to appear now, or

1 does she appear after Mr. Craft?

2 THE PRESIDING OFFICER: Senator, as I understand  
3 it, and I believe I explained it before, any witnesses  
4 that are being called on behalf of the Senators will be  
5 called after the evidence is in on both sides.

6 Now, there is, at this point the managers  
7 have put on their case in chief, the respondent has put on  
8 its case in chief, and now the managers will proceed to  
9 their part, remaining part of the case which is called  
10 rebuttal. They may bring on witnesses at this time which  
11 tend to rebut the evidence that the respondents have put  
12 on, not merely just repeat what they put on in their case  
13 in chief. So their scope of additional witnesses is  
14 limited by attempting to rebut only that which was brought  
15 out by the respondent's portion of the case.

16 After that portion, after the Board of  
17 Managers' portion of the case is over, then the Senators'  
18 witnesses will be called.

19 Mr. French.

20 MR. FRENCH: Mr. Presiding Officer, we are prepared  
21 to commence the rebuttal aspect of the case. I am not  
22 sure how close my first witness is. He may be right  
23 outside the door. I am not sure who we intend to present;  
24 Lieutenant Colonel Phelps, bring him back. We are going  
25 to bring back Lieutenant Beau Johnson and we also are

1 going to bring back Peggy Griffith.

2 If Lieutenant Colonel Phelps is here, we are  
3 ready to proceed.

4 THE PRESIDING OFFICER: I'll remind you, you are  
5 still under oath, sir.

6

7

GARY PHELPS,

8 a rebuttal witness herein, after having been previously  
9 duly sworn, was examined and testified as follows:

10

11

DIRECT EXAMINATION

12 BY MR. FRENCH:

13 Q. Mr. Presiding Officer, members of the Court,  
14 Lieutenant Colonel Phelps.

15 Colonel Phelps, during the case that was  
16 presented in behalf of the respondent, certain testimony  
17 was presented through Governor Mecham that a certain  
18 document referred to by some as the Curtis report ended up  
19 at the Department of Public Safety.

20 Are you familiar with that testimony?

21 A. Yes.

22 Q. There was an initial testimony that the  
23 Governor thought rather strongly that Lieutenant Beau  
24 Johnson had taken the report from his office, or  
25 Mr. Colter's office, to the Department of Public Safety.

1                   Are you aware of that testimony?

2           A.       Yes, I am.

3           Q.       This afternoon, as I understood Governor  
4 Mecham's testimony, he testified that someone had told him  
5 that Beau Johnson had taken the report, the Curtis report,  
6 to the Department of Public Safety, and that he relied on  
7 that person that told him that.

8                   Are you familiar with that testimony?

9           A.       I heard that this morning in regard to it was  
10 confirmed by a person at DPS that Lieutenant Johnson had  
11 taken the report and delivered it to DPS management, yes.

12          Q.       I want to bring you up to date as to what has  
13 happened since the noon hour, that is, he now stated that  
14 someone told him that Lieutenant Johnson had taken that  
15 and that he believed the person that had told him that.

16                   Did you know about that testimony?

17          A.       I haven't heard that since lunch, no.

18          Q.       Assume that to be true then, will you --

19          A.       I am not sure I understand what the Governor  
20 said.

21          Q.       It is little bit what he testified to this  
22 morning.

23          A.       That someone told him that Lieutenant Johnson  
24 took the report to DPS?

25          Q.       That's correct.

1 A. Okay.

2 Q. In fact, the Department of Public Safety did  
3 obtain that Curtis report, did it not?

4 A. Yes, we did.

5 Q. Did the Lieutenant Beau Johnson have anything  
6 whatsoever to do with the Curtis report being delivered to  
7 the Department of Public Safety?

8 A. Nothing whatsoever.

9 Q. Would you tell the ladies and gentlemen of  
10 this Court who delivered the Curtis report to the  
11 Department of Public Safety?

12 A. That report was hand carried to the  
13 Department of Public Safety headquarters on 19th Avenue by  
14 Mr. Lee Watkins.

15 THE PRESIDING OFFICER: Please, members of the  
16 gallery, please don't respond by laughter or applause;  
17 those who do will be removed from the gallery.

18 MR. FRENCH: Thank you.

19 BY MR. FRENCH:

20 Q. Did you or anyone else at the Department of  
21 Public Safety request that Mr. Lee Watkins bring this  
22 report to you?

23 A. No.

24 Q. Would you explain to the Court the  
25 relationship that existed between the Department of Public

1 Safety and Mr. Watkins, and when it commenced to exist?

2 A. I first met Mr. Watkins around December 1st  
3 of 1986. He had been referred to DPS. He had come over.  
4 He was in Lieutenant Colonel Chilcoat's office. He  
5 informed us that he was going to be the legislative  
6 liaison for the new administration; that he had been  
7 referred to us for two reasons: One is that he thought we  
8 understood the legislative process, and number two, is he  
9 had a letter from his, from a federal official indicating  
10 that his prison term had been expunged because he was a  
11 youthful offender, and he wanted us to be aware of that  
12 when we did the background.

13 Q. In connection with the report that Mr. Lee  
14 Watkins brought to you, did there come a point in time  
15 when he wanted the report back?

16 A. Yes, there was.

17 Q. Can you tell us about that?

18 A. It seems to me it was late July or early  
19 September he called saying to shred our copy of the  
20 report; he wanted it back; that Mr. Colter was blaming him  
21 for taking it off his desk.

22 Q. That is Mr. Colter, the Chief of Staff at  
23 that time of the Governor's office?

24 A. Correct.

25 Q. Who was the person in the Governor's office

1 that was the liaison with the Department of Public Safety?

2 A. Mr. Sam Steiger, at that time.

3 Q. That was one of the agencies that he was  
4 responsible for?

5 A. Yes.

6 Q. What did you all do with that report?

7 A. Mr. Watkins said to be sure and see that  
8 Director Milstead read it. He was trying to contact  
9 Director Milstead. He brought it approximately around  
10 April 30, wanted to make sure Director Milstead saw it.

11 I took it to Director Milstead, made a copy  
12 of it, and then in May, on May 29, we met with Mr. Sam  
13 Steiger, gave him the report, told him how we got it, and  
14 discussed it with him.

15 Q. Why did you give it back to Sam Steiger?

16 A. Well, number one, our contact in the  
17 Governor's office we worked with him, we felt he should  
18 know that someone had taken it, number one; number two is  
19 that we had it.

20 Q. Did you have a conversation with Mr. Steiger  
21 about it?

22 A. Yes, we did.

23 Q. And where was that conversation?

24 A. On May 29 of 1987 Mr. Steiger had a meeting  
25 in Window Rock, Arizona. Director Milstead and myself had

1 one in Holbrook, and we offered to fly Mr. Steiger from  
2 Prescott to Window Rock, and we met him in Prescott and  
3 returned him to Prescott, and these conversations took  
4 place on the DPS aircraft.

5 Q. Did you, DPS, likewise have business up  
6 north?

7 A. Yes. We went to our district office in  
8 Holbrook to visit with the district commander.

9 Q. Was it during the course of the flight that  
10 you had this conversation with Mr. Steiger?

11 A. Yes. We had a rather extensive conversation  
12 that day.

13 Q. What did Mr. Steiger have to say about this  
14 matter?

15 A. Well, our primary reason was to talk to  
16 Mr. Steiger about some reports about Thad Curtis, about  
17 the movement of 200 officers from DPS, as I said earlier  
18 our relation at that time we were unclear as to what was  
19 going on and what was expected of us, so we were seeking  
20 clarification.

21 Also, Mr. Steiger instructed us to find a job  
22 for Mr. Curtis, because he still had some time remaining  
23 on his retirement. And we discussed the report at length,  
24 and it is not fair to call it a report, but discussed the  
25 paper at length and some of the concepts in it,

1 Mr. Steiger, some current problems at DPS, Mr. Curtis, we  
2 discussed him, we discussed some molds at DPS.

3 Q. Did he discuss the report itself?

4 A. Yes, he did.

5 Q. Can you give us the benefit of that  
6 conversation?

7 A. It is hard -- it is hard for me, colorful as  
8 Mr. Steiger is.

9 MR. LEONARD: If the Court please, I think it is  
10 interesting that we now know that it is Mr. Watkins that  
11 provided the report to DPS. I don't know what molds and  
12 DPS have to do with rebuttal testimony. I fail to see the  
13 relevancy of this. He has dropped his bomb, and I guess  
14 that's the purpose of this witness coming back. I object  
15 to this. I think it is irrelevant. It is not redirect.  
16 It is not rebuttal testimony. It is brand new subject  
17 matter.

18 THE PRESIDING OFFICER: How would this be relevant,  
19 Mr. French?

20 MR. FRENCH: Your Honor, it was part of giving it  
21 back to the person with the Governor who they should have  
22 given it back to. I don't need to go any further into it.  
23 I don't think it is a bomb. We are just looking for the  
24 truth, so I'll stop on this line of questioning.

25 THE PRESIDING OFFICER: Thank you.

1 BY MR. FRENCH:

2 Q. The next matter that I want to get into,  
3 though, is something else that was brought up and referred  
4 to on different occasions by Governor Mecham during the  
5 course of his testimony. We are going to get into it.

6 He talked about how badly a Captain Ayers was  
7 treated by the Department of Public Safety and the  
8 investigation that went on concerning the captain.

9 Are you aware of that testimony?

10 A. Yes.

11 Q. Are you aware of that situation when it  
12 existed at the Department of Public Safety?

13 A. Very much so.

14 Q. How are you aware of it?

15 A. There are allegations alleged against Captain  
16 Ayers in February of 1987. February 20 of 1987 Director  
17 Milstead and I spoke, and he said that since his former  
18 wife had been a subordinate of Captain Ayers, that he  
19 should have nothing to do with that investigation, and  
20 told me to handle it and he did not want to be involved.

21 So we completed an investigation on June 4th.

22 Q. Were you in charge of that investigation?

23 A. Yes, I was.

24 Q. This is personal knowledge you are giving us?

25 A. Yes, it is.

1 Q. Please proceed.

2 A. Captain Ayers had several meetings with  
3 Governor Mecham. That was also one of the issues we  
4 discussed with Mr. Steiger. He held a press conference on  
5 June 4th outlining a lot of allegations against the  
6 Department of Public Safety.

7 MR. LEONARD: Mr. Presiding Officer, could we find  
8 out who "he" is? Who held the press conference?

9 BY MR. FRENCH:

10 Q. In connection with that, you just said to  
11 whom are you speaking about?

12 A. My apologies. Former Captain Ayers met with  
13 Governor Mecham and held a press conference on June 4th.  
14 On June 4th I terminated his employment. He appealed that  
15 employment to the Law Enforcement Merit System Council.  
16 Through many months of discussion and negotiation and  
17 allegations, we settled that on January 21 of this year,  
18 at which time a press release was issued by the department  
19 and Captain Ayers.

20 Q. Has Captain Ayers ever acknowledged the fact  
21 that the Department of Public Safety was justified in its  
22 investigation?

23 A. Yes, he has. That press release put out  
24 jointly by the department and former Captain Ayers, he  
25 indicated that he had held a press conference. He had

1 gone to Governor Mecham with some allegations and that he  
2 was incorrect in that, that he was mistaken, and that the  
3 Department of Public Safety was justified in its  
4 investigation of him.

5 Q. Did he then agree to resign from the  
6 department?

7 A. He agreed to resign effective the date of his  
8 termination, which we accepted.

9 Q. Did the Department of Public Safety, with the  
10 permission of Captain Ayers, make a press release  
11 regarding this matter?

12 A. Yes, we did.

13 MR. FRENCH: Could we have that marked, please.

14 BY MR. FRENCH:

15 Q. Lieutenant Colonel, I am going to hand you  
16 what has been marked Exhibit No. 41, and ask you if you  
17 can identify it.

18 MR. LEONARD: If the Presiding Officer, please,  
19 counsel for the Board of Managers has continued to follow  
20 a practice of introducing exhibits and we don't have  
21 copies of them. We don't even get the courtesy of them  
22 handing us a copy at the time they show them to the  
23 witness.

24 I would like to ask the Presiding Officer to  
25 instruct counsel, and we will certainly do it, that

1 wherever possible to at least give counsel for the  
2 opposite side copies of these exhibits a few minutes  
3 before they intend to identify them.

4 THE PRESIDING OFFICER: That would be helpful.

5 BY MR. FRENCH:

6 Q. Can you identify the exhibit?

7 A. Yes. It is a copy of the press release that  
8 we issued at the end of January, 1988.

9 Q. This is in connection with the conclusion of  
10 this matter?

11 A. Yes. This is in connection with the  
12 settlement between former Captain Ayers and the Department  
13 of Public Safety.

14 MR. FRENCH: We would move the admission of this  
15 exhibit.

16 MR. LEONARD: No objection.

17 THE PRESIDING OFFICER: There being no objection,  
18 it shall be admitted.

19 BY MR. FRENCH:

20 Q. Colonel Phelps, there was testimony from  
21 Governor Mecham and from others during the course of  
22 respondent's case concerning the evaluation of threats,  
23 whether they are serious or not serious. In connection  
24 with threats and investigations thereof, have you been  
25 involved personally in those during the course of your

1 career?

2 A. Yes, I have.

3 Q. If it is an oral threat made by one person to  
4 another, what are the basic things you need to evaluate  
5 the seriousness of the threat?

6 A. You need to know the words that were said.  
7 You need to know the context they were given in, the  
8 inflection. As I said, you need to know what was said  
9 between the parties and basically do an investigation and  
10 look into it.

11 Q. Is there any way you can adequately evaluate  
12 a threat without knowing the words?

13 A. I don't know how.

14 Q. Could you conclude that a threat is hot air  
15 without knowing the words?

16 A. I don't know how.

17 Q. There's also been some testimony concerning  
18 the need to, or the lack of, or the reasons why Donna  
19 Carlson was not immediately notified of the threat.

20 Based on your experience and under the  
21 circumstances of this case, do you feel that she should  
22 have been notified immediately?

23 A. Had I been the investigating officer -- as I  
24 think I testified to earlier, it was an Attorney General's  
25 case and turned over to him. However, had I been in

1 charge of the investigation, I probably would not have  
2 notified Mrs. Carlson until after she testified on Monday.

3 Q. Why not?

4 A. Well, I think by notifying her we did exactly  
5 the first thing that Mr. Watkins wanted to accomplish, to  
6 scare her to influence her testimony.

7 I think, as I said earlier, my perception of  
8 the threat was two-fold: It was a threat against her  
9 testimony and attempt to influence her when she went to  
10 the grand jury the following week. If she did not testify  
11 as Mr. Watkins wanted her to, then her life was in danger,  
12 so I felt it was basically Mr. Watkins' purpose to tell  
13 Peggy, knowing she was Donna Carlson's friend, get the  
14 word to Donna and scare her and make her change her  
15 testimony.

16 If I would start the investigation right  
17 away, and I think I need to emphasize an investigation is  
18 simply looking for the words and the facts to make a  
19 determination of whether or not the threat was real. Our  
20 effort over the weekend was to try to get an investigation  
21 going, and I don't believe I would have informed her,  
22 because I would have accomplished his purpose. I would  
23 have started protecting her after she testified.

24 MR. FRENCH: Thank you, Colonel.

25 THE PRESIDING OFFICER: You may cross-examine.

CROSS-EXAMINATION

1  
2 BY MR. LEONARD:

3 Q. Colonel, I don't know all the relevance of  
4 this, on a Friday afternoon at 3:15 --

5 But as a matter of fact, if Your Honor  
6 please, could I suggest maybe you want to take the break  
7 now? I probably have about 10 or 15 minutes, unless you  
8 want me to proceed and make it a little later today.

9 THE PRESIDING OFFICER: Well, if you have got 10 or  
10 15 minutes, maybe it would be appropriate at this time for  
11 our afternoon recess.

12 We will stand in recess until about 3:30.

13 (Recessed at 3:15 p.m.)

14 (Reconvened at 3:35 p.m.)

15 THE PRESIDING OFFICER: Thank you, ladies and  
16 gentlemen. The record will show the presence of a  
17 majority of the Board of Managers, their counsel, and  
18 counsel for the respondent.

19 We will resume with the questioning of  
20 Colonel Phelps on cross-examination.

21 BY MR. LEONARD:

22 Q. Colonel Phelps, I would like to take a few  
23 minutes and go into the Ayers matter with you. We haven't  
24 talked about that before today.

25 I believe you said that this occurred in

1 February of 1987. Am I right or wrong about the date,  
2 when this issue arose?

3 A. The internal investigation started, as I  
4 recall, February 6th, 1987.

5 Q. And you personally took charge of the  
6 investigation?

7 A. I oversaw the unit that was investigating it  
8 and made all the department decisions concerning it, yes.

9 Q. What was the investigation about?

10 A. I may have to ask legal counsel, I need some  
11 legal advice here.

12 THE PRESIDING OFFICER: Maybe you better speak to  
13 the Board of Managers.

14 THE WITNESS: My attorney is the Attorney General.

15 MR. ECKSTEIN: Mr. Presiding Officer, I think I  
16 know what the problem is. I believe that there was a  
17 settlement agreement in this matter, that the details of  
18 the investigation were placed under seal, and I believe  
19 that is the reason that Lieutenant Colonel Phelps is  
20 having some problem responding to this question, knowing  
21 whether he should respond to the question in view of the  
22 settlement agreement and the sealing of the details of the  
23 investigation.

24 THE PRESIDING OFFICER: Is that correct, Colonel?

25 THE WITNESS: Correct.

1 BY MR. LEONARD:

2 Q. Colonel, so that to get you out of the  
3 dilemma, I don't want you to tell me anything that you  
4 feel would be covered by any kind of a secrecy agreement.  
5 I understand that is what it is.

6 Was part of the settlement under seal in some  
7 way?

8 A. The settlement agreement said that we would  
9 limit our comments to the press release, that there was an  
10 investigation, it was justified, and former Captain Ayers  
11 would resign June 4th, and we would keep the details of  
12 the investigation protected out of his personnel file and  
13 protected from, unless requested by court orders.

14 Q. Is he still employed by the department?

15 A. He is not. He resigned June 4th, 1987.

16 Q. Was that a voluntary resignation or was it  
17 pursuant to the settlement?

18 A. It was in accord with the settlement. I  
19 believe it is explained in the press release. We withdrew  
20 the termination, he submitted a letter of resignation, and  
21 we accepted it.

22 Q. I believe in your direct testimony you stated  
23 that it had to do, however, with the fact that he had  
24 meetings with Governor Mecham.

25 A. Not at all.

1 Q. You made reference to meetings with Governor  
2 Mecham. What did you mean by that?

3 A. He stated in his press release that he had  
4 taken some allegations to Governor Mecham regarding  
5 misconduct on the Department of Public Safety, and that it  
6 was unjustified and investigated him. He admitted that  
7 upon reflection that he was mistaken, that the Department  
8 of Public Safety was justified in investigating him.

9 Q. Well, are you quarreling with my use of the  
10 term, "have meetings with Governor Mecham" as opposed to  
11 your characterization that he "took things to Governor  
12 Mecham," is that the idea?

13 A. He took some issues to Governor Mecham that  
14 had nothing to do with his termination. He went public in  
15 June of 1987, made a press release, went to Governor  
16 Mecham, made allegations against the department in regard  
17 to the investigation, that he later admitted he was wrong.

18 Q. He was wrong with respect to the allegations,  
19 or wrong in taking them to Governor Mecham?

20 A. Wrong in regard to the allegations.

21 Q. The allegations were false, is that your  
22 testimony?

23 A. I believe the press release should spell it  
24 out, that he made some public statements and took some  
25 matters to Governor Evan Mecham regarding the motivation

1 of the Department of Public Safety in investigating him;  
2 he later realized that he was wrong; that the Department  
3 of Public Safety was justified in investigating him. The  
4 investigation had nothing to do with any meetings with  
5 Governor Mecham.

6 Q. How did this so-called settlement come about?  
7 Was there a lawsuit?

8 A. He had filed an appeal with our personnel  
9 board, the Arizona Law Enforcement Merit System Council.  
10 We were proceeding to a hearing, and as in many actions in  
11 cases the parties sat down and agreed to resolve the  
12 differences in this case.

13 Q. That resolve included some kind of a sealed  
14 or secret agreement with the exception of the comments  
15 made in this press release, is that the idea?

16 A. We agreed that we would limit our comments to  
17 the press release and that the details of the  
18 investigation would be sealed; we would withdraw our  
19 termination and he would submit, he Captain Ayers, would  
20 submit a letter of resignation.

21 Q. How long did the process from the time you  
22 charged him with wrongdoing or began the investigation  
23 until the settlement agreement was reached, take?

24 A. Internal affairs investigation was started  
25 February 6th, 1987. It was placed on hold for awhile

1 while the Attorney General conducted a grand jury inquiry,  
2 and the settlement was signed on January 21, 1988.

3 Q. On November 13 of 1987 at about 10:00 that  
4 morning you made a determination a death threat had been  
5 made against the life of Donna Carlson, is that correct?

6 A. I made a determination that it appeared there  
7 were threats against Donna Carlson that needed to be  
8 investigated. I referred that investigation to the  
9 Attorney General's Office.

10 Q. But you necessarily made a determination that  
11 some crime had been committed, did you not?

12 A. I made a determination that there was an  
13 allegation that there was potential crimes that needed to  
14 be investigated.

15 Q. You came to that conclusion, however, without  
16 having the criteria that you testified to being met with  
17 any certainty in your own mind, did you not?

18 A. I'm sorry, I don't understand that question.  
19 What criteria?

20 Q. You testified on direct examination that  
21 there were certain criteria that needed to be established  
22 in the evaluation of a threat.

23 A. Correct.

24 Q. Those were what?

25 A. You needed to find out what the words were,

1 what was said, in what context it was given, attitude of  
2 the people, you had to know the words.

3 Q. But you didn't know any of that at 10:00 on  
4 Friday morning, the 13th of November of 1987, did you?

5 A. I had some of the words relayed to me, as we  
6 have already testified, through the chain of command. And  
7 the purpose of an investigation is to determine what  
8 happened and what was said, and what we were trying to do  
9 that weekend was get the allegations investigated prior to  
10 the start of the grand jury on Monday.

11 Q. Colonel Phelps, why was it that you were so  
12 anxious to get rid of this investigation and keep DPS out  
13 of it?

14 A. I was --

15 MR. ECKSTEIN: Objection; argumentative.

16 THE PRESIDING OFFICER: Overruled.

17 You may answer.

18 THE WITNESS: I was not anxious to get rid of it.  
19 I had two considerations: Number one, it was a grand jury  
20 investigation being conducted by the Attorney General of  
21 this state. If I sent DPS investigators out to start  
22 investigating this allegation without knowing who the  
23 players are, without all the issues, I would go around  
24 turning over rocks and things that might interfere with  
25 the Attorney General's investigation. So the person that

1 knew all the players, the person that knew how to handle  
2 it, I felt, was the Attorney General. I did not even know  
3 where Donna Carlson was at that time, and so in no way was  
4 I going to send DPS investigators to investigate it.

5 Secondly, it involved the security detail of  
6 the Governor. We have tried and tried to keep them out of  
7 matters on the ninth floor. There was nobody on the ninth  
8 floor anymore loyal and closed mouth in regard to the  
9 activities up there than Lieutenant Johnson and his  
10 detail, and I did not want to see them involved in this  
11 issue.

12 So I was trying to protect him and the detail  
13 and trying not to mess up the Attorney General's  
14 investigation.

15 Q. You knew where Lee Watkins and Peggy Griffith  
16 were though at 10:00 Friday morning November 13, 1987,  
17 didn't you?

18 A. Yes.

19 Q. Weren't they the only witnesses to whether or  
20 not there was in fact a threat?

21 A. Yes.

22 Q. So knowing where Donna Carlson was at that  
23 time wouldn't have had any impact on the investigation,  
24 would it?

25 A. Had to understand that from a security

1 standpoint it would be important to know that.

2 Q. To know what?

3 A. Where Donna Carlson was. The whole  
4 circumstances, I knew where none of the players were, I  
5 knew none of the issues involved in the grand jury, and  
6 any interference by a DPS investigator could possibly  
7 injure something the Attorney General was doing.

8 Q. But, Colonel, isn't it a fact that the reason  
9 that you didn't concern yourself about Donna Carlson's  
10 safety was that you had already made a determination at  
11 10:00 on Friday morning, November 13 of 1987, that Lee  
12 Watkins had threatened Donna Carlson in order to influence  
13 her testimony before the grand jury?

14 MR. ECKSTEIN: Objection; argumentative.

15 THE PRESIDING OFFICER: Overruled.

16 You may answer, if you can, sir.

17 THE WITNESS: That was my perception of the events.  
18 An investigation is to determine the facts and get the  
19 words and the statement down. From the words that were  
20 relayed to me to the environment we were operating in with  
21 a grand jury that was my determination, yes. That's what  
22 I felt was going on, yes.

23 BY MR. LEONARD:

24 Q. You admit that you didn't know what the words  
25 were, is that fair?

1 A. That is fair. I did not know all the words.

2 Q. You didn't know the context in which the  
3 words were spoken, is that fair?

4 A. That's fair.

5 Q. You didn't know the inflections which were  
6 used by Lee Watkins when he allegedly made the statement,  
7 is that fair?

8 A. That's fair.

9 Q. You didn't know actually what was said as  
10 between the two parties?

11 A. That's fair.

12 Q. Now, when Watkins originally came to you, I  
13 think you said on December 1st of 1986, and made the  
14 statement that he was going to be the Governor's  
15 legislative liaison, he mentioned to you at that time that  
16 he had a criminal record, is that right?

17 A. He had -- I was in Colonel Chilcoat's office.  
18 We were both there. He had a letter from the federal  
19 parole board. He indicated he served time in prison. He  
20 wanted us to know the record had been expunged as a  
21 youthful offender, correct.

22 Q. Colonel Phelps, isn't it true that the  
23 federal government and many states have statutes which  
24 expunge youthful offender records?

25 A. I'm not familiar with statutes -- I believe

1 the federal government does, yes.

2 Q. You understand the philosophy of that, don't  
3 you, the reason for it?

4 A. Yes.

5 Q. And the reason for it is that legislatures  
6 and the federal legislature have concluded that when  
7 people who are young make a mistake and they pay the price  
8 for it, that that record gets expunged as if it never  
9 existed, isn't that correct?

10 A. I believe that's my understanding, yes.

11 Q. But your computer system, Colonel Phelps,  
12 continues to carry those records, even though they are  
13 officially expunged, is that right?

14 A. That is not right.

15 Q. Well, how did you, how could you verify this  
16 conviction on Watkins, the youthful offender conviction?

17 A. It is a part of a national record in the  
18 National Crime Information Center that is maintained by  
19 the F.B.I.

20 Q. Even though the law provides that that  
21 conviction is expunged and is no longer an official public  
22 record, it continues to be carried in the computer system  
23 that's run out of Washington, is that right?

24 A. It's currently listed on what is called his  
25 FBI rap sheet, yes.

1 Q. But you know that as a matter of fact that  
2 that record is officially expunged, don't you?

3 A. I saw the letter from the federal prison or  
4 Board of Pardons, I believe, which stated that his record  
5 was expunged as a youthful offender, yes, I saw that  
6 letter.

7 Q. Colonel Phelps, as a law enforcement officer,  
8 didn't you feel you had some obligation to enforce the  
9 federal law that says that that is no longer to be  
10 considered a criminal offense on the part of Lee Watkins?

11 A. I am not responsible for how the federal  
12 government maintains its records. That information was  
13 relayed to the Governor.

14 Q. It is not your job?

15 A. Not that I am aware of.

16 Q. Just like you didn't consider it your job to  
17 pick up the phone and call the Governor and advise him  
18 that he might be violating a grand jury process by  
19 protecting Lee Watkins, is that right?

20 MR. ECKSTEIN: Objection; argumentative.

21 THE PRESIDING OFFICER: Overruled.

22 You may answer.

23 THE WITNESS: I did not consider that appropriate.

24 BY MR. LEONARD:

25 Q. Did you know on November 13, 1987 that Sam

1 Steiger was no longer employed in the Governor's office?

2 A. Yes.

3 Q. And you had been dealing as a Deputy Director  
4 of DPS with the Governor's office through Sam Steiger, is  
5 that right?

6 A. Yes.

7 Q. Did it occur to you that Sam Steiger may not  
8 have communicated to anyone in the Governor's office that  
9 it was Watkins that had turned over the Curtis report to  
10 DPS?

11 A. I am not aware of what Mr. Steiger did or did  
12 not communicate in the Governor's office.

13 Q. Well, in addition to everything else you felt  
14 you knew about Lee Watkins, you also knew that in fact the  
15 turning over of the Curtis report to DPS was in and of  
16 itself a faithless act as far as the Governor was  
17 concerned, didn't you?

18 A. I do not know the circumstances under which  
19 Mr. Watkins got the report, and I don't know how the  
20 Governor felt about it.

21 Q. But you did know that Lee Watkins turned over  
22 a copy of the Curtis report to somebody in DPS?

23 A. Yes.

24 Q. As a matter of fact, you and Colonel Milstead  
25 discussed that on the airplane with Sam Steiger?

1 A. Yes.

2 Q. Did you consider that act by Watkins to be an  
3 act of faithlessness to the Governor.

4 MR. ECKSTEIN: Asked and answered; objection.

5 THE PRESIDING OFFICER: Sustained.

6 BY MR. LEONARD:

7 Q. So that on November 13 you knew not only of  
8 all of these reports as well as both official and  
9 unofficial with respect to Lee Watkins' background, but  
10 you also knew that at least on one instance he had engaged  
11 in an act of faithlessness to the Governor?

12 MR. ECKSTEIN: Objection; argumentative and  
13 misrepresents the witness' testimony.

14 THE PRESIDING OFFICER: Sustained.

15 BY MR. LEONARD:

16 Q. You did know about both his criminal  
17 background as well as other allegations that were in the  
18 nature of violent acts with respect to Lee Watkins, did  
19 you not, Colonel?

20 A. Yes, I did.

21 Q. You also knew that he had turned over the  
22 Curtis report to DPS?

23 A. Yes, I did.

24 Q. But it didn't occur to you on that day,  
25 November 13, that in spite of that background, knowing

1 that background about Lee Watkins, that you should notify,  
2 yourself, somebody in the Governor's office that this  
3 matter between Peggy Griffith and Lee Watkins could be  
4 more serious than they seemed to be taking it?

5 A. I feel like we made every effort to notify  
6 people in the Governor's office that this was a serious  
7 matter.

8 Q. Colonel, my question was: You, not "we,"  
9 "I," not "we," you yourself.

10 A. Did I personally contact anybody in the  
11 Governor's office, is that the question?

12 Q. I said you didn't think in light of that  
13 background it was serious enough for you personally to  
14 make direct contact with the Governor.

15 MR. ECKSTEIN: Objection; argumentative.

16 THE PRESIDING OFFICER: Sustained.

17 MR. LEONARD: Could I have just one moment, Your  
18 Honor?

19 THE PRESIDING OFFICER: Certainly.

20 (Pause in the proceedings.)

21 MR. LEONARD: I have no further questions.

22 THE PRESIDING OFFICER: Redirect?

23 MR. FRENCH: No redirect.

24 THE PRESIDING OFFICER: May this witness be excused  
25 subject to recall?

1 I am sorry, the Senators have an opportunity.  
2 Questions by the Senators? They are being  
3 awfully quiet.

4 I don't see any questions by the Senators, so  
5 you are excused, sir, subject to being recalled, if  
6 necessary.

7 Don't leave the country.

8 THE WITNESS: Yes, Mr. Presiding Officer.

9 MR. FRENCH: Mr. Presiding Officer, I would like to  
10 recall Lieutenant Beau Johnson.

11 THE PRESIDING OFFICER: We will remind you, sir,  
12 you are still under oath.

13 THE WITNESS: Yes, sir.

14

15 CHARLES R. JOHNSON,  
16 a rebuttal witness herein, after having been previously  
17 duly sworn, was examined and testified as follows:

18

19 DIRECT EXAMINATION

20 BY MR. FRENCH:

21 Q. Mr. Presiding Officer, members of the Court,  
22 please identify yourself for the record.

23 A. Yes. My name is Lieutenant Beau Johnson.

24 Q. With the Department of Public Safety?

25 A. Yes, sir.

1 Q. There has been testimony which I am sure you  
2 are aware of concerning the so-called Curtis report.

3 A. That's correct.

4 Q. Lieutenant Johnson, did you have anything to  
5 do with the delivery of the Curtis report to the  
6 Department of Public Safety?

7 A. None whatsoever.

8 Q. Did you, at the time it was delivered, even  
9 know it was delivered?

10 A. Had no idea, sir.

11 Q. You had nothing to do with the transportation  
12 or taking of that document from the ninth floor?

13 A. That's correct, sir.

14 Q. There has been some testimony by the  
15 respondent in connection with the words that were spoken  
16 concerning felony. I would like for you to tell the Court  
17 who you told there was a felony, and how many times.

18 A. I told the Governor once.

19 Q. Who was with you?

20 A. I walked in the Governor's office with  
21 Mr. Burke, Mr. Craft, myself; stood in front of the  
22 Governor's desk; Governor was standing behind his desk;  
23 and I went on to explain the story that I had heard from  
24 Officer Martinez, that Peggy Griffith had been stopped in  
25 the parking lot couple days before and that Lee Watkins

1 had told her to tell her little whore friend Donna Carlson  
2 to keep her mouth shut, that if she did not, that  
3 something might happen to her, maybe not now, maybe in the  
4 spring, that she would go on a long boat ride.

5 At the conclusion of that statement I said it  
6 is a possible felony to tamper or influence a grand jury  
7 witness.

8 Q. Did the Governor hear you?

9 A. As far as I know he did. He didn't ask me to  
10 repeat the statement or my story.

11 Q. Mr. Craft hear you?

12 A. I assume so.

13 Q. Did Mr. Burke hear you?

14 A. I believe he did, yes.

15 Q. Did you have occasion to repeat the aspect  
16 about the felony and the grand jury to anyone else at any  
17 other time? If so, who?

18 A. Yes, I did. Once, originally the first  
19 person I reported this to was, of course, as I testified  
20 earlier, was Mr. Burke. And again, I went over the story,  
21 I went over that it was a possible felony to tamper or  
22 influence a grand jury witness. I explained that to  
23 Mr. Craft after I told Mr. Burke, and again at that time I  
24 related the story to the Governor, with Mr. Burke and  
25 Mr. Craft present.

1 Q. That's three times?

2 A. That's once with -- excuse me, twice with  
3 Mr. Burke in my presence, twice with Mr. Craft, once with  
4 the Governor.

5 Q. Each time was the term felony used?

6 A. Yes, possible felony.

7 Q. And grand jury?

8 A. And grand jury witness.

9 Q. Did you have occasion to repeat that to  
10 anyone else following that?

11 A. Yes. As I testified earlier, I called  
12 Mr. Burke on Saturday. I didn't go through the story  
13 again, I just expressed my concern that again this was not  
14 being taken serious enough, that it involved a possible  
15 felony because it was an influencing or tampering with a  
16 grand jury witness.

17 Now, I said the same thing to Mr. Craft on  
18 Sunday morning, again, I think it was 7:30 to 8:00, that I  
19 was concerned not enough was being done, and that it  
20 involved a possible felony, and I wanted to make sure I  
21 fulfilled my responsibilities as a police officer.

22 Q. Did Mr. Craft seem to understand?

23 A. Mr. Craft, I believe, said that he, at  
24 sometime I guess since Friday, sometime between Friday and  
25 Sunday had talked, I believe, to Peggy Griffith, and that

1 he was aware of the situation. And I don't remember  
2 whether he said "don't worry about it," but something that  
3 I could feel at ease about, it would be taken care of,  
4 something to that effect. I do not remember exactly what  
5 he said.

6 Q. But on each of those occasions you used the  
7 term felony?

8 A. Yes, sir.

9 Q. And the grand jury situation?

10 A. Yes, sir, I did.

11 Q. Is there any doubt in your mind about that?

12 A. None whatsoever.

13 Q. During the course of the respondent's case,  
14 Lieutenant Johnson, there were questions concerning  
15 someone who was on your detail, and I believe the name was  
16 Wence Camacho?

17 A. That is correct.

18 Q. Are you familiar with that person?

19 A. Yes, I am.

20 Q. Who is he?

21 A. Wence Camacho, Arizona Department of Public  
22 Safety.

23 Q. How long has he been an officer with the  
24 Department of Public Safety?

25 A. I want to guess somewhere between 10 and 12

1 years, I believe, no more than that.

2 Q. Was he at one point in time on the security  
3 detail?

4 A. Yes, he was, for a month or a month and a  
5 half during the administration of Governor Mecham.

6 Q. Were you in charge of that detail at the  
7 time?

8 A. Yes, I was.

9 Q. Was he a good officer?

10 A. Very good officer, yes, he was.

11 Q. Did the Governor ever inquire of you about  
12 Mr. Camacho?

13 A. Yes, he did.

14 Q. Did you have occasion to occasionally drive  
15 the Governor yourself?

16 A. Yes. I testified to this earlier, that about  
17 every month, month and a half, I would purposely go on a  
18 trip with the Governor out of town, or drive him from his  
19 house to the office or maybe from the office to various  
20 activities. It was during that time that I would discuss  
21 with the Governor if he had any problems with our detail,  
22 how it was going, did he have any problems with any of the  
23 individuals on our detail, if he had any suggestions on  
24 how things ought to be done. I tried to do that as much  
25 as I could. Again, I think it was about every month,

1 month and a half.

2                   And I don't remember who told me, but it was  
3 sometime in January, I would say the end of January, first  
4 part of February, that one of the members on my detail  
5 said that -- and it might have been the sergeant at that  
6 time -- that the Governor was having maybe some problems  
7 with Wence. So I stuck that in my mind, and I don't  
8 remember --

9                   MR. LEONARD: Could we ask counsel to do this by  
10 question and answer instead of by narrative from the  
11 witness?

12                   MR. FRENCH: I'll be happy to ask a question.

13                   THE PRESIDING OFFICER: Pick it up on question and  
14 answer.

15                   MR. FRENCH: Yes, sir.

16 BY MR. FRENCH:

17                   Q. Was it during one of these periods when you  
18 were driving the Governor, that the Governor inquired of  
19 you about Mr. Camacho?

20                   A. Yes.

21                   Q. What did he ask you?

22                   A. He asked me if Wence Camacho had any black  
23 blood in him.

24                   Q. Did the Governor subsequently ask that you  
25 transfer Mr. Camacho from the detail?

1           A.       Well, the Governor went on to say that he  
2 didn't think that Wence was happy with him. And as I was  
3 about to say earlier, apparently the Governor had been  
4 asking Wence Camacho about what he thought about the  
5 Martin Luther King holiday, and I don't know exactly how  
6 Mr. Camacho answered, but apparently Mr. Camacho  
7 hesitated, that said something that brought to the  
8 Governor's mind that might be a problem with Wence's views  
9 on the holiday, so I assume that is what precipitated this  
10 comment or this question by him.

11                 I responded to the Governor that, no, he did  
12 not have any black blood, that he was full blooded  
13 Hispanic, as far as I knew, and that it is hard to get to  
14 know Wence Camacho; if you had any problems with Wence,  
15 Wence is kind of a quiet guy, little surly looking,  
16 excellent officer, traveled in and out of this state on  
17 numerous occasions with another Governor, wonderful job,  
18 had an outstanding performance rating, and that I thought  
19 if he would just give him a couple months, that he would  
20 find that he would be an asset to that detail.

21                 The Governor responded that, no, I think  
22 Wence might be happier someplace else, so with that we  
23 made arrangements to transfer Officer Camacho.

24           Q.       He was transferred?

25           A.       Yes, he was.

1 Q. Did there come a point in time when you felt  
2 your relationship with the Governor was slipping?

3 A. Yes, sir.

4 Q. Can you tell us when that was in time?

5 A. I don't remember exactly. I want to say  
6 probably April, May and the Governor said something to me  
7 one morning driving him to the office, "Beau, don't get  
8 too close to your department," meaning DPS, "or Colonel  
9 Chilcoat."

10 I was really surprised by that. I don't  
11 believe I responded back one way or the other to that  
12 statement that he made, but I was a little taken aback,  
13 because I worked for the Department of Public Safety and  
14 my supervisor is Lieutenant Colonel Chilcoat, and it was  
15 kind of hard, I didn't know how to react really, but I  
16 knew at that point there was some questions in his mind  
17 about Colonel Chilcoat and/or my department.

18 Q. Did your relationship start to change as a  
19 result of any orders from the Governor to you in  
20 connection with how close the press should be to him?

21 A. I would say during the course of my time up  
22 there, which was 10 months, I never really had any  
23 problems as far as criticism from the Governor and the way  
24 I was running the detail.

25 Yes, there was some fine tuning, but nothing,

1 I think, of major importance. I don't think he ever told  
2 me there was any problem the way we were doing things.

3           However, I want to say it was in  
4 September-October, I think it was just about the time when  
5 the Wolfson loan issue came out in the papers, and he was  
6 gaining even more attention as far as the press at all of  
7 his events, and I will admit there were times that it  
8 turned into a frenzy, and he had every right to feel a  
9 little nervous. But I think it was one day in his office  
10 he wanted to, he wanted me to put out a press release  
11 saying the press should and will stay back at least four  
12 feet at all times around him. Well, I was little  
13 uncomfortable with that, because I knew that would be very  
14 hard to enforce maintaining a four-foot radius at all  
15 times in our daily activities. I thought we would just  
16 about need a piece of chalk to enforce that.

17           I said that, yes, I would do something, but I  
18 was in a little disagreement with the number four feet.

19           He got a little bit angered by that. I think  
20 he felt maybe that I was not supporting him, and that I  
21 just felt that -- he became a little angry and I can't  
22 remember his exact words, but that is the first time he  
23 ever really raised his voice with me.

24           So -- that's all I remember.

25           Q.    Lieutenant, would you at any point in time

1 for anybody intentionally lie under oath?

2 A. Would not.

3 Q. Have you lied in this case?

4 A. Have not.

5 Q. Have you lied before the House of  
6 Representatives?

7 A. I have not.

8 MR. FRENCH: Thank you.

9 THE PRESIDING OFFICER: You may cross-examine.

10

11

CROSS-EXAMINATION

12 BY MR. CRAFT:

13 Q. Lieutenant Johnson --

14 A. Yes.

15 Q. -- I only have a few questions.

16 Did you know that Lee Watkins was the person  
17 that had delivered the Curtis report to the Department of  
18 Public Safety?

19 A. Yes --

20 MR. ECKSTEIN: Excuse me.

21 THE WITNESS: Yes, I did know.

22 BY MR. CRAFT:

23 Q. Did you ever see the Governor do any action  
24 or take any action or hold any meetings on the Curtis  
25 report matter?

1 A. I don't remember. No, I don't believe so.

2 Q. Did you ever hear of anybody advancing that  
3 document or the content of it at all?

4 A. No, sir.

5 Q. Was that document, the Curtis report, if it  
6 had been embraced, could that be characterized as a  
7 breakup, in essence, or reshuffling completely of the  
8 Department of Public Safety?

9 A. You know, at the time that that report, the  
10 day that I learned that that report had been delivered to  
11 Colonel Chilcoat, I didn't know the contents of that  
12 report. I knew it had something to do with the, yes, the  
13 reorganization, whatever else regarding the Department of  
14 Public Safety, that's all I knew. I knew very little  
15 about it.

16 Q. If there was a major reorganization of the  
17 department, you would know whether that concerned the  
18 department, wouldn't you?

19 A. Yes, I didn't know whether it was major, but  
20 I am sure that would have concerned the department, yes,  
21 sir.

22 Q. Why didn't you tell the Governor that you  
23 knew that Lee Watkins had taken a private document, a  
24 confidential document, not the Governor's document but  
25 something sent to him? Why didn't you tell the Governor

1 that?

2 A. Well, I am trying to remember back my state  
3 of mind at that time regards to what I was thinking.

4 I knew that Lee Watkins had on occasion made  
5 contact with Colonel Chilcoat and regards to usually I  
6 think prior to that time. I think the time that I found  
7 out that Lee Watkins had delivered that report was  
8 sometime in the middle of April. And part of that time,  
9 of course, he was in charge of the drug program for the  
10 Governor, and during that time he had, Mr. Watkins had a  
11 number of contacts on the phone and made personal contact  
12 with Colonel Chilcoat in regards to that position. I  
13 think he was asking for equipment, phone for his car and  
14 whatever else.

15 And I remember one day Colonel Chilcoat told  
16 me, I think it was April or may have been April, first  
17 part of May, that he informed me that Lee Watkins had  
18 delivered him a copy of a Thad Curtis report. I thought  
19 that was a little unusual, but then again, I knew they had  
20 talked.

21 I must say that I assumed that it was  
22 probably a sensitive document that might, if it got out,  
23 would embarrass the Governor, but, I left that to Colonel  
24 Chilcoat and others above him. And, again, that was an  
25 assumption that they would notify the Governor's office --

1 which I just found out; I didn't know until today -- that  
2 they did.

3 Q. You know that word that you are using,  
4 assumptions, you know today in retrospect, and again, we  
5 have all got hindsight, we are looking at it under a  
6 microscope to events that occurred four or five months  
7 ago, and we have made, we have heard the word assumption,  
8 we have heard a lot of Colonel Phelps, we have it from  
9 you, we have heard it from others.

10 The intent that one gets is colored by  
11 certain assumptions that we have. I walk up to my wife  
12 and I say I love you, she has certain assumptions; I walk  
13 up to somebody on the street and I say I love you, they  
14 have certain assumptions.

15 Would you agree with me, Lieutenant Johnson,  
16 that assumptions in this situation are sometimes dangerous  
17 to make unless we really know some things?

18 MR. ECKSTEIN: Objection; argumentative and the  
19 question really is more of a speech than a question.

20 THE PRESIDING OFFICER: Sustained.

21 BY MR. CRAFT:

22 Q. You watched Lee Watkins' behavior over all  
23 the time you were involved and he was involved with the  
24 Governor his comings and goings?

25 A. Yes, sir.

1 Q. You knew he didn't work up on the ninth  
2 floor, didn't you?

3 A. That is correct.

4 Q. Did you think it was strange when all of the  
5 FBI, they checked, NCIC, the National Crime Information  
6 Centers, computer records, that the only one that wasn't  
7 checked was Lee Watkins? Did you know that he was the one  
8 that hand carries to DPS and tries to get himself cleared  
9 of that NCIC check, did you know that?

10 A. No, sir, I did not.

11 MR. ECKSTEIN: Objection; compound. There were  
12 three questions there.

13 THE PRESIDING OFFICER: Objection is overruled.

14 BY MR. CRAFT:

15 Q. The Governor has testified that the slip that  
16 you brought him, and I believe that is what you did, you  
17 brought him a slip of some kind that said, would you  
18 describe what those slips are relative to these security  
19 checks?

20 A. Well, sometimes they come in the form of like  
21 a two-by-six slip of paper, or sometimes they come with  
22 multiple names on an eight and a half by eleven piece of  
23 paper. I am not sure whether it was on a slip or large  
24 piece of paper, but, yes, it had the person's name, the  
25 charges, and sometimes disposition and so forth.

1 Q. Now, with regard to Lee Watkins, the Governor  
2 has testified that he didn't know any of Lee Watkins'  
3 background when he first appointed him as the drug  
4 coordinator. Did you hear that testimony?

5 MR. ECKSTEIN: Objection; I believe that misstates  
6 Governor Mecham's testimony. He did not testify that he  
7 did not know any of Lee Watkins' background.

8 MR. CRAFT: I am talking about with regard to a  
9 criminal background.

10 THE PRESIDING OFFICER: Sustained.

11 I think you can rephrase that, counsel.

12 MR. CRAFT: All right.

13 BY MR. CRAFT:

14 Q. Governor Mecham testified here that when Lee  
15 Watkins was appointed his coordinator, which must have  
16 been around December, January for his drug alliance  
17 program?

18 A. I am sorry, I don't remember when he was  
19 appointed. But you are close, probably.

20 Q. When was the first time that you took the  
21 Governor any information about Lee Watkins criminal  
22 background?

23 A. I would say I think I testified I believe it  
24 was sometime during the month of January, I believe, sir.

25 Q. And the Governor testified that what you

1 provided him had to do with a misdemeanor charge that had  
2 taken place about 20 years before?

3 A. I don't remember exactly. It involved an  
4 assault that may have been plea bargained down to a  
5 misdemeanor, and also there was a robbery on there.

6 Q. Governor says he was not aware of a robbery.

7 A. I know that. And I testified earlier that  
8 there was a robbery and an assault on that piece of paper  
9 that he was given in January.

10 Q. That there was two pieces of information?

11 A. No. Both charges were on the one slip of  
12 paper. There was a robbery charge and also an assault  
13 charge.

14 Q. You are saying that the Department of Public  
15 Safety, after Lee Watkins went to DPS, Colonel Phelps has  
16 just testified, Lee Watkins told DPS that he had a  
17 youthful offender record that had been expunged?

18 A. I wasn't aware of that until today.

19 Q. But you heard Colonel Phelps testify?

20 A. Yes, I heard parts of it.

21 Q. Did you hear that portion of it?

22 A. I heard something about Lee Watkins coming to  
23 him or someone in upper management about that information,  
24 yes.

25 MR. ECKSTEIN: Mr. Presiding Officer, the last 10

1 or so questions have dealt with matters that were not  
2 raised on direct. Cross-examination with respect to a  
3 rebuttal witness ought to be limited, and is limited as a  
4 matter of practice, to those matters that are raised on  
5 direct. And I would object to any further questions in  
6 areas that were not brought up on direct with respect to  
7 the rebuttal testimony.

8 THE PRESIDING OFFICER: That's correct, counsel.  
9 I'll allow the answers that have been given to stand;  
10 however, let's continue our cross-examination based upon  
11 what the direct examination of this witness was.

12 BY MR. CRAFT:

13 Q. Did you ever think that Lee Watkins was  
14 trying to keep things back from the Governor?

15 A. I think that's -- I may have thought -- I  
16 didn't trust Mr. Lee Watkins.

17 Q. You didn't trust him and a lot of other  
18 people didn't either.

19 A. I am sorry --

20 Q. Are you aware that other people didn't trust  
21 him either?

22 A. I thought so, but I think after hearing all  
23 the testimony these past three weeks I believe now there  
24 were a lot more people that didn't trust him.

25 Q. You think the Governor should have trusted

1 him?

2 A. I can't speak for the Governor. I don't  
3 know.

4 Q. I mean, after you know now that he delivered  
5 the Curtis report to the Governor --

6 MR. ECKSTEIN: Objection; goes beyond the scope of  
7 direct. Objection for speculation.

8 THE PRESIDING OFFICER: Overruled.

9 You may answer if you can.

10 THE WITNESS: My personal opinion was that when I  
11 saw Mr. Watkins' record in January, no, I would not have  
12 trusted him, even though I didn't know him, not for the  
13 position that he was in, the position that he was  
14 appointed to, I should say.

15 BY MR. CRAFT:

16 Q. After you knew that the Curtis report was  
17 delivered, didn't that tell you something else?

18 A. Yes, brought some questions to my mind, but,  
19 again, it was a matter that was handled by superiors.

20 Q. You made an assumption that your superiors  
21 would tell the Governor?

22 MR. ECKSTEIN: Objection; asked and answered.

23 THE PRESIDING OFFICER: Overruled.

24 You may answer if you can.

25 THE WITNESS: I am trying to remember. The best of

1 my recollection is that that was a matter that would be  
2 handled by Colonel Chilcoat and/or the director.

3 BY MR. CRAFT:

4 Q. I want you to look at Exhibit 2, please,  
5 which I think has been identified as your November the  
6 15th, 1987 statement that you prepared on Sunday the 15th  
7 at the Attorney General's request.

8 I want you to read the second paragraph.  
9 This document is in evidence, is it not? Yes.

10 I would like you to read the second paragraph  
11 of that report that you made on that Sunday relative to  
12 the conversation regarding Peggy Griffith, that you had on  
13 Friday, November the 13th, 1987.

14 A. Okay. It says: "Martinez went on to explain  
15 to me that Mrs. Griffith told him that Mr. Lee Watkins of  
16 the Department of Administration had walked up to her in  
17 the Governor's staff reserved parking lot in the late  
18 afternoon of Wednesday, November 11, and told her to tell  
19 Mrs. Donna Carlson to keep her mouth shut, and that if she  
20 didn't, some type of bodily harm could happen to her."

21 Q. Period?

22 A. Period.

23 Q. End of paragraph.

24 Read me the next sentence of the next  
25 paragraph.

1           A.       "Realizing a felony may have been committed  
2 by Mr. --"

3           Q.       Excuse me. "Realizing that."

4           A.       Excuse me. "Realizing that a felony may have  
5 been committed by Mr. Lee Watkins, I called my commanding  
6 officer, Lieutenant Colonel James Chilcoat, and asked him  
7 to listen to Martinez' explanation of his conversation  
8 with Mrs. Griffith."

9           Q.       Lieutenant Johnson, you testified just a few  
10 minutes ago, and I know you testified in the House and I  
11 know that you testified in the Senate previously, that you  
12 told the Governor that you used the word "felony." And  
13 you testified that you not only told the Governor that you  
14 used the word felony, but you used the words "possible  
15 grand jury witness," isn't that what you have testified?

16          A.       I think I testified that it was a possible  
17 felony that involved influencing or tampering with a grand  
18 jury witness.

19          Q.       Lieutenant Johnson, can you show me anywhere  
20 in your report that you wrote on November the 15th, that  
21 Sunday, where you affirm in writing what you told the  
22 Governor with regard to the word felony?

23          A.       Mr. Craft, I can only say that the main --

24          Q.       I asked you a direct question. Can you show  
25 me in your statement, please, sir, of November the 15th,

1 1987 where you used the word, where you told the Governor  
2 you used the word felony.

3 MR. ECKSTEIN: Objection; counsel is badgering the  
4 witness.

5 THE PRESIDING OFFICER: Well --

6 MR. CRAFT: I asked for a direct answer.

7 THE PRESIDING OFFICER: He can answer that  
8 question.

9 Go ahead.

10 THE WITNESS: Okay.

11 THE PRESIDING OFFICER: If it isn't in there, say  
12 so.

13 THE WITNESS: Okay. It's not in my report.

14 MR. CRAFT: Thank you.

15 BY MR. CRAFT:

16 Q. Would you show me where in your report you  
17 wrote down that you told the Governor that it was a  
18 possible grand jury witness.

19 A. It's not in my report.

20 Q. Can you show me where in the report you told  
21 Dr. Burke there was a felony?

22 A. It's not in the report.

23 Q. Can you show me where you told Mr. Craft that  
24 there was a felony?

25 A. It's not in my report.

1 Q. Is there anywhere in the report that you told  
2 anybody, "grand jury witness," "possible grand jury  
3 witness" or "felony"?

4 A. It's not in this report.

5 Q. Do you think that those things are relevant  
6 today, four months later?

7 A. If I may explain why they are not in my  
8 report --

9 Q. Well, I am just asking you: Don't you think  
10 today four months later -- my question, yes or no -- that  
11 you should have put that in your report?

12 MR. ECKSTEIN: Objection; question is  
13 argumentative.

14 THE PRESIDING OFFICER: Overruled.

15 You may answer.

16 BY MR. CRAFT:

17 Q. Yes or no.

18 A. Yes, it's relevant today. Yes.

19 Q. Thank you.

20 And likewise, I would like you, and I am not  
21 going to have it read back because I don't want to take  
22 the time because I think it is evident to show me where in  
23 your statement of the 15th which is the closest  
24 contemporaneous -- is there any other contemporaneous  
25 writing by you to describe what you heard and saw on that

1 Friday?

2 A. No, sir.

3 Q. You have no documents anywhere else?

4 A. No, sir.

5 Q. Can you show me, then, in your statement  
6 where you have used the words "going on a long boat ride"?

7 A. It is not in this report, sir.

8 Q. "It may not happen now, it may happen in the  
9 spring," is it in this report?

10 A. No, sir, it's not.

11 Q. None of those things are in this report, are  
12 they?

13 A. That's correct.

14 Q. You are a trained police officer, aren't you?

15 A. I think so, yes.

16 Q. Let me ask you one other area, and I think  
17 this is really a very important area, and it -- I am  
18 asking you this because I don't think there is anything  
19 sinister, and when I am saying this don't take what I am  
20 saying as sinister.

21 Our understanding of what Colonel Chilcoat  
22 testified was that he asked you to try to get ahold of  
23 Dr. Burke on Saturday because he didn't think this was  
24 being handled properly, and he was looking, and Colonel  
25 Phelps said they were looking for options as to how to

1 extract DPS out of this. Did you hear that testimony?

2 A. No, I didn't.

3 Q. That's what he testified here. He was  
4 looking for any way to get DPS out, because he knew the  
5 difficulty DPS had been put in, your security detail.

6 MR. ECKSTEIN: Objection; I believe that overstates  
7 his testimony. He was looking for a way, not any way.

8 THE PRESIDING OFFICER: Sustained.

9 BY MR. CRAFT:

10 Q. I think his statement was he was looking for  
11 options and he was trying to find alternatives. I believe  
12 that characterizes what he said.

13 In doing that, Lieutenant Johnson, he said  
14 that Colonel Chilcoat was instructed to tell you to call  
15 Dr. Burke and communicate with Dr. Burke that the  
16 Governor's office ought to take charge of this thing and  
17 that he should go to the Attorney General.

18 Do you remember Colonel Chilcoat ever telling  
19 you that that is what the purpose of your telephone call  
20 to Dr. Burke was?

21 A. I don't recall that. I just remember that  
22 Colonel Chilcoat wanted me to have Mr. Burke aware that  
23 this involved, again, a possible felony, that we thought  
24 more should be done in regards to this possible crime.

25 Q. And again, I accept that totally, but I am

1 trying to -- when you say "more should be done," we are in  
2 the weekend, right?

3 A. Yes, Saturday.

4 Q. What is it more that could have been done if  
5 you didn't tell Dr. Burke? What more could have been  
6 done?

7 A. Well, when I explained that to Mr. Burke,  
8 what was being done, all that was being done at the time  
9 was that it was being taken to Max Hawkins, it was being  
10 handled as an administrative matter. That is what I meant  
11 that all was being done, that we thought more should be  
12 done. I didn't mention anything about Mr. Hawkins'  
13 investigation, but we thought -- I told him that it was a  
14 felony, and we thought that a felony should not be handled  
15 solely by Mr. Max Hawkins doing an investigation on it.

16 Q. But aren't you leaving out the next  
17 ingredient, the next absolute essential element to this  
18 new Chief of Staff, which is Dr. Burke, the next step I  
19 want to tell you is: Why don't you, why don't you go to  
20 the Attorney General direct, that gets me off the hook?

21 A. I can't tell you why I didn't say that.  
22 Again, Mr. Burke is an attorney, ex-prosecutor, and I may  
23 have, again, assumed that he had that, that he would be  
24 aware of that.

25 Q. But --

1           A.     I don't remember.

2           Q.     Did you tell him that the Attorney General  
3 was investigating this matter?

4           A.     No, I did not, Mr. Craft.

5           Q.     You didn't even know at that time did you?

6           A.     I did not know.

7           Q.     You didn't know?

8           A.     I did not know.

9           Q.     But you were asked to be the conduit, the  
10 communication contact between the DPS and the higher  
11 echelon, Colonel Phelps and Colonel Chilcoat and Dr.  
12 Burke.

13          A.     I don't know if I was the sole messenger, but  
14 I was asked to do this and I did that. There may have  
15 been other things happening behind the scenes that I was  
16 not aware of. Yes, I made that phone call on Saturday.

17          Q.     Do you remember Colonel Phelps, did Colonel  
18 Phelps talk to you?

19          A.     No, sir.

20          Q.     It was only Colonel Chilcoat?

21          A.     That is correct.

22          Q.     He called you again and asked you, had you  
23 gotten -- he was very concerned about this, wasn't he,  
24 Colonel Chilcoat?

25          A.     Yes.

1 Q. Did he tell you to use the words "have Dr.  
2 Burke call the AG and get into this"?

3 A. I don't remember him saying that.

4 Q. Isn't that what he is implying should have  
5 been done?

6 MR. ECKSTEIN: Objection, objection; asking for the  
7 witness to speculate. And we are also, while we are in  
8 the same general area, this goes beyond what was asked  
9 precisely on direct. There was no direct testimony with  
10 respect to conversations with Lieutenant Colonel Chilcoat.  
11 It does go beyond it.

12 THE PRESIDING OFFICER: I don't think it is  
13 necessary to be following along the lines of that which is  
14 completely on direct, but it does sound like you are  
15 asking the witness to give an opinion on speculation, so  
16 I'll sustain that objection.

17 MR. CRAFT: Your Honor, the issue came up on direct  
18 examination about the conversation with Dr. Burke.

19 I am going to ask you the same thing about  
20 when you contacted Mr. Craft on Sunday. That was: Did  
21 you tell Mr. Craft this isn't being handled serious  
22 enough, you should go get involved personally to help DPS  
23 and help the Governor by talking directly with the  
24 Attorney General?

25 THE WITNESS: No, sir, I did not.

1 BY MR. CRAFT:

2 Q. Did you know then that the Attorney General  
3 was involved on Sunday?

4 A. Did not.

5 Q. Lieutenant Johnson, you worked with the  
6 Governor for ten months?

7 A. Correct.

8 Q. The issue of Mr. Camacho, who is a DPS  
9 officer, did you ever witness the Governor making  
10 determinations about any actions that he took based upon a  
11 racial consideration?

12 A. I think that was the only time that I was  
13 ever aware of him maybe coming close to making a decision  
14 regards to a racial issue or someone's race, that is the  
15 only time.

16 Q. Lieutenant Johnson, do you think that it's  
17 important to have the officer involved with the Governor  
18 and the Governor totally comfortable with one another?

19 A. Yes.

20 Q. For any reason whatsoever?

21 A. Yes.

22 Q. And in your opinion, is it a good thing to  
23 have either the officer uncomfortable or the Governor  
24 uncomfortable?

25 A. No. That is not a good way to conduct a

1 security detail.

2 Q. We have talked about what we thought the  
3 Governor was involved in on that. Did you ever have a  
4 conversation with Officer Camacho about the Governor?

5 A. Yes, sir.

6 Q. And did he ever share with you any concerns  
7 about the Governor?

8 A. Officer Camacho, yes, he did.

9 Q. What did he say about the Governor?

10 A. Officer Camacho was extremely, I mean  
11 extremely upset; he nearly went to an attorney after he  
12 was transferred and let go. He felt he was let go  
13 absolutely because of his race.

14 Q. Did he file a complaint?

15 A. No.

16 Q. When he was with your detail, did he talk to  
17 you and tell you what his feelings were about this new  
18 Governor when the Governor first took office?

19 A. I don't recall, Mr. Craft, him saying  
20 anything about the Governor.

21 Q. Did he make any comments to you ever during  
22 this period of time about him liking the Governor?

23 A. I don't recall one way or the other. I don't  
24 remember.

25 Q. You would admit, don't you --

1           A.     Excuse me. It was still early, it was only  
2 three weeks into his administration. I don't think it was  
3 long enough for him to make an opinion at that time.

4           Q.     But you have just formulated an opinion with  
5 regard to alluding to something that the Governor may have  
6 felt about Mr. Camacho. I am trying to probe you to find  
7 out whether or not Mr. Camacho had any kind of feelings  
8 about the Governor.

9           A.     I don't recall whether he had any feelings  
10 one way or the other until after he learned that the  
11 Governor was going to transfer him.

12          Q.     DPS officers have feelings, don't they?

13          A.     Yes, sir.

14          Q.     They have likes and dislikes, don't they?

15          A.     Sure.

16          Q.     They like certain Governors, don't they,  
17 personally?

18          A.     Probably some better than others, yes.

19          Q.     You formed an opinion about working for  
20 Governor Babbitt, didn't you?

21          A.     I have an opinion on all four Governors I  
22 have worked for.

23          Q.     Right.

24          A.     Sure.

25          Q.     That is a personal opinion, isn't it?

1 A. That is correct.

2 Q. You are entitled to that opinion, aren't you?

3 A. Yes.

4 Q. Likewise, if you didn't feel you could serve  
5 in that capacity for any one of those Governors, you  
6 probably would have removed yourself, wouldn't you?

7 A. I sure would have.

8 Q. Did Mr. Camacho volunteer to remove himself  
9 at all on this issue?

10 A. No, sir.

11 Q. But you are not aware of any feelings that he  
12 had at all toward Governor Mecham?

13 A. Not prior to him being transferred, no, sir.

14 Q. I only have one other area for you, and that  
15 is, you followed Governor Babbitt during how many years?

16 A. I want to say five years.

17 Q. How many for Governor Bolin?

18 A. Five months he was in office.

19 Q. And Governor Castro?

20 A. About two and a half years.

21 Q. When Governor Mecham took office and during  
22 his tenure, did he have a great deal of press interest?

23 MR. ECKSTEIN: Objection; goes beyond the scope of  
24 direct and irrelevant.

25 MR. CRAFT: No, it isn't.

1 THE PRESIDING OFFICER: Overruled. He may answer.

2 THE WITNESS: I am sorry, Mr. Craft, would you  
3 repeat that.

4 MR. CRAFT: I have even forgotten what it is  
5 myself.

6 Would the reporter read it back.

7 (Question read.)

8 THE WITNESS: That's correct.

9 BY MR. CRAFT:

10 Q. I mean a lot of press interest?

11 A. You are absolutely correct.

12 Q. Everywhere he went, just about, the press  
13 could get to him?

14 A. I would say beginning near the start of his  
15 administration, and even more so as the 10 months went on,  
16 yes, or probably reached a peak beginning around October  
17 and November.

18 Q. Is it a fair characterization that at times  
19 the press hounded him, followed him down hallways?

20 A. Yes.

21 Q. Trailed him?

22 A. Yes.

23 Q. Hit him with boom mikes and microphones stuck  
24 in his face?

25 A. On occasion we were all bumped, yes.

1 Q. Do you remember an occasion where he was hit  
2 in the mouth with microphone?

3 A. I remember where a microphone made contact  
4 with his mouth.

5 Q. Do you remember him asking to please stand  
6 back so that he would have some room and could answer?

7 A. That's correct, sir.

8 Q. Isn't that the context, Lieutenant Johnson,  
9 where he was asking for some kind of order to be brought  
10 out of this chaos?

11 A. That's correct.

12 Q. So that he could possibly respond?

13 A. That's correct. And I agreed with him.

14 MR. CRAFT: I thank you very much.

15 THE WITNESS: Thank you, sir.

16 THE PRESIDING OFFICER: Redirect.

17

18 REDIRECT EXAMINATION

19 BY MR. FRENCH:

20 Q. Lieutenant Johnson, do you have Exhibit 2 in  
21 front of you?

22 That is your report, is it not?

23 A. It is, sir.

24 Q. Would you read the subject of the report?

25 A. Yes. Conversations with and regarding Mrs.

1 Peggy Griffith on Friday, November 13, 1987.

2 Q. This report has nothing to do with your  
3 conversation with the Governor on that date, does it?

4 A. That is correct. My main focus was my  
5 conversation with Mrs. Peggy Griffith.

6 Q. And you didn't do a departmental report on  
7 your conversation with the Governor, did you?

8 A. No, sir.

9 Q. At that time there was no reason to do a  
10 departmental report on that conversation, was there?

11 A. As far as I was concerned, on Sunday,  
12 November 15th, that was not the focus of this  
13 investigation.

14 Q. If you were doing a departmental report on  
15 your meeting with the Governor, then you would have laid  
16 out in detail what was said by everyone at that meeting?

17 A. Most definitely.

18 Q. That was not the purpose of Exhibit No. 2,  
19 was it?

20 A. Not at all.

21 MR. FRENCH: Thank you.

22 THE PRESIDING OFFICER: The Senators have  
23 questions.

24 Senator Higuera had his hand up.

25 SENATOR HIGUERA: Thank you, Mr. Presiding Officer.

1           Lieutenant Johnson, I would like to thank you  
2 for your candor in your testimony. And please be patient  
3 with me, but the truth of the matter is I am somewhat  
4 jubilant and satisfied at the same time that as I was  
5 trying to carry on with my duties as a Senator, and now a  
6 member of the Court I was already being tainted by the  
7 brush of prejudice, and I would like at this time I guess  
8 apologize to the members of the Court, citizens, and  
9 everybody else that felt that I appear to have a chip on  
10 my shoulder. All I was trying to do is really find out  
11 what was going on on the ninth floor in regards to  
12 Governor Mecham and how he felt with Officer Camacho, and  
13 I would like to ask you something along that line, and  
14 that is: Did Governor Mecham ever give you any written  
15 complaints regarding Officer Camacho's work?

16           THE WITNESS: No, sir.

17           SENATOR HIGUERA: Did Governor Mecham ever give you  
18 any verbal complaints regarding Officer Camacho?

19           THE WITNESS: Not on his work, no.

20           SENATOR HIGUERA: Have you ever received any  
21 complaints regarding Officer Camacho?

22           THE WITNESS: Complaints regarding him?

23           SENATOR HIGUERA: His work.

24           THE WITNESS: No, Senator.

25           SENATOR HIGUERA: Have you ever received any

1 praises regarding Officer Camacho?

2 THE WITNESS: No, not from Governor Mecham or  
3 Governor Babbitt, Senator.

4 SENATOR HIGUERA: Thank you very much.

5 THE PRESIDING OFFICER: Other questions by  
6 Senators?

7 If there are no further questions of this  
8 witness, then you may be excused, subject to call.

9 MR. FRENCH: Mr. Presiding Officer, my next witness  
10 is Mrs. Peggy Griffith. I would prefer to start Monday  
11 morning first thing with her, because I know I won't  
12 finish this evening.

13 THE PRESIDING OFFICER: The Senators have indicated  
14 to us that they do not wish us to waste time, so we have  
15 about 20 minutes that we can use. If you can start the  
16 witness.

17 MR. FRENCH: I am prepared.

18 THE PRESIDING OFFICER: Do so.

19 Mrs. Peggy Griffith.

20 I'll remind you you are still under oath, and  
21 move that microphone to in front of your face.

22 Thank you.

23  
24 PEGGY GRIFFITH,  
25 a rebuttal witness herein, after having been previously

1 duly sworn, was examined and testified as follows:

2

3

DIRECT EXAMINATION

4

BY MR. FRENCH:

5

Q. Mrs. Griffith, how are you?

6

A. Fine. Thank you, sir.

7

Q. During the course of the respondent's case,

8

certain testimony came to light, and I believe it was with

9

a witness Hawkins, that he had made a statement concerning

10

the fact that you might be emotionally unstable. Are you

11

aware of that testimony?

12

A. Yes, sir, I am.

13

Q. Have you ever sought any kind of

14

psychological assistance?

15

A. No, sir.

16

Q. Have you ever had the need to do so?

17

A. No, sir.

18

Q. I believe you have been married to a law

19

enforcement officer for how many years?

20

A. 31 years this month, sir.

21

Q. And during the course of his career, has he

22

been involved in very visible and dangerous conditions?

23

A. Yes, sir.

24

Q. Such as?

25

A. He had an accident early on in our marriage

1 in about 1963, '64 that almost took his life. He was out  
2 in the hospital for 13 months at one time. I had two  
3 small children at home. I was 25.

4 Q. But considering his occupation, considering  
5 that you raised children, so forth, you feel that you have  
6 stability when it comes to your emotions?

7 A. Yes, sir, I do.

8 Q. There has also been another person that has  
9 testified in this trial that I believe you know. And  
10 correct me if I am wrong, but do you know a Terri Fields?

11 A. Yes, sir.

12 Q. She worked for you, did she not?

13 A. Yes, sir.

14 Q. Would you tell the Court under what  
15 circumstances and how she came to work for you?

16 A. Yes, sir. My office has made available JPTA  
17 funding, and I was --

18 Q. Would you pull your mike up a little closer.

19 A. I am sorry. Is that better?

20 Q. Thank you.

21 A. My office had been utilizing JPTA funding,  
22 and it had been made available to me that we could have a  
23 secretary in that office; we only had two people at the  
24 time.

25 I went up to the ninth floor and saw Alice

1 Mow, and with her was a young lady. I was speaking to  
2 her, and Alice asked me -- I mentioned that I was looking  
3 for a secretary because of the funding. Alice asked me if  
4 I would hire her daughter, Terri. And we talked briefly  
5 for a few minutes and I said, sure, I would be very happy  
6 to.

7 Later Mr. Jim Colter came to me and said, no,  
8 that we could not hire Alice's daughter, because Alice  
9 worked for Dr. Ray Russell on the ninth floor, and Alice's  
10 husband worked for the State also, and Mr. Colter felt it  
11 was improper for three people in one family to be employed  
12 by the state. And I said, "Whatever you wish."

13 Then I had been told by Alice that she went  
14 in to the see the Governor and overruled Jim Colter's  
15 decision, and that's how I employed her.

16 Q. What was she employed to do in your office?

17 A. Her title under JPTA was Administrative  
18 Secretary II.

19 Q. At the time you hired her, did you have a  
20 resume or any background on her?

21 A. I had a little knowledge that was given to me  
22 by Alice and by Terri herself, but no resume.

23 Q. Did you subsequently become aware of her  
24 background?

25 A. In bits and pieces, yes, sir, throughout that

1 eight-month period.

2 Q. And what did you become aware of?

3 A. I had been informed by both Alice and Terri  
4 that she was a victim of domestic violence. And that was  
5 a program that I was working on, and so I felt that it was  
6 imperative that I do all I could to help Terri because of  
7 our feelings in domestic violence.

8 I also learned from her mother that she had a  
9 drinking problem and --

10 MR. LEONARD: Objection, Your Honor; this is  
11 hearsay. I object to this testimony. It is hearsay.

12 THE PRESIDING OFFICER: Overruled.

13 You may answer.

14 MR. FRENCH: You may proceed with what you found  
15 out.

16 THE WITNESS: Alice told me she had a drinking  
17 problem. I later learned in the 1st of January that she  
18 had a DWI.

19 BY MR. FRENCH:

20 Q. In connection with the programs, the welfare  
21 programs that you were working on and so forth, did you  
22 ever turn any of those over to her for her to handle for  
23 you?

24 A. I asked her to perform the responsibilities  
25 of a secretary. The program that you are alluding to is a

1 nationally acclaimed program called HOME. The person that  
2 actually is the one that had the concept is a Carl Susaki  
3 out of Ohio, and I don't think in three weeks that anybody  
4 could have written this.

5 Q. Do you feel that she was qualified to have  
6 handled this program?

7 A. In the way I had asked her to, yes, sir.

8 Q. What was that?

9 A. I had asked her to make sure that the rooms  
10 were available for the conferences and the babysitting was  
11 taken care of. DES, DHS and AHCCCS mailed out the mailers  
12 for us, and some of our volunteer staff also performed  
13 those duties.

14 Q. You didn't think that she was competent to do  
15 what you were doing in the program?

16 A. No, sir.

17 Q. She testified in connection with a term that  
18 I think lingers a bit here in regard to dead meat, and had  
19 something to do with Mr. Skelly.

20 A. Yes, sir.

21 Q. Do you have any information concerning that?

22 A. Yes, sir, I do.

23 Q. Would you please tell us.

24 A. Yes, sir. During Mr. Skelly's -- during the  
25 impeachment proceedings in the House, Mr. Skelly had on

1 the air made a statement that Mr. Murray Miller had  
2 received his funding from the protocol fund. Mr. Miller  
3 then sent him a letter stating no, he had received it from  
4 the defense fund. And on the open air Mr. Skelly said  
5 "mea culpa, mea culpa, mea culpa."

6 And I had an occasion day or so later to be  
7 in Mr. Miller's office, and I asked him what he thought of  
8 Mr. Skelly's response. And he said, "Well, I don't know  
9 what 'mea culpa, mea culpa' meant." And I started  
10 laughing. I said it is from the Roman Catholic Latin  
11 mass, and it means forgive me, forgive me, forgive me and  
12 then he got the joke.

13 I then was on the telephone with Mr. Skelly  
14 and told him of my conversation with Mr. Murray Miller,  
15 and that's what the laughing was about, sir.

16 Q. Did the term "dead meat" come up?

17 A. Yes, sir. As we were in discussion about the  
18 possibility of me going -- in the same conversation --  
19 before the House, I was giving him my concern on the  
20 Governor. And he said, "Peggy, if he doesn't clear  
21 himself of the French report he is dead meat."

22 Q. So, it was said in that context?

23 A. Yes, sir.

24 Q. Let's go to November 12, and let's go to the  
25 parking lot.

1 Did you have occasion to see Mr. Lee Watkins?

2 A. Yes, sir.

3 Q. Who was with you?

4 A. Terri Fields.

5 Q. Did you go up to Mr. Watkins and hug and kiss  
6 him?

7 A. No, sir.

8 Q. Do you do that on social occasions?

9 A. Yes, sir.

10 Q. Has that been a habit of yours?

11 A. Yes, sir.

12 Q. Let's go to November 12. Did you do it on  
13 that occasion?

14 A. November 12 --

15 Q. Yes. Does that date confuse you?

16 A. Yes, sir.

17 Q. Did you in the parking lot in connection with  
18 this threat, regardless of the date, did you have occasion  
19 to hug Mr. Lee Watkins?

20 A. Oh, I am sorry, yes, sir -- no, I did not hug  
21 Mr. Lee Watkins on that date.

22 Q. Was there any reason why you didn't on that  
23 date?

24 A. We were on our way to a meeting and I was  
25 running a little behind, and I was in a hurry, and it was

1     apparent that Mr. Watkins was in a hurry.

2             Q.     I am not going to take you back through at  
3     this point in time as to what was said.  There is an  
4     exhibit in evidence, Exhibit No. 10 which is a writing  
5     which includes therein your statements, correct?

6             A.     Yes, sir.

7             Q.     Mrs. Terri Fields has testified that she  
8     doesn't think a second meeting occurred in connection with  
9     you and Mr. Watkins on the 13th.  Are you aware of that?

10            A.     Yes, sir.

11            Q.     Did a second meeting occur?

12            A.     Yes, sir, it did.

13            Q.     And where did it occur?

14            A.     On the eighth floor.  That was under  
15     construction where my offices were going to be.

16            Q.     This is where the lengthy conversation took  
17     place, is it not?

18            A.     Yes, sir.

19            Q.     And this is where you have memorialized it in  
20     Exhibit No. 10?

21            A.     Yes, sir.

22            Q.     Are the statements in Exhibit No. 10 true and  
23     correct?

24            A.     Yes, sir.

25            Q.     There are those who may ask as to Exhibit

1 No. 10 why and how is it so detailed in many regards. Can  
2 you explain that to us, please, in your own language?

3 A. Yes, sir. First of all, Friday night, after  
4 the series of phone calls, my husband said, "Now sit down  
5 and write yourself some notes on the conversation with  
6 Mr. Watkins." And I took a small blue pad and did so.

7 The conversations with Mr. Burke, Mr. French  
8 and the Governor and Mr. Milstead are very predominant in  
9 my mind because it is not usual for me to talk to people  
10 of that rank. The Governor is correct when he said we do  
11 not communicate very often outside the office; it is on a  
12 rare occasion, and so I do listen to him when he does  
13 speak to me.

14 As far as Colonel Milstead is concerned, he  
15 is the DPS Director and my husband spent a number of years  
16 as a sergeant there.

17 Q. You said you had some notes, is that correct?

18 A. Yes, sir.

19 Q. Let me hand you Exhibit No. 10. This is the  
20 document that you identified when you testified before and  
21 constitutes the finished product of the events of those  
22 days, is that correct?

23 A. Yes, sir.

24 Q. Ms. Fields, I believe, testified when she was  
25 here after being sworn in, that she put the materials in

1 quotes or put the quotes in Exhibit No. 10. Are you aware  
2 of that?

3 A. Yes, sir.

4 Q. Did she do that or were they already done?

5 A. She did not do that. They were already done.

6 Q. Isn't it a fact that she was working from a  
7 written, handwritten draft when she typed this document?

8 A. Yes, sir.

9 MR. FRENCH: Could you hand the witness Exhibit  
10 No. 34, please.

11 THE PRESIDING OFFICER: Have you given copies to  
12 counsel?

13 MR. FRENCH: Yes, I have.

14 BY MR. FRENCH:

15 Q. Exhibit No. 34, you have seen that before?

16 A. Yes, sir.

17 Q. What is it?

18 A. It is my husband's handwriting, it is --

19 May I explain slightly?

20 Q. Yes.

21 A. On the day before -- no, the day of this  
22 writing, Mr. Max Hawkins had gone on the air and called me  
23 a liar. I had obtained a lawyer for my own personal use,  
24 and we had obtained the materials of the media on  
25 Mr. Hawkins. My husband said to me that night, "Now, we

1 will take your statement in full by a professional, and  
2 that's going to be me. Sit down, honey." And he then did  
3 take my testimony as a certified police officer.

4 Q. Is that why it is in his handwriting?

5 A. Yes, sir.

6 Q. He has had years of experience in taking  
7 statements?

8 A. Yes, sir.

9 Q. Is that why it is in his handwriting?

10 A. Yes, sir.

11 Q. And this then is the draft that was provided  
12 to Ms. Fields from which Exhibit No. 10 was typed?

13 A. Yes, sir.

14 Q. Are the quotes in the proposed Exhibit  
15 No. 34?

16 A. Yes, they are.

17 Q. And Exhibit No. 34 contains the information  
18 that you provided to your husband?

19 A. Yes.

20 Q. Which he wrote down, is that correct?

21 A. Yes, sir.

22 MR. FRENCH: We would offer Exhibit No. 34 in  
23 evidence.

24 MR. LEONARD: No objection.

25 THE PRESIDING OFFICER: No objection. It shall be

1 admitted.

2 MR. FRENCH: I believe the clerk has the proper  
3 copies, thank you.

4 BY MR. FRENCH:

5 Q. The information contained in Exhibit No. 34  
6 was a recitation of you or by you to your husband  
7 concerning the facts and circumstances?

8 A. Yes, sir.

9 Q. The detail that is in here, from where did  
10 that come?

11 A. Oh, the testimony on Mr. Lee Watkins came  
12 from my notes, my own --

13 Q. You had notes at that time?

14 A. Yes, sir.

15 Q. From which Exhibit No. 34 was prepared?

16 A. Yes, sir.

17 Q. In connection with those notes, do you still  
18 have them?

19 A. I have them at home, sir.

20 Q. Have you been able to find them?

21 A. No, sir. No one has ever asked me for them.

22 Q. If we asked for them, would you try to find  
23 them?

24 A. You bet.

25 Q. If you find them would you provide those

1 notes to us on Monday morning?

2 A. I will, sir.

3 Q. Let's go to November 13. After talking with  
4 Lee Watkins in the conference room, or whatever that room  
5 is, wherein he made certain statements to you that you  
6 have set forth in the two exhibits, were you concerned  
7 about what he had to say?

8 A. Yes, sir.

9 Q. Were you afraid?

10 MR. LEONARD: If the Court please, I don't see this  
11 as being rebuttal testimony. I don't know what counsel is  
12 attempting to rebut. This is just rehashing her direct  
13 testimony.

14 THE PRESIDING OFFICER: Overruled. She may answer.

15 MR. FRENCH: Thank you.

16 BY MR. FRENCH:

17 Q. Were you concerned?

18 A. I was concerned.

19 Q. Did you consider the statements made by  
20 Mr. Lee Watkins to be serious?

21 A. Yes, sir.

22 Q. Why?

23 A. I have never been the subject of a threat  
24 before. I saw Mr. Watkins. I saw the way he was reacting  
25 and his great agitation. I knew a little about him, not

1 very much, and I was very concerned.

2 Q. Were you at that time subpoenaed to a grand  
3 jury?

4 A. Yes, sir.

5 Q. Donna Carlson was also subpoenaed to a grand  
6 jury?

7 A. Yes, sir.

8 Q. Mr. Lee Watkins was also subpoenaed to a  
9 grand jury, wasn't he?

10 A. Yes, sir.

11 Q. Did he use the terms as you have set forth in  
12 your exhibits?

13 A. Yes, sir.

14 Q. You didn't make up this stuff about the "boat  
15 ride" and "never come back," did you?

16 A. No, sir.

17 Q. You have been and still are an ardent  
18 supporter of Governor Mecham, isn't that true?

19 A. Yes, I am, sir.

20 Q. Regardless of that, you are here to tell the  
21 truth about what Lee Watkins said to you on the 13th of  
22 November, correct?

23 A. That's right's sir.

24 MR. FRENCH: No further questions. Thank you.

25 THE PRESIDING OFFICER: Cross-examine.

1 MR. CRAFT: Want me to do it now?

2 THE PRESIDING OFFICER: Perhaps we ought to recess  
3 now so if there is further exhibits brought back over the  
4 weekend they can be done under direct.

5 I need a motion from you, Senator Usdane.

6 SENATOR USDANE: Mr. Presiding Officer, I move that  
7 the Court of Impeachment stand at recess until Monday,  
8 March the 21st, 1988 at 9:00 a.m.

9 THE PRESIDING OFFICER: It will require under Rule  
10 16 a majority of the members to confirm that. All in  
11 favor signify by saying "aye;" opposed say "no."

12 The "ayes" appear to, do have it, and so  
13 ordered.

14 (Recessed at 4:58 p.m.)

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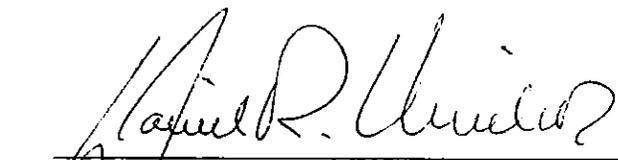
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STATE OF ARIZONA                    )  
  )  
DISTRICT OF ARIZONA                )        ss.

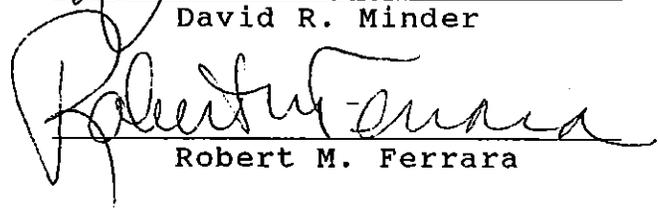
I HEREBY CERTIFY that I am a duly appointed, qualified and acting Official Court Reporter before the Senate of the State of Arizona sitting as a Court of Impeachment.

I FURTHER CERTIFY that the foregoing printed pages, numbered 3142 to 3378, inclusive, constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction.

DATED at Phoenix, Arizona, this 18th day of March, 1988.



David R. Minder



Robert M. Ferrara

