SPECIAL SESSION

# JOURNAL OF THE SENATE

**At a Special Session of the Florida Senate convened under Section 7, Article IV, of the Constitution of the State, as revised in 1968, begun and held at the Capitol, in the City of Tallahassee, in the State of Florida.**

## Wednesday, July 8, 1970

In pursuance of the Proclamation of Senator John E. Mathews, President of the Senate of the State of Florida, the Senate met in Special Session at 9:30 a.m., and was called to order by the President; the Secretary of the Senate, Edwin G. Fraser, and the Sergeant at Arms of the Senate, LeRoy Adkison, being at their posts.

The Proclamation of the President convening the Senate in Special Session was read as follows:

THE FLORIDA SENATE

TALLAHASSEE

PROCLAMATION

TO THE HONORABLE MEMBERS OF
THE FLORIDA SENATE:

WHEREAS, Section 7 of Article IV of the Constitution of Florida authorizes the President of the Senate to convene the Senate in Special Session for the consideration of executive suspensions; and

WHEREAS, the section was adopted to allow the Senate to take up these matters at a time when the entire Legislature would not have to be in session engaged in the legislative process; and

WHEREAS, the Governor did suspend The Honorable Jim Fair, Supervisor of Elections, Hillsborough County, from said office by executive order dated April 14, 1970; and

WHEREAS, early consideration of this matter has been requested in order to make a final determination in such matter,

NOW, THEREFORE, I, John E. Mathews, as President of the Senate of Florida, by virtue of the power and authority vested in me by Article IV, Section 7, of the Constitution of the State of Florida, do hereby convene the Senate of the State of Florida in Special Session at the Capitol at 9:30 a.m. on Wednesday, July 8, 1970.

This call shall be limited to consideration of the said suspension of The Honorable Jim Fair by executive order dated April 14, 1970, and such other executive suspensions as may be appropriate.

(SENATE SEAL)

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Senate of Florida to be affixed at Tallahassee, the Capitol, this 16th day of June, A. D., 1970.

JOHN E. MATHEWS
President of the Florida Senate

ATTEST:
EDWIN G. FRASER
Secretary of the Florida Senate

By direction of the President the roll was called and the following Senators were recorded present:

| | | | |
|---|---|---|---|
| Mr. President | Bell | Deeb | Haverfield |
| Askew | Bishop | de la Parte | Henderson |
| Bafalis | Boyd | Fincher | Hollahan |
| Barron | Broxson | Friday | Horne |
| Barrow | Chiles | Gong | Johnson |
| Beaufort | Daniel | Gunter | Karl |
| Lane | Poston | Slade | Weissenborn |
| McClain | Reuter | Stolzenburg | Williams |
| Myers | Saunders | Stone | Wilson |
| Ott | Sayler | Thomas | Young |
| Plante | Scarborough | Trask | |
| Pope | Shevin | Weber | |

—46. A quorum present.

Excused: Senators Ducker and Knopke.

The following communication was filed with the Secretary of the Senate:

Senator John E. Mathews
President, The Florida Senate
Capitol Building

Dear President Mathews:

On Wednesday, July 8th, I left Tampa at seven o'clock, a.m., on Eastern Airlines flight #581 to arrive in Tallahassee for the special one-day session. Because of ground fog at Tallahassee the plane could not land and had to go on to Atlanta. You will recall that I called your office and told your secretary that I could not get back to Tallahassee until after twelve o'clock and was advised that the Senate would be adjourned by that time. Therefore, I returned to Tampa as there was no reason for me to stop in Tallahassee.

I give you this information for the record and regret very much that I was not able to be with you.

Sincerely,
RAY C. KNOPKE

Prayer by the Secretary of the Senate:

Most gracious and generous God, we thank thee for our land, for those freedoms basically granted to each of us as prescribed by legislative edict. We respect and cheerfully defend these privileges. Forgive those whose conduct results in injury to good and honorable government for they know not the results of the sting. Penalties sometimes are necessary so that man may understand good behavior.

Lord God, these Senators recognize those responsibilities assigned to them because of public trust. We respect their dedication to resolve and their sincerity to decision that which upholds right and which follows convictions of truth. May the influence of the Holy Spirit reign in this labor.

In our Master's name, we ask. Amen

At the request of the President, Senator Rubin O'D. Askew, President Pro Tempore, led the Senate in—

The pledge of allegiance to the flag of the United States of America pursuant to Senate Rule 4.3:

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

[Pursuant to motion by Senator Karl at the conclusion of the Session, discussion of the respective Executive Orders under consideration was ordered spread upon the Journal.]

MR. PRESIDENT: The Senator from the 14th.

SENATOR KARL: Mr. President, the Senate Select Committee on Executive Suspensions is ready to report and I move you, Sir, that the rules be waived and that the report of the Senate Select Committee in the matters of Mr. Jim Fair, Mr. R. Dewey Pendarvis, Jr. and Mr. Collis H. White be received in open session of the Senate.

MR. PRESIDENT: The Senator from the 14th moves that the rules be waived and that the reports of the Select Committee with reference to the suspensions of Jim Fair, R. Dewey Pendarvis, Jr. and Collis H. White be received in open session. Is there discussion? As many as are in favor of the motion say: "Aye".

RESPONSE: "Aye".

MR. PRESIDENT: Opposed "No".
(No negative votes were heard)

MR. PRESIDENT: Motion carried.

The following communications and Executive Orders were read:

REGISTERED—RETURN RECEIPT REQUESTED April 16, 1970

Honorable Jim Fair
124 South Franklin
Tampa, Florida

Dear Mr. Fair:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Order of Suspension dated April 14, 1970.

With kind regards, I remain

Sincerely,
TOM ADAMS
Secretary of State
By (Mrs.) Dorothy W. Glisson
Chief, Bureau of Elections

DG/pc—
Enclosure
cc: Honorable Earl Faircloth
Attorney General
Honorable Edwin G. Fraser
Secretary of the Senate

ORDER OF SUSPENSION

WHEREAS, Jim Fair is presently serving as Supervisor of Elections of Hillsborough County, Florida, and

WHEREAS, on April 7, 1970, the Grand Jury of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, inquired into allegations of irregularities in the Office of Supervisor of Elections of Hillsborough County, Florida, and

WHEREAS, on April 13, 1970, the Grand Jury of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, completed its inquiry and furnished this office with a copy of its report which is attached hereto and incorporated herein as follows:

REPORT OF THE GRAND JURY—SPRING TERM—1970
ON THE OPERATION OF THE OFFICE OF
SUPERVISOR OF ELECTIONS,
HILLSBOROUGH COUNTY, FLORIDA

INTRODUCTION

This Grand Jury was impaneled on April 7, 1970, by the Honorable I. C. Spoto, Circuit Judge for the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, and the members hereof have taken an oath to make diligent inquiry into the charges given it by the Court.

Pursuant to that responsibility, the Grand Jury has been asked to inquire into allegations of irregularities in the operation of the Office of Supervisor of Elections for Hillsborough County, Florida.

This Grand Jury has been advised as to its authority to inquire into and report on this matter by Joseph G. Spicola, Jr., State Attorney for the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, and would include herein a brief statement of the legal authority for this report, as provided by Mr. Spicola. Grand juries are charged with the duty of investigating county offices, buildings, institutions, and officers, and to make due presentment concerning their physical, sanitary and general condition. If a grand jury in the course of its investigation of general public affairs finds that neglect or ineptitude are responsible for undesirable conditions, they may so report, even though their report incidentally points to an official or officials as responsible for the conditions. With the above authority in mind, it is the duty of the grand jury in investigating matters relating to the public health, welfare and morals, not to single out a public official for censure or reprobation, but to report on specific matters which lead the grand jury to conclude that that public official has not performed or is not performing his duties in accordance with the laws of the State of Florida and in the interest of the public welfare.

This Grand Jury has delved fully and impartially into the allegations of irregularities respecting the Office of Supervisor of Elections. The Grand Jury has been in session for five (5) days with regard to the inquiry herein, and, during that period, has devoted its full attention to this matter.

Recognizing that the Supervisor of Elections of Hillsborough County, Florida, hereinafter referred to as the Supervisor, is an elected public official, and the gravity of the charges made against him, the Grand Jury feels that only a full review of the allegations will serve the ends of justice to all involved. Furthermore, this Grand Jury feels that the right to vote is one of our most precious rights, and, in order to ensure that this right is not endangered, has undertaken a thorough examination to determine whether any public official or employee has failed to carry out his sworn duties in this regard under the Constitution and laws of the State of Florida.

NATURE OF THE CHARGES

I. It is alleged that the Supervisor has failed and refused to properly discharge his duties under the election laws of the State of Florida.

II. It is alleged that the Supervisor has failed and refused to discharge his duties in accordance with the laws pertaining to public officers of the State of Florida.

III. It is alleged that the Supervisor has engaged in improprieties relating to personnel and office management practices.

TESTIMONY AND EXHIBITS

I. Testimony. The Grand Jury heard testimony from the following persons:

Anthony Frederic—former Chief Deputy
Dorothy W. Glisson—Secretary of State's Office
Blanche Work—Supervisor of Elections, Polk County
Wilda Cook—Supervisor of Elections, Pinellas County
Bessie LoScalzo—former permanent civil service employee
Connie Leto—former permanent civil service employee
Dahlia Gomez—former permanent civil service employee
Cynthia Daniel—former permanent civil service employee
Pat Frederic—former permanent civil service employee
Emory Cook—manager, freight warehouse
Tom McBride—former temporary employee
Conrad J. George—owner, George's Used Furniture
John King—present temporary employee
David Bolton—present temporary employee
Kerry Drake—present temporary employee
Richard Sampey—present temporary employee
Benjamin Rosenberg—former temporary employee
Henry Pfeil—present temporary employee

Marion Crawford—former temporary employee
Alex Taylor—Tampa Police Department, Intelligence
Mercedes Favata—Information Desk, County Courthouse
W. G. Boyer—Assistant County Building Supervisor
Mike Roskiwski—present temporary employee
Tommy F. Farrell—present temporary employee
Dorothy L. Weidemann—present temporary employee
Mike Elam—present temporary employee
Carolyn Gordon—present temporary employee
Alton Strong—County purchasing agent
Nan Robertson—former temporary employee
Ronald Hoffer—present temporary employee
Janice West—present temporary employee

II. Exhibits. The Grand Jury has reviewed the following exhibits:

Payroll records
Employee records
Purchase requisitions
Travel vouchers
Precinct index
Purge cards and precinct maps
Photographs
Legal documents
Correspondence and miscellaneous records from Supervisor

## FINDINGS OF FACT

I. Matters relating to the election laws.

A. Purge of voter registration rolls.

The Office of the Supervisor failed to properly remove the names of those voters who have not voted during the past four years in accordance with the special act and general legislation pertaining to the voter registration rolls of Hillsborough County, hereinafter referred to as the purge. The last purge of the voter registration rolls was accomplished in 1965.

On January 7, 1969, the date that the Supervisor took office, the names of approximately 31,900 voters who had not voted in the last four years had been removed from the master registration rolls in the Office of Supervisor. On that date, the Hillsborough County Commission had theretofore appropriated a sufficient budget to enable the Office of the Supervisor to accomplish the 1969 purge. From the date the Supervisor took office, no work was accomplished in the year 1969 on the voter registration purge. The five permanent employees then working in the Office of the Supervisor prepared proposed cards for the purpose of notification of voters whose names had been removed from the master rolls, but said proposed cards were rejected numerous times for no apparent reason by the Supervisor. It was alleged that on January 31, 1970, the Supervisor caused only 25 purge cards of his own design to be sent out in an apparent effort to comply colorably with the election laws. The purge cards which had been prepared by the permanent employees and rejected by the Supervisor were simple and effective, and followed the pattern of purge cards used in past years; but the cards designed and sent out by the Supervisor bore his name in several places and had the overtones of political advertisement for the Supervisor himself.

During the latter part of February and the first part of March, 1970, the Supervisor engaged the services of personnel outside the Office of the Supervisor to distribute purge cards to the entire registration roll, numbering some 210,000 voters. Because said purge cards were sent out in envelopes containing a precinct map and other materials, the purge cards bore no postmark, the result being that the time for compliance with notification, as required by the special and general laws, could not be calculated. Distributed with said purge cards were maps which called on each voter to designate his proper voting precinct. Said maps were unclear and confusing, to the extent that thousands of errors were made by voters in designating their proper precincts.

Those purge cards returned to the Office of the Supervisor were improperly handled and misfiled, resulting in an inability on the part of the Office of the Supervisor to notify those voters who did not respond to the purge cards. Some 30,000 cards to which no response was made are stored outside the Office of the Supervisor, and no attempt has been made to either correct the master voter registration rolls or to notify the unresponding voters with respect to those cards.

Untrained temporary personnel have been placed in charge of the voter registration purge, whereas experienced permanent personnel were assigned to other duties prior to their discharge referred to hereinunder.

The provisions of the aforementioned laws require that the voter registration purge shall have been completed by no later than March 30, 1970. At the present time, purge cards are still being distributed and are still being returned to the Office of the Supervisor.

B. Display of irregular ballots without Court Order.

In the month of January, 1969, after the Supervisor had taken office, an unsuccessful candidate in a county-wide election which had been held the preceding November, requested viewing of all write-in ballots from that election. Said ballots had been sealed and locked in the Office of the previous Supervisor. When the present Supervisor took office, said ballots were removed from lock and key and kept in an open box in the outer part of the office.

The write-in ballots from each precinct were kept in the boxes in sealed envelopes. At the direction of the Supervisor, his employees unsealed and opened the envelopes and displayed the write-in ballots to the party requesting them, without supervision of said display by the Supervisor. The Supervisor had knowledge, or should have had knowledge, that a Court Order was necessary, according to the provisions of the election laws, for the display of sealed irregular ballots prior to the time said ballots were displayed to the party requesting them.

C. Splitting and combining of precincts.

The splitting of Precinct 49B into new precincts 49B, 49E, 49F and 49G was ordered by the Election Board in the month of December, 1969. Pursuant to said order, the permanent employees of the Office of the Supervisor separated the names of those voters who were affected by the split. No further action was taken upon the direction of the Supervisor. No action had been undertaken by the Office of the Supervisor to accomplish the split of Precinct 49B as late as March 27, 1970.

The combining of Precincts 34 and 35 also was ordered by the Election Board in the month of December, 1969. The permanent employees of the Office of the Supervisor began to combine the names of voters in Precincts 34 and 35, but were stopped by the Supervisor. No further action had been taken regarding combining the precincts as late as March 27, 1970.

Testimony presented before the Grand Jury indicates numerous instances in which the Election Board had ordered splitting and combining of precincts or alterations of the precinct boundaries. Said testimony further reflects that the orders of the Election Board in these regards have not been complied with by the Office of the Supervisor, which will undoubtedly result in lack of notification to voters of their proper precincts.

D. Mailing of absentee ballots to servicemen.

The evidence presented to the Grand Jury revealed that upon notification by the Office of the Governor of the State of Florida that a special election was to be held in Hillsborough County on April 21, 1970, no immediate steps were taken regarding the mailing of absentee ballots to servicemen stationed outside the County. The evidence reflects that said mailing was begun only upon afterthought by the employees of the Office of the Supervisor.

There is no testimony before this Grand Jury reflecting that said mailing has been completed or will be completed in time for the aforementioned special election.

II. Matters relating to laws governing conduct of public officers.

A. Self-dealing.

In the month of March, 1969, the Supervisor submitted a requisition to the County Purchasing Department requesting the purchase of several dictionaries and encyclopedia from a concern known as Sterling Exchange. The Purchasing Department officers, after being unable to find such a firm established for the purpose of doing business in Hillsborough County, perceived that the address of the Sterling Exchange firm was the same as the private warehouse owned and operated by the Supervisor. The Supervisor was advised by the Purchasing Department that such a requisition appeared to present a conflict of interest on the part of the Supervisor and rejected the requisition.

In the month of July, 1969, the Supervisor approached a local businessman dealing in office furniture and arranged to trade a desk to him in return for certain other items of furniture. Shortly thereafter, the Supervisor purchased said desk for use in his office at the expense of the County.

On another occasion, the Supervisor approached a third party and suggested that they enter into an agreement whereby the third party would purchase certain items from the Supervisor and sell those items to the County for use in the Supervisor's Office. The person to whom this offer was made rejected the offer.

B. Use of public property for private purposes.

The Supervisor used office equipment, supplies and personnel to prepare and duplicate pleadings pertaining to in excess of twenty law suits he has filed regarding matters not bearing upon the functions of his office. In addition, the Supervisor has used personnel and equipment of his office in preparing pleadings relating to petitions he has filed before the Public Service Commission. In this respect, the testimony revealed that the Supervisor has copied numerous papers on the office xerox machine, and instructed employees to prepare papers relating to his private law suits and petitions before the Public Service Commission, and improperly utilized substantial hours of office time for this purpose.

C. Improper expense vouchers.

Testimony taken in this matter reveals that the Supervisor has submitted expense vouchers in his own behalf and on behalf of several of his employees for travel expenses relating to trips taken for personal purposes. These include in the main trips made for the purpose of appearing before the Public Service Commission on matters unrelated to his office.

D. Neglect of duties and absence from office.

It is the finding of this Grand Jury that the Supervisor has grossly neglected the responsibilities of his office. The testimony reveals that the Supervisor, since taking office, has devoted substantial amounts of his time to the pursuit of matters of personal interest at the expense of the voting taxpaying public. Failure to properly conduct the voter registration purge referred to above, and the failure to expeditiously complete the splitting and combining of precincts are but two examples of this neglect. The Supervisor has frequently been absent from his office for extended periods of time when the presence of the Supervisor was necessary to the efficient functioning of the office. The Grand Jury is advised that the Supervisor has not been in his office during the period of this investigation, which absence is particularly distressing in view of the two special elections which are to be held in the immediate future. News releases by the Supervisor himself indicate that his absence at this time has resulted from a deliberate attempt to avoid service of process in order for this Grand Jury to obtain his testimony.

III. Personnel and office management.

A. Hiring and firing procedures.

The Grand Jury finds that the Supervisor did, on March 27, 1970, discharge from employment five permanent civil service employees with approximately fifty years combined civil service experience within the Supervisor's office. Testimony received by the Grand Jury indicates that there was no justification for such action by the Supervisor, and that said permanent civil service employees had exhibited exemplary conduct, diligence and work practices in the office.

In considering applicants for employment in the Office of the Supervisor, the Supervisor utilizes an unorthodox and inefficient system, if any system it may be called. Apparently no objective standards exist in determining the suitability for employment of any applicant. From the evidence, it appears that the Supervisor on several occasions has taken into the employ of his office persons with known and in some cases notorious criminal records.

The evidence has revealed that in at least one instance, a temporary employee was virtually hired off the street by the Supervisor when said employee had not submitted an application for employment. On said occasion, the employee had entered the Office of the Supervisor in order to register to vote. While in the office, the employee was advised that part-time temporary positions were open and was later hired at the instance of the Supervisor.

B. Improper utilization of employees.

The Grand Jury finds that the Supervisor has placed part or full-time temporary employees with three to four days experience in supervisory capacities over long-time civil service employees. This practice has lead to gross inefficiency and confusion in office organization and policy.

At the instance of the Supervisor, several of the employees of his office have accompanied the Supervisor on trips to various cities within the State to attend Public Utility hearings. Said trips were taken during office working hours, but had no relation to the official functions of the office. The Supervisor and the employees were paid expenses for said trips as a result of vouchers filed at the instance of the Supervisor.

The Supervisor used County employees in preparing private law suits not in any way connected with the Office of Supervisor. Further, the Supervisor, during the year 1969, assigned his employees to tasks such as moving furniture, making posters, relabeling precincts books already labeled, and writing papers on subjects such as smoking, health, utilities, and other subjects bearing no relation to official duties.

The Grand Jury finds that included among the temporary employees are persons who have been suspended from the practice of law, and one such person in the past has a long record of serious criminal offenses and has been repeatedly declared mentally incompetent. These employees with legal backgrounds were specifically used in preparing law suits in which the Supervisor was involved but which did not deal with any of the functions of his office.

C. Drunkenness and misconduct.

The Grand Jury finds that the Supervisor allowed the consumption of alcoholic beverages in the office during working hours. On more than one occasion, a temporary employee was seen intoxicated in the office during working hours. Testimony was presented by employees of the office of Supervisor and by Courthouse maintenance employees that wine and liquor bottles and beer cans were found in various places about the office.

The Supervisor permitted advances to be made upon one of his permanent civil service employees by a temporary employee who was under the influence of alcohol. The temporary employee involved was referred to above as having a lengthy record of criminal activity, drunkenness and incompetency. When requested by the permanent civil service employee to take preventative measures against future assaults of the kind, the Supervisor vociferously criticized the permanent employee and remonstrated against her for "making trouble" for the Supervisor.

The Supervisor's treatment of voters entering the office to register, or calling over the telephone, also evidenced instances of verbal abuse. The Supervisor commonly referred to voters as "suckers" and "fools."

On the occasion of the discharge of the five permanent civil service employees, the Supervisor engaged in severe abusive and degrading criticism of these employees in the presence of the news media, approximately thirty office employees, and the public.

D. Payroll and salaries.

It appears from the testimony that the Supervisor engaged in arbitrary assignment of salaries and wages to the various employees. The system of keeping the time that each employee worked was both haphazard and inefficient. There was no sign-in or sign-out system utilized in the office, and the evidence shows that there were temporary employees working irregular hours with no means of accurately calculating the number of hours. Each person was individually responsible for reporting his hours to the timekeeper.

Raises were approved by the Civil Service Board for certain permanent civil service employees, after requests had been made by said employees to the Supervisor and rejected by him. Following civil service approval, these raises were never forwarded to said employees by the Supervisor.

E. Purchasing procedures.

The Supervisor engaged in purchasing practices that were contrary to the policies utilized by Hillsborough County in that he would make large purchases prior to sending a requisition to the purchasing department. County officials attempted to instruct the Supervisor with regard to the proper method of purchasing. But these officials were subjected to verbal abuse and the Supervisor failed to heed their advice.

When criticized for irregular purchasing practices, the Supervisor would commonly retort that he was "saving the taxpayers money." The evidence before the Grand Jury indicates that the purchasing practices by the Supervisor amounted to false economy. In one instance, five used manual typewriters were requisitioned by the Supervisor for a purchase of approximately $100.00 each. Testimony reveals that brand new typewriters could have been purchased for approximately $125.00, accompanied by service contracts with the vendor.

F. Security, safety and sanitation practices.

Testimony reveals that the Supervisor consistently refused to cooperate with building maintenance and security officers with respect to adequate security, safety and sanitation measures. The Supervisor permitted employees to sleep overnight in the office and to use the office for purposes of personal hygiene.

After having his request to the building maintenance department for telephone extension cord refused, the Supervisor had a hole cut in a fire retaining door and installed his own extension cord. The Supervisor had closed his office door to the public and posted signs requiring the public to enter through the door of the Elections Board Office. This measure has caused confusion among people attempting to enter the Supervisor's Office, and generally limits the access of the public to the office.

The Supervisor has further refused to cooperate with building security personnel by leaving doors leading directly to the outside propped open during hours when the Courthouse is normally closed. The Supervisor has consistently refused requests from building security personnel to cease this practice.

G. General office inefficiency.

The Grand Jury has heard testimony relating almost interminable details regarding the inefficient manner in which the Supervisor's Office is now conducted. An office that previously functioned with six full- time civil servants now has no permanent civil service employees, but 35 part-time and temporary employees. However well-meaning, these employees, without adequate supervision and training, cannot function efficiently.

The overcrowding of the office, lack of organization of official records and documents, insufficient delineation of authority, and general office mismanagement all work to the detriment of the office operation and of the morale of the workers. Employees are constantly reassigned from one office function to another without having been allowed sufficient time to receive training and gain familiarity with any certain function of the office.

## CONCLUSIONS

In view of the aforementioned allegations and findings of fact, this Grand Jury makes the following conclusions:

I. That the conduct of the Supervisor of Elections of Hillsborough County, Florida, constitutes malfeasance, misfeasance and neglect of duty respecting the operation of his office under the election laws of the State of Florida.

II. That the conduct of the Supervisor of Elections of Hillsborough County, Florida, constitutes malfeasance, malpractice and neglect of duty under those laws regulating the conduct of public officers of the State of Florida.

III. That the Supervisor of Elections of Hillsborough County, Florida, has demonstrated utter disregard for proper, efficient and reasonable office personnel policies and office management practices and has displayed conduct constituting neglect of duty, incompetence and inability to perform his official duties.

IV. That this Grand Jury has serious reservations regarding the prospect of the special election slated to be held in the near future. As a result of the current situation within the Office of the Supervisor of Elections of Hillsborough County, Florida, there is no assurance that the right to franchise of the voters of Hillsborough County will be protected.

## RECOMMENDATIONS

Having fully reported its investigation of the allegations contained herein, we, the members of the Grand Jury of Hillsborough County, Florida, hereby make the following recommendations:

I. That the Governor of the State of Florida exercise his authority under Article IV, Section 7, of the Constitution of the State of Florida, and related statutes, to suspend the Supervisor of Elections of Hillsborough County and to appoint a qualified person to fill the office so vacated until such time as the Senate of the State of Florida can act upon the suspension.

II. That consideration be given to the initiation of a new voter roll purge or, in the alternative, that county-wide reregistration be undertaken as soon as practicable.

III. That the five civil service employees that were discharged by the Supervisor of Elections on March 27, 1970, be given maximum consideration for re-instatement as civil service employees by the Civil Service Board of Hillsborough County.

IV. That full cooperation and coordination be established in the future among all county offices and the Civil Service Board of Hillsborough County to the end that qualified, efficient and able personnel be provided.

V. That despite the gravity of the improprieties reported herein, the return of criminal indictments is not warranted, provided that the above recommendations are carried out.

VI. That the State Attorney is requested to prepare on behalf of this Grand Jury a letter to the appropriate authorities

setting forth the recommendations of this Grand Jury, and appending thereto a copy of this Report.

s/ TRUBY L. JONES, JR.,
FOREMAN OF THE GRAND JURY

s/ ROBERT J. DONOVAN,
VICE-FOREMAN OF THE GRAND JURY

MILDRED B. GUNN,
SECRETARY OF THE GRAND JURY

s/ JOSEPH G. SPICOLA, JR.,
STATE ATTORNEY, THIRTEENTH JUDICIAL CIRCUIT

and

WHEREAS, as a result of the Grand Jury's report, I find that the facts sufficiently reflect misfeasance, malfeasance, neglect of duty and incompetency in office, and

WHEREAS, Jim Fair acting in his official capacity as Supervisor of Elections of Hillsborough County, Florida, is held to a high standard of moral, ethical and legal conduct, which standard is reflected from the Grand Jury's report has not been maintained, and

WHEREAS, I find that the interests of the citizens of Hillsborough County, Florida, would best be served by this executive act;

NOW, THEREFORE, I, Claude R. Kirk, Jr., Governor of the State of Florida, by virtue of the power and authority vested in me by Section 7, Article IV, of the Constitution of Florida, do hereby suspend the said Jim Fair from the Office of Supervisor of Elections of Hillsborough County, Florida, on the grounds of misfeasance, malfeasance, neglect of duty and incompetency in office, as reflected by the report of the Grand Jury of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, and because of such, it would be improper for him to continue to perform the responsibilities of his office. Therefore, the said Jim Fair is hereby prohibited from performing the duties or exercising the authorities of said office during the period of suspension.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 14 day of April, 1970.

CLAUDE R. KIRK, JR.
Governor

ATTEST:
TOM ADAMS
Secretary of State

ORDER OF SUSPENSION

WHEREAS, R. Dewey Pendarvis, Jr. is presently serving as Justice of the Peace, District No. 2, Duval County, Florida, and

WHEREAS, I have been officially advised that on May 2, 1969, the Grand Jury in and for Duval County, Florida returned six Indictments against the said R. Dewey Pendarvis, Jr. charging him with falsifying records and one Indictment against the said R. Dewey Pendarvis, Jr. charging him with accepting unauthorized compensation, and

WHEREAS, the above Indictments, if true, clearly reflect misfeasance, malfeasance and incompetency in office, and

WHEREAS, R. Dewey Pendarvis, Jr., acting in his official capacity as Justice of the Peace, District No. 2, Duval County, Florida, is held to a high standard of legal and moral conduct in order for him to properly perform the responsibilities of his office, and

WHEREAS, as a result of the Indictments of the Grand Jury of Duval County, doubt has been raised as to the integrity and ability of R. Dewey Pendarvis, Jr. to continue to perform the duties of Justice of the Peace, District No. 2, Duval County, Florida, and

WHEREAS, I find that the interests of the citizens of Duval County would best be served by this executive act;

NOW, THEREFORE, I, Claude R. Kirk, Jr., as Governor of the State of Florida and by virtue of the power and authority vested in me by Article IV, Section 7 of the Constitution of Florida, do hereby suspend the said R. Dewey Pendarvis, Jr. on the grounds of misfeasance, malfeasance and incompetency in office as reflected by the Indictments and because of such, it would be improper for him to continue to perform the responsibilities of his office. Therefore, the said R. Dewey Pendarvis, Jr. is hereby prohibited from performing the duties or exercising the authorities of said office during the period of suspension.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 15 day of May, A. D. 1969.

CLAUDE R. KIRK, JR.
Governor

ATTEST:
TOM ADAMS
Secretary of State

Honorable Collis H. White
4325 Old Dominion Road
Orlando, Florida 32806

August 7, 1969

Dear Mr. White:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail a copy of Order of Suspension dated August 4, 1969.

With kind regards, I remain

Sincerely,
TOM ADAMS
Secretary of State
By (Mrs.) Dorothy W. Glisson
Director, Election Division

DG/wf
Enclosure
cc: Honorable Earl Faircloth
Attorney General
Honorable Edwin G. Fraser
Secretary of the Senate

ORDER OF SUSPENSION

WHEREAS, COLLIS H. WHITE, is presently serving as Solicitor of the Criminal Court of Record in and for Orange County, Florida, and

WHEREAS, I have been officially advised by the State Attorney of the Ninth Judicial Circuit in and for Orange County, Florida, and the Department of Law Enforcement that on August 4, 1969, the said Collis H. White, was arrested and charged with bribery and conspiracy to commit bribery contrary to the provisions of Sections 833.04 and 838.012, Florida Statutes, and

WHEREAS, the above charges, if true, clearly reflect malfeasance, misfeasance and incompetency in office, and

WHEREAS, Collis H. White, acting in his official capacity as Solicitor of the Criminal Court of Record in and for Orange County, Florida, is held to a high standard of moral and legal conduct in order for him to properly perform the responsibilities of his office, and

WHEREAS, as a result of the above charges, doubt has been raised as to the integrity and ability of Collis H. White to continue to perform his duties as Solicitor of the Criminal Court of Record in and for Orange County, Florida, and

WHEREAS, I find that the interests of the citizens of Orange County would best be served by this executive act;

NOW, THEREFORE, I, Claude R. Kirk, Jr., as Governor of the State of Florida, and by virtue of the power and authority vested in me by Article IV, Section 7, of the Constitution of Florida, do hereby suspend the said Collis H. White on the grounds of malfeasance, misfeasance and incompetency in office as reflected by his arrest and being charged with bribery and conspiracy to commit bribery and because of such, it would be improper for him to continue to perform the responsibilities of his office. Therefore, the said Collis H. White, is hereby prohibited from performing the duties or exercising the authorities of said office during the period of suspension.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 4 day of August, 1969.

CLAUDE R. KIRK, JR.
Governor

ATTEST:
TOM ADAMS
Secretary of State

REGISTERED—RETURN RECEIPT REQUESTED June 18, 1970

Honorable Collis H. White
4325 Old Dominion Road
Orlando, Florida 32806

Dear Mr. White:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail Executive Order dated June 17, 1970.

With kind regards, I remain

Sincerely,
TOM ADAMS
Secretary of State
By (Mrs.) Dorothy W. Glisson
Chief, Bureau of Elections

DG/pc
Enclosure
cc: Honorable Earl Faircloth
Attorney General
Honorable Edwin G. Fraser
Secretary of the Senate

EXECUTIVE ORDER

WHEREAS, on August 4, 1969, I issued an Executive Order of Suspension suspending Collis H. White, Solicitor of the Criminal Court of Record in and for Orange County, Florida, based upon charges of bribery and conspiracy to commit bribery contrary to the provisions of Section 833.04 and 838.012, Florida Statutes, and

WHEREAS, I have been officially advised that on June 16, 1970, the charges mentioned above were withdrawn and that there are presently no criminal charges or criminal actions pending against the said Collis H. White.

NOW, THEREFORE, I, Claude R. Kirk, Jr., Governor of the State of Florida, by virtue of the power and authority vested in me, in view of the withdrawal of the charges mentioned above, do hereby revoke the Executive Order of August 4, 1969, and do hereby restore the said Collis H. White as Solicitor of the Criminal Court of Record in and for Orange County, Florida.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 17 day of June, 1970.

CLAUDE R. KIRK, JR.
Governor

ATTEST:
TOM ADAMS
Secretary of State

SENATOR KARL: Mr. President, may I approach the well?

MR. PRESIDENT: The Senator from the 14th may approach the well.

SENATOR KARL: Mr. President, we would like to take up the matter of the suspension of Mr. Jim Fair first.

MR. PRESIDENT: All right. The Senator will proceed.

SENATOR KARL: Mr. President, there is a preliminary matter that I would like to bring to the Senate before proceeding with the report.

MR. PRESIDENT: Senators, again, as we did at the last suspension session, I would call your attention to the solemnity and importance of this occasion dealing with the right of a man to occupy office and would request that each Senator remain in his seat during the discussion and the reading of the report. Senator from the 14th.

SENATOR KARL: Mr. President, in the course of the hearing in Orlando there was some discussion about Mr. Fair's testimony, or his desire, or his willingness to testify before the committee. Outside of the hearing he made remarks to the press to the effect that the committee had not treated him fairly. During the committee meetings he at one point requested that he be allowed to appear and testify before the full Senate. In an abundance of fairness as Chairman of the Committee, I told him that this was a procedure that we did not follow; that the procedure was to receive all testimony and evidence before the committee and for the committee to make a comprehensive report, but nevertheless in view of his request I would prior to reading the report, inform the Senate of his request but I also announced at the hearing that I would recommend that his request be denied, as I think to open the full Senate to testimony from any witness would be to defeat the entire purpose of the committee and would result in pure chaos with the Senate sitting for an unlimited time and having to go through the whole thing again which we have just completed. I might also say that at the hearing yesterday which was designed to hear argument of counsel only, although we had offered Mr. Fair an opportunity to present a written statement at that hearing, his lawyer did read a statement and I would like to present to you a part of that statement for the purpose of supporting the motion that I intend to make. In this statement it says, this is by Mr. Fair, read by his attorney, that "I desired to testify before this committee regarding the operations of my office. Unfortunately, I am involved with the prosecutor here who is also involved in another proceeding pending against me which comes to trial on July 13 in Hillsborough County. My attorneys advised me strongly not to testify before this committee and urged and insisted that I abide by their advice. This I have done with reservations." So, in summary, he at one point made the request to appear before the Senate, then this statement indicates he does not

want to testify but just to clear the air, I want to bring this before you and in the same motion I would like for you to consider a request from a Mr. Morton A. Tucker, President, who also complained of the committee being unfair. Mr. Tucker came before the committee with a prepared statement and he represents the Florida Committee for Better Government, Inc. His statement was an attack on various public officials in Hillsborough County. The Committee looked at the statement, went into an executive session to consider what ought to be done about it, came back and agreed to receive his statement if he wanted it. I made the inquiry of him would he be willing to waive his immunity from libel if there was any immunity and this developed a discussion in which he asked for immunity, asked what immunity he had. We were not able to give him a legal opinion and so he elected not to testify but has this morning filed with the Senate President more or less an attack on the committee and a request that he be allowed to appear before the full Senate. So, as to those two matters, Mr. President, in view of the remarks, I would move that the requests of Jim Fair and Morton A. Tucker to appear and testify before the full Senate be denied.

MR. PRESIDENT: The Senator from the 14th moves that the requests for the official, Jim Fair, and Mr. Tucker to testify before the Senate be denied. Is there discussion? As many as are in favor of the motion will say "Aye".

RESPONSE: "Aye"

MR. PRESIDENT: Opposed "No"

(No negative votes were heard)

MR. PRESIDENT: Motion carried. Senator from the 14th.

SENATOR KARL: Mr. President, I will now present the report of the committee which is a unanimous report of the six Senators who participated.

Senator Karl, chairman of the Select Committee, read the following report:

*Senator John E. Mathews* July 8, 1970
*President, The Florida Senate*
*The Capitol*

*Dear Mr. President:*

Mr. Jim Fair was duly elected Supervisor of Elections of Hillsborough County at the general election held in November, 1968. He assumed the office in January, 1969, and served in that capacity until his suspension by Governor Claude R. Kirk, Jr. on April 16, 1970.

The Executive Order of Suspension is based upon the report of the Grand Jury of the Thirteenth Judicial Circuit, in and for Hillsborough County, and charges Jim Fair with malfeasance, misfeasance, neglect of duty and incompetency in office.

The Senate President referred this matter to the Select Committee for appropriate action and report pursuant to Senate Rule 12 and Chapter 69-277, Laws of Florida. A pre-hearing conference was held in Tallahassee on June 1, 1970; testimony and other evidence was received during the committee hearing on June 30, July 1 and July 2 in Orlando. Final argument and summation by attorneys was heard in Tallahassee on July 7.

Senator Haverfield was present for the pre-hearing conference, but excused from attendance at the Orlando and Tallahassee meetings because of illness. He did not, therefore, participate in the preparation of this report and recommendation.

Mr. Norman Siegel and Mr. Reber F. Boult, Jr. of the Atlanta office of the American Civil Liberties Union represented Mr. Fair; Honorable Joseph G. Spicola, Jr., State Attorney, and Mr. Vincent E. Giglio represented the Governor.

Throughout the proceedings the attorneys for Mr. Fair raised objections and filed motions attacking the constitutionality of the Executive Order of Suspension as well as the Florida Constitution, the Florida Statutes and the Senate Rules. All such motions and objections were taken under advisement. The committee is of the opinion that the Executive Order of Suspension meets the requirements of the Florida Constitution and applicable statutes; that the procedures required by the Florida Constitution, Florida Statutes and Senate Rules provided due process of law for the suspended official; and that the constitution, statutes and rules were followed by the committee. In consideration thereof, the committee recommends that the motions be denied and that the objections be overruled.

The committee heard testimony of forty-three witnesses, received thirty-seven exhibits, and read and considered the various motions filed by Mr. Fair's attorneys. Mr. Fair and others filed suit in Federal Court against the Governor, the Senate President, the Committee Chairman and others. The pleadings and exhibits in that suit have been read and considered although to the knowledge of the committee no defendant in the suit has yet been served. Moreover, the committee has heard a final argument and a summation of the evidence by each attorney.

The grounds for the charge of malfeasance, misfeasance, neglect of duty and incompetency in office are spelled out in some detail in the Executive Order of Suspension. The evidence presented by the Governor was prima facie sufficient to support the charges. The evidence presented by Mr. Fair created certain conflicts which required the Committee to attempt to reconcile the testimony of the various witnesses and to determine which of them most accurately reflected the facts. Much of the testimony received by the committee was irrelevant and immaterial and therefore considered as such by the committee.

We have carefully considered all relevant and competent evidence going to the official conduct of Mr. Fair's office in such matters as compliance with applicable law, the registration and voting records, purchasing practices, the organization of the office staff and the utilization of public facilities and funds for purposes not authorized by law. We have considered this evidence in the light of the definitions of malfeasance, misfeasance, neglect of duty and incompetency adopted by this Senate in the report of the Sheffey case on May 13, 1970.

On that basis, it is apparent that the evidence sustains the position of the Governor.

Accordingly it is the recommendation of the Committee that Mr. Jim Fair be removed from the Office of Supervisor of Elections of Hillsborough County, Florida.

Respectfully submitted,
SELECT COMMITTEE ON
EXECUTIVE SUSPENSIONS
FREDERICK B. KARL, Chairman
W. E. BISHOP
KENNETH PLANTE
C. S. REUTER
J. H. WILLIAMS
HAROLD S WILSON

SENATOR KARL: Mr. President, I move the adoption of the report and that Mr. Jim Fair be removed from the office of Supervisor of Elections of Hillsborough County, Florida.

MR. PRESIDENT: The Senator from the 14th moves the adoption of the committee report and the removal from office of Mr. Jim Fair. The floor is open for discussion and debate. Are there questions?

SENATOR KARL: Mr. President, there are some other remarks that ought to be made. Mr. President, I think it is appropriate too that we take just a minute in support of this report to discuss the evidence and the charges to the extent that the Senate wishes to do so. I will begin by saying that Mr. Fair's defense was in two parts. First, he

brought witnesses in an attempt to answer or explain in some way the specific charges against him which we will discuss in detail if you like. It involved the office practice, the handling of his official office, compliance or failure to comply with the law that was involved and purchasing practices that he engaged in, things like that. The second part of his defense and the one that was considerably belabored by the evidence—by the witnesses and the evidence that was presented—was to the effect that Mr. Fair was an inspiration to certain young people in that area; that he brought them in and involved them in government; that he inspired them and that he convinced them that he was acting in the taxpayer's interest—he was trying to save taxpayers money—that he was trying to provide for honest elections; that he could do no wrong, and each of these youngsters and some people with some age testified at some length on this kind of an approach. I think it is appropriate to say that the committee did not make its decision and does not make its recommendation to you on the basis that Mr. Fair hired young people inexperienced to work in his office. Certainly, our recommendation is not made on what anybody wore or how they acted in the office or their attitude or anything like that. The committee's decision is based on the charges contained in the executive order of suspension and the evidence going to that point. We were re-treated to this discussion and dissertation on the philosophy of the generation gap and we were told in so many words that if the Senate does remove Mr. Fair there is going to be a great deal of unhappiness and disillusionment on the part of some of these young people. So, I feel that it is important we make it clear that while his goals may have been commendable in inducing young people to follow him and in bringing them into government and involving them in patriotism and in the desire for good government that those motives and those actions on his part do not constitute a license to do business on his own terms and in violations of the laws and the rules and the procedures that are required to conduct a constitutional office in a constitutional and competent manner. Perhaps some of the other members of the committee would like to add to that or speak to other points of evidence but I think it must be made clear that this is not an attack on the young people or their desires. It is not a furtherance of the establishment trying to put down somebody who is a little different. This recommendation, this report as you heard it is confined to the facts that go to the competency of the man in the conduct of his office.

SENATOR BARRON: Mr. President.

MR. PRESIDENT: The Senator from the 4th.

SENATOR KARL: Yes, I yield.

SENATOR BARRON: Senator, will you give us a sort of a summary of the charges, certainly not forty-seven witnesses worth, but your conclusions of fact based on the charges that you engendered from hearing those witnesses?

SENATOR YOUNG: Mr. President.

MR. PRESIDENT: For what purpose does the Senator from the 19th rise?

SENATOR YOUNG: Mr. President, I think my request is probably very similar. I would like to hear at least some of the key factors in reaching the decision on the part of the committee members so that we will know why we are voting to sustain the committee report.

MR. PRESIDENT: The Senator from the 14th.

SENATOR KARL: Yes, we propose to do that. I'll begin and then I'll ask the other committee members to keep their notes available. Senator Wilson has all the exhibits by his desk and each Senator has pretty extensive notes. First, there was the question of the purge of the voting record. There is a conflict in Hillsborough as to whether a special act or the general law ought to apply in the purging of the voting records. Fair took office in January of 1969. At the time he took office his predecessor had prepared I think about 30,000 plates for purging. These were people who had not voted in at least four years and under the law by January of 1970, we believe they were supposed to have been taken out. This work had been done in preparation for this. He took over. He did not follow through. He did not purge the rolls in that way. The five civil service employees who had been employed by him testified that throughout the year 1969 they took really no substantial action at all. Just sort of sat there. He had them write essays and type law suits, papers and other things like that but they did not make a move towards the purge. Then in January of 1970, Mr. Fair took the position that he was not operating under the special act. He decided on the constitutionality of that. He took the position that the special act was unconstitutional, and he decided he would conduct what purge he was going to conduct under the general law. To technically comply he sent out about twenty-five purge cards in January of 1970 and then undertook a major purge, and it is at this point that he brought into the office a large number of young and/or inexperienced people to conduct this purge and they began working in the office on a daily basis and sorting the cards and doing various other things from that time until the date of his suspension. Purge cards were sent out but instead of using the procedure that had been established and taking advantage of the money that had been spent and the time that had been devoted to it, they attempted to purge the entire roll—made up a purge card and sent it out, having people outside of the office do some of the addressing and it was sent out in one of Sam Gibbons' franked envelopes so that it did not have a postmark on it so you could comply with the law that within a certain date from the postmark certain things had to happen. The envelopes that did not reach their destination, many of them were returned to Washington. Some wound up in an office outside of the supervisor's office. So, at the time of his suspension, it appeared from the testimony, that the purge had not been successfully completed and that in fact when the special election was held in which Senator McClain was elected, for all practical purposes, the records and registration of the 1968 general were used with minor modifications. Now, we feel that that constitued a violation of his duties. Then, there was an incident—

SENATOR ASKEW: Mr. President, will the Senator yield?

SENATOR KARL: I yield.

SENATOR ASKEW: Was there any explanation given on the franking privileges of the Congressman to send out the letters?

SENATOR KARL: Well, yes. The explanation—one of the explanations was that it saved the taxpayers' money because the supervisor's office did not have to pay it.

SENATOR ASKEW: Which taxpayers?

SENATOR KARL: Well—

SENATOR ASKEW: Senator, one further question. I didn't ask it in jest, I was serious about it. One other one. Was there any attempt to seek an Attorney General's opinion or the County Attorney's opinion or anyone's opinion as to whether under which law he should operate?

SENATOR KARL: Yes. In 1970, toward the end of January of 1970, the opinion of the county attorney was sought and then later in 1970 an opinion of the Attorney General was sought. We have both of those in evidence.

SENATOR ASKEW: Well, then there was some basis upon which he—some legal basis on which he sought to go under one law as opposed to another?

SENATOR KARL: Well, Senator, he operated for over a year before he sought any opinion on that.

SENATOR ASKEW: My question is then that before he sought to do that did he seek any opinion in order to bottom his action of choosing between the laws?

SENATOR KARL: My recollection is that he did not, but I yield to Senator Wilson.

MR. PRESIDENT: The Senator from the 20th.

SENATOR WILSON: Senator, we have, this is Exhibit No. 10, a letter dated January 27, 1970, from Mr. O'Brien, County Attorney, and a portion of this letter reads as follows, after first of all setting forth the local law and some of the facts, he says: "Accordingly, therefore, we can only conclude that as the law now stands, failure to purge the voter list as required by Chapter 308.28, Laws of 1955, (special acts), would constitute a violation. No specific penalties are provided in violation of this act, except, of course, the general penalties provided for failure to perform requisite duties". Then he goes on to say as a practical matter get the job done and concludes: "As the laws now exist, however, absent any positive indication of legislative intent, the voter list should be purged during the month o January."

SENATOR ASKEW: Will the Senator further yield?

MR. PRESIDENT: He further yields.

SENATOR ASKEW: Then, Senator, was an attempt made to take it upon himself to do this before such time as an opinion was sought?

SENATOR WILSON: Well, Senator, this letter is dated a year after—a little bit over a year after, the supervisor took office, and evidently he was . . . .

SENATOR ASKEW: Was there evidence before the committee that he took it upon himself to start purging these without seeking any type of backing as far as an opinion? Wasn't there evidence that he started doing this prior to the time that he went into this purge under one law as opposed to the other?

SENATOR WILSON: As I recall that testimony, Senator, for the first year nothing was done. There were about 30,000 purge cards ready to go out when he took office. Nothing was done with those purge cards. Then in January of 1970, a year later, he got this particular opinion.

SENATOR ASKEW: Then what did he do after that opinion was rendered?

SENATOR WILSON: This is when he must have sent out the twenty-five cards.

SENATOR ASKEW: But did he then seek to comply with that opinion?

SENATOR WILSON: No, Sir. Then he moved, as I think the Senator will recall, states, further on to act under the general law relating to purging.

SENATOR ASKEW: Contrary to the opinion that he had requested?

SENATOR WILSON: Yes, Sir.

SENATOR KARL: Well, the purge cards that he sent out referred to the general law and say they are sent out subject to the general law. Those are—other evidence—exhibits that we have.

MR. PRESIDENT: For what purpose does the Senator from the 9th rise?

SENATOR SLADE: Will the Senator yield? Senator, I would like to pursue if I could for a minute the franking envelopes, privilege envelopes of Representative Gibbons. How did this type thing come to pass? I have never heard of it before in any other government-type operation.

SENATOR KARL: Well, I can't answer that Senator. It seems that Congressman Gibbons felt it was a good idea. He put some sort of little note of his own in the envelopes, and it went out to the 210,000 registered voters in Hillsborough County. As I remember they had to cut the envelope across the side to expose the address on the card and I've never heard of it before although my recollection is that there was some testimony that something like this had been done some place else before. I'm not sure about that.

SENATOR SLADE: Senator, was this a voter purge then or an attempt at it, or was it Mr. Fair using his office to further the campaign of Representative Gibbons?

SENATOR KARL: No, I don't think he was using the office to further the campaign of Representative Gibbons. I would say that in this instance Mr. Fair was making what he considered to be an attempt to update and make accurate the voter rolls in Hillsborough County. Why he used the franking envelopes—the motive for that I don't know but the overall purpose, I think, was to accomplish what he really set out to accomplish. I don't think there was any political motive involved although he put his own name on the card about eight or nine times and the charge of the grand jury was that he was—that he published cards that were politically written.

SENATOR SLADE: How did he come to obtain these 210 or 220 thousand franking envelopes?

SENATOR KARL: We did not inquire into that. It seemed—that seemed really irrelevant to the issues that we were involved with. Just the fact that it didn't have a postmark on it was the thing that was—constituted the violation of the procedures that are prescribed by the law and it would be impossible for him without a postmark to know when these things were actually put in the postoffice to start the time running.

SENATOR SLADE: Do you happen to have copies of these?

SENATOR KARL: Yes, we have a sample that was introduced as an exhibit. I think Senator Wilson has it here.

SENATOR ASKEW: Will the Senator further yield?

MR. PRESIDENT: He yields.

SENATOR ASKEW: Senator, I understand that the position of the select committee is that for the first year he didn't do what he should have done under the general law and then when he sought an opinion, the opinion was that the general law—I mean that the special law prevailed, is that right? And he then decided in the absence—I mean in spite of the opinion which, of course, would be only advisory to him as a constitutional officer—he then started to do under the general law—is this an accurate—?

SENATOR KARL: Yes, but I would suggest to you, Senator, and to the other Senators, that you not confine your decision to this particular issue. This is one of the things that was involved and the violation is in a way a technical violation. What we are really saying is that he took office and was there for a year and a half. There came a special election and still no purging had been done effectively under either law and he operated his office in such a way during that time as to subject him to a charge of neglect of duty and incompetency.

SENATOR ASKEW: I understand that, Senator, and I didn't mean to imply that I would bottom any of my decisions solely upon one issue, but as I understand it, he had to really do one or the other. He had to either purge the rolls under the special law or the general law the first year of which neither was done and then when an opinion was sought of the County Attorney he said he should follow the special law and then he then decided to follow the general law.

SENATOR KARL: Exactly right. He decided the constitutional question himself and proceded on that basis.

SENATOR PLANTE: Will the Senator yield?

SENATOR KARL: I'll yield to Senator Plante.

MR. PRESIDENT: He yields to the Senator from the 16th.

SENATOR PLANTE: Mr. President, I would like to just make a little statement about this purging, if I could, so that maybe we could understand a little bit more—

MR. PRESIDENT: Senator, let's pause until these Senators get through over at the desk there. I think we are entitled to all Senators to pay attention. Senator from the 20th.

SENATOR WILSON: Mr. President.

MR. PRESIDENT: The Senator from the 16th, who is a member of the committee, wanted to make a statement.

SENATOR WILSON: I am the cause of some confusion here, Mr. President. I wondered if I could stop it by just sort of indicating in a general way to the members of the Senate what this envelope was. There is some question about it. This is the envelope with the Congressman's franking stamp on it and there were several enclosures in the envelope and here they are (Senator Wilson displayed the envelope and enclosures for the information of the Senate) and will be glad to have everybody see it but it does cause confusion for everybody to gather around at one time.

MR. PRESIDENT: The Senator from the 16th.

SENATOR PLANTE: Thank you, Mr. President. Senators, if I could have your attention. As the President said earlier this morning when we first started this, we are going through a very serious part of the Senate's responsibility, something that I think all of us should take seriously and several Senators have asked questions, which I am glad they have asked questions, and I am glad it wasn't just cut and dried that you accepted the committee report. I think we should go into it. But, under the purge of the voters, there was confusion when Mr. Fair took office. On even the special act, on whether the special act said that voter lists should be purged in '69 or '70. Mr. Fair read the special act and felt that it said 1970 was when it should be done, every four years and seeing that the law became effective in 1958 and that the first purge should have been performed in January of '58, I think he had grounds, but I think one of the problems that has to be brought out here is that nothing was done for a year to find this out, that everybody else was going under the impression that '69, being the last one was held in '65, that four years later it should be purged and his predecessor had taken the, under the special law, had taken the people who had not voted for four years—he had pulled their plate in the addressograph room from the addressograph machine and was set to—he had no cards printed. Let's get this understood. There weren't any purge cards really printed. There were samples ready to select one of these samples to go to the printers and to be mailed out but nothing was done for a year until January 26, as I read it. January 26th, Mr. Fair asked for a County Attorney's opinion, and this was in 1970, a year after he took office, about the special act, and the county attorney's opinion was that he should act—he should act now. Just really in plain language was that it had to be done in January. Now, if we look at it this way as far as whether it is the general or the special act, I say he should have acted under the special act and not the general act, because Hillsborough County has a special law. But both of them should have been done as I look at it in 1970, and it should have been done in January and the law says they should all be mailed out by January, not after January, but by the end of January, they should be mailed out. The special act calls for only mailing out to those people who have not voted in the last four elections—the last four years..... some thirty odd thousand people in Hillsborough County but Mr. Fair sent out to everybody, all 210,000, and in the purge card, down in the right-hand corner, it cites the law that this purge is being handled under which is 98.6, I believe, or something like that, which is the general law and not the special law, but in either regard—I feel that the purge was a little late. The purge—all the cards should have been mailed out in January and not after January. In the testimony of the witnesses, and I could not pin down the exact date, asking about this record, could not pin down the exact date of when this purge began, when the cards began to be mailed out. I couldn't get a specific date, but I could get to the best of my knowledge and the witnessess and the people that came to work in Mr. Fair's office, and were working, both the witnesses for the state and for Mr. Fair that it was in later February before the purge really began to take place, sometimes between middle and the late part of February before the cards were even starting to get mailed out, and I think that as far as the purge goes this is the big point. Of course, like Senator Karl brought out that they were mailed

under Congressman Gibbons' letter without a postmark and the general law does have in it where it says that they must be returned within thirty days of the postmark. It is right in the law that the postmark must be on these purge cards, on the envelope, that they came in. Of course, there was no postmark. It was done—Mr. Fair's witnesses testified that—it was brought out—that the major reason for using Mr. Gibbons' franking privileges was to save the taxpayers money and, of course he saved it in some ways and cost it in the others but this we can't go into this, I don't feel is really part of it, but I do feel that no postmark, that getting the purge cards out late are two major issues here and also the idea that the purge cards were coming back, being returned, either the ones that had not been signed, even some of them as I understand it had been signed, coming back to three different places, back to Congressman Gibbons' office in Washington, to a location outside of the Superintendent's office in Hillsborough County and also back to the Superintendent's office. He had these cards going in three different directions and I feel caused quite a bit of confusion. That's my recollection of the purge and the testimony of the activities of the purge.

MR. PRESIDENT: Senator from the 4th.

SENATOR BARRON: Mr. President, in a way, I'm sorry that the Senator from the 3rd is not on the committee. I think some things need to be said maybe plainer than the Senator from the 14th is given to saying them, but I want to ask a question. First of all, this precinct map that was sent out has things like "Jim Fair, Help get Better Government, Keep Fair in", various obvious political statements, and it appears to me that he's politicing in carrying out the duties of his office. The other card is red, white and blue with stars and it talks about Jim Fair—as small as this one is, it's got his name on it twice on one side—and this one says "Your Friend Jim Fair" and the other one says "Jim Fair Super dash" (—) and then in smaller letters "visor of Elections". Now, I am wondering, Senator Karl, if the committee considered that this was a highly improper way to go about doing the job and secondly whether or not the statute doesn't provide some sort of form to be used. If not, I hope you will direct your attention to correcting that.

SENATOR KARL: That did come to the committee's attention, and it came initially in the language of the grand jury report which is a part of the executive order of suspension you have on your desk. It says "The purge cards which had been prepared by the permanent employees and rejected by the Supervisor were simple and effective, and followed the pattern of purge cards used in past years; but the cards designed and sent out by the Supervisor bore his name in several places and had the overtones of political advertisement for the Supervisor himself." We all concluded that that was true, that they were unusual, that he went too far. We did not decide that there was a statute or there was not. I don't believe that discussion was held but certainly there should be some guidelines about what can be done when a man in the normal course of his duties has the right to mail to all of these people—Yes, I'll yield.

SENATOR SAYLER: Senator, wasn't Mr. Fair a candidate for either the House or the Senate in a special election?

SENATOR KARL: In a special election, yes he was. I believe it was when Senator McClain—

SENATOR SAYLER: Were these things mailed out at the time he was a candidate before the election?

SENATOR KARL: Can you answer that—?

SENATOR WILSON: It was before, Senator.

SENATOR KARL: I think it was before. I, you see the special election resulted from Senator McClain's death and I believe these cards were prepared and sent out prior to Senator McClain's passing.

SENATOR SAYLER: But it was prior to the election?

SENATOR KARL: Oh, yes. Prior to the election but I don't think anybody knew there was going to be an election at that time and he was not a candidate in the office at that time.

MR. PRESIDENT: Senator from the 2nd.

SENATOR ASKEW: But, Senator, this is really no issue here because in fact it is practiced in some of the highest places in this state, isn't it—is it not? As far as the use of name identity on stuff going out paid by the taxpayers?

SENATOR KARL: It's a matter of—

SENATOR ASKEW: I don't—I don't say that this is proper, not by a long-shot, but I don't think it is really an issue here.

SENATOR KARL: Well, it might go to the definition that we have of incompetency in office because it talks of the definition which I will refer you to in a few minutes. It's pretty broad and covers such practices.

MR. PRESIDENT: Senator from the 24th.

SENATOR McCLAIN: Senator, were there any specific findings by Dot Glisson, Blanche Work, Wilda Cook? I notice they were listed as witnesses. What was their testimony in sum and substance? Do you have that?

SENATOR KARL: The Governor asked one or two of the experienced supervisors to go in and look over this office and the Secretary of State, who, by statute, is more or less the supervisor of elections in the state, sent Mrs. Glisson, who is a recognized expert in the field, and they all went in and looked at the office and made their reports which were placed before the committee. They made rather hurried visits but the sum and substance of their reports was that the operation of the office was most unusual and seemingly very disorganized.

SENATOR McCLAIN: Was there any specific finding of a violation of an election law? Of course, this is what we are here to decide—whether there was some violation in the election law—

SENATOR KARL: Well, I—

SENATOR McCLAIN: —as to the operation of the office?

SENATOR KARL: I will defer to Senator Wilson who has the exhibit. My recollection is that the reports were simply that they made a cursory examination of the office and made a general report on the condition and appearance

of the office as opposed to confining their situation to the legal question of a violation of the election law.

MR. PRESIDENT: Senator from the 20th.

SENATOR WILSON: Mr. President, Senators, the reason these supervisors went down there was to observe the operation of the office so as to give the Governor, I believe, an opinion as to whether an election with updated books could be held as a special election. So they went in, spoke to the supervisor, concluded that because of the state of the purge they couldn't have an election with the updated books and it would be very difficult to have an election using the records as they existed in the 1968 election, but by major effort on the part of staff the election was held but they were not looking out for election law violations but to see whether the office could conduct an election.

SENATOR KARL: Incidently, all the testimony that we heard having to do with a special election in which Senator McClain was elected was to the effect that there were some problems but the election was properly held. It was just that they did not have updated books and that it created problems involving precinct lines and voters who were not registered. There was a relatively light turnout. Had there been a real heavy turnout it might have been more difficult. I hasten to say this was just one of the things now that are involved. There are several others. If you want me to go on, I'll take up some of the other situations that we heard. The next one had to do with what they call irregular ballots. The law says that these irregular ballots which are the write in ballots, the rolls off the machines and things, are to be examined under a certain procedure, court order, etc. after they have been sealed. An unsuccessful candidate for the county-wide election in the 1968 election came to the office and demanded to see the write in ballots in his election. Now, the testimony is a little bit in conflict about this. The witnesses for the Governor said that these ballots were properly sealed, that they were in the place where they ought to be and that Mr. Fair, without court order, just simply allowed, or the people in his office, allowed the opening of these boxes and the examination of these ballots without court supervision and without complying with the law. There was testimony to the effect that the box was not properly sealed, that some of the envelopes inside were not properly sealed and that the roll of paper and the ballots were dirty and crumpled and were not in an official form and the committee did not make a specific finding on this but I—but in my own summary of the testimony, I reconciled the testimony in this way. I think that the 1968 election was cleaned up in proper order and I was satisfied from the evidence I heard that these ballots were sealed and that there was a technical violation of the law by opening that box and examining those ballots in the office without the benefit of court order.

MR. PRESIDENT: The Senator from the 25th. The Senator yields.

SENATOR OTT: Senator, was not the person who came in to make this examination and was given a carte blanche apparent license to go into these boxes, etc. without a court order the same Morton Tucker who also offered testimony—

SENATOR KARL: Yes—

SENATOR OTT: . . . . earlier?

SENATOR KARL: Yes, that's right.

SENATOR OTT: He had been an unsuccessful write in candidate.

SENATOR KARL: Then there was testimony having to do with the splitting of precincts. Now, you should understand that in Hillsborough County they have an election board that supervises the elections and works with the supervisor and their duties are outlined in the law. The election board in December of 1969 ordered the splitting of precincts 49B and others and as late as March 27, 1970, there had been no compliance with the orders and requests by these people. Testimony from Mr. Fair was that the precincts were split in time for the election and that they were done properly but for all of that period of time from December of 1969 until the time that he brought all of these people into the office and began working on it this was not done. Then there was a matter of self-dealing. We heard a great deal of testimony about this and it evolves around about three specific incidents. In one case, Mr. Fair ordered some books, dictionary and encyclopedia from a company who he named in his purchase order. Upon investigation it was determined that this—the address of that company was the same as Mr. Fair's own business and it developed that it was a business in which he was in some way related. This was called to his attention and he was told this was not the proper procedure and practice and explained to him in some detail. Thereafter, he approached a person about buying an item from him, from his own business, and then the third person selling it to the county. We heard testimony about this and that person refused to do that. But, then there was testimony from another man who traded Mr. Fair three desks for one desk and then sold the one desk which he got from Mr. Fair on the trade to the county. Now, we did not establish that the county or the public lost any money on this procedure—so don't go off on that track. Mr. Fair's defense of this is that he was simply attempting to save the taxpayers money, that he could get these things cheaper and that it was ridiculous to pay retail when he could pay wholesale—things like that. There was one other incident which really wasn't self-dealing but falls in the purchasing category. He bought a small item for something like $3.50 and then paid $6.00 and something to have it delivered to his office. His attitude was that he was saving money for the taxpayers and therefore he did not need to abide the purchasing laws and the prohibitions against self-dealing. Only the one deal was fully consummated but these were the other two attempts. Now, then, there is a charge of using public personnel and public property for private purposes. We were astounded to learn that after Mr. Fair took over he really went into the lawsuit business. About all that was done in this office for a long period of time was the preparation and filing of various lawsuits. Mr. Fair hired an attorney or an ex-attorney by the name of Edwards who did little more than sit in the back room and prepare pleadings. He had a man named Rodriguez who was in the office from time to time who helped on these. The various civil service employees testified that from time to time they typed the pleadings and ran errands and did other work in connection with these law suits. Most of the lawsuits were attacks on other public agencies or other personnel. One of the lawsuits was a personal lawsuit involving a dog bite situation, but they spent numerous hours. Mr. Edwards, for example, who all the witnesses agreed did not do any work of an official nature was paid about $350.00. He was paid $3.50 an hour and the testimony was that he worked about a hundred hours although the pay records are a little bit difficult to really decipher, but paper was used, Xerox

equipment was used, personnel was used and time was consumed in the office in the preparation and filing of these various lawsuits which this committee felt were not a necessary part of his work and in some cases were purely personal.

The President Pro Tempore presiding.

MR. PRESIDENT PRO TEMPORE: For what purpose does the Senator from the 21st arise?

SENATOR SAYLER: Was there a specific statute that was violated here?

SENATOR KARL: Senator, I think you could look at several of the statutes. We took the position that using county personnel, county supplies and county equipment in the office for filing or the defense of a personal lawsuit is no different than a county commissioner sending a county truck loaded with county sand out to put on private property. It is the same idea. It might fall within any number of the statutes that prohibit either taking public money for your own use, converting public money to your own use. There may be various criminal aspects to this.

The President presiding.

Then there was the matter of the expense vouchers. Now, as you heard in the matter of the purge, Mr. Fair attempted to technically comply by sending out twenty-five ballots to technically comply within the month of January. Here again, he used that kind of an approach. He was very interested in the hearings going on before the Public Service Commission on rates, and he would travel around the state to attend hearings and on occasion take one of these county employees out of the office to go with him and they would file expense vouchers for travel and other expenses. He justified this on the basis that on each of these trips he would drop by an office of supervisor of registration in another city. He actually did do that. After the hearings, or whatever other business he had, he would then go in and pay a visit for sometime up to an hour or an hour and a half in an office of a supervisor of elections, and his testimony was that those trips were for the purpose of learning how to operate his office. But, the fact is, and I think that the committee was convinced, that he was going to these hearings and did this other thing incidentally for the purpose of, as he said, killing two birds with one stone. Then there was a—going to the question of neglect of duty or incompetency in office—there was the testimony about the operation of the office. He had five long-time civil service employees who were working in the office when he arrived. But, in the course of time, he moved into this office varying numbers of people who were totally inexperienced in this field and he would make them supervisors. He brought one man in who had never worked in such an office before. He worked a total of seven days, I think, but he was really the efficiency expert and the man who was organizing the office and there were people who testified before the committee that they were in charge of a certain operation that was going on or that a Mr. Bolt was supervisor of all of them although really what it turned out to be, he just sort of kept the time sheets. He had this important function and had these delicate records of the voter registrations, the precinct lists and all that in the hands of these inexperienced people, supervised by inexperienced people and finally there came a crisis in which he called all of the five civil service people in and summarily humuliated them before all the people who were present including the press, and proceeded to fire them. Now, he talks about due process. If you've ever seen a lack of due process, you ought to hear the testimony about how these civil service employees were treated at the hands of Mr. Fair. So, while there is probably no violation of the law in the manner in which he operated his office, if you will read the definition of neglect of duty and incompetency in office you will see what we are talking about. There was one incident having to do with a man who took on a pretty good load of alcohol from time to time. He had an incident with one of the civil service employees. Not serious, he didn't touch her, but he came at her and Mr. Fair stopped him, and there was evidence that some of these people were sleeping in the office, using the office almost as their home. Now, Mr. Fair's and some of the others' testimony was to the effect that he felt insecure in the security of the records and he felt he had to have his own guards and his own people sleeping in the office to protect his records and all of that. That was his justification for it, but the fact is that the people were really living in the courthouse in the supervisor's office and there were complaints from a security guard that they left a door open at times when it should not have been, thereby affecting the security of the whole courthouse. The matter of the payroll was a strange thing. Most of these employees were on part-time and they had a man who kept the records. The testimony is that the people would check in with him when they came and would check out with him when they went, on doing some work on private business, or they would check out when they left for the day—left the office for the day. Our observations were that the records were poorly kept. There are many mathematical errors. There are some things that are highly improper in it like this Mr. Edwards who worked a week and then couldn't get paid because of social security. So, the official records that were filed with the county for his pay simply put those hours in the next pay period and it was represented that he worked that number of hours in a particular pay period when actually it had been spread over two pay periods. Various other minor defects, we have all the pay records of Mr. Fair's whole administration here. I think that pretty well summarizes it unless there would be something that members of the committee would like to add to it. We looked at all this—heard all of this testimony, considered all of the evidence, and then you look at this definition which I would like to read to you on neglect of duty. This was the definition that we adopted in the case of Judge Sheffey and which came from an opinion of the Supreme Court, and it says: "Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by law. It is not material whether the neglect be willful, through malice, ignorance, or oversight. When such neglect is grave and the frequency of it is such as to endanger or threaten the public welfare it is gross." Now here was a man who was elected to a constitutional office of important responsibility who handled it like it was his own little office and who just nearly disrupted the whole county. The definition of incompetency is: "Incompetency as a ground for suspension and removal has reference to any physical, moral, or intellectual quality, the lack of which incapacitates one to perform the duties of his office." And this is the important line in this definition: "Incompetency may arise from gross ignorance of official duties or gross carelessness in the discharge of them. It may also arise from lack of judgment and discretion or from a serious physical or mental defect not present at the time of election, though we do not imply that all physical and mental defects so arising would give ground for suspension." So we feel that all of these things taken together, constituted the grounds for removal or for suspension by the Governor. We think the Gover-

nor's position was well taken and we believe Mr. Fair should be removed.

SENATOR MYERS: Will the Senator yield?

MR. PRESIDENT: He yields.

SENATOR MYERS: So that the record will be completely straight, in the event this is reviewed by any type of appellate court or some one asks for a transcript, I think we had better correct what perhaps was an inadvertent mistake in the statements that were made along the way in your narrative. There was a statement where you indicated while there was no violation of law in the operation of this office, it appears that the cumulative effect of his actions were a neglect of duty. And I know you didn't intend that. I think we ought to correct for the records, in the event it is reviewed, that neglect of duty of an officer or malfeasance or misfeasance in office is, in effect, a violation of law as far as his public duties are concerned.

SENATOR KARL: Thank you, Senator. I would like to correct that. What I had intended to say was, that even though he has not been convicted of a violation of the law, nor indicted for it, still the accumulation constitutes grounds for suspension.

MR. PRESIDENT: Senator from the 25th.

SENATOR OTT: Mr. President and Senators, on behalf of mainly myself, but certainly the other members of the delegation from Hillsborough County, I would like to heartily endorse the recommendation of the committee and express my complete agreement with it, and to point out that, I know, I, myself, and Senator de la Parte, Senator Knopke and perhaps Senator McClain, since his becoming a Senator, have followed very closely the reports from the Grand Jury of Hillsborough which was impaneled in April, of this year, to review the situation in the supervisor's office, Jim Fair. I have followed that very closely and I have stayed in close touch, also, with the county—State Attorney—and have pretty much stayed up with what has taken place in the committee hearings in Orlando. Let me say, that the overall opinion of us of this gentleman, is that he is a definite disciple of many of those of today who feel that dissatisfaction with the results of existing systems, or laws, or officials, warrants taking the law into their own hands, creating the kind of law they feel should be, whether or not sanctioned by society. They have embarked, and he has personally embarked upon a program designed to create chaos, to confound, to abuse, to discredit existing officials, systems, laws, institutions, practices, that we have all considered to be time-honored American traditions as well as laws. The type of distrust that he has engendered, and disregard for officials and for laws and systems, has been consistent with all of his actions ever since I have been in that county, and he has been involved in the political scene of our county, beginning with his races for the Clerk of the—City Clerk, some many years ago. He has made himself a platform through the use of qualifying for various offices, there is just, frankly, no telling how many different races he has involved himself in as a candidate and openly stated that the qualifying fee that he had paid was cheap for the advertising and opportunity that he would have to use the political campaign trail as a platform upon which to wage his attack against the American system of officials and our own laws. So, I cannot more strongly add my personal endorsement and recommendation that Mr. Fair be removed from the office and that the committee report be concurred in.

MR. PRESIDENT: The Senator from the 6th.

SENATOR BISHOP: Mr. President, Senators, I concur completely in the action of the committee. I was on the committee. We labored long and hard. I think the Chairman and the other members of the committee were completely fair, in allowing, going beyond reasonable bounds in some cases, in allowing evidence and testimony to be submitted. Speaking to the point of disagreeing with the establishment, the Senator from the 25th has mentioned, I do not believe that the members of this committee, and certainly I will speak only for myself on this point, this had nothing whatsoever to do with my decision. I think that Mr. Fair and some of his witnesses indicated, in my opinion, that one of the problems was a generation gap, that we hear so much about. I do not believe that this generation gap, in my opinion, is as great as the press and the people think it is. It is a matter of lack of communications, somewhat on the part of the adults, it is a great lack of communications and willingness to communicate, in my opinion, with some of the young people. I have talked to some of these young men and expounded this feeling of mine, and I felt that I had to bring this up since it had been mentioned before by the Senator from the 25th and Senator Karl had touched on it briefly in his report. The thing that I am trying to get across is this: I, myself, having a son and daughter who are now adults, married, from the time they were sixteen years old, my wife and I enjoyed going out to parties with them. We never had any problem communicating with those children. We still enjoy going with them. I think it is because, if there is a generation gap, which I doubt seriously anymore than there was forty years ago, I think it's because of the lack sometimes of training at home. I taught school for nineteen years, I never had any problem communicating with the young people I dealt with in school, and I want to assure this Senate that the manner in which the people stressed the testimony about the generation gaps of these things had nothing whatsoever to do with my decision, and was based solely on the evidence that was presented, that I considered true and factual evidence.

MR. PRESIDENT: Senator from the 2nd.

SENATOR ASKEW: Mr. President, members of the Senate, of course, there are certain things that were brought out in the hearing about some of the two things, previous things that have been mentioned, but I'd like to commend this committee. I think this committee has done a tremendous job, and those of us who were privileged to serve in this Senate, and not too many years ago, can't help but feel good when you see the process that the Florida Senate now affords a person when they are suspended from office. Only those of us who had the privilege to serve under the old system can fully appreciate the time and, I think, the sincere dedication that goes into insuring that every person who is suspended receives a fair hearing. So I think that some of the questions that have just been spoken to, about the establishment, generation gaps, these are absolutely immaterial and I think the predicate that the committee laid from the very beginning, is that they were not persuaded by anything other than just the facts brought out on the hearing. Now, one of the things that makes me proud of this State, as I have had the chance to travel around it, has been my association with supervisors of elections. I think, by and large, we have one of the finest groups of supervisors of elections in this entire country. Now, we can talk about disagreeing with some officials in the conduct of their offices, but each one of us who sits here, we know first hand the vital importance of absolute fairness, impartiality, in competence in the field of elections. If we don't get this, then there is

nothing else in this system that can work. And I personally think that the Committee has done an excellent job. Their conclusion is in no way personal, and I am personally persuaded by the summary of the testimony that there is more than ample evidence of both malfeasance, misfeasance and nonfeasance, and that the issues before us as the committee said from the very beginning has nothing to do with the personality of the man holding the office but it goes to the fundamental process of responsibility in office and conduct in office. Certainly this committee recommendation is unanimous, is persuasive, and I would hope that this Florida Senate would give unanamious consideration to this committee report.

MR. PRESIDENT: Senator from the 13th.

SENATOR WILLIAMS: [Defective recording] * * *

SENATOR WILSON: [Defective recording] * * *

and knowing this, and knowing Mr. Fair as they did, they elected him their Supervisor of Elections. With this in mind we cannot condemn, and we do not condemn, any of the unorthodox methods that Mr. Fair employed in the conduct of his office. The fact that he had people there who may have dressed differently from other county employees, their hair may have been long, or their manners may have not been the same, the office may have been run with a degree of informality that may have been offensive to some. In other words, the fact that he had unorthodox methods, he didn't conform to the usual mode of doing things, this is not, in my opinion, a ground for removal, it doesn't even show incompetency unless this life style infringes upon the functioning of the office. When these unorthodox methods infringe upon the conduct of the office, then we get into another area. But I would think that so far as some of the things that were stated in the report—the beer cans, and the whiskey bottles and that sort of thing, people sleeping in there overnight, sort of using it for a hippie pad, there was no evidence of this type of activity. There was no substantial evidence of excessive drinking going on, or even any drinking going on, beer bottles were not laying around, or the place was not used for people to sleep overnight. The evidence there was that two men at a time slept overnight in the supervisor's office to guard the books. Now whether this showed good judgment or not is another matter, but so far as using the place, as I say, as sort of a "hippie pad". there was no evidence of this. If the people of Hillsborough County were offended by matters of this kind, their remedy was in the next election, and in electing somebody else as supervisor of elections. Then there were some other matters that go a little bit further to the questions of perhaps judgment, questions of judgment involving the business about, for example, trying to deal with his particular shop, because he can save some money for the taxpayers. In one of these instances he wanted to buy a dictionary, a three volume dictionary, and he put a requisition in to his own store under some name which wasn't familiar, but was his own store, and as a matter of fact, he was able to get a 20% discount that the county wasn't able to get, so the motive for saving money is commendable, but certainly the method showed very poor judgment, and I believe violated the conflict of interest act, because not only are we trying to save money by these statutes against conflict of interest, but we are trying to prevent the appearance of public officials dealing with themselves. And so I take this quite, quite, seriously. Now the fact about purge cards, this also is a matter of judgment, and it has been brought out that we have other officials that use some of their literature to make their name known. But the thing that really impresses me is that the office was really not run in a competent manner. During one whole year there was hardly any activity in the office, even though the records and the cards were ready for what would have been a substantial purge. And when the voter purge was actually attempted was not carried out in a way which can be condoned in the least, because the purge cards that were returnable, those people that were dead, had moved, the ones that should come off the cards were in some other offices. And this, of course, offered an opportunity for somebody unscrupulous to set up a fraudulent group of cards, because if you could get your hands on these purge cards, take a couple of thousand of them you would have a couple of thousand names of people who had moved or were dead, and if you were so inclined you could use these for nefarious purposes and there would be a possibility to perpetrate a fraud upon the public. One of the things that the Senator, which our Chairman didn't mention, was that for a time, from about April 3rd or 4th until about April 14th when the supervisor was suspended, he was absent from his office. And this was a period of great activity getting ready for the special election and during this time he would make telephone calls to certain of his aides, but whether they knew where he was or not, or whether he could be reached, there was some conflict and doubt about it. But during the period of time when he was most needed in his office, he wasn't there, and this was after the time he had discharged the five civil service employes. He had I think; one person in the office who had experience for approximately one year and the others had been there from two to three months. Mr. Fair was undoubtedly preoccupied with lawsuits and we have here a list of the lawsuits he filed both in circuit court and federal court. In many of these lawsuits he names himself as Jim Fair, individually, and as Supervisor of Elections of Hillsborough County. And I suppose that's the justification for paying the employees for helping prepare these lawsuits, but I question seriously whether it is the function of a supervisor of elections to engage in litigation to the extent that Mr. Fair did, supposedly in his official capacity. Now, undoubtedly, as an individual he had a right to bring these lawsuits, but, as a supervisor of elections, to attack the acts under which he was acting and in essence to strike out in a number of different directions, was not satisfactorily explained to me as to how this could be a proper function of the office and this was evidently a feature of this office during a good period of the time, the filing and conducting of these lawsuits. The mismanagement of the personnel is striking. In the case of two of the civil service employees he recommended that they be given an increase in salary and an increase in grade, I believe, in October or November of 1969. In March he discharged these employees summarily. One of the causes for this discharge was that he brought in a man one day who answered an ad, and for one day he worked with the addressograph machine. The next day he was in charge of reorganizing the office and making suggestions, and he made the suggestions in such a way that apparently they were offensive to the civil service employees who declined to take any responsibility under the methods that he proposed. And it was the result of this situation that the civil service employees were discharged summarily. The office line of organization, who was in charge of what, was very vague and uncertain. I think we had at least two people state that they were in charge of the office and other people thinking they were in charge of the office. In some justification to Mr. Fair he has said that some of the problems of the office were the responsibility and the fault of the five civil service employees. In this regard all we can say is that he was in charge of the office for some fourteen or fifteen months while the civil service employees were working for him, and he was the one in charge, he was the one who should know what was going on. In one instance, for example, there was some testimony that there was a box

full of registration cards somewhere or other that was filed after the civil service employees left, and this was supposedly their fault, but it really was the responsibility of Mr. Fair who was in charge of the office. And so the picture is inescapable of an office which was not competently handled, and it was for this reason that I voted to suspend Mr. Fair. Now so far as the larger issues are concerned we can't avoid looking at them. This is a public official who is being removed. We cannot do this lightly. The question is, is this democracy at work, but that's too broad a question. I think the question we've got to ask ourselves is, does our system allow us to get rid of an incompetent official after giving due regard to the voice of the people, or after giving due regard to his right to make a defense? Is our system capable of getting rid of an incompetent official? And I think that if it isn't, we are in a lot of trouble, and I think we can through this method of self-cleansing, when an office is run as incompetently as this one, we can purge the office of that official and we can demonstrate that we are a democracy in action. I think this should give us a certain measure of satisfaction with our system.

MR. PRESIDENT: For what purpose does the Senator from the 19th arise?

SENATOR YOUNG: Mr. President, I would like to be heard on the question before the others are recognized. Mr. President and Senators, I think that while the committee has done an outstanding job of presenting to us many facts and the results of hours and hours of testimony, and all the arguments the Senators have made, and maybe I shouldn't say arguments, because I don't think anyone needed to be convinced about what we are doing. But there is one thing I feel has to be said and it's my reason for voting in support of the committee recommendation. It is not because of this one item or that one item or some other one item, because while I might personally not like some of those activities, as Senator Wilson has said, the people of Hillsborough County elected this man knowing of these traits and characteristics. The one overriding factor that has decided by vote—and I think we ought not to let anybody operate under a misapprehension—the major consideration for us here today is the fact that because of some of these activities some person or persons may have been denied their right to vote, and their right to vote is guaranteed them by the Constitution of the United States and of the State of Florida. It is an American tradition that if you are paying taxes, you are going to have a chance to vote and participate in your government, and because of some of these activities the right to vote could very definitely have been denied certain people. Now the right to vote, Senators, can be denied in several ways. Number one, if you think you are a qualified elector and you think your name is on the voter registration records and if for some reason of ineptness or some other malfeasance or misfeasance your name is not there and you are not able to vote, you've been denied your right to vote. Not because of any doing of your own, but because of a malfeasance or misfeasance. You can also lose your right to vote, Senators, in other ways and that is by some person casting a vote that is not rightfully his, and in fact denying your vote by abandoning your vote, by neutralizing your vote. In the instance of votes being cast for persons or persons being on the voter registration records who really have not right to be there, this is again another way to deny you and I and the people of Hillsborough the right to vote. I think all of these individual items the committee has pointed out all focus on one point, that all of them independently or together can, and probably have denied many people their right of having their vote counted in elections in Hillsborough County.

MR. PRESIDENT: Is there further discussion? Senator from the 14th.

SENATOR KARL: Mr. President, I think it's all been said and I would like to summarize it by saying this: the six people who sat on the Committee, Senator Wilson, Senator Plante, Senator Reuter, Senator Williams, Senator Bishop and myself, three Republicans and three Democrats, two lawyers and four laymen, all, I am sure you agree, people who tried to do the right thing, I can represent to you without fear of contradiction, that this Committee worked diligently, seriously considered everything that came before it, did everything within its power to grant a full and fair hearing, received all the evidence that was presented to it, and I am satisfied that if you will support this report you will never have reason to apologize for it.

MR. PRESIDENT: The question is on the motion by the Senator from the 14th to adopt the Committee report and remove from office Mr. Jim Fair. If you favor the motion you will vote "aye", opposed "no". The Secretary will unlock the machine and the Senators prepare to vote. Have all Senators voted? The Secretary will lock the machine and record the vote.

| | | | |
|---|---|---|---|
| Mr. President | Deeb | Lane | Slade |
| Askew | de la Parte | McClain | Stolzenburg |
| Bafalis | Fincher | Myers | Stone |
| Barron | Friday | Ott | Thomas |
| Barrow | Gong | Plante | Trask |
| Beaufort | Gunter | Pope | Weber |
| Bell | Haverfield | Poston | Weissenborn |
| Bishop | Henderson | Reuter | Williams |
| Boyd | Hollahan | Saunders | Wilson |
| Broxson | Horne | Sayler | Young |
| Chiles | Johnson | Scarborough | |
| Daniel | Karl | Shevin | |

MR. SECRETARY: 46 Yeas—No Nays.

MR. PRESIDENT: So Mr. Fair is removed from office and the report is adopted. Senator from the 14th.

SENATOR KARL: We have two other matters which we need to bring before the Senate of the same nature. The first is on Mr. R. Dewey Pendarvis, Jr. and I think the report is self-explanatory. There may be need for some further explanation on the waiver of the rules.

Senator Karl, Chairman of the Select Committee, read the following report:

*Senator John E. Mathews* July 8, 1970
*President, The Florida Senate*
*The Capitol*

*Dear Mr. President:*

Mr. R. Dewey Pendarvis, Jr. was duly elected Justice of the Peace, District No. 2, Duval County, Florida, and served in that capacity until his suspension by Claude R. Kirk, Jr., Governor, on May 16, 1969.

The Executive Order of Suspension is based upon the facts upon which the Grand Jury in and for Duval County, Florida, returned six indictments against Mr. Pendarvis.

The Committee was given information by the appropriate public official in Duval County to the effect that all criminal charges had been settled by pleas or other action. On May 14, 1970, Mr. Pendarvis was given the customary notice that a prehearing conference would be held on Monday, June 1, 1970. Neither Mr. Pendarvis nor anyone on his behalf appeared at that time.

Thereafter on June 16, 1970, the Chairman of this Committee wrote a letter to Mr. Pendarvis explaining the procedures, offering assistance and inquiring as to his intentions. The letter was sent registered mail with return receipt requested. To date, there has been no reply.

On July 1, 1970, we were advised by Mr. T. Edward Austin, State Attorney:

"In summary, Mr. Pendarvis pled guilty to an attempt to accept unauthorized compensation, which is a felony. Judge Layton withheld an adjudication of guilt in this particular case. Mr. Pendarvis also pled guilty to falsifying records and was sentenced to one year in the County Jail. The last nine months of this sentence was suspended and in addition to this sentence, the defendant was placed on one year's probation. All of the other cases were passed to our "absentee docket," which, in essence, does not constitute a final disposition of the cases but merely leaves them on the docket for further action in the event we elect to pursue these matters."

The Committee is of the opinion that it has used due dilligence in its efforts to provide a hearing for Mr. Pendarvis. The Committee has the authority under Chapter 69-277 to conduct its own investigation in such a situation. The information which has come to the Committee is sufficient to support the Governor's position.

The Committee therefore recommends to the Senate that Rule 12.3(b) be waived; that this matter be considered by the Senate at this time notwithstanding the fact that certain criminal charges are now pending against Mr. Pendarvis; and that R. Dewey Pendarvis, Jr., be removed from the Office of Justice of the Peace, District No. 2, Duval County, Florida.

Respectfully submitted,
SELECT COMMITTEE ON
EXECUTIVE SUSPENSIONS

FREDERICK B. KARL, Chairman
W. E. BISHOP
ROBERT M. HAVERFIELD
KENNETH PLANTE
C. S. REUTER
J. H. WILLIAMS
HAROLD S. WILSON

Respectfully submitted by the Committee, all seven members of the committee signing the report. Mr. President, I move the adoption of the report and that Mr. R. Dewey Pendarvis, Jr. be removed from the office of Justice of the Peace, District 2, Duval County, Florida.

MR. PRESIDENT: Included in the motion is a waiver of the rules?

SENATOR KARL: Yes, because the rule says that we will not take it up as long as criminal charges are pending, and technically these are which are on that absentee docket, so I think to put the record in shape, we will need the waiver of the rules.

MR. PRESIDENT: Is there a discussion? The question is on the adoption of the report and the removal of Mr. Pendarvis from office. The Secretary will unlock the machine and Senators prepare to vote. Have all Senators voted? The Secretary will lock the machine and record the vote.

| | | | |
|---|---|---|---|
| Mr. President | Deeb | Lane | Slade |
| Askew | de la Parte | McClain | Stolzenburg |
| Bafalis | Fincher | Myers | Stone |
| Barron | Friday | Ott | Thomas |
| Barrow | Gong | Plante | Trask |
| Beaufort | Gunter | Pope | Weber |
| Bell | Haverfield | Poston | Weissenborn |
| Bishop | Henderson | Reuter | Williams |
| Boyd | Hollahan | Saunders | Wilson |
| Broxson | Horne | Sayler | Young |
| Chiles | Johnson | Scarborough | |
| Daniel | Karl | Shevin | |

MR. SECRETARY: 46 Yeas—No Nays.

MR. PRESIDENT: The report is adopted and Mr. Pendarvis is removed from office. Senator from the 14th.

SENATOR KARL: Mr. President, there is one informational report that the Committee desires to make.

Senator Karl, Chairman of the Select Committee, read the following report, which was adopted:

*Senator John E. Mathews* July 8, 1970
*President*
*The Florida Senate*

*Dear Mr. President:*

This report is for the information of the Senate concerning the Executive Order of Suspension directed to Mr. Collis H. White, Solicitor of the Criminal Court of Record, Orange County.

It has been brought to the attention of the Select Committee on Executive Suspensions that an Executive Order dated June 17, 1970, has been entered by the Governor withdrawing the Order of Suspension and reinstating Mr. White.

It is the opinion of the Committee that no further Senate action is necessary in this case.

Respectfully submitted,
SELECT COMMITTEE ON
EXECUTIVE SUSPENSIONS

FREDERICK B. KARL, Chairman
W. E. BISHOP
ROBERT M. HAVERFIELD
KENNETH PLANTE
C. S. REUTER
J. H. WILLIAMS
HAROLD S. WILSON

MR. PRESIDENT: Senator from the 15th.

SENATOR DANIEL: Will the Senator yield?

MR. PRESIDENT: He yields.

SENATOR DANIEL: Did you, for informational purposes and perhaps for the necessity of new legislation in the area, look into the situation of resignation being sent in and accepted so as to justify the payment of back pay? A situation such as existed in this suspension?

SENATOR KARL: Well, Senator, we are conscious of the fact that this is what happened, however, the Constitution provides that the Governor may reinstate any suspended official at any time prior to his removal by the Senate. And so it may take a constitutional amendment to prohibit or to inhibit a situation like this developing again. We think the Constitution clearly gives the Governor that right. We had not acted because criminal charges were pending. Criminal charges were dismissed, he was reinstated, which made him eligible for his back pay, and then he submitted his resignation almost simultaneously, and there was no time for the hearing between dropping of the criminal charges and the reinstatement.

MR. PRESIDENT: Let the report be received. Senator from the 14th.

SENATOR KARL: I move that the full discussion on the removal procedures this morning be incorporated in the Journal for precedence.

MR. PRESIDENT: Is there an objection? Without objection the entire proceedings will be recorded in the Journal. Senator from the 5th.

SENATOR HORNE: Mr. President, on behalf of the Senate, I simply would like to comment that Senator Karl and his Committee have our tremendous respect for the outstanding job that they have done and to remind the Senate that Senator Karl set sail in the particularly tumultous sea of uncharted reefs with respect to suspensions and removals. All of us remember the chaos that we were first confronted with when we began to confront these particular situations in open session. We searched hastily for records, for rules, for guidelines, charts, and there simply were none, and when Senator Karl was asked by you, Mr. President, to undertake this thankless job, he set about methodically to first of all, establish the image of this Senate as a constitutional group mindful of rights on both sides of every picture. First, as a Senator, and, secondly as a lawyer, on behalf of the Senate, Mr. President, I want to say to Senator Karl that in fourteen years of my legislative experience, I've never seen a more zealous job, and he has done each of you tremendous credit in the manner and method in which he has conducted these hearings. I just wanted that to be said, Mr. President, on behalf of the Senate and the people of Florida, to Senator Karl and his Committee.

MR. PRESIDENT: The words were well spoken, Senator.

Senator de la Parte moved that Senator Jerry Thomas and Senator Wilbur Boyd be nominated and elected as President of the Senate and President Pro Tempore of the Senate, respectively, if for any reason those offices should become vacant, to serve until November 17, 1970. The motion was adopted. The vote was: Yeas—45 Nays—None

| | | | |
|---|---|---|---|
| Mr. President | Deeb | Lane | Slade |
| Askew | de la Parte | McClain | Stolzenburg |
| Bafalis | Fincher | Myers | Stone |
| Barron | Friday | Ott | Trask |
| Barrow | Gong | Plante | Weber |
| Beaufort | Gunter | Pope | Weissenborn |
| Bell | Haverfield | Poston | Williams |
| Bishop | Henderson | Reuter | Wilson |
| Boyd | Hollahan | Saunders | Young |
| Broxson | Horne | Sayler | |
| Chiles | Johnson | Scarborough | |
| Daniel | Karl | Shevin | |

On motion by Senator Friday, at the hour of 11:37 a. m., the President sounded the gavel and declared the Senate in 1970 Special Session adjourned sine die.