

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS,
FORT WORTH DIVISION.

COKE R. STEVENSON
vs.
TOM L. TYSON, et al.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT SAN DIEGO, DUVAL COUNTY, TEXAS, on SEPTEMBER 28, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum, commanding the appearance before me at the Court House, San Diego, Texas, on September 28, 1948, at 10:00 a. m. the following persons:

The County Judge,
The County Clerk,
The Chairman of the County Democratic Executive
Committee,
All Precinct Chairmen,
All Presiding Judges, Assistant Judges & Clerks,

all of Duval County, Texas, and all of whom participated in or conducted the Democratic Primary Election held in said County on August 28, 1948. The subpoenas commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents.

The hearing commenced in the District Court Room of the Court House in San Diego, Texas, at 10 a. m. Plaintiff was represented by Honorable Joe Montague and Honorable F. L. Kuykendall. Defendant, Lyndon B. Johnson, was represented by Honorable Ben F. Foster, and the County Democratic Chairman, Executive Committeemen, and County Officials of Duval County, were represented by Honorable Polk Shelton.

It was determined that the Chairman of the Duval County Democratic Executive Committee was out of the City and had not been served with the subpoena.

Mr. Dan Tobin, County Judge of Duval County, testified that there were officially fourteen (14) voting precincts within the County, but that no elections were held in three (3) of said precincts, namely, numbers four (4), eleven (11), and thirteen (13); that precincts four (4), eleven (11), and thirteen (13) had probably been "discontinued".

Mr. E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, presented official Poll Tax Lists for the eleven (11) active precincts, which lists were received in evidence, (tr. p. 29, 32); that there were four thousand six hundred seventy-nine (4,679) paid poll tax receipts issued in said County for 1947, (tr. p. 77); that he was appointed to his present position on September 13, 1948, succeeding his father, Clements Garcia; that after diligent search, he was unable to find any written orders in his office given by persons authorizing other persons to pay poll taxes for them, (tr. p. 79).

Mr. Mike Canales testified that he lives in Benavides, and acted as Presiding Judge at the August 28th primary, (tr. p. 43); that he made out three (3) sets of election returns and put them in the ballot box, (tr. p. 44-52); that said box was delivered to the

County Chairman, a Mr. King, and that he, the said Mike Canales, did not keep a set of the returns for himself, (tr. p. 44, 53); that he did not know he was to keep one set of the returns, (tr. p. 44, 46, 47); that there were approximately Thirteen Hundred (1300) votes cast in his precinct, (tr. p. 47); that he did not know how many persons voted upon an affidavit, (tr. p. 47, 49); Upon questioning by the Master, the witness testified that he left one set of the returns on the table in the Commissioners Court and "gave them to Mr. King." (tr. p. 56).

Immediately before the noon recess, the Special Master ordered all of the ballot boxes for Duval County impounded and placed them in the custody of the Deputy United States Marshal (tr. p. 61, 62) and upon reconvening the hearing, issued an order to that effect, (tr. p. 72).

The witnesses, Mr. Canales, the Deputy United States Marshal, Mr. Montague and Mr. Foster inspected the ballot boxes in an effort to identify a ballot box testified about by Mr. Canales (tr. p. 73) and thereafter, it was reported to the Master that there were twenty-one (21) ballot boxes on hand, but that the witness was unable to identify the ballot box for precinct number two (2), (tr. p. 74).

Mr. Clemente Garcia testified that he was Tax Assessor and Collector for Duval County, for about eight (8) or ten (10) years and continuously up until the month of September, 1948. (tr. p. 81).

Mr. A. Garcia, Jr. testified that he was Chief Deputy County Clerk of Duval County, Texas, and had held that position for about five (5) years, (tr. p. 87); that for the run off election there were delivered to the County Clerk twenty-one (21) ballot boxes, ten (10) of which were empty, (tr. p. 88); that he saw the boxes in the Commissioners Court on Monday, August 30th, (tr. p. 89); that the boxes were kept in the Commissioners Court for about two weeks after the election, and thereafter they were placed in the basement of the Court House, (tr. p. 94, 95); that on occasions, he used the Commissioners Court Room in connection with his own duties, (tr. p. 96); that the boxes were in the furnace and boiler room of the Court House, and that the janitor had the key to said room (tr. p. 98); that the furnace and boiler room was kept locked, (tr. p. 98).

Mr. Ernesto Benavides testified that he was Presiding Officer at Realitos during the August 28th run off election, (tr. p. 99, 100), and that there were approximately One Hundred Sixty (160) or One Hundred Seventy-five (175) votes cast, (tr. p. 100); that it was his recollection that one of the election clerks kept two talley sheets, (tr. p. 101); that after counting the votes, he took the ballot box home with him and delivered it to the County Chairman on Monday morning, August 30th, (tr. p. 102); that the box was locked; that the only thing he delivered to the County Chairman was the ballot box (tr. p. 103); that he kept a copy of the returns, poll lists, and talley sheets, but left it at the school house where the election was held and it disappeared, (tr. p. 103); that two sets of the returns were placed in the ballot box and locked; that the key was attached to the lock and said box was delivered in that condition to the County Chairman, (tr. p. 108, 109).

Whereupon at approximately 3:30 p. m., the hearing was recessed with the order that all witnesses remain under subpoena until the reconvening of said hearing and that the County Clerk have physical possession of the impounded ballot boxes until further orders; the Marshal was ordered to seal the boxes pending further order, (tr. p. 112, 113).

The return of the Deputy United States Marshal on the order issued impounding the ballot boxes disclosed that upon sealing said boxes, the United States Marshal sealed and took custody of twenty-three (23) ballot boxes, (tr. p. 113-b).

Pursuant to the order of the Court issued on the afternoon of September 29th, 1948, the Special Master entered an order finally concluding the said hearing and ordering the United States Marshal to break the seals on the ballot boxes placed thereon by him and redeliver the same to the County Clerk of Duval County, Texas; all witnesses were discharged and the lists of voters theretofore introduced into evidence were redelivered to E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, (tr. p. 113c, 113d).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCollum Burnett,
Special Master

UNITED STATES SENATE

MEMORANDUM

Pct. 13
Jim Wells

This summary based on 275 pages of testimony before Special Master Smith. Testimony was not completed - at least 12 more witnesses in Stevenson's case - because Justice Black's order and Judge Whitfield's conclusion to stop proceedings.

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1. Only 1 of 2 boxes used in 13 was found and none of the poll list, tally sheets and election returns (one set each) were in box when opened.
 2. Election Judge Salas told news reporters right after vote count. Johnson had 755 votes and Stevenson had 60. But final returns were 977 to 60(?) and Salas denied he ever told reporters the vote.
 3. New county ch. and Stevenson people not permitted to see returns, etc.
 4. Secy. Ex. Comm. (Donald) left town.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS,
FORT WORTH DIVISION.

COKE R. STEVENSON
VS.
TOM L. TYSON, ET AL.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT ZAPATA, ZAPATA COUNTY, TEXAS, ON SEPTEMBER 29, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum commanding the appearance before me at the Court House in Zapata County, Texas, on September 29, 1948, at 10:00 a. m., all persons who participated in the conduct of the Democratic Primary Election held in said County on August 28, 1948. The subpoenas duces tecum commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents. The hearing commenced in the District Court Room of the Court House at Zapata, Texas, at 10:00 a. m. on the date scheduled. Plaintiff was represented by Honorable Joe G. Montague, Honorable F. L. Kuykendall and Honorable Truman S. Phelps, Jr. Defendant, Lyndon B. Johnson, was represented by Honorable Polk Shelton, and the election officials of Zapata County, Texas, were represented by Honorable M. J. Raymond.

Leopoldo Martinez testified that he was Sheriff, Tax Assessor and Collector of Zapata County, Texas, (tr. p. 117), and he produced the official Poll Tax Lists for the four (4) voting precincts of Zapata County; that there were a little over Twelve Hundred (1200) paid Poll Taxes, (tr. p. 119).

Matias Cuellar testified that he was the District and County Clerk of Zapata County, Texas, and has held that office since 1941, (tr. p. 120); that after the Primary Election of August 28th, the ballot boxes were delivered to him and are now in his possession, (tr. p. 121); that some of the boxes were locked, (tr. p. 121); that the ballot boxes were delivered to him on the night of August 28th some time before midnight, (tr. p. 122); that the boxes are now in the same condition as they were when delivered and that nobody has looked into them, (tr. p. 123); that the keys for the locks are in his office, (tr. p. 123); that during the night of August 28, 1948, everybody around the Court House was discussing the election, but that he did not recall any of the figures, (tr. p. 124); and that he talked to Mr. Jim Falvella of Laredo, Texas, by telephone and somebody from San Antonio, (tr. p. 125); that on the occasions of talking long distance, he gave out the results of the election, (tr. p. 125); that the information he gave was what he had heard, but that he did not get the accurate information, (tr. p. 126); that he talked to the election officials as they brought in the boxes but did not ask them about the results of the election, (tr. p. 127); that he thought the information which he gave out as to the results of the election were correct, (tr. p. 128); that if he had any conversation with any of the election officials as to the results of the election, he did not remember it, (tr. p. 129); that when the election officials delivered the boxes they had the returns with them, but that he did not know what they did with them, (tr. p. 130); that he only received the ballot boxes, (tr. p. 131); that the information he gave Mr. Falvella was not official, but was the best information that he was able to obtain (tr. p. 133); that he was Secretary of the County Election Board from 1941 until the present time, with the exception of approximately four (4) years spent in the Army, (tr. p. 135); Upon examination by the Master, the witness testified that so far as he knew the County Chairman did not receive the ballot boxes on the night of August 28, 1948, and that the last box was received earlier than 10:30 p. m., (tr. p. 136); that he had had possession of the boxes since the night of the election and that he put them in the vault, (tr. p. 137); that he and Alessandro Suterrez Jr. had access to the vault, (tr. p. 137); and no one had approached him

inquiring about the boxes, (tr. p. 138); that he first knew of the official vote of the County in the Senate race when the official returns were filed and that he had a certificate which was filed with him by the County Chairman, (tr. p. 138).

Mr. J. W. Falvella testified that he had been a newspaperman for fifty-eight (58) years and lived in Laredo, Texas, (tr. p. 139); that he had been with the Texas Election Bureau twenty-two (22) years and had represented them in Zapata and Webb Counties in all elections, (tr. p. 139); that his duties were to gather the vote at the County Clerk's Office on the nights of the primaries or elections, (tr. p. 139); that the only results he obtained on the night of the run-off primary were from Mr. Cuellar for precinct number one and that he got the complete vote from Mr. Cuellar on Monday morning, (tr. p. 140); that on the night of August 28, 1948, the information he received was that Johnson had three hundred ninety-three (393) and Stevenson, eighty-seven (87), (tr. p. 141); and that it was his impression that the results were only from precinct number one, (tr. p. 141); that on Monday morning, August 30, 1948, he had a conversation with Mr. Cuellar in which Mr. Cuellar advised him of the following results:

Precinct No. 1:	Johnson 393	Stevenson 87
San Ygnacio	Johnson 192	Stevenson 17
Lapeno, No. 3:	Johnson 87	Stevenson 49
Falcon No. 4:	Johnson 39	Stevenson 5
Total	Johnson 711	Stevenson 158 (tr. p. 141);

That Mr. Cuellar, on August 30, 1948, stated that the above was the complete vote as far as he could get it, and that it covered all of the boxes in the County; that the official report given him later by Judge Bravo was:

Number 1:	Johnson 331	Stevenson 20
Number 2:	Johnson 192	Stevenson 17
Number 3:	Johnson 107	Stevenson 29
Number 4:	Johnson 37	Stevenson 5
Total	Johnson 667	Stevenson 71 (tr. p. 144)

That he gave such report to the Texas Election Bureau; that the official returns disclosed seventy-one (71) votes for Stevenson and six hundred sixty-seven (667) for Johnson, (tr. p. 144); upon examination by the Master, the witness testified that when he talked to Mr. Cuellar on August 30, 1948, Mr. Cuellar told him that he had gotten in all the returns, (tr. p. 149); and that they were complete for the County (tr. p. 149, 150); that when he talked to Mr. Cuellar on the morning of August 30th, Mr. Cuellar gave him the complete returns which quoted Johnson, seven hundred eleven (711) and Stevenson, one hundred fifty-eight (158); (tr. p. 150).

Mrs. Josefa Gutierrez testified that she was the County Chairman of the Democratic Executive Committee and that she delivered ballots and supplies to the election officials, (tr. p. 152, 153); that no one gave her any returns after the election, but that they left them in Judge Bravo's office, (tr. p. 153); that Judge Bravos was the County Judge and that she received the returns on September 2nd, when the Committee canvassed them, (tr. p. 154); that she did not see the returns from August 28th until September 2nd and they had never been physically delivered to her until September 29th, (tr. p. 154); that Judge Bravo gave the returns to her on said latter date, (tr. p. 154); that the County Executive Committee met on September 2, 1948, in Judge Bravo's office and those present were herself, and committeeman, Josefa Ramos and Aurelio Lopez, (tr. p. 159); that Josefa Ramos is committeeman from precinct number four 94) and Aurelio Lopez is committeeman from precinct number (3) three, (tr. p. 160); that when the County Executive Committee met on September 2, 1948, she had the returns from precincts, one, two and three and four, (tr. p. 160); and she checked the tally list from each precinct and totalled up the number of votes, (tr. p. 162); that

the official returns showed as follows:

Precinct No. 1:	Johnson 331	Stevenson 20
Precinct No. 2:	Johnson 192	Stevenson 17
Precinct No. 3:	Johnson 101	Stevenson 29
Precinct No. 4:	Johnson 39	Stevenson 5

(tr. p. 163)

that Judge Bravo was present on September 2nd when the canvass was made, (tr. p. 169); and that he helped her write out the official return, (tr. p. 170); that she actually opened the envelopes containing the returns, (tr. p. 172); that Mr. Phelps, on September 1st, asked her to let him see the envelopes, but that the Court House was closed, (tr. p. 173) and he did not get to see them. The Master then impounded the envelopes containing the returns, (tr. p. 177); and it was determined that there were only three (3) envelopes, namely, precincts one, two, and four, (tr. p. 180); the witness further testified that on September 2nd she had the envelopes for each of the four precincts within the County, (tr. p. 178); that the documents pertaining to precinct number three (3) were missing, (tr. p. 180); that on the morning of September 29th, Judge Bravo gave her only three envelopes and that she had left all four envelopes on Judge Bravo's desk, apparently done on September 2nd, (tr. p. 182);

Mr. Matias Cuellar, recalled as a witness, testified that when he talked to Mr. Falvella on the morning of August 30th, he told him that he had a complete report of all four (4) precincts.

Judge M. B. Bravo was called by the Master and testified that he received the returns of the primary on the night of August 28, 1948 in his office at the Court House, (tr. p. 185); and that the County Chairman was not present, (tr. p. 185); that he received them in behalf of the County Chairman and that she has kept her files in his office for the last six or eight years, (tr. p. 185); that they were delivered to him on August 28, 1948, that is, the returns for all four precincts and that the returns were sealed in an envelope, (tr. p. 185); that he kept them continuously in his possession until September 2nd in his office on the desk, (tr. p. 186); that he put them in a manila folder which was designated as Mrs. Guiterrez's file, (tr. p. 186); and that he kept the file in a filing cabinet and brought them out on September 2nd for the purpose of the canvass, (tr. p. 186); that on September 2nd all four returns were there and that he helped in checking the additions, (tr. p. 186); that the official report of the canvass was filled out and the returns were left in his office on the desk, (tr. p. 187); that the returns remained on the desk for "four or five days, anyway, or a week or two.", (tr. p. 187); that after a week or ten days, he placed the returns in the filing cabinet, (tr. p. 188); that some time during the week of September 19th he felt that he should check up and upon doing so, found that the returns for precinct Number three (3) were gone, (tr. p. 188); that he did not tell Mrs. Guiterrez about the missing returns for precinct number three (3) and first mentioned the same to her on the morning of September 29th, (tr. p. 188); that he did mention the fact to the Sheriff and that they decided that they had better wait and see if they could find them somewhere or "see who got away with them.", (tr. p. 189); that he made a diligent search to find said returns but was unable to locate them, (tr. p. 189); that he was not in the habit of locking the filing cabinet, (tr. p. 190); that he asked Mrs. Guiterrez and the committeemen to meet on Thursday, September 2nd to canvass the returns at 9:00 a. m. inasmuch as it was necessary to get them out in the mail which left shortly after 9:00 a. m., (tr. p. 190); that he is completing his twelfth year as County Judge, (tr. p. 192); that it has been customary for a number of years for the Presiding Judges to leave their returns with him for every election, (tr. p. 193).

Miss Elia Gonzales testified that she lives in Bapeno, Texas and that she was the Presiding Judge for precinct number three (3) in the run off primary, (tr. p. 202,203); that after the polls were closed she and the Judges and Clerks counted the ballots and then filled out the returns, (tr. p. 204); that she delivered the boxes to the County Clerk and gave the returns to Judge Bravo; that she made up three different sets of returns and gave them to Judge Bravo, (later the witness testified that she was not sure about the matter but thought that she left them at the Court House), (tr. p. 205); that she did not remember whether or not she put one of the sets of returns in the ballot box, but probably left all of the returns in the Court House by mistake, (tr. p. 206); that she had acted as Presiding Judge for the first time in the run off primary, (tr. p. 208); that the presiding place in her precinct was eighteen or twenty miles from Zapata, Texas, (tr. p. 209); that she thought she delivered all three sets of returns to Judge Bravo in his office, (tr. p. 210); that she does not have her set of returns now, (tr. p. 210); that she did not remember taking home her set of the returns, nor did she know whether or not she locked one set of the returns in the ballot box, (tr. p. 213); that since she heard everything that was happening she started looking for the returns but could not find it, (tr. p. 214); that she began looking for the returns about three or four days ago, (tr. p. 214); that the ballot box was locked and that the ballots were in it, (tr. p. 217); that she did not put anything else in the box, (tr. p. 217); and that she put the surplus supplies in another box, (tr. p. 217); that Judge Bravo came to her polling place and got some of her ballots, (tr. p. 218); that she gave the keys to the locks on the ballot boxes to either Mr. Cuellar or Judge Bravo, (tr. p. 222).

The Master then ordered all the boxes impounded and placedⁱⁿ the custody of the United States Marshal, (tr. p. 224).

Miss Anita Ramirez testified that during the run off primary she acted as a Judge in precinct number three(3) and that she was unable to either read or speak the English language, (tr. p. 226); that she was asked to serve in the election by Cerlerno Gonzales, the Commissioner of Lopena, (tr. p. 228); that she signed the election papers, (tr. p. 229);

Mrs. Sacramento Benavides testified that she lives in Lopena, Texas, and speaks and reads a little English, (tr. p. 231); that she served as a Clerk in the run off election after having been asked to do so by Judge Bravo, (tr. p. 232); that the election officials for her precinct made out three sets of returns, (tr. p. 233).

At approximately 3:00 p. m. the Special Master received a communication through Mr. W. R. Smith, Jr. that Judge T. Whitfield Davidson had ordered the proceedings closed and, accordingly, all impounded documents restored, (tr. p. 234); the order was made closing the hearing and ordering all impounded documents restored to the custody of those who had possession of them prior to the impounding order, (tr. p. 234).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCollum Burnett,
Special Master

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IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

COKE R. STEVENSON
VS.
TOM L. TYSON, ET AL

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CIVIL ACTION # 1640

SUMMARY OF FACTS PRESENTED BEFORE SPECIAL
MASTER AT ALICE, JIM WELLS COUNTY, TEXAS,
ON SEPTEMBER 27, 28 and 29, 1948

TO SAID HONORABLE COURT:

On the morning of September 27, at Plaintiff's suggestion subpoenas were issued for three witnesses, to wit: B. F. (Tom) Donald, Clarence C. Martens, and Luis Salas, returnable at the Court House at Alice, Texas, at 3 o'clock, p. m. of the same day, and commanding Mr. Donald and Mr. Martens each to produce before the Special Master all poll lists, all tally sheets and all return sheets and forms used in the Democratic Primary Election held August 28, 1948, in all Election Precincts of Jim Wells County, Texas, and all other forms used in said elections (which will be referred to hereinafter as "returns") and commanding Mr. Salas to produce such returns for Precinct 13 of said County, Said subpoenas were returned non est.

Whereupon a subpoena was issued at Plaintiff's suggestion for Mrs. Juanita Hulsey, Deputy County Clerk of Jim Wells County, Texas, acting as County Clerk in the absence of Mr. Clarence H. Holmgreen, The County Clerk, who was reported to be in California. This subpoena required that Mrs. Hulsey produce, and in obedience to same she did produce and identify 20 ballot boxes as being all the ballot boxes used at the election in question, theretofore delivered into the custody of her office by the election officials subsequent to the official canvass and returns of said election covering the 17 voting Precincts in the County. The Special Master ordered these 20 boxes impounded and placed in custody of the United States Marshal.

It was noted that ten of the boxes were locked with padlocks and had no keys. Some were locked, but the keys were tied to the locks; one, Precinct 5, had a padlock and key attached, but the padlock was unlocked; and the remaining boxes had no locks.

Mrs. Hulsey identified one box as Box 13, because it had the words "Nayer School" printed and attached and she stated that was the voting place for Precinct 13. She testified that after some question arose as to the validity of the returns for Precinct 13, she concealed this box in the County Clerk's vault, where the other 19 boxes were located, by placing same out of sight behind some map files. She testified further from hearsay and without objection, that she had been previously informed by Mr. Holmgreen (the County Clerk) that the Precinct 13 box had been brought to the County Clerk's office several days later than the other boxes. It developed later in the hearing upon opening of the boxes by the Special Master, as will appear, that the box marked "Nayer School" was not the Precinct 13 box, but contained what appeared to be the ballots and returns of Precinct 5.

The testimony of the next two witnesses, Givens S. Parr and Mrs. B. F. Donald, went primarily to the whereabouts of B. F. Donald, for whom subpoena duces tecum had been issued and returned non est on the preceding day. (Meantime a new subpoena duces tecum, returnable on the instant, had been issued for Mr. Donald).

Mr. Parr testified (tr. p. 37-44) that B. F. Donald is Cashier of the same bank at Alice, Texas of which he, the witness, is Vice-President, and his brother, George Parr, is

President; that Mr. Donald came to the bank and opened his mail prior to 9 a. m. on September 27 (the day the hearing opened) and after that the witness did not see him any more; and that on the preceding Friday or Saturday Mr. Donald had told him he might want to leave town the following week, but did not say where he wanted to go. The witness further testified that Donald, until recently, was Secretary of the Jim Wells County Democratic Executive Committee, and that Donald had previously had in his possession at the bank some of the records of that committee; that these papers were in Mr. Donald's possession when Plaintiff and two or three other gentlemen called on Donald.

Mrs. Donald testified (tr. p. 45-48) her husband left Alice, Texas, "yesterday" (the day the hearing opened) but did not tell her where he was going and she did not know how he traveled; that later he called her and told her he was in Nuevo Laredo, Mexico.

The next witness, Clarence C. Martens, (tr. p. 49- 119) testified that he was Chairman of the Democratic Executive Committee for Jim Wells County, that he handled the election in question; that after the election he received ballot boxes and returns from those who brought him in; that Mr. Luis Salas, Election Judge for Precinct 13, brought his ballot box and returns to the witness on the Saturday night of the election, and the box together with other boxes were left in the County Jail in custody of the jailer, locked up; that he received 13 envelopes containing returns and picked up the other four from the County Clerk to whom they had been delivered by election judges. That he then delivered all the returns in his possession to Mr. Donald, Secretary of the Committee, at the bank "where he could put them up" (tr. p. 57). That on the morning of the first Friday after the election (tr. p. 59) the County Democratic Executive Committee met at the Court House and canvassed the returns. That there was some discussion at the meeting because of an increase of around 200 votes in favor of Defendant Johnson shown on the Precinct 13 returns, over the number reported by the Texas Election Bureau, but that the Committee was satisfied there was no question (tr. p. 62) and tallied the returns as shown on their face and reported the results to the Chairman of the State Executive Committee. That after the Committee Meeting Mr. Donald took the returns with him and the witness has not seen them since (tr. p. 66-67)

Mr. Martens further testified that the new County Chairman, a Mr. Adams, requested possession of the returns but Mr. Donald declined to deliver them over, saying he needed legal advice on this and was advised by Mr. Ed. Lloyd, Attorney, that the statute only required delivery of the returns to the Committee and not to any individual. That thereafter, about September 10, and after his term as County Chairman had expired, he was informed by Mr. Kyykendall and Mr. Graham, friends of and attorneys for Plaintiff, that the official report of the election to the State Chairman was incorrect, that they offered to show him the evidence and sought to have him sign a statement saying he would like to recertify or withdraw his certification (tr. p. 88); that the evidence was not shown him and he did not sign the statement.

(The statement Mr. Martens was requested to sign, that he did not sign, is copied at pp. 111 and 112 of the Transcript).

Mr. Martens further testified (tr. p. 114-119) that on the night of the election he asked Mr. Cliff Dubois, of the "Alice News" if he needed any election information for purpose of turning it over to the Texas Election Bureau and Dubois stated he had all the information he needed except from the Patterson box and Bentonville box; that Dubois had information regarding the returns of Precinct 13 prior to the time the witness received the ballot boxes.

The next witness, Mr. Luis Salas, Election Judge for Precinct 13, appeared under alias subpoena, and testified in substance as follows: (tr. p. 125-227) That he conducted the election in question

in Precinct 13, and as people presented themselves to vote, he checked them against the official poll tax list furnished by the Tax Collector to determine their qualification. If qualified, a ballot was handed to the voter, but the official list was not marked so as to indicate the name of the person to whom the ballot was furnished as provided by RCS Texas Sec. 3121; that the poll tax list so used was placed by him in the ballot box (tr. p. 136) and the ballot box was turned over to the County Chairman, Mr. Martens, about 9:30 p. m., the night of the election (tr. p. 137).

Mr. Salas further testified that the box marked "Nayer School" was not the box used at Precinct 13; he was unable definitely to identify the right box, but stated he used two large boxes with wire hasps on them (tr. 140). That when he would hand a ballot to a qualified voter he would call out the name and three clerks, to wit: Roderico Rojas, Hector Gomez and Alejandro Villareal, would each write the name on a list, the voter would mark his ballot, hand it to the witness who signed his name on the back and also numbered the ballot in the order cast and place the ballot in the box (tr. 141). That the polls closed at 7 p. m., just after the last voter, whose identify he could not recall, cast his ballot (tr. 142); that about 250 people voted between 6 p. m. and 7 p. m. (tr. 143); that the counting of the ballots started about 9:30 a. m. or 10 a. m. and was completed about 40 minutes after the polls closed (tr. 143); that he himself ran the tally sheets, which were in triplicate; that Mrs. Viola Gomez called the votes from the ballots, the tallies were made by three clerks, Mrs. Ignacio Escobar, Mrs. Ignacio Trevino and Sylvania Gomex, and he, himself, he added the tallies to determine the total vote and he, himself, made out the returns showing how many votes each candidate received (tr. 144). Each clerk signed his own tally list, but he alone signed the returns in triplicate (tr. 145). That he put one tally list, poll list and return in the ballot box, delivered one each to the County Chairman and kept one each himself (tr. 145). That right after Labor Day there had been so much talk about something wrong with the election and about Box 13 that he went to see Mr. Donald to check the two sets of copies against each other, "That the election was level, nothing wrong with the election" (tr. 150). After he checked them he went to a restaurant for supper where he stayed from 5 p. m. until 9:30 p. m. (on Sept. 15) and while there somebody stole both sets of returns from his car (tr. 150). That Defendant Johnson got about 977 votes and Plaintiff Stevenson got 60 (Tr. 151).

He further testified that he saw Cliff Dubois of the Alice News the night of the election about 7:45 or 8 o'clock but did not tell him how many votes either Senatorial Candidate received (tr. 151-152); that he had gone to the newspaper office to find Mr. Martens, waited for him and when he arrived they left together for the jail where he delivered the two ballot boxes and returns to Mr. Martens; that there were 1041 votes cast in Precinct 13: that he has never seen the two ballot boxes since (tr. 155). That it is not true that 200 votes were added to the box (tr. 162). The Special Master after stating his reasons therefor (Tr. 175ff), and hearing the objection of defense counsel and overruling same, (Tr. 177ff), the Special Master then proceeded to open one of the boxes tentatively identified by the witness, Mr. Salas, as Precinct 13 boxes. The Special Master then successively and at random picked out 5 several ballots from the box, the witness identified each as bearing his signature on the back and each as bearing respectively the following numbers written on the back: 160, 302, 458, 1010 and 229, and the witness identified the face of these ballots as indicating they were cast at the election in question, he looked in the box and stated that the official returns, tally sheets, etc. were not in the box. (tr. 179-181).

The second tentatively identified box for Precinct 13 was then opened and disclosed to be not a Precinct 13 box (tr. 182) and the witness failed to recognize any of the other 18 boxes as being the second Precinct 13 box; that he had used and delivered two boxes to the County Chairman. Further statement by the Special Master as to his purpose in opening the ballot boxes appears at Tr. p. 195-196, and he then opened the unlocked box marked "Nayer School" previously identified by Mrs. Hulsey as the box for Precinct 13. This box, on examination of its contents, appeared clearly to be the box used in Precinct 5 (tr. p. 197-199). The next two boxes opened were empty (tr. 202). The next box opened contained only a few blank election forms (tr. 204). The next box opened contained a large sealed envelope marked Precinct 15 (tr. 205). The next box opened showed from its contents to have been used in Precinct 2 (tr. 207). The next box opened contained unidentified and uncertified copies of what appeared to be lists of voters in Precincts 16 and 13, the year for which the lists were made up not appearing. The next box opened appeared to be that of Precinct 14 (tr. 210). The remainder of the boxes were locked, with no keys available, and, therefore, the Special Master caused the locks to be opened by a locksmith, under supervision of the Deputy Marshal (tr. 211).

While the locksmith was at work, the witness, Luis Salas, resumed his testimony under direct examination by plaintiff (tr. 212).

He testified that when he was at the newspaper office shortly after completing his count of the ballots about 7:40 p. m. the evening of the election, he saw Cliff Dubois and also saw Wesley Price (the next witness) and that he did not announce in Mr. Price's presence the vote for Precinct 13 to be 765 for Johnson and 60 for Stevenson, and made no other announcement with reference to the vote in Precinct 13 (tr. 218).

On cross-examination by defendant (tr. 219) Mr. Salas stated that during the subsequent investigation of the balloting a party who "came with that big ranger" (tr. 219) threatened him with prosecution and the penitentiary if he did not give them the returns; that the ranger was Mr. Frank Hamer. He testified further that the votes cast were properly counted and accounted for by him and the number reported in his returns was the number cast (tr. 221). That Precinct 13 in some previous elections for Governor, etc. had gone for Stevenson and no rangers investigated. That the two boxes he turned over to the County Chairman were both locked and that the election returns, the poll list and the tally sheet were put in one of the ballot boxes, but not in a sealed envelope before delivery to the County Chairman. That the box these documents were placed in was the box which also contained the ballots and all the ballots (tr. 224-226) and that the other box contained only the envelope which was turned over to the County Chairman, Mr. Martens (tr. 225). That the last time he saw the box containing the ballots and the returns was when he delivered it to the jail the night of the election, locked but with the key hanging on the lock (tr. 227). That when he delivered the two boxes to Mr. Martens at the jail he told Mr. Martens that "this is the ballot box and then I said 'That is your envelope in that can there'". (Tr. 227).

The next (and last) witness was Charles Wesley Price (tr. 228-249).

Mr. Price testified that on the night of August 28, 1948, about 8 o'clock p. m. he went to the "Alice News", that Luis Salas came in; that Mr. Dubois was there reporting the returns from the election to the Texas Election Bureau; that Mr. Salas had given Dubois the returns from Precinct 13 and he had written it down and had gone across the street to Western Union to telegraph it in and came back and said Western Union was closed; that he heard Luis Salas tell Dubois he had the final returns from Precinct 13, which was 765 for Johnson and 60 for Stevenson (tr. 230-231).

On cross-examination Mr. Price testified that although he was not an active partizan for Stevenson, he was a very active opponent of the parties who were supporting Johnson: that on the occasion Salas announced the results, the statement was made to Dubois; that during the subsequent investigation by Stevenson of the Jim Wells County voting he participated in the same; that one Ignacio Escobar was present when Salas announced the vote to Dubois and Escobar wrote it down on a piece of paper; that the figures so given by Salas to Dubois were 200 votes for Johnson less than were later officially reported. Further, that he went to Fort Worth on expenses paid by Stevenson's party and testified as a witness in connection with "this matter" (Tr. 237). That he read the unofficial returns in the Alice newspaper and noticed the 765 and the 60 for Precinct 13; that he was not particularly interested at the time in beating Johnson but was curious about the vote in Precinct 13; that he had voted for Stevenson; that since the election he had talked with Mr. Holmgreen about the alleged irregularities and that later Mr. Holmgreen was in consultation with Stevenson and his investigators and was an active participant in the Stevenson investigation; that Holmgreen was then (at the time of the hearing) reported to be in California.

That Alice and Jim Wells County are pretty sharply divided into two political factions, one of which is anti-Parr (tr. 247) and which faction favored Governor Stevenson.

After the close of Mr. Price's testimony, the Special Master then proceeded with the opening of the remaining 10 ballot boxes, all of which were unlocked by the locksmith. The first turned out to be for Precinct 10. The next box was opened and turned out to be for Precinct 16. The next was for Precinct 12.

At this point in the proceedings word came from Honorable T. Whitfield Davidson, United States District Judge for the Northern District of Texas, ordering the Special Master to terminate the hearing (Tr. 253-254). No further testimony was taken, but the hearing remained in session long enough to restore all ballot boxes substantially to the same condition with regard to locks, etc. as they were in when impounded and to restore them to custody of the Deputy County Clerk, Mrs. Hulsey. It was agreed by counsel for all parties and by the Special Master that all papers taken out of the opened boxes were restored to the respective boxes from which they came and the 20 boxes were then returned into the custody of the County Clerk's office (Tr. 259-264).

There was placed in the record the telegram from Judge Davidson, ordering the proceedings stopped (Tr. 265). The record further affirmatively shows (Tr. 266) that the proceedings were stopped at a time when plaintiff was continuing with his testimony and before the defendants had had any opportunity to present any witnesses.

After some discussion with counsel for all parties as to the nature of the report yet to be filed by the Special Master (Tr. p. 266-268), the hearing was adjourned.

At the time of adjournment, instanter subpoenas, issued at the request of plaintiff, had been issued for the following named witnesses, who had not yet been called to the witness stand: Vila Gomez, Silvia Gomez, Eduardo Rios, Mrs. Ophelia Escobar, Alejandro Gonzales, Hector Gomez, Oliverio Herrera, Fufino Lopez, Mrs. Clarence Martens, B. F. Tom Donald, Mrs. Luis Salas, Jack Gladney.

Most of these subpoenas had been actually served and the witnesses had been sworn and placed under the Rule.

The foregoing brief summary of the 275 page transcript of the proceedings sets out all testimony and other facts appearing in

the record that the Special Master deems pertinent and material to the objects of the hearing as defined in the order of the Court appointing the Special Master for the purpose of investigating the balloting in Jim Wells County, Texas. In preparing this summary the Special Master was fully aware of the obvious incompleteness of the hearing. He may not have recognized the pertinence and materiality of some testimony adduced by one party or the other as part of a whole pattern of facts yet to be proved as of the time of adjournment.

Copies of this summary have been mailed to counsel for the various parties.

Respectfully submitted,

W. R. Smith, Jr., SPECIAL MASTER

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS,
FORT WORTH DIVISION.

COKE R. STEVENSON
vs.
TOM L. TYSON, et al.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT SAN DIEGO, DUVAL COUNTY, TEXAS, ON SEPTEMBER 28, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum, commanding the appearance before me at the Court House, San Diego, Texas, on September 28, 1948, at 10:00 a. m. the following persons:

The County Judge,
The County Clerk,
The Chairman of the County Democratic Executive Committee,
All Precinct Chairmen,
All Presiding Judges, Assistant Judges & Clerks,

all of Duval County, Texas, and all of whom participated in or conducted the Democratic Primary Election held in said County on August 28, 1948. The subpoenas commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents.

The hearing commenced in the District Court Room of the Court House in San Diego, Texas, at 10 a. m. Plaintiff was represented by Honorable Joe Montague and Honorable F. L. Kuykendall. Defendant, Lyndon B. Johnson, was represented by Honorable Ben F. Foster, and the County Democratic Chairman, Executive Committeemen, and County Officials of Duval County, were represented by Honorable Polk Shelton.

It was determined that the Chairman of the Duval County Democratic Executive Committee was out of the City and had not been served with the subpoena.

Mr. Dan Tobin, County Judge of Duval County, testified that there were officially fourteen (14) voting precincts within the County, but that no elections were held in three (3) of said precincts, namely, numbers four (4), eleven (11), and thirteen (13); that precincts four (4), eleven (11), and thirteen (13) had probably been "discontinued".

Mr. E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, presented official Poll Tax Lists for the eleven (11) active precincts, which lists were received in evidence, (tr. p. 29, 32); that there were four thousand six hundred seventy-nine (4,679) paid poll tax receipts issued in said County for 1947, (tr. p. 77); that he was appointed to his present position on September 13, 1948, succeeding his father, Clements Garcia; that after diligent search, he was unable to find any written orders in his office given by persons authorizing other persons to pay poll taxes for them, (tr. p. 79).

Mr. Mike Canales testified that he lives in Benavides, and acted as Presiding Judge at the August 28th primary, (tr. p. 43); that he made out three (3) sets of election returns and put them in the ballot box, (tr. p. 44-52); that said box was delivered to the

County Chairman, a Mr. King, and that he, the said Mike Canales, did not keep a set of the returns for himself, (tr. p. 44, 53); that he did not know he was to keep one set of the returns, (tr. p. 44, 46, 47); that there were approximately Thirteen Hundred (1300) votes cast in his precinct, (tr. p. 47); that he did not know how many persons voted upon an affidavit, (tr. p. 47, 49); Upon questioning by the Master, the witness testified that he left one set of the returns on the table in the Commissioners Court and "gave them to Mr. King." (tr. p. 56).

Immediately before the noon recess, the Special Master ordered all of the ballot boxes for Duval County impounded and placed them in the custody of the Deputy United States Marshal (tr. p. 61, 62) and upon reconvening the hearing, issued an order to that effect, (tr. p. 72).

The witnesses, Mr. Canales, the Deputy United States Marshal, Mr. Montague and Mr. Foster inspected the ballot boxes in an effort to identify a ballot box testified about by Mr. Canales (tr. p. 73) and thereafter, it was reported to the Master that there were twenty-one (21) ballot boxes on hand, but that the witness was unable to identify the ballot box for precinct number two (2), (tr. p. 74).

Mr. Clemente Garcia testified that he was Tax Assessor and Collector for Duval County, for about eight (8) or ten (10) years and continuously up until the month of September, 1948. (tr. p. 81).

Mr. A. Garcia, Jr. testified that he was Chief Deputy County Clerk of Duval County, Texas, and had held that position for about five (5) years, (tr. p. 87); that for the run off election there were delivered to the County Clerk twenty-one (21) ballot boxes, ten (10) of which were empty, (tr. p. 88); that he saw the boxes in the Commissioners Court on Monday, August 30th, (tr. p. 89); that the boxes were kept in the Commissioners Court for about two weeks after the election, and thereafter they were placed in the basement of the Court House, (tr. p. 94, 95); that on occasions, he used the Commissioners Court Room in connection with his own duties, (tr. p. 96); that the boxes were in the furnace and boiler room of the Court House, and that the janitor had the key to said room (tr. p. 98); that the furnace and boiler room was kept locked, (tr. p. 98).

Mr. Ernesto Benavides testified that he was Presiding Officer at Realitos during the August 28th run off election, (tr. p. 99, 100), and that there were approximately One Hundred Sixty (160) or One Hundred Seventy-five (175) votes cast, (tr. p. 100); that it was his recollection that one of the election clerks kept two talley sheets, (tr. p. 101); that after counting the votes, he took the ballot box home with him and delivered it to the County Chairman on Monday morning, August 30th, (tr. p. 102); that the box was locked; that the only thing he delivered to the County Chairman was the ballot box (tr. p. 103); that he kept a copy of the returns, poll lists, and talley sheets, but left it at the school house where the election was held and it disappeared, (tr. p. 103); that two sets of the returns were placed in the ballot box and locked; that the key was attached to the lock and said box was delivered in that condition to the County Chairman, (tr. p. 108, 109).

Whereupon at approximately 3:30 p. m., the hearing was recessed with the order that all witnesses remain under subpoena until the reconvening of said hearing and that the County Clerk have physical possession of the impounded ballot boxes until further orders; the Marshal was ordered to seal the boxes pending further order, (tr. p. 112, 113).

The return of the Deputy United States Marshal on the order issued impounding the ballot boxes disclosed that upon sealing said boxes, the United States Marshal sealed and took custody of twenty-three (23) ballot boxes, (tr. p. 113-b).

Pursuant to the order of the Court issued on the afternoon of September 29th, 1948, the Special Master entered an order finally concluding the said hearing and ordering the United States Marshal to break the seals on the ballot boxes placed thereon by him and redeliver the same to the County Clerk of Duval County, Texas; all witnesses were discharged and the lists of voters theretofore introduced into evidence were redelivered to E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, (tr. p. 113c, 113d).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCollum Burnett,
Special Master

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF TEXAS,

FORT WORTH DIVISION.

COKE R. STEVENSON

VS.

TOM L. TYSON, ET AL.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT ZAPATA, ZAPATA COUNTY, TEXAS, ON SEPTEMBER 29, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum commanding the appearance before me at the Court House in Zapata County, Texas, on September 29, 1948, at 10:00 a. m., all persons who participated in the conduct of the Democratic Primary Election held in said County on August 28, 1948. The subpoenas duces tecum commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents. The hearing commenced in the District Court Room of the Court House at Zapata, Texas, at 10:00 a. m. on the date scheduled. Plaintiff was represented by Honorable Joe G. Montague, Honorable F. L. Kuykendall and Honorable Truman S. Phelps, Jr. Defendant, Lyndon B. Johnson, was represented by Honorable Polk Shelton, and the election officials of Zapata County, Texas, were represented by Honorable M. J. Raymond.

Leopoldo Martinez testified that he was Sheriff, Tax Assessor and Collector of Zapata County, Texas, (tr. p. 117), and he produced the official Poll Tax Lists for the four (4) voting precincts of Zapata County; that there were a little over Twelve Hundred (1200) paid Poll Taxes, (tr. p. 119).

Matias Cuellar testified that he was the District and County Clerk of Zapata County, Texas, and has held that office since 1941, (tr. p. 120); that after the Primary Election of August 28th, the ballot boxes were delivered to him and are now in his possession, (tr. p. 121); that some of the boxes were locked, (tr. p. 121); that the ballot boxes were delivered to him on the night of August 28th some time before midnight, (tr. p. 122); that the boxes are now in the same condition as they were when delivered and that nobody has looked into them, (tr. p. 123); that the keys for the locks are in his office, (tr. p. 123); that during the night of August 28, 1948, everybody around the Court House was discussing the election, but that he did not recall any of the figures, (tr. p. 124); and that he talked to Mr. Jim Falvella of Laredo, Texas, by telephone and somebody from San Antonio, (tr. p. 125); that on the occasions of talking long distance, he gave out the results of the election, (tr. p. 125); that the information he gave was what he had heard, but that he did not get the accurate information, (tr. p. 126); that he talked to the election officials as they brought in the boxes but did not ask them about the results of the election, (tr. p. 127); that he thought the information which he gave out as to the results of the election were correct, (tr. p. 128); that if he had any conversation with any of the election officials as to the results of the election, he did not remember it, (tr. p. 129); that when the election officials delivered the boxes they had the returns with them, but that he did not know what they did with them, (tr. p. 130); that he only received the ballot boxes, (tr. p. 131); that the information he gave Mr. Falvella was not official, but was the best information that he was able to obtain (tr. p. 133); that he was Secretary of the County Election Board from 1941 until the present time, with the exception of approximately four (4) years spent in the Army, (tr. p. 135); Upon examination by the Master, the witness testified that so far as he knew the County Chairman did not receive the ballot boxes on the night of August 28, 1948, and that the last box was received earlier than 10:30 p. m., (tr. p. 136); that he had had possession of the boxes since the night of the election and that he put them in the vault, (tr. p. 137); that he and Alessandro Suterrez Jr. had access to the vault, (tr. p. 137); and no one had approached him

inquiring about the boxes, (tr. p. 138); that he first knew of the official vote of the County in the Senate race when the official returns were filed and that he had a certificate which was filed with him by the County Chairman, (tr. p. 138).

Mr. J. W. Falvella testified that he had been a newspaperman for fifty-eight (58) years and lived in Laredo, Texas, (tr. p. 139); that he had been with the Texas Election Bureau twenty-two (22) years and had represented them in Zapata and Webb Counties in all elections, (tr. p. 139); that his duties were to gather the vote at the County Clerk's Office on the nights of the primaries or elections, (tr. p. 139); that the only results he obtained on the night of the run-off primary were from Mr. Cuellar for precinct number one and that he got the complete vote from Mr. Cuellar on Monday morning, (tr. p. 140); that on the night of August 28, 1948, the information he received was that Johnson had three hundred ninety-three (393) and Stevenson, eighty-seven (87), (tr. p. 141); and that it was his impression that the results were only from precinct number one, (tr. p. 141); that on Monday morning, August 30, 1948, he had a conversation with Mr. Cuellar in which Mr. Cuellar advised him of the following results:

Precinct No. 1:	Johnson 393	Stevenson 87
San Ignacio	Johnson 192	Stevenson 17
Lapeno, No. 3:	Johnson 87	Stevenson 49
Falcon No. 4:	Johnson 39	Stevenson 5
Total	Johnson 711	Stevenson 158

(tr. p. 141);

That Mr. Cuellar, on August 30, 1948, stated that the above was the complete vote as far as he could get it, and that it covered all of the boxes in the County; that the official report given him later by Judge Bravo was:

Number 1:	Johnson 331	Stevenson 20
Number 2:	Johnson 192	Stevenson 17
Number 3:	Johnson 107	Stevenson 29
Number 4:	Johnson 37	Stevenson 5
Total	Johnson 667	Stevenson 71

(tr. p. 144)

That he gave such report to the Texas Election Bureau; that the official returns disclosed seventy-one (71) votes for Stevenson and six hundred sixty-seven (667) for Johnson, (tr. p. 144); upon examination by the Master, the witness testified that when he talked to Mr. Cuellar on August 30, 1948, Mr. Cuellar told him that he had gotten in all the returns, (tr. p. 149); and that they were complete for the County (tr. p. 149, 150); that when he talked to Mr. Cuellar on the morning of August 30th, Mr. Cuellar gave him the complete returns which quoted Johnson, seven hundred eleven (711) and Stevenson, one hundred fifty-eight (158); (tr. p. 150).

Mrs. Josefa Gutierrez testified that she was the County Chairman of the Democratic Executive Committee and that she delivered ballots and supplies to the election officials, (tr. p. 152, 153); that no one gave her any returns after the election, but that they left them in Judge Bravo's office, (tr. p. 153); that Judge Bravo was the County Judge and that she received the returns on September 2nd, when the Committee canvassed them, (tr. p. 154); that she did not see the returns from August 28th until September 2nd and they had never been physically delivered to her until September 29th, (tr. p. 154); that Judge Bravo gave the returns to her on said latter date, (tr. p. 154); that the County Executive Committee met on September 2, 1948, in Judge Bravo's office and those present were herself, and committeeman, Josefa Ramos and Aurelio Lopez, (tr. p. 159); that Josefa Ramos is committeeman from precinct number four (4) and Aurelio Lopez is committeeman from precinct number (3) three, (tr. p. 160); that when the County Executive Committee met on September 2, 1948, she had the returns from precincts, one, two and three and four, (tr. p. 160); and she checked the tally list from each precinct and totalled up the number of votes, (tr. p. 162); that

the official returns showed as follows:

Precinct No. 1:	Johnson 331	Stevenson 20
Precinct No. 2:	Johnson 192	Stevenson 17
Precinct No. 3:	Johnson 101	Stevenson 29
Precinct No. 4:	Johnson 39	Stevenson 5

(tr. p. 163)

that Judge Bravo was present on September 2nd when the canvass was made, (tr. p. 169); and that he helped her write out the official return, (tr. p. 170); that she actually opened the envelopes containing the returns, (tr. p. 172); that Mr. Phelps, on September 1st, asked her to let him see the envelopes, but that the Court House was closed, (tr. p. 173) and he did not get to see them. The Master then impounded the envelopes containing the returns, (tr. p. 177); and it was determined that there were only three (3) envelopes, namely, precincts one, two, and four, (tr. p. 180); the witness further testified that on September 2nd she had the envelopes for each of the four precincts within the County, (tr. p. 178); that the documents pertaining to precinct number three (3) were missing, (tr. p. 180); that on the morning of September 29th, Judge Bravo gave her only three envelopes and that she had left all four envelopes on Judge Bravo's desk, apparently done on September 2nd, (tr. p. 182);

Mr. Matias Cuellar, recalled as a witness, testified that when he talked to Mr. Falvella on the morning of August 30th, he told him that he had a complete report of all four (4) precincts.

Judge M. B. Bravo was called by the Master and testified that he received the returns of the primary on the night of August 28, 1948 in his office at the Court House, (tr. p. 185); and that the County Chairman was not present, (tr. p. 185); that he received them in behalf of the County Chairman and that she has kept her files in his office for the last six or eight years, (tr. p. 185); that they were delivered to him on August 28, 1948, that is, the returns for all four precincts and that the returns were sealed in an envelope, (tr. p. 185); that he kept them continuously in his possession until September 2nd in his office on the desk, (tr. p. 186); that he put them in a manila folder which was designated as Mrs. Guiterrez's file, (tr. p. 186); and that he kept the file in a filing cabinet and brought them out on September 2nd for the purpose of the canvass, (tr. p. 186); that on September 2nd all four returns were there and that he helped in checking the additions, (tr. p. 186); that the official report of the canvass was filled out and the returns were left in his office on the desk, (tr. p. 187); that the returns remained on the desk for "four or five days, anyway, or a week or two.", (tr. p. 187); that after a week or ten days, he placed the returns in the filing cabinet, (tr. p. 188); that some time during the week of September 19th he felt that he should check up and upon doing so, found that the returns for precinct Number three (3) were gone, (tr. p. 188); that he did not tell Mrs. Guiterrez about the missing returns for precinct number three (3) and first mentioned the same to her on the morning of September 29th, (tr. p. 188); that he did mention the fact to the Sheriff and that they decided that they had better wait and see if they could find them somewhere or "see who got away with them.", (tr. p. 189); that he made a diligent search to find said returns but was unable to locate them, (tr. p. 189); that he was not in the habit of locking the filing cabinet, (tr. p. 190); that he asked Mrs. Guiterrez and the committeemen to meet on Thursday, September 2nd to canvass the returns at 9:00 a. m. inasmuch as it was necessary to get them out in the mail which left shortly after 9:00 a. m., (tr. p. 190); that he is completing his twelfth year as County Judge, (tr. p. 192); that it has been customary for a number of years for the Presiding Judges to leave their returns with him for every election, (tr. p. 193).

Miss Elia Gonzales testified that she lives in Bapeno, Texas and that she was the Presiding Judge for precinct number three (3) in the run off primary, (tr. p. 202,203); that after the polls were closed she and the Judges and Clerks counted the ballots and then filled out the returns, (tr. p. 204); that she delivered the boxes to the County Clerk and gave the returns to Judge Bravo; that she made up three different sets of returns and gave them to Judge Bravo, (later the witness testified that she was not sure about the matter but thought that she left them at the Court House), (tr. p. 205); that she did not remember whether or not she put one of the sets of returns in the ballot box, but probably left all of the returns in the Court House by mistake, (tr. p. 206); that she had acted as Presiding Judge for the first time in the run off primary, (tr. p. 208); that the presiding place in her precinct was eighteen or twenty miles from Zapata, Texas, (tr. p. 209); that she thought she delivered all three sets of returns to Judge Bravo in his office, (tr. p. 210); that she does not have her set of returns now, (tr. p. 210); that she did not remember taking home her set of the returns, nor did she know whether or not she locked one set of the returns in the ballot box, (tr. p. 213); that since she heard everything that was happening she started looking for the returns but could not find it, (tr. p. 214); that she began looking for the returns about three or four days ago, (tr. p. 214); that the ballot box was locked and that the ballots were in it, (tr. p. 217); that she did not put anything else in the box, (tr. p. 217); and that she put the surplus supplies in another box, (tr. p. 217); that Judge Bravo came to her polling place and got some of her ballots, (tr. p. 218); that she gave the keys to the locks on the ballot boxes to either Mr. Cuellar or Judge Bravo, (tr. p. 222).

The Master then ordered all the boxes impounded and placed ⁱⁿ the custody of the United States Marshal, (tr. p. 224).

Miss Anita Ramirez testified that during the run off primary she acted as a Judge in precinct number three(3) and that she was unable to either read or speak the English language, (tr. p. 226); that she was asked to serve in the election by Cerlerno Gonzales, the Commissioner of Lopena, (tr. p. 228); that she signed the election papers, (tr. p. 229);

Mrs. Sacramento Benavides testified that she lives in Lopena, Texas, and speaks and reads a little English, (tr. p. 231); that she served as a Clerk in the run off election after having been asked to do so by Judge Bravo, (tr. p. 232); that the election officials for her precinct made out three sets of returns, (tr. p. 233).

At approximately 3:00 p. m. the Special Master received a communication through Mr. W. R. Smith, Jr. that Judge T. Whitfield Davidson had ordered the proceedings closed and, accordingly, all impounded documents restored, (tr. p. 234); the order was made closing the hearing and ordering all impounded documents restored to the custody of those who had possession of them prior to the impounding order, (tr. p. 234).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCollum Burnett,
Special Master

COPY

UNITED STATES SENATE

MEMORANDUM

Pct. 13
Jim Wells

This summary based on 275 pages of testimony before Special Master Smith. Testimony was not completed - at least 12 more witnesses in Stevenson's case - because Justice Black's order and Judge Whitfield's conclusion to stop proceedings.

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1. Only 1 of 2 boxes used in 13 was found and none of the poll list, tally sheets and election returns (one set each) were in box when opened.
 2. Election Judge Salas told news reporters right after vote count Johnson had 765 votes and Stevenson had 60. But final returns were 977 to 60(?) and Salas denied he ever told reporters the vote.
 3. New county ch. and Stevenson people not permitted to see returns, etc.
 4. Secy. Ex. Comm. (Donald) left town.

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IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

COKE R. STEVENSON :
VS. : CIVIL ACTION # 1640
TOM L. TYSON, ET AL :

SUMMARY OF FACTS PRESENTED BEFORE SPECIAL
MASTER AT ALICE, JIM WELLS COUNTY, TEXAS,
ON SEPTEMBER 27, 28 and 29, 1948

TO SAID HONORABLE COURT:

On the morning of September 27, at Plaintiff's suggestion subpoenas were issued for three witnesses, to wit: B. F. (Tom) Donald, Clarence C. Martens, and Luis Salas, returnable at the Court House at Alice, Texas, at 3 o'clock, p. m. of the same day, and commanding Mr. Donald and Mr. Martens each to produce before the Special Master all poll lists, all tally sheets and all return sheets and forms used in the Democratic Primary Election held August 28, 1948, in all Election Precincts of Jim Wells County, Texas, and all other forms used in said elections (which will be referred to hereinafter as "returns") and commanding Mr. Salas to produce such returns for Precinct 13 of said County, Said subpoenas were returned non est.

Whereupon a subpoena was issued at Plaintiff's suggestion for Mrs. Juanita Hulsey, Deputy County Clerk of Jim Wells County, Texas, acting as County Clerk in the absence of Mr. Clarence H. Holmgreen, The County Clerk, who was reported to be in California. This subpoena required that Mrs. Hulsey produce, and in obedience to same she did produce and identify 20 ballot boxes as being all the ballot boxes used at the election in question, theretofore delivered into the custody of her office by the election officials subsequent to the official canvass and returns of said election covering the 17 voting Precincts in the County. The Special Master ordered these 20 boxes impounded and placed in custody of the United States Marshal.

It was noted that ten of the boxes were locked with padlocks and had no keys. Some were locked, but the keys were tied to the locks; one, Precinct 5, had a padlock and key attached, but the padlock was unlocked; and the remaining boxes had no locks.

Mrs. Hulsey identified one box as Box 13, because it had the words "Nayer School" printed and attached and she stated that was the voting place for Precinct 13. She testified that after some question arose as to the validity of the returns for Precinct 13, she concealed this box in the County Clerk's vault, where the other 19 boxes were located, by placing same out of sight behind some map files. She testified further from hearsay and without objection, that she had been previously informed by Mr. Holmgreen (the County Clerk) that the Precinct 13 box had been brought to the County Clerk's office several days later than the other boxes. It developed later in the hearing upon opening of the boxes by the Special Master, as will appear, that the box marked "Nayer School" was not the Precinct 13 box, but contained what appeared to be the ballots and returns of Precinct 5.

The testimony of the next two witnesses, Givens S. Parr and Mrs. B. F. Donald, went primarily to the whereabouts of B. F. Donald, for whom subpoena duces tecum had been issued and returned non est on the preceding day. (Meantime a new subpoena duces tecum, returnable on the instant, had been issued for Mr. Donald).

Mr. Parr testified (tr. p. 37-44) that B. F. Donald is Cashier of the same bank at Alice, Texas of which he, the witness, is Vice-President, and his brother, George Parr, is

President; that Mr. Donald came to the bank and opened his mail prior to 9 a. m. on September 27 (the day the hearing opened) and after that the witness did not see him any more; and that on the preceding Friday or Saturday Mr. Donald had told him he might want to leave town the following week, but did not say where he wanted to go. The witness further testified that Donald, until recently, was Secretary of the Jim Wells County Democratic Executive Committee, and that Donald had previously had in his possession at the bank some of the records of that committee; that these papers were in Mr. Donald's possession when Plaintiff and two or three other gentlemen called on Donald.

Mrs. Donald testified (tr. p. 45-48) her husband left Alice, Texas, "yesterday" (the day the hearing opened) but did not tell her where he was going and she did not know how he traveled; that later he called her and told her he was in Nuevo Laredo, Mexico.

The next witness, Clarence C. Martens, (tr. p. 49- 119) testified that he was Chairman of the Democratic Executive Committee for Jim Wells County, that he handled the election in question; that after the election he received ballot boxes and returns from those who brought him in; that Mr. Luis Salas, Election Judge for Precinct 13, brought his ballot box and returns to the witness on the Saturday night of the election, and the box together with other boxes were left in the County Jail in custody of the jailer, locked up; that he received 13 envelopes containing returns and picked up the other four from the County Clerk to whom they had been delivered by election judges. That he then delivered all the returns in his possession to Mr. Donald, Secretary of the Committee, at the bank "where he could put them up" (tr. p. 57). That on the morning of the first Friday after the election (tr. p. 59) the County Democratic Executive Committee met at the Court House and canvassed the returns. That there was some discussion at the meeting because of an increase of around 200 votes in favor of Defendant Johnson shown on the Precinct 13 returns, over the number reported by the Texas Election Bureau, but that the Committee was satisfied there was no question (tr. p. 62) and tallied the returns as shown on their face and reported the results to the Chairman of the State Executive Committee. That after the Committee Meeting Mr. Donald took the returns with him and the witness has not seen them since (tr. p. 66-67)

Mr. Martens further testified that the new County Chairman, a Mr. Adams, requested possession of the returns but Mr. Donald declined to deliver them over, saying he needed legal advice on this and was advised by Mr. Ed. Lloyd, Attorney, that the statute only required delivery of the returns to the Committee and not to any individual. That thereafter, about September 10, and after his term as County Chairman had expired, he was informed by Mr. Kykendall and Mr. Graham, friends of and attorneys for Plaintiff, that the official report of the election to the State Chairman was incorrect, that they offered to show him the evidence and sought to have him sign a statement saying he would like to recertify or withdraw his certification (tr. p. 88); that the evidence was not shown him and he did not sign the statement.

(The statement Mr. Martens was requested to sign, that he did not sign, is copied at pp. 111 and 112 of the Transcript).

Mr. Martens further testified (tr. p. 114-119) that on the night of the election he asked Mr. Cliff Dubois, of the "Alice News" if he needed any election information for purpose of turning it over to the Texas Election Bureau and Dubois stated he had all the information he needed except from the Patterson box and Bentonville box; that Dubois had information regarding the returns of Precinct 13 prior to the time the witness received the ballot boxes.

The next witness, Mr. Luis Salas, Election Judge for Precinct 13, appeared under alias subpoena, and testified in substance as follows: (tr. p. 125-127) That he conducted the election in question

in Precinct 13, and as people presented themselves to vote, he checked them against the official poll tax list furnished by the Tax Collector to determine their qualification. If qualified, a ballot was handed to the voter, but the official list was not marked so as to indicate the name of the person to whom the ballot was furnished as provided by RCS Texas Sec. 3121; that the poll tax list so used was placed by him in the ballot box (tr. p. 136) and the ballot box was turned over to the County Chairman, Mr. Martens, about 9:30 p. m., the night of the election (tr. p. 137).

Mr. Salas further testified that the box marked "Nayer School" was not the box used at Precinct 13; he was unable definitely to identify the right box, but stated he used two large boxes with wire hasps on them (tr. 140). That when he would hand a ballot to a qualified voter he would call out the name and three clerks, to wit: Roderico Rojas, Hector Gomez and Alejandro Villareal, would each write the name on a list, the voter would mark his ballot, hand it to the witness who signed his name on the back and also numbered the ballot in the order cast and place the ballot in the box (tr. 141). That the polls closed at 7 p. m., just after the last voter, whose identify he could not recall, cast his ballot (tr. 142); that about 250 people voted between 6 p. m. and 7 p. m. (tr. 143); that the counting of the ballots started about 9:30 a. m. or 10 a. m. and was completed about 40 minutes after the polls closed (tr. 143); that he himself ran the tally sheets, which were in triplicate; that Mrs. Viola Gomez called the votes from the ballots, the tallies were made by three clerks, Mrs. Ignacio Escobar, Mrs. Ignacio Trevino and Sylvania Gomez, and he, himself, he added the tallies to determine the total vote and he, himself, made out the returns showing how many votes each candidate received (tr. 144). Each clerk signed his own tally list, but he alone signed the returns in triplicate (tr. 145). That he put one tally list, poll list and return in the ballot box, delivered one each to the County Chairman and kept one each himself (tr. 145). That right after Labor Day there had been so much talk about something wrong with the election and about Box 13 that he went to see Mr. Donald to check the two sets of copies against each other, "That the election was level, nothing wrong with the election" (tr. 150). After he checked them he went to a restaurant for supper where he stayed from 5 p. m. until 9:30 p. m. (on Sept. 15) and while there somebody stole both sets of returns from his car (tr. 150). That Defendant Johnson got about 977 votes and Plaintiff Stevenson got 60 (Tr. 151).

He further testified that he saw Cliff Dubois of the Alice News the night of the election about 7:45 or 8 o'clock but did not tell him how many votes either Senatorial Candidate received (tr. 151-152); that he had gone to the newspaper office to find Mr. Martens, waited for him and when he arrived they left together for the jail where he delivered the two ballot boxes and returns to Mr. Martens; that there were 1041 votes cast in Precinct 13; that he has never seen the two ballot boxes since (tr. 155). That it is not true that 200 votes were added to the box (tr. 162). The Special Master after stating his reasons therefor (Tr. 175ff), and hearing the objection of defense counsel and overruling same, (Tr. 177ff), the Special Master then proceeded to open one of the boxes tentatively identified by the witness, Mr. Salas, as Precinct 13 boxes. The Special Master then successively and at random picked out 5 several ballots from the box, the witness identified each as bearing his signature on the back and each as bearing respectively the following numbers written on the back: 160, 302, 458, 1010 and 229, and the witness identified the face of these ballots as indicating they were cast at the election in question, he looked in the box and stated that the official returns, tally sheets, etc. were not in the box. (tr. 179-181).

The second tentatively identified box for Precinct 13 was then opened and disclosed to be not a Precinct 13 box (tr. 182) and the witness failed to recognize any of the other 18 boxes as being the second Precinct 13 box; that he had used and delivered two boxes to the County Chairman. Further statement by the Special Master as to his purpose in opening the ballot boxes appears at Tr. p. 195-196, and he then opened the unlocked box marked "Nayer School" previously identified by Mrs. Hickey as the box for Precinct 13. This box, on examination of its contents, appeared clearly to be the box used in Precinct 5 (tr. p. 197-199). The next two boxes opened were empty (tr. 202). The next box opened contained only a few blank election forms (tr. 204). The next box opened contained a large sealed envelop marked Precinct 15 (tr. 205). The next box opened showed from its contents to have been used in Precinct 2 (tr. 207). The next box opened contained unidentified and uncertified copies of what appeared to be lists of voters in Precincts 16 and 13, the year for which the lists were made up not appearing. The next box opened appeared to be that of Precinct 14 (tr. 210). The remainder of the boxes were locked, with no keys available, and, therefore, the Special Master caused the locks to be opened by a locksmith, under supervision of the Deputy Marshal (tr. 211).

While the locksmith was at work, the witness, Luis Salas, resumed his testimony under direct examination by plaintiff (tr. 212).

He testified that when he was at the newspaper office shortly after completing his count of the ballots about 7:40 p. m. the evening of the election, he saw Cliff Dubois and also saw Wesley Price (the next witness) and that he did not announce in Mr. Price's presence the vote for Precinct 13 to be 765 for Johnson and 60 for Stevenson, and made no other announcement with reference to the vote in Precinct 13 (tr. 218).

On cross-examination by defendant (tr. 219) Mr. Salas stated that during the subsequent investigation of the balloting a party who "came with that big ranger" (tr. 219) threatened him with prosecution and the penitentiary if he did not give them the returns; that the ranger was Mr. Frank Hamer. He testified further that the votes cast were properly counted and accounted for by him and the number reported in his returns was the number cast (tr. 221). That Precinct 13 in some previous elections for Governor, etc. had gone for Stevenson and no rangers investigated. That the two boxes he turned over to the County Chairman were both locked and that the election returns, the poll list and the tally sheet were put in one of the ballot boxes, but not in a sealed envelope before delivery to the County Chairman. That the box these documents were placed in was the box which also contained the ballots and all the ballots (tr. 224-226) and that the other box contained only the envelope which was turned over to the County Chairman, Mr. Martens (tr. 225). That the last time he saw the box containing the ballots and the returns was when he delivered it to the jail the night of the election, locked but with the key hanging on the lock (tr. 227). That when he delivered the two boxes to Mr. Martens at the jail he told Mr. Martens that "this is the ballot box and then I said "That is your envelope in that can there". (Tr. 227).

The next (and last) witness was Charles Wesley Price (tr. 228-249).

Mr. Price testified that on the night of August 28, 1948, about 8 o'clock p. m. he went to the "Alice News", that Luis Salas came in; that Mr. Dubois was there reporting the returns from the election to the Texas Election Bureau; that Mr. Salas had given Dubois the returns from Precinct 13 and he had written it down and had gone across the street to Western Union to telegraph it in and came back and said Western Union was closed; that he heard Luis Salas tell Dubois he had the final returns from Precinct 13, which was 765 for Johnson and 60 for Stevenson (tr. 230-231).

On cross-examination Mr. Price testified that although he was not an active partizan for Stevenson, he was a very active opponent of the parties who were supporting Johnson: that on the occasion Salas announced the results, the statement was made to Dubois; that during the subsequent investigation by Stevenson of the Jim Wells County voting he participated in the same; that one Ignacio Escobar was present when Salas announced the vote to Dubois and Escobar wrote it down on a piece of paper; that the figures so given by Salas to Dubois were 200 votes for Johnson less than were later officially reported. Further, that he went to Fort Worth on expenses paid by Stevenson's party and testified as a witness in connection with "this matter" (Tr. 237). That he read the unofficial returns in the Alice newspaper and noticed the 765 and the 60 for Precinct 13; that he was not particularly interested at the time in beating Johnson but was curious about the vote in Precinct 13; that he had voted for Stevenson; that since the election he had talked with Mr. Holmgreen about the alleged irregularities and that later Mr. Holmgreen was in consultation with Stevenson and his investigators and was an active participant in the Stevenson investigation; that Holmgreen was then (at the time of the hearing) reported to be in California.

That Alice and Jim Wells County are pretty sharply divided into two political factions, one of which is anti-Parr (tr. 247) and which faction favored Governor Stevenson.

After the close of Mr. Price's testimony, the Special Master then proceeded with the opening of the remaining 10 ballot boxes, all of which were unlocked by the locksmith. The first turned out to be for Precinct 10. The next box was opened and turned out to be for Precinct 16. The next was for Precinct 12.

At this point in the proceedings word came from Honorable T. Whitfield Davidson, United States District Judge for the Northern District of Texas, ordering the Special Master to terminate the hearing (Tr. 253-254). No further testimony was taken, but the hearing remained in session long enough to restore all ballot boxes substantially to the same condition with regard to locks, etc. as they were in when impounded and to restore them to custody of the Deputy County Clerk, Mrs. Hulsey. It was agreed by counsel for all parties and by the Special Master that all papers taken out of the opened boxes were restored to the respective boxes from which they came and the 20 boxes were then returned into the custody of the County Clerk's office (Tr. 259-264).

There was placed in the record the telegram from Judge Davidson, ordering the proceedings stopped (Tr. 265). The record further affirmatively shows (Tr. 266) that the proceedings were stopped at a time when plaintiff was continuing with his testimony and before the defendants had had any opportunity to present any witnesses.

After some discussion with counsel for all parties as to the nature of the report yet to be filed by the Special Master (Tr. p. 266-268), the hearing was adjourned.

At the time of adjournment, instanter subpoenas, issued at the request of plaintiff, had been issued for the following named witnesses, who had not yet been called to the witness stand: Vila Gomez, Silvia Gomez, Eduardo Rios, Mrs. Ophelia Escobar, Alejandro Gonzales, Hector Gomez, Oliverio Herrera, Fufino Lopez, Mrs. Clarence Martens, B. F. Tom Donald, Mrs. Luis Salas, Jack Gladney.

Most of these subpoenas had been actually served and the witnesses had been sworn and placed under the Rule.

The foregoing brief summary of the 275 page transcript of the proceedings sets out all testimony and other facts appearing in

the record that the Special Master deems pertinent and material to the objects of the hearing as defined in the order of the Court appointing the Special Master for the purpose of investigating the balloting in Jim Wells County, Texas. In preparing this summary the Special Master was fully aware of the obvious incompleteness of the hearing. He may not have recognized the pertinence and materiality of some testimony adduced by one party or the other as part of a whole pattern of facts yet to be proved as of the time of adjournment.

Copies of this summary have been mailed to counsel for the various parties.

Respectfully submitted,

W. R. Smith, Jr., SPECIAL MASTER

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF TEXAS,

FORT WORTH DIVISION.

COKE R. STEVENSON

VS.

TOM L. TYSON, ET AL.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT ZAPATA, ZAPATA COUNTY, TEXAS, ON SEPTEMBER 29, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum commanding the appearance before me at the Court House in Zapata County, Texas, on September 29, 1948, at 10:00 a. m., all persons who participated in the conduct of the Democratic Primary Election held in said County on August 28, 1948. The subpoenas duces tecum commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents. The hearing commenced in the District Court Room of the Court House at Zapata, Texas, at 10:00 a. m. on the date scheduled. Plaintiff was represented by Honorable Joe G. Montague, Honorable F. L. Kuykendall and Honorable Truman S. Phelps, Jr. Defendant, Lyndon B. Johnson, was represented by Honorable Polk Shelton, and the election officials of Zapata County, Texas, were represented by Honorable M. J. Raymond.

Leopoldo Martinez testified that he was Sheriff, Tax Assessor and Collector of Zapata County, Texas, (tr. p. 117), and he produced the official Poll Tax Lists for the four (4) voting precincts of Zapata County; that there were a little over Twelve Hundred (1200) paid Poll Taxes, (tr. p. 119).

Matias Cuellar testified that he was the District and County Clerk of Zapata County, Texas, and has held that office since 1941, (tr. p. 120); that after the Primary Election of August 28th, the ballot boxes were delivered to him and are now in his possession, (tr. p. 121); that some of the boxes were locked, (tr. p. 121); that the ballot boxes were delivered to him on the night of August 28th some time before midnight, (tr. p. 122); that the boxes are now in the same condition as they were when delivered and that nobody has looked into them, (tr. p. 123); that the keys for the locks are in his office, (tr. p. 123); that during the night of August 28, 1948, everybody around the Court House was discussing the election, but that he did not recall any of the figures, (tr. p. 124); and that he talked to Mr. Jim Falvella of Laredo, Texas, by telephone and somebody from San Antonio, (tr. p. 125); that on the occasions of talking long distance, he gave out the results of the election, (tr. p. 125); that the information he gave was what he had heard, but that he did not get the accurate information, (tr. p. 126); that he talked to the election officials as they brought in the boxes but did not ask them about the results of the election, (tr. p. 127); that he thought the information which he gave out as to the results of the election were correct, (tr. p. 128); that if he had any conversation with any of the election officials as to the results of the election, he did not remember it, (tr. p. 129); that when the election officials delivered the boxes they had the returns with them, but that he did not know what they did with them, (tr. p. 130); that he only received the ballot boxes, (tr. p. 131); that the information he gave Mr. Falvella was not official, but was the best information that he was able to obtain (tr. p. 133); that he was Secretary of the County Election Board from 1941 until the present time, with the exception of approximately four (4) years spent in the Army, (tr. p. 135); Upon examination by the Master, the witness testified that so far as he knew the County Chairman did not receive the ballot boxes on the night of August 28, 1948, and that the last box was received earlier than 10:30 p. m., (tr. p. 136); that he had had possession of the boxes since the night of the election and that he put them in the vault, (tr. p. 137); that he and Alessandro Suterrez Jr. had access to the vault, (tr. p. 137); and no one had approached him

inquiring about the boxes, (tr. p. 138); that he first knew of the official vote of the County in the Senate race when the official returns were filed and that he had a certificate which was filed with him by the County Chairman, (tr. p. 138).

Mr. J. W. Falvella testified that he had been a newspaperman for fifty-eight (58) years and lived in Laredo, Texas, (tr. p. 139); that he had been with the Texas Election Bureau twenty-two (22) years and had represented them in Zapata and Webb Counties in all elections, (tr. p. 139); that his duties were to gather the vote at the County Clerk's Office on the nights of the primaries or elections, (tr. p. 139); that the only results he obtained on the night of the run-off primary were from Mr. Cuellar for precinct number one and that he got the complete vote from Mr. Cuellar on Monday morning, (tr. p. 140); that on the night of August 28, 1948, the information he received was that Johnson had three hundred ninety-three (393) and Stevenson, eighty-seven (87), (tr. p. 141); and that it was his impression that the results were only from precinct number one, (tr. p. 141); that on Monday morning, August 30, 1948, he had a conversation with Mr. Cuellar in which Mr. Cuellar advised him of the following results:

Precinct No. 1:	Johnson 393	Stevenson 87
San Ignacio	Johnson 192	Stevenson 17
Lapeno, No. 3:	Johnson 87	Stevenson 49
Falcon No. 4:	Johnson 39	Stevenson 5
Total	Johnson 711	Stevenson 158 (tr. p. 141);

That Mr. Cuellar, on August 30, 1948, stated that the above was the complete vote as far as he could get it, and that it covered all of the boxes in the County; that the official report given him later by Judge Bravo was:

Number 1:	Johnson 331	Stevenson 20
Number 2:	Johnson 192	Stevenson 17
Number 3:	Johnson 107	Stevenson 29
Number 4:	Johnson 37	Stevenson 5
Total	Johnson 667	Stevenson 71 (tr. p. 144)

That he gave such report to the Texas Election Bureau; that the official returns disclosed seventy-one (71) votes for Stevenson and six hundred sixty-seven (667) for Johnson, (tr. p. 144); upon examination by the Master, the witness testified that when he talked to Mr. Cuellar on August 30, 1948, Mr. Cuellar told him that he had gotten in all the returns, (tr. p. 149); and that they were complete for the County (tr. p. 149, 150); that when he talked to Mr. Cuellar on the morning of August 30th, Mr. Cuellar gave him the complete returns which quoted Johnson, seven hundred eleven (711) and Stevenson, one hundred fifty-eight (158); (tr. p. 150).

Mrs. Josefa Gutierrez testified that she was the County Chairman of the Democratic Executive Committee and that she delivered ballots and supplies to the election officials, (tr. p. 152, 153); that no one gave her any returns after the election, but that they left them in Judge Bravo's office, (tr. p. 153); that Judge Bravo was the County Judge and that she received the returns on September 2nd, when the Committee canvassed them, (tr. p. 154); that she did not see the returns from August 28th until September 2nd and they had never been physically delivered to her until September 29th, (tr. p. 154); that Judge Bravo gave the returns to her on said latter date, (tr. p. 154); that the County Executive Committee met on September 2, 1948, in Judge Bravo's office and those present were herself, and committeeman, Josefa Ramos and Aurelio Lopez, (tr. p. 159); that Josefa Ramos is committeeman from precinct number four (94) and Aurelio Lopez is committeeman from precinct number (3) three, (tr. p. 160); that when the County Executive Committee met on September 2, 1948, she had the returns from precincts, one, two and three and four, (tr. p. 160); and she checked the tally list from each precinct and totalled up the number of votes, (tr. p. 162); that

the official returns showed as follows:

Precinct No. 1:	Johnson 331	Stevenson 20
Precinct No. 2:	Johnson 192	Stevenson 17
Precinct No. 3:	Johnson 101	Stevenson 29
Precinct No. 4:	Johnson 39	Stevenson 5

(tr. p. 163)

that Judge Bravo was present on September 2nd when the canvass was made, (tr. p. 169); and that he helped her write out the official return, (tr. p. 170); that she actually opened the envelopes containing the returns, (tr. p. 172); that Mr. Phelps, on September 1st, asked her to let him see the envelopes, but that the Court House was closed, (tr. p. 173) and he did not get to see them. The Master then impounded the envelopes containing the returns, (tr. p. 177); and it was determined that there were only three (3) envelopes, namely, precincts one, two, and four, (tr. p. 180); the witness further testified that on September 2nd she had the envelopes for each of the four precincts within the County, (tr. p. 178); that the documents pertaining to precinct number three (3) were missing, (tr. p. 180); that on the morning of September 29th, Judge Bravo gave her only three envelopes and that she had left all four envelopes on Judge Bravo's desk, apparently done on September 2nd, (tr. p. 182);

Mr. Matias Cuellar, recalled as a witness, testified that when he talked to Mr. Falvella on the morning of August 30th, he told him that he had a complete report of all four (4) precincts.

Judge M. B. Bravo was called by the Master and testified that he received the returns of the primary on the night of August 28, 1948 in his office at the Court House, (tr. p. 185); and that the County Chairman was not present, (tr. p. 185); that he received them in behalf of the County Chairman and that she has kept her files in his office for the last six or eight years, (tr. p. 185); that they were delivered to him on August 28, 1948, that is, the returns for all four precincts and that the returns were sealed in an envelope, (tr. p. 185); that he kept them continuously in his possession until September 2nd in his office on the desk, (tr. p. 186); that he put them in a manila folder which was designated as Mrs. Guterrez's file, (tr. p. 186); and that he kept the file in a filing cabinet and brought them out on September 2nd for the purpose of the canvass, (tr. p. 186); that on September 2nd all four returns were there and that he helped in checking the additions, (tr. p. 186); that the official report of the canvass was filled out and the returns were left in his office on the desk, (tr. p. 187); that the returns remained on the desk for "four or five days, anyway, or a week or two.", (tr. p. 187); that after a week or ten days, he placed the returns in the filing cabinet, (tr. p. 188); that some time during the week of September 19th he felt that he should check up and upon doing so, found that the returns for precinct Number three (3) were gone, (tr. p. 188); that he did not tell Mrs. Guterrez about the missing returns for precinct number three (3) and first mentioned the same to her on the morning of September 29th, (tr. p. 188); that he did mention the fact to the Sheriff and that they decided that they had better wait and see if they could find them somewhere or "see who got away with them.", (tr. p. 189); that he made a diligent search to find said returns but was unable to locate them, (tr. p. 189); that he was not in the habit of locking the filing cabinet, (tr. p. 190); that he asked Mrs. Guterrez and the committeemen to meet on Thursday, September 2nd to canvass the returns at 9:00 a. m. inasmuch as it was necessary to get them out in the mail which left shortly after 9:00 a. m., (tr. p. 190); that he is completing his twelfth year as County Judge, (tr. p. 192); that it has been customary for a number of years for the Presiding Judges to leave their returns with him for every election, (tr. p. 193).

Miss Elia Gonzales testified that she lives in Lopena, Texas and that she was the Presiding Judge for precinct number three (3) in the run off primary, (tr. p. 202,203); that after the polls were closed she and the Judges and Clerks counted the ballots and then filled out the returns, (tr. p. 204); that she delivered the boxes to the County Clerk and gave the returns to Judge Bravo; that she made up three different sets of returns and gave them to Judge Bravo, (later the witness testified that she was not sure about the matter but thought that she left them at the Court House), (tr. p. 205); that she did not remember whether or not she put one of the sets of returns in the ballot box, but probably left all of the returns in the Court House by mistake, (tr. p. 206); that she had acted as Presiding Judge for the first time in the run off primary, (tr. p. 208); that the presiding place in her precinct was eighteen or twenty miles from Zapata, Texas, (tr. p. 209); that she thought she delivered all three sets of returns to Judge Bravo in his office, (tr. p. 210); that she does not have her set of returns now, (tr. p. 210); that she did not remember taking home her set of the returns, nor did she know whether or not she locked one set of the returns in the ballot box, (tr. p. 213); that since she heard everything that was happening she started looking for the returns but could not find it, (tr. p. 214); that she began looking for the returns about three or four days ago, (tr. p. 214); that the ballot box was locked and that the ballots were in it, (tr. p. 217); that she did not put anything else in the box, (tr. p. 217); and that she put the surplus supplies in another box, (tr. p. 217); that Judge Bravo came to her polling place and got some of her ballots, (tr. p. 218); that she gave the keys to the locks on the ballot boxes to either Mr. Cuellar or Judge Bravo, (tr. p. 222).

The Master then ordered all the boxes impounded and placedⁱⁿ the custody of the United States Marshal, (tr. p. 224).

Miss Anita Ramirez testified that during the run off primary she acted as a Judge in precinct number three(3) and that she was unable to either read or speak the English language, (tr. p. 226); that she was asked to serve in the election by Cerlermo Gonzales, the Commissioner of Lopena, (tr. p. 228); that she signed the election papers, (tr. p. 229);

Mrs. Sacramento Benavides testified that she lives in Lopena, Texas, and speaks and reads a little English, (tr. p. 231); that she served as a Clerk in the run off election after having been asked to do so by Judge Bravo, (tr. p. 232); that the election officials for her precinct made out three sets of returns, (tr. p. 233).

At approximately 3:00 p. m. the Special Master received a communication through Mr. W. R. Smith, Jr. that Judge T. Whitfield Davidson had ordered the proceedings closed and, accordingly, all impounded documents restored, (tr. p. 234); the order was made closing the hearing and ordering all impounded documents restored to the custody of those who had possession of them prior to the impounding order, (tr. p. 234).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCollum Burnett,
Special Master

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF TEXAS,

FORT WORTH DIVISION.

COKE R. STEVENSON

vs.

TOM L. TYSON, et al.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT SAN DIEGO, DUVAL COUNTY, TEXAS, on SEPTEMBER 28, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum, commanding the appearance before me at the Court House, San Diego, Texas, on September 28, 1948, at 10:00 a. m. the following persons:

The County Judge,
The County Clerk,
The Chairman of the County Democratic Executive Committee,
All Precinct Chairmen,
All Presiding Judges, Assistant Judges & Clerks,

all of Duval County, Texas, and all of whom participated in or conducted the Democratic Primary Election held in said County on August 28, 1948. The subpoenas commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents.

The hearing commenced in the District Court Room of the Court House in San Diego, Texas, at 10 a. m. Plaintiff was represented by Honorable Joe Montague and Honorable F. L. Kuykendall. Defendant, Lyndon B. Johnson, was represented by Honorable Ben F. Foster, and the County Democratic Chairman, Executive Committeemen, and County Officials of Duval County, were represented by Honorable Polk Shelton.

It was determined that the Chairman of the Duval County Democratic Executive Committee was out of the City and had not been served with the subpoena.

Mr. Dan Tobin, County Judge of Duval County, testified that there were officially fourteen (14) voting precincts within the County, but that no elections were held in three (3) of said precincts, namely, numbers four (4), eleven (11), and thirteen (13); that precincts four (4), eleven (11), and thirteen (13) had probably been "discontinued".

Mr. E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, presented official Poll Tax Lists for the eleven (11) active precincts, which lists were received in evidence, (tr. p. 29, 32); that there were four thousand six hundred seventy-nine (4,679) paid poll tax receipts issued in said County for 1947, (tr. p. 77); that he was appointed to his present position on September 13, 1948, succeeding his father, Clements Garcia; that after diligent search, he was unable to find any written orders in his office given by persons authorizing other persons to pay poll taxes for them, (tr. p. 79).

Mr. Mike Canales testified that he lives in Benavides, and acted as Presiding Judge at the August 28th primary, (tr. p. 43); that he made out three (3) sets of election returns and put them in the ballot box, (tr. p. 44-52); that said box was delivered to the

County Chairman, a Mr. King, and that he, the said Mike Canales, did not keep a set of the returns for himself, (tr. p. 44, 53); that he did not know he was to keep one set of the returns, (tr. p. 44, 46, 47); that there were approximately Thirteen Hundred (1300) votes cast in his precinct, (tr. p. 47); that he did not know how many persons voted upon an affidavit, (tr. p. 47, 49); Upon questioning by the Master, the witness testified that he left one set of the returns on the table in the Commissioners Court and "gave them to Mr. King." (tr. p. 56).

Immediately before the noon recess, the Special Master ordered all of the ballot boxes for Duval County impounded and placed them in the custody of the Deputy United States Marshal (tr. p. 61, 62) and upon reconvening the hearing, issued an order to that effect, (tr. p. 72).

The witnesses, Mr. Canales, the Deputy United States Marshal, Mr. Montague and Mr. Foster inspected the ballot boxes in an effort to identify a ballot box testified about by Mr. Canales (tr. p. 73) and thereafter, it was reported to the Master that there were twenty-one (21) ballot boxes on hand, but that the witness was unable to identify the ballot box for precinct number two (2), (tr. p. 74).

Mr. Clemente Garcia testified that he was Tax Assessor and Collector for Duval County, for about eight (8) or ten (10) years and continuously up until the month of September, 1948. (tr. p. 81).

Mr. A. Garcia, Jr. testified that he was Chief Deputy County Clerk of Duval County, Texas, and had held that position for about five (5) years, (tr. p. 87); that for the run off election there were delivered to the County Clerk twenty-one (21) ballot boxes, ten (10) of which were empty, (tr. p. 88); that he saw the boxes in the Commissioners Court on Monday, August 30th, (tr. p. 89); that the boxes were kept in the Commissioners Court for about two weeks after the election, and thereafter they were placed in the basement of the Court House, (tr. p. 94, 95); that on occasions, he used the Commissioners Court Room in connection with his own duties, (tr. p. 96); that the boxes were in the furnace and boiler room of the Court House, and that the janitor had the key to said room (tr. p. 98); that the furnace and boiler room was kept locked, (tr. p. 98).

Mr. Ernesto Benavides testified that he was Presiding Officer at Realitos during the August 28th run off election, (tr. p. 99, 100), and that there were approximately One Hundred Sixty (160) or One Hundred Seventy-five (175) votes cast, (tr. p. 100); that it was his recollection that one of the election clerks kept two talley sheets, (tr. p. 101); that after counting the votes, he took the ballot box home with him and delivered it to the County Chairman on Monday morning, August 30th, (tr. p. 102); that the box was locked; that the only thing he delivered to the County Chairman was the ballot box (tr. p. 103); that he kept a copy of the returns, poll lists, and talley sheets, but left it at the school house where the election was held and it disappeared, (tr. p. 103); that two sets of the returns were placed in the ballot box and locked; that the key was attached to the lock and said box was delivered in that condition to the County Chairman, (tr. p. 108, 109).

Whereupon at approximately 3:30 p. m., the hearing was recessed with the order that all witnesses remain under subpoena until the reconvening of said hearing and that the County Clerk have physical possession of the impounded ballot boxes until further orders; the Marshal was ordered to seal the boxes pending further order, (tr. p. 112, 113).

The return of the Deputy United States Marshal on the order issued impounding the ballot boxes disclosed that upon sealing said boxes, the United States Marshal sealed and took custody of twenty-three (23) ballot boxes, (tr. p. 113-b).

Pursuant to the order of the Court issued on the afternoon of September 29th, 1948, the Special Master entered an order finally concluding the said hearing and ordering the United States Marshal to break the seals on the ballot boxes placed thereon by him and redeliver the same to the County Clerk of Duval County, Texas; all witnesses were discharged and the lists of voters theretofore introduced into evidence were redelivered to E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, (tr. p. 113c, 113d).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCollum Burnett,
Special Master

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS,
FORT WORTH DIVISION.

COKE R. STEVENSON
VS.
TOM L. TYSON, ET AL.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT ZAPATA, ZAPATA COUNTY, TEXAS, ON SEPTEMBER 29, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum commanding the appearance before me at the Court House in Zapata County, Texas, on September 29, 1948, at 10:00 a. m., all persons who participated in the conduct of the Democratic Primary Election held in said County on August 28, 1948. The subpoenas duces tecum commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents. The hearing commenced in the District Court Room of the Court House at Zapata, Texas, at 10:00 a. m. on the date scheduled. Plaintiff was represented by Honorable Joe G. Montague, Honorable F. L. Kuykendall and Honorable Truman S. Phelps, Jr. Defendant, Lyndon B. Johnson, was represented by Honorable Polk Shelton, and the election officials of Zapata County, Texas, were represented by Honorable M. J. Raymond.

Leopoldo Martinez testified that he was Sheriff, Tax Assessor and Collector of Zapata County, Texas, (tr. p. 117), and he produced the official Poll Tax Lists for the four (4) voting precincts of Zapata County; that there were a little over Twelve Hundred (1200) paid Poll Taxes, (tr. p. 119).

Matias Cuellar testified that he was the District and County Clerk of Zapata County, Texas, and has held that office since 1941, (tr. p. 120); that after the Primary Election of August 28th, the ballot boxes were delivered to him and are now in his possession, (tr. p. 121); that some of the boxes were locked, (tr. p. 121); that the ballot boxes were delivered to him on the night of August 28th some time before midnight, (tr. p. 122); that the boxes are now in the same condition as they were when delivered and that nobody has looked into them, (tr. p. 123); that the keys for the locks are in his office, (tr. p. 123); that during the night of August 28, 1948, everybody around the Court House was discussing the election, but that he did not recall any of the figures, (tr. p. 124); and that he talked to Mr. Jim Falvella of Laredo, Texas, by telephone and somebody from San Antonio, (tr. p. 125); that on the occasions of talking long distance, he gave out the results of the election, (tr. p. 125); that the information he gave was what he had heard, but that he did not get the accurate information, (tr. p. 126); that he talked to the election officials as they brought in the boxes but did not ask them about the results of the election, (tr. p. 127); that he thought the information which he gave out as to the results of the election were correct, (tr. p. 128); that if he had any conversation with any of the election officials as to the results of the election, he did not remember it, (tr. p. 129); that when the election officials delivered the boxes they had the returns with them, but that he did not know what they did with them, (tr. p. 130); that he only received the ballot boxes, (tr. p. 131); that the information he gave Mr. Falvella was not official, but was the best information that he was able to obtain (tr. p. 133); that he was Secretary of the County Election Board from 1941 until the present time, with the exception of approximately four (4) years spent in the Army, (tr. p. 135); Upon examination by the Master, the witness testified that so far as he knew the County Chairman did not receive the ballot boxes on the night of August 28, 1948, and that the last box was received earlier than 10:30 p. m., (tr. p. 136); that he had had possession of the boxes since the night of the election and that he put them in the vault, (tr. p. 137); that he and Alessandro Sutiérrez Jr. had access to the vault, (tr. p. 137); and no one had approached him

inquiring about the boxes, (tr. p. 138); that he first knew of the official vote of the County in the Senate race when the official returns were filed and that he had a certificate which was filed with him by the County Chairman, (tr. p. 138).

Mr. J. W. Falvella testified that he had been a newspaperman for fifty-eight (58) years and lived in Laredo, Texas, (tr. p. 139); that he had been with the Texas Election Bureau twenty-two (22) years and had represented them in Zapata and Webb Counties in all elections, (tr. p. 139); that his duties were to gather the vote at the County Clerk's Office on the nights of the primaries or elections, (tr. p. 139); that the only results he obtained on the night of the run-off primary were from Mr. Cuellar for precinct number one and that he got the complete vote from Mr. Cuellar on Monday morning, (tr. p. 140); that on the night of August 28, 1948, the information he received was that Johnson had three hundred ninety-three (393) and Stevenson, eighty-seven (87), (tr. p. 141); and that it was his impression that the results were only from precinct number one, (tr. p. 141); that on Monday morning, August 30, 1948, he had a conversation with Mr. Cuellar in which Mr. Cuellar advised him of the following results:

Precinct No. 1:	Johnson 393	Stevenson 87
San Ignacio	Johnson 192	Stevenson 17
Lapeno, No. 3:	Johnson 87	Stevenson 49
Falcon No. 4:	Johnson 39	Stevenson 5
Total	Johnson 711	Stevenson 158 (tr. p. 141);

That Mr. Cuellar, on August 30, 1948, stated that the above was the complete vote as far as he could get it, and that it covered all of the boxes in the County; that the official report given him later by Judge Bravo was:

Number 1:	Johnson 331	Stevenson 20
Number 2:	Johnson 192	Stevenson 17
Number 3:	Johnson 107	Stevenson 29
Number 4:	Johnson 37	Stevenson 5
Total	Johnson 667	Stevenson 71 (tr. p. 144)

That he gave such report to the Texas Election Bureau; that the official returns disclosed seventy-one (71) votes for Stevenson and six hundred sixty-seven (667) for Johnson, (tr. p. 144); upon examination by the Master, the witness testified that when he talked to Mr. Cuellar on August 30, 1948, Mr. Cuellar told him that he had gotten in all the returns, (tr. p. 149); and that they were complete for the County (tr. p. 149, 150); that when he talked to Mr. Cuellar on the morning of August 30th, Mr. Cuellar gave him the complete returns which quoted Johnson, seven hundred eleven (711) and Stevenson, one hundred fifty-eight (158); (tr. p. 150).

Mrs. Josefa Gutierrez testified that she was the County Chairman of the Democratic Executive Committee and that she delivered ballots and supplies to the election officials, (tr. p. 152, 153); that no one gave her any returns after the election, but that they left them in Judge Bravo's office, (tr. p. 153); that Judge Bravo was the County Judge and that she received the returns on September 2nd, when the Committee canvassed them, (tr. p. 154); that she did not see the returns from August 28th until September 2nd and they had never been physically delivered to her until September 29th, (tr. p. 154); that Judge Bravo gave the returns to her on said latter date, (tr. p. 154); that the County Executive Committee met on September 2, 1948, in Judge Bravo's office and those present were herself, and committeeman, Josefa Ramos and Aurelio Lopez, (tr. p. 159); that Josefa Ramos is committeeman from precinct number four (4) and Aurelio Lopez is committeeman from precinct number (3) three, (tr. p. 160); that when the County Executive Committee met on September 2, 1948, she had the returns from precincts, one, two and three and four, (tr. p. 160); and she checked the tally list from each precinct and totalled up the number of votes, (tr. p. 162); that

the official returns showed as follows:

Precinct No. 1:	Johnson 331	Stevenson 20
Precinct No. 2:	Johnson 192	Stevenson 17
Precinct No. 3:	Johnson 101	Stevenson 29
Precinct No. 4:	Johnson 39	Stevenson 5

(tr. p. 163)

that Judge Bravo was present on September 2nd when the canvass was made, (tr. p. 169); and that he helped her write out the official return, (tr. p. 170); that she actually opened the envelopes containing the returns, (tr. p. 172); that Mr. Phelps, on September 1st, asked her to let him see the envelopes, but that the Court House was closed, (tr. p. 173) and he did not get to see them. The Master then impounded the envelopes containing the returns, (tr. p. 177); and it was determined that there were only three (3) envelopes, namely, precincts one, two, and four, (tr. p. 180); the witness further testified that on September 2nd she had the envelopes for each of the four precincts within the County, (tr. p. 178); that the documents pertaining to precinct number three (3) were missing, (tr. p. 180); that on the morning of September 29th, Judge Bravo gave her only three envelopes and that she had left all four envelopes on Judge Bravo's desk, apparently done on September 2nd, (tr. p. 182);

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The Master then ordered all the boxes impounded and placed ⁱⁿ the custody of the United States Marshal, (tr. p. 224).

Miss Anita Ramirez testified that during the run off primary she acted as a Judge in precinct number three(3) and that she was unable to either read or speak the English language, (tr. p. 226); that she was asked to serve in the election by Cerlerno Gonzales, the Commissioner of Lopena, (tr. p. 228); that she signed the election papers, (tr. p. 229);

Mrs. Sacramento Benavides testified that she lives in Lopena, Texas, and speaks and reads a little English, (tr. p. 231); that she served as a Clerk in the run off election after having been asked to do so by Judge Bravo, (tr. p. 232); that the election officials for her precinct made out three sets of returns, (tr. p. 233).

At approximately 3:00 p. m. the Special Master received a communication through Mr. W. R. Smith, Jr. that Judge T. Whitfield Davidson had ordered the proceedings closed and, accordingly, all impounded documents restored, (tr. p. 234); the order was made closing the hearing and ordering all impounded documents restored to the custody of those who had possession of them prior to the impounding order, (tr. p. 234).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCollum Burnett,
Special Master

COPY

UNITED STATES SENATE

MEMORANDUM

Pet. 13
Jim Wells

This summary based on 275 pages of testimony before Special Master Smith. Testimony was not completed - at least 12 more witnesses in Stevenson's case - because Justice Black's order and Judge Whitfield's conclusion to stop proceedings.

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1. Only 1 of 2 boxes used in 13 was found and none of the poll list, tally sheets and election returns (one set each) were in box when opened.
 2. Election Judge Salas told news reporters right after vote count Johnson had 765 votes and Stevenson had 60. But final returns were 977 to 60(?) and Salas denied he ever told reporters the vote.
 3. New county ch. and Stevenson people not permitted to see returns, etc.
 4. Secy. Ex. Comm. (Donald) left town.

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IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

COKE R. STEVENSON :
VS. : CIVIL ACTION # 1640
TOM L. TYSON, ET AL :

SUMMARY OF FACTS PRESENTED BEFORE SPECIAL
MASTER AT ALICE, JIM WELLS COUNTY, TEXAS,
ON SEPTEMBER 27, 28 and 29, 1948

TO SAID HONORABLE COURT:

On the morning of September 27, at Plaintiff's suggestion subpoenas were issued for three witnesses, to wit: B. F. (Tom) Donald, Clarence C. Martens, and Luis Salas, returnable at the Court House at Alice, Texas, at 3 o'clock, p. m. of the same day, and commanding Mr. Donald and Mr. Martens each to produce before the Special Master all poll lists, all tally sheets and all return sheets and forms used in the Democratic Primary Election held August 28, 1948, in all Election Precincts of Jim Wells County, Texas, and all other forms used in said elections (which will be referred to hereinafter as "returns") and commanding Mr. Salas to produce such returns for Precinct 13 of said County, Said subpoenas were returned non est.

Whereupon a subpoena was issued at Plaintiff's suggestion for Mrs. Juanita Hulsey, Deputy County Clerk of Jim Wells County, Texas, acting as County Clerk in the absence of Mr. Clarence H. Holmgreen, The County Clerk, who was reported to be in California. This subpoena required that Mrs. Hulsey produce, and in obedience to same she did produce and identify 20 ballot boxes as being all the ballot boxes used at the election in question, theretofore delivered into the custody of her office by the election officials subsequent to the official canvass and returns of said election covering the 17 voting Precincts in the County. The Special Master ordered these 20 boxes impounded and placed in custody of the United States Marshal.

It was noted that ten of the boxes were locked with padlocks and had no keys. Some were locked, but the keys were tied to the locks; one, Precinct 5, had a padlock and key attached, but the padlock was unlocked; and the remaining boxes had no locks.

Mrs. Hulsey identified one box as Box 13, because it had the words "Nayer School" printed and attached and she stated that was the voting place for Precinct 13. She testified that after some question arose as to the validity of the returns for Precinct 13, she concealed this box in the County Clerk's vault, where the other 19 boxes were located, by placing same out of sight behind some map files. She testified further from hearsay and without objection, that she had been previously informed by Mr. Holmgreen (the County Clerk) that the Precinct 13 box had been brought to the County Clerk's office several days later than the other boxes. It developed later in the hearing upon opening of the boxes by the Special Master, as will appear, that the box marked "Nayer School" was not the Precinct 13 box, but contained what appeared to be the ballots and returns of Precinct 5.

The testimony of the next two witnesses, Givens S. Parr and Mrs. B. F. Donald, went primarily to the whereabouts of B. F. Donald, for whom subpoena duces tecum had been issued and returned non est on the preceding day. (Meantime a new subpoena duces tecum, returnable on the instant, had been issued for Mr. Donald).

Mr. Parr testified (tr. p. 37-44) that B. F. Donald is Cashier of the same bank at Alice, Texas of which he, the witness, is Vice-President, and his brother, George Parr, is

President; that Mr. Donald came to the bank and opened his mail prior to 9 a. m. on September 27 (the day the hearing opened) and after that the witness did not see him any more; and that on the preceding Friday or Saturday Mr. Donald had told him he might want to leave town the following week, but did not say where he wanted to go. The witness further testified that Donald, until recently, was Secretary of the Jim Wells County Democratic Executive Committee, and that Donald had previously had in his possession at the bank some of the records of that committee; that these papers were in Mr. Donald's possession when Plaintiff and two or three other gentlemen called on Donald.

Mrs. Donald testified (tr. p. 45-48) her husband left Alice, Texas, "yesterday" (the day the hearing opened) but did not tell her where he was going and she did not know how he traveled; that later he called her and told her he was in Nuevo Laredo, Mexico.

The next witness, Clarence C. Martens, (tr. p. 49- 119) testified that he was Chairman of the Democratic Executive Committee for Jim Wells County, that he handled the election in question; that after the election he received ballot boxes and returns from those who brought him in; that Mr. Luis Salas, Election Judge for Precinct 13, brought his ballot box and returns to the witness on the Saturday night of the election, and the box together with other boxes were left in the County Jail in custody of the jailer, locked up; that he received 13 envelopes containing returns and picked up the other four from the County Clerk to whom they had been delivered by election judges. That he then delivered all the returns in his possession to Mr. Donald, Secretary of the Committee, at the bank "where he could put them up" (tr. p. 57). That on the morning of the first Friday after the election (tr. p. 59) the County Democratic Executive Committee met at the Court House and canvassed the returns. That there was some discussion at the meeting because of an increase of around 200 votes in favor of Defendant Johnson shown on the Precinct 13 returns, over the number reported by the Texas Election Bureau, but that the Committee was satisfied there was no question (tr. p. 62) and tallied the returns as shown on their face and reported the results to the Chairman of the State Executive Committee. That after the Committee Meeting Mr. Donald took the returns with him and the witness has not seen them since (tr. p. 66-67)

Mr. Martens further testified that the new County Chairman, a Mr. Adams, requested possession of the returns but Mr. Donald declined to deliver them over, saying he needed legal advice on this and was advised by Mr. Ed. Lloyd, Attorney, that the statute only required delivery of the returns to the Committee and not to any individual. That thereafter, about September 10, and after his term as County Chairman had expired, he was informed by Mr. Kykendall and Mr. Graham, friends of and attorneys for Plaintiff, that the official report of the election to the State Chairman was incorrect, that they offered to show him the evidence and sought to have him sign a statement saying he would like to recertify or withdraw his certification (tr. p. 88); that the evidence was not shown him and he did not sign the statement.

(The statement Mr. Martens was requested to sign, that he did not sign, is copied at pp. 111 and 112 of the Transcript).

Mr. Martens further testified (tr. p. 114-119) that on the night of the election he asked Mr. Cliff Dubois, of the "Alice News" if he needed any election information for purpose of turning it over to the Texas Election Bureau and Dubois stated he had all the information he needed except from the Patterson box and Bentonville box; that Dubois had information regarding the returns of Precinct 13 prior to the time the witness received the ballot boxes.

The next witness, Mr. Luis Salas, Election Judge for Precinct 13, appeared under alias subpoena, and testified in substance as follows: (tr. p. 125-227) That he conducted the election in question

in Precinct 13, and as people presented themselves to vote, he checked them against the official poll tax list furnished by the Tax Collector to determine their qualification. If qualified, a ballot was handed to the voter, but the official list was not marked so as to indicate the name of the person to whom the ballot was furnished as provided by RCS Texas Sec. 3121; that the poll tax list so used was placed by him in the ballot box (tr. p. 136) and the ballot box was turned over to the County Chairman, Mr. Martens, about 9:30 p. m., the night of the election (tr. p. 137).

Mr. Salas further testified that the box marked "Nayer School" was not the box used at Precinct 13; he was unable definitely to identify the right box, but stated he used two large boxes with wire hasps on them (tr. 140). That when he would hand a ballot to a qualified voter he would call out the name and three clerks, to wit: Roderico Rojas, Hector Gomez and Alejandro Villareal, would each write the name on a list, the voter would mark his ballot, hand it to the witness who signed his name on the back and also numbered the ballot in the order cast and place the ballot in the box (tr. 141). That the polls closed at 7 p. m., just after the last voter, whose identify he could not recall, cast his ballot (tr. 142); that about 250 people voted between 6 p. m. and 7 p. m. (tr. 143); that the counting of the ballots started about 9:30 a. m. or 10 a. m. and was completed about 40 minutes after the polls closed (tr. 143); that he himself ran the tally sheets, which were in triplicate; that Mrs. Viola Gomez called the votes from the ballots, the tallies were made by three clerks, Mrs. Ignacio Escobar, Mrs. Ignacio Trevino and Sylvania Gomex, and he, himself, he added the tallies to determine the total vote and he, himself, made out the returns showing how many votes each candidate received (tr. 144). Each clerk signed his own tally list, but he alone signed the returns in triplicate (tr. 145). That he put one tally list, poll list and return in the ballot box, delivered one each to the County Chairman and kept one each himself (tr. 145). That right after Labor Day there had been so much talk about something wrong with the election and about Box 13 that he went to see Mr. Donald to check the two sets of copies against each other, "That the election was level, nothing wrong with the election" (tr. 150). After he checked them he went to a restaurant for supper where he stayed from 5 p. m. until 9:30 p. m. (on Sept. 15) and while there somebody stole both sets of returns from his car (tr. 150). That Defendant Johnson got about 977 votes and Plaintiff Stevenson got 60 (Tr. 151).

He further testified that he saw Cliff Dubois of the Alice News the night of the election about 7:45 or 8 o'clock but did not tell him how many votes either Senatorial Candidate received (tr. 151-152); that he had gone to the newspaper office to find Mr. Martens, waited for him and when he arrived they left together for the jail where he delivered the two ballot boxes and returns to Mr. Martens; that there were 1041 votes cast in Precinct 13; that he has never seen the two ballot boxes since (tr. 155). That it is not true that 200 votes were added to the box (tr. 162). The Special Master after stating his reasons therefor (Tr. 175ff), and hearing the objection of defense counsel and overruling same, (Tr. 177ff), the Special Master then proceeded to open one of the boxes tentatively identified by the witness, Mr. Salas, as Precinct 13 boxes. The Special Master then successively and at random picked out 5 several ballots from the box, the witness identified each as bearing his signature on the back and each as bearing respectively the following numbers written on the back: 160, 302, 458, 1010 and 229, and the witness identified the face of these ballots as indicating they were cast at the election in question, he looked in the box and stated that the official returns, tally sheets, etc. were not in the box. (tr. 179-181).

The second tentatively identified box for Precinct 13 was then opened and disclosed to be not a Precinct 13 box (tr. 182) and the witness failed to recognize any of the other 18 boxes as being the second Precinct 13 box; that he had used and delivered two boxes to the County Chairman. Further statement by the Special Master as to his purpose in opening the ballot boxes appears at Tr. p. 195-196, and he then opened the unlocked box marked "Nayer School" previously identified by Mrs. Huksey as the box for Precinct 13. This box, on examination of its contents, appeared clearly to be the box used in Precinct 5 (tr. p. 197-199). The next two boxes opened were empty (tr. 202). The next box opened contained only a few blank election forms (tr. 204). The next box opened contained a large sealed envelope marked Precinct 15 (tr. 205). The next box opened showed from its contents to have been used in Precinct 2 (tr. 207). The next box opened contained unidentified and uncertified copies of what appeared to be lists of voters in Precincts 16 and 13, the year for which the lists were made up not appearing. The next box opened appeared to be that of Precinct 14 (tr. 210). The remainder of the boxes were locked, with no keys available, and, therefore, the Special Master caused the locks to be opened by a locksmith, under supervision of the Deputy Marshal (tr. 211).

While the locksmith was at work, the witness, Luis Salas, resumed his testimony under direct examination by plaintiff (tr. 212).

He testified that when he was at the newspaper office shortly after completing his count of the ballots about 7:40 p. m. the evening of the election, he saw Cliff Dubois and also saw Wesley Price (the next witness) and that he did not announce in Mr. Price's presence the vote for Precinct 13 to be 765 for Johnson and 60 for Stevenson, and made no other announcement with reference to the vote in Precinct 13 (tr. 218).

On cross-examination by defendant (tr. 219) Mr. Salas stated that during the subsequent investigation of the balloting a party who "came with that big ranger" (tr. 219) threatened him with prosecution and the penitentiary if he did not give them the returns; that the ranger was Mr. Frank Hamer. He testified further that the votes cast were properly counted and accounted for by him and the number reported in his returns was the number cast (tr. 221). That Precinct 13 in some previous elections for Governor, etc. had gone for Stevenson and no rangers investigated. That the two boxes he turned over to the County Chairman were both locked and that the election returns, the poll list and the tally sheet were put in one of the ballot boxes, but not in a sealed envelope before delivery to the County Chairman. That the box these documents were placed in was the box which also contained the ballots and all the ballots (tr. 224-226) and that the other box contained only the envelope which was turned over to the County Chairman, Mr. Martens (tr. 225). That the last time he saw the box containing the ballots and the returns was when he delivered it to the jail the night of the election, locked but with the key hanging on the lock (tr. 227). That when he delivered the two boxes to Mr. Martens at the jail he told Mr. Martens that "this is the ballot box and then I said "That is your envelope in that can there". (Tr. 227).

The next (and last) witness was Charles Wesley Price (tr. 228-249).

Mr. Price testified that on the night of August 28, 1948, about 8 o'clock p. m. he went to the "Alice News", that Luis Salas came in; that Mr. Dubois was there reporting the returns from the election to the Texas Election Bureau; that Mr. Salas had given Dubois the returns from Precinct 13 and he had written it down and had gone across the street to Western Union to telegraph it in and came back and said Western Union was closed; that he heard Luis Salas tell Dubois he had the final returns from Precinct 13, which was 765 for Johnson and 60 for Stevenson (tr. 230-231).

On cross-examination Mr. Price testified that although he was not an active partizan for Stevenson, he was a very active opponent of the parties who were supporting Johnson: that on the occasion Salas announced the results, the statement was made to Dubois; that during the subsequent investigation by Stevenson of the Jim Wells County voting he participated in the same; that one Ignacio Escobar was present when Salas announced the vote to Dubois and Escobar wrote it down on a piece of paper; that the figures so given by Salas to Dubois were 200 votes for Johnson less than were later officially reported. Further, that he went to Fort Worth on expenses paid by Stevenson's party and testified as a witness in connection with "this matter" (Tr. 237). That he read the unofficial returns in the Alice newspaper and noticed the 765 and the 60 for Precinct 13; that he was not particularly interested at the time in beating Johnson but was curious about the vote in Precinct 13; that he had voted for Stevenson; that since the election he had talked with Mr. Holmgreen about the alleged irregularities and that later Mr. Holmgreen was in consultation with Stevenson and his investigators and was an active participant in the Stevenson investigation; that Holmgreen was then (at the time of the hearing) reported to be in California.

That Alice and Jim Wells County are pretty sharply divided into two political factions, one of which is anti-Parr (tr. 247) and which faction favored Governor Stevenson.

After the close of Mr. Price's testimony, the Special Master then proceeded with the opening of the remaining 10 ballot boxes, all of which were unlocked by the locksmith. The first turned out to be for Precinct 10. The next box was opened and turned out to be for Precinct 16. The next was for Precinct 12.

At this point in the proceedings word came from Honorable T. Whitfield Davidson, United States District Judge for the Northern District of Texas, ordering the Special Master to terminate the hearing (Tr. 253-254). No further testimony was taken, but the hearing remained in session long enough to restore all ballot boxes substantially to the same condition with regard to locks, etc. as they were in when impounded and to restore them to custody of the Deputy County Clerk, Mrs. Hulsey. It was agreed by counsel for all parties and by the Special Master that all papers taken out of the opened boxes were restored to the respective boxes from which they came and the 20 boxes were then returned into the custody of the County Clerk's office (Tr. 259-264).

There was placed in the record the telegram from Judge Davidson, ordering the proceedings stopped (Tr. 265). The record further affirmatively shows (Tr. 266) that the proceedings were stopped at a time when plaintiff was continuing with his testimony and before the defendants had had any opportunity to present any witnesses.

After some discussion with counsel for all parties as to the nature of the report yet to be filed by the Special Master (Tr. p. 266-268), the hearing was adjourned.

At the time of adjournment, instanter subpoenas, issued at the request of plaintiff, had been issued for the following named witnesses, who had not yet been called to the witness stand: Vila Gomez, Silvia Gomez, Eduardo Rios, Mrs. Ophelia Escobar, Alejandro Gonzales, Hector Gomez, Oliverio Herrera, Rufino Lopez, Mrs. Clarence Martens, R. F. Tom Donald, Mrs. Luis Salas, Jack Gladney.

Most of these subpoenas had been actually served and the witnesses had been sworn and placed under the Rule.

The foregoing brief summary of the 275 page transcript of the proceedings sets out all testimony and other facts appearing in

the record that the Special Master deems pertinent and material to the objects of the hearing as defined in the order of the Court appointing the Special Master for the purpose of investigating the balloting in Jim Wells County, Texas. In preparing this summary the Special Master was fully aware of the obvious incompleteness of the hearing. He may not have recognized the pertinence and materiality of some testimony adduced by one party or the other as part of a whole pattern of facts yet to be proved as of the time of adjournment.

Copies of this summary have been mailed to counsel for the various parties.

Respectfully submitted,

W. R. Smith, Jr., SPECIAL MASTER

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS,
FORT WORTH DIVISION.

COKE R. STEVINSON
vs.
TOM L. TYSON, et al.

CIVIL ACTION NO. 1640

SUMMARY OF THE EVIDENCE PRESENTED BEFORE SPECIAL MASTER
AT SAN DIEGO, DUVAL COUNTY, TEXAS, on SEPTEMBER 28, 1948.

TO THE HONORABLE T. WHITFIELD DAVIDSON, JUDGE OF SAID COURT:

On September 27, 1948, in Corpus Christi, Texas, I issued subpoenas and subpoenas duces tecum, commanding the appearance before me at the Court House, San Diego, Texas, on September 28, 1948, at 10:00 a. m. the following persons:

The County Judge,
The County Clerk,
The Chairman of the County Democratic Executive Committee,
All Precinct Chairmen,
All Presiding Judges, Assistant Judges & Clerks,

all of Duval County, Texas, and all of whom participated in or conducted the Democratic Primary Election held in said County on August 28, 1948. The subpoenas commanded the proper officials to produce all Poll Tax Lists, returns, poll lists, tally sheets, ballot boxes, and all pertinent documents.

The hearing commenced in the District Court Room of the Court House in San Diego, Texas, at 10 a. m. Plaintiff was represented by Honorable Joe Montague and Honorable F. L. Kuykendall. Defendant, Lyndon B. Johnson, was represented by Honorable Ben F. Foster, and the County Democratic Chairman, Executive Committeemen, and County Officials of Duval County, were represented by Honorable Polk Shelton.

It was determined that the Chairman of the Duval County Democratic Executive Committee was out of the City and had not been served with the subpoena.

Mr. Dan Tobin, County Judge of Duval County, testified that there were officially fourteen (14) voting precincts within the County, but that no elections were held in three (3) of said precincts, namely, numbers four (4), eleven (11), and thirteen (13); that precincts four (4), eleven (11), and thirteen (13) had probably been "discontinued".

Mr. E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, presented official Poll Tax Lists for the eleven (11) active precincts, which lists were received in evidence, (tr. p. 29, 32); that there were four thousand six hundred seventy-nine (4,679) paid poll tax receipts issued in said County for 1947, (tr. p. 77); that he was appointed to his present position on September 13, 1948, succeeding his father, Clements Garcia; that after diligent search, he was unable to find any written orders in his office given by persons authorizing other persons to pay poll taxes for them, (tr. p. 79).

Mr. Mike Canales testified that he lives in Benavides, and acted as Presiding Judge at the August 28th primary, (tr. p. 43); that he made out three (3) sets of election returns and put them in the ballot box, (tr. p. 44-52); that said box was delivered to the

County Chairman, a Mr. King, and that he, the said Mike Canales, did not keep a set of the returns for himself, (tr. p. 44, 53); that he did not know he was to keep one set of the returns, (tr. p. 44, 46, 47); that there were approximately Thirteen Hundred (1300) votes cast in his precinct, (tr. p. 47); that he did not know how many persons voted upon an affidavit, (tr. p. 47, 49); Upon questioning by the Master, the witness testified that he left one set of the returns on the table in the Commissioners Court and "gave them to Mr. King." (tr. p. 56).

Immediately before the noon recess, the Special Master ordered all of the ballot boxes for Duval County impounded and placed them in the custody of the Deputy United States Marshal (tr. p. 61, 62) and upon reconvening the hearing, issued an order to that effect, (tr. p. 72).

The witnesses, Mr. Canales, the Deputy United States Marshal, Mr. Montague and Mr. Foster inspected the ballot boxes in an effort to identify a ballot box testified about by Mr. Canales (tr. p. 73) and thereafter, it was reported to the Master that there were twenty-one (21) ballot boxes on hand, but that the witness was unable to identify the ballot box for precinct number two (2), (tr. p. 74).

Mr. Clemente Garcia testified that he was Tax Assessor and Collector for Duval County, for about eight (8) or ten (10) years and continuously up until the month of September, 1948. (tr. p. 81).

Mr. A. Garcia, Jr. testified that he was Chief Deputy County Clerk of Duval County, Texas, and had held that position for about five (5) years, (tr. p. 87); that for the run off election there were delivered to the County Clerk twenty-one (21) ballot boxes, ten (10) of which were empty, (tr. p. 88); that he saw the boxes in the Commissioners Court on Monday, August 30th, (tr. p. 89); that the boxes were kept in the Commissioners Court for about two weeks after the election, and thereafter they were placed in the basement of the Court House, (tr. p. 94, 95); that on occasions, he used the Commissioners Court Room in connection with his own duties, (tr. p. 96); that the boxes were in the furnace and boiler room of the Court House, and that the janitor had the key to said room (tr. p. 98); that the furnace and boiler room was kept locked, (tr. p. 98).

Mr. Ernesto Benavides testified that he was Presiding Officer at Realitos during the August 28th run off election, (tr. p. 99, 100), and that there were approximately One Hundred Sixty (160) or One Hundred Seventy-five (175) votes cast, (tr. p. 100); that it was his recollection that one of the election clerks kept two tally sheets, (tr. p. 101); that after counting the votes, he took the ballot box home with him and delivered it to the County Chairman on Monday morning, August 30th, (tr. p. 102); that the box was locked; that the only thing he delivered to the County Chairman was the ballot box (tr. p. 103); that he kept a copy of the returns, poll lists, and tally sheets, but left it at the school house where the election was held and it disappeared, (tr. p. 103); that two sets of the returns were placed in the ballot box and locked; that the key was attached to the lock and said box was delivered in that condition to the County Chairman, (tr. p. 108, 109).

Whereupon at approximately 3:30 p. m., the hearing was recessed with the order that all witnesses remain under subpoena until the reconvening of said hearing and that the County Clerk have physical possession of the impounded ballot boxes until further orders; the Marshal was ordered to seal the boxes pending further order, (tr. p. 112, 113).

The return of the Deputy United States Marshal on the order issued impounding the ballot boxes disclosed that upon sealing said boxes, the United States Marshal sealed and took custody of twenty-three (23) ballot boxes, (tr. p. 113-b).

Pursuant to the order of the Court issued on the afternoon of September 29th, 1948, the Special Master entered an order finally concluding the said hearing and ordering the United States Marshal to break the seals on the ballot boxes placed thereon by him and redeliver the same to the County Clerk of Duval County, Texas; all witnesses were discharged and the lists of voters theretofore introduced into evidence were redelivered to E. B. Garcia, Tax Assessor and Collector of Duval County, Texas, (tr. p. 113c, 113d).

CONCLUSION

At the conference held in Corpus Christi on the morning of September 27, 1948, the Master placed the burden of going forward with the evidence upon Plaintiff. The hearing was incomplete, and obviously this summary of the evidence is based only upon that portion of the testimony heard. I have endeavored in this summary to report all facts deemed by me to be germane to the issues involved, but I fully realize that there may be other pertinent facts which I have overlooked. It may be that some of the facts found in this summary might have been outweighed in their effect had the hearing continued until all of the evidence had been brought in.

Copies of this summary of the evidence have been forwarded to all interested counsel.

Respectfully submitted,

James McCallum Burnett,
Special Master

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IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

COKE R. STEVENSON :
VS. : CIVIL ACTION # 1640
TOM L. TYSON, ET AL :

SUMMARY OF FACTS PRESENTED BEFORE SPECIAL
MASTER AT ALICE, JIM WELLS COUNTY, TEXAS,
ON SEPTEMBER 27, 28 and 29, 1948

TO SAID HONORABLE COURT:

On the morning of September 27, at Plaintiff's suggestion subpoenas were issued for three witnesses, to wit: B. F. (Tom) Donald, Clarence C. Martens, and Luis Salas, returnable at the Court House at Alice, Texas, at 3 o'clock, p. m. of the same day, and commanding Mr. Donald and Mr. Martens each to produce before the Special Master all poll lists, all tally sheets and all return sheets and forms used in the Democratic Primary Election held August 28, 1948, in all Election Precincts of Jim Wells County, Texas, and all other forms used in said elections (which will be referred to hereinafter as "returns") and commanding Mr. Salas to produce such returns for Precinct 13 of said County. Said subpoenas were returned non est.

Whereupon a subpoena was issued at Plaintiff's suggestion for Mrs. Juanita Hulsey, Deputy County Clerk of Jim Wells County, Texas, acting as County Clerk in the absence of Mr. Clarence H. Holmgreen, The County Clerk, who was reported to be in California. This subpoena required that Mrs. Hulsey produce, and in obedience to same she did produce and identify 20 ballot boxes as being all the ballot boxes used at the election in question, theretofore delivered into the custody of her office by the election officials subsequent to the official canvass and returns of said election covering the 17 voting Precincts in the County. The Special Master ordered these 20 boxes impounded and placed in custody of the United States Marshal.

It was noted that ten of the boxes were locked with padlocks and had no keys. Some were locked, but the keys were tied to the locks; one, Precinct 5, had a padlock and key attached, but the padlock was unlocked; and the remaining boxes had no locks.

Mrs. Hulsey identified one box as Box 13, because it had the words "Nayer School" printed and attached and she stated that was the voting place for Precinct 13. She testified that after some question arose as to the validity of the returns for Precinct 13, she concealed this box in the County Clerk's vault, where the other 19 boxes were located, by placing same out of sight behind some map files. She testified further from hearsay and without objection, that she had been previously informed by Mr. Holmgreen (the County Clerk) that the Precinct 13 box had been brought to the County Clerk's office several days later than the other boxes. It developed later in the hearing upon opening of the boxes by the Special Master, as will appear, that the box marked "Nayer School" was not the Precinct 13 box, but contained what appeared to be the ballots and returns of Precinct 5.

The testimony of the next two witnesses, Givens S. Parr and Mrs. B. F. Donald, went primarily to the whereabouts of B. F. Donald, for whom subpoena duces tecum had been issued and returned non est on the preceding day. (Meantime a new subpoena duces tecum, returnable on the instant, had been issued for Mr. Donald).

Mr. Parr testified (tr. p. 37-44) that B. F. Donald is Cashier of the same bank at Alice, Texas of which he, the witness, is Vice-President, and his brother, George Parr, is

President; that Mr. Donald came to the bank and opened his mail prior to 9 a. m. on September 27 (the day the hearing opened) and after that the witness did not see him any more; and that on the preceding Friday or Saturday Mr. Donald had told him he might want to leave town the following week, but did not say where he wanted to go. The witness further testified that Donald, until recently, was Secretary of the Jim Wells County Democratic Executive Committee, and that Donald had previously had in his possession at the bank some of the records of that committee; that these papers were in Mr. Donald's possession when Plaintiff and two or three other gentlemen called on Donald.

Mrs. Donald testified (tr. p. 45-48) her husband left Alice, Texas, "yesterday" (the day the hearing opened) but did not tell her where he was going and she did not know how he traveled; that later he called her and told her he was in Nuevo Laredo, Mexico.

The next witness, Clarence C. Martens, (tr. p. 49- 119) testified that he was Chairman of the Democratic Executive Committee for Jim Wells County, that he handled the election in question; that after the election he received ballot boxes and returns from those who brought him in; that Mr. Luis Salas, Election Judge for Precinct 13, brought his ballot box and returns to the witness on the Saturday night of the election, and the box together with other boxes were left in the County Jail in custody of the jailer, locked up; that he received 13 envelopes containing returns and picked up the other four from the County Clerk to whom they had been delivered by election judges. That he then delivered all the returns in his possession to Mr. Donald, Secretary of the Committee, at the bank "where he could put them up" (tr. p. 57). That on the morning of the first Friday after the election (tr. p. 59) the County Democratic Executive Committee met at the Court House and canvassed the returns. That there was some discussion at the meeting because of an increase of around 200 votes in favor of Defendant Johnson shown on the Precinct 13 returns, over the number reported by the Texas Election Bureau, but that the Committee was satisfied there was no question (tr. p. 62) and tallied the returns as shown on their face and reported the results to the Chairman of the State Executive Committee. That after the Committee Meeting Mr. Donald took the returns with him and the witness has not seen them since (tr. p. 66-67)

Mr. Martens further testified that the new County Chairman, a Mr. Adams, requested possession of the returns but Mr. Donald declined to deliver them over, saying he needed legal advice on this and was advised by Mr. Ed. Lloyd, Attorney, that the statute only required delivery of the returns to the Committee and not to any individual. That thereafter, about September 10, and after his term as County Chairman had expired, he was informed by Mr. Kykendall and Mr. Graham, friends of and attorneys for Plaintiff, that the official report of the election to the State Chairman was incorrect, that they offered to show him the evidence and sought to have him sign a statement saying he would like to recertify or withdraw his certification (tr. p. 88); that the evidence was not shown him and he did not sign the statement.

(The statement Mr. Martens was requested to sign, that he did not sign, is copied at pp. 111 and 112 of the Transcript).

Mr. Martens further testified (tr. p. 114-119) that on the night of the election he asked Mr. Cliff Dubois, of the "Alice News" if he needed any election information for purpose of turning it over to the Texas Election Bureau and Dubois stated he had all the information he needed except from the Patterson box and Bentonville box; that Dubois had information regarding the returns of Precinct 13 prior to the time the witness received the ballot boxes.

in Precinct 13, and as people presented themselves to vote, he checked them against the official poll tax list furnished by the Tax Collector to determine their qualification. If qualified, a ballot was handed to the voter, but the official list was not marked so as to indicate the name of the person to whom the ballot was furnished as provided by RCS Texas Sec. 3121; that the poll tax list so used was placed by him in the ballot box (tr. p. 136) and the ballot box was turned over to the County Chairman, Mr. Martens, about 9:30 p. m., the night of the election (tr. p. 137).

Mr. Salas further testified that the box marked "Nayer School" was not the box used at Precinct 13; he was unable definitely to identify the right box, but stated he used two large boxes with wire hasps on them (tr. 140). That when he would hand a ballot to a qualified voter he would call out the name and three clerks, to wit: Roderico Rojas, Hector Gomez and Alejandro Villareal, would each write the name on a list, the voter would mark his ballot, hand it to the witness who signed his name on the back and also numbered the ballot in the order cast and place the ballot in the box (tr. 141). That the polls closed at 7 p. m., just after the last voter, whose identify he could not recall, cast his ballot (tr. 142); that about 250 people voted between 6 p. m. and 7 p. m. (tr. 143); that the counting of the ballots started about 9:30 a. m. or 10 a. m. and was completed about 40 minutes after the polls closed (tr. 143); that he himself ran the tally sheets, which were in triplicate; that Mrs. Viola Gomez called the votes from the ballots, the tallies were made by three clerks, Mrs. Ignacio Escobar, Mrs. Ignacio Trevino and Sylvania Gomez, and he, himself, he added the tallies to determine the total vote and he, himself, made out the returns showing how many votes each candidate received (tr. 144). Each clerk signed his own tally list, but he alone signed the returns in triplicate (tr. 145). That he put one tally list, poll list and return in the ballot box, delivered one each to the County Chairman and kept one each himself (tr. 145). That right after Labor Day there had been so much talk about something wrong with the election and about Box 13 that he went to see Mr. Donald to check the two sets of copies against each other, "That the election was level, nothing wrong with the election" (tr. 150). After he checked them he went to a restaurant for supper where he stayed from 5 p. m. until 9:30 p. m. (on Sept. 15) and while there somebody stole both sets of returns from his car (tr. 150). That Defendant Johnson got about 977 votes and Plaintiff Stevenson got 60 (Tr. 151).

He further testified that he saw Cliff Dubois of the Alice News the night of the election about 7:45 or 8 o'clock but did not tell him how many votes either Senatorial Candidate received (tr. 151-152); that he had gone to the newspaper office to find Mr. Martens, waited for him and when he arrived they left together for the jail where he delivered the two ballot boxes and returns to Mr. Martens; that there were 1041 votes cast in Precinct 13; that he has never seen the two ballot boxes since (tr. 155). That it is not true that 200 votes were added to the box (tr. 162). The Special Master after stating his reasons therefor (Tr. 175ff), and hearing the objection of defense counsel and overruling same, (Tr. 177ff), the Special Master then proceeded to open one of the boxes tentatively identified by the witness, Mr. Salas, as Precinct 13 boxes. The Special Master then successively and at random picked out 5 several ballots from the box, the witness identified each as bearing his signature on the back and each as bearing respectively the following numbers written on the back: 160, 302, 458, 1010 and 229, and the witness identified the face of these ballots as indicating they were cast at the election in question, he looked in the box and stated that the official returns, tally sheets, etc. were not in the box. (tr. 179-181).

The second tentatively identified box for Precinct 13 was then opened and disclosed to be not a Precinct 13 box (tr. 182) and the witness failed to recognize any of the other 18 boxes as being the second Precinct 13 box; that he had used and delivered two boxes to the County Chairman. Further statement by the Special Master as to his purpose in opening the ballot boxes appears at Tr. p. 195-196, and he then opened the unlocked box marked "Nayer School" previously identified by Mrs. Hisey as the box for Precinct 13. This box, on examination of its contents, appeared clearly to be the box used in Precinct 5 (tr. p. 197-199). The next two boxes opened were empty (tr. 202). The next box opened contained only a few blank election forms (tr. 204). The next box opened contained a large sealed envelope marked Precinct 15 (tr. 205). The next box opened showed from its contents to have been used in Precinct 2 (tr. 207). The next box opened contained unidentified and uncertified copies of what appeared to be lists of voters in Precincts 16 and 13, the year for which the lists were made up not appearing. The next box opened appeared to be that of Precinct 14 (tr. 210). The remainder of the boxes were locked, with no keys available, and, therefore, the Special Master caused the locks to be opened by a locksmith, under supervision of the Deputy Marshal (tr. 211).

While the locksmith was at work, the witness, Luis Salas, resumed his testimony under direct examination by plaintiff (tr. 212).

He testified that when he was at the newspaper office shortly after completing his count of the ballots about 7:40 p. m. the evening of the election, he saw Cliff Dubois and also saw Wesley Price (the next witness) and that he did not announce in Mr. Price's presence the vote for Precinct 13 to be 765 for Johnson and 60 for Stevenson, and made no other announcement with reference to the vote in Precinct 13 (tr. 218).

On cross-examination by defendant (tr. 219) Mr. Salas stated that during the subsequent investigation of the balloting a party who "came with that big ranger" (tr. 219) threatened him with prosecution and the penitentiary if he did not give them the returns; that the ranger was Mr. Frank Hamer. He testified further that the votes cast were properly counted and accounted for by him and the number reported in his returns was the number cast (tr. 221). That Precinct 13 in some previous elections for Governor, etc. had gone for Stevenson and no rangers investigated. That the two boxes he turned over to the County Chairman were both locked and that the election returns, the poll list and the tally sheet were put in one of the ballot boxes, but not in a sealed envelope before delivery to the County Chairman. That the box these documents were placed in was the box which also contained the ballots and all the ballots (tr. 224-226) and that the other box contained only the envelope which was turned over to the County Chairman, Mr. Martens (tr. 225). That the last time he saw the box containing the ballots and the returns was when he delivered it to the jail the night of the election, locked but with the key hanging on the lock (tr. 227). That when he delivered the two boxes to Mr. Martens at the jail he told Mr. Martens that "this is the ballot box and then I said "That is your envelope in that can there". (Tr. 227).

The next (and last) witness was Charles Wesley Price (tr. 228-249).

Mr. Price testified that on the night of August 28, 1948, about 8 o'clock p. m. he went to the "Alice News", that Luis Salas came in; that Mr. Dubois was there reporting the returns from the election to the Texas Election Bureau; that Mr. Salas had given Dubois the returns from Precinct 13 and he had written it down and had gone across the street to Western Union to telegraph it in and came back and said "Western Union was closed; that he heard Luis Salas tell Dubois he had the final returns from Precinct 13, which was 765 for Johnson and 60 for Stevenson (tr. 230-231).

On cross-examination Mr. Price testified that although he was not an active partizan for Stevenson, he was a very active opponent of the parties who were supporting Johnson: that on the occasion Salas announced the results, the statement was made to Dubois; that during the subsequent investigation by Stevenson of the Jim Wells County voting he participated in the same; that one Ignacio Escobar was present when Salas announced the vote to Dubois and Escobar wrote it down on a piece of paper; that the figures so given by Salas to Dubois were 200 votes for Johnson less than were later officially reported. Further, that he went to Fort Worth on expenses paid by Stevenson's party and testified as a witness in connection with "this matter" (Tr. 237). That he read the unofficial returns in the Alice newspaper and noticed the 765 and the 60 for Precinct 13; that he was not particularly interested at the time in beating Johnson but was curious about the vote in Precinct 13; that he had voted for Stevenson; that since the election he had talked with Mr. Holmgreen about the alleged irregularities and that later Mr. Holmgreen was in consultation with Stevenson and his investigators and was an active participant in the Stevenson investigation; that Holmgreen was then (at the time of the hearing) reported to be in California.

That Alice and Jim Wells County are pretty sharply divided into two political factions, one of which is anti-Parr (tr. 247) and which faction favored Governor Stevenson.

After the close of Mr. Price's testimony, the Special Master then proceeded with the opening of the remaining 10 ballot boxes, all of which were unlocked by the locksmith. The first turned out to be for Precinct 10. The next box was opened and turned out to be for Precinct 16. The next was for Precinct 12.

At this point in the proceedings word came from Honorable T. Whitfield Davidson, United States District Judge for the Northern District of Texas, ordering the Special Master to terminate the hearing (Tr. 253-254). No further testimony was taken, but the hearing remained in session long enough to restore all ballot boxes substantially to the same condition with regard to locks, etc. as they were in when impounded and to restore them to custody of the Deputy County Clerk, Mrs. Hulsey. It was agreed by counsel for all parties and by the Special Master that all papers taken out of the opened boxes were restored to the respective boxes from which they came and the 20 boxes were then returned into the custody of the County Clerk's office (Tr. 259-264).

There was placed in the record the telegram from Judge Davidson, ordering the proceedings stopped (Tr. 265). The record further affirmatively shows (Tr. 266) that the proceedings were stopped at a time when plaintiff was continuing with his testimony and before the defendants had had any opportunity to present any witnesses.

After some discussion with counsel for all parties as to the nature of the report yet to be filed by the Special Master (Tr. p. 266-268), the hearing was adjourned.

At the time of adjournment, instanter subpoenas, issued at the request of plaintiff, had been issued for the following named witnesses, who had not yet been called to the witness stand: Villa Gomez, Silvia Gomez, Eduardo Rios, Mrs. Ophelia Escobar, Alejandro Gonzales, Hector Gomez, Oliverio Herrera, Rufino Lopez, Mrs. Clarence Martens, B. F. Tom Donald, Mrs. Luis Salas, Jack Gladney.

Most of these subpoenas had been actually served and the witnesses had been sworn and placed under the Rule.

The foregoing brief summary of the 275 page transcript of the proceedings sets out all testimony and other facts appearing in

the record that the Special Master deems pertinent and material to the objects of the hearing as defined in the order of the Court appointing the Special Master for the purpose of investigating the balloting in Jim Wells County, Texas. In preparing this summary the Special Master was fully aware of the obvious incompleteness of the hearing. He may not have recognized the pertinence and materiality of some testimony adduced by one party or the other as part of a whole pattern of facts yet to be proved as of the time of adjournment.

Copies of this summary have been mailed to counsel for the various parties.

Respectfully submitted,

W. R. Smith, Jr., SPECIAL MASTER

COPY

UNITED STATES SENATE

MEMORANDUM

Pct. 13
Jim Wells

This summary based on 275 pages of testimony before Special Master Smith. Testimony was not completed - at least 12 more witnesses in Stevenson's case - because Justice Black's order and Judge Whitfield's conclusion to stop proceedings.

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1. Only 1 of 2 boxes used in 13 was found and none of the poll list, tally sheets and election returns (one set each) were in box when opened.
 2. Election Judge Salas told news reporters right after vote count Johnson had 765 votes and Stevenson had 60. But final returns were 977 to 60(?) and Salas denied he ever told reporters the vote.
 3. New county ch. and Stevenson people not permitted to see returns, etc.
 4. Secy. Ex. Comm. (Donald) left town.