

BEFORE THE SELECT COMMITTEE OF THE LEGISLATURE
OF THE STATE OF KANSAS

In the Matter of)
)
House Concurrent Resolution No. 1056)

T R A N S C R I P T

Proceedings Held on April 11 through 12, 1973
Statehouse
Topeka, Kansas

Proceedings before the Select Committee of the
Legislature of the State of Kansas at the Statehouse, City
of Topeka, County of Shawnee, and State of Kansas, on the
11th and 12th days of April, 1973, before the members of the
Committee as follows: Representative John F. Hayes,
Chairman, Representative John C. Peterson, Representative
William R. Novak, Senator Dan Bromley, Senator Bob W.
Storey, Senator J. C. Tillotson, Representative G. T.
Van Bebber, Senator John M. Simpson, Representative Walter
W. Graber, Representative Paul Burke, Jr., Representative

Jim Parrish.

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*United States District Court for the Southern District of Ohio. In Re: Page 22, McGrain vs. Daugherty

CURTIS, SCHLOETZER & ASSOCIATES

CERTIFIED SHORTHAND REPORTERS

701 JACKSON STREET

TOPEKA, KANSAS 66603

PHONE CE 2-0416

REPRESENTATIVE HAYES: Gentlemen, we'll call the meeting to order. This is a meeting of the Select Committee appointed by the Legislative Coordinating Council pursuant to 1973 House Concurrent Resolution 1056. The record will note that all members of the Committee are present excepting Senator Bromley and Representative Peterson. I will hand to the Reporter a certified copy of the minutes of the meeting held April 7, 1973, of the Legislative Coordinating Council in which meeting this Committee was appointed and ask that that be marked and made a part of the record.

(Exhibit A marked for identification by the Reporter.)

REPRESENTATIVE HAYES: You should have in your books the minutes of the meeting of this Select Committee held on April 7, 1973, and April 8, 1973. We'll take a moment to look at those minutes and after you have done so, the Chair would entertain a motion that they be approved.

REPRESENTATIVE VAN BEBBER: I move that the minutes of the meeting April 7, 1973, be approved.

REPRESENTATIVE HAYES: The motion is by Representative Van Bebber, seconded by Representative

Burke, that the minutes of the April meeting be approved. Is there discussion? All those in favor please say aye. Opposed the same.

(All members present reply aye.)

REPRESENTATIVE VAN BEBBER: I would move that the minutes of the meeting of April 8, 1973, be approved.

REPRESENTATIVE HAYES: The motion is by Representative Van Bebber, seconded by Senator Tillotson, that the minutes of the April 8th meeting of this Committee be approved. Is there discussion? All in favor say aye. Opposed the same.

(All members present reply aye.)

REPRESENTATIVE HAYES: I might say to the Committee that after our meeting on April the 8th, Senator Tillotson and Representative Van Bebber and members of the Research Department drafted this form of subpoena. You all had a chance to examine the form. I will entertain a motion that the Committee ratify the issuance of the subpoenas to the witnesses named thereon. Motion by Senator Storey, seconded by Representative Novak. Is there discussion? All in favor say aye. Those opposed same.

(All members present reply aye.)

REPRESENTATIVE HAYES: Is there a deputy sheriff in attendance with the returns?

SERGEANT NASON: Yes, sir.

REPRESENTATIVE HAYES: Would you bring them forward, please? Sergeant, have you gone through these? Do you have returns for all of the witnesses who were subpoenaed?

SERGEANT NASON: Yes, sir.

REPRESENTATIVE HAYES: And what are these?

SERGEANT NASON: Those are four that were not served. We were unable to locate them.

REPRESENTATIVE HAYES: All right, let the record show that Don Matlack, Senator Jack Steineger, Mr. Tom Van Cleave, Mr. Harold Jasperson, were not located for the service of the summons. As to whether or not the sergeant should stand by to serve the subpoenas today, what is your pleasure?

REPRESENTATIVE VAN BEBBER: I would move that the sergeant remain available for the purpose of serving the summons.

REPRESENTATIVE HAYES: There is a motion by Representative Van Bebber, seconded by Senator Tillotson. The sergeant is asked to remain available

to serve the subpoenas on the parties mentioned a moment ago who were not served with subpoenas. Is there discussion? All in favor say aye. Opposed the same.

(All members present reply aye.)

REPRESENTATIVE HAYES: All right, we'll now let the record show that Senator Bromley and Representative Peterson are now present for the Committee's deliberations.

SENATOR STEINEGER: You will have to go to Court and get a Court Order to make me accept that subpoena.

REPRESENTATIVE HAYES: I'll recognize you momentarily, Senator Steineger. We have a couple of other things to get out of the way. Sergeant Nason, for the purpose of the record, I would like to administer the oath to you after which Representative Van Bebber will ask you questions concerning the service of the subpoenas upon return. Would you stand and approach the mike, please.

SERGEANT NASON,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes, to tell the truth, the whole truth, and nothing but the

truth, testified as follows:

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

- Q. Sergeant Nason, you have returned a number of subpoenas before the Committee and I would ask you if personal service on the subpoenas which show a return of having been served were actually personally served upon the parties named in the subpoenas.
- A. I believe my officers attained personal service on all but three or four.
- Q. But the returns which show service actually having been made were served?
- A. Yes, sir.

REPRESENTATIVE HAYES: Thank you, Sergeant. Gentlemen, it is inherent in the statutes under which we're operating and I believe that at our April 8th meeting this was discussed, that all testimony received by the Committee would be testimony under oath and I think for the purposes of the record here today we should adopt a motion to that effect. I will entertain such a motion. Motion is by Senator Storey, seconded by Representative Novak that all testimony received by the Committee either today or at any other meetings which may be held subsequent to today, the

testimony of witnesses will be received under oath.

All in favor say aye. Opposed same.

(All members present reply aye.)

REPRESENTATIVE HAYES: For the benefit of the witnesses and to the public and press who are present now, the Chair now advises that the witnesses will be separated. That means that no person under subpoena or who is to be a witness will be permitted in the Hearing Room while testimony is being elicited from other witnesses. The Committee has arranged for the lounges outside the Hearing Room door to be open and I would ask the witnesses to now go to those lounge rooms or such other places you may be, being readily available for call. Mr. Van Cleave, the Committee has determined that we will ask to inquire of you first.

SENATOR STEINEGER: Mr. Chairman, I'm not quite sure at the moment what my position in this proceeding is. For the moment, I'm appearing on behalf of the minority party, the minority leader of the minority party, and I would ask that in addition, that you would caution and give the standard precautionary advisement to all witnesses. They are not to discuss among themselves regarding the testimony they are about to

give or the testimony that they have given during the course of this proceeding until this proceeding is completed. That is a standard instruction. I request that we'd also give that instruction.

REPRESENTATIVE HAYES: Members of the Committee, you've heard the request of Senator Steineger. Is there any discussion?

SENATOR BROMLEY: I move the request is honored.

REPRESENTATIVE HAYES: Motion by Senator Bromley and seconded by Senator Storey that the Chair be requested to admonish the witnesses that they are not to discuss the testimony or the testimony of any other witnesses until the hearing is concluded. Is that the sense of your request?

SENATOR STEINEGER: Yes, standard, customary and traditional instruction on that point.

REPRESENTATIVE HAYES: All right, is there any further discussion? All in favor say aye. Opposed same.

(All members present reply aye.)

REPRESENTATIVE HAYES: Senator Steineger, do I understand that you are here presently as a representative of the minority party and not in your personal

capacity--(interrupted)

SENATOR STEINEGER: Mr. Chairman, to be right truthful, I think that's the answer. I have several preliminary questions that I wish to raise with this Committee and I would think that now would be a proper time to raise them. They're in a nature of what we might term preliminary motions or preliminary questions and with your permission I would like to raise those motions at this time, matters of procedure.

REPRESENTATIVE HAYES: What is the feeling of the Committee concerning Senator Steineger's request?

SENATOR STOREY: May I ask a preliminary question? Are you referring to motions as to what this Committee should or should not do?

SENATOR STEINEGER: Well, the legality of the composition of the Committee is one.

SENATOR STOREY: I think this would be the proper time.

REPRESENTATIVE HAYES: There is no objection, you may proceed, Senator Steineger.

SENATOR STEINEGER: Thank you. Mr. Chairman, members of the Committee, I believe it was on either the 8th or 9th day of April I received notice of the

appointment of certain members to this special committee and under date of April 9th, as minority leader of the Senate, I sent a special registered letter to the Chairman, Mr. John Hayes, requesting certain information. With your liberty, I will read the letter and then introduce a copy into evidence.

"Dear Representative Hayes: I have today been advised by Mr. Fred Carmen that I will be subpoenaed by the special Investigating Committee regarding the purchase of the New England Building. I will be most happy to appear voluntarily, but since I have no idea as to why I am being subpoenaed, I must, in an abundance of caution, demand of you the following documents:

- "1. Production of all documents or copies thereof intended to be used in the hearing.
- "2. A list of persons to be subpoenaed with a view toward the taking of depositions.
- "3. Adequate time and authority to cause any other subpoenas that may be necessary to be issued -- subpoenas

and subpoenas duces tecum.

"We must also consider preliminary motions that should properly be raised concerning the propriety and constitutionality of the Coordinating Committee, appointing the members to hear evidence, particularly since it appears that this is going to be a political matter and the great preponderance and the composition of the special committee is made up of 8 Republicans and 3 Democrats.

"You may know that as a member of the Coordinating Committee, I raised these various questions regarding inquisitional powers of the Legislature at the time this bill was passed and I request a copy of the committee notes made at that time."

Now, I believe I was incorrect. I believe that was the Legislative Facilities Committee, but those of you who are members of the Legislative Facilities Committee will remember and I understand that the secretary of that committee has or should have in her notes the remarks that I made regarding the dangerous policy we're embarking upon in the rather loose use of

subpoenas and powers to members of the Legislature and particularly when we were considering matters where the balance of power upon any investigating committee would be outweighed by one political party over another and I would request of the Chairman, and this is one of the preliminary matters that I had in mind, a transcription of the notes of that secretary of that Legislative Facilities Committee made immediately so that they be introduced into the record. If I may continue,

"I am sure it is not necessary for me to point out to you the distinction between the legislative, executive and judicial authority, but, to the extent the legislative authority attempts to abuse the constitutional or judicial responsibilities, then you may expect every objection from the undersigned.

"Your early reply will be appreciated in order that we may determine whether it is necessary to seek action in the courts to obtain the above-reference documents and answers to the questions raised above."

I would ask that the Committee obtain a transcription

of the notes of the secretary of Senator Tom West which will contain remarks regarding these type of proceedings. Now, the second point I wish to raise is that at the meeting of the, I believe it was the Coordinating Committee, where I, too, voted to have this investigative committee convene, it was determined at that meeting that Senator Joe Warren, who is also a Democrat member of that Committee, and myself, were to appoint the Democrat senators and the Democrat House members to appear on the Committee, Mr. Loux stating at that time that he wished to play no role or have no part in these proceedings whereupon Senator Joe Warren and I discussed the possibility. We talked with several House members about whether they would serve on this Committee and I was greatly shocked and surprised to be handed a list two days ago by the president of the Senate telling me who the members of the Committee were to be. In truth and in fact as the Senate Minority Leader and as per agreement of the Coordinating Council in their meeting, I have only appointed one member, Senator Bromley, to this Committee. Now, gentlemen, this is not the way you conduct a fair and impartial hearing. The minutes, I

believe, that I've referred to that I wish to have transcribed will also reflect that I requested that any hearings of this type should be carried out by blue ribbon committee of businessmen and not partisan legislators and I object strongly to these type of proceedings. If this is the type of proceeding that we're going to embark upon in the Legislature, then I say we have taken the first step down the long road of indictment, abuse, innuendo, allegation, etcetera. I think it's a wrong policy for this Legislature to embark upon. This sort of thing should be handled not by politicians but by blue ribbon businessmen committees. Now, while I'm on my feet I think I should also comment and make an offer of proof. Number one, the president of the Senate, Robert F. Bennett, the bulk of the day yesterday I was on the Senate floor; second offer of proof, Helen Marshall, secretary, whose testimony will be the bulk of the day yesterday I was on the Senate floor; third offer of proof, Mr. Ralph Zarker, secretary of the Senate, the bulk of the day yesterday I was on the Senate floor; fourth order of proof, a couple of newspaper reporters in the corner who sat and interviewed me for some 30 minutes and

visited with me several times.

SENATOR STOREY: Ken Peterson, Topeka Daily Capital.

SENATOR STEINEGER: Ken Peterson of the Topeka newspaper. So, with those preliminary remarks, I would also request as per the letter to Representative Hayes a list of the subpoenas that have been issued at this date. I have no knowledge as to who has been subpoenaed and who has not been subpoenaed. I gather that this is the list?

REPRESENTATIVE HAYES: Now, Senator Steineger, if I could just interrupt you for a moment, I will permit the letter which you have read to be made a part of the record. I would also state that that letter was received as a registered letter at my home at approximately 1:30 P.M. yesterday. I returned to Topeka last evening, I drafted a reply which I believe was delivered to you as promptly as possible this morning.

SENATOR STEINEGER: That is correct.

REPRESENTATIVE HAYES: In which I indicated a willingness that you be furnished a list of the parties subpoenaed.

SENATOR STEINEGER: I should have made that point clear. I'm not even sure whether you were able to receive the letter I sent you prior to your departure. I did telephone your office, you had already left for Topeka. I then telephoned the Ramada, you had not yet checked in. I had a dinner engagement and when I finally called you about 11:00 o'clock at night you and I both agreed that early this morning we would try and get together and I did get your reply early this morning and I have no quarrel at all with the cooperation that I received from the Chairman of the Committee.

REPRESENTATIVE HAYES: Senator Storey.

SENATOR STOREY: May I ask a question? Senator, on April 4th, 1973, might I quote you in a short statement from Kansas City Star.

SENATOR STEINEGER: No, sir.

SENATOR STOREY: Well, I will.

REPRESENTATIVE HAYES: Granted, Senator Storey.

SENATOR STOREY: I want to ask you if to your knowledge the Governor made this request.

SENATOR STEINEGER: Just a minute. A newspaper

clipping is traditionally not evidence in any Court of competent jurisdiction. Now, it is true this is not a court, but this is an administrative tribune and you are bound by the rules of being reasonable, arbitrary, and not capricious and to the extent that you start entering into the record newspaper articles, yes, I will object, particularly when there is direct evidence and better evidence available.

SENATOR STOREY: You and I both, as lawyers, know that I could quote anything in a court of law and ask to your knowledge if that was said by an individual and that's what I am starting to ask you.

SENATOR STEINEGER: No, I agree with you on the point of law. I don't think in any court you can ever read any newspaper article into a court of record.

SENATOR STOREY: Let me ask you--(interrupted)

SENATOR BROMLEY: I would object to this type of interrogation because it is hearsay evidence. It does not speak directly to what we're concerned with at this time.

REPRESENTATIVE HAYES: Senator Bromley, we are not operating strictly under the Rules of Civil Procedure in this hearing.

SENATOR BROMLEY: I would like to know why we're not operating strictly under the rules of the law.

REPRESENTATIVE HAYES: I'll ask Mr. Carmen that.

SENATOR BROMLEY: I would also like to know how come there was any negotiation took place by the Chairman instead of the whole Committee.

REPRESENTATIVE HAYES: There has been no negotiation taken place.

SENATOR BROMLEY: I understand that you directed a letter to the attention of Senator Steineger without the awareness of the rest of the Committee, at least I wasn't aware of it.

REPRESENTATIVE HAYES: Are you speaking of the letter which was delivered to him this morning?

SENATOR BROMLEY: Yes, sir, I am.

REPRESENTATIVE HAYES: I was merely replying to a letter which was delivered to my home, as I say, yesterday afternoon. I think I owed the Senator that courtesy to reply to his letter. Mr. Carmen?

MR. CARMEN: Mr. Chairman and members of the Committee, in my opinion the hearing here is controlled by the statute, by the resolution which after the

R.2 investigation by the motions already adopted by the Commission as shown by the minutes approved by the Committee and by any other motions which you adopted today or adopt in the future and under those rules, the rules of the Chairman are controlled subject, of course, by any member as to the validity of the ruling. The Rules of Civil Procedure do not control, in my opinion. This is not a judicial hearing. This is a legislative hearing and the constitutional law basic to it is spelled out, of course, in Supreme Court cases and in particular McGrain vs. Daugherty.*

SENATOR STEINEGER: If I may reply to that argument, that argument is true, then, that implies that this Committee can embark upon any kind of witch-hunt it so desires governed by no rules, no laws, no regulations, no nothing. That is not the law. The law is that an administrative hearing is bound to be held in a manner not arbitrary, unreasonable, or capricious, and when you measure what is arbitrary, unreasonable, or capricious, you generally measure it against the Code of Civil Procedure and that is what the law is.

REPRESENTATIVE HAYES: May I say that this is

not the first time this term "witch-hunt" has been used in connection with this hearing. I believe you were quoted earlier that it would turn into such and I wish to assure you that if it's within the power of the Chairman, and I think it is, this hearing will be conducted fairly, impartially, and there will be no vestige of a witch-hunt. The Chair has ruled Senator Storey's question is proper.

SENATOR STEINEGER: I object to the question.

SENATOR STOREY: Let me ask you the question.

SENATOR STEINEGER: I object on the principal, now.

SENATOR STOREY: In the Governor's Veto Message, did he not ask that a special legislative committee be set up to look into the purchase of the Merchant's National Bank Building?

SENATOR STEINEGER: I'm not sure. If you'll give me one moment, I do have a copy of the veto message here and incidentally, would the reporter mark that as an exhibit.

(Exhibits B, C, and D were marked for identification by the Reporter.)

SENATOR BROMLEY: I would respect fully that

request and that if we're going to utilize newspaper clippings which are just copies of the newspaper that they also be introduced as Exhibit A or B before anyone is interrogated about it.

REPRESENTATIVE HAYES: If we come to that point. There is no indication at this point that we will because, I believe, Senator Storey is about to rephrase his question.

SENATOR STOREY: I have rephrased it. I asked you if the Governor stated in his Veto Message that a special legislative committee should be set up to look into the purchase of this building?

SENATOR STEINEGER: I have a copy here of what I believe to be an exact copy of the Governor's Veto Message and in reading the last paragraph it reads as follows: "I am requesting that a special legislative investigative committee be formed with the Attorney General's cooperation. The committee should make a full investigation of all facts surrounding the proposed sale of the property as specified in House Bill 1568. I urge each legislator to inspect thoroughly the property described in the bill before any further action is taken on House Bill 1568."

SENATOR STOREY: My point is, Senator, I was asking and it's a matter of information that this Committee requested the Attorney General's Office to help us and Mr. Pat Connolly is here from the Attorney General's Office. Now, the Governor asked us to appoint a legislative committee, but yet, are you saying there shouldn't be a legislative committee? There should be a panel of other people?

SENATOR STEINEGER: No, I'm--(interrupted)

SENATOR STOREY: I thought you said it should be a committee of blue ribbon citizens.

SENATOR STEINEGER: Yes, I do think such a committee should be a blue ribbon committee. Yes, I disagree with the Governor on that. It shouldn't be a panel of legislators, particularly of partisan legislators and particularly when the balance of political partisanship is so out balanced. Yes, I completely disagree with the Governor on that.

SENATOR STOREY: Well, Senator, you and I over the years in different parties have always been able to maintain a friendship. I would say to you that in lieu of that paragraph of the Governor's Veto Message, a thorough investigation should be made, that the only

way we're able to determine that is issue subpoenas which we have the authority under Chapter 46 of our laws and bring people in. We're trying to carry out the Governor's wish to find what is behind the purchase. I don't know myself.

SENATOR STEINEGER: Of course, I don't need this, Senator Storey. However, when I was a member of the Coordinating Committee and again, I think, the minutes will reflect at that time I said, "Let's get a blue ribbon committee of businessmen. Let's not do this on a partisan political basis." I notice that the Governor also said, "If the Legislature proceeds with the purchase of this property, it should consider doing so by condemnation which would let a jury decide the fair market value of the property specifically described in House Bill 1568." If you like, Mr. Chairman, I will introduce this in evidence just for the record's sake unless it's already been introduced.

REPRESENTATIVE HAYES: No, it has not been. I understand that to be a true and accurate copy. Is there any objection to Senator Steineger's request that the Governor's Veto, dated April 3rd, 1973, be let

into the record?

SENATOR STEINEGER: Now, the remaining question, then, is--I don't know what the Committee wishes to do, but I believe an examination of the Coordinating Committee notes would show that Senators Warren and Senator Steineger were depicted as the minority members of the House to serve on this Committee. That was what the Committee decided. That was the Committee action that was not done and I frankly don't even know who the Democrat committee members of the House are and Graber, I know, is a Democrat and Representative Parrish is a new member, I believe, in the Legislature. You are Representative Parrish, aren't you?

REPRESENTATIVE PARRISH: Yes, I'm Representative Parrish.

SENATOR STEINEGER: I see and I apologize.

REPRESENTATIVE PARRISH: Representative Parrish, it doesn't say Democrat or Republican, it just says Representative Parrish.

SENATOR STEINEGER: The point is, the Committee decided one thing and for some reason or another, another thing was done and I question the whole validity of your Committee and someone explain to me

how this operates.

REPRESENTATIVE HAYES: Your objection is duly noted for the record.

SENATOR STEINEGER: I will make offer of proof, incidentally, for that. I will offer to produce tomorrow Senator Joe Warren, who is a member of the Committee. I'll offer--where is Pete Loux? I'll offer the testimony of Pete Loux, who was there. I'll offer the testimony of President Robert Bennett, who was there, and those are the ones that I remember offhand who I'm sure will testify under oath exactly as to what I have just told you.

REPRESENTATIVE HAYES: Your offer of proof is duly noted and as far as your presence on the Senate floor, the Chair does not understand the reference to that, but your request is noted. Thank you, Senator.

SENATOR STEINEGER: Thank you, I will now assume my role--I assume my role as a witness and retire, but as soon as I have testified and I would appreciate insofar as possible being one of the early witnesses so that I might then be allowed to remain in the proceedings on behalf, in my capacity as the minority leader of the Kansas Senate.

REPRESENTATIVE HAYES: Thank you.

REPRESENTATIVE PARRISH: Mr. Chairman. If I could ask you a question before you leave, notwithstanding the confusion over the appointments of the various members of this Committee and the fact that your requests were not honored, I would like to assure you--(interrupted)

SENATOR STEINEGER: Not requests, agreements. Let's keep the word--(interrupted)

REPRESENTATIVE PARRISH: I would like to assure you before you leave and assume your capacity as a witness that I, for one, and I'm certain Mr. Graber for two, will do our utmost to represent the minority party in this hearing, if that will help you--(interrupted)

SENATOR STEINEGER: I'm afraid you have missed my point completely. My point is that there was an agreement and an action taken by a committee in full committee session.

REPRESENTATIVE PARRISH: You weren't listening. I said notwithstanding your point, we're here and we will do our best.

SENATOR STEINEGER: I'm sure of that. That

doesn't trouble me a bit.

REPRESENTATIVE PARRISH: It puts my mind at ease, then.

SENATOR STEINEGER: The point is there was a committee action taken. It was overridden by someone and I think that's the point. The Committee may want to inquire, too, to find the answer out.

REPRESENTATIVE NOVAK: Before you leave this capacity and come back as another one, would you qualify for me and the panel what you mean by blue ribbon?

SENATOR STEINEGER: Yes, I would have said a group of well-known, prominent Topeka businessmen, experienced in commercial real estate.

REPRESENTATIVE NOVAK: Do you feel that this matter concerns only Topeka businessmen or that it concerns the whole State?

SENATOR STEINEGER: It concerns the whole State, but blue ribbon Topeka businessmen would have a fair knowledge of property values in Topeka than some other city.

REPRESENTATIVE HAYES: Senator, I might state that the value of the property is beyond the scope of

the resolution and will not be considered by the Committee.

SENATOR STEINEGER: Well, maybe I'm missing something here.

REPRESENTATIVE HAYES: Well, you're now reading from the Veto Message.

SENATOR STEINEGER: Which says, "I am requesting that a special legislative investigative committee be formed with the Attorney General's cooperation. The committee should make a thorough investigation of all facts surrounding the proposed sale of the property as specified..." so forth and so on. Is that why we're here?

REPRESENTATIVE HAYES: I would suggest that you read HCR 1056, providing the value of the property is beyond the scope of this Committee and that will be the ruling throughout this hearing.

SENATOR STEINEGER: Maybe I'd better--(interrupted)

REPRESENTATIVE HAYES: Why don't you take a copy of that while you're out. Gentlemen of the Committee, I think that the sergeant has prepared to report that Senator Steineger and Representative

Van Cleave have refused service of the subpoenas. I don't know about Mr. Matlack. He's nodding in the affirmative that he has also refused service of subpoena. Therefore, we will ask consent that the sergeant be excused. There being no objection--(interrupted)

MR. CARMEN: Mr. Chairman, do you wish to accept these showing no service returns or service refusal of return?

SENATOR TILLOTSON: Let the record show that the service was refused, making a motion.

REPRESENTATIVE HAYES: Seconded by Senator Simpson. Is there discussion? The motion is that we accept the return of the sergeant's service on Senator Steineger, Mr. Van Cleave, and Mr. Matlack. It was refused. All those in favor, say aye. Opposed same.

(All members present reply aye.)

REPRESENTATIVE HAYES: Mr. Matlack, we have separated the witnesses and the other witnesses are out in the lounges. The Chair will excuse you at this time. You will be called later as a witness.

MR. MATLACK: Okay.

REPRESENTATIVE HAYES: We'll call as our first witness Mr. Thomas M. Van Cleave.

THOMAS M. VAN CLEAVE, JR.,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MR. VAN CLEAVE: May I make a little statement, not as a witness, but as a statement regarding my letter to you and your reply back to me? I don't have the copies here, but is there any objection from you or any member of the Committee to making those a part or an exhibit in the case?

REPRESENTATIVE HAYES: Well, I should think not, but I would like to have copies of each distributed to the Committee so that they can examine them momentarily.

(Exhibits E and F marked for identification by the Reporter.)

MR. VAN CLEAVE: While they're doing that, I have just a legal question and it's just--I'm not pushing the point, but with all the legal experts here, is a concurrent resolution a law as such?

REPRESENTATIVE HAYES: I would request that the Committee Counsel answer that.

MR. CARMEN: A concurrent resolution is not a law. It is an official act of the Legislature.

MR. VAN CLEAVE: Yes, but it's not a law.

MR. CARMEN: It's not a law. I would say "act." That's the controlling directive of this Committee, however.

MR. VAN CLEAVE: Well, I just wanted to get the opinion as to whether or not the action was a law and I would like to say at this time also that my rejection of subpoena--I didn't have any objection to the subpoena as such except on the principle that the separation of powers is well known and that I do work for the Governor as its legislative liaison and in the Governor's office and my rejection was on that basis and I would, as I request in my letter, I wanted to determine if there are any documents that were considered by any member of the House or Senate Ways and Means Committee that are contained in any file any place?

REPRESENTATIVE HAYES: Well, I'm satisfied, Mr. Van Cleave, that there probably exists such a

document, but I do not have possession of it and I don't know its whereabouts and as I told you in my letter, I would be happy to furnish you the list of witnesses that have been subpoenaed, that's been furnished to Senator Steineger, and I would request that Mr. Carmen deliver such a list to you, if it's still your desire to have it.

MR. VAN CLEAVE: Yes, it is, and I would be interested in if this Committee would inquire as to whether there are any such documents. I saw one at one time and I don't know where that document is or whether it still exists and I would know if I was able to see any and all documents that are, that may or may not be in existence because I certainly don't want to testify to a document that is not in existence.

MR. CARMEN: Mr. Chairman, should the record show that counsel handed Mr. Van Cleave a list of witnesses?

REPRESENTATIVE HAYES: Yes, would you please show that, that Mr. Carmen has furnished Mr. Van Cleave a list of the witnesses subpoenaed. Gentlemen, have you had an opportunity to read Mr. Van Cleave's letter to me and my reply and if so, is there objection to having them included as part of the record? All right,

they will be included.

MR. VAN CLEAVE: May I now make a statement, very briefly?

REPRESENTATIVE HAYES: You have the right under the statutes to make a statement.

MR. VAN CLEAVE: Mr. Chairman, I know it's the basic desire of all members of the Legislature, it's my basic desire to at all times do my best to protect the taxpayers in the State of Kansas in connection with the purchase of any building, in connection with any matter, and that was my basic desire and I'm sure in doing so I'm overcautious. Now, at the time of the First National Bank sale to the State, I was contacted regarding the sale of the Merchants Building at that time and investigated it and also in that transaction of the First National Bank Building, I had a complete file of Representative Clyde Hill and I was absolutely satisfied that there was nothing except a clean transaction. Now, I'm not saying that I agreed with the sale, but I had an appraiser's report, I had everything.

REPRESENTATIVE HAYES: Now, Mr. Van Cleave, may I caution you as Senator Steineger, I'm going to

rule that any question as to the value of the property is beyond the scope--(interrupted)

MR. VAN CLEAVE: I'm not talking about that, but I said I was convinced in my own mind. When I learned that the Legislature was going, was interested in this building, I did make a preliminary investigation into certain facts to determine from what I could learn whether there was any option in existence on this particular project. I did obtain at that time, and talked to Representative Loux, told him that I was to be very cautious about this and to get all the facts; I asked him if he would get a copy of an option for me. Either he or his secretary or his assistant called me back, this was on a Friday, and I don't recall the exact date and said that I would have a copy of the option on Monday. I didn't ever receive the option. I tried in other ways to get a copy of the option. My real fear was that someone could possibly make a profit out of the sale of this property to the detriment of the taxpayers of the State of Kansas. I then talked by phone with Bill Hall, one of the owners of the property. I asked Bill when the option was given and Bill was very reluctant to even discuss it. I got

no facts as such from him. I tried other means of getting the option. I tell you, I was unable to do so and I wouldn't touch this transaction with a ten-foot pole when we were unable to get a vital fact. I will resist--I was just scared to death of the whole thing because to me the option was a vital plan, and a very vital plan, and if we were going to protect the taxpayers of the State there had to be a full disclosure which there was on the First National Bank Building. I told Senator Bennett in my opinion, and it was based strictly on this fact, that this thing smelled to me. That's all I told him, that's all I have.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q All right, would you state your name, please?

A Thomas M. Van Cleave, Jr.

Q And your occupation or profession?

A I'm an attorney by profession and part-time as legislative liaison for Governor Docking.

Q And where is your home, Mr. Van Cleave?

A 2225 Washington.

Q In the letter which was directed to you on April the 8th, over my signature, you were advised that you had

the right to counsel for advice or consultation before and during this hearing.

A. Yes, and I have been reminded of the old adage that a lawyer who represents himself has a fool for a client, too.

Q. I'm sure that all members of the Committee who are members of the Bar are aware of that. In the face of that statement, do you desire to continue without counsel?

A. Yes, I do.

Q. All right.

REPRESENTATIVE HAYES: Gentlemen, the witness is prepared to answer your questions. Senator Tillotson?

QUESTIONS BY SENATOR TILLOTSON:

Q. I'm interested, Mr. Van Cleave, in your exhaustive effort to obtain the option aside from contacts of Mr. Hall, who you stated was one of the owners. What other effort did you make to obtain a copy of the option?

A. Basically, only that, and my contact with Representative Loux in which the option was promised to me.

- Q. And I believe you stated that you did not receive it from Senator Loux. Is that the only effort you made?
- A. Yes, sir.
- Q. You didn't make any effort to contact any of the other owners of the property?
- A. No, the only one that I basically knew was Bill Hall and I've known him, not intimately, but I've known him for several years.
- Q. Did you ever have a conversation with former Senator Taggart?
- A. Well, I had a conversation with him. I had two or three.
- Q. In reference to the option?
- A. Well, I think that, if I can recall correctly, he mentioned that Mr. Hall had talked to him about it, Bill Hall had talked to him about the option.
- Q. Did you obtain any information as to what might be contained in the option?
- A. No, he didn't know, as far as I knew.
- Q. You don't know now?
- A. No, sir, I don't know whether an option actually exists.

SENATOR TILLOTSON: I would refer the questioning

now, Mr. Chairman.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q Do you have any knowledge as to whom the holder of the option might be?

A No, sir, all I know--well, the only knowledge I'd have is what I saw in the paper and I can't tell you, I don't really rely on that.

Q Well, what did the paper say about it?

A The paper said--it named Mr. Harbes, but I don't know him.

Q You don't know him?

A No.

Q Never met him?

A Never met him to my knowledge. I saw him--I mean, I might have met him at sometime, but I don't have any recollection of it.

Q Have you discussed this with anyone else other than Senator Bennett, Representative Loux, Mr. Hall, you mentioned, and former Senator Taggart?

A Well, I think I probably visited with Don Matlack. We discussed it, you mean? Discussed what, now?

Q This proposed purchase of the New England Building.

A Oh, yes, I discussed it with--I can't tell you, some of

senators and representatives that I just discussed it with.

Q. In connection with your investigation--I assume, you made some investigation?

A. Preliminarily, yes, till--(interrupted)

Q. Now, were there any other persons in connection with this investigation that you made with whom you held discussions, other than the persons you've named?

A. Well, I think there were several senators and representatives. Now, I'm sure I discussed it with Frank Gaines, but I mean I can't tell you with whom it was discussed, frankly, 'cause there were several.

Q. I assume you discussed it with the Governor?

A. Discussed the--(interrupted)

Q. Well, this proposed purchase.

A. Oh, yes, certainly. He asked me questions and he had more information than I did.

Q. What information did he have?

A. Well, that's confidential, sir, in any discussion of a bill.

Q. Well, the Governor signed--(interrupted)

A. And it would be hearsay.

Q. The Governor, as I understand it, was invited to be

here today.

A. That's correct.

Q. And said that he would send his liaison.

A. That is correct.

Q. Then, to come and--(interrupted)

A. Well, I, of course, have already voluntarily agreed to come before that.

Q. Yes, but the Governor, as I understand it, said that you would come and give information on behalf of his office.

A. Well, yes, but I won't quote him.

Q. You will not quote the Governor?

A. No, sir.

Q. Well, will you tell this Committee what information the Governor's Office might have with respect to any alleged improprieties about this purchase?

A. I don't think there's any allegation that there were any improprieties. The Veto Message says, get the facts.

Q. Well, what facts? What I'm getting at is, what facts does the Governor's Office have?

A. Well, we have facts such, well, when I say fact, the amount of the purchase, which I assume we're not even

discussing from what the Chairman has said and, of course, I had investigated the purchase. Oh, I can't remember the year when the State bought the First National Bank. There had been--at that time, the Merchant's had made an offer to sell or lease that as well as the First National Bank when we purchased the First National Bank.

Q. I understand that.

A. Right, and all those were basically in any discussion I had with the Governor or on a bill. He asked me what facts I had, pro and con.

Q. And what did you tell him other than what you've told the Committee here today?

A. I told him basically that I did not have sufficient facts in my opinion to give him any opinion.

Q. Do you know whether the Governor's Office had any additional facts about this purchase?

A. Well, yes, I've got a whole file. I mean, why we had the architect's inspection of it, we had the Fire Marshal's inspection, a copy of the statement of the New England Building Company in which they list real estate 218,000, I mean, we had quite a bit of information.

Q. Now, the Governor has been quoted as having said that this purchase had been placed in the hands of four members of the Legislature. Is that a correct quote?

A. Well, I don't know and I don't know whether he was quoting directly or not. I can't answer, I can't answer what he may or may not have been quoted as saying.

Q. Do you know who these four members of the Legislature are?

A. Well, they're contained in the bill. It would be obvious who they are.

Q. Who are they?

A. Well, I don't have a copy of the bill, I don't think, 1568.

MR. CARMEN: Let the record show, Mr. Chairman, that I've handed a copy of the statute, of the bill, resolution, the veto message, to Mr. Van Cleave for his own inspection.

A. State Building Advisors Committee been proposed, the president of the Senate, the Speaker of the House of Representatives--I'm reading from Section 6--the minority leader or his designee, the superior of the House or his designee shall be Chairman.

Q (By Representative Van Bebber) You think, then, that's who might have been referred to?

A I would say if there was any reference at all, I don't know that there was, if there was, then, that undoubtedly would be who it referred to, who the individuals that were referred to.

Q Do you have any knowledge of any impropriety by any member of the Legislature?

A No, sir, I do not and I have never said, and I certainly someplace have been misquoted because I never said Senator Thomas had anything but the highest of motives in anything he did. In fact, I didn't know he had anything to do with it until really late and because I didn't know that he had any connection whatever with it, but, now, while I might question his judgment as to value, I mean, while we would disagree as to value judgment on this, I never stated anyplace to my recollection Senator Thomas had any connection with this thing other than this great business connection, if he had such.

Q Do you have any suspicion of any impropriety by any member of the Legislature?

A No. No, I don't have any suspicion.

Q. Do you have any knowledge of any impropriety by any employee of the Legislative branch with regard to this?

A. None.

Q. Or any suspicions of any?

A. None, no, sir, and I want to say very, very frankly, very candidly, that Representative Loux's only connection with this was that he had a building to move certain offices and so forth out of the capital. That is, his motives are the highest, while we disagreed as to value and whether or not it should be purchased. Now, my real concern was, and I know the Chairman doesn't want to get into this, my real concern was that an exorbitant price was going to be paid for this property. That was my great concern and certainly I know you're interested and I'm interested in protecting the taxpayers in paying any price for any purchase of anything or any appropriation because we all basically represent them.

Q. Have you been contacted by any landlord or property owner of any property in which any State agency is now located in the City of Topeka about this?

A. No, not to my knowledge. You mean, in any building?

Q. Yes.

A. Not to my knowledge.

Q. Any other owners contact you?

A. You mean wanting to sell a building or what?

Q. No, who's presently leasing property to the State in another building.

A. Not to my knowledge.

Q. Do you know whether or not the Governor's Office was contacted by any of these landlords?

A. Not to my knowledge. I assume that if any contact was made, it would be made with the Department of Administration. I say, that's what I assume, if any such contact was made, it wouldn't be made with me.

Q. But no landlord contacted you?

A. No, sir, not to my knowledge.

Q. You would know if they had?

A. I would think so, but you know--and I assumed that you mean within a certain length of time.

Q. Well, since the first of January or since.

A. Yes, not to my knowledge.

REPRESENTATIVE HAYES: Senator Storey?

QUESTIONS BY SENATOR STOREY:

Q. Mr. Van Cleave, I didn't get awhile ago how you first learned that there might be a possible option on that

property.

A. If my recollection is correct, Bill Hall had discovered it and being this is hearsay, I hate to quote anybody, frankly, and I may not be quoting him correctly.

Q. It was by rumor somebody mentioned to you there might be a possible option?

A. Yes.

Q. Now, was that after the bill had passed to allow the purchase?

A. No.

Q. That was before?

A. Yes, sir.

Q. Did you make any investigation before the bill was passed to determine whether or not there was an option?

A. Yes, sir. That is, everything that I did on trying to get the option was before the bill was passed.

Q. Does the presence of an option on the building immediately smack of some wrongdoings?

A. Well, it doesn't immediately smack. When you say "smack" I am suspicious because of the transactions that we've had on these properties have always been with the owners and they were with the New England Building Company when they were buying or when First

National Bank was bought, but it only smacks to me when I can't get the option or can't see it, can't get the facts. All I'm interested in are facts.

- Q. Well, then, when you said that you didn't know of any wrongdoings and you also said you wouldn't touch this transaction with a ten-foot pole--(interrupted)
- A. Now, unless there is full disclosure, that's what I'm talking about.
- Q. Then, in your mind, there possibly is some impropriety somewhere in this purchase?
- A. No, all I say is that I've negotiated properties for years, but unless I have full disclosure, unless I can get full disclosure, I wouldn't touch it.
- Q. Well, could you answer this for me? From the Governor's Office, is this relating to the price? Just to get to my question in the message, if the only intent would have been that the price wasn't fair, there wouldn't have been any mention of a special legislative committee to look into the proposed sale unless there was some alleged violation.
- A. No, to get the facts, to get the option, to find out. Now, let's just assume this person had an option for \$300,000 and the State was going to pay \$550,000.

Let's just assume that. I say that that would be an extremely unconscionable price to pay, that it would just be at the detriment of the taxpayers in the State. Now, those are assuming facts.

Q. Well, wouldn't the Veto Message, couldn't it have read that he vetoed it for the reason that the price was too exorbitant?

A. Well, I don't know. He writes the message.

Q. You don't give him any help?

A. No, no, never, never give him any help. No, he writes the message and he--it's his wording and so forth.

Q. Mr. Van Cleave?

A. Yes.

Q. Would it be fair to say that you probably conveyed to the Governor because you couldn't get the option that there could be some wrongdoings in this?

A. No, I didn't say that, not to him or anyone. I just--go ahead.

Q. His part of the Veto Message where he does say that there should be a special investigation, that would only pertain to determine if that was the right price?

A. Well, all the facts to determine whether an exorbitant profit was being made. I know what the property was

offered to the State for two years ago.

Q. But you would have to agree with me that you finding a possible option in here did raise some suspicion in your mind?

A. Yes, sir.

Q. That something was being done?

A. Well, that there could be an exorbitant price paid for the property.

Q. Or that someone had purposely done this to make a profit?

A. Well, that wasn't in my mind. The only thing that was in my mind was if you don't get all the facts, how are you going to protect the taxpayer.

SENATOR STOREY: That's all.

QUESTIONS BY SENATOR BROMLEY:

Q. Mr. Van Cleave?

A. Yes, Senator.

Q. You say all you were trying to do was gather all the facts?

A. That is correct.

Q. Do you know whether or not the City of Topeka does have a building inspector or a public works director?

A. I would assume they'd have a building inspector.

Q. Do you have in that file--you stated you had reports from the Fire Marshal's Office. Do you have anything regarding recent inspections of the building?

A. I have nothing. As I understand, Senator, and this is hearsay also, the Fire Marshal has visited with the building inspection department now and that would, I understand, the Fire Marshal will be here, Senator, so I would not want to speak for him, but I do understand that there has been a visit.

Q. Thank you. Now, you say you do know what the price was?

A. Voluntarily offered \$400,000.

Q. \$400,000? Thank you, Mr. Van Cleave.

SENATOR BROMLEY: That's all the questions I have.

QUESTIONS BY SENATOR SIMPSON:

Q. Mr. Van Cleave, did you actually recommend to the Governor that he veto this?

A. No, sir.

Q. Do you know of anyone else who--(interrupted)

A. Let me put it this way. I agreed with his decision, Senator, I think that's the best way I can answer it.

Q. Do you know of anyone else who--anyone who would have urged him to veto this bill?

- A. I don't know whether he had contacts with anyone. I have no knowledge.
- Q. Never discussed the matter of the veto with him?
- A. Oh, I discussed veto with him, but you asked me if I knew of anyone else.
- Q. I asked first if you did.
- A. I discussed it with him, yes, and I agreed with him, but it was his decision.
- Q. Well, I recognize it's his decision.
- A. Right.
- Q. But I wondered if you would have influenced him in any way?
- A. Oh, I don't think--I'll tell--I can't, and this is what I got quite a chuckle out of the House Concurrent Resolution. I know of no one that influences him as far as decisions. He wants to get all the information he can get, but he makes the decision.

REPRESENTATIVE HAYES: Representative Parrish?

QUESTIONS BY REPRESENTATIVE PARRISH:

- Q. Mr. Van Cleave, you're saying you did not make a recommendation to the Governor to veto or not veto this particular bill?

- A. Well, let's put it this way. He makes the decision to veto a bill and in this particular instance I agreed with him.
- Q. But--(interrupted)
- A. I understand, it's kind of like getting the cart before the horse or the horse before the cart, but--(interrupted)
- Q. Well, I didn't--I wasn't confused. I was just wanting to know if you did recommend that the Governor veto or not veto this bill prior to his action on the bill.
- A. Well, no, it's my recollection that he said, "I'm going to veto this and I'm real concerned about this," and so forth and so on and I said, "I agree with you."
- Q. Then, prior to your making this statement, you did not recommend that he veto or not veto?
- A. No, my recollection is on this particular bill that he said, "I'm going to veto it," and I said, "I agree with you," after he advised the reasons that he felt it ought to be vetoed.
- Q. You may know--I'm relatively new to the legislative procedure and I'm interested in knowing a couple of things. The job of legislative liaison, is that a newly created position? Has it been going on for a

long time?

A. Well, it preceded me by certainly a number of years and I've known of legislative liaisons of past. I think every governor--well, I can only go back to my service in the House which started in '55, but at that time there was a legislative liaison and has been one ever since.

Q. Is it common practice for the legislative liaison to recommend to the Governor that he veto or not veto a certain proposal?

A. On some, on some that would be the practice; on others, there's no consistent practice.

Q. You mentioned that there was an offer to sell this building two years ago for \$400,000. Now, as I understood the bill, House Bill 1568, it involved the building and several parking areas plus enough money to renovate the building. Now, the total package was \$1,300,000?

A. That's my understanding.

Q. Now, do you know, do you happen to know what portion of that \$1,300,000 was allocated to the New England Building under the House Bill 1568 proposal?

A. Just from hearsay.

Q Well, what have you heard?

A I heard that the owners wanted \$550,000, or the sellers, and that it would probably go for around \$500,000.

Q So, in essence, about a hundred thousand dollars more than it was offered two years ago?

A Now, that's hearsay.

Q Hearsay.

A I think actually if the bill, if it had had in it the items with the maximum amount--I mean, that's just from the legislative standpoint.

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REPRESENTATIVE HAYES: Representative Burke?

QUESTIONS BY REPRESENTATIVE BURKE:

Q Mr. Van Cleave, you mentioned in your investigation and in your attempts to try to get the facts, that you were unsuccessful in getting a copy of the option. Were there other facts that you felt were being withheld from you other than the option?

A No, that was the vital fact to me in this whole transaction.

Q Okay, so had you had an option to ascertain the value, then, you could have determined whether there were any improprieties.

- A. Well, that would have determined in my opinion whether or not an exorbitant price was being paid for this property. Now, I have my own ideas as to the value of this building through my years of experience and--
(interrupted)

REPRESENTATIVE HAYES: This is beyond the scope of the resolution.

REPRESENTATIVE BURKE: I'm trying to get to a point, Mr. Chairman. My point is, that if the option were the only thing that he was basing his opinion about the propriety or impropriety of the negotiation on, then, why wasn't a more thorough attempt made than just two contacts which you made to try to find the option.

- A. Well, I'll put it this way. I don't know of anyone that's ever seen an option, frankly. I do know of cuts down there on bills and everything else and I don't have--that's why I suggested to both Senator Bennett and to Representative Loux to get the facts, get the facts. That's all I wanted and when I think I don't get full disclosure of the facts, then I am suspicious, there's no question about it.

- Q. (By Representative Burke) But, again, I just want to

make this clear in my own mind. The thing that you feel was not a full disclosure was primarily, then, of the fact that you couldn't get a copy of the option. That was the basic hang-up?

A. Right, right. That was the basic hang-up.

REPRESENTATIVE HAYES: Representative Peterson?

QUESTIONS BY REPRESENTATIVE PETERSON:

Q. Well, this has already been covered, but I think we ought to--you have no knowledge, and to the best of your knowledge the Governor does not know or neither of you have suspicion of any legislative impropriety or any financial conflict with any, or conflict of interest, with any legislator or legislative employee in regards to this bill going through the Legislature or any of the things surrounding it?

A. No, I have no information, no knowledge, no accusations.

Q. No suspicion of that. Why, then, did the Governor request the Attorney General to probe into this?

A. No, he didn't request the Attorney General. He requested--you read the veto message. He requested the Attorney General to cooperate with the Legislature committee. He didn't request the Attorney General to

investigate.

Q Wasn't there before that a separate request to the Attorney General?

A No, sir.

Q All right.

A Not to my knowledge, I didn't make it, and I'm confident the Governor didn't, too. Mr. Connolly's here. All I can speak, really, is for myself, but I certainly didn't make any request.

REPRESENTATIVE HAYES: Representative Novak?

QUESTIONS BY REPRESENTATIVE NOVAK:

Q I hate to keep referring to this option. To my knowledge about the option, why, if you no knowledge of the option, why did you assume that there was excessive profit taking?

A I don't assume anything. I just am suspicious of it, if I don't have a full disclosure in any transaction that I'm involved in.

Q You made the statement, also, that the Governor knows more about this than you. You made this statement earlier concerning this building and everything. Do you feel that the Governor could shed some light on this?

- A. No, when I say he has knowledge, I think as to values.
- Q. I believe you stated he had a whole file of information.
- A. No, I didn't state that. If I did, that was a mistake.
- Q. I'm sorry. Another question, then, you would consider it hearsay that the Representative Loux' intentions were that there would be additional office space for legislators because of the purchase of this building?
- A. Well, I've talked to him about that, yes, and I think and that's--(interrupted)
- Q. You feel this is the only reason, then?
- A. Oh, yes, that's his only interest in it. I'm confident of that.

REPRESENTATIVE HAYES: Mr. Van Cleave?

- A. Yes, Mr. Chairman.

REPRESENTATIVE HAYES: I have a few questions in connection with your duties as legislative liaison, representative for the Governor.

EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Do you review bills?
- A. Yes.
- Q. And did you review House Bill 1568?

A. Yes.

Q. And what is your opinion in respect to the, and authority, for the acquisition of this property as contained in this bill?

A. Well, my opinion, of course, my interpretation of it is, the Chief Architectural Services was directed, was authorized and directed to negotiate, but that the final decision on the price would be with the Building Advisory Committee.

Q. So, you would agree that the thrust of the bill directed the architectural services man to negotiate for the purchase and not buy?

A. To negotiate?

Q. Yes.

A. Right.

Q. And that if he were unsuccessful, the negotiations would be terminated?

A. Well, if he were unsuccessful, that is right. Now, in connection with this building, there's a limited market for this building and it's a buyer's market in my opinion.

Q. I think this is beyond the scope of my question.

A. Well, if I may answer, and so if he's directed to

negotiate and the Building Advisory Committee says we want it at that price, I mean, you tell them what, negotiate the figure that he had, and there's an awful lot of leeway in the amount of money that could be paid.

Q Well, if I understand the latter part of your statement, they distrusted the judgment of the four people who make the final decision?

A No, it's not a distrust in them at all. It's to the extent--(interrupted)

Q Well, lack of confidence in their ability to make the decision?

A No, no, it's just how much of the desire there would be actually to get the building.

Q All right. Now, secondly, as a part of your duties, do you ever draft veto messages?

A Well, I may write something out, the Governor would tell me what he would like to have in it. I may rough something out for him.

Q That's what I call a draft.

A Well, if that's what you call a draft, I might rough something out for him.

Q Did you in this particular message?

A. Yes, I did.

Q. And did your draft of the message contain the recommendation for a legislative investigating committee?

A. My draft did, yes, sir. I preferred that to an investigation by the Attorney General.

Q. Would you state your reasons?

A. The reasons was to get the fact as I previously stated on the option whether an exorbitant price would be paid for this particular property.

Q. Now, at what point in time, I'm a little vague on this, from your prior testimony, did you first learn that this was being considered?

A. It was sometime way back. I can't remember the exact time.

Q. Was it after the '73 Session convened?

A. I can't recall whether it was before or after.

Q. At what point in time did you learn that Senator Thomas was making some type of investigation into this proposal?

A. Well, on that, the only, the only time that I had any information on that was--and as I say, this is a memo and I hate to get into one if the memo is not still available, there was a memo that I frankly saw in which

it listed the properties and the values and it was a memo. It was in--I got it out of--Pete Loux gave me his file and I gave it back to Pete. Very frankly, it was a confidential memo.

Q. It was a confidential memo?

A. Yes, to Senator Bennett.

Q. Whatever date, it was when you found former Senator Thomas was playing some part in the investigation? From that point forward, did you make any statements about former Senator Thomas?

A. No, not to my knowledge.

Q. Well, Mr. Van Cleave, now, you're an experienced trial lawyer.

A. Right.

Q. And you know the statement "not to my knowledge" is unsatisfactory for committee or jury purposes.

A. Well, I can only give you my best recollection. To my best recollection is, at no time did I make any statement about Senator Thomas. Now, information was given to me that Senator Thomas had been involved with Mr. Harbes in the White Lakes Shopping Center. I checked that out and found it to be completely untrue.

Q. All right. Now, you have told me in response to my

question that you were responsible for drafting this veto message?

A. Well, I didn't say I was responsible. You asked me if I made a draft.

Q. You did make a draft?

A. Right and I think, I'm not sure whether Senator Matlack did or not. He may have.

Q. Conveying the recommendation that an investigation be made?

A. Correct.

Q. And you stated in response to prior questions that you discussed the veto with Governor Docking?

A. That's correct.

Q. And you made further statements that Governor Docking was concerned?

A. He was concerned with the price of the building and he was concerned with the--I think, that probably was his greatest concern.

Q. Well, you stated that he was concerned about the proposal, I believe, the record will support that. Now, what I would like you to tell the Committee is what were the areas of concern on the part of the Governor.

A. The areas of concern were whether an exorbitant price--

I don't think the Governor felt that, well, I'll put it this way. I don't know his feelings because they were never expressed to me as to the advisability of buying the building, period. Two, that the biggest concern was whether an exorbitant price was going to be paid for this property.

Q. What was the basis for believing or assuming that the final negotiated price would be exorbitant?

A. Well, in this memo from Senator Thomas he said, as I recall the memo and of course without it I shouldn't even be talking about it, he said that the owners wanted \$550,000 for the property and that he felt an offer somewhat below that should be made.

Q. So, in fact, there was really no exorbitant price ever agreed upon.

A. No, it wasn't a price agreed upon. In fact, I don't understand whether any negotiations were ever---I mean, all he had in the memo was what they wanted and suggested the price.

Q. Back to my question, this is a little bit repetitive, but the bill directed negotiations and not purchase, correct?

A. Yes.

REPRESENTATIVE HAYES: Are there other questions?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. I have just one small item, here. You mentioned, Mr. Van Cleave, that Mr. Loux had an obsession for buying the building and that possibly his only motive, to your knowledge, in seeking the purchase of this building was to provide more space for legislators.

A. Right.

Q. Now, I've heard that there could be other reasons for buying this building above and beyond the personal satisfaction of Mr. Loux for providing more space for legislators. Now, do you know of any other possible reasons or are you saying this is the sole reason?

A. No, I just say I don't know if this is the sole reason. This is one reason that I've discussed with him.

Q. Well, I think this is rather important.

A. But I say I don't know. He may have other reasons. Certainly, I couldn't say that this is the sole reason.

Q. Do you just, from your own experience, do you see any need for more office space for the State?

A. Well, that's a matter of judgment.

Q. State Government, including the senators?

A. Well, it's a question of whether they want to build another office building or what they want to do. I mean, this is, I'm sure, something that people will disagree about.

Q. And you did state a minute ago that it was from former Senator Taggart that you first learned of an option?

A. He was the first one to my knowledge that mentioned it to me.

Q. Referred the option?

A. Right. I don't know whether it's...

REPRESENTATIVE HAYES: I have only one more question.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. You've been quoted as stating that the sole purpose of this Committee was to try you, Mr. Van Cleave.

A. Well, I didn't make that statement. I thought Mr. Steineger had made it, but I didn't make it.

Q. It was attributed to you.

A. Well, I don't recall making it, but I'll put it this

way. I felt that I would be involved somewhere along the way.

Q. Pending the Committee's final report, would it be your opinion at the conclusion of your testimony that you've been on trial?

A. Well, I'll put it this way. I'll reserve any judgment on that. I don't want to make any statements to that effect.

REPRESENTATIVE HAYES: Are there further questions?

QUESTIONS BY SENATOR BROMLEY:

Q. I'd like to ask one more question. Since you stated that you did draft or had took part in drafting this veto message, are we to assume that there was no alleged improprieties alleged against anyone by this Veto Message? Is this what I'm to assume, Mr. Van Cleave? In other words, the basis that this was drafted is based on the price, the inability to get all the facts, and the fact that improprieties were, questions were raised, was brought out in the resolution and not in the Veto Message.

A. Well, it was brought out in that and I assume in the newspaper, Senator, but it wasn't brought out in the

Message. The Message just says, "Investigate to get the facts."

Q. Well, these facts, now, could these facts relate to improprieties or do they relate to cost figures to rehabilitate things that we're not supposed to divulge into with this investigating committee, or what do they relate to? Make yourself clear, now.

A. Of course, the only factor, frankly, that I had in mind were obtaining all the facts, full disclosure, of everything regarding the purchase of this property and I don't know what--I mean, there was no accusation in that message against anybody. Now, what the facts will reveal, and I'm sure that's, Senator, that's what the Committee's going to find out, what are the facts.

REPRESENTATIVE HAYES: Representative Peterson?

QUESTIONS BY REPRESENTATIVE PETERSON:

Q. Very briefly, you stated that someone had told you that there was a business association connected with White Lakes with John Harbes and former Senator Thomas. Who told you that?

A. Well, it's a confidential source, frankly, and I can't reveal it, but it was checked out to be completely

false.

Q Between the time that you were told that and you checked it out and found it was false, did you discuss it with anyone, pass it on to anyone?

A Not to my knowledge, not to my knowledge 'cause that was strictly a rumor and I felt it was one that someone ought to check out quickly.

REPRESENTATIVE HAYES: Representative Novak?

QUESTIONS BY REPRESENTATIVE NOVAK:

Q Who, in fact, checked the rumor out, you?

A Yes, sir, I did, found it was completely false.

REPRESENTATIVE HAYES: Are there other questions for Mr. Van Cleave? Thank you.

MR. VAN CLEAVE: Thank you very much. Am I excused?

REPRESENTATIVE HAYES: Would there be any need for further questioning of Representative Van Cleave?

SENATOR TILLOTSON: Mr. Chairman, will he make himself available?

MR. VAN CLEAVE: Yes, I'll be available, but I'll be working downstairs. I'll either be there or my apartment because I take the bills out there and work

them over.

REPRESENTATIVE HAYES: As long as you're available. Would you ask Mr. Taggart to come in next, please.

ROBERT C. TAGGART,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please.

A. Robert Taggart.

Q. And your address?

A. Merchant's Towers, Topeka.

Q. And your profession or occupation?

A. Real estate appraiser.

REPRESENTATIVE HAYES: Senator Tillotson?

QUESTIONS BY SENATOR TILLOTSON:

Q. Did you have any conversation with Thomas Van Cleave in reference to the option someone has on the purchase of the old Merchants National Building?

A. Well, yes, I've discussed with him the purchase of the property, but as to the particulars of an option, no.

Q. You had no conversation with him with reference to the existence of an option on the property?

A. Oh, yes, yes.

SENATOR SIMPSON: Senator Tillotson is asking him about an option on Merchant's National Bank Building.

A. New England Building.

SENATOR TILLOTSON: Correct the record, please.

EXAMINATION
(Continuing)

BY REPRESENTATIVE HAYES:

Q. One moment, Mr. Taggart, in a letter which you received in my capacity as Chairman, I just advised you of your right to counsel during this hearing.

A. Yes.

Q. And is it your desire to proceed without counsel?

A. Yes.

Q. Thank you.

CONTINUING QUESTIONS BY SENATOR TILLOTSON:

Q. Did you, in your conversation with Mr. Van Cleave, advise him that there was an option, that someone had an option to purchase the New England Building?

A. No, sir.

SENATOR TILLOTSON: I have no further questions at this time.

REPRESENTATIVE HAYES: Representative Van Bebber?

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Well, did you, you discussed the fact that there was an option outstanding on it?

A. Mr. Van Bebber, I wonder, I've kind of outlined briefly the knowledge that I have of this and I wondered if I could read it to the Committee and then maybe you could ask me any questions that you want.

REPRESENTATIVE HAYES: Yes, you're permitted to make a statement.

MR. TAGGART: All right.

"Mr. Chairman & Members of the Committee: Pursuant to your request of attendance at this hearing relative to the 1973 House Concurrent Resolution No. 1056, I make the following statements:

"I have no knowledge of any alleged impropriety by any member of the Kansas legislature or employee of the legislative

branch concerning the subject of House Bill No. 1568, nor do I have any knowledge of any alleged influence exerted upon the governor to veto said House Bill, by the landlord or property owner of any property in which any state agency is now located in the city of Topeka, or by the state agency heads of the executive branch, appointees thereof or appointees of the governor, whether such appointees have an official title or not, nor did I have occasion to read House Bill 1568 until it was included in the papers forwarded to me together with the subpoena duces tecum received April 9, 1973.

"Early in 1972, Mr. William Hall, one of the owners of the building approached me for an opinion as to whether it would be in his best interest to give an option on the New England Building. I discussed the matter with him and gave him my views, and was not aware that he gave an option until January of 1973. I did not discuss an option price with him.

"I have been approached by members of the legislature and employees of the governor, concerning my opinion as to the value of the property, whether I had made an appraisal of the property, and my opinion of the structural qualities of the building. I gave no opinion as to value, I have made no appraisal of the property other than the valuation for ad valorem tax purposes which was made by the company with which I was associated during the re-appraisal of Shawnee County in 1968, nor did I give an opinion of the building structurally other than to say that as far as I know it was structurally sound.

"I have not discussed the property with Mr. C. Y. Thomas, nor with Mr. John Harbes who I understand has the option on the property. When Mr. Harbes left the Urban Renewal Agency of Topeka and obtained a real estate license, he left it in my office for a short period of time; we had no business dealings and I think he subsequently located

with Kirk Realtors and moved his license to that firm office.

"From time to time throughout this legislative session, I have discussed the status of the purchase by the state with Bill and/or Steve Hall.

"I have no present or contemplated interest in the property.

"I will be happy to answer questions of the committee."

REPRESENTATIVE HAYES: Now, are there any further questions? Mr. Van Bebber?

Q (By Mr. Van Bebber) So, you told Mr. Van Cleave that you had knowledge of an option?

A. Well, that quite possibly could have been. I don't recall the sequence of events whether or not I learned that there was an option on the property from the Halls or whether or not I read it in the paper, but I had discussed the option with Mr. Van Cleave as to the amount of it which I had no knowledge of and don't have any knowledge of now.

REPRESENTATIVE HAYES: Are there other questions for Mr. Taggart?

Q. (By Mr. Van Bebber) How did your conversation with Mr. Van Cleave about this come about? Did he approach you or did you approach him?

A. That's awfully hard to recall. He might have inquired of me as to the value of the building. I'll tell you, let me go back a little further. Probably, would it have been two years ago or a year ago when the building was offered to the State? Whatever time that the State, that the First National Building was purchased, was that two years ago?

SENATOR STOREY: A year ago.

A. A year ago? I had knowledge at that time that the building had been offered to the State. I didn't know at what figure, but at that time through Bill and Steve Hall I had discussed the building with Mr. Van Cleave. Probably, this may have lead to our conversations in regard to the option on the building and he asked, you know, some questions about the value of it and so on which I have not given anybody an opinion as to its value.

REPRESENTATIVE HAYES: Senator Simpson?

QUESTIONS BY SENATOR SIMPSON:

Q. I'm not quite clear. You just help me understand a

little better. You said early in 1972 you discussed the matter of a giving of an option on this building with Mr. Hall. Is that right?

A. Yes, he asked me about it.

Q. And, then, you said, then, you were aware of an option in perhaps January of 1973 or early in 1973, did you say?

A. Yes.

Q. And, then, when was it again that you talked with Mr. Van Cleave about the option here? Have you talked with him since January, 1973 about it?

A. Oh, yes, many times, yes.

Q. When did you first talk with him about the option?

A. Well, I think probably it would have been at the time that there was something in the paper about it, about the bill that had been introduced.

Q. What, again, did you tell him at that point?

A. Well, I just really don't know other than we discussed whether or not I knew that there was an option and what the option price was, which I didn't know.

Q. You told him there was an option at least?

A. Well, I assumed there was an option because I read it in the paper. I think that's the first that I knew of

the option.

Q. You read it in the paper as a result of these negotiations for the Legislature?

A. Yes, I believe that's right.

REPRESENTATIVE HAYES: Representative
Van Bebber?

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. At that time, did Mr. Van Cleave appear to be aware that there was an option?

A. Yes, I think so.

REPRESENTATIVE HAYES: Representative
Graber?

QUESTIONS BY REPRESENTATIVE GRABER:

Q. Mr. Hall was just asking about giving up an option. Is that right?

A. Yes.

Q. He never told you whether he gave an option or not?

A. Of the amount.

Q. Actually, gave an option?

A. No, he didn't. I didn't know he had until January of this year.

REPRESENTATIVE HAYES: Senator Bromley?

QUESTIONS BY SENATOR BROMLEY:

Q. Mr. Taggart, did you also discuss this New England Building with Mr. C. Y. Thomas?

A. No, I've never talked to Mr. Thomas.

Q. You also stated that the only value that you had ever discussed with anyone was on the ad valorem for ad valorem tax purposes.

A. I've never discussed that with anyone since the hearing that we had on valuations on properties and I couldn't tell you today what we valued the property. There's been a reduction in it by the State Board of Tax Appeals and I don't even remember what it was valued at that time. I've made it a point not to even go look it up.

Q. Well, in your opening statement, you made reference to the fact that this option was given on January, 1973.

How did you obtain that information?

A. I just found that there was an option in January of '73.

Q. How did you go about finding that?

A. I think from the newspaper when the legislation was introduced and I think the newspaper stated that there was an option on the property.

Q. January 1st, 1973?

A. No, it was sometime, I think, during the month of January.

Q. You stated on your opening statement that the option was acquired January the 1st.

A. No, I don't think I said January 1st.

Q. Would you mind leaving your statement to be introduced as an exhibit?

A. Yes. I said that I was not aware that he gave an option until January of 1973.

SENATOR TILLOTSON: Mr. Chairman?

REPRESENTATIVE HAYES: Yes?

SENATOR TILLOTSON: May I ask a question of Mr., Senator Taggart?

QUESTIONS BY SENATOR TILLOTSON:

Q. In your many discussions with Mr. Van Cleave, did the price, was a price quoted or discussed as to whether it was favorable or unfavorable?

A. No.

Q. Any discussion--you had no discussion with him on price?

A. No, the only discussion that I recall on that, Senator, would have been the discussion as to the allocations of

the amounts of money for that property, two parking lots, and the Bell Telephone property.

Q. Your discussion included all the property for the contemplated purchase?

A. Yes, any particular reference to that property. The discussion was confined to the question as to how much the building had been offered to the State a year ago and Mr. Van Cleave didn't know that and I didn't know it.

SENATOR TILLOTSON: I don't have anything further.

SENATOR BROMLEY: Mr. Chairman, I would like to ask one question.

QUESTIONS BY SENATOR BROMLEY:

Q. Did you discuss values of the property or were you ever approached by Representative Loux or any of the other legislators regarding the value of this property we're speaking on here today?

A. Yes, I've been asked opinions and I've never given anybody an opinion as to value. I've told them they've asked, I think, more relative to the fact if I'd ever made an appraisal of the property.

Q. Would you mind telling us who those senators or representatives might have been?

A. Well, to the best of my ability I could. There could have been more than--I've discussed it with Senator Bennett. Now, these may be in regard to the items that I listed, one or more of the items listed in my statement, here. Representative Smith, Senator Riley, there were a couple other members of the House Ways and Means Committee that I had talked to about it, but I can't recall their names.

Q. How did you know they were on the House Ways and Means Committee? Did they state that they were?

A. No, I'm just familiar with the legislative committees.

REPRESENTATIVE HAYES: Senator Simpson?

QUESTIONS BY SENATOR SIMPSON:

Q. You said you had numerous discussions with Mr. Van Cleave about this option, apparently, starting in January. Is that correct?

A. Oh, yes, I would say we probably discussed it four or five times.

Q. What were the nature of your discussions?

A. The primary considerations in the discussion had to do with the length of the option, the whereabouts of the option.

Q. Did you disclose anything or give him any information?

A. I didn't have any information.

Q. He was asking you about this information?

A. He was asking me, he was asking me as a real estate man; number one, he said, "When you take an option on a property, don't you usually take an option for a given period of time?" I said, "Yes." Is there any consideration in the option? I said, "It depends on the period of time that the option is taken." What was the other point I mentioned?

SENATOR STOREY: Length of time.

A. The length of the option, that was mentioned. I think those were primarily the points that--(interrupted)

Q. (By Senator Simpson) You discussed the nature of how an option would operate or--(interrupted)

A. He asked if I were optioning a piece of property, would I option it for a given period of time or are options for a given period of time in most of your real estate dealings and I said, "Yes."

Q. Well, then, you knew about these kind of things in January or sometime early after there was some knowledge about this option. You had numerous discussions with him. Did each time you go into this same little procedure about the length and the option?

A. No, I think each point was probably discussed at different times. I think his main purpose in asking me the questions was in regard to any knowledge that I might have about the building or the option or the procedures of the option.

Q. And did he ask you about the terms of the option on more than one occasion?

A. No. Well, he asked me also, he said he wondered why, he wondered why he was unable to see the option.

Q. What did you tell him about that?

A. No, I didn't know any reason why he couldn't see it.

Q. Did he think you had a copy of the option?

A. No.

Q. How many times would you have discussed this with him? You said numerous?

A. Oh, I see Tom all the time throughout the session. He's a personal friend of mine and probably we've discussed this four or five times.

QUESTIONS BY SENATOR BROMLEY:

Q. This is what I'd like to ask you is just more or less make an inquiry. If you were to take an option on a piece of property like this, yourself being an appraiser, for that amount of value, wouldn't you have,

as just according to sound business ethics, wouldn't you have filed that for record in the Shawnee County Register of Deeds if you had taken an option on it?

A. Not necessarily. It would depend, I think, on the period of time that I took the option. If it was, you know, for two or three years, I might do it.

Q. Okay, thank you.

R.5 REPRESENTATIVE HAYES: One more question, Mr. Taggart. Did I understand your testimony correctly that during one or more of the discussions with Van Cleave on the proposal that neither you nor he knew the price for which the building was offered prior?

A. Yes, that's right.

REPRESENTATIVE HAYES: Any other questions?
Thank you, Mr. Taggart.

JACK F. STEINEGER,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

REPRESENTATIVE HAYES: In my letter to you dated last Sunday, I advised you of your right to counsel before or during the deliberations of the

Committee. Do you wish to appear without counsel?

SENATOR STEINEGER: Yes, sir, Mr. Chairman. I will appear pro se and before we begin I should have raised another motion this morning and with the Chairman's permission I would like to raise it at this time.

REPRESENTATIVE HAYES: Your request is granted.

SENATOR STEINEGER: I understand that we're dealing with House Concurrent Resolution 1056. That I believe is correct?

REPRESENTATIVE HAYES: That's the resolution which authorized the appointment of this Committee.

SENATOR STEINEGER: Now, 1056 is, as my understanding, has not been signed by the Governor. 1056 further authorizes compulsory process with the necessary enforcements of fine or imprisonment therein.

MR. CARMEN: Mr. Chairman, may the record show that I'm handing the witness the documents accompanying the subpoenas of all the witnesses saying the statute under which this Committee operates, House Bill 1568, the Governor's Veto Message, and out of it the Concurrent Resolution to which we referred.

SENATOR STEINEGER: But, 1056 has not been signed by the Governor, if I'm not mistaken. Is that correct?

MR. CARMEN: Concurrent Resolutions are never signed by the Governor.

SENATOR STEINEGER: I would refer the Committee to several cases, the case of Coleman vs. Miller, 390 Kansas, and particularly page 396.

REPRESENTATIVE HAYES: What citations are those?

SENATOR STEINEGER: Coleman vs. Miller.

REPRESENTATIVE HAYES: I think you inadvertently said 390 Kansas.

SENATOR STEINEGER: Yes, Mr. Chairman, I did.

(THEREUPON, at this time an off-the-record discussion was held, after which the following proceedings were had, to-wit:)

SENATOR STEINEGER: State, ex rel., vs. Knapp; I believe that is one or two Kansas, page 701, and both of these cases, they suggest of this attorney that whenever you attempt to utilize the power of compulsory process involving fine and imprisonment that must be a law, it must be signed by the Governor. You have attempted and your resolution authorizes

compulsory process in this matter. This resolution has not been signed by the Governor. I submit that under these cases the sole proceeding is an illegal proceeding and I think the Committee may want to delve into that question and perhaps have the Attorney General research it.

REPRESENTATIVE HAYES: Mr. Carmen?

MR. CARMEN: Mr. Chairman, the Committee is proceeding as directed by the Legislature under HCR 1056. They are operating under the legislative authority granted by statute by bill passed, signed by the Governor, and Article 10 of Chapter 46 of Kansas Statutes Annotated which authorizes the issuance of subpoenas and the taking of testimony and so forth. A copy of this, I did hand you.

SENATOR STEINEGER: Yes, but you're missing the point, Mr. Carmen.

MR. CARMEN: I must be.

SENATOR STEINEGER: Let me read to you, then, from Coleman vs. Miller, Page 396. "Concurrent Resolutions are used to express the will or sentiment of both houses of the legislature, and therefore must be acted upon by both houses. There has been

considerable confusion in Kansas and in many other states concerning the distinction between concurrent and joint resolutions, and in Kansas the process is far from standardized. A study of precedents, however, shows that concurrent resolutions are always used in two classes of cases. The first general group concerns the mere expression of an opinion or sentiment by the legislature. Resolutions memorializing congress, relating to the death of a public man, or expressing an opinion on any subject in contrast to passing a law thereon are regularly in the form of concurrent resolutions. In the second group, definite action is taken, binding, however, solely upon the legislature itself and its officers, and not affecting directly the rights of any person not members of this legislature." Now, when we issue compulsory process affecting the members and parties who are not members of the Legislature with the right, theoretically or purportedly, to fine or imprison, you have gone beyond the bounds laid down by the State Supreme Court.

REPRESENTATIVE HAYES: It will be the ruling of the Chair that because of the enactment of the statute under which we're operating and the further

direction of Governor Docking in his veto message that the hearing be conducted after the Committee has been appointed, that your motion is overruled.

SENATOR STEINEGER: Thank you, Mr. Chairman, and I will offer in evidence the photostat opinions of State, ex rel., vs. Knapp and Coleman vs. Miller.

(Exhibits G, H, and I marked for identification by the Reporter, Exhibit G being in connection with Robert C. Taggart's testimony.)

REPRESENTATIVE HAYES: They will be received.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. State your name, please.

A. Jack F. Steineger.

Q. Address?

A. My home address is Muncie, Kansas, a suburb of Kansas City.

Q. And your profession or occupation?

A. I am an attorney.

REPRESENTATIVE HAYES: You may question, Senator Tillotson.

SENATOR TILLOTSON: No questions at this time.

REPRESENTATIVE VAN BEBBER: No questions at this time.

SENATOR STOREY: I have no questions.

SENATOR SIMPSON: (Shaking head from side to side.)

SENATOR BROMLEY: I have no questions.

REPRESENTATIVE GRABER: No questions.

REPRESENTATIVE BURKE: (Shaking head from side to side.)

REPRESENTATIVE PARRISH: (Shaking head from side to side.)

REPRESENTATIVE NOVAK: I have one question.

QUESTIONS BY REPRESENTATIVE NOVAK:

- Q. I'm concerned, Senator, with your deep desire to state that this Committee is illegal and unconstitutional. I mean, do you have any reason behind this desire to point this out to them?
- A. Yes, as speaking now as representative of the minority party and the Senate Minority Leader, I think under the two decisions that I've just handed you that this Committee is without the power to issue compulsory process affecting the third parties outside of the Legislature which could result in fine or imprisonment

without the signature of the Government on that concurrent resolution. In other words, it is not a law because it has not been signed by the Governor; hence, there is no authority to compulsory process.

Q. Since you are a member of the Legislature, no, Senator, this does not affect you.

A. It would not apply to me. It would apply to all third parties that have been subpoenaed who are not members of the Legislature.

Q. Why should you object so strenuously?

A. Because I object anytime we attempt to violate or impede or try to draw up our own rules of what's constitutional and what isn't. I object strenuously to that and have throughout the whole session.

Q. Has the Attorney General given an opinion which would substantiate this?

A. No, but I encourage him to refer to this particular point that I have found out and I say, Chairman, this has only come, this has been the result of an all night research and frankly just as of this morning, otherwise I would have made the motion earlier.

Q. How long do you suppose this opinion will be in coming from the Attorney General?

A. Pardon?

Q. Have you requested an opinion from the Attorney General's Office?

A. No, I don't think that's my province. I think it would be the province of this Committee. I would be happy to do so. I have no objection.

QUESTIONS BY SENATOR STOREY:

Q. Senator, may I ask you for the purposes of this hearing if you desire to answer, do you know anything about any alleged wrongdoings concerning the purchase of the property contained in House Bill 1568?

A. Senator, my answer to that is "no" and secondly I would have no way of, in my opinion, of knowing of any alleged wrongdoings, so let me make a volunteered statement. You will recall early in the session I was complaining on the floor of the Senate about the failure of the majority party to assign office space to members of the minority party and this, as you may recall, continued over a period of several days and I was considerably upset about the matter. As you know, the minority leader's office is still over there at the corner of the Senate. At one time, I was handed by one of the members of the leadership, a two-page

document which happened to be a photostat document and the front page was full of figures and the second page was about half full of figures and I said, "What's this?" And they said, "This is a proposal to buy a new building and provide office space for everybody," and just, you know, hold your water, so to speak, and I paid little or no attention to it because: Number one, it's a rather complicated document and frankly I've looked through my files. I don't know what I did with it. I suspect I threw it in the wastebasket because the figures to me were meaningless, but they were complicated figures and I say with a page and a half of photostat figures and I think I showed it to my administrative aide or handed it to him and I've had him look through our files. We've attempted to find it. We can't find it or come up with it. I can only presume that we threw it away. Other than that, I know very little about it other than the fact that again requesting office space, I had a conversation at one time with one member of the National Guard who pointed out that the State already owns property out here west somewhere, that they wanted a new National Guard building and the cost of this building would be

roughly a million dollars and if they could get the new building, they could free up a lot of space here in the capitol. At the time, I was complaining about the lack of office space and that suggestion was made. Now, other than that, I have no knowledge. I did not pursue any of these matters. I played no role in any of these matters. I understood that there were negotiations being carried out by Mr. C. Y. Thomas. I was told they were being carried out by Mr. C. Y. Thomas and Mr. Rex Borgen and the nature and extent of which I did not inquire about. Frankly, I had little or no interest in this. I had many more important things on my mind at that time and that is about the limit of my knowledge of the whole affair.

MR. CARMEN: Mr. Chairman, before this witness leaves, I think he should be further advised as to the authority of the Committee since he has inquired. Senator Steineger, House Bill 1526 amended the compulsory process statute and the contents of that bill appears in the second page of the handout that I gave you a minute ago, in K.S.A. 1972 Supp. 46-1004, you will--(interrupted)

SENATOR STEINEGER: I'm not following you. How

far down the page?

MR. CARMEN: About Section C, which I will read out loud.

"(c) The following investigating committees are authorized to exercise the powers of compulsory process in connection with any authorized subject of inquiry, study or investigation only when specifically authorized to do so by the legislative coordinating council:

"(2) Any select committee appointed by the legislative coordinating council."
Here is a copy, then, certified, of the minutes of the Legislative Coordinating Council appointing this Committee to carry out the instructions under HCR 1056. Further, now, in the second section on the page, I would draw your attention to the language there, "subject to the limitations of K.S.A. 1972 Supp. 46-1004, as amended, a subject of inquiry, study or investigation of an investigating committee is authorized when: (b) the subject of inquiry, study or investigation has been authorized and directed by a resolution of the House of Representatives or the Senate, or by a concurrent resolution, joint resolution

or statute."

SENATOR STEINEGER: Yes. In reply to that, let me say that you and I are not on the same wavelength. I quite agree the 27 members of the Senate can pass any kind of legislation, or 21 members, can pass any kind of legislation they want to except for one caveat and that caveat is the Supreme Court or the judicial power of the State and two cases that I have given to you indicate to me that this statute is illegally drawn because you are attempting to provide compulsory process to third parties who are not members of the Legislature who could be fined or imprisoned and this resolution does not bear the signature of the Governor and hence is not a law or a statute.

REPRESENTATIVE HAYES: Thank you, Senator. We respect your opinion. I have two more questions before you're excused.

SENATOR STEINEGER: Yes, sir.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q Have you at any time since January 1, 1973, discussed the matter contained in House Bill 1568 with Mr. Van Cleave or Governor Docking?

A. Let's see, January 1 would be--well, that would be prior to the beginning of this session.

Q. Yes, or since that time.

A. No, not prior to the beginning of the session. When I was handed this two-page document that I told you about and was told to take it easy, that this office space was going to get sold, I inquired, "Does the Governor know about this?" And the answer was no. I replied, "Don't you think we had better inform the Governor of this proposal of what's in the wind before he reads about it in the newspaper?" And the answer was yes and the Governor was so informed at that time by telephone.

Q. By yourself?

A. By myself and by Mr.--well, not by myself, by Mr. Pete Loux and I was present.

Q. The second part of my question, have you ever discussed the proposal with Mr. Van Cleave at any time from January 1 until present?

A. Yes, I'm sure I have in a general way. I know that it is his opinion that it is a very poor purchase. I know that he urged that the minority members go down and view the building. I attempted, I worked to get a

veto for the bill. The bill was vetoed. I recommended, I believe, to many of the Democrat members that the bill should be vetoed and I further recommended that there should be some sort of an appraisal set up, made, before any purchases like this were entered into.

Q. Other than the value of the building which is beyond the scope of our assignment, could you give us any information upon which you based the recommendation that the bill be vetoed?

A. Yes, yes. I have a serious question in my mind with the amount of property that the State owns and the nice plans that I have seen to build new structures and I know that we've had the Capitol Area Planning thing going for these many years, 8, 9, and 10 years, that it's questionable to me why we should continue to buy rather old, antiquated buildings. Why wouldn't it be smarter, for example, to spend a million dollars and build a new building for the National Guard and get them out of here and use that space. Number two, I was very impressed with remarks made by the Senator from Leavenworth, particularly when he pointed out and reminded me, because in my law business I have come across many situations where it's much cheaper to rent

or lease than to attempt to own and maintain and repair an old building, and that made a very decided impression on my mind; so, yes, those factors were a part of my personal consideration and I still hold to those views. I think that the proper solution is to move ahead with the Capitol Area Planning, that we need immediate space. Let's do, let's put the National Guard, build their building for them and get that space because apparently the pricetag on that is only a million dollars and we already own the ground and last but not least, I disfavor the concept of spreading the State Government all over the whole city of Topeka and last but not least, I have been in one old building that we purchased. In my opinion, it was a sorry waste expenditure of taxpayers' money.

REPRESENTATIVE HAYES: Are there further questions of Senator Steineger?

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Senator, I don't know if it was brought out or not. Did the Governor seek your opinion on matters of the veto?

A. No, he did not.

Q. He made the decision on his own without your

consultation or Mr. Van Cleave's?

A. Without my consultation. I don't know who he conferred with on it.

Q. But he did confer with someone?

A. No. However, in all candor, there was going to be a veto of that bill.

Q. What led you to this?

A. Well, public statements that it seems to me that I had, that I'd heard about it. There was considerable question raised about it. I know there were several luncheons held to attempt to persuade Democratic members of the Senate to support it and several meetings. In fact, we had a Democrat caucus, called a Democratic caucus to discuss the proposition and it was discussed and some of the proponents of the bill invited the Democrat members to lunch and took them to a luncheon and I did not attend the luncheon, but I talked to members and so forth after they came back and most everyone was kind of shaking their head.

Q. In your opinion, did you feel that the Governor had abundant prior knowledge, then, before this bill even came up, concerning this building and concerning the whole project?

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- A. I really can't answer that. I can tell you that when the Governor was first apprised of this proposal over the telephone, he seemed to know quite a bit about the building, who owned it, how long it had been on the market. I was amazed at his knowledge of that particular piece of property.
- Q. Well, my last question then, do you feel that the Governor could shed light to this committee as to the surroundings leading up to this investigation? You say--(interrupted)
- A. Well, you're asking me to speculate on something. I--
(interrupted)
- Q. Well, you said he had a lot of knowledge concerning this, it appeared that he had a lot of knowledge. Do you suppose he could expound on it to this Committee?
- A. I'm sorry. I don't think the Committee Chairman will require me to speculate. I've told you what I know. You can draw your own conclusions.

REPRESENTATIVE HAYES: No, that would be my conclusion.

EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. You mentioned something about your conversation with

the Governor when this first came up, that you advised him about it or he talked about it and he seemed to have quite a bit of knowledge.

A. I said that when this proposal was first handed to me on this two-sheet page, I inquired, "Does the Governor know about this proposal?" I was informed that he did not. I made the recommendation that, "Well, don't you think that we'd better inform the Governor of this before he reads about it in the newspaper," because about this time the newspaper stories were beginning to pop up and around that there was a deal going and the answer was, "Yes, maybe we better," and so he was called over the telephone and one of the legislators, not myself, talked to him about this deal over the telephone.

Q. Well, in a question a minute ago, you said that the Governor expressed quite a bit of knowledge about it.

A. I was surprised.

Q. What were you surprised about?

A. Oh, that, for example, one thing I recall is he knew the names of the owners of the building and, I'm sorry, I can't recall the details, but he knew quite a bit.

Q. Are you talking about the option?

A. No, I don't think I'm talking about an option. You're going back awhile, but he knew quite a bit about the building. My recollection is something like that, it's been on the market so many years; yes, so and so owns that building; yes, so and so was bickering for it, and something like that and so forth and so on. I was surprised that he knew more about the building than the people making the proposal, to be quite honest.

Q. You mentioned earlier, I think, something about you urged him to veto it or others urged him to veto the thing. Is that right or wrong or did I misunderstand?

A. No, I think you misunderstood. I never even talked to him about a veto one way or another. However, I assumed, and at what point I don't know, but I assumed somewhere along the line it was probably going to be vetoed and then, yes, in the final, when the final veto came up as minority leader and after a caucus of the Democrats and after a luncheon that I had referred to and a number of conversations among the Democratic members of the Senate, I was reasonably confident it was going to be vetoed as far as most of the Democrats were concerned, yes.

Q. Was there anyone who urged him to veto it?

A. Well, now, you're asking me to speculate. I'm afraid I don't know of anyone.

Q. Do you know of anyone who urged him to veto--(interrupted)

A. No, I don't know of anyone, no.

REPRESENTATIVE HAYES: All right, thank you very much, Senator.

ROBERT M. BUNTEN,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes to tell the truth, the whole truth, and nothing but the truth, testified as follows:

REPRESENTATIVE HAYES: Mr. Bunten, in a letter that I wrote to you last Sunday, I pointed out that under the statutes that this Committee is operating, you are entitled to be represented by counsel before and during the hearing and to rely on the advice of such attorney. Are you represented?

MR. BUNTEN: No.

REPRESENTATIVE HAYES: And do you desire to waive the right to be represented?

MR. BUNTEN: Yes.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Robert M. Bunten.

Q. What is your address?

A. Chairman of the Board of the Merchant's National Bank of Topeka.

Q. And your home address in Topeka?

A. 1540 Lakeside.

Q. Mr. Bunten, the reason that you are here is that your name appeared as a witness before the Ways and Means Committee during the 1973 Session. Do you recall that appearance?

A. Yes.

REPRESENTATIVE HAYES: Senator Tillotson, do you have any questions?

SENATOR TILLOTSON: Not at this time.

REPRESENTATIVE VAN BEBBER: No.

QUESTIONS BY SENATOR STOREY:

Q. Mr. Bunten, who owns the New England Building?

A. Well, I understand that the New England Building is owned by Bill and Steve Hall. They own 50 percent of it and Gleed Thompson and his sister own the other

half.

Q . You have no interest in the building?

A. I have what?

Q. Do you have any interest in the building?

A. Absolutely none.

Q. Or any of the properties surrounding that are mentioned?

A. The only property to the west of the New England Building is a place where we used to have a motor bank facility. It's a hundred feet, on Jackson Street, at about a hundred and fifty feet deep. We're using it presently for a parking lot.

Q. You haven't been connected with any dealings to sell or purchase the New England Building?

A. I didn't hear you.

Q. Have you been connected with any dealings to sell or purchase the New England Building property?

A. I know of nothing.

Q. You know of nothing about these negotiations, do you?

A. No, I have heard indirectly of the negotiations, but I have no direct knowledge of the negotiations.

SENATOR STOREY: Thank you, that's all.

QUESTIONS BY SENATOR SIMPSON:

Q. Why did you appear before the Ways and Means Committee in connection with this purchase, Mr. Bunten?

A. Because I was asked to appear.

Q. What was the nature of your statement to the Committee, if you made a statement to them?

A. The nature of my statement to the Committee?

Q. Did you testify before the Committee or make any statement in regard to anything?

A. I just merely appeared and answered a few questions.

Q. What was the nature of the questions you answered, about what?

A. I think possibly did we own some property in the area-- that was, the bank owns some property in the area and we understood that they--part of it, the State wanted to acquire these lots for a parking facility. My appearance before the Ways and Means Committee was--I can't especially remember that they asked me any questions at all.

SENATOR STOREY: There is in our folder the minutes of the Ways and Means Committee hearing. Mr. Bunten, I believe, was asked to appear because of the Merchant's National Bank had been in that building

at that time.

QUESTIONS BY SENATOR STOREY:

Q At that time, Mr. Bunten, I believe you hadn't offered that parking lot for sale. You hadn't been contacted from Mr. Neiswanger to purchase it, but you would sell it and that's the extent of what you knew about this, isn't it?

A This is right.

REPRESENTATIVE NOVAK: That was my question, Mr. Chairman.

REPRESENTATIVE HAYES: Are you in a position to have any information of any nature bearing on the alleged improprieties in connection with the negotiations?

MR. BUNTEN: I don't know a thing about it.

QUESTIONS BY SENATOR BROMLEY:

Q Do you own any property here in the City of Topeka that the State now holds a lease on?

A No.

Q Does the bank that you're president of, does it own any property?

A Say that again.

Q. Does the bank of which you are a president of, do they own any property that now houses any State agency?

A. I don't believe we have any State office tenants or State Department tenants in our building.

REPRESENTATIVE HAYES: Are there further questions of Mr. Buntten? Thank you very much for your courtesy.

MR. BUNTEN: May I be excused, now?

REPRESENTATIVE HAYES: Yes.

MR. BUNTEN: Thank you.

MR. CORNISH: Mr. Chairman, I appear on behalf of Mr. Hall as L. M. Cornish, Jr., Topeka, Kansas.

REPRESENTATIVE HAYES: Yes, I was going to acknowledge your representation.

STEPHEN M. HALL,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Your name, please?

A. Stephen M. Hall.

Q. And your address?

A. 210 Yorkshire Road, Topeka.

Q. And your business or profession?

A. I'm president of the Merchant's National Bank of Topeka; in addition, I'm vice president of the New England Building Company.

Q. Mr. Hall, the reason for your having been requested to appear is the fact that you did appear before the Ways and Means Committee during the 1973 Session.

REPRESENTATIVE HAYES: Senator Tillotson, do you have questions?

SENATOR TILLOTSON: No, thank you.

REPRESENTATIVE VAN BEBBER: Do you have a prepared statement or any statement you want to make as a preliminary here today, Mr. Hall?

MR. HALL: I don't believe so.

SENATOR SIMPSON: No questions.

SENATOR STOREY: I have no questions.

QUESTIONS BY SENATOR BROMLEY:

Q. Mr. Hall, you say you're the vice president of the New England Building Company?

A. Yes, sir.

Q. Were you involved in any negotiations with any member of the legislature regarding the sale of that building?

A. No, sir.

Q. You were not?

A. No, sir.

Q. Are you aware of any details connected with the negotiations pertaining to the purchase of that building?

REPRESENTATIVE HAYES: Would you like the question rephrased?

A. Yes, that would be helpful.

REPRESENTATIVE HAYES: Senator, could you rephrase the question? I don't think the witness understands.

SENATOR BROMLEY: What I want to know is if he was involved in any way or aware of the negotiations of the sale or the negotiations of the sale of that building to the State of Kansas.

REPRESENTATIVE HAYES: I think he's testified that he was not involved in the negotiations.

Q. (By Senator Bromley) Mr. Hall, were you aware that the negotiations were being conducted?

A. Well, yes, I was aware that there had been an interest expressed by representatives of the State in the building and adjoining properties.

Q. By what method were you aware of this, Mr. Hall? I mean, did someone tell you this?

A. Yes.

Q. Was it people who owns the building or was it people who were members of the State Legislature?

A. Well, it was through the managing agent of the New England Building Company, who was initially contacted and as an owner or part owner of the building, why he just reported the fact to me that a representative of the State had come to the building inquiring about its availability.

Q. Did he mention who the representative of the State might be?

A. Yes.

Q. Would you mind telling us who that was?

A. Mr. C. Y. Thomas.

Q. Mr. C. Y. Thomas. Can you say this gentleman's name that Mr. C. Y. Thomas came to see? Who was he?

A. Mr. David M. Neiswanger.

Q. Mr. David M. Neiswanger. At what length did he

discuss this sale of that building with you? Did he get into details as to prices and terms?

A. Excuse me, but did whom discuss with me?

Q. The business manager, Mr. David Neiswanger.

A. M-hmn.

Q. As I understand it, you discussed that there was a possibility that the building would be sold. You discussed this with Mr. Neiswanger, right?

A. Mr. Neiswanger reported to me.

Q. C. Y. Thomas?

A. Or Mr. Neiswanger reported that Mr. Thomas had made inquiry concerning the possibility of acquiring the New England Building and other properties in the area. Mr. Neiswanger reported that he told Mr. Thomas that he would suggest he visit with Mr. John Harbes, who had an option on the building.

Q. Are you aware of what time Mr. Harbes took an option on this building?

A. Yes.

Q. Could you give us that date?

A. I could.

Q. Would you?

A. If it would seem of importance to the Committee.

Q Well, I would like to have that date, if you wouldn't mind giving it to us.

A My recollection is that it's dated January 5, '73.

Q Can you tell us how much money he paid for this option?

A Yes.

Q I'd appreciate having that information.

A \$1.00.

Q \$1.00 for a six-month option?

A That's correct.

Q Any other considerations?

A None.

SENATOR BROMLEY: I have no further questions, Mr. Chairman.

MR. HALL: Maybe it would be well to back up a little bit and refer to a letter that I wrote to the Chairman of the House Ways and Means Committee, a copy to the Chairman of the Senate Ways and Means Committee, which I believe was dated March 12th and which I set out in this letter that Mr. Harbes had been visiting with the owners of the New England Building in the spring of 1972, May, '72, was the date I used although during the summer and fall of 1972,

Mr. Harbes was vigorously pursuing plans for the redevelopment of the New England Building and as I say, during the summer or early fall, 1972, why the owners of the building and Mr. Harbes had reached a complete understanding as to what the terms and conditions of this option were to be when it would finally be reduced to a written agreement, so during this period of time he had consulted with, as I understand, various people about this, his interest in exercising the option on the building and redeveloping it; in effect, just putting a new exterior on it and this sort of thing.

REPRESENTATIVE HAYES: Representative
Van Bebber?

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

- Q. So, these negotiations for the option had continued over a period of seven or eight or nine months, had they?
- A. Yes, since May of '72 that we reached an understanding. We had a meeting of the minds on the project.
- Q. And you wrote the letter, then, to Mr. Hill, the Chairman of the House Ways and Means Committee, advising him of those negotiations?

A. Correct.

Q. But you didn't participate in any negotiations, as I understand it, with representatives of the State of Kansas or the Legislature in connection with the State's interest in the acquisition of the building?

A. None whatsoever.

Q. All right. Now, going back to the option, this was finally signed on January the 5th, 1973?

A. Yes.

Q. And it was a six-month option?

A. Yes.

Q. Did it have any provisions or does it have any provisions for renewal? Is it extendable?

A. I just don't recall. I think that if--it does not.

Q. So, it will expire of its own terms on the 16th of July?

A. Correct.

Q. Of this year. And could you tell us what this option would enable Mr. Harbes to purchase the building for? What figure does it involve should he elect to exercise this option?

A. Yes, I could certainly tell you the option price and it is for a consideration of \$500,000.

REPRESENTATIVE HAYES: Senator Simpson?

QUESTIONS BY SENATOR SIMPSON:

Q Did you discuss the matter of this option with anyone else from the Legislature?

A No, sir.

Q Or any employee of the State?

A No, sir.

Q Or a representative from the Governor's Office?

A No, sir.

Q You have not discussed it with anyone in the Government?

A No, sir, I have not.

Q Has anyone attempted to discuss it with you and you refused, perhaps?

A No.

QUESTIONS BY REPRESENTATIVE GRABER:

Q Most of my questions have been answered. Does this \$500,000 price include the parking lots around there?

A No, sir, that only includes the building itself and the four lots on which it is located.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q Do you presently or does the New England Building

Company, is it presently a landlord of the State?

You have some State Offices in there?

A. I believe a portion, a small portion of the basement is leased to a department of the State for storage, as I understand it. I'm not aware that there are any office tenants there. There might be, but I'm just not aware of it.

Q. Have you had any contact with the Governor's Office or representatives of the Executive Branch of the State Government with respect to the Governor's veto of House Bill 1568?

A. No communication at all.

REPRESENTATIVE HAYES: Senator Bromley, did you have another question?

SENATOR BROMLEY: That answers the question.

QUESTIONS BY SENATOR TILLOTSON:

Q. Just to verify one thing. Senator Simpson asked a question, if you discussed this with anyone connected with the State. I believe you did appear before the Ways and Means Committee at which time--(interrupted)

A. Oh, yes, on March 13, yes, I did appear there, but I had had no, you know, private conversations. I was asked to appear there.

SENATOR TILLOTSON: Thank you.

QUESTIONS BY SENATOR BROMLEY:

Q. You say you directed a letter to the Chairman of the Ways and Means Committee. Was that of just the House of Representatives' Ways and Means Committee or also was it the Ways and Means Committee of the Senate?

A. The letter was directed to the Chairman of the House Ways and Means Committee with a copy of the very same letter to the Chairman of the Senate Ways and Means Committee.

Q. And who would that be, Senator Ross Doyen?

A. Yes, sir.

SENATOR BROMLEY: Thank you.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY SENATOR SIMPSON:

Q. Why did you direct the letter to the Chairman of the House Ways and Means Committee? If you stated it, I missed it.

A. I don't believe I did and I would respond to that by saying Mr. John Harbes, the option holder, suggested that perhaps this letter might be a means of assisting or helping to alleviate some of the apparent

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misunderstanding that there might be involved in the proceedings, so I, as an officer of the New England Building Company, wrote the letter.

Q. What sort of misunderstandings did you have reference to, you were trying to clarify?

A. Well, about this time, there were, I gather, public conversations to the effect that there was some mystery about the option and this was causing unrest in some people's minds and apparently this letter might possibly alleviate that unrest if, you know, an officer of the New England Building Company would merely write a letter saying that the circumstances behind the option and the length of time that the discussion had been going on, that this might be helpful and that was the reason for my letter.

REPRESENTATIVE HAYES: Do you have a copy of that letter?

MR. HALL: Yes, sir.

REPRESENTATIVE HAYES: Would you mind making it part of the record?

MR. HALL: No, sir, be happy to.

(Exhibit J marked for identification by the Reporter.)

REPRESENTATIVE HAYES: Any further questions?

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Mr. Hall, are there presently any State offices or agencies occupying the space in the Merchant's National Bank Building or property owned or controlled by that?

A. No, sir.

Q. No State office or anything?

A. Yes, I believe the first question was concerning the New England Building Company, were there any State tenants and I referred to some storage space in the basement and maybe one small office in the New England Building, but no State tenants in the Merchant's National Building.

SENATOR BROMLEY: May I ask who your associate is here?

MR. HALL: This is Mr. L. M. Cornish, Attorney.

REPRESENTATIVE HAYES: Any other questions of Mr. Hall? Thank you, Mr. Hall.

MR. HALL: Thank you.

REPRESENTATIVE HAYES: I take it that Mr. Porter is your counsel for the purposes of this hearing?

MR. HARBES: That is correct.

JOHN HARBES,

called as a witness on behalf of the Select Committee having been first duly sworn on his oath by Representative Hayes to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. John Harbes, living at 1730 High.

Q. And your business or profession?

A. I have a rather varied career. I'm basically a registered civil engineer, which I practiced for 18 and a half years. I am a listed real estate broker. I've been in the wholesale hardware business for some fifteen and a half years. I served on the Topeka Urban Renewal Commission while in the hardware business when we lost our director. I sold out of the hardware business and they invited me to fill in on the Urban Directorship, which I did, thinking I'd be there a year and a half, ended up being there five and a half years. We redeveloped some 30 city blocks, including Townsite Plaza which involved the First National Bank Building; which involves the Bell

Telephone; State Office Building, which involves a \$3,000,000 underground parking facility; Hallmark Plants with 700,000 square feet; the American Home Life Building at 4th and Kansas, a hundred and fifty thousand square feet; Montgomery Ward building; and numerous other facilities that went into this 30 city blocks. Now, in addition, before I resigned after a heart attack, I was responsible for carrying out the developing of the five blocks south of the Statehouse for your Capitol Area project. After that, I became president of Townsite Plaza Development, Inc.

Q. We're charged with the responsibility of inquiring into the proposal that the State acquire the old Merchant's National Building or the New England Building, as it's referred to, and additional properties and that is the reason that you were subpoenaed to be here today.

A. Yes.

REPRESENTATIVE HAYES: Senator Tillotson, do you have questions?

SENATOR TILLOTSON: Not at this moment.

REPRESENTATIVE HAYES: Representative Van Bebber?

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Mr. Harbes, you presently hold an option to purchase the New England Building?

A. Indeed I do.

Q. Is that correct?

A. Yes.

Q. And when did you acquire that option?

A. Well, this is a long story and I think perhaps, I don't know whether you gentlemen--Mr. Porter is here representing me and I'd be happy to relate to you anything that you'd like to know. I would like to ask is this the proper time?

MR. PORTER: Oh, I would think so. I think Mr. Harbes could give an oral statement as to the background of his involvement with the New England Building that may help the Committee to start out with.

REPRESENTATIVE HAYES: That would be fine.

MR. HARBES: If you'll pardon me, I'm going to do something just a little unusual, but I want to show you a piece of material I think that's rather unique. It's something new developed by Pittsburgh Plate Glass and it's a reflective-type thing. I think some of you gentlemen have seen buildings that are very beautiful

that have been developed by this type of material and this is one of the things that I have had in mind in the rehabilitation of the New England Building. Now, let me first say that I officed in the New England Building for five and a half years, and I know the building--well, I think I know it about as well as the back of my hand. I have for many years had in mind that someday when I'd finished some of the other things that I had hoped to accomplish in Topeka, that I might have an opportunity to--call it civic pride or what you may--but I would like to see that building rehabilitated rather than torn down, as we did in so many urban renewal areas. In my judgment it's an unusual building in that the column spacings in it are as good as we would design today. It has two elevators and a third elevator shaft that's never been used which shows a lot of foresight on the part of the people who designed it. It has excellent modern toilet facilities on each and every floor and in my judgment is a sound building, one that certainly should be rehabilitated. Now, as a result of that thinking, I have a letter here that dates back to 19--August 18th, 1967, and it's a letter and if

you don't mind I would like to read it to you. This is a letter from David Neiswanger, president of the Neiswanger Company. It says, "Dear John: I thought you would be interested in seeing the brochure which gives a brief description of the New England Building which is now on the market for sale at a price of \$600,000. If you think of anyone who might be a prospect to either lease a substantial portion of the building or purchase it, we will appreciate it if you will let us know." Now, there's a reason for this because I had many, many contacts, as I think you gentlemen recognize, in the redevelopment of some 30 city blocks in the urban renewal area. Incidentally, every foot of ground has been sold in that area. Now, as a result of that, Dave Neiswanger and I had numerous--he manages, he's the manager. His company manages the New England Building. Now, as a result of that, I finally concluded, and this projection that I have made here interestingly enough is dated January 5, 1972. It's a projection that I made of the New England Building where I start out with 94,000 square feet of the building. I come up with 59,000 square feet of office feet and I assume 4,000 square

feet of retail space. I've concluded the total cost at a million two hundred thousand which includes the cost of the building plus the renovating and the reconditioning of it. I put in architect's fees, development costs, interest, and finance. I put everything that you put into any kind of a projection when you're talking about finding out what your return on the equity is. The return on the equity on this particular projection was thirteen and two-tenths percent. I transmitted this to Mr. Neiswanger and I think his files, if you would inquire, he has a hand memorandum that I wrote him in connection with it. Now, on June 7th, 1972, to hurry along, he sent me, and because he had promised me, he sent me some updated comparative operating figures. This is what I needed to make a refinement of this projection. I did that and on June the 20th--I would be happy to turn this file over to the Committee. I made a projection which I estimated the total cost of a million three hundred thousand dollars. I ended up with a return on equity of twenty-nine and a half percent which is very, very substantial and very, very encouraging. Now, I was in Kansas City one day and I took this projection to

the Massachusetts Mutual Life Insurance Company. Now, this was in June of 1972, and as a result I left the brochure covering the building. The Massachusetts Mutual people are familiar with this structure. They thanked me for coming in and I left them with this projection. I received a letter unsolicited dated June the 29th, 1972, in reference to the New England Building. It's signed by David D. Nelson, N-e-l-s-o-n. He says, "Dear Mr. Harbes: I reviewed the figures you left with me while in our office this week. I concluded that on the basis of the company's underwriting techniques we would estimate a loan value of approximately \$1 million after remodeling." It goes on to say other things. Now, this indeed was encouraging and this was one of the things that provoked me to go back to these people. I resigned as vice president of Townsite Development, Inc., because I felt that I had done my work as I had promised and I had other things to do and certainly this was one of them that I had in mind. I do have a little house development also that's near my property that I'm doing along with this, but it's very, very minor, but this is the thing that I really had in mind. Now, I

have a letter here dated November 1st, 1972, from Construction Specialty. Now, Construction Specialty gentlemen, are a firm that puts out materials where you rehabilitate a building, this type of thing, and I have samples of their material and I had--I have worked with the Renner Construction Company and if you gentlemen would like to ask Bill Renner to come in, why that would be fine.

REPRESENTATIVE HAYES: Yes, Senator Bromley?

SENATOR BROMLEY: I think we're getting away from the subject matter. We're supposed to be going along with the alleged improprieties and I believe the gentleman is getting into the area of what it cost.

REPRESENTATIVE HAYES: Well, I think you're technically right, Senator, but the law provides that the witness may make an opening statement to the Committee and I think this does have some relevancy to leading up to the negotiations.

MR. HARBES: I'm about finished with this part of it.

SENATOR BROMLEY: Thank you, Mr. Chairman.

MR. HARBES: Now, on December 23rd, this letter

that I was just referring to, simply gave me the information and the production cost of putting a new face on the building; in other words, completely changing its appearance and that's the reason for that. That's also the reason for this glass, Pittsburgh Plate Glass. Now, on December, 1972, I wrote a letter to David Neiswanger and I presented to him what I considered should be included in a written option. Now, my attorney didn't think too much of it, I don't think, except that I basically I let him know what I had in mind. That was amended substantially in the final analysis, but the point is that as early as May, we had an understanding on this thing as early as May of '72 and as I recall September the 11th we actually arrived at the amount that would be included in the option, that I would pay, keeping in mind, now, that I have an option to purchase, not to sell, but to purchase. So, the facts actually, if you want to boil it down to the actual facts, when the State entered the picture, we are in competition with one another. We were both bidding for the same property. Now, that's the actual facts of the case because when I signed that option I had no other intention than to

follow it through and see that it was exercised. Now, I have many other letters here that I have--let's see, on, I believe, it was January 23rd was the first that I knew of any, had any information about the State having an interest. As a matter of fact, I was shocked to learn because, you see, I was the vice president of the Townsite Plaza Development. I recall very distinctly some of the problems that arose in connection with the purchase of the old First National Bank Building and it was just absolutely inconceivable when I heard that the State had indicated an interest in this thing. Now, I received a telephone call from David Neiswanger in which he advised me that Senator Thomas, who was an assistant or in some way represented the president of the Senate, that they were interested in looking at the building and asked, and they advised me that they told Senator Thomas that John Harbes had an option, had a valid option on this building and that John Harbes was the man to talk to. This is correct, so a date was made on the 23rd and I thought that Rex Borgen, Representative Borgen, is it, was to be with the senator, but when I arrived in Neiswanger's office only the Senator Thomas was there

and we went over the building and talked about it. He asked for information and on January 24th, I gave him that information by letter, gave a complete rundown on information about the building and it's available, the space available by dates. This information, of course, was furnished to me by the Neiswanger Company and then I transmitted--now, I think another rather significant thing that's involved here, I was concerned, you see, about the appearance of this building. I have always said that you have to change the complete image of this structure to ever really do anything for it. You must make a prestige structure. We must have a new lobby and certainly the outside must be changed completely. This is what we're supposed to do. I have drawings that will show you, if you care to see them. It could be made a beautiful building, but one of the things in order to accomplish this would be to remove the fire escape on the back of the building, and so I, on January 29th, which means that I had an interest in this for some time, I received a letter from Paul E. Martin, Fire Marshal, Topeka, in which he says, "Dear Mr. Harbes: This letter is to confirm

our conversation regarding the removal of the exterior fire escape from the New England Building. I have checked with the various agencies that would be interested in this matter and they agree that it would be all right to remove the exterior fire escape. However, before removing it, I have several requests that should be taken care of to make the two exterior smoke towers." (Transcribed phonetically) There are two approved exterior smoke towers. The closet between the stairs must be cleared out and secured. They had some trash, they wanted it cleared out and an exit light must be placed in the north-south hallway on the second floor of the nearest smoke tower. The door to the machine room that was damaged by falling bricks, that's in that intercourt, there was the outside surface of that, some bricks fell off. The front smoke tower must be repaired and secured. Also, this room must be cleared of all debris. "When these things have been completed, please notify us." So, that satisfied that requirement as far as I was concerned with the development. Now, one of the things I think that, at least, I read in the paper is this matter of revealing this option and I have just

one thing I would like to say about this. You see, in this situation, I'm dealing with not just the State. It came in at a later date after I was on my way and that's the reason I want to give you some history. I'm dealing with a number of people and to publicly reveal all the terms of that option is certainly damaging to me as far as the developer is concerned and that is the only reason absolutely for my reluctance up to this time to reveal that. Now, in lieu of that, a letter was written to Senator, or to Clyde Hill, Chairman of the Ways and Means Committee of the House of Representatives and signed by Mr. Stephen M. Hall, vice president of the New England Building Company.

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REPRESENTATIVE HAYES: Mr. Hall gave us a copy of that letter. It's in the record. I think probably a fair summary of your testimony would be that you had invested considerable months' of work in this project and that you were somewhat dismayed to find that the State was interested.

MR. HARBES: Indeed.

REPRESENTATIVE HAYES: All right, Senator Tillotson?

QUESTIONS BY SENATOR TILLOTSON:

- Q. Mr. Harbes, prior to your meeting with former Senator Thomas, were you acquainted with him? Had you had any dealings with him?
- A. I had never met Mr. Thomas. I absolutely never had met Mr. Thomas.
- Q. The time you met with him?
- A. That's the first time I had ever shaken the man's hand or knew anything about it except I knew he built White Lakes and had--(interrupted)
- Q. You had no dealings with him prior to that?
- A. Absolutely not.

QUESTIONS BY SENATOR STOREY:

- Q. Mr. Harbes, could you relate to me the approximate date that you were contacted by Mr. Neiswanger when he stated Mr. Thomas had contacted him about the--
(interrupted)
- A. I think it was on the 23rd. I think he called me in the morning and we met that afternoon.
- Q. January?
- A. January 23rd.
- Q. And what date did you take your option on the building?

A. The date of my option?

Q. Yes.

A. The 16th of January.

Q. You had your option before you ever heard from Senator Thomas?

A. Yes and let me say this about the date of the option. Now, I'll ask Mr. Porter to relate this to you, but let me say this about it. One of the things that former Senator--and I had a little difficulty in drafting--coming to an understanding on this option was that I wanted, I asked for a full nine months. I said in order to do and to afford to spend my time to do what I'm talking about doing, I should have nine months and the owners concluded, "Well, we'll give you six months option, but if you have substantial, have made substantial progress don't worry about it, the extension, we'll see that you get them. Now, with six months I want to be very certain that I had a full six months. Now, the president of the building company, Mr. Gleed Thompson, who lives in Denver, is a man who travels widely throughout the world. He had been in Scotland and more recently he's been in Columbia. He's a hard man to find at times and I wanted to be very

sure that I had my full six months, so I asked them to draft this so that the dates of the option could be put in there, inserted after I had signed it. I let him sign it first, then, after I had signed it and that's the way it was drafted and therefore the dates were entered in my hand by Mr. Neiswanger. I'm almost sure by Mr. Neiswanger because it looks like his writing, but the actual--my point is that the option existed long before that date.

Q. Mr. Harbes, I might state and I hope you understand that the reason I'm going to ask you some of these questions is former Senator Thomas' integrity has been placed in question and I think it's completely without foundation that his honesty and integrity are above reproach and that's the reason that I want to get into that.

A. I see, yes.

Q. So, you had never talked to or met former Senator Thomas before that date of approximately January 23rd?

A. Absolutely not, absolutely not.

Q. And your option was not involved in any way with the possible sale to the State of Kansas?

A. Absolutely not.

- Q. Had you even thought about it?
- A. Never.
- Q. In fact, you stated that you were in competition, you wanted to renovate it.
- A. It's self-evident I'm in competition. I am right now.
- Q. Would it be a fair statement that your interest is in maintaining and beautifying that building for the City of Topeka?
- A. I expect to be paid, but certainly that's the challenge to me. I think if you go down and look and see what we've done down there and the projects that are there, I think you'll understand my feelings.
- Q. Mr. Hall had testified that your option was for a purchase price of \$500,000.
- A. That is correct.
- Q. Now, that only includes the New England Building on the four lots on which it is located?
- A. That is correct.
- Q. None of the land immediately to the south and between the old First National Bank and the Union Station and Columbia Building are involved in this?
- A. Absolutely not.
- Q. So, the million three--and Mr. Chairman, excuse me for

using figures. The million three contained in this purchase does not--that applies to the whole plot of land?

A. Well, as I understand it from Senator Thomas, that's right; that he estimated so much for the Bell building and then two other properties and those people live in California. As a matter of fact, they went so far as to ask me whether or not we might assist Mr. Neiswanger, I might assist them in contacting these other people. Well, after all, we're in the real estate business and--(interrupted)

Q. Do you know of your own knowledge or was it discussed between you and/or Mr. Neiswanger, former Senator Thomas, or Representative Loux, the possible price of the New England Building alone?

A. I've never talked to Representative Loux.

Q. Did you discuss this with former Senator Thomas or Mr. Neiswanger?

A. And your question again?

Q. Did you discuss a price just on the New England Building and the four lots on which it's located, the value?

A. No, I'll tell you what happened there. Right at the

very beginning the owners felt that I should give a price, you know, when the inquiry was made on the 23rd and they asked me to prepare this information which I did and I put it in a letter, this matter of, you know, availability of space and how much space and so on. Then, the same date I wrote a separate letter to Senator Thomas in which I said, "The asking price is \$550,000."

Q. \$550,000?

A. Right.

Q. Now, I take it when Mr. Neiswanger contacted you he told you that former Senator Thomas had contacted him because he was the acting business agent of the New England Building, or did he?

A. Senator Thomas first, as I understand it, went to the bank thinking the bank owned the property and then he was sent to Neiswanger because Neiswanger was the agent and the manager who managed the property.

Q. And at that time he told former Senator Thomas that you had an option?

A. And he told him that I had an absolute valid option and that's almost verbatim, "Mr. Harbes has a valid option."

Q. And that was the first time Senator Thomas had ever--
(interrupted)

A. Absolutely.

Q. (Continuing) --been directed by other people that you did have an option?

A. Yes. The date of the engagement, my first knowing him when he came as a result of Mr. Neiswanger bringing him to his office and also bringing me to the office.

SENATOR STOREY: Thank you.

QUESTIONS BY SENATOR BROMLEY:

Q. Would you care to tell us how much you paid for that six-month option?

A. \$1.00. My cost is in my study. That was agreed upon. I spent about seven months on it up to now and that my professional work was involved and that was the absolutely agreed thing.

Q. Since you had made this project more or less your pet peave or pet project, so to speak, has there been any attempts by you to influence the Government or any of his aides not to sign the bill, Senate Bill 1568?

A. No, I've been around too long to do things like that.

Q. All right.

A. I was in the Highway Department for many years and

appeared before many companies and I would never do a thing like that.

Q. Do you know of any people from the Governor's Office that have--do you know of any people that may or may not be employed in the Governor's Executive Department that have contacted you?

A. No.

Q. To negotiate?

A. I've been completely disinterested in that.

Q. The only person you had to negotiate with was Mr. C. Y. Thomas?

A. Yes, and he brought representatives, you know, from the Legislature over there and I showed them through the building.

Q. May I ask, if you know, who those legislators were?

A. Well, Ross Doyen was one I recall and I've learned to know--and I can't remember where I first met him--
(interrupted)

Q. Well, Mr. Harbes, you stated you would like to see this building restored and not allowed to be demolished. Do you know of any attempts that were made, in fact--was this included in an urban renewal area project, this building?

- A. No, the limits of that project were just in front of the building at that front line.
- Q. You say the Fire Inspector made an inspection?
- A. Oh, yes, and I was sometime getting that because he double-checked it and he told me he'd checked it with every agent, so it states in the letter.
- Q. These falling bricks that you made mention of, you said they were from the outside of the building. Wouldn't that indicate that the building was in bad repair?
- A. Absolutely not. This frequently happens. This is a veneer, if you know what I mean, a veneer brick and I'm glad. I'll tell you why, because, you see, when I put this type of thing on that building, I'm not going to run it back in that court. I'd like to be able to paint that so it is compatible with this bronze and it can't be with a veneered white brick on there. You can't paint it, it's not to be closed surface, so I'm very pleased with this.
- Q. When Senator Ross Doyen was there, was there any mention of this one and three-tenths million dollars that it would cost to rehabilitate this building?
- A. I don't think Senator Thomas had gotten that far.

Q. The reason why I asked you that, Mr. Harbes, because this is also mentioned in that bill, one and three-tenths million dollars.

A. Yes, I don't really know. That is something I wouldn't know about.

REPRESENTATIVE HAYES: Senator Tillotson has a question.

QUESTIONS BY SENATOR TILLOTSON:

Q. Mr. Harbes, I believe you appeared before the Ways and Means Committee on or about March 20th?

A. Yes, I think that's correct.

Q. And I believe at that time you made approximately the same statement to the Ways and Means Committee that you made in your opening statement, that your interest in this building was to renovate it yourself. Is that correct?

A. That's correct.

QUESTIONS BY SENATOR BROMLEY:

Q. Mr. Harbes, did you ever disclose to anyone that you had obtained this option for \$1.00?

A. No, no one ever asked me, but in fact, you see, this is a matter of consideration and that's all that is, that

\$1.00, and my consideration is a pretty high price I'm paying because I spent about seven months on this thing and that's a pretty high price.

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Mr. Harbes, you indicated that your option is for six months and is this a renewable option?

A. Well, no, not the way it's written, but I have special-- and I respect these men, believe me, the Hall boys. I respect them and they have said, "No problems."

Q. Mr. Hall had stated that it was non-renewable.

A. It is not renewable, that's correct, except that they agreed that if I have--that I'm showing progress, no problem about the extension of it.

QUESTIONS BY SENATOR SIMPSON:

Q. You said a moment ago that no one else knew about the terms of that option, is that correct, other than yourself and the owners?

A. To my knowledge, no.

Q. You never disclosed the terms of it to former Senator Thomas?

A. Indeed I have not.

Q. Or to any other member of the Legislature?

A. Absolutely not.

Q. Anybody else in State Government?

A. Private contract and it's been treated as such for the reason that I've stated.

Q. And did anyone, again, I think you said, did anyone attempt to contact you about finding out about the terms of the option?

A. I think--I believe I'm going on memory, but I believe that Senator Thomas just automatically asked about it and was told that it was a private contract.

Q. He was the only one, though, who contacted you in regard to the terms of the option?

A. I believe so. I don't believe that that question was asked before the Senate Ways and Means Committee. Was it? I don't remember, but I don't think it was. The same answer would have been given.

Q. Not only before the Senate Ways and Means Committee--
(interrupted)

A. Anyone else, that's right.

Q. No one has asked?

A. No one has asked, very nice about that.

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Mr. Harbes, you mentioned that the dates were placed

in longhand in the option after the option was signed and perhaps you told us, but I don't recall the date on which the option was actually signed.

A. I signed it on the 5th.

Q. On the 5th of January?

A. It shows on the option that I signed it on the 5th of January and Dave Neiswanger, and I'm sure it's his writing although I can't swear to this, but I believe it's Dave's writing and that he dated that so that I would have full advantage of the six-months time. That was the thing I was concerned about.

Q. Now, inasmuch as you considered yourself in competition with the State in the purchase and the renovation of this building, you more or less offered it at \$550,000. Is that correct?

A. Yes, this I think is an expression from the owners that we should cooperate with the knowledge that the State, and fully recognize that the State has the right to take this property and heaven knows I've taken plenty of it. All this stuff south of here we condemned of those properties and sometimes you do it to clear title and so it's used to provide, as we know, in many ways for many purposes, but certainly we

recognize that the State had the purchasing right to take it.

Q Should the State purchase the building, then, for \$550,000? Then, you would stand to make a \$50,000 profit?

A Well, you can figure that any way you want. I've worked on this thing and I've involved a lot of other people.

Q I'm not suggesting it wouldn't be earned.

A I'm just simply saying that's the way I feel about it and to a developer they don't come cheap. Let's put it that way.

Q With your interest in saving this building, had you ever considered selling the building, relinquishing your option at no profit? In other words, selling out for \$500,000 and let the State take it over and do the work?

A Yes, I'm glad you asked this question because actually, technically, I believe that all we've done in offering this at \$550,000 without the knowledge of the owners, you understand, I have the option, I offered it, they didn't know, I think then, how much; but I didn't relate it to them, but the State has not committed

itself, as I understand, even yet and I have other people in the wing, so to speak, that I've had there for sometime. Now, we've never reached that stage of negotiations.

Q So, the State might come to you and say, "You're offering this building for \$550,000. We'll give you \$475,000." And then you'd have to start dickering.

A They can't do that.

Q I point out that figure 'cause I saw that in a confidential memo from Mr. Thomas to Mr. Bennett.

A But I have to have some compensation for the things I've done.

Q If the negotiations would start there, maybe you would arrive at a price of \$525,000.

A Very frankly, gentlemen, I tried to set a price that I felt was justified and was reasonable and made a lot of sense and I thought that the State could very well afford to pay it. I think it's a good investment for them, but it figures about \$4.52 a square foot. Now, that brings another subject. I don't want to bore you with this, but you build that building today and see what it costs. If it doesn't cost you \$35 a square foot, I'll eat your hat. So, to me, this is a real

bargain and I say it because the only interest I have is because it's a good building. As an engineer, I've looked it over. I say it's a sound building. I think it's extremely well designed and I think it has great possibilities in the State for redevelopment.

QUESTIONS BY SENATOR STOREY:

Q. Mr. Harbes, there's been at least one witness before you that has made quite a case out of the Governor's veto for the reason that full disclosure was not made on the option. He stated that he was not able to obtain it or look at a copy of it and for that reason and not to imply on anyone's integrity, could the Committee have a copy of the option?

A. Yes, when we get to a certain point in this thing.

Q. You would not have denied anybody?

A. Not under the proper circumstances no, but just to make hay and to discredit and put me in a position when I can't go back in case the State doesn't take it, I've got to crank this machine up again and this costs money.

Q. Our desire in seeing it is only to answer those attacks. We'd appreciate it.

A. I have no objection at all.

QUESTIONS BY SENATOR BROMLEY:

- Q. Mr. Harbes, you stated that you had started negotiating with the owners of this building way back on January 5th, 1972.
- A. Well, with the managers.
- Q. Way back there?
- A. Oh, way, way back, even before January of '72 because that's when, you see, I made my first projection.
- Q. I see, and in order to establish what it would cost to renovate that building and to put it in proper architectural design that you would desire to make it an asset to the City of Topeka, as you stated, you're an engineer and when you perform this kind of service you do get compensated for that, right?
- A. Well, I would normally, yes, but I'm working for myself in this case, you see.
- Q. By what terms are you working for yourself here? Is--
(interrupted)
- A. Because I'm talking about buying the building. I have an option to purchase the building.
- Q. You mean you would go through all of this research for in excess of a year and you say you have a lot of other people involved. Have you kept records to show

what the cost has been to you regarding your services and other people's services?

- A. No, I haven't. I certainly haven't. I've worked at this thing because it's my first love and I've worked at it and no, I've not set up any records on it, no.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Mr. Harbes, this has probably been answered in the negative, but were you ever contacted by Mr. Thomas and Van Cleave, Jr., regarding the option?

A. No, except that Senator Thomas did in a routine way ask for a copy of it.

Q. No Tom Van Cleave?

A. Oh, not Tom Van Cleave, absolutely not.

Q. You had no contact with him whatsoever?

A. Absolutely not.

REPRESENTATIVE HAYES: All right. Thank you very much, Mr. Harbes, for your appearance and we'll recess until 1:30.

(THEREUPON, at this time a recess was held until 1:35 o'clock P.M., after which the following proceedings were had, to-wit:)

DON MATLACK,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Don Matlack.

Q. And your address?

A. My home address is 615 Elaine Avenue, Clearwater, Kansas.

Q. And what is your profession?

A. Attorney.

Q. And in that connection are you also representing Governor Docking in connection with Legislative Liaison work?

A. I operate under a contract as legislative liaison.

Q. Now, Mr. Matlack, in the letter which was sent out over my signature, you were advised of your right to counsel before and during this hearing. Do you desire to waive that right?

A. I don't desire to have counsel.

Q All right.

SENATOR TILLOTSON: No questions at this moment.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q Mr. Matlack, do you have any knowledge of any impropriety on the part of any member of the Legislature in regard to the New England Building, any kind of wrongdoing or questionable or unethical conduct?

A I know of no act of unethical conduct or unlawful conduct.

Q Now, any act, are you inserting any kind of a qualification in your answer when you use the word "act"?

A Well, when you say impropriety I'm not sure what kind of a definition that there would be of that. I know there were requests for information which were not furnished. I'm not sure that's an impropriety. It's not unlawful.

Q Do you know of requests for information which were not furnished?

A Yes.

Q Now, who made these requests?

A I did.

Q And to whom did you make them?

A. Senator Doyen.

Q. You made requests for information to Senator Doyen which were not fulfilled?

A. I asked him if I could have the documents which were presented to the committee to be used by the Governor in his consideration of the bill.

Q. Now, what documents were presented to the Committee for which you asked?

A. I don't know. I didn't know what documents had been presented.

Q. Did you ask what documents had been presented?

A. No, I asked that we could have the documents and Senator Doyen's reply was yes, that we could. He would have them down to me that afternoon.

Q. Well, what afternoon was that?

A. The afternoon before the bill was vetoed. I couldn't tell you what the date was.

Q. April 3rd or April 2nd?

A. If it was vetoed on the 3rd, it would have been the 2nd.

Q. You asked the documents be sent down to the Governor's Office?

A. I asked if I could take them and we could use them in

considering whether or not the bill should be signed.

Q Did you go back to contact Senator Doyen again?

A I had to leave town that afternoon. I had a meeting I had to attend in Wichita. He said that he would send them down to the office that afternoon and when I returned the next morning there was a note from Senator Doyen which said that he no longer had the documents, that he had thrown them away because he didn't think he would need them again.

Q Did you ask him what the documents were?

A I never talked to him again about it.

Q What do you think they were?

A If I knew what they were, then I would have told you. I don't know.

Q Is this the only thing that you're talking about?

A That's the only direct involvement I had.

Q Now, did you assist in the preparation or drafting of the veto message?

A I may have read it before it was signed. I didn't draft it.

Q You made no draft?

A No.

Q Did you make any suggestions about a draft?

- A. I don't recall. I might have changed some grammar or something to that effect.
- Q. Were you contacted by anyone outside the Governor's Office in connection with the vetoing of the House Bill 1568?
- A. I had several representatives, several legislators who asked me if the Governor had vetoed it or if he was going to veto it and I can't even tell you who.
- Q. Several legislators?
- A. Yes.
- Q. Did anyone else contact you about it?
- A. No.
- Q. No one at all?
- A. No.

REPRESENTATIVE VAN BEBBER: That's all.

REPRESENTATIVE HAYES: Any questions for Mr. Matlack?

QUESTIONS BY SENATOR STOREY:

- Q. When you were referring to documents, were you talking specifically about an option that might have been owned by someone on the New England Building?
- A. I had assumed when I talked to Senator Doyen, an assumption on my part, that there were documents that

set forth the valuations, the lot numbers, the descriptions, and so forth, and I had heard that there was an option. I wanted to see what was available in the way of information concerning the whole transaction.

Q. Do you remember where you had heard about the option?

A. Well, I read it in the newspaper and I had heard several others discuss it. I heard Tom Van Cleave discuss it.

Q. Had you and Mr. Van Cleave discussed it?

A. Yes.

Q. Is that the document you were primarily interested in?

A. That's one that I was interested in.

Q. Then, I take it, that you discussed with the Governor and Mr. Van Cleave the possible veto of the bill for that purpose. Could you tell me at that time were you primarily interested in some wrongdoings because of a possible option or the actual price that was being paid?

A. Well, my personal opinion is that it's unwise to buy old buildings, any old building, I didn't like the one we bought sometime ago. I didn't think that was a good procedure and I still don't.

Q. I understand your personal feelings, but between your

discussions, did you discuss some possible--(interrupted)

A. Sure.

Q. (Continuing) --wrongdoings because of an option in existence?

A. Not because of an option, but because of the price that we understood was to be paid or that I understood was to be paid.

Q. Then, your whole interest was because of the price?

A. Yes, that's not my whole interest, but that is an interest that I had.

Q. Did you make any requests of anyone to disclose this option?

A. None other than the request of Senator Doyen to furnish all documents that were available.

Q. Do you know whether that option was available?

A. I do not know.

Q. Have you seen the option?

A. I've never seen any option.

Q. In your discussions of the possible veto with Mr. Van Cleave or the Governor, did you ever recall any mention being made of any improprieties or wrongdoings on behalf of former Senator C. Y. Thomas?

A. Of former Senator C. Y. Thomas?

Q. Yes.

A. No.

Q. Did you discuss a possible transaction between Senator Thomas and Mr. Harbes?

A. I don't know Mr. Harbes, no.

Q. He's the man that has the option on it.

A. All right.

Q. You didn't discuss it?

A. There was the mention of Senator Thomas that I recall was that he had been dispatched, and this is hearsay as far as I'm concerned, that he had been dispatched to inspect the building and had reported back on his estimate of the condition of the building and as I understood, he'd said that it was in good condition and I personally didn't feel it was in good condition.

Q. But as far as any negotiations or dealings between former Senator Thomas and anyone else, you didn't hear any direct conversation in your consultation with these gentlemen concerning anything that might have been done wrong?

A. No. As a matter of fact, I would like to say that I'm willing to answer the question, but I don't think it's

a proper question in the context that you've placed it. I think that what the Governor considers is his prerogative and not subject to inquiry of this Committee.

Q. And I'm certainly not trying to delve into you or anyone else. I'm trying to find out--the Committee was set up to find out if there was any wrongdoing and I'm just trying to find out what was said about the purchase, if anything.

A. Nothing in that respect.

SENATOR STOREY: Thank you.

QUESTIONS BY SENATOR BROMLEY:

Q. Mr. Matlack, as liaison officer to the Governor, exactly what are your duties?

A. I'm not so sure myself. I consider my duties to be the explanation to the Legislature of the positions that the Governor has adopted, the favorable presentation of those positions to the members of the Legislature and communications between the Governor and the various legislators inasmuch as that can be accomplished.

Q. Well, in the course of your duties being carried out, do you also advise the Governor on various issues that

may be pertinent at the time that you're talking to him?

A. Certainly.

Q. Did you, in fact, advise the Governor that you thought this was a bad building and that it was a bad investment for the State?

A. I told him that I thought it was a bad policy to be buying old buildings for the State. I thought the better policy would be to utilize the land which belongs to the State immediately south of the Statehouse and build permanent State Office buildings over there.

Q. Is there any way that you may have been able to influence the Governor in his decision?

A. I don't know. Sometimes he follows my suggestions and sometimes he does not.

Q. Do you know of anyone else who may have tried to influence the Governor to veto the bill?

A. I do not. I'm sure the Governor talked to somebody.

Q. Did you converse with anyone, like say the State Fire Marshal or Topeka Building Inspector or did you carry on any conversation with them in regards to the condition of the building?

A. I talked with the State Architect, Mr. Kent McLain, and to Mr. Kruger from his office. I believe I had some conversations with Senator Riley. That's all I recall.

Q. Did you yourself ever enter the building?

A. Not during this session of the Legislature. I've been in it many times. I used to work over there.

SENATOR BROMLEY: I have no further questions, Mr. Chairman.

REPRESENTATIVE HAYES: Any other questions of Mr. Matlack?

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Mr. Matlack, there has been some question as to the availability of the option for inspection. Did you seek a copy of this option?

A. Only insofar as I've stated previously.

Q. From Senator Doyen?

A. I did not.

Q. You didn't try to go to the owners or notify anyone, go to the option holder to get a copy of this to be studied?

A. I did not. I don't know whether anybody else did or not.

Q. You did not. And we ascertained that you did advise the Governor that you thought it was a bad deal before he vetoed this?

A. I did advise him. I don't know whether it was before he decided to veto it or not.

Q. I mean, prior to this veto.

A. Prior to the signing of the veto message, yes.

REPRESENTATIVE NOVAK: Okay, that's all.

QUESTIONS BY SENATOR SIMPSON:

Q. Did you and Mr. Van Cleave ever discuss the matter of this option?

A. We discussed its availability.

Q. What was the nature of that discussion as to its availability?

A. Mr. Van Cleave said that he wouldn't be interested in negotiating to buy the building till he knew all the facts surrounding it including the facts that are shown in the option.

Q. Did he discuss with you the possibility of it being available to examine prior to this time or anything like that?

A. That was part of the reason that I asked Senator Doyen for all the documents.

Q At the request, or because of your discussion with Mr. Van Cleave?

A Yes, partially.

Q Did he discuss with you any people he may have attempted to get this information from other than Mr. Doyen or his attempts to get it?

A I think he said he had asked some others for it, yes.

Q Did he say who he had asked?

A I understood Mr. Loux and possibly Mr. McGill. I'm not really sure.

Q Did he ask anyone outside the Legislature or Executive Department?

A Not that I recall.

QUESTIONS BY SENATOR TILLOTSON:

Q Mr. Matlack, prior to your conclusion that this might be a bad purchase, did you make any inquiry as to what other facilities are being leased by the State over here and there around Topeka?

A I did not.

Q To determine, you didn't make any inquiry to determine whether or not the purchase of this building might be an economical move so far as the rental is concerned or anything of that kind?

A. I had been told that the projection made by the Budget Department was that it would take \$5.50 per square foot per year to amortize it over ten years. That seems to me to be an exorbitant rental for that old a building.

Q. Did you inspect the building?

A. I've been in it in years past, but I did not inspect it.

Q. I mean, in recent months?

A. No, I worked there 20 years ago and it was, in my opinion, in bad shape then.

Q. Well, you told us there's been some extensive remodeling done on some floors. You wouldn't know whether it had been done or not?

A. No.

SENATOR TILLOTSON: That's all.

QUESTIONS BY SENATOR STOREY:

Q. Senator, are you convinced, then, that the veto is for the reason that it was a bad purchase and not that there had been any wrongdoings on the part of anyone?

A. Two reasons. First, I think that we felt or the Governor felt that it was a bad purchase and a bad investment for the State at this time and the second

reason, that we hadn't received enough information to overcome that feeling and we felt we should protect the best interests of the State on the knowledge we had available.

Q. In the last paragraph of the veto message where you request a special legislative investigating committee to be formed which is what this one is, was that for the reason to investigate the possibility of facts that were not disclosed in the purchase of this or to investigate how much the building was worth?

A. Both.

Q. And that was the reason for the Attorney General to be placed in the request?

A. Well, it's my understanding that the Attorney General is the attorney for the State in all of their transactions, or should be, and for that reason he should be involved.

SENATOR STOREY: Thank you.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Did you have any conversation with Mr. Van Cleave about the possibility that John Harbes and Senator Thomas might have been business associates at some time?

- A. Well, there was not by name, not Harbes by name that I heard, but there was a statement made that the Senator had been involved in some business dealings with owners of the building in prior years. As I understood Mr. Van Cleave to say, he checked it out and it was untrue.
- Q. Who made this statement to you?
- A. The first time I read it was in the newspaper.
- Q. You read it in the newspaper?
- A. Yes. Well, I read something about C. Y. Thomas in the newspaper. I forget.
- Q. That was the first time. Did Mr. Van Cleave discuss that with you before he had made his investigation?
- A. No.
- Q. Never did?
- A. When he discussed it with me he told me that he had heard that and that he had checked it out and it was untrue.

EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Mr. Matlack, was this conversation prior to the preparation of the veto message?
- A. I believe it was.

Q. And how long prior?

A. I don't know.

Q. Now, obviously, if he had checked that out, Mr. Van Cleave would have known Mr. Harbes in order to make that check, wouldn't he?

A. I don't know.

Q. Well, if he checked and found that they hadn't had any association in past years, wouldn't he have had to have known the identification of the party?

A. I assume that he would, but you're asking me to speculate on what he knew and I can't do that.

Q. Do you know if Mr. Van Cleave ever inquired of Mr. Harbes as to the details of the option?

A. I do not know.

Q. That point was never discussed with Mr. Van Cleave?

A. As far as I know, Tom never talked to Mr. Harbes. I don't know whether he did or not.

QUESTIONS BY SENATOR TILLOTSON:

Q. Now, Mr. Matlack, are you aware of the fact that from March the 20th, 1973, that Mr. Harbes appeared before the Senate Ways and Means Committee and made a statement that he had an option on this property?

A. No.

- Q This was sometime prior to the discussion about vetoing the bill, isn't it March 20th?
- A It was prior to the time that I asked Senator Doyen for the documents, too.
- Q But you weren't aware of the fact that Mr. Harbes did appear before the Ways and Means Committee?
- A I didn't know that he did appear before the Ways and Means.
- Q There are some members of the Democratic Party on the Ways and Means Committee?
- A I assume that there are.
- Q Well, I didn't ask you to assume, you should know who the committee people are.
- A I know they are members of the committee.

SENATOR TILLOTSON: Thank you.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY REPRESENTATIVE PARRISH:

- Q Yes, Mr. Matlack, you mentioned as part of your job you convey certain information from the Governor's Office to various senators and representatives. Did you have an occasion to discuss the purchase of this building with the House Minority Leader, Mr. Pete Loux?

A. I'm sure that I did. I can't recall when it was. I'm sure that I did at sometime.

Q. Prior to the veto?

A. Yes.

Q. Did you indicate to Mr. Loux what the Governor's feeling was one way or another regarding the purchase of the building?

A. I think I indicated to him a personal feeling.

Q. Whose personal feeling?

A. Mine.

Q. But you did not convey--(interrupted)

A. I didn't say to him that the Governor was--(interrupted)

Q. In favor or opposed to the building?

A. No.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY SENATOR SIMPSON:

Q. Why do you think, why was it important to you to look at this option or get that?

A. Well, if I were representing the clients that were buying, contemplating a \$500,000 investment, I would want all the information available before I told him whether he should go ahead or not. That's the basis I

asked for it.

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Apparently, you didn't make too much attempt to obtain this if you just talked with Senator Doyen and that's the only person you requested this information from.

Is that right?

A. That's the only request I made.

Q. So, it must not have been too important.

A. It was important enough that I didn't think we should go ahead with it without having it and I understood that the Legislature had considered it and made it available.

Q. But you made no further attempts to obtain a copy?

A. It seems to me that there was a concerted effort to withhold it.

Q. Even though you never did ask anybody else?

A. I didn't feel that I should ask anybody further than the Committee Chairman to handle it.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Mr. Matlack, what information did you have which led you to believe that Senator Doyen had a copy of the

option?

- A. I had no specific information other than he was Chairman of the Ways and Means and they had recommended the bill.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. You knew about the option, though, at the time you requested these documents?

A. I had heard that there was an option.

Q. But you didn't ask him if he had the option, did you?

A. No.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY REPRESENTATIVE BURKE:

Q. Mr. Matlack, you said there appeared to be a concerted effort to withhold. You mean a concerted effort by anyone other than Senator Doyen?

A. Well, actually, I was informed by Tom that he had asked for documents and hadn't received them.

Q. Who did he tell you that he asked?

A. I'm not sure that he told me. I think he talked to Mr. Loux and Mr. McGill. I assume he also talked to-- strike that. But, that's an assumption.

QUESTIONS BY SENATOR TILLOTSON:

Q. Mr. Matlack, after you didn't obtain the information from Senator Doyen, did you go to the Budget Department people?

A. I did not.

Q. You didn't make any attempt to contact those people?

A. The only--pardon me, were you through?

Q. I say, you made no attempt to contact anyone except Senator Doyen?

A. The only thing that I had was a projection of rental furnished to our office.

Q. I understand you testified, I'm talking about anyone in the Budget Department.

A. I didn't talk to anybody.

SENATOR TILLOTSON: Thank you.

REPRESENTATIVE HAYES: Any other questions?

Thank you, Mr. Matlack.

DAVID M. NEISWANGER,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative Hayes, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

CURTIS, SCHLOETZER & ASSOCIATES

CERTIFIED SHORTHAND REPORTERS

701 JACKSON STREET

TOPEKA, KANSAS 66603

PHONE: CE 2-0416

BY REPRESENTATIVE HAYES:

Q In a letter which you received over my signature, you were advised that you were entitled to have counsel in this hearing. Do you have?

A Yes, Mr. Cornish.

Q Mr. Cornish. Would you state your name, please?

A David M. Neiswanger.

Q And your address, please?

A 330 New England Building, here in Topeka.

Q And your business or occupation?

A I'm president of the Neiswanger Company and we're engaged in the real estate insurance and property management business.

SENATOR TILLOTSON: No questions.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q Mr. Neiswanger, how long have you been familiar with the affairs of the New England Building?

A Well, our company has managed the New England Building since 1944. I became associated with the firm in May of 1946.

Q And you act as building manager, or are you in charge generally of the running of the affairs of the New England Building?

A. That's correct.

Q. And were you contacted by any representative of the State of Kansas with regard to purchase of prospective purchasers or purchase negotiations for the building this year?

A. This year?

Q. Yes.

A. Well, yes, we were contacted--I was contacted by Mr. C. Y. Thomas on January the 19th and visited with him at that time relative to the State's interest in the building.

Q. Had Mr. Thomas ever contacted you briefly about the building?

A. No, he had not.

Q. Had you ever met him before?

A. Yes, I have met him.

Q. How long ago?

A. Well, I think it would have been four or five years ago when I looked with him at the Family Home in the 1500 block of Topeka Avenue.

Q. This is the first contact you had had with respect to the New England Building from Mr. Thomas?

A. Yes.

Q And had he been referred to you by anyone?

A As I understood it, Mr. Thomas was under the impression that the Merchant's National Bank owned the building which has been a common misinterpretation and my understanding was that he went to the bank, possibly the day before, and contacted me in an effort to talk with either Mr. Robert Buntten or Mr. Stephen Hall about the property. They were both out of the office and he visited with Bill Buntten, Executive Vice President, who knew that we managed the building and he referred Mr. Thomas to me.

Q What kind of recision did you have on January the 19th from Mr. Thomas?

A Well, Mr. Thomas indicated a possible interest in the State's acquisition of the New England Building. He indicated it was a preliminary investigation and I think at that time we probably visited about some of the properties in that same block that have been named in this particular house bill.

Q Did you have any conversation with him as to who the owners were on this date?

A I think we--I think we may have visited about that.

Q Did you tell him someone had an option to purchase it?

A. I did.

Q. That was Mr.--(interrupted)

A. Mr. John Harbes.

Q. And afterwards did you, did Mr. Harbes and Mr. Thomas have a conversation at your office?

A. Yes, I called Mr. Harbes and I called Mr. Thomas following Mr. Thomas' and my meeting on January 19th and we arranged for a meeting in our office in the New England Building on January 23rd.

Q. Who was present at that meeting?

A. Mr. Thomas, Mr. Harbes, and myself.

Q. Had anybody else been scheduled to appear? Was there anyone else who was supposed to attend that meeting?

A. My impression is Mr. Thomas was going to bring another gentleman with him. I'm not sure enough of his name to say.

Q. And at that time there was discussions, then, as to the ownership of the building and the fact that Mr. Harbes had an option?

A. Well, we again discussed the New England Building. I think the Credit Union Building, the Bell Building, the Yerkes (spelled phonetically) Building going on down the block, the Family Service Building, the

Merchant's Bank lot behind the New England Building, and the 75-foot lot owned by Gleed Thompson and his sister. I think those were all mentioned. The area around the building was discussed.

Q Did you get down to any specific proposals at this time?

A I would say not.

Q And did you meet again?

A We did not meet again. Mr. Harbes and Mr. Thomas were, I'm sure, had their meetings and so forth. Mr. Harbes had the option and we felt it best that one person be the representative in connection with the possible interest in the building.

Q And, so, now, did you attend any other meetings?

A Well, I attended a Senate Ways and Means Committee meeting on March 13th. I accompanied John Harbes and Mr. Thomas. I can't remember the date, but we did look together at the Family Service Building at 529 Kansas and the Credit Union Building which would be 509 Kansas.

Q Aside from these contacts that you've mentioned, have you been contacted by any other members of the Legislature?

A. No.

Q. Have you been contacted by any members of the Executive Branch?

A. Well, when you say contact, I did personally show Senator Ed Riley of Leavenworth and Senator Bill Mulich of Kansas City through the building last Thursday.

Q. They went through the building?

A. They went through the building.

Q. You're speaking of the New England Building?

A. Right.

Q. Did anybody from the Governor's Office contact you?

A. No.

Q. Have you been contacted or do you know Tom Van Cleave?

A. I've never met Mr. Van Cleave.

Q. He hasn't contacted you?

A. No, he has not.

Q. Have you been in touch with the Governor's Office about this building at any time?

A. No, we have not. We did talk to the State about leasing the building back in late 1969 and 1970. I think at that time we were working with Mr. Brandt's

predecessor, I believe.

Q. In regard to a lease?

A. With regard to a lease. We were at that time asked for a price on the building which we provided.

Q. What was that price?

A. That price was \$600,000.

Q. That was in 1969?

A. That was in January of 1970.

Q. What was the lease price or did you ever come down to that?

A. Well, we did make one proposal and then an amended proposal. The first was on a lease on an eight-year term with a minimum area being taken by the State at approximately 50,000 square feet and then we made an amended lease on the basis of a five-year term. I'm not in a position to give you the rental rate. We could get that information for you.

QUESTIONS BY SENATOR BROMLEY:

Q. At any time did Mr. Harbes indicate that he was upset because there was an anticipation that the building might be sold to the State of Kansas? In your presence, did you ever notice any discontent in Mr. Harbes whereby it would be sold to the State of Kansas?

A. Well, I would say initially when I told Mr. Harbes of Mr. Thomas' call, he expressed some concern.

Q. Well, you say you've known Mr. C. Y. Thomas for the past four or five years and lived in his home at one time?

A. No, this home on Topeka Avenue, I think, was the old Family Home where I presume Mr. Thomas' parents lived and I think probably it was closer maybe to six or eight years ago that he called and we went down and looked at the property and I gave him an opinion as to what he might be able to sell it for.

Q. Have you recently or anytime beforehand been in business with Mr. C. Y. Thomas?

A. No, sir.

Q. During the last election campaign, did your company or you yourself make any political contributions that amounted to a hundred dollars or more?

A. No.

REPRESENTATIVE HAYES: The Chair will rule that that question has no bearing on the subject in the inquiry.

SENATOR BROMLEY: Mr. Chairman, it was in the minutes of the meeting of the Ways and Means Committee

that the man stated that he had not made any contributions of a hundred dollars or more.

REPRESENTATIVE HAYES: Senator, this is not a meeting of the Senate Ways and Means Committee. I'm not in charge of that committee. I have ruled that your question is impertinent. You may appeal my ruling, if you wish.

Q. (By Senator Bromley) You say Senator Riley and Senator Mulich were taken on a tour of this building by you to observe the status and condition of the building?

A. Yes, they came into the office and Senator Riley indicated that they would like to take a look at the building and so we did cover a good portion of it. We were on all floors and attempted to look at the representative offices on each floor.

Q. Well, now, then, you were not involved in negotiating any sale of this building to any of the legislators of the State of Kansas. Am I correct?

A. Could you repeat that question?

Q. You yourself was not involved in any negotiations of sale of the New England Building to any of the legislators of the State of Kansas to be purchased by

the State of Kansas?

A. Well, that is true. I arranged this initial visit with Mr. Thomas with Mr. Harbes. I appeared at the Senate Ways and Means Committee meeting, but that basically would be the totality of my participation.

Q. Did Mr. Harbes instruct you at anytime that it would be all right to take various senators on a tour of this building to investigate and--(interrupted)

A. Well, we were making an effort as building manager to cooperate with him. We did have, I understand, some visitors to the building. I think you could say there were State oriented people that didn't come into our office and inspect it on their own, so we don't know everyone, of course, that might have inspected the building, but we were glad to show it.

Q. You say, Mr. Harbes appeared to you to demonstrate a strong intent to purchase the building himself? Is that what we're to believe? I mean, he did not want the State of Kansas to purchase it, that he had an option and wanted to purchase it himself?

A. Well, that's true. He has an option to purchase the building. I think possibly his concern was just the oftentimes extended negotiations and sometimes problems

that arise in the State acquisition of a piece of real estate.

Q. Wouldn't I be safe in saying that actually yourself as general manager of this building, the New England Building, and Mr. Harbes were actually working together to negotiate the purchase of this building by the State?

A. Yes, I would say that's correct.

Q. In other words, you and Mr. Harbes both jointly were endeavoring to work out a deal whereby the State would purchase this building from you?

A. Well, yes, I'd say to this extent. We have had an exclusive listing on the sale of the New England Building.

Q. Now, this option that Mr. Harbes had, was this an option to purchase from you or was this an option to sell for you?

A. This was an option to purchase the building from the New England Building Company.

SENATOR BROMLEY: I think that's all I have.

QUESTIONS BY SENATOR STOREY:

Q. Mr. Neiswanger, on January the 19th when former Senator Thomas contacted you, I believe you stated you

advised him that Mr. Harbes had an option on the property?

A. That is correct.

Q. And did you then contact Mr. Harbes and tell him that Mr. Thomas would desire to talk with him?

A. I did.

Q. Did either one of the gentlemen indicate that they had ever met each other before?

A. My impression was that they had not met.

Q. Did you introduce them?

A. I did introduce them.

Q. And the reaction you got from both is they had never even talked to each other before. Is that true?

A. That was my impression, yes.

Q. When you told former Senator Thomas that Mr. Harbes had an option, he didn't know who he was, did he, or did he, if you remember?

A. Well, I don't recall any expression one way or the other.

Q. Now, you have been in contact with Mr. Harbes for the past year or past few years in his connection and interest in the New England Building, have you not?

A. Well, I would say probably since about the first of

1972.

Q He has expressed an interest in purchasing the building himself?

A I would say yes. I would say his interest, and the option came later on in the year, but I would say in early fall or along in September when the owners and Mr. Harbes first got together and visited about the option.

Q Did you handle the contact on the option agreement between Mr. Harbes and the New England Building Company?

A Yes, I would say that I did.

Q Mr. Harbes testified that he signed this approximately January 5th. Is that correct?

A That is correct, the correct date.

Q And the effective date, as I read it, for the period of time commencing on the 5th day of January, '73, and continuing till 12:00 noon on the 16th day of July, 1973?

A That is correct.

Q And it's signed by all parties?

A Yes, it's signed by Mr. Harbes and Mr. Gleed Thompson, the president, and Mr. William Hall, the secretary.

R.10

Q. And they executed it on the 5th day of January?

A. Right.

Q. And to the best of your knowledge former Senator Thomas and Mr. Harbes did not even meet each other till after the 19th of January, 1973?

A. That is correct.

Q. So, as far as you know, they had had no connection at all or Mr. Thomas didn't even know about the option to lease?

A. That is correct.

SENATOR STOREY: Thank you.

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Are you satisfied that Mr. Harbes was making progress in this development or renovation of this New England Building? He has a six-month option, are you satisfied that he is making progress towards the purchase?

A. Well, the possibility of acquisition by the State was not thought of at all at the time we discussed this option and I think Mr. Harbes would have--I personally feel, do know some things he hasn't done since the State became interested in the property.

- Q. Well, my second question, then, since the State has entered into this, would you have more to gain if this action was delayed and Mr. Harbes lost his option?
- A. Well, I would think not.
- Q. In other words, you feel that Mr. Harbes' option on here, you would have more to gain by him pushing it, going ahead with it?
- A. Well, I think he has the option. The State, of course, came to him, but it's been largely through his efforts that the productive aspects of this thing have been accomplished and we certainly wouldn't be for allowing the option to expire and 60 days later try to negotiate directly for the owners.

REPRESENTATIVE NOVAK: That's all.

QUESTIONS BY SENATOR STOREY:

- Q. Mr. Neiswanger, I just missed a couple of questions I intended to ask you. Has anybody contacted you and asked you if there was an option or if you had a copy of that option available?
- A. Well, I will say not. You have friends pass in the street and ask all kinds of questions, but I would say there were no subsequent questions asked on that subject.

Q. I'm kind of putting myself in a box. I'm a member of the Senate Ways and Means Committee and I notice the minutes say I was absent that day that you were there. Do you know if that option was given to the Committee the day you were there?

A. My impression is it was not given.

QUESTIONS BY SENATOR BROMLEY:

Q. Do you know how much was paid for the option?

A. Well, the consideration was a dollar and Mr. Harbes' intended efforts.

Q. \$1.00 and his intended efforts. Has anyone or any State agency, anyone from the City governing body of Topeka ordered any compliances on this building regarding whether or not it was up to code and this type of thing, recently?

A. Not to my knowledge. I think there was an inspection by the State Fire Marshal. I personally have not seen that report, but my impression is that any deficiencies are not major.

Q. How much was the building to be sold for? What was the price of the building to be sold to Mr. Harbes for in consideration of his \$1.00 option if he executed it?

A. Well, he had an option to purchase it for \$500,000.

Q. Did anyone from the Governor's Office try to influence you, I mean, did you talk with anyone from the Governor's Office to try to discourage the Governor from vetoing this bill or otherwise?

A. No, sir.

Q. Did you own any other or have any business interests in any other buildings that are now rented to any State agencies?

A. Well, we own a building in North Topeka, a storage building that is rented to the State.

Q. What State agency rents that?

A. Well, I can't tell you. It's for the storage of records and the building's at 1016 North Kansas.

Q. Do you have many buildings; that is, housing office quarters for State personnel?

A. No, sir.

SENATOR BROMLEY: Thank you.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Mr. Neiswanger, there has been some prior testimony that this building, the New England Building, was offered to the State about two years ago for \$400,000. Do you have any knowledge of that?

- A. Well, I don't think there's any truth to it.
- Q. You've mentioned a \$600,000 offer. Would that be more the accurate version?
- A. Well, we did quote that figure to Senator Tom Van Sickle, who I believe at that time was Chairman of the Senate Ways and Means Committee. We did direct the letter to him which, as I recall, was requested and the building was quoted at \$600,000 and he acknowledged that figure with a letter thanking us for the information.
- Q. There wasn't any \$400,000 offering that you know of?
- A. No, sir.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY REPRESENTATIVE GRABER:

- Q. Mr. Harbes had only an option to buy. Did he have an option to sell it?
- A. Well, he, according to the terms of the option, he has a right to purchase for the price of \$500,000 in that six-month period.
- Q. Is this building suitable to rent?
- A. Well, it depends a good deal on intended use and I realize the Director of Architectural Services indicated \$400,000 or \$800,000, I believe, in that

general range, and we've had no contact with him to know what the requirements are for this specific use. I mean, I refer to a large area on the second floor that was utilized by the Merchant's Bank for their computer work. If there was a similar type, machine-type operation that the State needed to go in there with some kind of machinery, decorate it and it would be suitable as it is.

Q. What would be a fair rental per square foot for the building?

A. Well, we've been renting space at \$4.00 a square foot and that would be with the new floor coverings. It would be drop ceilings, florescent tube lights, vent heating in place of radiator. Of course, the walls painted; in other words, it would be put in first class condition.

Q. Do you happen to know what the assessed valuation of this building is for tax purposes?

A. I can tell you, I believe I can. Well, I'm sorry. I thought I had that here. My recollection is that it's approximately \$488,000. That would be the--(interrupted)

SENATOR STOREY: Mr. Chairman, I would suggest

that we get that information and make it part of the record.

MR. NEISWANGER: I will be glad to get that and I'm sorry I don't--oh, here it is. This is the January 1, 1972 valuation. The land, \$67,160; the improvements, \$419,230; for a total of \$486,390.

SENATOR STOREY: Improvements four what?

MR. NEISWANGER: The improvements \$419,230.

REPRESENTATIVE HAYES: Go ahead, Mr. Parrish.

QUESTIONS BY REPRESENTATIVE PARRISH:

- Q. Mr. Neiswanger, Mr. Graber asked a question that I had burning in my mind. Still, another one has come to mind. Do you think and, of course, I guess this all depends on the saleability of the piece of property of this nature, is it a common practice to give an option for a minimal consideration such as \$1.00? Is that a common practice nowadays on buildings of this nature?
- A. Well, I would have to say I feel that it would vary with the variable circumstances.
- Q. Under these circumstances, and you were involved in negotiating the option and signed it? You have an exclusive listing on the sale of this property, so regardless of who sells it, the first time you will be

involved in the sale. Isn't that correct?

A. That is correct.

Q. How long have you had that exclusive listing?

A. Well, basically, we've had an exclusive listing since the building was put on the market in May of 1967.

Q. In regard to that, would you consider Mr. Harbes a more likely candidate for a \$1.00 option than, say, somebody else in town who did not have specific plans for this particular building and may not get an option for a dollar?

A. Yes, I would feel that that's very definitely true. Mr. Harbes had a good deal of experience with the Urban Renewal Program and the Townsite Plaza. He was an engineer and I questioned whether there is any-- there's no one that I can think of at the moment that I would have recommended giving an option to at that figure.

REPRESENTATIVE HAYES: Mr. Storey, do you have a question?

QUESTIONS BY SENATOR STOREY:

Q. Mr. Neiswanger, did you state that you had written Senator Van Sickle a letter two years ago conveying the offer at the suggested price of \$600,000?

- A. Mr. Robert Fuller, who is in our office, did offer that letter.

SENATOR STOREY: I'm wondering, Mr. Chairman, there has been various rumours and statements that this had been offered for \$400,000 and that goes along with some improprieties that have been mentioned to this Committee and do you have a copy of that letter?

- A. Yes, I do.

- Q. (By Senator Storey) Could we have that in the record? I believe it was stated on the record earlier this morning it was offered for \$400,000.

MR. CORNISH: Could we make a copy and let him keep the original for our file?

REPRESENTATIVE HAYES: That will be fine.

(Exhibits K, L, M, N, O, P, and Q marked for identification by the Reporter.)

QUESTIONS BY SENATOR BROMLEY:

- Q. You stated to Mr. Graber, I believe it was a few minutes ago, that you offered these office spaces at \$4.00 a square foot. Is that right?
- A. That is correct.
- Q. They rent for \$4.00 a square foot and this is with the, you say, the carpeting and--(interrupted)

A. Well, no carpeting to be supplied. If a tenant wanted carpeting, they would supply it.

Q. And how about florescent lights and redecorating?

A. The building company would take care of, say, vinyl tile floor covering, dropping ceilings--(interrupted)

Q. Now, when you go to draft plans to go by to carry out this renovation process, who does this work for you?

A. Who does the work?

Q. Yes, sir. I mean, draws up the plans as to how the floors will be fixed and the electrical conduits and this type of thing.

A. Well, I think it's pretty customary that a tenant coming in knows how much space he wants and what private offices he wants and--(interrupted)

Q. I'm aware of that, but what I wanted to know is who furnishes you with this type of engineering service, architectural service, so to speak?

A. Well, normally, engineering or architectural service would not be involved in renting the average amount of office space.

Q. No, I mean in order for you to prepare that office space for those people to their specifications. Now, you don't just have someone come in and say fix this

thing up. You've got to have someone to draw plans of it to start out with, don't you?

A. No, normally we wouldn't.

Q. How is that carried out? How do you carry this out?

A. Well, we've dealt for a number of years with a relatively small contractor and on the average-sized office and he would be in a position to come in, drop the ceilings, we would have electrical outlets, install the lights, but the floor coverings would be put in by the same contractor I first mentioned. We'd have a plumbing firm come in and remove the radiator and put in--(interrupted)

Q. You mean, they do this without any plans or specifications by you as to how it should be carried out? I mean, under contract or otherwise, what I have reference to, Mr. Neiswanger, is that is it possible that Mr. Harbes furnishes you with this type of advice?

A. Well, Mr. Harbes has had no connection with the New England Building or our office.

Q. The New England Building itself?

A. He's had no connection with that other than what we've discussed at this hearing.

Q. He doesn't have anything to do with saying how these offices will be partitioned off and renovated?

A. That is correct.

REPRESENTATIVE HAYES: Are there other questions?

QUESTIONS BY REPRESENTATIVE BURKE:

Q. Mr. Neiswanger, did you say that you had been in this business since 1946?

A. Yes.

Q. And that is your full-time occupation?

A. Yes. Well, those areas I mentioned. I mean, of brokerage, property management. We have a general insurance business, those areas.

Q. Do you belong to some trade associations and if so, what are they?

A. Well, I belong to the Topeka Board of Realtors, Kansas Association, National Association, served as a retail vice president of National Association. I'm a certified property manager which is a designation awarded by the Institute of Real Estate Management, a member of the National Institute of Real Estate Brokers, and have a commercial investment designation for that organization.

Q. In your professional opinion has there been anything that hasn't occurred in a very officious and a very ethical manner in negotiations that Senator Thomas conducted with your office or any other person connected with the State as far as negotiations?

A. I know of nothing that was inappropriate.

REPRESENTATIVE HAYES: I believe there are no other questions. Thank you very much.

SENATOR STOREY: I would like to move that the letter--the Committee has received two letters, one dated January 19, 1970, from Mr. Robert Fuller, Property Manager of Neiswanger Company, Inc., and a letter from Senator Van Sickle dated January 20, 1970, and determine that these letters be made part of the record.

REPRESENTATIVE HAYES: All right. Have you heard Senator Storey's motion?

REPRESENTATIVE BURKE: Seconded.

REPRESENTATIVE HAYES: Who seconded it?

SENATOR BROMLEY: Mr. Chairman, I noticed on this letter dated January 19th, it says at the bottom here, "Please find enclosed five offering brochures concerning the subject property." I, too, would like

to have it entered in the record that I would like to have that clarified.

MR. CORNISH: Would you like copies of the brochures?

REPRESENTATIVE HAYES: All right, I've heard the motion which is to enter Mr. Fuller's letter with an enclosure dated January 19, 1970, and Senator Van Sickle's reply dated January 20, 1970, as part of the record in the case. Is there discussion? All those in favor say aye. Opposed same.

(All members present reply aye.)

MR. CORNISH: Mr. Chairman, may I say that those five offering brochures were a copy like this (indicating). This one's marked up. He'll be glad to get copies of those for each member of the Committee and get them over here.

SENATOR BROMLEY: I would like to have a copy myself.

MR. CORNISH: I'll send them over to the Committee.

WILLIAM M. HALL,

called as a witness on behalf of the Select Committee, having been first duly sworn on his oath by Representative

Hayes, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY REPRESENTATIVE HAYES:

Q Will you state your name, please?

A William M. Hall.

Q Where do you live?

A 5641 Southwest 47th Street, Topeka.

Q Your business or occupation?

A I'm with Merchant's National Bank here in Topeka.

Q Mr. Hall, you received a letter from me this week stating that you had the right to be represented by counsel during this hearing. Do you have counsel present?

A Yes, Mr. Cornish.

REPRESENTATIVE HAYES: Let Mr. Cornish be shown as counsel for Mr. Hall. Senator Tillotson, do you have any questions?

SENATOR TILLOTSON: No.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q Mr. Hall, are you acquainted with a gentleman named Tom Van Cleave?

A. Yes, I am.

Q. How long have you known him?

A. I suspect five years.

Q. I want to direct your attention to an option to purchase on the New England Building. You're familiar with that?

A. Yes, I am.

Q. Mr. John Harbes' option?

A. Yes.

Q. And did Mr. Van Cleave ever contact you about that option? Has he contacted you about that option this year?

A. I spoke with him very briefly. He had said that there was some concern about the negotiations concerning the properties located at 5th and Kansas and what could I tell him concerning this option and I told him that I felt that since Mr. Harbes was the option holder that it would be proper that he be the one to divulge the terms of the option.

Q. Was that about the extent of your conversation?

A. That was the substance of it entirely.

Q. Did you have any conversation with him with respect to former Senator C. Y. Thomas? Did he mention his name?

A. No, sir.

QUESTIONS BY SENATOR STOREY:

Q. Then, Mr. Hall, there was no doubt in Mr. Van Cleave's mind that Mr. Harbes was the option holder?

A. I stated that at the time and said I felt if he had questions in regard to the option it would be best for him to discuss it with Mr. Harbes.

Q. And the reason for that is if he wanted a copy of the option he could have asked Mr. Harbes?

A. Well--(interrupted)

Q. Knowing he was the option holder?

A. Right.

SENATOR STOREY: Thank you.

QUESTIONS BY SENATOR TILLOTSON:

Q. I want you to repeat that. You did tell Mr. Van Cleave that John Harbes had an option. Is that correct?

A. Yes, that's what we're talking about.

SENATOR TILLOTSON: Thank you.

QUESTIONS BY SENATOR SIMPSON:

Q. What was the approximate date of this conversation with Mr. Van Cleave?

A. About three weeks ago, to the best of my recollection.

Q. About March 20th, maybe?

A. Three weeks or more.

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. It was definitely during the month of March?

A. I'm certain of that.

REPRESENTATIVE HAYES: Any other questions
for Mr. Hall?

QUESTIONS BY REPRESENTATIVE BURKE:

Q. Did anyone else ask you about the option?

A. No others.

REPRESENTATIVE HAYES: Thank you, Mr. Hall.
I believe that's all.

JOHN L. CASSON,

called as a witness on behalf of the Select Committee,
having been first duly sworn on his oath by Representative
Hayes, to tell the truth, the whole truth, and nothing but
the truth, testified as follows:

EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. John Casson.

Q. And where do you live, Mr. Casson?

Q. And where do you live, Mr. Casson?

A. 5730 South West 47th.

Q. And what is your business or profession?

A. Construction.

Q. The reason you're here and I presume you know this is that you apparently own real estate and improvements thereon in the City of Topeka being rented presently by some agency of the State of Kansas. Is that correct?

A. That is correct.

Q. And where is your building and what agency leases?

A. The building's at 603 Topeka Avenue and the agency, I presume, is the Athletic Commission.

Q. How long have they occupied this premises?

A. Oh, I would guess maybe a year they have, two years.

Q. Do you have at hand the amount of the rent the State is paying, or the Athletic Commission is paying for the premises?

A. No, I don't have that with me.

Q. Do you know what it is?

A. No, I don't recall it.

Q. Now, the purpose of this Committee was to investigate any alleged improprieties surrounding the proposal of

the State purchase of the New England Building and additional properties. Did anyone connected with state government be it the legislative or executive branch, contact you since January 9th, 1973, in this connection?

A. No.

Q. And did you contact any member of the legislative or executive branch of the government about the proposal?

A. No.

REPRESENTATIVE HAYES: Any questions from members of the Committee?

QUESTIONS BY REPRESENTATIVE BURKE:

Q. Do you have any knowledge of any impropriety that might be connected with this case, this purchase of the New England Building?

A. No.

REPRESENTATIVE HAYES: Any other questions?

Thank you, Mr. Casson. Oh, excuse me.

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Well, I think you may have covered this, you said you didn't know the exact rental. Do you happen to know approximately what you get per square foot per year for your property over there that you're renting

to the Athletic Commission?

A. Well, our rental rates vary in that building and they'll vary from a little over three dollars a square foot up to four dollars a square foot.

Q. Bills paid?

A. We furnish utilities, custodian services.

REPRESENTATIVE HAYES: Thank you, Mr. Casson.

SENATOR TILLOTSON: Before you call the next witness, I would like to inquire if the minutes of the Senate Ways and Means Committee have been made a part of the record.

I would like to move that the minutes of the March 20th hearing before the Senate Ways and Means Committee be made a part of the record and I want particularly to call attention to the first paragraph thereof in which Mr. Harbes told the Committee at that time that he had an option to purchase this building.

REPRESENTATIVE HAYES: Is there a second?

Seconded by Senator Simpson. All in favor say aye. Opposes same.

SENATOR TILLOTSON: Also, one other thing. Also, that the only-- and the members were noted therein

and one was a Democrat member and apparently the other Democratic member of the Senate Ways and Means Committee was printed on that sheet.

REPRESENTATIVE HAYES: All right. That will be duly noted in the record.

L. M. ASCOUGH,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Would you state your name, please?
- A. L. M. Ascough.
- Q. And where do you live, sir?
- A. Topeka, here in Topeka, Kansas.
- Q. And your profession or occupation?
- A. Lawyer.
- Q. In the letter, you received a letter from me Monday?
- A. Yes, sir.
- Q. And in that you were advised of your rights to be represented by counsel at this hearing?
- A. Yes, sir.

Q. And I presume you wish to waive that right?

A. I'll waive it.

Q. All right, sir. The purpose of our inquiry, Mr. Ascough, is to check into any alleged improprieties in connection with a proposal with the State of Kansas to negotiate into acquiring the New England Building and the surrounding real estate and you have been asked to appear here because I believe you're a landlord in the State of Kansas, Is that correct?

A. Yes.

Q. And what agencies of the state rent property from you?

A. The Kansas Board of Nurses--and I'm not trying to be exact. This study of Mr. Harold Riehm for his study of the laws of intergovernmental agencies, I could get you the correct names if you need them, and the Fire Marshall for the State of Kansas and the Veterans Administration. I believe that's it.

Q. All right. Now, where is your building located?

A. Seventh and Jackson, sir.

Q. And is that building known as the Insurance Building?

A. Yes, sir.

Q. Since January 9th of 1973, Mr. Ascough, have you been contacted by anyone of the legislative or executive

branches of government of the State of Kansas with respect to the proposal to purchase the New England Building and other property?

A. No, sir.

Q. And have you made any contact with anyone in those branches of government?

A. No, sir.

Q. Do you know of any improprieties that are alleged improprieties that may have occurred during those negotiations?

A. I have no information about it at all except what I read on the front page of the paper, from any source, Mr. Hayes.

REPRESENTATIVE HAYES: Does any member of the Committee have questions for Mr. Ascough?

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Just a moment. What is the average cost per square foot that the State of Kansas pays for this property?

A. The leases beginning this year are four dollars. Prior to that, they were less.

Q. Four dollars now?

A. Beginning January 1.

Q. In every case where they rent?

A. Those that expire this year in '73, yes, sir. The old ones were less than that.

REPRESENTATIVE HAYES: Any other questions?

Thank you very much.

MR. ASCOUGH: May I be excused?

REPRESENTATIVE HAYES: We thank you for being here.

MAX A. KLEIN,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. In my letter to you which you should have received on Monday, I advised you of your right to counsel. Do you have counsel with you?

A. Yes, sir, Mr. Barnes.

REPRESENTATIVE HAYES: Mr. Barnes will be shown in the record as counsel for Mr. Klein.

Q. Mr. Klein, one of the reasons that you were subpoenaed to appear today was the fact that I believe you appeared before the House Ways--Senate Ways and Means Committee last month in connection with the proposed acquisition

by the State for negotiations therefore of the New England Building and related property?

A. Yes, sir.

Q. And you are Mr. Max Klein? You're with Southwestern Bell Telephone?

A. That's correct, sir.

Q. Now, does the Southwestern Bell Telephone Company own property in that area?

A. Yes, we do, 7 full lots and one about two-thirds of a lot there on Kansas Avenue that we have given plats to have furnished these previously.

Q. All right.

REPRESENTATIVE HAYES: Would anyone like that plat to be a part of the record in this hearing?

SENATOR BROMLEY: I would.

REPRESENTATIVE HAYES: All right.

A. I have copies, yes, sir.

Q. (By Representative Hayes) Would you hand that to Mr. Carman? He will make it part of the record.

A. I will.

Q. Now, Mr. Klein, did you on behalf of your company have any meetings with any representatives of the legislative or executive branch of the State of Kansas for negotiation

of the sale of this property?

A. Yes, sir.

Q. And would you tell the Committee with whom you met?

A. Okay. Now, this goes back quite a ways, Mr. Chairman. Our first inquiry on our lot was clear back in 1970 and at that time our vice president general manager, Mr. Jim Haag, wrote a letter to Senator Tom Van Sickle telling him that we had this property and that it was available for sale.

Q. Do you happen to have a copy of that letter?

A. Yes, I do.

Q. Could we reproduce it?

A. I have a copy I'll give to you. Could I give it to him when I get through?

Q. Yes, sir.

A. All right, sir.

Q. I assume that the property was not sold to the State in 1970?

A. No, sir, it wasn't.

Q. And when were you again contacted by representatives of the legislative or executive branch?

A. 1972 Session to the best of my knowledge.

Q. And who contacted you at that time?

- A. We spoke with, I believe, Mr. Van Sickle. Again, I can't--I've talked to a lot of people about this over the last three or four years.
- Q. I understand.
- A. Representative Clyde Hill received a letter from us. I do have a copy of that with me. I think I spoke with Mr. Loux. I can't absolutely say that, but I'm pretty sure.
- Q. Commencing with 1973, do you have recollection of whom you've talked with about the property?
- A. Yes, sir, I have spoken with Mr. Borgen, with Mr. Thomas, with Mr. Loux, and other people have asked me about this, but those are the people I can remember that I've spoke to about it.
- Q. Now, with respect to your conversation with Mr. Thomas, can you tell the Committee--(interrupted)
- A. Well, I've talked to him two or three times, was our property for sale again, what was the price, how long would it take if the legislature approved this for us. We have to submit this to our board of directors and, of course, he's let me know that the State wants to buy this property as cheaply as possible and actually that's about it.

- Q. The Committee would be interested in the price which you quoted.
- A. We've asked two hundred and fifty thousand.
- Q. Now, how about your conversations with the other gentleman you named?
- A. Primarily, they've been the same thing, are the lots for sale, how much and what's the cheapest price we can buy them.

REPRESENTATIVE HAYES: Any questions?

QUESTIONS BY SENATOR STOREY:

- Q. Mr. Klein, you stated the Ways and Means Committee on March the 20th, where I wasn't present, that the price you're asking is less than Southwestern Bell paid for the lots?
- A. That's correct, sir. We paid three hundred and eighteen thousand dollars in 1963 plus a real estate fee for these lots.
- Q. And is that two hundred and fifty thousand the price you quoted both in 1970 and '72?
- A. Yes, sir, it is.

SENATOR STOREY: Thank you.

QUESTIONS BY MR. NOVAK:

- Q. This was for this seven lots and the one parking lot.

Is that right?

A. Yes, sir, and we have surfaced two-thirds of these lots in the last couple years because we have a car pool down there and we have made some improvements on them.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY REPRESENTATIVE GRABER:

Q. There's no improvements on it?

A. There's a small garage that houses one car, a garage where we do maintenance on vehicles. There's a five thousand gallon tank and two-thirds of it is surfaced and a third of it is--(interrupted)

QUESTIONS BY SENATOR SIMPSON:

Q. Do you have any contacts with people other than the people you've mentioned, Mr. Borgen, Thomas, or Loux, this year, specifically Mr. Van Cleave or Mr. Matlack or anyone else in regard to the purchase by the State of this property?

A. No, sir, I have not.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Were the lots improved when you bought them?

A. No, when we bought them there were some old buildings there, so we tore these old buildings down and then we

planned to build our early headquarters building there, then we changed our mind in 1967 and built it on East Sixth and I'm not sure when we put our car pool there, a couple years ago.

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Does the Telephone Company now lease office space to the State of Kansas?

A. Not that I know of. I'm sure not.

QUESTIONS BY SENATOR BROMLEY:

Q. Are you aware or would you know whether or not any of the people that own the New England Building also own stock in the Southwestern Bell Telephone Company?

A. I couldn't tell you that, sir. I really don't know.

SENATOR BROMLEY: Thank you.

QUESTIONS BY REPRESENTATIVE HAYES:

Q. Mr. Klein, do you have or possess any information in respect of any alleged improprieties surrounding the negotiations of the legislative or executive branch of government for the acquisition of the property?

A. I do not, certainly don't.

REPRESENTATIVE HAYES: Thank you, Mr. Klein.

We appreciate it. Gentlemen, why don't we break for a few minutes and let the young lady have a rest.

(Thereupon, at this time a fifteen minute recess was held, after which the following proceedings were had, to-wit:)

JOHN O. WALKER,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Did you receive a letter from me on Monday concerning your appearance here?
- A. Yes, sir, I was subpoenaed, sir.
- Q. Now, in that letter, did you receive any other than a subpoena?
- A. No, merely the subpoena, sir.
- Q. Under the statutes under which this Committee is operating, you are entitled to be represented by counsel during the hearing. Do you wish to waive the right?
- A. I waive the right.
- Q. Would you state your name?
- A. John O. Walker.
- Q. And what is your address?
- A. 2809 Plass.

- Q. And what is your business or occupation?
- A. I'm president of Pelletier's Department Store.
- Q. Does Pelletier's Department Store rent space to any agency in the State of Kansas?
- A. Yes, sir.
- Q. And could you tell us what agencies?
- A. Yes, it is the Water Resources Board, the Soil Conservation Committee, and a motel.
- Q. And has this continued for some period of time prior to 1973?
- A. Yes, sir, I believe the agency has been in our building since about a year ago last October.
- Q. We are concerned with investigating any possible alleged improprieties in connection with the proposal of the State to acquire the New England Building and adjacent properties. Did you know of any such improprieties?
- A. No, sir.
- Q. You have no information?
- A. No, sir.
- Q. Did you or anyone in your organization contact anyone in the legislative or executive branch of the state government concerning this?
- A. Not prior to the governor's veto, sir, no.

Q. Has there been a contact since that time?

A. I simply discussed with Mr. Brandt the veto.

Q. Did Mr. Brandt call you or did you call him?

A. No, I've been talking to Mr. Brandt for some other space which we had to rent for about a year or two and I just simply asked him about the veto which rather surprised me.

REPRESENTATIVE HAYES: Does any member of the Committee have any questions?

REPRESENTATIVE NOVAK: Just one, Mr. Chairman.

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. What does this space rent for?

A. What does it rent for?

Q. Yes, per square foot.

A. I believe the net rental is about--well, it's a nominal fifteen thousand square feet and including the custodial fees it's, I believe it's roughly four dollars a foot, sir, including custodian.

REPRESENTATIVE HAYES: Any other questions?

QUESTION BY SENATOR BROMLEY:

Q. You state that you haven't discussed with anyone the possibility of renting that space that you have available. Now, prior to the action by the legislature to draft

this bill or after the governor vetoed it?

A. Well, Senator, I've offered additional space to the State of Kansas ever since the State moved in a year or so ago. I've made it known to the state architect and Department of Administration that we had additional space per rental, but I've had no conversation relative to the New England Building purchase with anybody.

Q. Do you know Mr. Van Cleave?

A. No, sir.

Q. Do you know Mr. C. Y. Thomas?

A. No, sir.

Q. Do you know Mr. Don Matlack?

A. No, sir.

Q. Do you know the governor?

A. No, sir--well, let's put it this way. I met the governor in legislative meetings. I've met him in meetings, but I don't know him personally at all.

Q. You say you have for rent at this time fifteen thousand square feet?

A. Yes, sir--oh, I have at this time--(interrupted)

Q. Yes, for rent.

A. Yes, we have for rent two floors, thirty thousand square feet, and I believe the company has additional

smaller areas which, of course, all of this would, any of this space would have to be approved. We don't own the building. In other words, if we sublease, we have to get approval from the building owner.

Q. Normally, when you lease this space to the State, is that handled through the Department of Administration?

A. I've only leased any once, sir, and at that time I think the lease--I'm sorry I don't have a copy of it here, but it was signed by the Finance Council and I don't know, there were about fifteen signatures on it, so I think it was approved by kind of everybody concerned and my original approach on it was to Mr. Hale, the state architect.

Q. Do you know Mr. Hale, do you?

A. Yes, sir. I consult with him on plaza authority.

QUESTIONS BY REPRESENTATIVE BURKE:

Q. Mr. Walker, would you draw a conclusion or have you drawn a conclusion in your mind that perhaps if the New England Building was leased or if it was purchased that perhaps some of those agencies in your building might move out?

A. Mr. Burke, I really haven't given this thing any thought. Your agencies in our building are on a five-year lease,

I believe, with two one-year options to renew, or your agencies, three of them are. We did the fixturing for them and we offered the space, I believe, at two dollars and fifteen cents a square foot as space if the State wished to do its own remodeling and they felt they would prefer to have us do it, so we did it to their command and on that basis, I think that's why there was so many people involved in signing the lease, so I really haven't really given any thought to it. I haven't been in the New England Building for over fifteen years and it just hasn't entered my mind.

QUESTIONS BY REPRESENTATIVE BURKE:

Q. I apologize for not being here when you first started. What is the term of the lease?

A. They've been in our building, I think, they moved in during October, a year ago, been a little over, a little over a year, year and a half.

Q. In your discussion with Mr. Brandt, was there any discussion about you might be moving out or any discussion at all relative to any state agency moving out of any building?

A. No, sir.

REPRESENTATIVE HAYES: Further questions? Thank

you, Mr. Walker. I appreciate it.

STEARNS N. BELDEN,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Stearns Belden.

Q. And where do you live, Mr. Belden?

A. 3111 Jewell.

Q. And what is your business or occupation?

A. Building management and accounting.

Q. And what buildings do you manage?

A. Mills Building and the Medical Arts Building.

Q. Mr. Belden, the purpose of this Committee's inquiry is in connection with any alleged improprieties in connection with the proposal for the State to negotiate the purchase of the New England Building and additional property. Do you on behalf of the Mills Building company lease space to the State of Kansas?

A. We do have some, yes.

Q. And what agency is that?

A. The State Savings & Loan and the Fish and Game.

Q. Now, in this connection, did you or any official of the Mills Building company have any contact with any member of the legislative or executive branches of the government?

A. No, sir.

Q. In connection with the proposal?

A. No, sir.

Q. And has anyone spoken, anyone from the legislative branch or executive branch spoken to you?

A. No, sir.

Q. Concerning those?

A. No, sir.

Q. Have any of the agencies talked to tenants about the proposal?

A. No.

Q. Do you have or possess any knowledge of alleged improprieties in connection with the negotiations?

A. No, sir.

REPRESENTATIVE HAYES: Questions by members of the Committee? Thank you Mr. Belden. We appreciate your appearance.

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JOHN D. DUNIGAN,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. John D. Dunigan.

Q. And where do you live, Mr. Dunigan?

A. 1320 North Kansas.

Q. What is your business or occupation?

A. I'm retired, now.

Q. Mr. Dunigan, the statutes we're operating under today you are entitled to be accompanied by counsel. Do you wish to have counsel here?

A. Oh, I don't know if I need any. I don't think I do. There are very few questions.

Q. In case we get to the point where you do--(interrupted)

A. Okay.

Q. Mr. Dunigan, do you own some--would you mind stepping behind the microphone so we might hear you a little better.

A. Oh, all right.

Q. Mr. Dunigan, do you own property which is rented to the State of Kansas?

A. Yes, sir.

Q. And where is the property located?

A. 1208 North Kansas.

Q. And what agency of the State rents from you?

A. It's a State Grain.

Q. The State Grain Inspection Department?

A. State Grain Inspection Department, yes.

Q. And what type of facilities do they have?

A. What type of buildings?

Q. Yes.

A. It's fifty foot wide there's a hundred--let's see, fifty foot, what is that? Fifty by--well, I used to know, but I've kind of forgotten. Fifty wide--let's see, wait a minute, it's twenty-five by fifty. That's it.

Q. Is it an office building?

A. Yes, an office building. I had to study a minute, see.

Q. Mr. Dunigan, the purpose of this Committee is to investigate any alleged improprieties for negotiations by the State to purchase the New England Building and

adjacent properties.

A. Yes, I read that in the paper, yes.

Q. Did any member of the legislative or executive branches of government contact you as a state landlord in connection with this proposal?

A. No, no.

Q. The extent of your knowledge of the proposal is what you read in the paper?

A. That's all, what I read in the paper. I wondered what it was all about.

Q. And you don't possess any knowledge of any alleged improprieties with the negotiations?

A. No, no.

REPRESENTATIVE HAYES: Are there any questions from the Committee?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Yes, sir, do you recall offhand how much rent you charge the agency?

A. How much rent I get now?

Q. Yes.

A. I get three hundred dollars a month.

REPRESENTATIVE PARRISH: Thank you.

MR. DUNIGAN: Yes.

REPRESENTATIVE HAYES: Any other questions? Thank you, Mr. Dunigan. We appreciate your appearance.

MR. DUNIGAN: Okay, thank you.

H. W. GERLACH,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. H. W. Gerlach.

Q. Where do you live?

A. 2501 Osborne, Topeka.

Q. And your business or profession?

A. I'm a consulting engineer.

Q. Now, Mr. Gerlach, under the statutes we're operating under you have the right to be represented by counsel during this hearing.

A. I have no counsel. I have no care.

Q. You waive that?

A. I waive that, yes.

Q. All right, sir. The purpose of our inquiry is to ask

you to state whether or not you own properties which are presently being rented to any state agency in the State of Kansas.

A. Yes, one of the companies of which I'm president, Crestwood Investment Company, owns some property at 3300 West 29th Street which is being rented as a library and training center to one of the state social agencies. Their particular official, I'm not completely certain, but it's known as a state training school for social agencies.

Q. And that is the only property in which you are interested?

A. Yes, sir, that's right.

Q. That is leased by the state. The purpose of our investigation is to inquire into the alleged improprieties in connection with the negotiations for state purchase of the New England Building and adjacent properties.

A. I understand, yes.

Q. Have you since January 1, 1973, contacted any member of the legislative or executive branch of the government about this proposal?

A. No.

Q. Has anyone from either branch contacted you?

A. No, sir.

Q. Do you have knowledge of any alleged improprieties surrounding or in connection with that transaction?

A. No, sir.

REPRESENTATIVE HAYES: Any questions by any members of the Committee?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Mr. Gerlach, how much per square foot do you collect rental per year on your property there? Do you recall?

A. Well, it's around three dollars and fifty cents a square foot.

Q. You provide utilities?

A. Yes, sir, not the telephone, but the electric, power, and the gas heat.

Q. How about janitorial?

A. No, the state furnishes their own.

REPRESENTATIVE HAYES: Any other questions for Mr. Gerlach? Thank you, sir, we appreciate your appearance.

ROBERT C. GUTHRIE,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Robert C. Guthrie.

Q. And your address?

A. 3000 West 19th.

Q. In Topeka, Kansas?

A. Yes, Topeka, Kansas.

Q. And what is your business or occupation?

A. I'm with the First National Bank of Topeka, senior vice-president and trust officer.

REPRESENTATIVE HAYES: Senator Tillotson, would you proceed, please?

QUESTIONS BY SENATOR TILLOTSON:

Q. I believe, did you receive a letter from the Chairman of this Committee along with a subpoena to the effect that for the purpose of this hearing that you could be represented by counsel?

A. Yes, sir.

Q. Are you represented by counsel?

A. Yes, sir.

Q. Is this your counsel? Would you state your name.

MR. McELHENNY: William B. McElhenny.

Q. The purpose of this inquiry is to determine whether or not in the negotiations for the purchase of the New England Building, if there were any improprieties or irregularities. Do you know anything about this that you might tell the Committee?

A. No, sir, I know of none.

Q. Were you ever approached by any member of the legislative branch or the executive branch with reference to the sale of that building to the State?

A. No, sir, I wasn't approached by either.

Q. Do you--is your bank or do you personally have any interest in any property that is now leased to the State of Kansas?

A. Yes, sir.

Q. What is the property?

A. At 10th and Quincy.

Q. Tenth and Quincy?

A. Yes.

Q. What agency leases that property?

A. That's the Department of Public Superintendents of Public Instruction. I have the Department of Public Instruction and the Department of Vocational Education at the present time at 112 and 120 East 10th.

Q. I'm familiar with the location, yes. That's the only property that you or your bank has any interest in that is leased to the State?

A. No, one of my colleagues will mention another property that is leased to an agency of the State. I appear to be familiar with this one. He was subpoenaed and is familiar with the other one.

QUESTIONS BY REPRESENTATIVE HAYES:

Q. Is that Mr. Royer?

A. That's Mr. Royer, right.

Q. And no one has contacted you from either the executive or the legislative branch in reference to the proposed purchase of the New England Building?

A. That's correct.

Q. Have you approached anyone with reference to it?

A. No, sir.

Q. Have any conversation with anyone relative to it?

A. No, sir.

REPRESENTATIVE HAYES: Any questions from members of the Committee?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Mr. Guthrie, could you tell the Committee what you charge rental per square foot per year on this particular property

and how many square feet you lease?

A. Yes, the square footage is forty-six thousand square feet. The rental is three dollars per square foot.

REPRESENTATIVE PARRISH: Thank you.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY SENATOR BROMLEY:

Q. Do you know Mr. C. Y. Thomas?

A. Yes, I have met him.

Q. How long ago?

A. Oh, I haven't seen him except in the hall today at which time I said hello.. I haven't seen him for over a year.

Q. You haven't seen him or talked to him for over a year. You haven't seen him or talked to him?

A. I think it's approximately a year.

Q. Do you know Mr. Tom Van Cleave?

A. No, sir.

Q. Do you know Mr. Don Matlack?

A. What was that name again?

Q. Don Matlack.

A. No, sir.

SENATOR BROMLEY: I think that's all I have.

REPRESENTATIVE HAYES: All right. Thank you, sir, for being here. We appreciate your appearance.

EVERETT ROYER,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Everett Royer.

Q. And where do you live, Mr. Royer?

A. 1273 Fillmore.

Q. And what is your business or profession?

A. Vice president of the First National Bank.

Q. You're represented by Mr. McElhenny?

A. Yes.

QUESTIONS BY SENATOR TILLOTSON:

Q. You are assistant vice president to the bank and trust company of First National Bank?

A. I was.

Q. You were. Does the bank lease any property to the State of Kansas?

A. Yes.

Q. Where is the property?

A. 1020 and 1022 North Kansas in the Scott Building at

11th and Quincy.

Q. What department of state leases this property?

A. North Kansas is the Agricultural Services.

Q. The purpose of this inquiry is to determine whether there were any irregularities or improper efforts made on behalf of several people with reference to the purchase of the New England Building. Are you familiar with that?

A. Only what I read in the paper.

Q. Have you ever had any conversations with anyone connected with the State in reference to the purchase of that property?

A. No, sir.

Q. You were not approached by anyone with reference to the purchase of that building?

A. No one.

SENATOR TILLOTSON: Any questions?

QUESTIONS BY SENATOR BROMLEY:

Q. Just the usual question. Do you know Mr. C. Y. Thomas?

A. No, I don't.

Q. Do you know Mr. Van Cleave, Tom Van Cleave?

A. No, I don't.

Q. Do you know Mr. Don Matlack?

A. Who?

Q. Don Matlack.

A. No, sir.

SENATOR BROMLEY: Thank you.

REPRESENTATIVE HAYES: Thank you, Mr. Royer. We appreciate you being here.

DAVID J. RASURE,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. David Rasure.

Q. And your address?

A. 2217 Knollwood Drive, Topeka.

Q. And your business or occupation?

A. Building manager, First National Bank.

Q. Are you represented here today by Mr. McElhenny?

A. Yes.

QUESTIONS BY SENATOR TILLOTSON:

Q. Mr. Rasure, the purpose of this inquiry is to determine

whether there has been any innuendoes or any irregularities with reference to the proposed purchase of the New England Building. Do you know anything about that that might be of benefit to the Committee?

A. No, sir, I do not.

Q. Were you ever approached by anyone representing either the executive or the legislative branch of the state government with reference to the purchase of that property?

A. No, sir.

Q. What do you know about it, if anything?

A. What I've read in the paper, that's about it.

Q. In your capacity as manager of the bank, do you lease any property to the State of Kansas?

A. Yes, sir.

Q. What property?

A. We have a Kansas Public Employees Retirement System over the fourth floor of our Tower and the State Board of Accountants on the third floor.

Q. Those are the two agencies you lease to?

A. Yes, sir.

SENATOR TILLOTSON: Any questions?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Yes, sir, Mr. Rasure, can you tell the Committee the approximate charge per square foot of the rental space of these agencies and how much space you lease?

A. Seventy-five hundred square feet at five sixty-five, five dollars and sixty-five cents per square foot per year.

Q. How many--(interrupted)

A. Seventy-five hundred and the State Board of Accountants has a small office, approximately two hundred square feet. I don't have the figures with me.

QUESTIONS BY REPRESENTATIVE HAYES:

Q. Mr. Rasure, did any member of the State Board of Accountants or the Kansas Public Employees Retirement System discuss the proposed negotiations for the purchase of the New England Building with you?

A. No, sir.

REPRESENTATIVE HAYES: Any other questions?

Thank you, we appreciate your appearance.

WILLIAM R. KIENE,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Bill Kiene.

Q. And where do you live, Mr. Kiene?

A. 2824 MacVicar, Topeka, Kansas.

Q. And your profession?

A. Architect.

QUESTIONS BY SENATOR TILLOTSON:

Q. Mr. Kiene, the purpose of this inquiry is to determine whether or not there have been any irregularities in the proposed purchase of the New England Building. Are you familiar with that?

A. Just from what I've read in the paper.

Q. Do you lease some property to the State of Kansas?

A. Yes, I'm a stockholder in a company which owns a building in which the State has some space.

Q. Where is that property?

A. It's the northwest corner of 29th and Madison here in Topeka, called the Sunflower Building.

Q. What department leases that?

A. The Department of Rehabilitation and Social Welfare.

Q. Have you ever been contacted by any member of the

executive or legislative branch in reference to the purchase of the New England Building?

A. No, I have not.

Q. You haven't discussed it with anyone connected with the State?

A. No, sir, no, I have not.

Q. And I believe you said all you know is what you read in the paper?

A. That's correct.

SENATOR TILLOTSON: Are there any questions?

QUESTIONS BY SENATOR BROMLEY:

Q. Do you know any of the people whose names were mentioned in the paper?

A. Well, yes, I think I know probably most of the people. I know John Harbes--who were some of the other mentioned?

Q. C. Y. Thomas?

A. Yes, I know Mr. Thomas.

Q. Don Matlack?

A. No, I don't personally know him. I've met him.

Q. Tom Van Cleave?

A. I'm not sure that I've met Mr. Van Cleave, but I can say that I know him.

Q. How well are you acquainted with Mr. C. Y. Thomas?

A. Well, I've known Mr. Thomas for about ten years. He was involved in the White Lakes Shopping Center for which we were the architect and I was acquainted with him at that time.

Q. Have you had any discussions with him regarding the New England Building?

A. None whatsoever.

Q. Has he contacted you?

A. Not at all.

Q. Did you render a service to the State whereby you had something to do with the planning of the capitol area?

A. Yes, my firm is one of the architects of the Capitol Area Plaza Program. We're the architects for the Supreme Court building.

Q. What kind of building--what kind of building are you presently renting to the State here at the Department of Social Welfare? Is this just office quarters?

A. Yes, originally the lower floor was to be commercial space. However, it's now primarily office space of the building.

Q. Approximately how many square feet do you presently lease to the State of Kansas?

A. It's about eighty two hundred square feet.

Q. Eighty two hundred. Can you tell me how much per square foot the lease--(interrupted)

A. About 10 per cent of the space is rented at three dollars and fifty cents a square foot annually and the balance of it is three dollars and seventy-five cents a square foot.

Q. What's the difference for this variation?

A. Well, it's the term of the lease. We raised the rent the last time the property taxes were increased and the smaller portion, I think, there are three separate leases involved and the smaller portion had not reached its renewal date. That's why it's still at three sixty rather than the three seventy-five.

SENATOR BROMLEY: I think that's all.

REPRESENTATIVE HAYES: Thank you, Mr. Kiene. I appreciate your appearance.

MR. KIENE: Am I free to leave now?

REPRESENTATIVE HAYES: Yes, I think so. I don't believe any member would have any objection.

We appreciate your appearing.

RON LIERZ,

called as a witness on behalf of the Select Committee, being

first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Ron Lierz.

Q. And where do you live?

A. 2232 Edgewater Terrace.

Q. In Topeka, Kansas?

A. Topeka, Kansas.

Q. And what is your business or profession?

A. Credit manager for Whelan Lumber Company.

Q. I beg your pardon?

A. Credit manager for Whelan Lumber Company, office secretary for the board of directors and the credit bureau.

Q. Does the credit bureau have offices located in an area south of the building known as the New England Building?

A. Yes, it does.

Q. And who is the record owner of that property?

A. Credit Bureau of Topeka, as I understand.

Q. Do they have title to it or are they purchasing it on

contract?

A. I think they have title to it.

Q. All right. Sir, the purpose of this investigation is to ascertain if there were any irregularities or alleged improprieties in connection with the State proposal into the purchase of the New England Building and do you understand that, sir?

A. Yes.

Q. Were you or as far as you know any member of your organization contacted by any member of the legislative or executive branch of the state government in connection with this proposal?

A. I was not and I'm not aware of any contacts made with the Credit Bureau.

Q. Who is the president of your organization?

A. Don Williams.

Q. And he's here today, as I understand?

A. Yes.

Q. All right. Did you contact anyone in connection with the proposal of the legislative or executive branch?

A. No.

Q. Do you have any knowledge other than what you might have read in the newspapers or seen on television of the

proposal?

A. No, sir.

REPRESENTATIVE HAYES: Are there any questions?
Thank you, we appreciate your being here.

DON WILLIAMS,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Don Williams.

Q. And your address?

A. 5437 West 12th Terrace.

Q. And your business or profession?

A. I'm an assistant vice president of Capitol Federal.

Q. And do you hold an office in the Credit Bureau?

A. An honorary office. I am president, yes, sir.

Q. You have the right to be represented by counsel here today. Do you wish to waive that right?

A. Yes, I'll waive that right.

Q. All right. Do you understand that we're inquiring into

this alleged irregularities or improprieties in connection with the negotiations or the purchase by the State of the New England Building and additional properties?

A. Yes, sir.

Q. And, I believe, the Credit Bureau owns or is purchasing under contract a building just south of the New England Building?

A. Correct.

Q. Which is correct, are they the record owners or are they purchasing it?

A. We are purchasing it under contract.

Q. And from whom is the purchase being made?

A. I don't know, I'm sorry. I don't know.

Q. Did anyone from the executive or the legislative branch of the state government contact you in connection with this proposal?

A. No.

Q. Do you know if any contact was made with any member of your organization?

A. Not to my knowledge.

Q. Do you know of any alleged improprieties or irregularities in connection with the negotiations?

A. Not to my knowledge.

QUESTIONS BY SENATOR STOREY:

- Q. Mr. Williams, has that particular property ever been offered for sale to the State of Kansas?
- A. No, sir, it's never been offered for sale to anyone.
- Q. It isn't for sale today?
- A. No, sir.

SENATOR STOREY: Thank you.

REPRESENTATIVE HAYES: Any questions? Thank you, Mr. Williams. We appreciate your appearance.

LAWRENCE T. LITWIN,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Would you state your name, please?
- A. Lawrence Litwin.
- Q. And what is your address?
- A. 323 Woodbury Lane, Topeka, Kansas.
- Q. And your business or occupation?
- A. I'm essentially a merchant. I have a clothing store.
- Q. Mr. Litwin, under the statute under which we're operating

you are entitled to have counsel at your close advice to counsel with you during the hearing. Do you desire to waive that right?

A. Yes.

Q. Mr. Litwin, we're investigating alleged improprieties or irregularities in connection with the proposal of the State of Kansas to negotiate for the purchase of the New England Building and adjacent properties. Do you have any knowledge or possess any information with respect to any alleged irregularities or improprieties?

A. Absolutely not.

Q. Are you the owner of a piece of real estate and improvements now being leased to any agency of the State of Kansas?

A. One of the owners, yes.

Q. And could you give us the detail on that?

A. The State Board of Cosmetology rents the second floor at 630 Kansas Avenue.

Q. Did any member of the agency contact you at any time concerning the proposal?

A. Never.

Q. And I believe you stated you had no contact with any member of the legislative or executive branches of the

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government?

A. No contact with anyone.

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Mr. Litwin, how are you? How many square feet do you rent to the State?

A. Three thousand four hundred fifty-six, I believe, is the exact figure.

Q. And approximately how much per square foot do you charge?

A. A dollar eighty-six which includes utilities.

Q. But no janitorial services?

A. No.

REPRESENTATIVE HAYES: Any other questions? Thank you, Mr. Litwin. We appreciate your appearance.

EDMUND N. MORRILL,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. My name is Edmond N. Morrill.

Q. And where do you live?

A. 2775 Jewell, Topeka, Kansas.

Q. And would you give us your business or occupation?

A. I'm a vice president of Capitol Federal Savings & Loan Association.

Q. Mr. Morrill, the purpose of the Committee's investigation is in connection with the alleged irregularities or improprieties in connection with the proposal of the State negotiating for the purchase of the New England Building and adjacent properties. Were you aware of that?

A. Yes, sir.

Q. And does any organization of which you have connection rent space to the State of Kansas at the present time?

A. Yes, the State Education Commission rents twelve hundred sixty five square feet of space from Capitol Federal.

Q. And has anyone in that agency contacted you concerning the proposal of the New England Building being negotiated for?

A. They have not.

Q. And have you had any contact or to the best of your knowledge has anyone in the Capitol Federal organization had any contact with any member of the legislative or executive branch of the state government?

A. To the best of my knowledge, they have not.

Q. And has anyone from the legislative or executive branch contacted you concerning the proposal?

A. No, sir.

REPRESENTATIVE HAYES: Any questions by the Committee?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Yes, sir. Mr. Morrill, how many square feet of property do you lease to the Education Commission and at what rate?

A. Twelve hundred sixty five square feet currently on a month to month basis, currently rental is five dollars and twenty-five cents per square foot per year. We also have the State Board of Social Welfare, has a snack bar in our building on the fifth floor and they have three hundred and four square feet at two dollars and fifty-nine cents per square foot.

REPRESENTATIVE HAYES: We appreciate your appearance.

BILL RINNER,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Bill Rinner.

Q. And where do you live, Mr. Rinner?

A. 550 North West 35th Street, Topeka.

Q. And what is your business or occupation?

A. I'm a contractor.

Q. Mr. Rinner, under the statute that we are operating under you do have the right to be represented by counsel during the proceedings here. Do you wish to waive that right?

A. Yes, I'll waive it.

Q. We are charged with investigating any alleged improprieties or irregularities in the proposal of the State of Kansas negotiating for the purchase of the New England Building and adjacent properties. Are you generally familiar with that proposal?

A. Yes.

Q. And the reason that you have been subpoenaed is that we understand that you or a company in which you're interested is presently renting space to the State. Is that correct?

- A. Yes, we have a state agency in our building.
- Q. And where is the building located?
- A. 234 Kansas, Credit Association.
- Q. What agencies?
- A. Credit Association.
- Q. And the address is?
- A. 234 Kansas.
- Q. Now, has any member of the agency to which you rent space contacted you with respect to the proposal of the State negotiating to the purchase of the New England Building and additional properties?
- A. No, they haven't.
- Q. Have you had any contact with or has any member contacted you in the executive or legislative branch of the government concerning the proposal?
- A. No.
- Q. We're asking each witness apparently what rental are you receiving from this agency?
- A. I'm not sure about it, but it's around four and a half per foot.

REPRESENTATIVE HAYES: Any questions by the members of the Committee? Thank you, Mr. Rinner. We appreciate your appearance.

THOMAS M. PICKFORD,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Would you state your name, please?
- A. My name is Thomas M. Pickford, P-i-c-k-f-o-r-d.
- Q. And your address, please?
- A. 2824 Burnett Road, Topeka, Kansas.
- Q. And what is your business?
- A. I'm the district manager for Armco Steel Corporation.
- Q. You are substituting for Mr. Robert Martin, as I understand?
- A. Mr. Martin, that's correct.
- Q. Mr. Pickford, under the statute we're following you have the right to be represented by counsel during this hearing. Do you wish to waive that right?
- A. I'll waive that right.
- Q. The purpose of our inquiry is to ascertain if there were any alleged irregularities or improprieties in connection with the proposal that the State of Kansas negotiate for the purchase of the New England

Building and adjacent properties. Are you familiar generally with that proposal?

A. Just what I've read in the newspapers, yes, sir.

Q. Mr. Pickford, does your company presently rent space to any state agency?

A. Yes, we do.

Q. And would you name the agency for us?

A. The Kansas Bureau of Investigation.

Q. And has any member of the Kansas Bureau of Investigation spoken to you concerning the proposal that the state negotiate for the purchase of the New England Building?

A. No, sir, nor to any member of Armco Steel Corporation.

Q. Have you or any other member of Armco Steel, that you know of, had any contact with the legislative or the executive branch of the state government in connection with the proposal?

A. No, sir.

Q. Has any member of the legislative or executive branch contacted you?

A. No, sir.

REPRESENTATIVE HAYES: Representative Parrish?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. Where is the property that you list to KBI located?

- A. It's located at 3420 Van Buren.
- Q. And how many square feet do you rent to KBI?
- A. How exact do you want to be? Fourteen thousand square feet plus?
- Q. That's fine. And about what do you charge per square foot per year?
- A. I believe the per square foot cost is three twenty-three.
- Q. That's close enough, in that range?
- A. That's very close, yes.

REPRESENTATIVE HAYES: Are there any other questions?
Thank you very much.

L. DUANE WALRAFEN,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Would you state your name, please?
- A. L. Duane Walrafen.
- Q. And where do you live?
- A. Route 9, Topeka,
- Q. And what is your business?

- A. I'm a vice president, Kansas Power & Light Company.
- Q. Under the statute that this Committee is proceeding, you have the right to be represented by counsel at this hearing. Do you wish to waive that right?

A. Yes.

QUESTIONS BY SENATOR TILLOTSON:

- Q. The purpose of this inquiry is to determine whether there were any irregularities in the proposal negotiations on the purchase of the New England Building by the state. Are you familiar with those?
- A. Only what I read in the newspaper.
- Q. Have you ever discussed it with anyone?
- A. No.
- Q. Has anyone ever contacted you on the state level with reference to that purchase?
- A. No.
- Q. I believe you do lease facilities to the State?
- A. We lease about twenty-one hundred and twenty square feet to the State Banking Department, our own building.
- Q. That's the only connection you have with the State?
- No one--(interrupted)
- A. We do sell electricity and natural gas, of course.
- Q. Anyone connected with this agency contact you with

reference to the purchase of the New England Building?

A. No.

Q. Anyone in the state agency?

A. No.

SENATOR TILLOTSON: Any questions?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. What do you charge per square foot for this space?

A. Five dollars is the regular rate.

Q. Five dollars?

A. Per square foot. That includes all utilities except telephones and janitor service and so forth.

Q. Janitor?

A. Janitor service.

REPRESENTATIVE HAYES: Any other questions?

Thank you, Mr. Walrafen. We appreciate your appearance.

M. O. WRAY,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

- Q. Would you state your name, please?
- A. M. O. Wray.
- Q. Where do you live, sir?
- A. Where do I live?
- Q. Yes.
- A. 2120 Burnett Road.
- Q. What is your business or occupation?
- A. I'm manager of the Kansas Highway Credit Union, 1010 Tyler.
- Q. The purpose of our inquiry, as most witnesses have said they have read in the paper as to inquiry into this alleged irregularity or improprieties in connection with the proposal to negotiate for the purchase of the New England Building and additional properties. Were you aware of that?
- A. Yes, sir, I was.
- Q. And do you or any company in which you have interest lease any property to a state agency?
- A. Yes, sir, we do.
- Q. Could you give us the details on that?
- A. Okay. We have a section of the Board of Health. They have one thousand square feet granted and we have a section of the Board of Agriculture that has a thousand

seventy-five square feet.

Q. Has anyone in either agency contacted you concerning the New England Building--(interrupted)

A. No.

Q. --(continuing) proposal?

A. No, they have not.

Q. Have you or any member of your organization had any contact with any member of the legislative or executive branch of the state government?

A. No one, so far as I know.

REPRESENTATIVE HAYES: Any questions?

QUESTIONS BY REPRESENTATIVE PARRISH:

Q. What do you charge, sir, per year?

A. We charge, the second floor is four dollars and twenty cents a square foot and the basement area is four dollars a square foot per year.

REPRESENTATIVE PARRISH: Thank you.

REPRESENTATIVE HAYES: Any questions by other members? All right, thank you very much, Mr. Wray.

MR. WRAY: Thank you.

ROBERT F. BRANDT,

called as a witness on behalf of the Select Committee, being

first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Robert F. Brandt.

Q. And where do you live?

A. Well, I live in Lindsborg, Kansas. I have an apartment here in Topeka.

Q. What is your present position?

A. Secretary to administration.

Q. Do you perhaps know that I should advise you that under the provisions of the statute under which this committee is operating, you have the right to be represented by counsel?

A. Yes, sir.

Q. Do you have counsel present?

A. Mr. Gaines is here.

Q. Mr. Gaines is your counsel?

A. Yes, sir.

REPRESENTATIVE HAYES: For the record, we'll show Mr. Franklin Gaines of Augusta, Kansas.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Mr. Brandt, has the Department of Administration, your office, played any role or conducted any investigations in connection with the negotiations for the purchase by the State of Kansas of the New England Building here in Topeka?

A. No, sir.

Q. You had no--have you had any contact at all with this project?

A. No, in 1969 when I first came to the state, we needed a building and at that time the present and state architect Bill Hale and myself made a recommendation.

There was three possibilities; one was the First National Bank, one was the New England Building, and the third was a building that they were going to build for us out near the railroad tracks, and Mr. Hale and I made a review, looked over the buildings, and made a recommendation to the governor that we lease the First National Bank and subsequently we bought it and I can make that a matter of record with company documents. The reason we discarded the New England Building at that time was its age, the price was just about the same from a rental standpoint and we recommended to the governor that we rent the First National Bank which you know we

subsequently bought for six hundred thousand dollars and I think we referred it to a cost of two hundred thousand dollars.

Q. What was the price quoted for the New England Building at that time?

A. I would have to say, to the best of my recall, and I dealt with Mr. Neiswanger and I can't swear to this, but to the best of my recall he said you can buy this building if you want it and I said, "Well, what would be the price?" And he said, "Approximately four hundred thousand dollars." I have--my chief attorney, Mr. Gaines, gave me this morning the annual report for the New England Building and it's the stockholders report, the detailed statement of assets and liabilities as of December 31st, 1971. The real estate is listed two hundred and eighteen thousand nine hundred and sixty five dollars and thirty-two cents and I'll make that a matter of record with the Committee.

Q. That probably goes a little beyond the scope of our investigation. Now, this year, in 1973, have you been called upon at any time to make any examination into the New England Building?

A. No, sir.

- Q. You haven't looked at it?
- A. Uh huh.
- Q. Have you discussed it with any member of the legislative branch?
- A. No, I discussed it with my state architect.
- Q. I'm talking about legislative, or any employee of the legislature?
- A. No, sir.
- Q. Now, have you discussed it with any member of the executive branch?
- A. My state architect, who would be McLain.
- Q. You discussed it with Mr. McLain?
- A. I asked him to make a review of it.
- Q. Why did you? What prompted you to start looking into it?
- A. Well, when the bill was up in the legislature we thought that we ought to have--(interrupted)
- Q. Who's "we"? You mean the Department of Administration?
- A. Right.
- Q. Were you requested by anyone to look into it?
- A. No, sir.
- Q. Just voluntarily began looking?
- A. Because I had seen it before, as I said, in 1969 and

--(interrupted)

Q. So, you did make some investigation. You called upon Mr. McLain to look into it?

A. Right.

Q. Did you do anything other than that?

A. No, sir.

Q. In connection with the investigation that you made, had you found any evidence in any impropriety on any member of the legislature or any employee of the legislative branch?

A. Not at all.

Q. None whatever?

A. No, sir.

Q. Now, have you discussed with any member of the executive branch the veto of the bill, House Bill 1568, by the governor?

MR. GAINES: Might I interpose an objection at this time, Mr. Chairman, on the grounds of KSA 40-6109. The purpose, he questions, he's entitled for an explanation from this Committee as to why he should tell you anything about the inter-relations from the Department of Administration and the executive branch of government and as it

relates to the joint resolution that was passed.

Q. I will rephrase my question. This Committee has been charged with investigating two items, two general areas. One has to do with improprieties by members of the legislative branch and its employees and the other with any alleged influence exerted upon the governor to veto this House Bill by any landlord or by state agencies or appointees thereof of the governor to that area that I've--(interrupted)

A. I did not see the veto message until after.

Q. Did you discuss the possibility of a veto with anyone before the message appeared?

A. No, sir.

Q. Did you have any discussions with Mr. Van Cleave or Mr. Matlack about this area?

A. Just passing conversation, but nothing that was material, no suggestion that I made that would be negotiating.

Q. Was this before or after the veto?

A. It was after the veto. It was after the veto.

Q. You didn't talk with either those gentlemen prior to the veto?

A. I was not aware that they were going to veto the bill. I did tell them and I made this same material available

that I made available to you which was my memorandum to the governor in 1970 when we recommended against renting the New England Building. The material from Kenneth McLain who made the inspection of the building and I made these available to him at their request.

REPRESENTATIVE HAYES: Senator Storey?

QUESTIONS BY SENATOR STOREY:

- Q. Mr. Brandt, I believe you stated awhile ago in 1969 you studied both the New England Building and First National Bank Building for possible rental space?
- A. Uh huh, that's right.
- Q. And at that time you also stated you had a purchase price from Mr. Neiswanger on the New England Building?
- A. Yes, sir.
- Q. Was that a verbal?
- A. Yes.
- Q. For four hundred thousand?
- A. I have no record of it because we were not interested in it, so, as I said, it was to the best of my memory.
- Q. Do you remember if that was possibly a third conversation?
- A. No, he came to see me, came in several times to see me on the basis of offering. As a matter of fact, he made some reservations in the lease arrangement in order

to make a better proposition.

Q. Was that in '69 or '70? Do you remember?

A. My memorandum to the Governor is in August, '70, 1970, and as I say, I have copies of all these which I will make available to you and it was then that I recommended that we take the First National Bank.

Q. Then, your best recollection it would have been approximately August, 1970, that he submitted the offer of four hundred thousand?

A. Just a little bit before that.

Q. Was there anybody else present? Do you remember?

A. No.

SENATOR STOREY: That's all I have, thank you.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Did you make any reference to this price in your memorandum to the governor?

A. No, sir.

QUESTIONS BY SENATOR BROMLEY:

Q. Do you know C. Y. Thomas?

A. Yes, sir, served with him on the Executive Reorganization and also with Senator Storey.

Q. Has he contacted you since the first of the year?

A. No, sir.

Q. Has either--have you had any conversation with Mr. Harbes?

A. I don't know Mr. Harbes. I wouldn't know him if he walked in the door.

Q. Do you know Mr. David--(interrupted)

A. Neiswagner?

Q. --(continuing) Neiswanger.

A. Yes, he is the one that met with me on the possible lease in 1970.

Q. Have you contacted him or has he contacted you since the first of the year?

A. No, sir.

Q. Do you know the owners--do you know who the owners of the New England Building are?

A. Well, I did not until this morning when I got this from Mr. Theis and the stockholders are listed as William Hall, Steven Hall, and Greed Thompson and Champa & Company.

Q. And none of these people have tried to contact you directly or indirectly to try to inquire, influence if they could, for the purpose of getting this measure passed?

A. I've had nothing to do with the New England Building since 1970.

QUESTIONS BY REPRESENTATIVE HAYES:

Q. Mr. Brandt, do any of the documents that you have assembled there for Committee consideration contain any mention of the alleged purchase price of four

hundred thousand dollars?

A. No, sir.

Q. Did you communicate that offer to any person?

A. At the time?

Q. Yes.

A. No.

Q. Have you ever had a conversation concerning that matter with Mr. Thomas Van Cleave?

A. No, sir, I might mention to you that I have had a conversation with Mr. Sam Cohen and Mr. Sam Cohen told me that the building could be bought for four hundred thousand dollars. Now, I can't tell you exactly at that time--(interrupted)

Q. Was it prior to your memorandum of August, 1970?

A. No, no. It was rather recent.

QUESTIONS BY SENATOR BROMLEY:

Q. At the time that you recollect the building could be purchased for four hundred thousand dollars, do you recall anyone else who may have had interests in the New England Building who may have made the same offer?

A. I was the only one.

QUESTIONS BY SENATOR SIMPSON:

Q. You mentioned that earlier in 1973 that you had spent time in the building or made a study of it because you understood it was under consideration for a possible purchase by the State?

A. Right.

Q. Now, approximately when was that?

A. A month ago.

Q. And you made your investigation?

A. Mr. McLain will make that available to you.

Q. Well, after you made this and got your information together, what did you do at that point?

A. I gave it to the governor's office.

Q. You what?

A. I gave it to the governor's office.

Q. You did give it to the governor?

A. And it was my understanding, and I've never followed it up, but they visited with the legislature on that, on that particular memorandum.

Q. Now, they?

A. I gave it to Mr. Van Cleave and this related strictly to the condition of the building.

Q. When did you furnish that to the governor?

A. About a month ago.

QUESTIONS BY REPRESENTATIVE BURKE:

- Q. Mr. Brandt, did I understand you to say that you didn't have any formal or informal conversations with members of the governor's staff with regard to the New England Building purchase price prior to the veto?
- A. I presented this memorandum that he's talking about.
- Q. But other than that, no informal--(interrupted)
- A. No.
- Q. But you did have some informal conversation after the veto. Is that correct?
- A. I did.
- Q. Did this informal conversation that you had with members of the governor's staff, during any of these conversations were you made aware of any irregularities or improprieties by any member of the legislative branch at that time?
- A. No, I was not aware of it.

REPRESENTATIVE HAYES: Are there other questions for Mr. Brandt?

MR. BRANDT: Mr. Chairman, I do have one other thing that may be of interest to the Committee and I will leave this with you also. Mr. Walker testified earlier he had space in the Mills Building. The

Water Resources Board is over there. We're paying four dollars and ninety-six cents a square foot; that includes custodial services and utilities. It's very fine space and we're very happy with it and Mr. Charlie Walker gave me this letter dated April 9th saying that they have an additional thirty-eight thousand square feet available which they have offered to us at three dollars and sixty-five cents a square foot rental over the life of the lease and this includes remodeling and he says in the second paragraph or the last paragraph, "We realize that the contemplated purchase of the New England Building might preclude any immediate need by the State for additional space. However, if the area available in that building is inadequate or if certain agencies would be better located in closer proximity to the State House, we hope that you will keep us in mind." We are happy with the Mills Building space and I asked them--also, the Mills Building has a hundred thousand square feet and it's appraised by the Midwestern Appraisal, appraised that building in 1970, land, a hundred and six thousand dollars; improvements,

three hundred and eleven; total, four hundred and seventeen thousand.

QUESTIONS BY REPRESENTATIVE PETERSON:

Q. Well, I thought, Mr. Brandt, you might want to, for the protection of your attorney, state on the record that he is appearing gratis today.

A. I'm not paying him.

Q. Yes.

REPRESENTATIVE HAYES: Representative Van Bebbler?

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Is the memo that you sent to the governor part of the documents that you intend to offer?

A. Yes, sir, as a matter of fact the memo from Mr. Walker, it's an original letter back in August, '69, to Terry Scanlon, my predecessor, but the Neiswanger Company offered the New England Company. There some further correspondence at that time and the last, or the final recommendation is one that I prefer, is my memo to the governor. Also, a memorandum to Pat Burnau dated August 9th, 1970, which is the chronology of events relating to the proposed leasing of state office space.

QUESTIONS BY SENATOR STOREY:

Q. Mr. Brandt, did you relate or send a memo to the governor's

office since you recommended the purchase of the First National over the New England?

A. No, we were only talking about at that time, as you recall, about leasing.

Q. Did you--(interrupted)

A. The legislature made a proposal.

Q. Before we purchased it, did you look into the purchase of the First National Building?

A. You mean, the old First National Building?

Q. Yes.

A. No, sir.

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. At what date was your memo to the governor on this?

A. August 7th, 1970.

Q. I mean, your latest investigation, your voluntary investigation of the New England Building.

A. You mean, Mr. McLain's?

Q. Yes.

A. I don't have that with me. March 26th, 1973, it's from McLain to me and it's related to the condition of the building.

Q. And this went to the governor's office?

A. Yes.

REPRESENTATIVE HAYES: Any other questions of Mr. Brandt? Thank you Mr. Brandt. If you will leave the documents with Mr. Carman.

MR. GAINES: Mr. Chairman, probably we'll need to proffer that document of March 26th, '73, is also a projection. Did you make this projection?

MR. BRANDT: No, that was made in the Budget Division.

MR. GAINES: What is this document?

MR. BRANDT: This is the schedule for the retirement at 1.3 million dollars in bonds to be purchased by the State.

MR. GAINES: And the point that he was making earlier about this corporation statement, Representative Van Bebber, that he showed this to be the value of the building at the time they filed their last annual report and he'd like to submit it.

MR. CARMAN: Is this going into the record?

SENATOR BROMLEY: I would move that we make that part of the record, Mr. Chairman.

REPRESENTATIVE HAYES: I question the relevancy of much of the material there since value is beyond

the scope of our command of the legislature, but I think I will rule that for whatever evidentiary value they might have, they will be admitted.

JOSEPH C. HARDER,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Joseph C. Harder.

Q. And your residence?

A. Moundridge, Kansas.

Q. And your business?

A. I manage a telephone company.

Q. And majority leader of the Kansas Senate?

A. Majority leader of the State Senate of Kansas.

Q. Senator, you understand that this Committee has convened to inquire into any alleged improprieties or irregularities in negotiations for the purchase by the State of Kansas of the New England Building and adjacent properties.

A. I do.

Q. And under the statute that we're following, you are entitled to be represented by counsel of your choice, having an attorney if that is your desire. You waive that right?

A. I will waive that right.

SENATOR TILLOTSON: I have no questions.

QUESTIONS BY SENATOR STOREY:

Q. Senator Harder, let me just ask you this. What connection, if any, have you had in discussions with members of the legislature or their employees concerning the purchase of the New England Building?

A. Their employees?

Q. Yes.

A. I've had some discussion with the president of the Senate and some discussion with the president of the Senate's legislative aide, former Senator C. Y. Thomas.

Q. And were these directly related to the possible purchase of the New England Building?

A. They were to the possible purchase.

Q. Yes, and what relationship or can you tell us what information was furnished you by Mr. Thomas relating to this purchase?

A. Well, I can't give you any specifications. I do remember that, as I recall, he was requested by the president of the Senate to look at the building and make a report and he did stop in my office and give me a superficial overview of his report after he had inspected the building.

Q. Do you remember approximately what date or time or month?

A. I do not.

Q. Was it in March?

A. If I were to chance a guess, I would say it was in March.

Q. And he was directed by the president of the Senate to check into if it was for sale and what price it could be purchased for?

A. That is my understanding, yes.

Q. And he did that and to the best of your knowledge made a report of that?

A. That is correct.

Q. And do you have any idea who he dealt with in his negotiations?

A. No, I do not. He didn't tell me or give me a name, as I recall. I do remember seeing him, put the name of an individual--(interrupted)

Q. You do remember that?

A. I do remember he had talked to someone about it.

- Q. In the press?
- A. Talked to the press.
- Q. But as far as your actual knowledge, all you know is that he was directed to look into it and he did make a report?
- A. That is correct.
- Q. And the substance of that report you have?
- A. I glanced at it, but the report I certainly assume to be a matter of record before this Committee. I don't remember what was on the report.

SENATOR STOREY: Thank you, that's all I have.

REPRESENTATIVE HAYES: Any other questions for Senator Harder?

QUESTIONS BY SENATOR BROMLEY:

- Q. Senator Harder, were you aware that there was an option held on this building, New England Building?
- A. I was not.
- Q. You never did discuss this with Mr. C. Y. Thomas?
- A. Not in that light. We discussed that the building was possibly, could be, could probably be purchased, as I remember, the wording we had.
- Q. Do you know Mr. Harbes?
- A. I do not. I've never met the gentleman and I would not know him if he were in this room.

Q. Do you know the owners of this building?

A. I do not know who they are presently. I'm not certain who they are at this moment, anyway.

Q. Do you know Mr. Neiswanger?

A. Mr. who?

Q. Mr. Neiswanger, Dave Neiswanger.

A. Not to my knowledge, I would not.

SENATOR BROMLEY: I have no further questions.

REPRESENTATIVE HAYES: Any other questions of Senator Harder?

QUESTIONS BY REPRESENTATIVE HAYES:

Q. Senator Harder, are you in possession of any facts or do you have any information on any alleged irregularities or improprieties in connection with this purchase?

A. No, sir, I do not.

REPRESENTATIVE HAYES: We thank you for appearing before the Committee.

SENATOR HARDER: Thank you. May I leave town?

REPRESENTATIVE HAYES: You are excused. Gentlemen, we still have Senator Bennett, Mr. Borgen, Laux, Mr. McGill, and Mr. Thomas, Mr. Wolf, and Mr. McLain. It is approaching 5:00 o'clock and I think you will recognize that we're not going to

be able to finish this evening. We had a long day and our reporter has had a long day, so-- all right, I'm advised that Mr. Gammill, who is representing Mr. Loux as administrative assistant has conference tomorrow, so let's hear him now.

RICK GAMMILL,

called as a witness on behalf of the Select Committee, being first duly sworn on his oath by the Chairman, Representative Hayes, testifies as follows:

DIRECT EXAMINATION

BY REPRESENTATIVE HAYES:

Q. Would you state your name, please?

A. Rick Gammill.

Q. And where do you live, Mr. Gammill?

A. Eudora, Kansas.

Q. And what is your present occupation?

A. I'm going to school and working part time at S. S. Kresge Company.

Q. All right, and have you been serving as administrative assistant to Representative Loux?

A. Yes, I did up until about the first part of March.

Q. Now, the statute under which we are operating provides

that you may be represented at this hearing by counsel and you can have counsel available to advise you and so on. Do you desire to have counsel?

A. No, sir.

Q. The purpose of our investigation is to ascertain if there were any alleged irregularities or improprieties in connection with the negotiation for the possible purchase of the New England Building and adjacent properites. Are you aware of that?

A. Yes, sir.

Q. Now, do you have any information bearing upon this that you can give the Committee?

A. The only thing is that Rex Borgen, C. Y. Thomas, Pete Loux, and myself went and looked at the New England Building back probably in February, just looked it over.

Q. Could you get a little closer to the mike.

A. Yes, sir.

Q. And do you know what date that was in February?

A. No, sir.

Q. Early, middle, or late?

A. Late.

Q. And what was the purpose of this?

A. Just to look it over.

Q. Had there been prior conversations concerning the possible negotiations for the purchase of the building?

A. No, sir.

Q. What I'm getting at, Mr. Gammill, is for the sake of the record I'm satisfied that the four of you just didn't decide to go down there and look at it. There must have been some reason which prompted the visit.

A. None that I know of.

Q. Well, what generally was the conversation that the three gentlemen and yourself had while you were on the way down and you were making your tour?

A. We were just talking about the square footage and things like that.

Q. Was there any mention made that the negotiations might be undertaken for the purchase of the building?

A. No.

Q. Not in your presence?

A. No.

Q. Do you have any other information which you feel might be of value to the Committee?

A. No, sir, I really don't because I left, like I say, the first part of March and I have no further knowledge.

REPRESENTATIVE HAYES: Are there questions?

QUESTIONS BY REPRESENTATIVE NOVAK:

Q. Did Representative Loux or any of the other three that were with you indicate what you were going to look at the building for, why you were going down there, to look for rats, mice, falling plaster?

A. Not to me, sir.

REPRESENTATIVE HAYES: Any other questions?

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. You surely must have had some idea of the purpose of the visit. Didn't you have any idea why you were going down to look at the New England Building?

A. Well, I knew we were going to go down and look at the square footage of it.

Q. Well, was there any conversation that the State might lease it or buy it?

A. Not in my presence, no, sir.

Q. Did you ever have any conversation with anybody relative to the possibility that the State might purchase or lease the building?

A. No, sir.

Q. Did you ever have any conversation with Tom Van Cleave about the New England Building?

A. Yes, on one occasion, Representative Loux asked me to

pick up an option from C. Y. Thomas and I went down and talked to C. Y. Thomas, but the option wasn't available.

Q. He didn't have it?

A. No, sir.

Q. Mr. Thomas didn't have it?

A. No, sir.

Q. When would this have been? Would this have been some time in March?

A. Probably the very first of March, yes, sir.

Q. What was your conversation with Mr. Van Cleave in this regard?

A. Well, really, there was no conversation at all because I didn't have the option.

Q. Well, but did Mr. Van Cleave ask you to go and get the option?

A. No, Mr. Van Cleave didn't, as far as I can remember. Representative Loux asked me to.

Q. How did Mr. Van Cleave get into this?

A. I have no idea, sir.

Q. Well, I asked you--my question was did you ever have any conversation with Mr. Van Cleave about this, then, yes, you went down and got this option at the request

of Mr. Loux and I wondered how.

A. I didn't take it to Mr. Van Cleave.

Q. Well, was his name mentioned by Mr. Loux?

A. I just remember that Mr. Loux said to go down and pick up an option from C. Y. Thomas, see if he had one and he didn't have one at that time.

Q. And did you report that to Mr. Van Cleave?

A. Yes.

Q. You told Mr. Van Cleave that Mr. Thomas didn't have the option?

A. Right.

Q. Mr. Van Cleave make any suggestion as to any places you might go to find the option?

A. No, sir, that was the extent of the conversation. As soon as I was finished, I left.

Q. Did he tell you or make any statement as to who might be the holder of the option?

A. No, sir, You're talking about Mr. Van Cleave?

Q. Mr. Van Cleave.

A. No, sir, no, sir.

Q. Did you, after you saw Mr. Thomas and found that he did not have the option, you reported this fact to Mr. Van Cleave?

A. Yes, sir, and that's all I have to say about this and
--(interrupted)

QUESTIONS BY SENATOR SIMPSON:

Q. You reported that you couldn't get the option to Mr. Van Cleave. Why did you go to him rather than to Mr. Loux?

A. Well, Mr. Van Cleave had asked for the option or asked if there was an option, something in this nature.

Q. Well, I had the impression that you didn't tie Mr. Van Cleave and Mr. Loux together for a request for the option. Then, you went down to get it, then, you came back and gave it to Mr. Van Cleave. I was trying to decide why you did give it to Mr. Van Cleave and why you thought you should give it to him.

A. Well, like I said, Mr. Van Cleave had asked for it.

Q. So, Mr. Loux told you to get it and give it to Mr. Van Cleave?

A. Yes, sir.

REPRESENTATIVE HAYES: Are there other questions?
Thank you, Mr. Gammill. We appreciate your appearance.

MR. GAINES: Are you going to adjourn right away?

REPRESENTATIVE HAYES: I'm going to put that to the Committee to see if they want to continue.

MR. GAINES: The only question I have, Mr. McLain can be available tomorrow, but I doubt if your subpoena will carry through till tomorrow. It's shut off, but he'll appear voluntarily anyway.

REPRESENTATIVE HAYES: Well, then, are you just trying to explain the law to the Chairman?

MR. GAINES: No, I wasn't trying to explain anything.

REPRESENTATIVE HAYES: We have your assurance that Mr. McLain will appear tomorrow.

MR. GAINES: Yes. The problem is, I want to make a statement to the Committee on behalf of these two gentlemen as counsel and I didn't want to do it until after you had an opportunity to examine Mr. McLain.

REPRESENTATIVE HAYES: Do I understand that you cannot be here tomorrow?

MR. GAINES: I can make arrangements.

REPRESENTATIVE HAYES: Well, I'd appreciate it. We've had a long day.

MR. GAINES: You want me back at 9:00 o'clock?

REPRESENTATIVE HAYES: Please. Tomorrow we will examine Senator Bennett, Mr. Borgen, Representative Loux, Representative McGill, Mr. McLain, Mr. Wolfe,

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and Mr. Thomas, and hopefully we can conclude it by late morning. I'm wondering, gentlemen, in view of some of the testimony we've heard today whether you think it would be necessary or advisable to require the appearance of Mr. Sam Cohen before the Committee tomorrow.

REPRESENTATIVE VAN BEBBER: Would it be inappropriate to recall Mr. Neiswanger while he's here?

REPRESENTATIVE HAYES: Is there objection from any member of the Committee? All right, Mr. Neiswanger, we'll recall you for a few questions. Will you approach the microphone, please. I'll remind you that you're still under oath.

MR. NEISWANGER: Yes, sir.

QUESTIONS BY REPRESENTATIVE VAN BEBBER:

Q. Well, my question, Mr. Neiswanger, there has been some testimony that you told Mr. Robert F. Brandt, the secretary of administration--are you acquainted with him?

A. Yes, I am.

Q. And in 1969 or '70 that the New England Building could be bought for four hundred thousand dollars. Do you have any recollection of that conversation?

A. Well, it's my recollection that during that period we

were seeing proposals that I mentioned relative to the matter of leasing only. I have absolutely no recollection of talking to Mr. Brandt about a price. I wouldn't be authorized to quote such a price to the State and I certainly wouldn't quote a price of four hundred thousand to him and then have our office write a letter to Mr. Van Sickle in January, in 1970, indicating a purchase price of six hundred thousand dollars.

QUESTIONS BY SENATOR STOREY:

- Q. Yes, Mr. Neiswanger, have you ever, or to the best of your knowledge, have any of the owners of the New England Building submitted a purchase price of four hundred thousand dollars to anyone?
- A. Never.
- Q. As a matter of fact, is the six hundred thousand dollar figure the only price you've ever submitted to purchase?
- A. Yes, six hundred thousand dollars has been the quoted price ever since the property was first listed, that is correct.
- Q. And there was no counter-offer from Senator Van Sickle or any other party for a lower price, was there?
- A. No, I believe that letter he responded with pretty well indicated that he appreciated the information and would

let us know if he wanted anything further and that's where that letter ended.

Q. Are you given by the owners of the New England Building in your negotiations, they tell you what they will take for the building and you submit that to anyone who requests it?

A. Well, we would submit that if we were asked what the price of the building was. We would indicate that price. If some genuine interest developed in the property and he felt it was from a responsible party, we would, and a reasonable offer was made, we would certainly submit it to the owners for their consideration. I think we're obligated to do that.

Q. But if there is a lower price suggested to you, you transmit it to the owners?

A. Well, if there's a signed offer, yes, we would submit it to the owners.

Q. Only if there's a signed offer?

A. Yes, right.

Q. Do you know Mr. Sam Cohen?

A. Yes, I do.

Q. Have you ever discussed with Mr. Cohen the possible purchasing of the New England Building?

- A. Mr. Cohen did inquire about the availability of the building. I would estimate that was three or four years ago.
- Q. That was before the bank had moved Merchants Bank?
- A. Well, I'm really not--I'm really not certain enough of the timing. We may have a record of the inquiry.
- Q. Did he inquire to you?
- A. Well, he could have inquired of me, he could have inquired--he could have visited with Mr. Robert Fuller who is in our office, but there was never any face to face conversation about, you know, about the property.
- Q. To your best recollection, did he just send a letter of inquiry as to whether or not it was on the market?
- A. Well, by face to face, I think the inquiry was either by phone or some way we heard he may be interested and I think my recollection is we tried to follow it up, but nothing ever materialized and I'm confident the building was not quoted to him at four hundred thousand dollars.
- Q. As agent for the building, you would be aware if that offer was made, would you not?
- A. I feel confident I would be.

- Q. Do you show anywhere in your records a written offer from Mr. Sam Cohen for the purchase of the New England Building, do you know?
- A. I'm confident there's nothing in the records to show this inquiry.
- Q. Would you have any recollection of Mr. Cohen ever offering an amount verbally or written for the purchase of the New England Building?
- A. Not to my knowledge.
- Q. And to your knowledge you never remember submitting any price to Mr. Cohen either six hundred or four hundred thousand?
- A. If we submitted a price, it would have been six hundred thousand dollars. My impression is that it never even got to the point of talking about price.
- Q. But there's no doubt in your mind it would have been six hundred thousand?
- A. Yes.

REPRESENTATIVE HAYES: Are there any questions?

QUESTIONS BY SENATOR BROMLEY:

- Q. You just stated that if you had the right kind of an offer that you would be interested in selling this building. Is this correct?

- A. The owners would like to sell the property for a fair price, yes, sir.
- Q. Could you tell me how they could do that when this man holds an option on the building, how could they accomplish that?
- A. Well, Mr. Harbes has the right for a six month period to purchase that building. That's about the only way I could answer the question.
- Q. The fact remains that either Mr. Harbes would have to be paid for his option in order to release it or he will be the only one that could sell the building, right?
- A. Well, I think the only way to release the option is for the time to expire unless Mr. Harbes turned it back to us and there was a mutual agreement to cancel it.
- Q. Has Mr. Harbes made that kind of offer to turn it back to you so that you could sell it?
- A. No, sir.
- Q. Did you continue to negotiate with the State of Kansas knowing full well that you may not be able to sell it while there was an option held on it?

REPRESENTATIVE HAYES: The Chair will rule that question improper. I don't think that has been a

line of testimony, that the witness ever participated in the negotiations.

SENATOR BROMLEY: Well, he just stated a few minutes ago, Mr. Chairman, that the owners would be interested in selling it. Now, what I want to find out is whether Mr. Harbes is in fact holding an option to sell or an option to buy, is the thing that I want to know.

A. The option is a means to an end. It's a right to purchase and Mr. Harbes could purchase and sell. This option has been for a relatively short period of time. This building has been on the market for some time.

Q. Have you or have you not negotiated with any state official, members of the legislature, or members of the executive department, you yourself personally, to transact the sale of that property?

A. No, other than any of my testimony this morning, I mean, if your question encompasses my contacts with Senator Thomas.

Q. That's true.

A. That would be true, otherwise, no.

Q. You did in fact negotiate with Mr. C. Y. Thomas?

A. I did not negotiate with him.

Q. What was the purpose of your meeting with Mr. C. Y. Thomas and the other members that you did meet with?

SENATOR STOREY: Mr. Chairman, I think the testimony was that he introduced Mr. Thomas to Mr. Harbes and told him because he had the option.

SENATOR BROMLEY: I was asking the witness, I wasn't asking you. I have no questions, Mr. Chairman, no other question.

REPRESENTATIVE HAYES: Okay, any other questions? Thank you very much. Let me secure desire with respect to transcribing this testimony today. I understand that the gentleman is equipped to turn them out rather rapidly. Does anybody want a--(interrupted)

SENATOR BROMLEY: Mr. Chairman, I would like to have a copy of the transcript.

REPRESENTATIVE HAYES: That isn't my question. The question is when do we want it?

SENATOR TILLOTSON: Well, I have a question, Mr. Chairman. I think that perhaps it will be quite a lengthy transcript, if any of the members of the Committee might recall some particular testimony that they might ask for a transcript of that

portion particularly this afternoon.

REPRESENTATIVE PARRISH: Mr. Chairman, it's not required by law that the testimony be transcribed.

REPRESENTATIVE HAYES: I'm just asking whether anybody wants it available on a daily basis.

REPRESENTATIVE PARRISH: There's personally no need for it by tomorrow, if that's the question.

SENATOR BROMLEY: I don't need it until we complete the hearing.

REPRESENTATIVE HAYES: All right, I advise you of the witnesses remaining. If there's anything further--Mr. Carman, is there anything else?

MR. CARMAN: I was talking to Dr. Greer. We'll have a report in time to use it in type for preparation of a report to the legislature.

(Thereupon, the evening recess is had; whereupon, on the 12th day of April, 1972, the following further proceedings are had.)