94th Congress, 2d Session House Report No. 94-1477

IN THE MATTER OF

REPRESENTATIVE ANDREW J. HINSHAW

REPORT

BY THE

COMMITTEE ON STANDARDS

OF

OFFICIAL CONDUCT

[To accompany H. Res. 1392]

SEPTEMBER 7, 1976.—Referred to the House Calendar
and ordered to be printed

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COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

UNITED STATES HOUSE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS

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2d Session } { No. 94-1477

IN THE MATTER OF REPRESENTATIVE ANDREW J. HINSHAW

SEPTEMBER 7, 1976.—Referred to the House Calendar and ordered to be printed

Mr. FLYNT, from the Committee on Standards of Official Conduct, submitted the following

ADVERSE REPORT

[To accompany H. Res. 1392]

The Committee on Standards of Official Conduct, to which was referred the resolution (H. Res. 1392), resolving that Representative Andrew J. Hinshaw be expelled from the House of Representatives, having considered the same, reports adversely, thereupon, and recommends that the resolution be not agreed to.

PART I.—SUMMARY OF REPORT

House Resolution 1392 seeks the expulsion of Representative Andrew J. Hinshaw of California from the U.S. House of Representatives pursuant to article I, section 5, clause 2 of the Constitution. Representative Hinshaw has been convicted of bribery under California law for acts occurring while he served as assessor of Orange County, such acts having been committed prior to his election to Congress. An appeal of the conviction is currently pending before the Fourth Appellate District, Court of Appeal, State of California.

Since his conviction, Representative Hinshaw has complied with House Rule XLIII, paragraph 10[1] and has not participated in voting either in committee or on the floor of the House.

[1] House Rule XLIII, Paragraph 10.—A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of 2 or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction (94th Congress).

The committee believes that the House of Representatives, when considering action against a Member who is currently involved in an active, nondilatory, criminal proceeding against him, such as the Hinshaw case, ordinarily should follow a policy of taking no legislative branch action until the conviction is finally resolved. The committee wishes to express clearly, however, that in this case its conclusion is based entirely on the instant set of facts and in no way implies that different circumstances may not call for a different conclusion.

Having considered the facts of this particular case and recognizing that Representative Hinshaw has been convicted under a State law that, while reflecting on his moral turpitude, does not relate to his official conduct while a Member of Congress, it is the recommendation of the Committee on Standards of Official Conduct that House Resolution 1392 be not agreed to.

PART II.—BACKGROUND OF THE RESOLUTION

The U.S. Constitution, article I, section 5, clause 2 grants to each House of Congress the power ". . . to punish its Members for disorderly behavior, and with the concurrence of two-thirds, expel a Member." House Resolution 1392, introduced by Representative Charles E. Wiggins, of California, on June 30, 1976, resolved "That Andrew J. Hinshaw, Representative from California, be expelled from the House of Representatives."

In remarks made on the floor of the House, Representative Wiggins explained his reasons for calling for this action. He noted the facts of Representative Hinshaw's conviction for bribery and pointed out the legal issues involved.[2]

On July 21, 1976, Representative Wiggins wrote Chairman John J. Flynt, Jr., requesting that the following action be taken by the committee:

1. That the committee staff authenticate the basic facts;
2. That the committee staff prepare a research document reciting House precedents and relevant policy consideration;
3. That Mr. Hinshaw be given an opportunity to respond in writing to the resolution; and
4. That the committee take no action on the resolution other than to publish its report.

This letter is appended as exhibit A.

Representative Hinshaw also filed with the committee a letter, accompanied by supporting documents. This memorandum is appended as exhibit B.

PART III.—COMMITTEE ACTION

On September 1, 1976, the committee met in executive session to consider House Resolution 1392. This report was adopted on that date by a vote of 10 to 2, a quorum being present.

PART IV.—STATEMENT OF FACTS

Andrew J. Hinshaw is a Member of the House of Representatives representing the 40th District of California. He was first elected

[2] Cong. Rec., June 30, 1976, p. H. 7262.

to Congress on November 7, 1972, and was sworn in as a Member of the 93d Congress in January 1973. He was reelected in November 1974 to the 94th Congress and assumed the seat he now occupies on January 14, 1975. Prior to his first election to Congress, Representative Hinshaw served for 8 years as the elected assessor of Orange County, Calif.

Public accusations that Representative Hinshaw had taken bribes while assessor of Orange County first appeared in local newspapers in May 1974. However, it was not until May 6, 1975, that a California State grand jury returned an 11-count indictment against Representative Hinshaw charging him with various felonies, all relating to his official conduct as assessor for Orange County.[3] Eight of the eleven counts were dismissed upon motion prior to trial. A jury trial was had on Representative Hinshaw's "not guilty" plea to the three remaining counts.[4]

On January 26, 1976, a jury found Representative Hinshaw guilty of two of the remaining counts and not guilty of the third.[5] The jury found as true that on May 18, 1972, Representative Hinshaw, then the duly elected assessor for Orange County, Calif., and a candidate for Congress in a primary election, solicited and received a campaign contribution of $1,000 for the purpose of influencing his official conduct as assessor of Orange County; and that on December 13, 1972, after Representative Hinshaw's election to Congress but prior to being seated as a Member thereof, he solicited and received certain stereo equipment as consideration for official action theretofore taken by him as assessor of Orange County. The two acts proved constitute the crime of bribery under California law.[6]

On February 25, 1976, Representative Hinshaw was sentenced to the term provided by law on each count, the terms to run concurrently.[7] California law provides that the crime of bribery is punishable by imprisonment in the State prison for a term of 1 to 14 years and, if an elected official be convicted of bribery, the additional penalty of forfeiture of office and permanent disqualification from holding other elective office in California may be imposed.[8] The trial judge refused to impose the forfeiture and disqualification penalty in Representative Hinshaw's case, holding that it applied only to State officials.

Representative Hinshaw has appealed his conviction, and the appeal is now pending before the Fourth Appellate District, Court of Appeal of California. The time for filing of appellant's brief has been extended until September 12, 1976. No date has yet been set for oral argument.[9] After his conviction, Representative Hinshaw filed for reelection to Congress. In the primary election held on June 8, 1976, Representative Hinshaw was defeated.

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[3] Exhibit C.
[4] Counts 5, 6, and 7 alleging violation of § 68, California Penal Code: "Every executive or ministerial officer, employee or appointee of the State of California, county or city therein or political subdivision thereof, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his vote, opinion, or action upon any matter then pending, or which may be brought before him in his official capacity, shall be influenced thereby, is punishable by imprisonment in the State prison not less than one nor more than fourteen years; and, in addition thereto, forfeits his office, and is forever disqualified from holding any office in this State."
[5] Exhibits D and E.
[6] See footnote 4.
[7] Exhibit F.
[8] See footnote 4.
[9] Exhibit G.

PART V.—ANALYSIS OF PRECEDENTS AND POLICIES

The right to expel may be invoked whenever in the judgment of the body a Member's conduct is inconsistent with the public trust and duty of a Member.[10] But, the broad power of the House to expel a Member has been invoked only three times in the history of Congress, all three cases involving treason.[11]

Historically, when a criminal proceeding is begun against a Member, it has been the custom of the House to defer action until the judicial proceeding is final.[12] The committee recognized the soundness of this course of action when it reported House Resolution 46 (94th Cong. 1st sess., H. Rept. No. 94–76) adopting rule XLIII, paragraph 10.[13]

In its report, the committee stated it would act "where an allegation is that one has abused his direct representational or legislative position—or his 'official conduct' has been questioned"—but where the allegation involves a violation of statutory law, and the charges are being expeditiously acted upon by the appropriate authorities, the policy has been to defer action until the judicial proceedings have run their course.

A "crime," as defined by statutory law, can cover a broad spectrum of behavior, for which the sanction may vary. Due to the divergence between criminal codes, and the judgmental classification of crimes into misdemeanors and felonies, no clear-cut rule can be stated that conviction for a particular crime is a breach of "official conduct." Therefore, rather than specify certain crimes as rendering a Member unfit to serve in the House, the committee believes it necessary to consider each case on facts alone.

Due process demands that an accused be afforded recognized safeguards which influence the judicial proceedings from its inception through final appeal. Although the presumption of innocence is lost upon conviction, the House could find itself in an extremely untenable position of having punished a Member for an act which legally did not occur if the conviction is reversed or remanded upon appeal.

Such is the case of Representative Hinshaw. The charges against him stem from acts taken while county assessor, and allege bribery as defined by California statute. The committee, while not taking a position on the merits of this case, concludes that no action should be taken at this time. We cannot recommend that the House risk placing itself in a constitutional dilemma for which there is no apparent solution.

We further realize that resolution of the appeal may extend beyond the adjournment sine die of the 94th Congress. In fact, no future action may be required since Representative Hinshaw's electorate chose not to renominate him and he has stated, in writing, that he will resign if the appeal goes against him.

This committee cannot be indifferent to the presence of a convicted person in the House of Representatives; it will not be so. The course of action we recommend will uphold the integrity of the House while

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[10] *In Re Chapman*, 166 U.S. 661 (1897).

[11] John B. Clark, 37th Congress, Second session. (1861) II Hind's § 1262. Henry C. Burnett, 37th Congress, Second sess. (1861), II Hind's § 1261. John W. Reid, 37th Congress, Second sess. (1831), II Hind's § 1261.

[12] In the case of John W. Langley (68th Congress, 1924, VI Cannon's sec. 238), the Committee on the Judiciary recommended that action by the committee should be deferred until final disposition of the appeal. In the case of John Dowdy (92d Congress, 1972), the Committee on Standards of Official Conduct reported out House Resolution 933 (H. Rept. 92-1099) expressing the sense of the House that no action will be taken against a Member convicted of a crime until the conviction becomes final.

[13] See footnote 1.

affording respect to the rights of the Member accused. We recognize that under another set of circumstances other courses of action may be in order; but, in the matter of Representative Andrew Hinshaw, we believe we have met the challenge and our recommendation is well founded.

PART VI.—CONCLUSION AND RECOMMENDATION

Based on the foregoing, it is the recommendation of the committee that House Resolution 1392 be not agreed to.

PART VII.—THE COMMITTEE'S HISTORY AND JURISDICTION

On April 3, 1968, the House by a vote of 405 to 1 adopted House Resolution 1099, establishing the Committee on Standards of Official Conduct as a permanent, standing committee of the House, and providing a Code of Official Conduct for the Members, employees, and officers of the House. Prior to the adoption of this resolution, matters of official conduct were consigned to separate select committees, a method which proved to be "cumbersomely slow" in resolving these matters. This committee was therefore charged by the House with the responsibility of overseeing the conduct of Members, officers, and employees of the House and was invested with broad powers of investigation to enable it to discharge this heavy responsibility.

The committee is authorized under House Rule X 4(e)(1)(B)—

> To investigate * * * any alleged violation, by a Member, Officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities. * * *

STATEMENT UNDER CLAUSE 2(1)(3), AND CLAUSE 2(1)(4) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

A. Oversight statement

The committee made no special oversight findings on this resolution.

B. Budget statement

No budget statement is submitted.

C. Estimate of the Congressional Budget Office

No estimate or comparison was received from the Director of the Congressional Budget Office as referred to in subdivision (C) of Clause 2(1)(3) of House Rule XI.

D. Oversight findings and recommendations of the Committee on Government Operations

No findings or recommendations of the Committee on Government Operations were received as referred to in subdivision (D) of clause 2(1)(3) of House Rule XI.

EXHIBIT A

PART VIII - APPENDIX

CONGRESS OF THE UNITED STATES

Charles E. Wiggins

Member of Congress • 39th District, California

July 21, 1976

Hon. John J. Flynt, Jr.
Chairman, Committee on Standards
of Official Conduct
Room 2360, Rayburn H.O.B.
Washington, D. C.

Dear John:

As you know, H. Res. 1392, a Resolution to expel Congressman Hinshaw from the House has been referred to your Committee.

I have been advised by the Parliamentarian that the Resolution is privileged and may be called up at any time, notwithstanding its referral to Committee. As the sponsor of the Resolution, it is my intention to seek recognitition at a future time so that the House may express its will in the issues raised.

Pending House action, it is my hope that your Committee will give attention to the Resolution. I suggest the following as appropriate Committee action:

1. That Committee staff authenticate the basic facts. It is my belief that the factual data necessary to frame the issues can be ascertained by a single staff person in not more than two days.

2. That Committee staff prepare a research document reciting the House precedents and the relevant policy considerations. Such a study should not be an advocacy brief. Much of this research has been done by the Library of Congress, and the entire research effort would require a minimum of staff resources.

3. That Mr. Hinshaw be given ten days within which to file such written memorandum as he deems appropriate in opposition to the Resolution. No oral testimony need be taken. I intend to seek unanimous consent for Mr. Hinshaw to speak in his own defense on the floor, and I anticipate no objection to such a request.

4. That the Committee take no action on the Resolution other than to publish its report as promptly as possible. I should like the report to be available prior to the Resolution being called up.

The procedure which I have described will not interfere seriously with the heavy work load of your Committee and will permit the House to have before it a factual statement of the law and policy considerations when it votes.

I shall be pleased to meet with you or your staff at any time to facilitate the proper handling of this Resolution.

With best wishes,

Sincerely,

CHARLES E. WIGGINS
Member of Congress

CEW:jm

EXHIBIT B

[illegible]
[illegible]
[illegible] Plaza Suite 920
Santa Ana, California 92701
Phone (714) 836-2611

ANDREW J. HINSHAW
40th District of California

Congress of the United States

House of Representatives

Washington, D.C. 20515

[illegible] Committee
Armed Services
Subcommittee
Real Property and Procurement
Military Installations and Facilities

Post Office and Civil Service
Subcommittees:
Census and Population
Postal Facilities, Mail, and
Labor Management

Joint House-Senate Committee:
Committee on Atomic Energy

August 12, 1976

Honorable John J. Flynt, Jr.
Chairman
Committee on Standards of Official
Conduct
2360 Rayburn H. O. B.
Washington, D. C.

Dear Mr. Chairman:

It is my belief that the workload of your committee is such that you are hard-pressed relative to both scheduling and collection of all relevant data necessary to form justifiable conclusions relative to all matters presently pending or which may be referred to you. Therefore, I think it appropriate to state my views to you and to your committee relative to H. Res. 1392 (Exhibit A), authored by Congressman Charles Wiggins, which asks that I be expelled from the House of Representatives.

In brief, my views are as follows:

First, the most applicable and analagous precedent I could find is found in Cannon's Precedents, Volume VI, page 405, Section 238, involving Representative John W. Langley from Kentucky. (Exhibit B)

I agree with and support the language and positions taken by the committee in that matter. Particularly pertinent to my case is the following language:

> "Without an expression of the individual opinions of the members of the committee, it must be said that with practical uniformity the precedents in such cases are to the effect that the House will not expel a Member for reprehensible action prior to his election as a Member, not even for conviction for an offense. On May 23, 1884, Speaker Carlisle decided that the House had no right to punish a Member for any offense alleged to have been committed previous to the time when he was elected a Member, and added, 'That has been so frequently decided in the House that it is no longer a matter of dispute.'

"It is, however, again in accordance with precedent that final action shall not be taken until a criminal charge has been disposed of in the court of last resort. (Emphasis added)

"It is well known that Mr. Langley is not participating in the proceedings of the House, and it is understood that his resignation will be immediately presented in case of the refusal of the petition for certiorari.

"The committee, however, are just as strongly of the opinion that the circumstances require action on the part of the House at the appropriate time and agree that: A more serious question arises, however, in the case of Mr. Langley, in that the House could not permit in its membership a person serving a sentence for crime."

In addition to the Langley precedent, I would like to bring to your attention information extracted from a Library of Congress Legislative Service report Precedents to the House of Representatives in Respect to Procedure for Censure or Expulsion dated December 29, 1966. On pages LRS - 17 & 18 is found the following language:

"In his work, 'History of the House of Representatives', 1961, George B. Galloway, states that the power to expel has not been resorted to often by the House, and that the House has apparently not exercised it since Civil War days.

"He stated, p. 32: The power of expulsion has frequently been discussed but seldom exercised by the House especially in relation to offenses committed before election. (Emphasis added)...In general, the House has been dubious of its power to punish Members for offenses committed before their election.

"...[T]here are three major differences as derived from precedents, between application of the power to expel and the power to censure, by the House.

"The first is that expulsion is not exercised for acts occurring prior to an election..." (Emphasis added)

The following language appears on page LRS-20:

> "For instance, the Committee report in the case of Brigham Roberts...stated that, "Both Houses...had no right to expel for an act...committed prior to his election"

[I]n the case of Victor Berger...the Committee stated:

> "...the House of Representatives...has...consistently refused to expel a Member once he has been sworn for any offense committed by him previous to his becoming a Member, on the ground that the constitutional power of expulsion is limited in its application to the conduct of Members of the House during their term of office".

Second, much of the reasoning behind the demands that I resign, and Congressman Wiggins' expulsion resolution is that pursuant to H. Res. 46, which was passed by the House on April 16, 1975, (Exhibit C) (which both Congressman Wiggins and I voted for), I have refrained from voting in my committee activities as well as on the House floor. In support of this statement, I refer you to Mr. Wiggins' position as quoted below from Exhibit D-20 and typical newspaper articles recounting my inability to vote as the reason I should resign. (Exhibits D-18, 19)

In Exhibit D-20 Congressman Wiggins admits that, "Oh sure, Hinshaw can do some things, he can help constituents get information on legislation, he can help constituents with any problems they have with the executive branch, and unfortunately, he can still appoint people to the military academies." I think every Member would agree that these functions constitute the bulk of our respective office's workload and are not as insignificant as Mr. Wiggins tries to suggest.

He is also quoted as saying, "He still gets his $44,000 congressional salary, he still has a staff and he still has congressional mailing privileges, all of this for a man who can't even cast a single vote." (Emphasis added) I submit that in this particular regard Mr. Wiggins is overlooking a similar situation confronting the Delegates from our territories and the District of Columbia.

Third, it is my considered belief that there are grave constitutional questions involved in Mr. Wiggins' resolution, and these questions deserve far more attention and study than could be afforded in a one-hour debate. To emphasize

this view the language on page LRS-20, previously referred to, warrants repeating, "...[T]he constitutional power of expulsion is limited in its application to the conduct of Members of the House during their term of office".

Therefore, if Congressman Wiggins brings his resolution to the floor for action before your committee has had the time and opportunity to fully review this matter, then I respectfully request that you and your committee join me in asking the full House to refer the Wiggins' resolution back to your committee for its consideration in an appropriate priority with due consideration for your other pending business. As I understand the procedures on such a privileged resolution, a motion to recommit would be in order after the allotted debate time has expired.

We have now had three years of the aftermath of "Watergate" and similar matters, including investigations, indictments, convictions, federal legislation setting up a Federal Elections Commission designed to prevent election abuses, and situations on the horizon which could lead to similar formal reprimand, censure, or expulsion resolutions being filed with your committee.

Because of the serious constitutional questions involved in the Wiggins' resolution, and because of other matters now underway in the House involving both allegations and investigations of Members with long tenure, it would seem to me that the matter is too serious to have this type of resolution brought to floor debate without the opportunity for all Members having the benefit of a full and complete analysis and recommendation of this entire subject by your committee. Such a precedent, i.e., to not have such an analysis, would set a poor precedent.

To assist in this regard, I have attached as Exhibits D-1 through D-20 a chronological sequence of some of the political investigations which started in 1974 after the incumbent District Attorney, Cecil Hicks, was charged by his political opponent seeking election as District Attorney as covering up a hit-and-run accident.

With regard to Congressman Wiggins' charge in Exhibit D-20 that I am dragging my feet on my appeal from a conviction (which I believe to be wholly politically motivated), I have on numerous and repeated occasions inquired of my attorneys as to the status of my appeal. I have been advised, and the

District Court of Appeals has also been recently advised in a Petition, that my appeal seeking to have my conviction overturned on several grounds - including insufficient evidence to sustain the conviction - will be filed momentarily.

One of the reasons for the delay in completing this appeal is that my attorneys have been engaged in another political indictment alleging bribery by a City Planning Commissioner from a city in Mr. Wiggins' 39th Congressional District. Action on my appeal was somewhat deferred so that this other defendant could have both a speedy trial and an attorney of his choice.

Fourth, it should be pointed out that H. Res. 46 is the subject of a law suit, Michael Patrick Clancy, Petitioner, v. United States House of Representatives, et al, presently pending in both the U. S. Supreme Court and a Federal District Court in Los Angeles, California, which seeks to declare H. Res. 46 unconstitutional.

It is ironic that Mr. Wiggins uses as one of the reasons to expel me my abiding with H. Res. 46, while at the same time, the entire House of Representatives is the defendant in a suit seeking to have that resolution declared unconstitutional.

Fifth, my research into expulsion matters pertaining to the House of Representatives discloses that (1) no Member has ever been expelled for incidents and alleged crimes (no matter how grave) which occurred prior to his becoming a Member, and (2) there have been no Members expelled since Civil War days, and Members expelled at that time resulted from charges of treason.

During the course of my research, I obtained two publications from the Library of Congress - one dated December 29, 1966, to which I previously referred, and one dated March 27, 1972, entitled "Actions by House of Representatives After a Member Has Been Convicted. A Reasonably Complete List." For your further consideration, I have enclosed copies of each of these publications.

In closing I want to emphasize that I fully expect to be completely exonerated of this conviction and of all other charges against me. If such is not the end result of my appeal, then the example set by Mr. Langley is the course I would follow.

Sincerely,

A. J. Hinshaw

ANDREW J. HINSHAW
Member of Congress

BACKGROUND MATERIAL, SEQUENCE OF EVENTS AND EXHIBITS

1. Prior to election to Congress, I had served for eight years as the elected Assessor of the County of Orange, California.

2. I was first elected to Congress in 1972 and was sworn in January 1973 with the 93rd Congress.

3. During our 1974 California Primary and General Election contests, there were a large number of the usual allegations of misconduct against many Orange County office holders and candidates, including:

a. District Attorney Cecil Hicks for allegedly covering up a hit-and-run accident involving his alleged girlfriend in which young children were killed - a felony. (Exhibit D-1)

b. Congressman Charles Wiggins was alleged to have falsely registered to vote in a place other than his residence - a felony. (Exhibit D-2)

c. Congressman Jerry Patterson's staff members and campaign workers (eight of them) for allegedly falsely registering to vote in places other than their residences - felonies. (Exhibits D-3,4,5,6)

d. Congressman Andrew Hinshaw for improperly using Assessor employees in his election campaign and accepting a gift of a stereo set after the November General Election but prior to being sworn into Congress. The stereo set was allegedly to influence his actions as a County Assessor - felonies. (Exhibits D-7,8,9)

e. California Assembly candidate Richard Robinson and nine campaign workers for allegedly falsely registering to vote in places other than their residences - felonies. (Exhibit D-10)

f. California Assembly candidate Marlin McKeever for allegedly falsely registering to vote in places other than his residence - a felony. (Exhibit D-11)

Additionally, after the elections were over, there were investigations started against several members of the Orange County Board of Supervisors and several City Council office holders for alleged misconduct of one kind or another.

4. The allegations against Congressman Hinshaw, referring to events which took place prior to his being elected to the 93rd Congress two years prior, were fully and completely discussed during the 1974 Primary and General Election contests, and Hinshaw was reelected by votes in excess of 59,000. (Exhibits D-7,8,9)

5. Hinshaw's reelection was contested in the House Administration Committee by his General Election opponent using the same allegations put forth in the Primary and General Elections of 1974. The Elections Subcommittee of the House Administration Committee, chaired by John Dent, notified me by letter dated March 25, 1975, (copy attached marked Exhibit D-12), that the subcommittee granted my Motion to Dismiss, with prejudice. It should be pointed out that Congressman Wiggins was a member of this subcommittee and I am informed that he supported the subcommittee's views, notwithstanding his personal knowledge that both he and I, at that time, were being investigated by the same District Attorney for alleged felonious conduct.

6. The House of Representatives passed H. Res. 46 on April 16, 1975, which states that: Resolved, That rule XLIII of the House of Representatives is amended by inserting immediately after paragraph (9) the following new paragraph:

> 10. A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is then a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

Congressman Hinshaw and Congressman Wiggins voted for this resolution.

7. a. Congressman Patterson's assistants were indicted, pled guilty to falsely registering at places other than their residences and were sentenced for having committed a misdemeanor.

   b. Assemblyman Robinson and nine of his campaign workers were indicted for falsely registering at places other than their residences. The indictment of Assemblyman Robinson was subsequently quashed. His campaign workers pled guilty and were sentenced for having committed a misdemeanor.

c. Congressman Andrew Hinshaw was indicted on eleven miscellaneous and unrelated counts. Eight counts were dismissed and Hinshaw went to trial on three counts.

d. Assessor Jack Vallerga was indicted and convicted for consulting with and advising a government agency outside the State of California, the County Assessor of Spartanburg, South Carolina, as to how that assessment jurisdiction could improve its procedure. One juror was quoted as saying that his conviction resulted from a $20 detour on an airplane ticket which enabled him to go to Spartanburg at County expense. This conviction has been appealed, but the Appellate Court has not yet handed down its decision. (Exhibit D-13)

8. Congressman Hinshaw was convicted on two counts of bribery - accepting a $1,000 campaign contribution in May 1972, and accepting a gift of a stereo set in December 1972, both allegedly to influence his actions as County Assessor. Hinshaw had been sworn in as Representative in January 1973 and January 1975.

9. After conviction, Hinshaw conducted himself in accordance with H. Res. 46 and refrained from voting.

10. County Supervisor Robert Battin was indicted for using his office staff in his campaign for Lt. Governor. (Exhibit D-14)

11. City of Fullerton Planning Commissioner LeRoy Rose was indicted for three counts of bribery, principally on testimony of a single person who is also a friend and political supporter of District Attorney Cecil Hicks - and who was granted immunity from prosecution. This indictment was dismissed and subsequently the District Attorney refiled the charges and doubled the charges from three to six. (Exhibits D-15,16,17)

12. There were demands for Hinshaw's resignation initiated by some of his political opponents and others, citing as the reason for those resignation demands the fact that Hinshaw was not voting in either committee activities or on the House floor. (Exhibits D-18, 19)

13. Hinshaw filed Notice of Intent to appeal his conviction.

14. Hinshaw filed for reelection in March 1975.

15. Hinshaw's principal opponents (out of the eight running against him) former Congressman John Schmitz, California Assemblyman Robert Badham, and Mrs. Alicia Copper at a public forum, stated they do not agree with demands that Hinshaw resign.

16. Hinshaw finishes fourth in the Primary Election out of a field of nine candidates.

17. Wiggins steps up public attacks against Hinshaw without waiting for the Standards of Official Conduct Committee to review his resolution and to issue a report on its findings. (Exhibit D-20)

18. Supervisor Battin convicted for using County office staff in his campaign for Lt. Governor. This case is to be appealed.

*Exhibits deleted; available in committee files.

EXHIBIT C

FILED

FEB 25 1976

WILLIAM E. SLOAN, County Clerk
By _____ Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. ANDREW J. HINSHAW, Defendant.	NO. C-34033 I N D I C T M E N T

COUNT I: The Grand Jury of the County of Orange, State of California, by this Indictment, hereby accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Sections 464-467 of the Penal Code of the State of California, in that on or about the 16th day of November, 1971, and in the twelve months preceding, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully, unlawfully and feloniously take the property of the County of Orange, consisting of money, property, and the value of long distance telephone toll charges in an amount exceeding two hundred dollars ($200.00) within a period of twelve consecutive months, during which time the said defendant, ANDREW J. HINSHAW, was an officer and employee of the said County of Orange.

It is further alleged that the crime alleged in this first count of this Indictment was discovered by the People within three years immediately preceding the date of this Indictment and not prior thereto.

It is further alleged that at the time the crime alleged in this first count of this Indictment was committed, the defendant was the Assessor of the County of Orange, California.

COUNT II: The Grand Jury of the County of Orange, State of California, by this second count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of

Sections 484-487 of the Penal Code of the State of California, in that on or about the 15th day of November, 1972, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully, unlawfully and feloniously take the property of the County of Orange, consisting of money and the value of long distance telephone toll charges in an amount exceeding two hundred dollars ($200.00) within a period of twelve consecutive months, during which time the said defendant, ANDREW J. HINSHAW, was an officer and employee of the said County of Orange.

It is further alleged that the crime alleged in this second count of this Indictment was discovered by the People within three years immediately preceding the date of this Indictment and not prior thereto.

It is further alleged that at the time the crime alleged in this second count of this Indictment was committed, the defendant was the Assessor of the County of Orange, California.

COUNT III: The Grand Jury of the County of Orange, State of California, by this third count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Section 72 of the Penal Code of the State of California, in that on or about the 2nd day of July, 1971, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully, unlawfully, and feloniously, with intent to defraud, present for allowance and payment to an officer of the County of Orange, a false and fraudulent claim, bill, account, voucher and writing against said County of Orange, said officer of the County of Orange being then and there authorized and allowed to pay said bill, account and writing if genuine, to-wit: claim for expenses incurred on a trip to Omaha and Lincoln, Nebraska.

COUNT IV: The Grand Jury of the County of Orange, State of California, by this fourth count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Sections 484-487 of the Penal Code of the State of California, in that on or about the 27th day of July, 1971, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully, unlawfully and feloniously take the personal property of the County of Orange, California, consisting of lawful money of the United States, which money was public funds of the County of Orange.

It is further alleged that the crime alleged in this fourth count of this Indictment was discovered by the People within three years immediately preceding the date of this Indictment and not prior thereto.

COUNT V: The Grand Jury of the County of Orange, State of California, by this fifth count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Section 68 of the Penal Code of the State of California, in that on or about the 13th day of December, 1972, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully,

unlawfully and knowingly ask, receive and agree to receive of and from the Tandy Corporation, a bribe, to-wit: stereo components for the purpose of influencing the action of said defendant and upon an agreement and understanding that the vote, opinion and action of said defendant upon a matter then and there pending and which might be brought before the said defendant in his official capacity, to-wit: Assessor of Orange County, California, should be influenced thereby, said defendant being then and there an executive officer and employee of the County of Orange, State of California.

COUNT VI: The Grand Jury of the County of Orange, State of California, by this sixth count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Section 68 of the Penal Code of the State of California, in that on or about the 18th day of May, 1972, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully, unlawfully and knowingly ask, receive and agree to receive of and from James Buxton and the Tandy Corporation, a bribe, to-wit: a campaign contribution in the amount of $1,000 for the purpose of influencing the action of said defendant and upon an agreement and understanding that the vote, opinion and action of said defendant upon a matter then and there pending and which might be brought before the said defendant in his official capacity, to-wit: Assessor of Orange County, California, should be influenced thereby, said defendant being then and there an executive officer and employee of the County of Orange, State of California.

COUNT VII: The Grand Jury of the County of Orange, State of California, by this seventh count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Section 68 of the Penal Code of the State of California, in that on or about the 15th day of May, 1972, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully, unlawfully and knowingly ask, receive and agree to receive of and from Ron Steelman, a bribe, to-wit: campaign contributions for the purpose of influencing the action of said defendant and upon an agreement and understanding that the vote, opinion and action of said defendant upon a matter then and there pending and which might be brought before the said defendant in his official capacity, to-wit: Assessor of Orange County, California, should be influenced thereby, said defendant being then and there an executive officer and employee of the County of Orange, State of California.

And the Grand Jury further alleges that from on or about the 12th day of October, 1972, and for seven days immediately thereafter, the said ANDREW J. HINSHAW was outside the State of California.

COUNT VIII: The Grand Jury of the County of Orange, State of California, by this eighth count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Section 424(1) of the Penal Code of the State of California, in that on or about the 27th day of October, 1972, in the County of

Orange, State of California, the said ANDREW J. HINSHAW was Assessor of Orange County, California, and as such was charged with the transfer and disbursement of public monies, to-wit: funds of the County of Orange, and did unlawfully appropriate such public monies to his own use and to the use of another. (Wages of Chris Soukidis.)

COUNT IX: The Grand Jury of the County of Orange, State of California, by this ninth count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Section 424(1) of the Penal Code of the State of California, in that on or about the 15th day of November, 1972, in the County of Orange, State of California, the said ANDREW J. HINSHAW was Assessor of Orange County, California, and as such was charged with the transfer and disbursement of public monies, to-wit: funds of the County of Orange, and did unlawfully appropriate such public monies to his own use and to the use of another. (Wages of George Upton.)

COUNT X: The Grand Jury of the County of Orange, State of California, by this tenth count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Section 424(1) of the Penal Code of the State of California, in that on or about the 21st day of December, 1972, in the County of Orange, State of California, the said ANDREW J. HINSHAW was Assessor of Orange County, California, and as such was charged with the transfer and disbursement of public monies, to-wit: funds of the County of Orange, and did unlawfully appropriate such public monies to his own use and to the use of another. (Wages of Joe Stanbrook.)

COUNT XI: The Grand Jury of the County of Orange, State of California, by this eleventh count of this Indictment, hereby further accuses ANDREW J. HINSHAW of a Felony, to-wit: Violation of Sections 424-437 of the Penal Code of the State of California, in that on or about the 31st day of December, 1972, and during the four months immediately preceding said date, in the County of Orange, State of California, the said ANDREW J. HINSHAW did willfully and unlawfully obtain the money, property, labor and services of the County of Orange (transporting of friends and relatives) of a value exceeding two hundred dollars ($200.00) while said defendant was then and there the Assessor of the County of Orange, California.

All of which is contrary to the form, force and effect of the Statute in such cases made and provided, and against the peace and dignity of the People of the State of California.

DATED this 6th day of May, 1975.

A TRUE BILL.

S/ D. RUSSELL PARKS
D. RUSSELL PARKS, Foreman, Grand Jury,
County of Orange, State of California,
for the year 1974-75.

CECIL HICKS
CECIL HICKS, District Attorney for the
County of Orange, State of California

By: S/ MICHAEL R. CAPIZZI
MICHAEL R. CAPIZZI
Assistant District Attorney

- WITNESSES EXAMINED BEFORE THE GRAND JURY -

JOE CERNIE
KEN MAC LEOD
WILLIAM HUGHES
JACK PATRICK
AUGUSTINE HERRERA
ALICE HANDOVA
KAREN WORTHEN
SANDRA NORTEN
RALPH MARTIN
WINSTON BOWMAN
JAMES JEU DEVINE
RONALD STEELMAN
EDWARD KATO
WARREN HAYWARD
PAUL M. STEWART
VALERIE CLARK
JEAN GRUBAUGH
JOHN EBERT
LAURA HAGAN
JOHN DAVIS
HOWARD WHITCOMB
PHIL ROEHR
Mike RAITH

DICK HYERS
JIM BUXTON
JOHN COLEMAN
CHARLES KENNETT
JOE STANCHECK
THAIS HINSHAW
EDWIN C. NORTEN
WAYNE EVERETT
MAX F. DUNN
JAMES MC CLURE
ALFRED VASQUEZ
SAMUEL E. DYER
JACK VALLERGA
MICHAEL PATTNER
JOHN BURTON
DAVID BERTRAND
ANDREW H. HINSHAW
BILL HINSHAW
GERI FORD
DON STORY
IRENE BEATTY
WILLIAM L. EVANS
ANDREW J. HINSHAW

Presented by the Foreman of the Grand Jury of the County of Orange, State of California, for the year 1975, in the presence of the Grand Jury, to the Superior Court of the State of California, in and for the County of Orange, and filed as a record of this Court, this 6th day of May, 1975.

W. E. ST JOHN, COUNTY CLERK and Clerk of the Superior Court of the State of California, in and for the County of Orange

By: JOAN McBRIDE
Deputy County Clerk

THIS INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE
ATTEST: MAY 13 1975
WILLIAM E. ST JOHN
County Clerk and Clerk of the Superior Court of the State of California in and for the County of Orange
By: E. K. Samuelson, DEPUTY

CECIL HICKS, DISTRICT ATTORNEY of the County of Orange, State of California

By: /S/ MICHAEL R. CAPIZZI
Deputy District Attorney
Michael R. Capizzi

CRS

EXHIBIT D

FILED
JAN 26 1976
WILLIAM E. SHARP, County Clerk
By _____ Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

The People of the State of California, Plaintiff
vs.
ANDREW J. HINSHAW, Defendant

No. C-34033

VERDICT

We the Jury in the above entitled action find the Defendant, ANDREW J. HINSHAW, GUILTY of the crime of Felony, to-wit: Violation of Section 68 of the Penal Code of the State of California (Bribery), as charged in Count V of the Indictment.

Dated: Jan 26, 1976.

D. R. Hinman
Foreman

EXHIBIT E

FILED
JAN 26 1976
County Clerk
Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

The People of the State of California, Plaintiff

vs.

ANDREW J. HINSHAW, Defendant

No. C-34033

VERDICT

We the Jury in the above entitled action find the Defendant, ANDREW J. HINSHAW, GUILTY of the crime of Felony, to-wit: Violation of Section 68 of the Penal Code of the State of California (Bribery), as charged in Count VI of the Indictment.

Dated: Jan 26, 1976.

D. L. Hansen
Foreman

EXHIBIT F

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

FILED
FEB 25 1976
WILLIAM E. ST. JOHN, County Clerk
By [illegible] Deputy

ABSTRACT OF JUDGMENT
(Commitment to State Prison)

The People of the State of California,

vs.

ANDREW J. HINSHAW
Defendant.

Case No. C - 34033
Present:
Hon. ROBERT P. KNEELAND
JUDGE OF THE SUPERIOR COURT
MICHAEL R. CAPIZZI, Dep. D.A.
PROSECUTING ATTORNEY
W. MARSHALL MORGAN
COUNSEL FOR DEFENDANT

This certifies that on the 26TH day of JANUARY, 19 76, judgment of conviction of the above-named defendant was entered as follows:

(1) In Case No. C-34033 Count No. V & VI he was convicted by Jury (COURT OR JURY); on his plea of Not Guilty (GUILTY, NOT GUILTY, FORMER CONVICTION OR ACQUITTAL, ONCE IN JEOPARDY, NOT GUILTY BY REASON OF INSANITY)

of the crime of a Felony, to-wit: (Bribery)

(DESIGNATION OF CRIME AND DEGREE IF ANY, INCLUDING FACT THAT IT CONSTITUTES A SECOND OR SUBSEQUENT CONVICTION OF SAME OFFENSE IF THAT AFFECTS THE SENTENCE.)

in violation of Section 68 of the Penal Code of the State of California (REFERENCE TO CODE OR STATUTE, INCLUDING SECTION AND SUB-SECTION THEREOF, IF ANY VIOLATED)

with prior felony convictions as follows:

DATE	COUNTY AND STATE	CRIME	DISPOSITION

Defendant has been held in custody for 0 days as a result of the same criminal act or acts for which he has been convicted.

Defendant was not (WAS OR WAS NOT) armed with a deadly weapon at the time of his commission of the offense or a concealed deadly weapon at the time of his arrest within the meaning of Sections 969c and 3024 of the Penal Code.

Defendant was not (WAS OR WAS NOT) armed with a deadly weapon at the time of his commission of the offense within the meaning of Sections 969c and 12022 of the Penal Code.

Defendant did not (USED OR DID NOT USE) a firearm in his commission of the offense within the meaning of Sections 969d and 12022.5 of the Penal Code.

(REPEAT FORE GOING WITH RESPECT TO EACH COUNT OF WHICH DEFENDANT WAS CONVICTED.)

(2) Defendant was not (WAS OR WAS NOT) adjudged an habitual criminal within the meaning of Sub-division A or B (A) OR (B) of Section 644 of the Penal Code; and the defendant is not (IS OR IS NOT) an habitual criminal in accordance with Sub-division (c) of that Section.

(3) IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the said defendant be punished by imprisonment in the State Prison of the State of California for the term provided by law, and that he be remanded to the Sheriff of the County of Orange and by him delivered to the Director of Corrections of the State of California at

Institution for Men at Chino, California

Court recommended minimum sentence.
Court released defendant on his own recognizance pending appeal.

It is ordered that sentences shall be served in respect to one another as follows (CC or CS):

Concurrently

and in respect to any prior incompleted sentence(s) as follows (CC or CS):

Concurrently

(4) To the Sheriff of the County of Orange and to the Director of Corrections at the California Institution for Men at Chino, California

Pursuant to the aforesaid judgment, this is to command you, the said Sheriff, to deliver the above-named defendant into the custody of the Director of Corrections at the California Institution for Men at Chino, California, at your earliest convenience.

Witness my hand and seal of said court this 25th day of February, 19 76.

WILLIAM E. ST JOHN, CLERK

By Gertrude E. Morones
Gertrude E. Morones Deputy

State of California }
County of Orange } ss.

I do hereby certify the foregoing to be a true and correct abstract of the judgment duly made and entered on the minutes of the superior court in the above entitled action as provided by Penal Code Section 1213.

Attest my hand and seal of the said superior court this 25th day of February, 19 76.

WILLIAM E. ST JOHN
County Clerk and Ex Officio Clerk
of the Superior Court of the State of California,
in and for the County of Orange

By Gertrude E. Morones
Gertrude E. Morones Deputy

ROBERT P. KNEELAND Judge of the Superior Court of the State of California in and for the County of Orange.

☒ Probation report attached.

☐ Probation report not available.

EXHIBIT G

Fourth Appellate District, ~~Div.~~ 1 0 1 0

ORANGE County Hon. Robert P. Kneeland Judge

Superior Court No. C-34033 Cause of Action Grand Theft

Notice of Appeal Filed: J-2-26-76 DIVISION TWO

PEOPLE OF THE STATE OF CALIFORNIA Plaintiff and Respondent	ATTORNEY GENERAL, DISTRICT ATTORNEY County of ORANGE
vs	
ANDREW J. HINSHAW Defendant and Appellant	Morgan, Wenzel & McNicholas, 1545 Wilshire Blvd., Ste. 800, L.A., 90017

MAR 1 1976	REC'D COPY NOTICE OF APPEAL
MAR 9 1976	FILED EXT OF TIME TO 4-17-76 (Reporter Guevara)
MAR 17 1976	FILED EXT OF TIME TO 4-17-76 (Reporter Asher)
APR 13 1976	FILED EXT OF TIME TO 5-17-76 (Reporter Guevara)
MAY 12 1976	FILED RECORD ON APPEAL C-14, R-10
MAY 28 1976	Add to set up on additional reporters transcript (R-11)
JUN 23 1976	FILED EXT OF TIME TO July 21, 1976.
JUL 29 1976	FILED EXT OF TIME TO August 10, 1976.
AUG 10 1976	FILED EXT OF TIME TO September 12, 1976.

I, E. J. TUSZYNSKI, Clerk of the Court of Appeal, Fourth Appellate District, State of California, do hereby certify that the preceding and annexed is a true and correct copy of Register of Actions as shown by the records of my office.

WITNESS my hand and the Seal of the Court this 23rd day of August A.D. 1976

ERVIN J. TUSZYNSKI, Clerk

By [signature] Chief Deputy Clerk