

Mr. Chairman:

My name is Arthur A. Kusic. I am an attorney with offices located at 157 Paxton Street, Harrisburg, Pennsylvania. I appear here before you on behalf of Edward A. Cummins who has been subpoenaed by your Committee to be present to give testimony today.

I hereby inform you that my client does decline to appear pursuant to the subpoena heretofore issued for all of the reasons which I will not set forth.

1. The laws of the Commonwealth of Pennsylvania specifically state that any witness who is subpoenaed to appear to testify must, at the time the subpoena is served, be tendered his statutory witness fee and his mileage allowance. The Committee, in this instance, when serving the subpoena, did fail to tender the required fee and expense.

2. On September 9, 1974, I appeared on behalf of my client before this very Committee in executive session. At the time, the Sunshine Bill was not in effect and this was a closed session of the Committee. I did request copies of any statements which might have been received by the Committee which might tend to degrade, defame or incriminate my client. The Committee Chairman, at that time, informed me that such statements would be made available. I am dismayed to report that while the promise was made on September 9, 1974, the subject statements were not delivered to me until Friday, October 18, 1974. This Committee took five weeks to deliver the statements to me and gave me only three days over a weekend within which to review them and confer with my client concerning them. I do believe that this is a true violation of my client's rights.

3. On September 9, 1974, in my appearance before this Committee, I requested that due process rights and protection be extended to

my client. This was answered in the negative. Therefore, the protection afforded under the 4th, 5th, 6th and 14th Amendments of the Constitution of the United States, as well as those rights granted by Article I, Sections 1, 6, 8 and 9 of the Pennsylvania Constitution are being denied to my client. On Monday, October 21, 1974, prior to calling the first witness before this Committee, I did, in public session, ask the Committee if I would be allowed to do the following:

1. Have the right to cross examine witnesses called against my client.

2. Have the right to examine my client at the conclusion of the examination by the Committee.

3. Have compulsory process served upon other persons who might testify on behalf of my client.

4. Have the right to present other relevant evidence to substantiate the position of my client.

The Chairman, at the time, did deny these basic rights to my client.

The basis for the denial of due process rights has been predicated on the fact that this is a legislative investigating committee. I take this opportunity to point out to the Committee that they have exceeded their bounds.

I direct the attention of the Committee to their 26 page report on West Moreland County. On page 2 of the report, the Committee recommends prosecution for numerous criminal violations. I also direct your attention to the bottom of page 6 where it is stated:

"Because of this law enforcement void, this Committee has been forced to function in areas more appropriately reserved to law enforcement agencies."

On page 7 of the Report, it is stated that the Department of Justice,

as well as other law enforcement agencies must use the findings of this Committee for investigations resulting in prosecutions, convictions and stern sentences. This is contrary to the dictates of House Resolution 98 of 1973.

As much as any of us would like to believe that the Committee is solely engaged in making an investigation in order that the Committee may develop new legislation, the pure fact of the matter is that this Committee has completely exceeded its bounds; has become a criminal investigating committee and as such, an accusatory body. This Committee has, by its own work, established what it is and for this reason, the due process rights of the citizens of our Commonwealth must be protected.

I further refer the Committee to Mason's Legislative Manual (1970) wherein it is stated in Section 797, Page 574 that:

"The legislature has no right to conduct an investigation for the purpose of laying a foundation for the institution of criminal proceedings for the aid and benefit of grand juries in planning indictments, or for the purpose of intentionally injuring such persons or for any ulterior purpose."

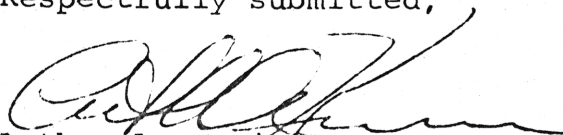
The Pennsylvania House of Representatives has adopted Mason's Manual as one of its guidelines and must recognize it for the authority that it sets forth.

Since the Committee has established itself as a criminal investigating committee, I firmly believe that the Committee has made a grievous error in not allowing counsel to participate in the proceeding and assist in bringing forth the true facts. Additionally, it erred by refusing to grant Constitutional rights to witnesses who are called before it.

For the above reasons, my client, Edward A. Cummins, does, upon

advice of counsel, decline to appear before this Committee today
in response to the subpoena heretofore served upon him.

Respectfully submitted,



Arthur A. Kusic

I am Attorney John W. McIlvaine of Waynesburg, Greene County, Pennsylvania and I represent Eleanor Paroda, Mary E. Shultz and Mark G. Shultz. Defective subpoenas were issued on my clients to appear here to testify before you.

I am here to tell you that my clients are not appearing before you on the following reasons:

1. No witness fee or mileage allowance has ever been tendered my clients with the subpoena.

2. No subpoena was ever served personally upon Mary E. Shultz.

3. I have never received any answer to my request of September 6, 1974 asking for statements of adverse witnesses and the right to cross-examine them.

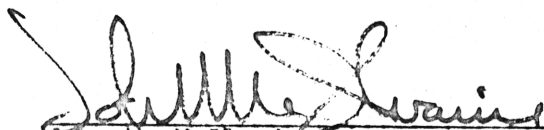
4. That it is the stated position of this Committee that you refuse to afford and/or intend to violate the basic Constitutional rights of my clients under the United States Constitution, inter alia, the 4th, 5th, 6th and 14th Amendments thereof, and Article I, Section 1, 6, 8 and 9 of the Pennsylvania Constitution. Such a denial of basic due process of law and fair play will not be tolerated by Greene County of Pennsylvania.

5. That this Committee has so flagrantly exceeded its proper legislative jurisdiction by becoming a star chamber, Spanish Inquisition, and Gestapo like body, that no citizen need submit to its political harassment. See Mason's Legislative Manual Section 797, page 574.

6. That my clients have been subjected to intensive investigations by the I.R.S., the Pennsylvania Justice Department, the Auditor General's office, and the Pennsylvania Department of Transportation over the past year as the result of hearsay, suspicion, rumor and conjecture on the part of their political opponents and nothing has been found against them. This Committee is again being used as a tool of petty and sleazy politicians who only seek to embarrass and humiliate others on their own selfish gains. No citizen needs to subject or submit himself to political witch hunts. Your committee has proven that

it is not exercising any legitimate legislative function and as such it has no jurisdiction to continue to harass, embarrass or humiliate innocent private citizens.

These Greene County citizens upon advice of counsel refuse to submit to a Committee that has exceeded its jurisdiction and is not exercising any legitimate legislative purpose.


John W. McIlvaine



HOUSE OF REPRESENTATIVES

COMMONWEALTH OF PENNSYLVANIA

HARRISBURG

October 18, 1974

Honorable James Manderino
15 Pleasant Drive
Monessen, Pennsylvania 15062

Dear Jim:

Attached you will find a schedule of witnesses to be called on October 21, 22, and 23, 1974. The continuing schedule will be public hearings on Erie County on October 24, 25 and 28, 1974.

Thursday, October 31, 1974 will be reports and recommendations.

Sincerely,

Thomas A. Frascella

attachment

same letter to: Englehart and Comer

Greene County

Monday, October 21, 1974

1. Read Cummins and Paroda revenue into record
2. Dorothy Koratich
3. Tom Boyd
4. Wm. Black
5. Larry Scandale
6. Sam Boyd

Tuesday, October 22, 1974

1. Walter Lerch
2. Richard Johnson
3. John Mitchell
4. Bobby Brock
5. Eleanor Paroda
6. Mary Eliz. Shultz

Wednesday, October 23, 1974

1. Cummins
2. Goose Mitchell
3. Mark Shultz

AGENDA

- (1) Report on three witnesses- Fratkin, Rothman and Thiemann
- (2) Westmoreland County Report
- (3) Schedule of future hearings to October 31, 1974.
 - a. Greene County - 10/24 - 10/25
 - b. Erie County - 10/24, 10/25, 10/28
10/31 - reports and recommendations