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N. J. Committee for the
 ASSEMBLY INVESTIGATION OF :
 ALLEGED FRAUDULENT AND ILLEGAL :
 CONDUCT AT THE GENERAL ELECTION : BOOK TWO
 ON NOVEMBER 2, 1937, etc. : *Testimony*

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Assembly Investigation of :
alleged Fraudulent and Illegal :
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Transcript of stenographer's notes of
hearing held in the above matter at Room 301, Essex County
Court House, Newark, New Jersey, on Friday, February 4, 1938.

Present:

Assembly Committee
Henry Young, Jr., Chairman,
Mrs. Olive C. Sanford
Rocco Palese

- - - -

ROBERT H. McCARTER, Esq.,
by DAVID H. WIENER, Esq., JAMES R. GIULIANO,
Esq., and JAMES F. MURRAY, Esq.,
Counsel to the Committee

MR. PALESE: Mr. Chairman, we have just learned of the unfortunate death of Mr. Paul Seglie, and I make a motion that Miss Alice Seglie be excused, subject to the call of the Committee.

MRS. SANFORD: I second the motion.

CHAIRMAN YOUNG: A motion has been made and seconded that Miss Seglie be excused, subject to the Committee's call. All in favor will say "aye".

(Roll call; unanimously carried.)

MR. DOHERTY: I might say, as counsel for Miss Seglie, that when she is required it will not be necessary to subpoena her again; we will produce her.

CHAIRMAN YOUNG: Thank you.

MR. MURRAY: I would like to have Supervisor O'Neill, please.

J O H N F. O ' N E I L, recalled.

EXAMINATION BY MR. MURRAY:

Q Supervisor, I don't think I asked you what your salary is as Supervisor of the County of Hudson?

A \$12,000 a year, less deductions of fifty per cent., and three or four years ago-- less deductions of thirty-two per cent. about two years ago, less deductions of twenty-two per cent. the next year, and less deductions of fifteen per cent. now.

Q Fifteen. So your salary is down as \$12,000. That would be \$1,000 a month, practically \$250 a week?

A Those deductions are voluntary, you know.

Q The deductions, are voluntary? A. Yes, contributions to relief.

Q Is there any other salary that you get as an official of Hudson County? A. None whatever.

Q Or the State of New Jersey? A. No, nor anywhere else. I am a commissioner of Rahway Reformatory for the last fourteen years.

Q Any salary for that? A. No salary.

Q Have you an automobile assigned to you by the County of Hudson in your official capacity? A. Yes.

Q And how many chauffeurs have you assigned to you?

A One.

Q You are sure about that? A. Positive.

Q You use the same man night and day? A. No.

Q Well, you have occasion to use a man night and day at times, don't you? A. Very, very often; almost every night in the institutions.

Q How do you arrange that? A. By having a man who works days for the Police Department, whom I employed during the war period and who seems to like to drive around, he drives me with no remuneration except what I give him myself.

Q From what police department? A. Hudson County.
He is not a policeman.

Q He is not a policeman? A. No.

Q What is his official capacity? A. He works around in the garage; he does whatever is necessary around there. In other words, he is on the police department, I don't know the title, as laborer or what it is.

Q But ^{he} is there as an employee of the police department of Hudson County? A. Yes.

Q Do you recollect how much his salary amounts to in a year? A. I think it is daily pay. I think it is around-- I am not sure on this now-- I think it is around \$6.75 or \$7 a day, maybe more, maybe less.

Q What do you call that kind of an employee?

A Well, I would like to know the title. He may be down as a driver, he may be down as a laborer, he may be down as a utility man. I can find it out for you.

Q I don't mean his title as a temporary employee.

A No, he is permanent.

Q What do you mean, then, by the fact he is a day employee or his remuneration is figured by the day? Does that mean that if he is off a day he does not get paid?

A Oh, no. We pay a man if he is off a day.

Q Doesn't it mean he is a temporary employee?

A Oh, no, he is a permanent employee.

Q He is a permanent employee? A. Oh, sure.

Q Do you mean to say when he was employed he was put down at so much a day instead of so much a year or month?

A Yes, sure.

Q How would an employee of that kind be paid?

A By the day.

Q Would he be paid every night? A. No, that would be voluntarily. If I had him up until two or three o'clock in the morning going to institutions and so forth, I would say to him, "Well, now, you don't have to go out so early in the morning."

Q You mean he would not have to go out so early in the morning to his regular work? A. Right.

Q So when he is working for you as an extra chauffeur, then he does not, by your directions, if I understand your testimony correctly, he does not have to go in then and do the work that he is regularly paid to do? A. I didn't say

that.

Q Well, I would like to be corrected if you didn't say that; that is what I understood from your testimony.

A I think I testified if he was working all hours of the night for me that I would say to him, "Now, you don't need to hurry out there in the morning. If they say anything, tell them to call me."

Q In other words, if he was out with you at night and got in late that night or real early next morning, and he should have gone to work early next morning, you would say the natural thing to say, "You are human. Rest in and don't go out on your regular job."

A Sure.

Q So when he is your extra chauffeur he is getting paid by the County Police, but instead of doing the work he is employed to do he is chauffeuring for you, isn't that the result of it? A. Jim, you will find many instances of that kind in Hudson County. If I find in some part of the county that some man-- well, say he has got a cinch and he isn't doing anything, and I find out a chance for that fellow to do some work, I would detail him. I don't go much on title for doing the work.

Q In other words, this is tantamount to having two chauffeurs, except they are not down as your chauffeurs?

A No, that is not true. I have one chauffeur and he

drives me. He is my chauffeur. I am going to be frank with you. But I have sometimes around the county things that I don't want the world to know, and I trust this fellow implicitly. He has been with me since war days, he worked for me in the war days in a private capacity in the camps, and he rendered service. He is very faithful. If you ask him to be there at three o'clock in the morning he would be there at half-past two, and he would say he was there at half-past two because he started out because he was afraid he might have a tire blow.

Q Is this the extra man that you get? A. There is no extra man at all.

Q Is this the second man? A. This is no second man.

Q Then whom are you talking about when you say that you have got things that you don't want the whole world to know about and you trust this chauffeur? Which one?

A I trust him implicitly.

Q Which one, the first one or your regular chauffeur?

A I have a perfect right to have a friend of mine, whether he is an employee of Hudson County, to drive my car on a mission pertaining to Hudson County. If I want to drive up to one of the institutions and I say to him, "Now, meet me at three o'clock, I am going to be so and so," I know nobody knows where I am going only him; he is not telling the world.

And my other chauffeur might be just the same, but I cannot work him night and day.

MR. PALESE: Did you understand the question he asked you?

THE WITNESS: Certainly.

MR. PALESE: I did not think you did.

Q Will you tell us who you mean by "him"?

A The name, do you want?

Q No, I don't want the name unless you want to give it. I don't care. I want to find out are you talking about the man whom you call your regular chauffeur?

A No, I am not.

Q Then you are talking about the other man? A. Yes.

Q You are talking about the man whom you said is not your chauffeur but you use him as such, and then you said he is on the payroll of the Hudson County Police, is that right?

A Day-time.

Q Day-time? A. Yes.

Q And he is the man that you trust to chauffeur you here and there, as I understand? A. Sure.

Q Of course, that does not mean that you do not trust the other chauffeur? A. Of course not. It really means I have absolute confidence in him, and if he was not available I would call up the Hudson County police station and say,

Just say, "He is not available." You see,

"Send up a cop to drive me, I have got to go such and such a place."

Q Now, how many institutions are there in Hudson County under your supervision? A. There is a hospital for mental diseases, tubercular--

Q Will you give us the heads while you go along or would you rather answer the heads after? A. What?

Q I am going to ask you who heads those institutions. If you would rather give them to us--

A The hospital of mental diseases, headed, as Warden, by Arthur Orr, and as Acting Medical Director, Dr. Lynch. At present I am having Dr. O'Hanlon of the Medical Center of Jersey City, making a survey as to what would be best for the institution, and then try to secure the best man available in America to handle that institution. We go outside, we go to Philadelphia for O'Hanlon, we go to Pennsylvania for Monahan. A question of life we forget politics. Next we will take the penitentiary. Warden Michael Gill. County Hospital--

Q Is that the Michael Gill that is the political leader of the Tenth Ward of Jersey City? A. No, he is not, unfortunately. He lost out. Bill Hefferan, he is the leader of the Tenth Ward.

Q Gill is the former leader? A. Yes, former leader. Also former city clerk, also former freeholder. You see,

that is not medical so we put politicians in there. Then comes the Hudson County Hospital, General Hospital, Dr. William J. Monahan, a colonel of the United States Army, formerly in charge of the famous Greenhut Hospital in New York where I first met him. He is a former Pennsylvania man. Then the Hudson County Tuberculosis Hospital, and clinics with Dr. B. S. Pollack as the medical director and Warden William Burrows as warden. Then what is generally called the "Almshouse," but we call "Home for the Aged," with Warden John Carlock in charge.

Q Is that the same Carlock-- A. He was the leader of the Seventh Ward. He was the political leader of the Seventh Ward. I don't think there is anything wrong about being the leader of any ward, I think it quite an honor. Then we have the Hudson County Contagious Disease Hospital, with a separate board, but practically-- it is in charge of Dr. Keegan and Miss Cavanaugh, who is practically an all around doctor and nurse and everything else.

Q Is she a graduate doctor? A. No, graduate nurse.

Q Did I understand you to say she acts as a doctor?

A I didn't say she acts as a doctor, I said she is an all around doctor, nurse, and so forth. That is my opinion.

Q What do you mean by that? A. She goes out on the ambulance to some place, some little kid is there that needs medical attention, and years of experience, she is an elderly

woman, she has the experience--

Q She might go out and perform the duties of a doctor?

A No. In an emergency I would just as soon have her as a doctor for a child. I may skip some. If I do, remind me. Then the Hudson County New Tuberculosis Hospital. Of course, it is not-- it is just about ready now. I have a meeting this afternoon at three o'clock following here, if you let me go, with Dr. O'Hanlon and the other members of the Board, they are all doctors but me, to prepare for the opening of the new three million dollar finest tuberculosis hospital in the world.

Q Where is that located? A. That is located on Clifton Place, Jersey City.

Q That is right in the group of the other hospitals?

A Yes, right next door. And next door to that is the Margaret Hague Maternity Hospital headed by Dr. Samuel Cosgrove, as medical director, and Miss Clara Conrad, who we took from the famous Lying-In Hospital of New York, to head the nursing staff. There has been over 30,000 babies born there in the last five years. That is the world's record.

MR. GIULIANO: All Democratic?

THE WITNESS: Now, he says they are all Democratic.

Q Now, wait a minute.

CHAIRMAN YOUNG: Because counsel is disorderly,

there is no reason for you to be.

MR. MURRAY: We are trying to get some testimony in the record. I will have counsel withdraw that objection.

CHAIRMAN YOUNG: You will please answer Mr. Murray's question.

THE WITNESS: I am not going to be offensive. I was just going to say they are not Democratic until they get their eyes open.

CHAIRMAN YOUNG: That is pretty late.

THE WITNESS: When they are born their eyes are not open. As soon as they are born their eyes open and they become Democrats.

Q Has Dr. Cosgrove, the supervisor, got any other assistants, any medical man? A. Oh, yes, quite a number.

Q Has he got what might be termed as a first assistant?

A Many assistants. The theory of that is this: When we first talked about that hospital some doctors said it was a closed corporation, so I was one that insisted that a doctor should bring his own patients there. But then there came the thought--

MR. PALESE: Mr. O'Neil, you understood his question. He asked you if you had a first assistant. You want to make a speech in answer to every question.

THE WITNESS: Don't you want an explanation?

MR. PALESE: Did you hear his question?

THE WITNESS: Yes.

MR. PALESE: Can you answer it?

THE WITNESS: I have been answering questions for years.

MR. PALESE: He asked you if you had a first assistant, and you go on making a speech.

THE WITNESS: They are not speeches, they are explanations. We might as well understand each other: I am not going to answer questions as you or Jim want them, I am going to answer them as I think they should be answered.

MR. PALESE: Will you please listen to the question and see if it requires a speech?

Q (Question read by stenographer.)

MR. PALESE: You can answer that "yes" or "no." Does he have what is termed as a first assistant?

THE WITNESS: I won't answer that "yes" or "no." Yes, he has.

Q Who is he? A. I don't recall offhand.

MR. PALESE: That is the answer.

Q What other institutions are there over which you have supervision? A. I don't recall. I would be happy to mention them if you will mention them to me. It is a question of my memory.

Q Understand, I am not trying to have you slip up on one. I have not been following them either.

A There maybe something I don't just recall. There is an Emergency Hospital. When I went in office it was a small pox hospital, and I did not see any necessity for a small pox hospital, so I made an emergency hospital, and used it for T.B. patients and others.

Q How many institutions are there, then? Are there six or eight? A. Well, the ones I mentioned.

Q How many do they equal, do you recollect?

A I don't offhand. I could find out.

Q Will you tell us the salaries of the heads of those institutions? A. I don't recall offhand.

Q Haven't you got any idea of what you pay your first men in those institutions? A. Oh, I have ideas.

Q The head doctors. Dr. Cosgrove, for instance, Dr. Pollack, Dr. Monahan, his nurse that is a doctor and nurse and everything. A. That can be gotten very easily from the records. It is detail, in my opinion. I think Monahan is six, I think Pollack is eight, and I may not be right. I will give you the salaries of every person in Hudson County on paper, if you wish it.

Q Will you? A. Yes, I will.

Q Will you produce here to this Committee the official list of every employee in every institution in the County of

Hudson over which you have supervision, that is, their names and addresses and the amount of salaries which they get, whether they are permanent employees or temporary employees?

A Oh, I don't know. I would have to think that over before saying "yes."

Q Then you did not mean what you said, you will produce the record of all those? A. You are asking me about heads of institutions, and I said I would produce their names, salaries, because I don't want to say-- for instance, I may say Pollack \$8,000. He may only be getting six.

Q Don't you know or do you know or is it a fact that Dr. Pollack has had his pay increased here lately?

A Yes, sure.

Q How much of an increase did he get? A. I am almost sure it was \$2,000.

Q Wasn't it \$2500? A. It might have been. Those are details.

Q Just a detail, \$2500 of the taxpayers' money?

A There is a difference of \$500. I said "detail." Now, I was away when that salary was made, and when I came back-- I knew it was going to be made. I was not sure whether it was \$2500 or \$2,000. I think it should have been more than that.

Q Did you approve of that before you went away?

A Absolutely.

Q And while you were away was there anybody who would have the authority to go ahead and increase it \$500?

A Why, of course.

Q And, of course, if the Board of Freeholders did that you would not disapprove? A. The Board of Freeholders did not do it.

Q Who did it? A. The managing-- the Board of Managers of the Hudson County Tuberculosis Hospital.

Q Who is the Board of Managers of the Hudson County Hospital under? A. Who are they, do you mean?

Q No, I don't mean who are they. A. What do you mean, "Who are they under?"

Q Whose control and supervision are they under?

A They are a separate board.

Q Do they make up their own budget? A. Yes.

Q Do they pass their own budget? A. No, the freeholders pass the budget.

Q The freeholders have to approve of their budget?

A Yes.

Q Have you got the power of veto over the budget before they submit it to the Board of Freeholders? A. No.

Q Have you got veto power after the Board of Freeholders approves it? A. Yes.

Q So, ultimately, it comes up to yourself for a say?

A Absolutely.

Q So if it is true that you were away, they would not have the power finally to do it without your say?

A Oh, yes. The Board would meet and the Board would pass a resolution raising the salary. Then they would send that down to the Board of Freeholders, and if the Board of Freeholders approved, then it would come to me and I would either veto it or approve it.

Q That is what I say. So they would not have the power to do it until they submit it to you for your veto or your "yes" on it? A. They would have power to do it, but after they did it I would have power to veto it if I saw fit.

Q They would have power to do all you related they would do before they submitted to you, but what I would like to clear up is this, would they have power to do all that and then appropriate and have the money paid without you having a say on it? "Yes" or "no." A. I would rather answer that the same as I have answered it.

Q I don't mean answer it "yes" or "no." The question is, would they or would they not have the power to do it without your saying something on it?

A Yes. By the way, I take full responsibility. I am a member also of this board that raised the salary. I am a member of the Board of Managers of the Hudson County Tuberculosis Society.

Q But you did not answer the question. Would you mind repeating it? (Previous question read by stenographer.)

A Sure, I would have the power of vetoing it.

CHAIRMAN YOUNG: The question was answered;

he said he would have the power of veto.

Q I didn't ask you if you would have the power. I asked you-- if I didn't, I meant to-- would the Board of Freeholders and the Board of Managers of this particular institution have the power to pass a resolution raising the pay and then go and get the money appropriated and pay that increase and pay it to that particular doctor, Dr. Pollack, without first having that to come up to you as Supervisor of the County of Hudson to say "yes" or "no" that that increase is all right?

A The money was appropriated practically a year before.

Q Before you said anything? A. A year before this raise the money for the tuberculosis institution was appropriated--

Q I didn't ask you that, Supervisor. I think I put that question two or three ways, and I think it is clear to you in any one of the three ways.

A If it was clear to me I would answer it.

MR. PALESE: Did you or did you not approve this additional \$500?

THE WITNESS: I certainly did.

MR. PALESE: When? After it had been paid or

before it was paid?

THE WITNESS: Both before and after. He is the most outstanding man in the world on tuberculosis.

Q Didn't you say you didn't know whether it was \$2,000 or \$2500, that you went away --

A Mr. Murray, I don't know those things. They can happen.

Q Then you figure \$500 of the taxpayers' money is a little thing, is that right? A. According to how it is used.

Q Well, in this case. How much does Dr. Pollack^{get} with this increase of \$2500? A. I think it was eight. It might be \$7500.

Q Let us assume it is \$7,000 or \$7,500 or \$8,000. Between seven and eight. A. All right.

Q And it is an increase to a man that is getting seven or eight thousand dollars already a year, and then you don't know whether it is \$2,000 or \$2,500, the \$500 is just a little detail of the taxpayers' money going to a man getting that?

A I don't mean the \$500 is just a little detail. \$500 thrown away is a terrible thing; \$500 used to alleviate pain and suffering and so forth is not so much.

Q So you don't know whether it was \$2,500 or \$2,000?

A I could find out for you in a minute.

Q Now, you said that you would submit to this Committee a

list of the names and addresses and titles and the salaries of the heads and their assistants of all the county institutions of Hudson under your supervision?

A If you mean laborers and so on --

Q No, I mean what you would call "assistants"?

A Of course, you can get that. It is a public record.

Q Public records? A. Sure.

Q All right. Have you got charge of those cops that are at the vault over there in Jersey City?

A What do you mean, have I got charge of them?

Q You testified yesterday these men were detailed by you to that vault on the seventh floor of the Arcade Building, Jersey City? A. Sure.

Q And inside that vault you know there are public records, right? A. I don't know what is inside the vault.

Q You assume to know, don't you? A. I assume -- I know I have been told there are ballot boxes in there.

Q That is public property, isn't it? A. I want to correct something --

Q Public property, isn't it? Aren't the ballot boxes public property? A. Sure.

Q Aren't the poll books public property?

A There is a question about that.

Q Aren't they public records? A. Public records, yes.

Q The same as the other list we were talking about, the

list of the heads of the institutions, and so forth --

A No.

Q Just a moment. Please answer the question.

A What is the question?

Q You just listen and you will get the question. I ask you, weren't the poll books public property and public records, if not public property?

A Public property, yes.

Q You think they are public property? A. Public records.

Q Do you think they are public records? A. Yes.

Q Do you think it is public property? A. Of course, it is public property.

Q Then the poll books are public property and public records, right? A. I think so.

Q Am I right to assume that it is your opinion that public records should be there for the public?

A Yes, a good many of them.

Q Not all of them? A. Poll books, I don't see what right everybody in the county has got --

Q I didn't ask you that, although I will leave it in the record. You don't think what?

(Answer read by stenographer.)

A We will stop at that.

Q Some things you don't like to go in the record, is that

it? A. Jim, I don't care. Anything I say can go in any record, whether it is wrong or right.

Q Will you complete that sentence? A. Just sleep on that.

MR. PALESE: Why do you think the public should not have the opportunity of examining poll books?

THE WITNESS: I don't see why hundreds and thousands of the public of Hudson County should be able to go in a place and look over the poll books.

MR. PALESE: Why should a thousand people look at the salaries that are being paid? They are public records. Why should citizens be permitted to look at those records?

THE WITNESS: They don't look at them.

MR. PALESE: You say they should have an opportunity of examining those records that show the salaries that are paid. You say that should be permitted?

THE WITNESS: I have no objection.

MR. PALESE: Why shouldn't the public be permitted to examine and look at the poll books that were used in any election?

THE WITNESS: Personally, I would have no objection to it.

MR. PALESE: You just said --

THE WITNESS: He asked me should they do it.

MR. PALESE: You said you did not think every person should have the right to look at the poll books.

THE WITNESS: No, I don't think a hundred thousand people should have the right to crowd in a place to look over the books.

MR. PALESE: Do you think five citizens of the State of New Jersey should have that right?

THE WITNESS: I have no objection.

MR. PALESE: Then why did you give an order the other day to prohibit five citizens of the State of New Jersey from getting near this vault?

THE WITNESS: No such order was ever given.
May I ask what your name is?

MR. PALESE: Rocco Palese.

THE WITNESS: Mr. Palese, no such order was ever given.

Q By whom wasn't it given? Who are you talking for?

A He asked me did I give such an order to the police, and I said no such order was ever given.

Q You just gave the opinion just now that you don't think that -- I forget the number of thousands of people, but let us take Hudson County, for instance, you don't think any two hundred thousand or more people should have the right to look at the poll books, is that right?

A You said my opinion. This Committee don't care about my opinion.

Q What do they care about? A. What do they care about? I cannot exercise their will, I don't know.

Q I am not asking you to talk for anybody but yourself. You will have enough to do that.

A Especially when you have three eminent counsel and the Committee --

Q But they will only go one by one in asking questions.

A That is fine.

(The following question and answer was read by the stenographer: "You just gave the opinion just now that you don't think that -- I forget the number of thousands of people, but let us take Hudson County, for instance, you don't think any two hundred thousand or more people should have the right to look at the poll books, is that right?

"Answer: You said my opinion. This Committee don't care about my opinion.")

Q Do you think they should have the right to look at the poll books? A. Personally, I don't.

Q All right. A. Wait a minute.

Q That is all I wanted. I want to ask you another question. Do you know what the poll books are? A. I have a general idea, the same as yourself.

Q O.K. Then what is your idea of what happens on the poll books when a voter -- when these two hundred thousand people that we are talking of in Hudson County, what happens when each and everyone of those goes in to vote on Election Day? What happens in reference to what they do in the poll books? A. You mean do they sign their name? Is that what you mean?

Q Yes. A. You know that.

Q Then you do know that each and every voter signs or is supposed to sign their name in the poll books?

A No. Sometimes they make their mark if they cannot write.

Q That is their signature, isn't it? A. No.

Q That is taken in the law as their signature?

A Well, if you say it is.

Q Suppose if they cannot write their name and they write their mark? A. What about it?

Q You know that that must be done under the law, right?

A Sure.

Q By each and everyone of those two hundred thousand that you say you don't think they should have the right to look at the poll books? A. I didn't say they should have the right to look at the poll books. I said my opinion.

Q You said your opinion they should not be permitted to look at the poll books? A. In my opinion it would be almost

impossible to crowd --

Q I am not asking you to crowd two hundred thousand people into a cuspidor. A. What do you mean?

MR. PALESE: We want you to tell the truth.

THE WITNESS: I never told anything but the truth. If he tells me what he wants to say I will say it is the truth.

Q You just answer the question. I don't want to answer my own questions. A. I haven't any objection to answering any question if I can.

Q You know what poll books are? A. I have a general idea.

Q You just testified that you know that the voter has got to put his signature or what is the equivalent or taken as his signature, a mark in the book, when he goes in to vote, right? A. Yes.

Q Then do you know what happens after the election day terminates? What happens to those poll books?

A I don't. It is a long time since I had anything to do with poll books. Generally, I think they are delivered to the Commissioner of Registrations. I only think that. When I was an election officer in the long, long ago, we had to put them right in the box with the votes.

Q Well, one time I believe that they had to be put in the ballot boxes, probably when you and I were on, and they

had to go back to the Commissioner of Registrations?

A No, they didn't go to the Commissioner of Registrations then.

Q But they do today? A. I don't know. I don't pay much attention --

Q All you pay attention to is to see that the public don't look at them? A. That is not true.

Q But after all, you do know what they are and they do go back to the Commissioner of Registrations?

A I don't know. I don't pay much attention.

Q You don't have to know; I am making that statement for your information. A. I don't pay any attention to the Commissioner of Registrations. I only pay attention to that tremendous budget in Hudson County.

Q Now we understand each other, that you know what poll books are and you know what is done on Election Day by each and every one of those two hundred thousand voters?

A I haven't paid much attention to elections in a number of years.

CHAIRMAN YOUNG: Please answer the question.

THE WITNESS: I said I haven't--

CHAIRMAN YOUNG: Say "yes" or "no."

Q When you go in to vote on Election Day, do you write your name in the poll book ? A. Oh, sure.

Q Then you don't have to do anything different than every

other voter in that respect, do you?

A No.

Q Then every other voter has got to put his name in the poll book before they give him a ballot?

A I presume so. The only time --

CHAIRMAN YOUNG: If you presume so you have answered the question. Please let it lie at that.

THE WITNESS: Then I cannot answer the questions he is going to ask.

CHAIRMAN YOUNG: You have not heard him yet.

Q Then when the day terminates those poll books go back and they get into the possession of the Commissioner of Registrations? A. I don't know.

Q Well, I am telling you, I am not asking you a question now. A. I don't know.

Q And those records, those poll books, are now in the possession of the Commissioner of Registrations?

A I don't know.

Q In Jersey City? A. I don't know.

Q In the Spingarn-Arcade Building? A. I don't know.

Q Well, assuming that those poll books that were used in the last election, in which you testified that each and every voter that voted or would vote at the election would

have to write their name in --

A I didn't so testify. I testified I wrote my name.

Q And that every other voter, you presumed, would have to do the same thing, is that right? A. That is a presumption.

Q We are assuming, I said, and it may be a true assumption -- A. It may be. I don't think they would discriminate against me and make me sign my name and let others go.

Q With that understanding that these two hundred thousand people have their signatures in those poll books --

A More than that.

Q (Continuing)-- Don't you think that anyone of those people, those people who went down and registered, had the right to vote but who did not vote, and who did not mark their names in those poll books, don't you think each and every one of those should have the right to go and look at those poll books? A. Of course.

Q Of course. Sure. A. As long as they would not all come at the same time.

Q Do you think that you or the Hudson County Police or the Boulevard Police have any right to stand guard over a door to a vault within which those books are contained and keep out and prevent a legally constituted committee of the House of Assembly of the State of New Jersey from getting

those? A. You mean --

Q I mean just what I ask. A. You mean where these so-called books and ballot boxes are?

Q I didn't ask you about ballot boxes. A. I am asking you.

Q You are not supposed to ask me. If you want the question, we will have the question read to you.

A Any fair tribunal will allow a fair question any time.

CHAIRMAN YOUNG: That is a fair question.

THE WITNESS: Do you mean the vault where these so-called books and ballot boxes are owned in my county?

Q Not owned by your county. A. Yes, owned by my county.

Q What is owned by your county? A. The ballot boxes.

Q What else? A. The ballot boxes.

Q Who paid for them? A. Hudson County.

Q Who is Hudson County? A. You know what Hudson County is.

Q Who is Hudson County? A. Hudson County --

Q Are you Hudson County? A. No, of course not. Neither are you.

Q Is Frank Hague? A. He is a very powerful --

Q Is he Hudson County? A. He is a very powerful --

Q Is he Hudson County? A. Do you think he is?

Q Is he Hudson County? A. Do you think he is?

Q No. These books that we will get will prove he is not. Why don't you take your police away --

A Why not let a fellow who isn't here alone?

Q Why isn't he here? A. Because he is not under subpoena, that is why he is not here.

Q Will he accept one? A. I don't know. I suppose he will.

Q You don't know? A. No, I don't know what he will do.

Q All right, if you don't know. He is not here.

A You ought to know what he does and does not do.

Q Yes, he runs out. A. He never ran out on anything.

Q We will serve him if you see he will accept one.

We will serve him -- A. Will I see he will get one?
You will serve him?

Q You see he will accept one. A. If you want to serve him and give me the subpoena and my expenses to wherever he is, I will go and serve it.

Q Maybe you won't come back either? A. Jim, maybe I won't come back.

Q Nice weather down there. That is not answering the question. A. If not me, send one of the members of your Committee; it is a nice trip.

Q Answer the question. A. What is the question?

MR. PALESE: What the Committee ought to do.

Q If you will appropriate in your budget for this whole Committee maybe we will go down and take his testimony.

A We are very careful on appropriations except for legitimate purposes.

MR. PALESE: He has not answered that question.

Q (The following question was read by the stenographer: that you "Do you think, or the Hudson County Police or the Boulevard Police have any right to stand guard over a door to a vault within which those books are contained and keep out and prevent a legally constituted Committee of the House of Assembly of the State of New Jersey from getting those?)

MR. PALESE: There is nothing there about ballot boxes.

A My answer will depend on ballot boxes. My answer will depend on whether ballot boxes are in there or not.

CHAIRMAN YOUNG: What is your answer?

THE WITNESS: I asked him a question. I said does he mean a vault where there are certain books he is talking about.

CHAIRMAN YOUNG: I think you can answer the question without asking questions.

THE WITNESS: I want to know what vault he means. I want to locate that vault. I want to find out if there are ballot boxes there. It is very important; I

will show you that later.

Q How many vaults have you got in there?

A I don't know. I was never in the place in my life.

Q Have you got vaults any place else that you keep records and ballot boxes? A. I don't know anything about election machinery. That is Republican in Hudson County, both branches of it. We have nothing to do with the election machinery in Hudson County.

Q Do you know a party by the names of James Toohey?

A Yes.

Q Where is he located? A. He is below in the corner with a light suit.

Q Not physically; is he an official of Hudson County?

A I don't know.

Q Do you mean to tell me that you are sworn to tell the truth? A. Yes, I am.

Q And you answer that question the way --

A Yes.

Q You continue to answer it that you don't know --

A I don't know what?

Q That you don't know what position or how James Toohey is employed? A. I don't positively know any of the Stoebling employees.

Q And you tell me you tell the truth? A. Absolutely.

discharged.

Q Now, you answer my question: Do you know James Toohey?

A Yes, very well.

Q Do you see him in this room? A. Yes, I do.

MR. MURRAY: Will James Toohey stand up?

(A gentleman arose in the body of the courtroom.)

Q Is that the James Toohey you refer to?

A Yes.

Q That is the James Toohey I am referring to. A. Yes.

Q Do you mean to tell me you consider yourself a truthful man? A. I do.

Q Now, I will ask you this question -- A. Go ahead.

Q Do you know whether or not this James Toohey is a Democrat or Republican? A. A Democrat. I don't know -- I think so.

Q All right, you think so. Now, I ask you another question -- A. Yes.

Q Do you know where James Toohey is employed?

A Certainly, I do.

Q You are changing it? A. No, and I ask you --

Q Now you are going to tell the truth. A. Once in a while I do tell the truth.

Q That is fine. Then do you know where he is employed?

A I think he is employed by Stoebling.

Q Don't you know he is employed -- A. Unless he got discharged.

Q Do you think he became a Republican since he became an employee of Mr. Stoebling? A. Some of them do.

Q I am not asking you what some of them do, I am asking you, did he? A. I haven't the slightest idea.

Q Do you think he did? A. Well, knowing him as I did in years gone by, I don't think he would change his politics for a job.

Q You still think he is a Democrat? A. He might have told Stoebling he was going to be a Republican.

Q I am not asking you what he might have told them, I am asking you what you think, Mr. O'Neil?

A What does what I think make any difference?

Q It may not make any difference. A. Of course it don't.

Q It may or may not. At least there is one good Democrat that is right up in the same office.

A I think there is more than one.

Q I think so, too. Are there any Democratic counsel that you know of employed by Mr. Stoebling?

A I don't know offhand, but will be glad to say there is if you mention it.

Q Do you know a lawyer in Jersey City by the name of John Meehan? A. Yes, I do.

Q Do you know whether or not John Meehan is employed as

counsel in the office of the Commissioner of Registrations of Hudson County? A. I don't know.

Q By Mr. Stoebling? A. I don't know, but I believe Commissioner Stoebling did appoint him. I am not sure, but I believe so.

Q You have some knowledge -- A. General knowledge. I might have read it in the newspaper.

Q Is that all you know? A. That is all I know.

Q John Meehan is a Democrat, isn't he?

A I think so.

Q You think so? A. Yes, sure.

Q Has John Meehan got a brother a lawyer, that you know of, by the name of Thomas Meehan? A. I think he has more than one.

Q I am talking about a lawyer. I believe he has a brother a doctor, too. A. Yes, I think so.

Q Do you know both of them? A. I do.

Q Is the brother Thomas Meehan, the lawyer --

A Assistant County Counsel, one of the assistants.

Q So one of the brothers is there as County Counsel to Hudson County, and the brother John is in this Republican bureau as counsel? A. Yes. I think the doctor has got an office of his own.

Q Has the doctor got a county office? A. I don't think so.

Q Now, to get back to the answer on that question.

A What is the question?

Q (The following question was read by the stenographer:

"Do you think that you or the Hudson County Police or the Boulevard Police have any right to stand guard over a door to a vault within which those books are contained and keep out and prevent a legally constituted Committee of the House of Assembly of the State of New Jersey from getting those?")

A What else? Do you mean a vault where the so-called books are contained and ballot boxes owned by Hudson County?

CHAIRMAN YOUNG: Oh, no. You cannot amend the question. Answer the question as it was read.

Q (The following question was read by the stenographer:

"Do you think that you or the Hudson County Police or the Boulevard Police have any right to stand guard over a door to a vault within which those books are contained and keep out and prevent a legally constituted Committee of the House of Assembly of the State of New Jersey from getting those?")

A Are you going to allow me to amend this?

CHAIRMAN YOUNG: No, sir.

Q (The following question was read by the stenographer:

"Do you think that you or the Hudson County Police or the Boulevard Police have any right to stand guard over a door to a vault within which those books are contained and keep out and prevent a legally constituted Committee of the House

of Assembly of the State of New Jersey from getting those?")

A Yes, if ballot boxes owned by Hudson County are in there and the County Counsel assures me that I would have that right, the answer is "yes."

Q Assuming, to please you, that there are ballot boxes in there, is there any reason why you should not order the Hudson County Police and the Hudson County Boulevard Police from permitting that door to be opened by the Assembly or for the Assembly Committee to take from within the poll books therein contained? A. Counsellor, that vault or whatever you talk about, is not in my possession and never was.

Q I am not asking you that, Supervisor; I am asking and talking about the police that you testified are there with your consent and at your instructions and that you, as the chief executive power officer of the County of Hudson put there. A. Yes.

Q And you claim you have the power to put there. You had the power to put there, you have the power to take away?

A Yes.

Q What you haven't got you cannot give? A. The questions are too long.

CHAIRMAN YOUNG: Did he say he had the power to take the police away?

THE WITNESS: Yes.

CHAIRMAN YOUNG: I don't know whether the stenographer got it. Have you the power --

THE WITNESS: Well, if I didn't say it, I will say it.

(Portion of testimony read by stenographer.)

Q The answer was "yes." A. The last word was "yes."
The "yes" was not the answer.

(The following portion of the testimony was read by the stenographer:

"CHAIRMAN YOUNG: Did he say he had the power to take the police away?

"THE WITNESS: Yes.

"CHAIRMAN YOUNG: I don't know whether the stenographer got it. Have you the power --

"THE WITNESS: Well, if I didn't say it, I will say it.")

Q Then you have got the power to remove the armed police who are now on guard at that vault on the seventh floor of the Spingam Arcade Building in Jersey City. You have the power to remove them, is that so?

A The armed police?

Q Yes. A. They also have badges, metal badges. Did you ever meet any police that were not armed?

CHAIRMAN YOUNG: Answer the question.

THE WITNESS: You, as a fair Chairman, don't have

to put that word "armed" as if they were hoodlums.

MRS. SANFORD: They were armed the other day.

THE WITNESS: Of course, they were armed. If I find one not armed I will fire him.

Q Then they are right under your supervision armed at that vault, is that so, Supervisor? A. If I met them and they were not armed I would fire them.

Q I didn't ask you if you met them. A. The badge, too, that has a pin in it. That could be a weapon if pulled out.

Q You like them to use the pins, too?

CHAIRMAN YOUNG: Answer the question.

THE WITNESS: He can talk to me just the same as you do.

CHAIRMAN YOUNG: After all that, the question is if there are armed police at that vault at your direction now?

THE WITNESS: The law compels the police to be armed.

CHAIRMAN YOUNG: I didn't ask that and Mr. Murray didn't ask that. Are there armed police at that vault now at your direction?

THE WITNESS: I don't know, but I think so. I never was there.

Q Assuming they are there -- A. The ballot boxes --

Q They are there at your direction, right? A. At the

request of the Hudson County --

Q With your permission and your authority?

A Please. At the request of the Hudson County Board of Elections.

Q We had all that yesterday. A. But you had something else yesterday that was not true.

Q Was it your testimony that was not true?

A No, one of your counsel's statements that were not true.

Q You don't need to worry about that.

A Backed by the Revised Statutes. Why don't you ask me what I mean?

Q Just your own testimony. A. Why don't you ask me what I mean?

Q I will ask you tonight. That is something private what you mean. We want public --

CHAIRMAN YOUNG: Please stop.

THE WITNESS: Where are you going to meet me tonight?

Q I will answer you. I will meet you in any place and you will have your armed policemen and I won't be armed.

A Where are you going to meet me tonight?

Q Please answer these questions.

A I won't shoot, either. Look over your index when you get a chance.

Q Please answer these questions. Are the police, the armed police of the Hudson County force and the Hudson County Boulevard still standing guard there at that vault on the seventh floor of the Spingarn-Arcade Building --

A I don't know, but I believe so.

Q If they are there they are with your consent, right?

A Sure.

Q And you have the power to remove them, right?

A I think so.

Q And they are there preventing this Committee constituted by the House of Assembly of the State of New Jersey, preventing them from getting into that vault?

A I wouldn't say that.

Q To obtain the poll books? A. I wouldn't say that.

Q Well, we are telling you that is so. A. The mere fact you state it does not put it in my mouth it is so.

Q Do you believe your own inspectors of police of the Boulevard Police? A. Sure, I do, when they tell the truth.

Q Do you believe your own lieutenants when they swear under oath? A. Sure.

Q Didn't you hear Inspector Neary yesterday testify here that he was on guard at that vault and that the Sergeant-at-arms of the House of Assembly of the State of New Jersey, under instructions and authority given to him by a resolution of the House of Assembly, that he prevented them from getting

access to the inside of that vault?

CHAIRMAN YOUNG: Will you answer aloud so the stenographer can hear you.

A Where there was located these books and ballot boxes. I would say yes.

Q Then you do know that your policemen prevented this Committee from getting what they have the authority under that resolution to get? A. From getting what you assume they have authority to get.

Q Under that resolution they have the authority?

A You assume that.

Q You can differ with them on that. A. Not me. I am not a lawyer.

CHAIRMAN YOUNG: We will find out whether we next have got authority, Wednesday night, and so will Mr. O'Neil.

THE WITNESS: That is all right with me, as long as you got a legal right.

Q Do you believe in legal rights? A. Absolutely.

Q Do you believe in doing everything within the law?

A Absolutely.

Q Then your testimony of yesterday was not true, that you believe in going outside the law? A. Oh, if you want to be technical on some things, I will repeat it, if it does you so much good --

Q Just answer the question. A. That seems to be what you are fishing for.

Q We are not fishing for anything. A. You want me to say I don't believe in law. You want another headline. I don't believe in that stuff.

Q You don't believe in the law? A. I don't believe in that stuff. You want another headline about my not believing the law.

Q I think it is John O'Neil, Supervisor of the County of Hudson, who wants the headline.

A I would love to have five minutes without interruption on that one very thing that you referred to.

CHAIRMAN YOUNG: You are here this morning, aren't you?

THE WITNESS: Yes.

CHAIRMAN YOUNG: You were here yesterday?

THE WITNESS: Yes, sir.

CHAIRMAN YOUNG: In response to a subpoena?

THE WITNESS: Yes, sir.

CHAIRMAN YOUNG: Why did you honor that subpoena if you believe this Committee had no authority to subpoena you.

THE WITNESS: No, I know you have.

Q You admit that? A. I met your Committees before,

but it was a Senate committee last time.

Q Well, you know, Supervisor, that your police, the police under your supervision and authority, prevented this Committee from carrying out the mandates given out by the House of Assembly to get those poll books which are inside that vault? A. I wouldn't say that. You will have to be fair in this way: I was asked for the police, sent them there, told them to report to Commissioner Corcoran, who spoke for the Board, and they are there yet. I gave no orders about books and the like, and you are not going to trap me into saying something I did not say.

Q Did you give them orders not to permit anyone to open the door of that vault? A. I certainly did not, and if I did I would say so.

Q Did you give them orders to prevent the Assembly Investigating Committee -- A. I certainly did not.

Q All right, then. Will you direct those policemen to stand aside and permit John Ferguson, Superintendent of Elections of Hudson County, to break that seal which is only a paper seal, which is only a piece of paper. It is not some great big piece of metal; it is not something that will have to destroy the door to break that paper seal; you can do it with your finger nail or he can with his finger nail. Will you order those police to step aside and permit John Ferguson to break that seal?

A My answer on that --

CHAIRMAN YOUNG: "Yes" or "no."

THE WITNESS: I won't answer it "yes" or "no."

Q You refuse to answer? A. Will you answer my question "yes" or "no?"

Q You put me on the stand and I will.

A Well, come on the stand.

CHAIRMAN YOUNG: You are now under examination, Mr. Murray isn't.

THE WITNESS: I am asking him a question. Will he answer my question "yes" or "no"?

CHAIRMAN YOUNG: You are on the stand under examination being questioned.

THE WITNESS: I understand.

CHAIRMAN YOUNG: The question admits of a fair answer "yes" or no," and we will have an answer or refusal.

THE WITNESS: I have heard a lot about you.

CHAIRMAN YOUNG: You are going to answer it.

THE WITNESS: I am going to make this statement. I don't care whether you do or not --

MR. MURRAY: Mr. Chairman --

THE WITNESS: I am going to make it if it is my last statement. I am going to make this fair statement.

MR. MURRAY: I ask this witness answer the question.

THE WITNESS: If it is the last one I ever make in my life I am going to make it.

CHAIRMAN YOUNG: He will answer this question in the end or he will refuse to answer it. But if you have got a soap box --

THE WITNESS: It is not a soap box. It is not a soap box, Mr. Chairman, you will agree with me when I am through. I say if Jim Murray or you were on the stand tomorrow you would have counsel representing you, and you are both lawyers. And you take an ordinary layman, you take a poor laborer, somebody else, up before an intelligent committee and three brilliant lawyers --

MR. MURRAY: Thank you.

THE WITNESS: And you don't know what he is talking about. He is saying things he don't know. You had a fellow on the stand here yesterday dizzy, didn't know what he was talking about. If he had counsel standing there he would have corrected him on the statement he was making. And any fair lawyer will agree with that statement.

CHAIRMAN YOUNG: Now you have made the statement, and I never saw a witness that had a lawyer yet.

THE WITNESS: You never saw a witness have a lawyer yet?

CHAIRMAN YOUNG: No.

THE WITNESS: Everyone has in Hudson County.

BY MR. GIULIANO:

Q Maybe you ought to get some opinion on that?

A He has the District Attorney.

Q Ask your counsel in Hudson County whether or not a witness is entitled to a lawyer before a court.

A A witness has two lawyers in Hudson County, he has the District Attorney and a lawyer, both sworn lawyers of the court.

Q I am asking you to ask your Corporation Counsel whether a witness is entitled to a lawyer, that is all. I don't care about anything else. A. A witness has two lawyers in any court of law --

Q Maybe in Hudson County, but not in Essex or in any other county. A. Well, there should be justice in Essex as well as any other county in the state.

Q Well, twenty other counties can't be wrong when Hudson is right. A. Hudson has often been right when the others are wrong. Hudson has got ballot boxes, Essex lost them. That is why I don't want them to disappear in Hudson.

CHAIRMAN YOUNG: Now you have had your stump speech. Answer the question.

THE WITNESS: Will you let me ask him a question
"yes" or "no"?

(Discussion off the record.)

Q (The following question was read by the stenographer:
"All right, then. Will you direct those policemen to stand
aside and permit John Ferguson, Superintendent of Elections
of Hudson County, to break that seal, which is only a paper
seal, which is only a piece of paper. It is not some great
big piece of metal; it is not something that will have
to destroy the door to break that paper seal; you can do it
with your fingernail or he can with his fingernail. Will
you order those police to step aside and permit John Ferguson
to break that seal?")

A My answer is, I don't think there is any importance
attached to that, and despite legal opinion -- is John
Ferguson here?

CHAIRMAN YOUNG: Will you permit him to break
that seal?

THE WITNESS: I will help him.

CHAIRMAN YOUNG: Will you tell your men to
stand aside?

THE WITNESS: No. We will get hold of John
and go up and break it ourselves, if he wants to. I
don't know whether he does or not.

Q Don't worry about him. A. You are worried about the

office.

Q About who? Do I look as though I am worrying about anybody? A. Well, you are worried about John.

CHAIRMAN YOUNG: Let us get an answer to this question "yes" or "no," once and for all, and no more fooling.

Q (The following question was read by the stenographer: "All right, then. Will you direct those policemen to stand aside and permit John Ferguson, Superintendent of Elections of Hudson County, to break that seal, which is only a paper seal, which is only a piece of paper. It is not some great big piece of metal; it is not something that will have to destroy the door to break that paper seal; you can do it with your fingernail or he can with his fingernail. Will you order those police to step aside and permit John Ferguson to break that seal?").

A Personally --

CHAIRMAN YOUNG: No more speeches.

THE WITNESS: This is not a speech. Personally--

CHAIRMAN YOUNG: If you cannot answer "yes" or "no" say, "I cannot answer." And those are the only three things I will permit you.

THE WITNESS: If you will let me ask Jim Murray one question that he can answer "yes" or "no" --

CHAIRMAN YOUNG: You answer "yes" or no" or

"I cannot answer," and that is the next thing you say.

THE WITNESS: I can answer, but in my own way.

CHAIRMAN YOUNG: Then say you cannot answer.

THE WITNESS: I can answer, but in my own way.

BY MR. MURRAY:

Q Is the question you are going to ask me, "Do I beat my wife as often as I used to?" A. No, it is not.

Q O.K. Answer the question.

A Ask the question that you are going to answer "yes" or "no?"

Q No, that you are going to answer "yes" or "no" or refuse to answer. A. I thought you were going to let me ask the question?

Q We will do that in a social party.

MR. PALESE: Are you going to answer the question?

THE WITNESS: I have answered it.

MR. PALESE: What was your answer?

Q I hope you are not going to have lapses of memory.

MR. PALESE: Did you say you had answered it?

THE WITNESS: I did answer it.

CHAIRMAN YOUNG: Will you direct your police to stand aside from that vault door and allow Mr. Ferguson to take that seal off of the door?

Now, Mr. Stenographer, until we get an answer either "yes" or "no" or "I refuse to answer," there is nothing further on the record.

THE WITNESS: I will give you neither answer, but I will give you a fair answer.

CHAIRMAN YOUNG: All right, he refuses to answer.

THE WITNESS: I don't refuse to answer.

CHAIRMAN YOUNG: He refuses to answer.

THE WITNESS: I don't refuse to answer. I will give you a fair answer that might solve your problem.

CHAIRMAN YOUNG: He refuses to answer that. Put that in the record and we will proceed.

THE WITNESS: The Chairman says I didn't answer. He is the boss.

Q Who is it you have to consult before you are permitted to answer that question? A. I don't believe I have to consult anybody, but I would like to consult somebody. I don't think I have to, but I would like to. I would like to consult John Ferguson, I would like to consult the County Counsel, and I think if the three of us got together you would have the seal off.

Q I will ask you another question, Supervisor. Will you order your police to step aside and permit this Committee, this

special investigating Committee of the House of Assembly, to open the door of that vault for the purpose of obtaining the poll books, contained within?

A If the County Counsel, who is my lawyer -- I am a layman -- if the County Counsel says it is the legal thing to do and should be done, I would say 100% "yes."

You know there is a difference of opinion as to the rights of this Committee -- let us be fair -- among you lawyers.

Q I haven't heard any. A. I can tell you a number of your friends.

Q I only heard they are public records and you are doing wrong by holding them there, as far as the public are concerned. A. If you have a legal right to get them you will get them in a week or two days.

Q We will get them? A. I don't care whether you do or not, so long as you return them. The Case Committee did not return a lot of records.

MR. PALESE: Why do you insist on making a speech? We don't care what happened in the Case Committee. Why are you insisting on making speeches?

THE WITNESS: You are interested in solving trouble on Election Day.

MR. PALESE: I am interested in finding out about those poll books.

THE WITNESS: Only in Hudson County, I presume.

You come from Camden County, don't you?

CHAIRMAN YOUNG: Will you please be in order,
Mr. Witness?

Q Do you refuse to answer that question?

A What was the question?

Q Do you mean to tell me you don't remember?

A I answered that question.

(Previous question and answer read by
stenographer.)

Q Without any legal opinion will you order them to step
aside and let this Committee go in under its authority passed
by resolution of the General Assembly? A. Not unless the
County Counsel says it is legal for me to do so.

Q Did you get an opinion from the County Counsel before
you permitted those policemen to be placed there?

A No.

Q To prevent -- A. Prevent what?

Q To guard the door -- A. Those policemen were there
eleven weeks.

CHAIRMAN YOUNG: Answer the question.

THE WITNESS: We are going to have an under-
standing. I am going to answer as I think best. I
am not going to make speeches, but I am not going to
be put in a trap. They were there eleven weeks. They
were not sent there to prevent you from getting the

books, they were sent there for an entirely different purpose, sent there to do the bidding of the head of the election --

CHAIRMAN YOUNG: You anticipate, I think, too far ahead.

THE WITNESS: I know Jim better than you, too.

CHAIRMAN YOUNG: You are afraid of what may come.

THE WITNESS: I am not afraid of anything.

CHAIRMAN YOUNG: Then wait until the question is concluded.

Q I will eliminate that so it won't bother you.

A That is fine.

Q The policemen were put there or continued there after the discontinuance of the recount, were they not?

A I presume so.

Q Don't you know so? A. I know on general knowledge.

Q Don't you know from the testimony of your own subordinates here yesterday?

A I think so. That is apparent.

Q Then why don't you answer "yes" or "no"?

A Because you would not answer me "yes" or "no."

Q I am glad I have the reason. Now, you say yes, you do know that they were there as guards, and armed guards after the discontinuance of the recount, is that right?

A They were there just the same as they were there for eleven weeks before, ten weeks.

Q Are the same conditions existing there now that existed there for the previous ten or eleven or twelve weeks?

A In a manner.

Q In what manner? A. There are ballot boxes belonging to Hudson County.

Q Is there a recount going on? A. No, but the ballot boxes are there.

Q Are they there just to guard ballot boxes within that vault? A. I don't want to be technical. I could say "yes" --

Q What are they there for? Do you know? A. To obey the Hudson County Board of Elections in keeping order and doing whatever else is necessary, unless the County Counsel says they should not do it. Is that the answer you want?

Q If that is your answer, I will ask another question. Do you know what it is the Hudson County Board of Elections wants or desires the cops there for? A. That would be just an assumption or opinion on my part.

Q Well, you do or you don't know? Do you?

A Let us be fair. I believe that they don't want you to get --

Q The poll books? A. (Continuing) -- At this time, because Stoebling is sick. Suppose he gets better in two days and gives them to you, what harm is done?

Q Then your cops will stop him? A. That is not true.

Q How do you know? A. I wouldn't let them.

Q What would you do? A. I would tell the cops to get the hell out of there.

Q Suppose Frank Hague told you to be quiet and leave them there; what would you do then?

A Jim, I have had more fights with Hague than any man in Hudson County, but we fight fair.

CHAIRMAN YOUNG: I think that question is perhaps unfair. We know what he would do.

Q (Question read by stenographer.) A. I would tell him I was going to take the cops away, if it was illegal.

Q What undertaker would you want? A. I wouldn't want any --

CHAIRMAN YOUNG: Just a minute.

THE WITNESS: I am going to answer the question. I wouldn't want any undertaker, because the gentleman he refers to never kills, he helps and he heals.

CHAIRMAN YOUNG: Mr. Murray, I want to ask Mr. O'Neil -- would you repeat that last answer, please?

(Answer read by stenographer.)

CHAIRMAN YOUNG: On whose authority would it be illegal?

THE WITNESS: He asked me --

CHAIRMAN YOUNG: On whose authority, if Mr.

Stoebling came to you well and said, "Take those cops away," and Mr. Hague said, "Leave them there." You have no legal opinion yet that I know of.

THE WITNESS: I have. Mr. Stoebling told me he would not want them there, he would not have requested me to put them there. If he says, "Take them away," we take them away. I have no right --

CHAIRMAN YOUNG: You have these cops to guard the ballot boxes, Hudson County Ballot boxes, and the guard was placed at the direction of the County Board of Elections?

THE WITNESS: Yes.

CHAIRMAN YOUNG: Why should Mr. Stoebling have the right to tell you to take them away?

THE WITNESS: Stoebling has possession of these books. We don't know anything about it. It is strictly a Republican fight and we don't want to interrupt.

Q You don't like to interrupt any Republican fights, do you? A. No, no, never do. You know we never do.

Q Now then, why don't you remove your policemen and permit these poll books to be taken out of that vault, if it is only a Republican fight among Republicans?

A Once a request is made to me for police officers,

whether from a judge of a court or from the custodian of the Court House, or from John Ferguson, to give him County policemen, I send for them and I say, "Take orders from Mr. Ferguson. You are under his charge now."

"Take orders from the judge, you are under his charge, and come back and report just as soon as they release you." Then I wash my hands of them.

Q That is very nice. I ask you, did the Commissioner of Registrations of the County of Hudson, Charles F. Stoebling, ask you for any armed police or for any police unarmed?

A No.

Q To go there and prevent this Committee from getting the poll books? A. No.

Q Then why have you got your policemen there doing just that? A. I have told you ten times we gave the police to the County Board of Elections ten or eleven weeks ago, and they are there yet.

Q We are not talking about ten or eleven weeks ago.

A It is a fact they are there.

Q Why are they there from last Saturday? A. I presume because the Commissioner asked them to be there.

Q Do you know? A. No, I don't.

Q Do you permit your police to go anywheres and stand guard and prevent a constituted state body from getting possession of things, or even a private citizen from going into

his own house? A. At the request of any properly constituted--

Q You said you don't know whether they were requested --

A You ask me a question and won't let me answer it.

The answer is, at the request of any properly constituted governing body in Hudson County, they ask for police, I will give them to them until they are finished with them.

Mr. Corcoran hasn't said to me, "I don't want them any more."

Q You know Inspector Neary testified yesterday in your presence that on Friday he thought their services would be required no longer and he gave orders for that detail to return to headquarters. You heard that, didn't you, Supervisor? A. Sure.

Q Then you do know, assuming they were requested, assuming they were legally requested of you for the recount, you know their duties for that purpose terminated, from the testimony of your own Inspector of Police, don't you?

A You are omitting from your question the most important things. You are omitting the fact Neary testified he was to go and take the men away and Mr. Corcoran asked them to stay there. That is the important part.

Q He said he went there to send them back, that their duty for the recount was terminated, right?

A Yes.

Q We agree on that point? A. Yes, we will agree on that point. That is one thing, anyway.

Q We want to get the recount and the time of its termination and the authority of the police and their return to you for recount purposes finished. The purpose they were there was for the recount? A. Sure.

Q That was on Friday afternoon sometime?

A Noontime, I think.

Q Then from there on what did you have those policemen there for? A. I didn't speak to them at all. The first time I met them was when I came out here yesterday.

Q What have you got them there for now?

A At the request of Mr. Corcoran, representing the Hudson County Board of Elections.

Q Did you take Mr. Corcoran's word that he was representing the Hudson County Board of Elections?

A I will answer that by saying you have got the greatest object lesson along those lines that we have been talking about for a few days.

MR. PALESE: Will you answer the question?

THE WITNESS: This will answer the question.

Q You can answer it "yes" or "no."

A You won't answer me "yes" or "no."

Q I am not supposed to. You are.

MR. PALESE: Mr. Commissioner, please listen to the question and answer it.

THE WITNESS: I am going to answer it by saying--

MR. PALESE: You are going to answer this question.

THE WITNESS: I am going to answer it as I please.

MR. PALESE: No, you are not.

THE WITNESS: Yes, I am. I am going to answer it as I can or not answer at all.

Q All right, refuse to answer. A. I won't refuse to answer.

MR. MURRAY: I would like the Chairman to come in and say you refuse to answer.

THE WITNESS: You saw yesterday --

MR. PALESE: Will you wait a minute?

And will you please repeat the question? Now, listen to it.

Q (The following question was read by the stenographer: "Did you take Mr. Corcoran's word that he was representing the Hudson County Board of Elections?")

MR. PALESE: You can answer that without making a speech.

THE WITNESS: I can answer without making a speech.

MR. PALESE: Did you or did you not do it?

THE WITNESS: Take it easy.

MR. PALESE: I am not going to take it easy.

THE WITNESS: You will have to take it easy
it
whether you like_A or not.

MR. PALESE: You are not going to make a speech.

THE WITNESS: I am going to show you an object
lesson.

Q Do you refuse to answer the question? What are you
afraid of? A. I am afraid of nothing.

Q Who are you afraid of? A. Nobody.

Q Who do you have to consult? A. On what?

Q Don't give us a speech. A. I am not giving you
any speech. Why are you afraid to let me prove I have a
right --

Q Don't try anything else or you will get more than you
bargain for. A. You cannot give me anything I don't want.

Q You try it. A. Why are you preventing me from
proving that I had a right to take Mr. Corcoran's word?
That is a simple question.

Q It is a simple question that can be answered by a
simple answer. A. Why are you preventing me from proving
I had a right to take Mr. Corcoran's word.

Q I will show you had no right, if you answer the question.

MRS. SANFORD: If you answer the question "yes"
or "no," you are proving --

THE WITNESS: I have a better way of proving it

by your Committee, I have a way of proving it by your Chairman. It is not fair at all. He asked me a question, why did I take Mr. Corcoran's word.

CHAIRMAN YOUNG: Why?

THE WITNESS: I will give him an object lesson to tell him why.

MR. MURRAY: He said he put the police there after the termination -- or in substance, the police were there after the termination of the recount because Mr. Corcoran, representing the Hudson County Board of Elections, requested that they be kept there.

THE WITNESS: I said Mr. Neary testified to that, I didn't say that. I haven't seen Corcoran.

MR. MURRAY: I am talking to the Chairman. The stenographer can give you the question from there on that I asked the Supervisor, which he is hedging on.

THE WITNESS: I am not hedging.

Q (The following question was read by the stenographer: "Did you take Mr. Corcoran's word that he was representing the Hudson County Board of Elections?")

CHAIRMAN YOUNG: Did you?

THE WITNESS: Yes. Now, ask me why?

Q No, I will ask you something different. A. You won't ask me why, will you?

Q Do you know what or who constitutes the Hudson County

Board of Elections? A. Yes, I think I do.

Q Who are they? A. John Corcoran, Mr. Scheetz, Patty Sullivan and Mr. Wittreich.

Q Do you think they are intelligent men, reasonable men? A. I think so.

Q Do you think they know how to conduct the conduct of that Board properly? A. I think so.

Q Do you think they know how to make a request to another public official which will present to that public official evidence that the Board made such a request?

A Yes, and how to answer a public official also.

Q Then don't you know that the usual way and the proper way and the legal way for a board to signify its intention would be by resolution authorizing some one of the four, if they so desire, to speak for them? A. Not all the time, no.

Q You don't think that is the usual way, the reasonable way and the legal way? A. Not all the time, no.

Q "Usual" does not mean all the time. A. Not all the time.

Q All right. Did he show you any resolution from the Board? A. No.

Q Did he show you any letter authorizing him --

A No.

Q Any letter from the Board authorizing him to request --

A No.

Q What did he say when he asked you for the police?

A I don't recall his exact words.

Q Well, substantially what? A. You want the general idea of it, don't you?

CHAIRMAN YOUNG: Mr. Murray, may I ask you this: Are we talking about the policemen at the termination of the recount?

MR. MURRAY: Yes, that is what we are on.

THE WITNESS: Oh, no. I know nothing about the termination of the policemen at the recount.

CHAIRMAN YOUNG: We have got now that the police are now there at Mr. Corcoran's request that they stay there.

THE WITNESS: Eleven weeks.

CHAIRMAN YOUNG: It was never officially requested that they stay there at the termination of the recount?

THE WITNESS: Absolutely not.

CHAIRMAN YOUNG: They were kept there by Corcoran without any special authorization from Mr. O'Neil.

MR. MURRAY: Right. But the Supervisor says he, John Corcoran, requested -- a member of the Board --

THE WITNESS: I didn't say that. I said Neary said that.

CHAIRMAN YOUNG: He now knows that they are there at the request of Corcoran, through Mr. Neary's testimony, isn't that so?

THE WITNESS: Yes.

CHAIRMAN YOUNG: You now know also, through the testimony of Miss Seglie, Mr. Wittreich and Mr. Scheetz, that there was never a resolution of the County Board of Elections requesting that those police stay there after the termination of the recount?

THE WITNESS: I heard the testimony.

CHAIRMAN YOUNG: Now, knowing that there is no such resolution, that the recount has been terminated, that the reason for which the police were originally called has terminated, is there any reason further for maintaining that police guard there?

THE WITNESS: I don't know. I would have to see Corcoran and be guided by what he and the County Counsel said.

CHAIRMAN YOUNG: Would you take Corcoran's word there?

THE WITNESS: If Corcoran said to me, "There is

ballot boxes in there, we want to make sure they are guarded, we don't want strangers to get in and take away our ballot boxes as they did in some other county, so I would like to have you keep the cops there."

CHAIRMAN YOUNG: You know those ballot boxes are not subpoenaed?

THE WITNESS: Of course. I believe so.

CHAIRMAN YOUNG: How long have you been County Supervisor, Mr. O'Neil?

THE WITNESS: I am serving my sixth term. I think about seventeen years.

CHAIRMAN YOUNG: Did you have another public job before this?

THE WITNESS: Yes, Boulevard Commissioner.

CHAIRMAN YOUNG: You have apparently worked up very much in the line of politics. You used to be an Election Board member.

THE WITNESS: I think that is maybe thirty-five years ago.

CHAIRMAN YOUNG: And you have been testifying here before us this morning that you had some very fine institutions in Hudson County.

THE WITNESS: Wonderful.

CHAIRMAN YOUNG: I notice in that testimony you

did not mention that you had the County Board of Elections or Superintendent of Elections or Commissioner of Registrations office in your department or under your supervision?

THE WITNESS: We haven't.

CHAIRMAN YOUNG: You have had, I would say, a very long and honorable record as a public servant.

THE WITNESS: I would say a long record.

CHAIRMAN YOUNG: Well, that is modesty. And as a citizen of New Jersey you are acquainted more or less with the laws of New Jersey and with the Election Laws of New Jersey.

THE WITNESS: Not so very much. The only time I am in a polling place, honestly and sincerely, is the two minutes I vote, in the last seventeen years.

CHAIRMAN YOUNG: But you have had experience with the Case Committee?

THE WITNESS: Yes, I have.

CHAIRMAN YOUNG: And you came here today in response to a subpoena of this Committee?

THE WITNESS: Absolutely.

CHAIRMAN YOUNG: You believe, and I believe you would if we subpoenaed your records, supply us with them?

THE WITNESS: I certainly would.

CHAIRMAN YOUNG: Now, we have subpoenaed certain other records, you are aware of that by this time. Those records happen to be in a vault which is not under your supervision, but let us even put it that you pay for it out of county funds.

THE WITNESS: That is so.

CHAIRMAN YOUNG: I am now stating to you, and I think your County Counsel will state to you, that the records which we have subpoenaed are in the custody and control of Charles Stoebling. You know that, don't you?

THE WITNESS: Yes.

CHAIRMAN YOUNG: They are not in the custody and control of the Hudson County Board of Elections, you understand that?

THE WITNESS: I think they are under Stoebling's control. I am not positive.

CHAIRMAN YOUNG: Those ballot boxes, while I am very glad to admit to you that they are the property of Hudson County, are only in that vault for the purposes of the recount, isn't that so?

THE WITNESS: Incidentally, yes.

CHAIRMAN YOUNG: You know at the termination of the recount those ballot boxes should be returned to the municipality from which they were subpoenaed

for the purposes of the recount?

THE WITNESS: Yes, sir.

CHAIRMAN YOUNG: You know that on Saturday morning they would have been returned if the vault had been opened?

THE WITNESS: Yes, sir.

CHAIRMAN YOUNG: I am saying to you, as Chairman of this Committee and for the Committee, because I know they are with me in this, you have said if you could get together with John Ferguson that seal could be broken. I am saying to you further, that I think you now recognize that this Committee is a Committee of the Legislature which made me as Chairman, and Mrs. Sanford and Mr. Palese and Mr. Osmer --

THE WITNESS: Yes.

CHAIRMAN YOUNG: All as members of the Committee. You recognize us as members of the Committee and members of the Legislature?

THE WITNESS: Yes, sir.

CHAIRMAN YOUNG: If I now point out to you that Mr. Hogan is Sergeant-at-arms of the House of Assembly, you would take my word he is that Sergeant-at-arms?

THE WITNESS: Absolutely.

CHAIRMAN YOUNG: If I were to produce before you a certified copy of the resolution, certified to by Mr. Paul Williams over here, the Clerk of the House, as a true copy of that resolution, you would take that to be a true copy, would you not?

THE WITNESS: Yes, sir.

CHAIRMAN YOUNG: Then if this Committee, Mr. O'Neil, were to go with you and your County Counsel and Mr. Ferguson, with the members of the County Board of Elections, if they desire to come, and the Sergeant-at-arms of the House, would you have any objection to that seal being broken, to that door being opened, the ballot boxes adequately protected by your police or members of the County Board of Elections, and the articles which we have subpoenaed from Mr. Stoebling and which you admit we have a right to subpoena from Mr. Stoebling, and taking those records for the purpose of our investigation?

THE WITNESS: Personally, Mr. Young, if I had my way I would take everything that you want and give it to you, provided you could assure me that it would come back to the county. Valuable records has been taken and not returned. The cash book for a half year by the Case Committee. I am talking for John O'Neil. I am advised by the County Counsel of Hudson County,

I went to them, I went to the County Counsel of Hudson County, and they said there is a doubt about this. The gist of it is this -- I hope I am not misquoting them -- The Legislature is composed of the Senate and Assembly. One branch has done so and so. There is a question of whether or not they have a right to do this. Now, in the face of that I think I should be guided by the County Counsel. You are talking about the seal. I don't go much on the seal. I think if John Ferguson and I got together we would steal the seal.

CHAIRMAN YOUNG: I will be perfectly frank with you, I want that seal to stay on there until such time as we do --

THE WITNESS: Then it will stay on there. Those instructions will be given to any of my subordinates.

CHAIRMAN YOUNG: I am still asking this question. You admit we have the power of subpoena. You admit we have the right to get those records.

THE WITNESS: I don't. I said if I had my way. That is an entirely different thing.

CHAIRMAN YOUNG: You would produce your records?

THE WITNESS: Of course, I would.

CHAIRMAN YOUNG: And yet you refuse to us that

we shall have the opportunity of going there in a peaceable way, with proper guards, for the records which we don't want and maintained by whoever desires to maintain those guards, and if it is necessary, by the absence of Mr. Stoebling and Miss Seglie, to open that safe, perhaps by damaging it, with the assurance that the Legislature of New Jersey will reimburse you for the damage done to that safe, with the assurance that the records taken will be brought over here under armed guard in an armored truck; that they will be stored in a bank vault; that they will be brought up here when they are used, under guard, and returned under guard, and eventually returned to Hudson County intact, you would still refuse to allow us to do that?

THE WITNESS: Personally, Mr. Young, I say it and I mean it, I would give them to you. But I don't see my way clear, and I think you will have to bear with me, in going against the advice of the County Counsel of my county. They are my lawyers. If I am in doubt about anything I have to go to them. If they say to me, "You cannot do this," I don't think I should say, "I am a better lawyer than you are."

CHAIRMAN YOUNG: Have you had a written opinion?

THE WITNESS: No, I have had a verbal opinion.

CHAIRMAN YOUNG: What was the verbal opinion?

THE WITNESS: The verbal opinion was, to the best of my knowledge, that there is a doubt about whether this Committee had the right to take these things. I will go all the way: one of the counsel said to me, "I think their remedy is Stoebling. They have a right to subpoena his records. He is ill. He may be all right in a couple of days or they may bring him before the Legislature for contempt, but I don't think they have a right to come in and break into a vault and take these things. They created the office of Registration Commissioner, and they should be able to handle it." It is not a question of quibbling. Personally, I don't know what you are going to do when you get them.

CHAIRMAN YOUNG: May I ask what member of the County Counsel's staff gave you that advice?

THE WITNESS: One of them was Mr. Robert Doherty, sitting right before you.

CHAIRMAN YOUNG: Can you tell me from your fund of experience with the Case Committee whether that was a joint or Senate Committee?

THE WITNESS: It was a Senate Committee.

CHAIRMAN YOUNG: You have never raised the question that a Senate Committee had not the power to

subpoena records in that investigation, did you?

That question was never raised, was it?

THE WITNESS: They never subpoenaed any of my records. They took from my office records without subpoena which I was willing to give without subpoena.

CHAIRMAN YOUNG: You gave them without subpoena?

THE WITNESS: No, I would if I was asked for them. Leaving out the word "stolen," they disappeared from my office and I never saw them until I was on the witness stand, papers I would have given them willingly.

CHAIRMAN YOUNG: You think this Committee has a power that a similar committee from the Senate had?

THE WITNESS: If you asked my personal opinion, I would say "yes."

CHAIRMAN YOUNG: I think so too. May I ask whether you, in view of your own knowledge of practical life, and perhaps your own knowledge of practical law, and in view of the assurance that the Committee has given you of its intention to preserve those records, will you now consent that those police be removed and that that door be opened by such force as may be necessary, and those records removed?

THE WITNESS: With all due respect, Mr. Young --

CHAIRMAN YOUNG: Will you please --

THE WITNESS: I want to say I will do so if the County Counsel will say to me it is the legal thing to do. If they say, "You should keep those police there guarding those records," I will keep them there. If they say, "There is no reason why they should not have them," I will immediately remove the police.

CHAIRMAN YOUNG: In other words, you say, "If the County Counsel says 'yes,' I will do it; if the County Counsel says 'no,' I will not?"

THE WITNESS: If the County Counsel says it is legal.

CHAIRMAN YOUNG: If the Committee assumes that they are acting legally and directs you to do as I have just ^{set} forth here, without benefit of counsel, so to speak, will you refuse?

THE WITNESS: I will consult counsel --

CHAIRMAN YOUNG: I say, supposing that we at present don't care whether you consult counsel or not, we are now demanding from you certain actions which you have admitted in your private capacity to be reasonable actions. We are not giving you any choice, Mr. O'Neil; we are not giving you the opportunity to go to your counsel. Will you or will you not give

us what we want? What is your answer?

THE WITNESS: Unfortunately, with that question, I have already been to counsel.

CHAIRMAN YOUNG: And they have advised you not to?

THE WITNESS: Yes.

CHAIRMAN YOUNG: So, counsel's opinion or no counsel's opinion, your answer is "no," is that the idea?

THE WITNESS: Oh, no. Because of counsel's opinion my answer is "no."

CHAIRMAN YOUNG: All right.

MR. MURRAY: Mr. Chairman, are we to understand that you have just requested from Mr. O'Neil, you, on behalf of the Special Assembly Investigating Committee, have just requested Mr. O'Neil as the Supervisor of the County of Hudson and as the chief executive officer of, and as the man who has control and authority over the armed police guard there at that vault, as such the Committee has requested that he now answer you whether or not he will remove that guard?

CHAIRMAN YOUNG: That is right.

Q Do you understand that? A. Yes, perfectly.

Q The answer is you will not, is that so?

A My answer to the Chairman was "no, on the advice of counsel," of course.

Q That you will not? A. On the advice of counsel.

MR. MURRAY: Is there anything else the Board would like to ask?

(At this time the Board took a recess for five minutes.)

AFTER RECESS

J A M E S F. T O O H E Y, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. WIENER:

Q Mr. Toohey, you are employed by Commissioner Stoebling?

A Yes, sir.

Q In what capacity? A. As a clerk assigned to 203 districts, most of them Jersey City.

Q 203 districts of Jersey City? A. Yes, sir.

Q What is your official title? A. I would say department head.

Q Department head? A. Head of a department.

Q And what is your salary as a department head?

A \$4000 a year, less ten per cent.

Q That is \$3600 net? A. Yes, sir.

Q As head of a department involving two hundred and some odd districts in Jersey City, do you supervise the registrations and have control of the signature copy registry books in all of the districts of the First Ward of Jersey City?

A Yes, sir.

Q And you were served with a subpoena to produce those books before this Committee? A. Yes, sir.

Q Do you have those books with you? A. No, sir.

Q Why not?

A Well, on orders from the Commissioner of Registrations,

he tells us never leave those books out of the department without his consent.

Q When did you get those orders? A. Always got those orders, always had them, the last say eight or nine years that he is Commissioner of Registration.

Q Were you a member of the group that produced some of the books involved in some of your districts before Chief Justice Brogan on December 28, 1937, during the Supreme Court probe,- that is, the commencement of the Supreme Court probe? A. I remember we were down there. I thought we brought the ballot boxes down there.

Q You brought signature copy registry books and poll books on December 28. I believe there were about twenty-one districts subpoenaed.

A Do you have reference to Chief Justice Brogan's office?

Q No, Chief Justice Brogan's court in the Court House.

A No, sir.

Q Do you remember a subpoena being served on your office by Robert H. McCarter, as counsel to Senator Clee?

A I heard of it, but I was not in that group that went to the Court House.

Q But the districts which you supervise were involved?

A Well, I suppose they were.

Q You, as department head, certainly do know whether or

not the books over which you have jurisdiction left the office? A. Certainly. If a subpoena was served on the Commissioner of Registration, and under his orders they gave consent to someone in that office to get those books, naturally, that is with his knowledge and consent that those books were delivered on the order of the Chief Justice.

Q Now, isn't it a matter of fact that the subpoena was not served on Mr. Stoebling personally?

A I really couldn't tell you.

Q That the subpoena was left at the office?

A I didn't see it.

Q Who do you take your orders from? A. Mr. Stoebling.

Q Well, who gave the orders for those books to leave your jurisdiction? A. Mr. Stoebling gave the orders to someone in charge. I believe it was Mr. Gumaer took them down. He was in charge.

Q Mr. Stoebling was home in bed, was he not?

A He has been in and out several times since he was sick at that time in December and part of January.

Q Since you have had this subpoena have you attempted to find out whether or not Mr. Stoebling is willing to obey your subpoena? A. I really have not. I understand he is so sick there is no need of attempting to see him.

Q Have you made any attempt to see him?

A I wouldn't say I made any attempt to see him personally.

Q Have you made any attempt to phone him? A. No, sir, I have not.

Q Who did you get your opinion from as to whether or not you should leave these books? A. I always had that, under no circumstance to leave them out of there without his knowledge and consent.

Q You, as a department head in this particular bureau, were served with a subpoena duces tecum? A. Yes, sir.

Q You are not paying any attention to that subpoena?

A I wouldn't say that. I was talking to his son Carl, I was asking him about twelve-thirty of the day you served me with the subpoena, and I asked him then how his father was. He said, "Very bad." I said, "Is there any chance to see him?"

He said, "There is no chance in the world to see him."

Q Is his son married? A. I believe he is.

Q Do you know where he lives? A. I don't know offhand.

Q I want the record to be straight on this. You have had this subpoena for several days and you have made no attempt, as you say, to see your direct superior?

A Well, I believe I am right when I say he is so sick, under the doctor's orders, I made no attempt. When he is well enough I will try to get in touch with him.

Q Do you think you can just ignore a subpoena that is served upon you? A. Oh, no.

Q Now, you are an official in that particular bureau. Don't you feel it is your duty to produce those books before a legally constituted tribunal? A. With his consent I will. After all, those books are in his custody, they are not in mine.

Q If a subpoena from Chief Justice Brogan of the Supreme Court was served upon you, would you do the same thing?

A I don't know.

Q If you were served with one? A. I would try to take it up with Mr. Stoebling.

Q You have been trying to take this up with Mr. Stoebling?

A I understand from his son he was sick.

Q Mr. Toohey, why don't you tell the truth? Tell who you consulted as to this particular subpoena?

A I am telling you the truth.

Q You are not telling the truth. A. Yes, I am.

Q You know you get your orders from someone other than the head of your division. A. From who?

Q Isn't it a matter of fact that you consulted with John Meehan? A. Oh, no, I did not.

Q Have you talked with any lawyers concerning the legality of this subpoena? A. No, sir.

Q You mean to say you have taken this up on your own?

A I intended to take the stand and just explain my position. I told you as soon as I got on the stand about

consulting Mr. Stoebling. If he says, "Let them have the records," I will do so.

Q You feel we are going to stand by and permit this?

A No.

Q Are you familiar with the resolution that was passed in the House of Assembly? A. I heard it read here.

Q And you know we feel we have a right to have you produce those books, as a department head? A. I really don't know.

Q In the face of the requests of this Committee, you still feel you are going to ignore our demand or our subpoena for you to produce those books? A. I am not ignoring or defying this Committee at all. If Mr. Stoebling consents that I deliver those books to you, I will do it.

Q You are a department head. Let us assume you are compelled to stand on your own feet. You are making a substantial salary. You get this salary of \$4000 a year. You are an executive. You are supposed to be able to carry on the duties of a certain branch of your office. On your own, today we ask of you to produce those books in accordance with a subpoena legally and justifiably served upon you, and we would like your answer.

A Not unless Mr. Stoebling consents to it.

Q Now, these books in the ten districts of the First Ward of Jersey City are all in your possession? A. Yes, sir.

Q And you have direct supervision over them?

A I would not say I have direct supervision over them.

As far as certain work is concerned for those districts of that ward, if there is any registrations or transfers to be made, if you call that supervision. I direct a certain man to do that work and he will do it.

Q If you said to this man under you, "Throw those books in a car and take them over to 301 Court House, Newark,"--

A I would do that if Mr. Stoebling tells me to do it.

Q If you said to your man, "Take the ten districts of the First Ward and throw them in a car" -- A. I would not do that unless Mr. Stoebling tells me to.

Q If you, Mr. Toohey, said, "Fellows, I have got a subpoena and I am going to live up to it; I am going to take those books over before the Committee," would the men follow your instructions? A. I would not give them that order.

MR. PALESE: Answer the question.

THE WITNESS: I am trying to.

Q (Question read by stenographer.)

A I really don't know whether the man would or not.

Q Who gives you orders when Mr. Stoebling is not available?

A No one at all.

Q Nobody at all? A. I figure this way: I am there so long in the office I really know how to carry on. In the past Mr. Stoebling has not been away any length of time that I could

not wait and consult him when he did come.

Q You say in all your experience in that office you at no time permitted any records whatsoever to go out of your office without consulting Mr. Stoebling first?

A Without Mr. Stoebling's knowledge or someone there --

Q You didn't say that before, you said without his consent. A. Consent and knowledge.

Q You say in every instance whenever a subpoena was served upon you or your department, that matter was taken up directly with Mr. Stoebling? A. If Mr. Stoebling gave Mr. Gumaer orders to take some books out of my department, he would come along and say, "Jim, Mr. Stoebling told me to deliver these books according to this subpoena of the Chief Justice," I would have to let him take them.

Q Just one further question. Mr. O'Neil says he knows you and he was not sure whether or not you were a Democrat. Are you? A. I am a Democrat.

Q An organization Democrat? A. Yes.

Q You are not one of those that voted for Clee and the rest of the Democratic ticket in Hudson County, are you?

A No, I voted for Harry Moore.

Q Mr. Toohey, you said previously that these books never went out without the knowledge, as you put it, the knowledge of Stoebling. Let us assume there was to be a General Election in Hudson County next week and Mr. Stoebling was or

is in the same condition that he is supposed to be in today, would you order the books out in the districts that you control? A. I don't know that there is any election next week.

Q All right. Let us assume that Mr. Stoebling's condition continues as it is until next November when you have a general election in the State of New Jersey, and you cannot get to him as you have not been able to get to him conveniently on this subpoena. What are you going to do about sending the registry books out into the districts?

A I presume he would probably know there was an approaching election and he would probably give some orders.

Q In other words, if it is something else that does not involve this Committee he will know about it?

A If Mr. Stoebling consents to give the books over to you and tells me to do it, I will do it.

Q If Mr. Stoebling is not available, will you or will you not order those books out into the districts for the purposes of a general election? A. Not until he tells me to, because I have no right to.

Q In other words, if you don't hear from Mr. Stoebling from now until next November there is not going to be a primary election or General Election in Hudson County?

A I cannot answer that "yes" or "no."

MR. MURRAY: That would be good for the rest of

the state. That is all.

BY MR. GIULIANO:

Q Does Mr. Stoebling have to sign your payroll?

A I don't know. I sign to get my check.

Q I mean the general payroll of the bureau?

A I don't know. That is the work of his inside office.

L A M O N T M. G U M A E R, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. GIULIANO:

Q Mr. Gumaer, you are connected with the office of the Commissioner of Registrations? A. Yes, sir.

Q What is your official title there? A. Clerk.

Q Clerk or department head? A. Well, I am known as a temporary clerk. I am assigned as a department head by Mr. Stoebling.

Q You are a department head, aren't you?

A Yes, sure. But that is on the payroll.

Q You are in charge of this office? A. I am in charge of my department.

Q What do you cover? A. I cover the entire county in regard to the permanent registration forms of every registered voter, and also I have a crew of investigators that investigate all persons who are on the challenge list and don't vote at any General Election; and I also investigate every death in the county.

Q You investigate the challenge list? A. We investigate the challenge list.

Q Approximately how many people were on the challenge list in Hudson County in the last election?

A There were on the challenge list in Hudson County at the last election 21,000 and over. Of those 21,000 there

were very near 6,000 who were not registered from the addresses which they were on the challenge list from, making about 16,000.

Q In other words, there were 21,000 on the challenge list, and out of the 21,000, 6,000 were on there because of change of address, is that what I understand?

A When we got the challenge list of 21,000 I checked the challenge list against the signature registry binders and found 6,000 of those 21,000 were not on the registry binders from the addresses which they were on the challenge list, assuming that they had possibly moved.

Q I presume you know how many of these people voted on the challenge list, don't you? A. How many persons voted on the challenge list?

Q Yes. A. No, I would not know that.

Q You have charge of the challenge sheets, haven't you?

A Yes. I think you are not following me right on that. The challenge lists are a copy of the challenge lists that are made up by the Bureau of Elections which the Bureau of Elections sends to the Commissioner of Registrations.

Q You know there were 21,000 people on the challenge list? A. Yes.

Q Those challenge slips are returned to the Superintendent of Elections and a copy to your office?

A A copy before the election, not afterwards.

Q And you also check the amount of people that have voted on that challenge list, don't you?

A No, I do not.

Q You do not? A. No.

Q You only use the investigators before election, as I understand it? A. I am using the investigators after election. The purpose of that is to clarify the registry. The Commissioner uses that as a lead to find out where these people have gone to.

Q And these are records of the Department of the Commissioner, aren't they, of the Registration Commissioner, aren't they? A. These are copies sent by the Bureau of Elections.

Q They are your records? A. Yes, they are our records when we get them.

Q Those records are given to investigators to take out of the office, aren't they? A. No, they are not. They are a large sheet and each sheet represents a district in the county, and there is a series of names, giving names and address, with the notation alongside "moved," - not saying where they moved, just "moved." In other words, they lived at the address but they don't live there now. And from those, my orders from the Commissioner, in order to help clarify the registry, is to make out an investigating card for every name on there and assign the investigators to the

different districts.

Q What I am getting at, these sheets are given to Mr. Jones, an investigator? A. They are not.

Q Cards are given to him? A. Yes.

Q They go into the districts, don't they? A. Yes.

Q Does Mr. Stoebling take these cards into the districts? A. Mr. Stoebling does not take the cards into the districts.

Q He does not take them? A. Oh, no.

Q The books are taken out quite a few times, aren't they, Mr. Gumaer, out of your office? A. The signature registry binders, you mean?

Q Yes. A. Yes. Just to make it clear, I am perfectly willing to answer any question.

Q Those books were taken out on December 28, weren't they? A. They were.

Q Where was Mr. Stoebling? A. Mr. Stoebling at the time was ill.

Q Quite ill, wasn't he? A. So I understand, he was quite ill.

Q You know whether or not he was quite ill? A. I think that was the 28th of December. I think since then he has been back to the office. I am pretty certain about two weeks ago I met him on the elevator, just passed the time of day.

Q He was not so very ill two weeks ago, was he?

A I think within two or three weeks he made a visit to the office for about an hour, and then left. I may be mistaken, but it was not much more than that.

Q Do you remember what districts were subpoenaed on December 28? A. There were twelve districts.

Q Will you name them, please? A. I don't think I could offhand. There was a couple in the Seventh Ward.

Q Who has charge of that ward? A. Mr. Toohey.
The signature registry binders Mr. Toohey has.

Q Mr. Toohey has charge of those districts?

A Yes.

Q And when you got those districts you went to Mr. Toohey and asked him to take those districts out, didn't you?

A No, I did not; that is not the way I handled it.

Q How did you handle it? A. Those districts were taken out. I was in the Commissioner's office; I received a telephone call from the Commissioner and he said, "There is a subpoena in the office" --

Q Who said there is a subpoena in the office?

A Commissioner Stoebling over the telephone to me said, "There is a subpoena in this office asking me to produce a number of signature registry binders before Chief Justice Brogan." He said, "I want you to get those books ready, put the locks into them, tie them up, deliver them to Chief

Justice Brogan's court and stay with them until they are through with them, and then bring them back here."

Q You saw they were put in a truck or proper conveyance?

A Yes, sir.

Q Did Mr. Stoebling carry any of those books out of the office? A. No.

Q Did Mr. Stoebling appear in court when they were turned over to the court? A. No, sir.

Q Did you see that they were carried into the court?

A Yes, sir.

Q Were they laid on the floor in the court by you or your clerks? A. By me and my clerks. I helped carry some myself.

Q Now, Mr. Gumaer, when is the last time you talked to Mr. Stoebling? A. The last time I talked to Mr. Stoebling, as I said a moment ago, it seems to me within three weeks I met him on the elevator and passed the time of day.

Q You have not spoken to Mr. Stoebling in three weeks nor have you tried to communicate with him?

A I tried to communicate with him last Saturday afternoon.

Q You were served with a subpoena to produce certain records today, weren't you? A. Yes, I was served with a subpoena.

Q Then why didn't you try to get in touch with Mr.

Stoebling and ask him about this subpoena?

A This subpoena that was served on me was addressed to me to produce books. I have never done that before; it was something new to me, and I knew that the books that were being asked for were not under my supervision, that I had no jurisdiction, so I did not consider that I was involved in any way.

Q In other words, this bureau is not run as a whole, there are four independent departments, is that true?

A That is true.

Q Let us suppose that Mr. Stoebling is in such a condition that he cannot talk or hear from now until the November election. Would you or would you not send out the books to the different district boards in order that an election may be had in September and in November? A. Counsellor, I would send those books out.

Q Then you believe that if a proper order is given to you that you should follow it regardless of the condition of Mr. Stoebling, don't you? A. No, I do not. I would send those books out because it says distinctly in the law that the books shall be delivered to the various municipal clerks.

Q Suppose I show you the law that an Assembly Committee shall have the right to take testimony and that an Assembly Committee has a right to subpoena records, and that we as an

Assembly Committee have served you with that subpoena, would you or would you not say that we are entitled to those records? A. Positively, you are entitled to them.

Q Now, I am going to show you the law.

A I might say at this time, if you will permit me, Counsellor, and if I may be given permission, in order that I may clearly clarify my position in this matter, I would like to say that if any of you counsel or any members of this committee would come to my office at any time, my office contains the signature registry, the original records that they are a registered voter of this county, that I would allocate space for them, I would furnish them chairs, I would furnish competent clerks to aid them and produce any record in my office to them.

Q Then it is your opinion, Mr. Gumaer, that these are public records? A. They are public records.

Q And if Mr. Young came in there as a citizen and wanted to know if Jim Murray was registered and had voted in the last General Election, and wanted to compare his signature, you, as an employee and executive of this bureau, would allow Mr. Young to do so? A. Absolutely. I have done it many times.

Q I ask you now, Mr. Gumaer, if we adjourn this meeting and we go to your bureau in Hudson County, will you take out the ten original binders of the first ten districts -- or

rather, twenty, two in a district of the First Ward, and take out the poll books and let us compare them there?

A I would take out the ten registry binders, the original registry binders which are under my supervision. I cannot give you anything that is not under my supervision. The signature registry copy books are not under my supervision nor are the poll books which are in the vault.

Q Then may I ask you this question: under proper guard and under your supervision, would you have any objection that those books be produced this afternoon before this Committee here? Under your own personal guard?

A Under my own personal guard, the books that are under my supervision, yes, sir.

MR. GIULIANO: Mr. Chairman, I now ask you to direct Mr. Gumaer to have here by two o'clock the ten districts of the first ward, the registry binders of Jersey City.

CHAIRMAN YOUNG: You mean the original?

MR. GIULIANO: Originals or duplicates.

THE WITNESS: I don't think you quite follow me on that, Counsellor. I think the law distinctly says that the original registry binders shall not leave the office of the Commissioner of Registration.

Q I am asking you. You volunteered this.

A I volunteered, as I said before, any member of this

Committee -- I don't want to break the law. This is something new to me. I understand the law very thoroughly. And I say that if any member of this Committee will come to my office that contains all of the original signature registrations of this entire county, that I will show them every record in my office, I will produce chairs and tables for them, I will assign competent clerks, I will do everything in my power to aid them in getting any information they want from the records under my supervision. Now, going further, I can say that the Election Law distinctly says that the original signature registry binders shall not leave the office of the Commissioner of Registration -- under no conditions, as I understand it. The other books may leave on the order of a court of competent jurisdiction.

Q You did not mean the books could be delivered before this Committee? A. That is it. I would be doing something that would accuse me of dereliction of duty.

Q Where are all the buff copy registers?

A They are in the office of the Commissioner of Registration. They are directly down from the room -- you mean on the recount?

Q If I ask you for the buff signature copy registry binders for the whole City of Hoboken, would you be willing to deliver those copies here this afternoon?

A No, I could not do that; they are not under my

supervision.

Q Under whose supervision are they? A. Mr. Toohey's department runs from 1-1 of the City of Jersey City to the Ninth Ward, 26th district inclusive. From thereon the balance of Jersey City, all of the City of Bayonne and up to the Third Ward, 7th district of Hoboken, comes under Mr. Montelli.

Q You have charge of all the districts? A. I have charge of all the original registrations of the entire county.

Q Is there any difference between the original and copies? A. The records are exactly the same, only this difference just now. On the voting record -- you must understand that the buff forms are used for local boards at every election. The duties of the local district boards, when a citizen votes, he enters in the ballot number on the record. The original forms not being in the hands of the local district boards, those ballot numbers have to be posted from the poll book into the original registry binders by the clerks in our office to make both records similar. We haven't had an opportunity to do that yet.

Q The copy register books now are of no use to you. If this Committee got the copy registry books we would not hold up the activity of your department, isn't that so?

A Except the fact that the law says that the local district board shall post the ballot number when a voter votes,

and the books are then, under the act, to be returned to the Commissioner of Registration to check the poll book against the signature copy register to make certain that the local district board performed its duty.

Q You are not doing that because the poll books are in the vault? A. They are impounded, yes.

Q Now, would you, as head of the office, give this Committee all of the signature copy books or order that all of the signature copy registry binders be turned over to this Committee under proper guard?

A I would be willing to do that, sir, but I have no jurisdiction. I would be accused of dereliction of duty. They are not under my supervision.

Q By whom? A. I am assigned by the Commissioner of Registrations just to take care, and I am held responsible for, all the original registration records in the office.

Q And you have nothing to do with the buff copies?

A Nothing whatever, sir.

BY MR. YOUNG:

Q Mr. Gumaer, you heard Mr. Toohey testify?

A Yes, sir.

Q Do you agree with him that the standing instruction of the office is that the signature copy register shall not leave the office? A. That has always been understood.

Mr. Stoebling is very strict about that. Under no conditions

shall they leave.

Q Have you ever been served with a subpoena in all of the years you have been there, or Mr. Stoebling has been served with a subpoena with which he has refused to comply?

A No, I have not. This is my first experience in having a subpoena served to me personally.

Q Has Mr. Stoebling, to your knowledge, ever been served with a subpoena with which he has refused to comply?

A Not as I know of.

Q In your experience, it has not been generally Mr. Stoebling's custom to take those records to court?

A No. I have been assigned numerous times.

Q Then you would say the custom of the office is, when a subpoena is served upon Mr. Stoebling to produce those records, those records are produced in the custody of someone in the office, perhaps you, perhaps Mr. Toohey? A. That is true.

Q And it is not Mr. Stoebling that has changed the custom of the office this time, but you and Mr. Toohey who have refused to produce the records? A. That is not so. I have never had a subpoena served on me to produce books until now. The regular procedure has been when such a subpoena as that comes in, Mr. Stoebling would call me over and tell me to take a piece of paper that "I have got a subpoena to produce certain signature registry binders in court. I want

you to produce them, I want you to represent me." And then he will give me the wards and districts and the municipalities.

Q Then Mr. Stoebling has departed from his usual custom when he was served with our subpoena, in demanding the right to produce the records personally?

A Well, I don't know anything about any subpoena served on Mr. Stoebling.

Q You have heard about it by this time?

A I didn't know he was served with a subpoena to deliver these signature registry binders.

Q Oh, yes. A. I didn't know anything about that.

Q Yes, the first ten districts of the First Ward of Jersey City, if you remember. A. Well, I didn't know that.

Q So if he did not produce those first ten districts in response to that subpoena, by an agent or officer or clerk or whoever in the office generally produces those books when subpoenaed, he was departing from his own custom?

A The only answer to that, I would like to make myself clear on it, I have never been in this position before --

Q I am sorry, but Mr. Stoebling has been in this position before, you admit that. A. Yes.

Q And he has now departed from his previous activity and line or course of conduct on it? A. Well, I guess because of the physical condition he has not been able to do it, and I really believe that is the only reason.

Q His physical condition on the 28th of December was he could not carry them down himself? A. He has never carried them down himself.

BY MR. GIULIANO:

Q Mr. Gumaer, you will remember early in my examination I said to you if shown Mr. Stoebling was in such a condition that he could neither speak nor hear, that is, in an unconscious condition, and that condition existed through September and November, and you to that said that you knew the law and that you would follow the law and you would see that the books were delivered to the different districts, am I correct in that? A. Different municipal clerks.

Q Then I asked you if I showed you the law or I stated if I showed you the law that this committee has a right to subpoena records and to ask you to bring records, would you obey the law, and you said you would. Am I correct in that? A. Yes.

Q Now, I am going to ask you -- I am not going to read it, I want you to read it -- I want you to read Article One, Chapter 13, Section 52-13 -- read it out loud.

A 52:13-1. "Attendance of witnesses; production of books and papers; legal and clerical assistance. Any joint committee of the legislature, any standing committee of either house, or any special committee directed by resolution to enter upon any investigation or inquiry, the pursuit of

which shall necessitate the attendance of persons or the production of books or papers, shall have power to compel the attendance before it of such persons as witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. Any such committee shall also have the power to employ such legal and clerical assistance as it may deem necessary to the proper conduct of the investigation."

Q Now, I am sure you understand that language.

A Absolutely.

Q I am sure you understand what the Legislature meant when they passed that act, don't you? A. I imagine so.

Q Now, I want you to give me your opinion what that means. A. I think what that means is that any person or persons who has under their jurisdiction or supervision any records, that they are compelled by this act to produce them at any time.

Q And you have under your jurisdiction and supervision all of the registrations in the office of the Commissioner of Registrations, haven't you? A. All the original registration forms.

Q Original or otherwise, you have them under your control, haven't you? A. I have the originals. I haven't the signature copy registers under my supervision.

Q That is the only reason why you have not brought them here, because you say the copies are not under your supervision? A. Absolutely.

Q And you believe that anyone that has not produced the copies is defying the law and committing a wrong?

A I wouldn't say that, sir.

Q What would you say? A. Well, I would say that as I understand it, and from my experience in the past, that is the only thing I can talk about, that those books have been removed in the past only through the issuance of a subpoena directed to the Commissioner of Registrations and signed by a court of competent jurisdiction, that has been my experience.

Q Is this a quasi-judicial committee of competent jurisdiction? A. I believe it is, but somebody told me the other day they did not think it was. But I still think so.

Q Where did they tell you, in Hudson County?

A That is where I live, yes.

Q They tell you a lot of things over there?

A I am not a lawyer, but I really think this is a court of competent jurisdiction..

Q From whom else did you get an opinion?

A We just have a chat now and then about different things.

Q A chat with the boys, Democrats and Republicans?

A Mostly Republicans. I have a lot of very able men in

my department, outstanding Republicans.

Q Do you think Charlie Stoebling is an outstanding Republican? A. I am quite certain of it. A splendid gentleman. He is my superior.

Q Mr. Gumaer, did you have a conversation with Mr. Tom Verdan sometime last week? A. I don't know any such person.

MR. GIULIANO: Is Mr. Tom Verdan in court?

(A gentleman arose in the body of the courtroom.)

Q Did you have a conversation with that man?

A Yes, that man. That is the first time I ever knew his name. Wednesday night. The first time I knew who he was.

Q Where did you see Mr. Verdan? A. Outside my office door.

Q Did you know who Mr. Verdan represented? A. Yes, sir. I asked him. I asked him if he represented the Bureau of Elections. He said "yes."

Q Did you tell him anything about the vault?

A The vault? No, sir.

Q Did you at any time make the statement to him if anybody got in that vault to contact you? A. No, sir. I am not interested in the vault.

CHAIRMAN YOUNG: Did you make a statement with regard to the door and the place where your signature copy registers, the originals were kept?

THE WITNESS: Yes, I did.

CHAIRMAN YOUNG: What was that?

THE WITNESS: Why, as I recall that incident, at four o'clock, what happened was shortly after the closing of my office. I had in my possession at that time the subpoena which was addressed to me, with a notation on the bottom of it to deliver to this body the ten signature registry binders of the first district of the First Ward. Now, that to me was a very important paper. I have a lot of respect for papers of that kind, subpoenas of that kind. I knew that those binders were in a certain room, I knew where they were located. I had read at different times where records in the past had been tampered with, and the thought struck me that those books ought to be guarded and make sure nobody tampered with them. So I went back into the room where I know that the Superintendent of Elections had guards for the purpose of watching this vault. I went in and I said, "Which men are working for the Bureau of Elections here?" And this man and another young man get up and said, "We are with the Bureau of Elections." I said, "Would you mind stepping outside a minute, I would like to speak to you." They stepped outside with me. I said, "Will you -- you fellows know who I am?" They said,

"Yes, you are Monte Gumaer." I said, "Will you do me a favor?" They said they would.

I said, "I am leaving here now and I have a subpoena to call for some books. Now, you fellows have got to stay here, part of your duty is to stay here. And will you do me the favor of every once in a while, if you can step out into this hall and see if you hear any noise and see if anybody attempts to get in the last door down there?" They said they would be glad to do it. I thanked them and gave them my telephone number. I said, "if you see anything out of the ordinary, anything that looks suspicious, call me at my home at any time and I will come down here."

Q You did not ask them to get in touch with Mr. Stoebling?

A No, sir.

Q You took full responsibility of the office?

A I thought I was doing the right thing. I am a public servant. They are part of the election machinery of the county, so am I.

Q The thought did not strike you to tell them to get in touch with Mr. Stoebling, who was Commissioner? A. No.

Q In other words, you were in charge of that office and you told him if he saw anything suspicious or anything happened there to get in touch with you? A. Yes, I said that.

Q You gave them your telephone number and not Mr. Stoebling's telephone number? A. I didn't give Mr. Stoebling a thought.

CHAIRMAN YOUNG: That was your own idea.

THE WITNESS: Yes, my own idea, just on the spur of the moment.

CHAIRMAN YOUNG: Had any incident occurred to cause any apprehension?

THE WITNESS: None whatever. Only the thought struck me, I had read about records being tampered with in the past when they were subpoenaed in the courts, I had read about those things. Such things happened in this county a few years ago. I just did that on the spur of the moment.

Q How many investigators have you got under you, Mr. Gumaer, under your supervision? A. Why, I have 80 men under me altogether. About 35 I use as regular clerks in the office and the balance I use as outside investigators.

Q That is about all your office force, 80 men?

A I think about 150.

Q Who has charge of the other 70? A. Why, these department heads that testified here.

Q In other words, you have charge of more than half of the men there? A. I imagine close to half.

Q What is your salary? A. \$3600.

maer

00 net, \$4000 base? A. That is true.

RRAY:

How many investigators have you under you directly? I have about 35 or 40 I use as outside investigators. depends. I will tell you how that works: as we each an election things get busy. They are busier at other times. Six or seven weeks prior to election have a great deal of new registration work. When things slow now, I will have as many as 35, 38 men on the street checking on the registry, trying to ascertain where people have moved.

Q How many, approximately, are in the office altogether, of investigators? A. They are all under my supervision. You see, they are really clerks, they are listed as clerks and not investigators. Under the act the Commissioner of Registrations has power to use clerks as investigators to clarify the registry.

Q How many are there, no matter what you term them, investigators or clerks, how many approximately are there in the office under your supervision? A. I have 80 men under my supervision.

Q I thought you said you had all of them under your supervision? A. No, no, no. I have 80 under my supervision.

Q How many are in the office? A. Approximately 150, I

think.

Q I mean approximately. A. Around that.

Q Who has got supervision of the difference between 80 and 150, the other 70? A. Well, Mr. Toohey has so many, Mr. Montelli has so many, Mr. Rotherham has so many, Mr. Spitznagle has so many.

Q Do you know how many of those clerks or investigators or clerks and investigators, are Democrats, and how many are Republicans? A. No, I don't know.

Q You could know from you position, couldn't you?

A I could know?

Q By looking at the original signature registry copies.

A To see how they voted in the primary?

Q Yes, A. Yes, easily.

Q You never did that? A. No, I never was interested.

Q Have you any idea how many are Democrats and how many are Republicans? A. Well, my idea, to make a guess, would probably be 15.

Q 15 what? A. Democrats.

Q Out of your 80? A. No, in the whole office.

Q Does that increase in busy times, the number of Democrats that are in there? A. No.

Q Always keep them at 15? A. Well, I am just guessing that there are probably 15 employees that are members of the Democratic party in the office of the Commissioner of

Registrations.

Q Don't you know now there are more than 15 members of the Democratic party employed in your office?

A I don't think so.

Q You don't know that they are? A. No. If you will just bear with me I could tell you about how many in my department. That is the only thing I could say definitely.

Q Could you name them? A. I could almost name them definitely in my department.

Q All right, let us have them, if you will.

A Billington.

Q Which Billington? A. Reginald. He has got a fancy name like I have.

Q Was he a former policeman in Jersey City?

A No, I don't think so. I think it was his brother.

Q His brother? A. I don't know whether it was his brother or cousin. Some relation.

Q Who else? A. William McGovern.

Q Is he related in any way to the commissioner?

A No, I don't think so. He is a Twelfth Ward man.

Q What ward is this McGovern from? A. The Twelfth Ward.

Q That is two you gave. A. John Cannon

Q What ward is John from? A. The Third.

Q The third? A. The Third Ward.

Q Was he recommended by William Sullivan, Democratic Register of Hudson County, to the office?

A You will never prove that by me, counsellor.

Q You don't know? A. Not a bit.

Q How did you take him into your department?

A He was assigned to me by the commissioner.

Q By Mr. Stoebling? A. Yes.

Q Who else? A. I have Frank Keim, a Union City man.

Q Who else? Don't misbrand a good Republican, now.

A I don't want to. I am trying to think of them. My office is a business office pure and simple. We never talk politics in my department.

CHAIRMAN YOUNG: I don't think it makes any difference whether Mr. Gumaer's associates are Republicans or Democrats.

MR. MURRAY: It may be very essential later.

MR. PALESE: He is having a hard time finding Democrats in Hudson County.

THE WITNESS: There is very few in my department. I have a fellow by the name of John Hamilton.

Q To facilitate things, would you be willing to supply this Committee with a list of the names and addresses of those employed in your department and in the Department of the Commissioner of Registrations who are Democrats?

A I think you are asking me something that I would not have

the right to give that information out.

Q Will you give a list of those in your department, under your supervision? A. I will do that, anything in my department.

Q Is this Reginald Billington the son of Mrs. Billington who is the Democratic State Committeewoman?

A That is true, that is right.

Q Did I understand you before to say that you have charge of the original signature copy registers and you have nothing to do with the copy or buff signature copy registers? A. That is true.

Q How do you check it? After they send the buff ones back from the local districts, how do you check up on your original whether a party voted and what number ballot he got?

A We post the ballot numbers directly from the poll books into the original registration voting form.

Q From the poll books? A. Yes, sir.

Q Then is your work held up now by these poll books being kept in the vault? A. Yes, indeed.

Q Then Mr. Stoebling, the Commissioner of Registrations, is derelict in not taking those poll books out and having you men go on with your work, isn't he?

A I couldn't answer that very well.

Q Well, he is stopping you from going on with your work?

A The work of the office of the Commissioner of

Registrations is stopped from functioning by the books being impounded.

Q Impounded? What do you mean by "impounded"?

A That is the term I believe they use when they lock them.

Q No, there is a different term for this. A. I stand corrected.

Q You know there are armed policemen there preventing you from getting into that vault to do your work, to get those poll books to do your work?

A I know there is armed police there, but I never give a thought about going into the vault. I never go into it.

Q Then you are not doing your work? A. The books as I get them, they are brought over to me by other clerks.

They say, "Here is the books. We are through with them."

Q That has not happened since election?

A That has not happened.

Q Do you usually wait from November, December, January up to February before you start to note on your original signature copy registers from the poll books just what number ballot the voters cast? A. We usually start within three or four days of the election, after election.

Q So that it is true that those policemen there are preventing you from getting the poll books and preventing you from doing the work of your office, isn't that so?

Gumaer

believe you could put it that way.

Did you try to get in there? A. No.

Don't you think it is part of your duty to try to get there so you can get those poll books and go on doing your

Q A. No, I do not.

Q Did Mr. Stoebling tell you not to bother about doing that? A. No, he did not.

Q Do you mean to say you are sitting there, in reference to doing this particular work, and you won't go to these signature copy registers, the buff ones, and you won't copy from them into the original? A. No, I will not.

Q Why not? A. In the first place, it would not be a complete record. We would be doing it, in my opinion, in a haphazard way.

Q What would be incomplete? A. There is the possibility the local district board has not performed their duty as far as entering on the buff binder. Therefore, I would not consider it a good record. I would want to do my work from the poll books in order to keep the office in good condition.

Q Do you mean you would like to have the buff and poll books to compare both of these and then enter it into the original? A. No, the signature copy register books would way. In order to make my records --

and I want to make sure we mean by

"signature copy register" the original or buff?

A The buff. They would not be of any use to me in regard to having my records absolutely perfect when I have available the poll books and can get my information direct from them. Then I know my records are correct. Otherwise, it might be there might be some omissions.

Q Isn't the contrary true, too, if you check them from the poll books and you don't compare it with the buff copy of the signature copy register, that the same condition may exist? A. No, that condition would not exist.

Q Why do you say that? A. I say that because prior to the election, prior to any election, both the original registration forms and the signature copy registration forms are compared page for page.

Q As to what? A. As to whether there is the same amount of persons registered in the buff binder as in the white binder, that the two are exact duplicates of each other. It is done prior to the election. Along comes the election, so those books are in exactly the same condition. The buff binders go out to the local district boards to be used, and part of their duty is to enter the ballot numbers on the voting record.

Q What record? A. The record of the registration form which is in the buff binder. They enter the ballot number, that is their duty.

Q Do they do that first in the polling place? A. In each district. That is part of the duty to enter the ballot number alongside of the voting record of each individual voter, and it is the duty of the Commissioner of Registration, when those books are returned, to see the local board did their work.

Q Why don't you do that, then, if it is your duty? You have those two books: you have the original that never left your office and you have the copy or buff which did and went to the district board, and the district board did presumably what you said they should have done under the law, and those books are now returned to your office, is that so?

A Yes.

Q Why can't you go on and do your work without the poll books, then? A. Well, I don't know how I can post the ballot numbers without the poll books.

Q I understood you to say that the first duty of the district board or some member there, when the voter comes to vote, is to mark into this duplicate buff binder the number of the ballot that the voter got to cast, is that so?

A That is true.

Q When that comes back to you after the election --

A Both binder and poll books under the law, come back to

Commissioner of Registrations.

Q Under the circumstances, you have the signature copy register buff book binder back, is that right? A. True.

Q The poll books come back and are in the vault and the cops are preventing you from getting them and using them, right? A. If you say the cops are preventing me, I cannot get them, yes.

Q So you have a buff register to work from, if you wish to get the number of the ballot, is that so?

A That is so.

Q And then afterwards, to make doubly sure, you could go to the poll books and compare the number marked in the buff register with the number marked in the poll book, is that right? A. Yes.

Q So you do not necessarily need the poll books to do that work, do you? A. To do it correctly, I would say, counsellor. I could make two jobs of it; I could take the buff binder and whatever records are on the buff binder I could copy like say tomorrow. Then when the poll books were available I could check back and see if there were any discrepancies.

Q Are you doing that? A. I would not consider that good office work.

Q Are you doing that? A. No.

Q It would be more convenient if you had the poll books and buff copy at the same time and compared them, and compared

them with the signature copy book? A. Yes, that would be authentic and correct.

Q I just want to clear up something on the locks for those registers. Are there locks used on those registers?

A Yes. And with each binder there is a large keyhole, about that size (indicating), what we call a keyhole, large at the top and tapers down, and there is little locks to adjust on them. When books are sent out to the district boards the locks are all numbered, and they set in this opening, and the books bound down so none of the forms can be removed. It is a loose-leaf system. Then they go out to the local district boards. We have one man who sees those locks are inserted.

Q Would it be possible to take any of the pages out of that book without opening that lock, outside of tearing it out? A. No. In all my experience there has been only one attempt where somebody tried to remove a form and he tore the form in half.

Q Were you there during the municipal election of Jersey City in 1929? A. No, I was appointed just shortly after that, the next year, I think.

Q You don't know how many pages were removed during that municipal election? A. No, I was not there at that time.

Q Is there any other lock that is put on those books where the book could not be opened even while they are left in

your office over night? A. When they come back to the office, the books are used daily, and when these books come back from the various municipal clerks and put back in their cabinets, those locks are removed, because it is a loose-leaf system, and we start immediately after election, transfers, people getting married, disfranchises, people moving out of the county,- they are constantly used. It would not be plausible to have them locked at all times.

Q Then they are unlocked all day long, is that right?

A Right.

Q Do you leave them unlocked at night when you go home?

A Yes.

Q Always unlocked at night? A. That is right.

Q So you had reason, for instance, to be apprehensive if somebody got into the office, the books are left in a condition that they could be easily tampered with in reference to taking pages out of them? A. Oh, yes. Of course, the outside door of the office is locked, the books are in steel cabinets. If they got in the outside door, there is that possibility.

Q Any locks on the steel cabinets? A. No, they are not locked.

Q I thought a previous witness testified that there were no locks on those books, or that they were not locked during the day or night and that there was no lock on the cabinets,

and you testify the same way. I just want to make sure on that. A. Yes.

MR. PALESE: What efforts did you make since last Friday to get the poll books so you could start to work?

THE WITNESS: I have made no effort, sir.

MR. PALESE: Why?

THE WITNESS: Well, I have never been up against a condition of this kind. I can only say to that that I have respect for courts. I knew that there was a seal on that vault put there by the Superintendent of Elections. I thought that it would be a useless gesture on my part to attempt to get into that vault. It never struck me I had any authority or there would be any possible chance I could obtain them, as much as I would like to.

MR. PALESE: So you have how many clerks in your office waiting for those poll books to continue your work?

THE WITNESS: My clerks are all there, but they are extremely busy at the present time. We are very busy at the present time, everybody in our office. As far as detail work is concerned, I have quite a number of men I have out investigating not only deaths, but people who we understand have moved from the

address where they are registered, not knowing where they moved to. We try to ascertain why or where, and at the present time we are keeping busy by checking our records. There is always work to do for the men to go through their binders. It is an alphabetic system. Sometimes in the rush before election a form may get out of place.

MR. PALESE: How long does it take to compare poll books with the registration books?

THE WITNESS: You mean to post in on the poll book?

MR. PALESE: Yes.

THE WITNESS: An ordinary clerk will do about two of those daily.

MR. PALESE: How long would it take your department to check the books of the last election?

THE WITNESS: It would take my department about twelve or fourteen days.

Q So that to check over 1300 of the poll books in the County of Hudson would take fourteen days?

A 1300?

Q There is two to each district, 613 -- A. No, there is 637 under permanent registry.

Q There is two for each district? A. A to K and L to Z districts.

Q You think fourteen days would be long enough to post up the total number? A. Yes. I would probably use 28 or 30 clerks, and they each do two daily. I would say twelve or fourteen days is a reasonable amount. That has been done in the past.

Q While they are doing that work, what is your system of posting into the original, just how is it done? For instance, you start off, you are head of the department, you have the original books, and you tell me you want me to start. I am a clerk of yours. You tell me you want me to start to post the first ten districts of the First Ward of Jersey City. Now, I am at your service.

A I would say, "Why, Mr. Murray, I want these poll books checked." I would get the poll books. Of course, I could not get them checked unless they were sent to me from the buff department after they were through with them.

Q Just a moment there, then. Is there someone who has got charge of what you term "The Buff Department"?

A Yes.

Q Who is it? A. The buff department is divided into three sections: Mr. Toohey, Mr. Montelli and Mr. Rotherham.

Q Then this would be, for instance, Mr. Toohey, the first ten districts of the First Ward? A. Yes.

Q I am your clerk. You want me to go ahead and do that work? A. You are working for me. I say, "Mr. Murray, I

want you to post the ballot numbers in the first district, First Ward." You would go into that cabinet and take out the A to K binder.

Q Which cabinet? A. The cabinet which contains the First Ward, first district registry books, originals. You take the A to K poll book.

Q Where would I get that? A. That would be right there with it.

Q Then you would have charge of all the poll books of the whole county? A. Yes.

Q They come to you, when they come to your department when they come back to the department of the Commissioner of Registrations? A. When they come back from the local district boards?

Q Yes. A. No. They go out to the information desk, the same place where the signature copy binders are removed.

Q The buff ones? A. Poll books and signature register copy binders are returned at the same time by the district board clerks.

Q Who accepts those? A. Two information clerks at the windows.

Q Who are they? A. George Robianna and John Grimm.

Q Then what would happen? A. Do you want me to go back to putting you to work?

Q I am at work. A. I mean posting these ballot numbers?

Q I want to get the procedure. You are doing very nicely. A. The books are delivered into our office, the signature registry copy binders and poll book. The binders are then placed into their respective cabinets along with the poll books.

Q Who places them in the cabinet? A. The clerks in each department.

Q These two receiving clerks would divide these up into three departments and deliver Toohey's to him, and Rotherham's to him and Montelli's to him, is that right?

A Well, yes, in effect. They have men there. They say, "Here is the tenth ward, fifteenth district." Right away one of Montelli's men who has that particular section, would take it back and take care of it because he is responsible for it.

Q Go ahead. A. Then they would be placed in their respective cabinets along with the poll books, and then the poll clerks would immediately start checking the book against the signature copy registry binder. That is the buff I am talking about, to see that the local district boards did their work.

Q After these different department heads get the buff register book and the poll book, assume they have it, then I am to go from you to each of these men?

A You are? As a clerk.

Q Yes. A. Oh, no. You don't leave my department. You have a certain number of districts to take care of.

Q How do the books get to me for me to do the work you assign to me? How do these buff signature copy registers and the poll books get to me so I can do the work you assign to me? A. As I explained to you before, if you follow me, when the books are received there, the copy registers and poll books are placed together in their respective cabinets. The clerks in the buff department go to work on them to make certain the ballot numbers are posted in the proper place on the voting record in the buff books.

Q Comparing what? A. I said post the ballot numbers to make certain the local district boards did their work. That is work the local district board is supposed to do --

Q I am only trying to get this right. You mean in the poll book and in the buff, right?

A Yes.

Q They are supposed to do certain work? A. That is it.

Q These clerks in the respective departments do that comparing first? A. In the buff first.

Q Let us assume that is done. In other words, their work is held up by this, is that so? A. Absolutely.

Q In other words, Toohey's department, Rotherham's department and Montelli's department and all their clerks, it is all held up as far as this certain work is concerned, on account of these poll books being kept there by an armed force, is that true? A. That is true.

Q What next? A. Under ordinary procedure, when the buff department is through with them, as the clerk gets them checked up he turns it back to his department head. As I say, possibly a clerk will do two a day. I would expect, when they start to do that work, from Toohey, I would expect fifteen, twenty, thirty districts. He would bring them over to my department. It would be my duty to take those poll books and place them in their respective drawers in my department.

Q And keep them there until you are finished?

A Keep them there. You will be assigned to the First Ward of Jersey City. As soon as you saw your poll books in the drawer I would expect you, without my telling you, to get to work and get those ballot numbers posted on your books which you are responsible for.

Q Usually, how many districts do you get at a time from a district head, department head, - for instance, Toohey?

A You mean this thing I am talking about?

Q Yes. A. It would depend on the size of the districts.

Q You said you had thirty clerks? A. A clerk will do about two a day.

Q Two districts? A. Two districts, if they are not heavy districts. He might run three in two days.

Q On those wards the size of the downtown wards like the

first, second, third, fourth, fifth and sixth wards of Jersey City, with your force you could do one of those wards in a day? A. Easily.

Q So if the work and books were sent right and received, you could take, for instance, the first and the second wards, and your clerks could do them in a day, with thirty clerks? A. Yes.

Q Suppose a department head did not send the books to you would you send your clerk to that department head?

A I would go over -- you mean if I thought they were not coming over to keep my records in shape?

Q Yes. A. I would go over and consult the department head and ask him if he would get them over.

Q Has Mr. Toohey, having the First Ward in Jersey City under his jurisdiction, has he brought the signature copy register buff binders to you? A. No.

Q Has he brought any poll books to you? A. No.

Q Are you ready to do any copying in that original signature copy register now in reference to the number of the ballot that the voters voted in the last November election? A. I am.

Q Would you say that you are now ready to do that work on the First Ward in Jersey City? A. I am.

Q Have you tried to get the signature copy register buff binders from Mr. Toohey? A. No.

Q Are you going to try to get them? A. No.

Q Why not? A. As I said before, I don't think they would complete my records. My records would not be positively authentic from Mr. Toohy's books, that is the books he has supervision over. As the notion strikes me now, I am going to wait, hoping in the near future I will be able to post my records directly from the poll books as I did before.

Q Suppose you never got the poll books? Suppose the vault is opened and the poll books are not there, would you never go in then to your signature copy register binders to try to do this work? A. Well, that would be a bridge I would have to cross when I came to it, because I never run into anything like that.

Q As a reasonable man of long experience on this particular work that you have had, what do you think you would do? A. If you will permit me, I have in consideration about those things, possibly it has not come to you, but we have a clause in our Election Law which says that if a person does not vote at any one of four General Elections he shall automatically be disfranchised.

Q Do you do that, by the way? A. Yes, sir, I try. I would want to be very careful to make certain that in the record it would show a man voted. That is, if a member of the local district board was derelict in his duty in putting

down your ballot number, if he neglected to do that for some reason or other and it did not show, I would not want it on me, if that happened to be four years, I would not want to disfranchise you.

Q Suppose it was not four years? A. That would be another matter; there would be a matter of my judgment coming in there. I would daresay, from a question you asked before, if such a condition did exist, that would be the only solution, I would have to go to the buff binder and fix my records as best I could. And if I did come to one whose record showed he did not vote in four years and did not vote at the General Election in 1937, I think I would have to leave that form in and give that man the benefit of the doubt, because I would not be certain he had not voted.

MR. MURRAY: That is all.

CHAIRMAN YOUNG: We will adjourn now until Monday morning at ten o'clock, and I will ask that Mr. Miller and Lieutenant Antonacci, who are under subpoena, return at that time. I think we are through with all the others we have subpoenaed.

(At this time the hearing was adjourned to Monday, February 7, 1938, at ten a.m.)

-----X
: ASSEMBLY INVESTIGATION OF :
: ALLEGED FRAUDULENT AND ILLEGAL : PORTION OF VOLUME 6
: CONDUCT AT THE GENERAL ELECTION :
: ON NOVEMBER 2, 1937, etc. :
:-----X

Transcript of portion of stenographer's notes
of hearing held in the above matter at Room 301, Essex
County Court House, Newark, New Jersey, on Monday, February 7,
1938, at ten o'clock.

Present:

- Assembly Committee
- Mr. Rocco Palese (Acting Chairman)
- Mrs. Olive C. Sanford
- Mr. Frank C. Osmer, Jr.,
- Mr. Norman P. Featherer.

ROBERT H. McCARTER, Esq.,
by DAVID H. WIENER, JAMES R. GIULIANO, Esq.,
and JAMES F. MURRAY, Esq.,
Counsel to the Committee

ROBERT STOCKFISCH, being duly sworn
according to law, testified as follows:

EXAMINATION BY MR. MURRAY:

Q Doctor, are you a physician duly licensed to practise
in the State of New Jersey? A. I am.

Q How long have you been so licensed? A. Nineteen
years.

Q In 1900? A. Nineteen years.

Q What school did you graduate from, Doctor?

A Bellevue Medical.

Q Are you connected with any hospitals? A. Yes,
connected with four hospitals.

Q Would you mind naming them? A. The New York
Post-Graduate, Jersey City Medical Center, Consultant to the
Hudson County Tuberculosis Hospital, and attending at the
Greenville Hospital.

Q Do you attend to any clinic staff? A. Yes. I
am connected with the clinic at the Jersey City Medical
Center and also at the New York Post-graduate.

Q Any others in Jersey City? A. I have a child
hygiene station.

Q Where is that located? A. At school number six
in Jersey City.

Q What street is that on? A. St. Paul's Avenue.

Q Is that under the jurisdiction of Jersey City?

A Yes.

Q Have you given a physical examination to a gentleman by the name of Charles F. Stoebling, who is the Commissioner of Registration of the County of Hudson?

A I have given him medical examinations.

Q When and where did you first give him a medical examination? A. At the Jersey City Masonic Club exactly three years ago.

Q Three years ago, in February or practically--

A I think it was March.

Q How often have you treated him since, or about how often? A. Following his first acute illness at that time, three years ago, which lasted about six weeks, he would come to see me on an average of every week or, at least, once every two weeks, except, of course, during an acute attack, when I had to see him anywhere from once to three times a day.

Q How often have you treated Mr. Stoebling in the past six or eight months? A. That is a question which I cannot answer, as far as number of calls is concerned. I have treated him repeatedly, as I have just said, and he would come to my office when he felt good enough to get around, for a check-up, follow up, once a week or, at least, once every two weeks. During acute attacks, naturally, he would be home in bed. As I said before, I would have to see him at frequent times in the house, to find out how sick

he was.

Q Do you know about what time Mr. Stoebling last became confined to his house with illness? A. Yes.

Q About when was that? A. February 27.

Q What year? A. I am sorry; January 27.

Q This year? 1938? A. That is correct.

Q January 27? A. That is right.

Q Were you called in then to treat him? A. I was.

Q Into his house? A. Into his house.

Q Is that where you saw him first, at the time of that illness, at his house? A. That is correct.

Q Was any other physician or surgeon with you when you examined him there? A. There wasn't.

Q What did you find his condition to be? A. It was a repetition of what had been going on before. He was suffering from certain acute attacks of pain, shortness of breath, general collapse, and his appearance at that time would be ashy gray. I am talking now, of course, about the color of his skin, and the pulse at that time would be in a very feeble condition, low as to number of beats per minute, and the blood pressure would be subnormal for a man of his age.

Q Subnormal? A. Subnormal.

Q Is that what is termed low blood pressure?

A That is what it is ordinarily called.

Q How long have you known Mr. Stoebling?

A Only since the attack in which I was called.

Q Three years ago? A. Three years ago.

Q Did you ever notice his complexion before, whether it was ashy pale? A. I never knew the man before that.

Q When you first saw him was his complexion any different than the last time you saw him? A. This previous attack?

Q Yes. A. No, that is the way the attack would be.

Q What did you diagnose his trouble as? Was it angina pectoris? A. No.

Q Has he got angina pectoris? A. Now? No, I wouldn't designate it as such.

Q What would you designate it? You diagnosed his case, didn't you, Doctor? A. Yes, I diagnosed it.

Q Will you tell us in your opinion just what sickness Mr. Stoebling is suffering with? A. Mr. Stoebling is suffering from what is known medically as coronary thrombosis, which, in plain English, means that the blood vessels, the arteries which nourish the heart muscle become partly-- one of the branches become partly or completely closed so that that section of the heart which has nourished that particular blood vessel is shut off.

Q So that ^{it} is not angina pectoris that he has, is it?

A No.

Q What in the blood would cause the shutting off in the

arteries? Are these the large arteries of the heart that you are talking about? A. No, the arteries in the wall of the heart itself.

Q In the heart itself? A. In the heart itself.

Q What part of the heart? A. They come into the outer wall of the heart.

Q What part of the heart do you call that, in medical terms, Doctor? A. It goes into what is known as the myocardium.

Q The myocardium? A. Yes.

Q Where does it come out? A. The arteries go into the myocardium to vents draining it.

Q Where does the blood come out after it goes into the myocardium? Where does the blood go? Into what part of the heart? A. You will have to make the question more specific. You have got ~~an organ~~, which is very complex. Right now I imagine your question was concerned with the main arteries. I am speaking of these small arteries which nourish the heart.

Q I thought the coronary arteries, if I remember my Latin, I thought it means the crown of the head. I may be mistaken and it may not apply the same to the heart, but I thought the coronary arteries were the top arteries in the heart. Is that so, or am I wrong? A. Yes. You are correct in this sense. If you have my fist as the heart, the

arteries would circulate around the outside muscle of the heart, the outer aspect of the muscle of the heart.

Q Is there such a thing as plasma protein in the blood of the average individual? A. I am afraid I didn't get that word.

Q Plasma. Are you a heart specialist, Doctor?

A No, I wouldn't call myself a heart specialist, although I have had many years experience with it, and in the United States Public Health Service I did heart work for one year after the war.

Q You never heard of plasma protein or protein (second protein pronounced with the long I)? A. Plasma protein. Now I remember the word. Yes, I remember it now. Will you repeat the question?

(The last question was read by the stenographer.)

THE WITNESS: Yes.

Q What percentage of that is contained in the weight of blood in the average individual? A. I don't know.

Q You don't know? A. No.

Q Have you been specializing in the practice of the heart lately? A. No.

Q What is your answer to that? A. No, I have not specialized with heart conditions solely.

Q Have you called in any associate in this particular case, that specialized on the heart? A. I did.

Q When? A. Saturday morning.

Q Was that the first time? A. That is correct.

Q Was that after you had been requested to arrange for a visit of another doctor sent by this Committee, to Mr. Stoebling? A. That is correct.

Q Before that you didn't think it necessary to call in any associate, a specialist on the heart, is that so?

A I didn't feel it was necessary, no.

Q Was Mr. Stoebling, in your opinion, physically in a worse condition Saturday than he has been for the past month or so? A. I didn't think so.

Q You didn't think so? A. Except in one respect, that his recovery in this particular attack is much, much more slower than it has been in the others.

Q Could you tell us just what causes the clogging up of the coronary arteries, or those arteries which you say are hardening around the heart of Mr. Stoebling?

A I didn't say his arteries around the heart were hardening.

Q I know you didn't say it in your explanation, I may be wrong and I would like to be corrected, if I am wrong, but I understood you to say that the coronary arteries are hardening. A. I can't answer that question directly. There may be a hardening of the coronary arteries present, but one must find that by physical examination. One assumes

that from the examination of those arteries which are accessible to the fingers or the eye, and you further assume that the condition which the man suffers from is due to such condition, but one cannot absolutely and definitely say that a man has coronary arteriosclerosis, except on postmortems.

Q Well, if you could tell by such an examination as you have made, that the coronary arteries are not hardening, wouldn't it be much more difficult to tell if the smaller arteries that run through the heart, and permeate the heart, itself, are getting hard? A. Yes.

Q Didn't you testify here that it was the smaller arteries which permeate the heart, that are hardening?

A No. I spoke of the coronary arteries there on the outside of the myocardium, which is the muscle of the heart, and from that the smaller branches go into the heart muscles, the heart itself, and nourish it.

Q Will you please tell us what the coronary arteries are? We are not medical men and we would like to get such light on this as we can. A. I will put it, Mr. Murray, in plain English. The small arteries, as I have intimated, the purpose of that is to bring oxygen and nourishment in the form of iron and the other invisible things that are in the blood, to the heart muscles so as to keep them in a healthy condition to perform natural functions. These arteries are on

the outer wall of the heart.

Q Where are they located, as to the position, the top or bottom or sides? A. They are on all sides of the heart.

Q Do they touch the heart first at the top?

A There is more than one branch. There are several branches.

Q Where do the branches lead in from? A. They come from around the main arteries.

Q Where is the main artery located? A. Just above the heart.

Q So they lead in, do they, from the top of the heart?

A From the heart.

Q What kind of examination did you make of Mr. Stoebling's heart? I understood you to say that unless you could make some certain kind of examination you would form your conclusion-- there is something you could feel, or the small arteries that you could feel-- Do you mean by that that you would go over the arteries throughout his body and look at them and feel them, and from that, and from this particular recent attack, say that the arteries of his heart must also be hardening? Is that what I am to understand? A. That is in reference to the absolutely closing. That is hardening of the arteries, yes.

Q And when you testify here-- what I want to get at is this: Did you use any medical instruments-- what medical

instruments, if any, did you use to endeavor to find out what the trouble was, if any, with Mr. Stoebling's heart?

A Well, first and foremost, the stethoscope.

Q The what? A. The stethoscope.

Q What is that? A. The stethoscope is an instrument which is used to increase the sounds which are in the small scope of its end piece in the ears of the listener, so that he may determine the characteristics of what he is listening to.

Q That is the particular instrument that we see-- we put the long tubes, which goes in the doctor's ears, and one thing he puts on the outside of the patient's body?

A That is correct.

Q And that will give you the beat of the heart?

A First of all it will tell you a lot of things about the heart impulses, its strength, its rate, its rhythm, its regularity.

Q I suppose it would tell you something about the condition of the arteries of the heart, would it?

A Not necessarily.

Q You would have to make your deductions from the sounds that you would hear? A. We would have to build up a word picture, and from that, in our clinical experience, deduce what the man has.

Q Is that the only medical instrument that you have used

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on Mr. Stoebling in an endeavor to detect his heart trouble?

A No.

Q What else did you use, if anything? A. I used the blood pressure machine, the ophthalmoscope.

Q What is the ophthalmoscope? A. The ophthalmoscope is an instrument used to look through the pupil of the eye, at the back of the eye, to see the condition of the nerves and the blood vessels.

Q Did you use any other instrument? A. No, no other instrument.

Q Are there any other instruments that may be used by a medical man in an endeavor to detect heart trouble or heart effects of any kind? A. Yes. There is an instrument with which one gets what is known as an electric picture of the heart.

Q What do you call that instrument? A. You call that an electro-cardiograph.

Q An electro-cardiograph? A. Yes.

Q Did you use that electro-cardiograph, Doctor?

A I, myself, personally, did not use it but I had it used by someone else.

Q You have been attending Mr. Stoebling for heart trouble how long? Three years? A. That is right.

Q And you never used the electro-cardiograph?

A I did not use it. I had none, but I had it used by

somebody else.

Q When? A. Last year.

Q I thought you said you never called in an associate with you, to do anything in reference to Mr. Stoebling's heart condition. A. I didn't call him in. I sent the man to him.

Q You sent Stoebling to him? A. That is correct.

Q When was that? A. That was in the Fall of 1937.

Q Do you know when? A. No, I don't know the exact date.

Q Do you keep records, Doctor? A. Oh, yes.

Q Have you got any records with you? A. No, I have not.

Q Who was this man that you sent him to? Was he a doctor? A. He is a specialist in heart diseases.

Q What is his name, Doctor? A. Dr. John Cassidy.

Q Dr. John Cassidy in Jersey City? A. That is correct.

Q Are you sure on the month? A. No, I couldn't even give you the month.

Q You are sure on the year? A. Oh, yes.

Q What year was that? A. Last year, 1937.

Q About what month did you say? A. I didn't say. I said in the Fall.

Q Do you know the months that comprise what we call the

Fall season? A. I think I do.

Q What are they? A. September, October and November.

Q You mean that it was either in September, October or November of 1937? A. That is correct.

Q How often did Mr. Stoebling go to Dr. Cassidy?

A Once.

Q Did you get a report, then, from Dr. Cassidy?

A I did.

Q Could you tell us what results he found there or what he found from that examination and experiment?

A His diagnosis was that he had a mild cardiac insufficiency. That was his general diagnosis from the electro-cardiograph.

Q Just what does that mean? A. That means that the muscular strength of the heart muscles, that is, the muscular strength of the heart is below normal.

Q Would that give you what we lay people would call low blood pressure? A. It would help to prove it.

Q What else did he advise? That was all his advice?

A He didn't make a physical examination. He simply took the electro-cardiogram.

Q How does the electro-cardiograph work, Doctor, if you know? A. Only in a general way, again, I say, because I have had no personal experience with the machine.

Q Could you give us what your understanding of its

workings are? A. Yes. Two attachments, electrodes, are made to the patient from different positions. One, as a rule, is always around the leg and the other one over the heart. Then it produces on a graph, a piece of paper, which is prepared specially, these markings of the movement of the heart, and from this tracing the doctor deducts, by measurement and the position of the various graphs, what he thinks the particular condition is.

Q Did Dr. Cassidy send the chart to you?

A Yes, he sent it to me.

Q Have you got it now? A. No.

Q I don't mean with you. Have you got it in your office?

A Oh, yes, I am sure about that.

Q You are sure? A. I filed it away.

Q Are you sure that you have it in your file now?

A As far as I know.

Q Would you be willing to produce that to the Committee?

A Oh, yes.

Q Have you kept any records at all in reference to Mr. Stoebling's illness, since you have been treating him?

A Oh, yes.

Q As to how often you visited him and what you found his condition to be on those visits? A. That is correct.

Q How often have you visited Mr. Stoebling in the last two and a half weeks? A. On his last illness?

Q Let me put it this way, Doctor. I think you said it was the 27th of January. A. That is correct.

Q That he started his last illness? A. That is right.

Q That is the first day that you knew he was confined to his house, in the last illness? A. That is correct.

Q Has he been there ever since? A. Yes.

Q Is he in bed? A. He is.

Q Has he been in bed since the first day of the confinement? A. That is right.

Q On an average how often have you seen him each day since the 27th or 28th of January? A. An average of twice a day.

Q Every day? A. Every day.

Q Including Sundays? A. That is correct.

Q Do you recollect, Doctor, this Committee being over in Jersey City to Mr. Stoebling's apartment? I think it was--

A The 29th.

Q A week ago Saturday? Was it? A. Yes.

Q How often did you visit him that day? Do you recollect?

A Yes. That day I was in three times.

Q Three times? A. Yes.

Q About what time of day were those visits made?

Do you remember? A. The first one was at noontime, the second was at four o'clock, the third I could just say was between ten and eleven at night.

Q Do you remember having an appointment to meet this Committee also at three o'clock, at Mr. Stoebling's house?

A I do.

Q You made that appointment, didn't you, Doctor?

A I said I would be back at three o'clock.

Q Did Mr. Stoebling that day know that this Committee was over to his house? A. Not to my knowledge.

Q Mr. Stoebling was in his house around one o'clock on that Saturday, when you were present?

A He has since been acquainted with it.

Q I mean then; not now. Did he then know that this Committee was there? A. At the time that they were there?

Q Yes. A. No, he didn't.

Q Did he know at all that day that this Committee had been there? A. No, not through any acquaintance of mine.

Q Then this Committee did not disturb or annoy or perturb Mr. Stoebling in any way that day, Doctor, on that Saturday? A. No, it didn't.

Q You are positive of that? A. No, he wasn't disturbed by them.

Q Did you give out a statement to the paper, any paper, or to the press that it was an outrage the way this Committee went in on Mr. Stoebling that day? A. I made a statement to the effect that it was an outrage that the man personally, his private home, should be invaded by such a force and such

numbers to obtain whatever information they seek, when it has been known that the man has been very ill not only on this particular occasion but on previous occasions, and that at least they might have asked whether it was feasible or logical to come in on a man at such time.

Q Don't you know that this Committee had requested whether or not it could go in before it went into his house?

A If they did I didn't know anything about it.

Q Don't you think, as a professional man and as a reasonable man, you being the physician in care of that patient, that you should have inquired to find out?

A Well, the thing was brought on me so suddenly; in fact, I didn't know anything about the coming of this Committee until you were downstairs and a notice was sent up that the Committee is coming upstairs.

Q But before you did have knowledge that the Committee did not go into his home, without being invited in, didn't you, Doctor? A. They sent the call up from the corridor, from the lobby, asking to come up.

Q And you were there upstairs at that time?

A Oh, yes, I was.

Q And you knew of that? A. I knew they were down there.

Q You just testified that you knew that they were downstairs and requested whether or not they could come up.

A That request, whatever was said, was said to Mrs. Stoebling.

Q Didn't Mrs. Stoebling consult you, then, Doctor?

A She did not.

Q As to whether or not the Committee could see Mr. Stoebling? A. No, Mrs. Stoebling did not consult me.

Q You knew that he had a request from downstairs in the apartment house? A. Downstairs, yes.

Q You knew that Mrs. Stoebling knew about their coming upstairs? A. Mr. Stoebling did not O. K. their coming up.

Q I didn't say Mr. Stoebling. I said Mrs. If I did, I meant Mrs. A. I am sorry.

MR. MURRAY: Mr. Stenographer, will you read that question to him?

(The last question was read by the stenographer.)

THE WITNESS: After I came up to the house, then she said that the Committee was coming upstairs.

Q Then you knew of it? A. I knew the Committee was coming up, yes.

Q You testified here that Mr. Stoebling did not know anything about it, and this Committee did not in any way annoy him or upset him, either mentally or physically.

A Mr. Stoebling did not know of their presence.

Q Then it was not true that they burst in unceremoniously,

into the apartment of Mr. Stoebling, was it, Doctor?

A Oh, no, they did not go in unceremoniously.

Q Then the publication, at least, of what you were supposed to have said was not correct, was it, Doctor?

A If they made such a statement as that, that they burst in unceremoniously, and gave it as a statement of mine, that is incorrect.

Q When did you last see Mr. Stoebling?

A I saw him this morning.

Q Is there anybody attending Mr. Stoebling, any physician, while you are over here? A. Oh, yes.

Q Who is it? A. Dr. White.

Q Dr. White? A. Thomas White.

Q Has Dr. Thomas White got his office in the same apartment? A. That is correct.

Q On what floor has Dr. Thomas White got his office?

A On the bottom floor.

Q What floor is Mr. Stoebling on? A. On the fifth floor.

Q Did you examine Mr. Stoebling last Saturday?

A Oh, yes.

Q About what time of day was it? A. The first time was about nine o'clock.

Q Nine in the morning? A. That is right.

Q What time was the next time you went there?

A The next time there were a group of us together, three doctors, at three o'clock in the afternoon.

Q That was last Saturday, February 5? A. Yes.

Q Who were the other two doctors? A. Dr. Thomas White and Dr. Frederic Alling.

Q Were all of them present at the same time?

A At the same time.

Q Did you all physically examine Charlie Stoebling?

A The only one at that time that examined Mr. Stoebling was Dr. Alling. We had previously examined him.

Q Dr. Thomas White did not examine him then, did he?

A Not in the presence of Dr. Alling.

Q Did you all go in together? A. Yes, we did.

Q I mean into Stoebling's apartment together?

A Oh, no, we came in separately but we went upstairs together. We met in the lobby.

Q What I mean, in this apartment? I don't mean the apartment house. I am trying to be very specific also, as I observe you are likely to answer no when the answer should be otherwise. I didn't say, "apartment house" I said Mr. Stoebling's apartment. A. We all come in together.

Q You all went in together? A. Yes.

Q Before that you met separately in the downstairs foyer or hall of the apartment house in which Mr. Stoebling lives; is that so? A. That is correct.

Q Was that the first that you three medical men met that day, together? A. That is correct.

Q You did not meet Dr. White previous to the meeting the of three of you? A. Oh, yes, I arranged that before.

Q Yet you didn't mention it before? A. Oh, yes.

Q What did you say? A. I said way back in the beginning of my testimony that Dr. White and I saw him on the morning of Saturday, February 5. He wasn't there today. He was there on Saturday, February 5, at nine o'clock.

Q Do you remember my asking you a few minutes ago whether or not a physician was now attending Charlie Stoebling while you were over here testifying?

A By that question I assume you mean someone covering Mr. Stoebling while I am away? In other words, if there was to be a sick call now who would take my place?

Q Let us assume that that is what I did mean. What would your answer be? A. Then the answer would be what I said before; Dr. White is covering me while I am away.

Q But I don't recollect you having said that you called Dr. White in on Saturday morning previous to the visit of the three of you. To clear it up, you say that you had called Dr. White up. A. I think I can even repeat the question.

Q Let us have it. A. Your question was: Did you ever call in another doctor to see Mr. Stoebling, in consultation, and particularly did you mention the fact, did

you call in a doctor after you had received a notice that a doctor from this special investigation Committee would be in Saturday, February 5; and my answer was, "Yes, I did call in somebody. I called in Dr. Thomas White, a heart specialist of the Jersey City Medical Center," and that we visited Mr. Stoebling together at nine o'clock Saturday morning.

Q If that is in the testimony before, about you visiting with Dr. White, I didn't understand it. We will see the testimony. I understood your testimony to be that Dr. White and Dr. Alling visited together Saturday.

A Saturday afternoon.

Q So before that visit of the three of you you called Dr. White in, and you and Dr. White visited Charlie Stoebling earlier Saturday? A. That is right.

Q What time did you say that was? A. Nine o'clock in the morning.

Q Nine o'clock in the morning? A. Yes.

Q Was there anybody else there besides you and Dr. Thomas White? A. The nurse.

Q Has Mr. Stoebling got a nurse now? A. Yes. He has had them since last week, a night and a day nurse.

Q Will you give us their names? A. I remember the day nurse. Her name is Sullivan. The other nurse has some Irish name. The one in the evening is something like Mahone, not Mahoney. I know that. It sounds like Mahone.

Q Do you know the first name of this Sullivan girl, the nurse, Doctor? A. No.

Q Did you put that nurse on? A. Yes.

Q Where did you get her from? A. The Greenville Hospital.

Q When was she first put on? Do you recall?

A She came Saturday afternoon.

Q Last Saturday afternoon? A. The day of your visit.

Q The day of the Committee's visit? A. Yes.

Q Previous to the day of the visit of this Committee to Mr. Stoebling's house, Mr. Stoebling did not have a nurse there, in this last illness? Is that true?

A That is correct.

Q He did not have a day or a night nurse? Is that true?

A That is correct.

Q How long were you and Dr. White in the sick room of Mr. Stoebling around nine o'clock on last Saturday morning?

A I would say roughly twenty minutes, twenty-five minutes.

Q How long were the three of you there when Dr. Alling examined him in the afternoon? A. In his room?

Q Yes. A. Fifteen minutes.

Q Would you say that you were there approximately as long in the afternoon as you were in the morning, you and Dr. White? A. Well, I think perhaps five minutes longer in

the morning, probably five minutes.

Q You were there all the time that Dr. White was examining Mr. Stoebling? A. Oh, yes.

Q You saw everything that he did? A. That is right.

Q What did he do? What kind of examination did he give him, and what kind of medical instruments, if any, did he use?

A First he put his palm over the heart of the patient. Next he percussed the chest. This was to determine the size of the heart, to see whether there was any enlargement. He also percussed over the lungs to see whether there was any change in the normal note which it gives forth. Next he used the stethoscope, both over the heart and the lungs, and then he took the pulse reading and finally he took the blood pressure.

Q Did he use the electro-cardiograph? A. No, he didn't.

Q He didn't use that at all? A. No.

Q Did Dr. White make a diagnosis of the trouble?

A He did.

Q Did he submit it to you, Doctor? A. He did.

Q What was it? A. Coronary heart disease.

Q The same as you, yourself, diagnosed? Right?

A Yes.

Q And Dr. Cassidy's diagnosis was the same, was it?

A No. He made the diagnosis of myocardial insufficiency,

based alone and only on the electro-cardiograph.

Q Were you there when Dr. Cassidy was there?

A No, I was not.

Q Then you don't know how long it took Dr. Cassidy?

A No. I sent him to Dr. Cassidy's office.

Q Yes, I recollect that. Did Mr. Stoebling say anything to you as to what kind of examination Dr. Cassidy had put him through, when he went to Dr. Cassidy's office?

A No, he made no comment.

Q Did you do any examining of Mr. Stoebling last Saturday around nine o'clock in the morning?

A Oh, yes.

Q After Dr. White was finished or before he started?

A After Dr. White.

Q Now, did it take about twenty or twenty-five minutes for the two of you to do the examining, or for one?

A No. His examination took approximately about twenty minutes.

Q Twenty minutes? A. Yes.

Q And yours took approximately five? A. Mine took five minutes, as a check up on this previous thing.

Q The day nurse, Miss Sullivan, was there at that time?

A That is correct.

Q Was Mr. Stoebling's wife in the room? A. No, she wasn't.

Q You are sure there wasn't anyone else in the room?

A Positive.

Q Was Mr. Stoebling under the influence of any medicine at all, at that time, that had been administered by you or any of the other doctors? A. You are speaking now when Dr. White was there?

Q Yes, on Saturday morning. A. Well, he is taking a combinations of medicines which I prescribed for him, but not in any semi-conscious or any unconscious condition which may be produced by certain drugs that are administered when a patient is in very acute pain.

Q Was he perfectly conscious? A. Yes, he was conscious.

Q Did you say that you had prescribed a medicine for Mr. Stoebling? A. He has a prescription which I wrote out, and which is administered to him three times a day.

Q Every day? A. Every day, and another one which is given merely at night time.

Q What did you prescribe those medicines for, Doctor? To have what effect? A. Two effects; the main effect is an anti-spasmodic effect upon the arteries in order to give more space for the arterial flow of blood not only into the general parts of the body, but particularly that which we are interested in, the heart condition.

Q In what form is that? Is it a capsule or powder? In

what form is that medicine put up? A. This particular medicine I am speaking of now is given in capsule form.

Q What do you call that medicine? A. Well, there are several different things in the prescription. I can mention them, if you wish the names.

Q Yes, I would like to have them. A. Phenobarbital, one half grain; aminophyllin grains three. That is in the capsule.

Q What other medicine, Doctor? A. Because of his trouble with insomnia I prescribed a mild hypnotic to be given at night time. It consists of bromides.

Q That is to be given just at night? A. That is only at night.

Q That, of course, would have a tendency to produce sleep? A. That is right.

Q Put him into the arms of Morpheus, in other words? Right? A. Yes, that is right.

Q Approximately how long should he be under the influence of that medicine? A. That is only a mild hypnotic. The sleep will last depending on the nervous condition of the patient; in other words, from several hours to its normal length, eight or nine hours.

Q So that if you wanted him to sleep in the day time you would order one of those to be given him in the day time; is that right? A. Yes. a liquid form, Doctor?

Q And the same effect would be produced, Doctor, after the taking of that medicine? A. Well, it would at least make him sleepier. If he had had a full night's sleep already and is awake, it takes a larger quantity of that medicine to again put the patient back into sleep.

Q While under the influence of that medicine could Mr. Stoebling talk coherently? Could he understand what was said to him by other people? A. On that particular medicine the patient can be awakened into consciousness, if not too soon after it is given, but if he is aroused sufficiently, he can answer fairly intelligently.

Q How long a time after the taking of such medicine would you figure a reasonable time within which he could be aroused from it, and talk intelligently and understandingly?

A First of all, it depends on the type of case. Anywhere from--

Q I mean Mr. Stoebling's case. A. How long after should we give that thing?

Q Yes. A. Well, it takes about half an hour or an hour to have any effect on him, when this particular medicine is given by mouth, and it would take, I should say, about an hour or so after he has gone to sleep, and he has awakened sufficiently that he would be able to give reasonable answers.

Q Is that medicine in a liquid form, Doctor?

A Yes, this medicine is in a liquid form.

Q Do you recollect where you recommended or where they took these prescriptions to be filled? A. No, I am sorry I don't know.

Q You could find that out, couldn't you, Doctor?

A Oh, yes.

Q I suppose it is on the label? It is on the box or the bottle? A. That is right.

Q But you can't tell us now the name of the pharmacist?

A I believe it is the one on the corner of Glenwood and Bergen.

Q Joe Brainard? A. Yes. I am just assuming that, because that is the nearest one.

Q Did you say that you saw Mr. Stoebling Saturday night? A. Saturday night, yes.

Q After the three of you had been in there? A. Yes.

Q And that made three visits made last Saturday to Mr. Stoebling? A. Yes.

Q How often did you visit him yesterday?

A Yesterday I was in twice-- no, wait a minute-- yesterday I was in once.

Q I mean Sunday. A. Yes. I was in once.

Q When you examined him with Dr. White on Saturday morning, was Mr. Stoebling sitting up? A. Not, he wasn't.

Q At no time during the twenty-five minutes of that

examination? A. Except when he was held up by the nurse and myself during the examination of the back; held up in a sitting position I mean.

Q Was it necessary to hold him up? A. Yes. He couldn't bring himself up voluntarily.

Q I didn't ask ^{you} whether it was necessary to help him up. I asked you whether it was necessary to hold him up after you sat him up. A. Yes. They wouldn't even allow him to do that because I didn't want to place any unnecessary strain upon him.

Q You don't know whether or not it was absolutely necessary to hold him up, do you, Doctor? A. I did not even allow him to.

Q Do you allow him to get out of bed at all?

A No.

Q For any purpose? A. He has been forbidden to get out of bed by me.

Q Do you know whether or not he has been out of bed?

A On one occasion he attempted it, at night time.

Q At night? A. I believe it was at night.

Q When was that, doctor? A. This was several days ago, I should say.

Q Was that before or after the nurse went there?

A That was after the nurse went there.

Q That was after the nurse went there? A. Yes.

Q I believe that you testified that his condition is not any worse now than it was when you first went into the house, on the last illness? A. Now compared with a week ago?

Q No. Now compared with January 27. A. No.

Q It is not any worse? A. No.

Q January 27 was the first day that he went in and was confined to his house in this last illness? A. His last acute illness, Thursday night, yes.

Q And he had no nurse up until when, Doctor?

A Saturday.

Q What date? A. That would be the-- I believe that is the 29th.

Q Of January? A. That is right. The day that you--

Q The day that we were over? A. Yes.

BY MR. PALESE:

Q Doctor, is there any relation between the diagnosis that was made by Dr. Cassidy and your diagnosis?

A Yes, there is.

Q What relation is there? A. It is a well known fact among all internes and heart specialists that there is present in most cases of coronary disease this condition which is known as myocardial insufficiency.

Q Did Dr. Cassidy detect the coronary thrombosis when he made an examination? A. He said he couldn't detect

on the lids of the heart. The only thing which he could make on the graph alone was a diagnosis of coronary heart disease.

Q Coronary thrombosis is a chronic condition that comes over a period of time? A. It may be very acute in, frequently, six weeks.

Q It is your opinion that this condition did not exist in 1937, when Dr. Cassidy made the examination?

A He may have been in a state then of what is known as-- the collateral circulation of the heart had improved. Nature is very kind to us when a particular blood vessel is partly or completely closed off. The accessory branches take up this burden and attempt to do what the main branch has been doing previously.

Q Ordinarily coronary thrombosis is a condition that comes on over a period of years; is that correct?

A Yes, it takes time.

Q It is your opinion that it may have developed since 1937 when Dr. Cassidy made his examination? A. As I stated in my testimony, he has had coronary heart disease for three years, to my personal knowledge.

Q Dr. Cassidy did not detect that condition in 1937?

A He did not, on the electro-cardiograph.

BY MR. MURRAY:

Q Do you think Mr. Stoebling's condition has improved

any since has had been confined to his house in this last sickness, and since he has been attended by yourself and Dr. White for this illness? A. The improvement has been very little.

Q But you think that there has been an improvement?

A Yes. Very slight.

BY MR. PALESE:

Q How many times did you see Mr. Stoebling prior to January 27? A. I saw him-- he had an acute attack on January 4, when he was removed from Loew's Theatre.

Q Prior to that time when had you seen him?

A Then I saw him for quite a space of time, when he had a collapse in his office on the 19th of November, at which time he was stricken for approximately five weeks.

Q During all the time, from January 4, to January 27, had he been confined to his home? A. Yes. After January 4 he was confined, I should say, roughly, about ten days.

Q Did he make any visits to his office during that time?

A To my office?

Q No, to his office as Commissioner of Registration.

A I don't know.

Q Doctor, on the 29th of January, when the Committee was to his apartment, when had you seen him prior to one o'clock of that day? A. I was there at twelve o'clock.

Q Did you at that time have any information that the

Committee was going to call at Mr. Stoebling's apartment?

A I had no information until the word came up from the lobby.

Q What word did you get from the lobby as to what the Committee was going to do? A. I only got the word indirectly from Mrs. Stoebling, that a Committee was calling, coming up to the apartment, wishing to see Mr. Stoebling.

Q That information you got from Mrs. Stoebling?

A Yes, Mrs. Stoebling.

Q Doctor, I presume you remember the testimony that you gave when the Committee called at Mr. Stoebling's apartment? Do you have a recollection as to what you said at that time?

A I am sorry; I can't remember. I said so many things.

Q Suppose I read something to you to see if I can refresh your recollection. You said at that time, "I understand that all of you gentlemen are here for a definite purpose, and I was told that you were going to arrest Mr. Stoebling." A. That was a remark that was made by Mrs. Stoebling.

Q When? A. At this same time that she acquainted me of the fact that the Committee was coming up.

Q You just said that the only thing Mrs. Stoebling told you was that the Committee was coming upstairs to see Mr. Stoebling. A. Yes.

Q Where did you get the word "arrest"?

A Mrs. Stoebling gave that word herself.

Q When I remind you of it you say that she gave it to you? A. Yes. After all, there are many remarks I made in this case, and I haven't had a stenographer recording like you have. I can't remember all the talk.

Q Do you remember how long you waited there before the Committee came up? A. I had already been in his apartment for about twenty-five minutes to half an hour.

Q You were there almost an hour? A. Altogether, yes.

Q You waited there about twenty-five minutes for the Committee to get there; is that correct? A. No.

Q Why did you stay there all that time if you didn't know the Committee was coming over? A. I was there at approximately twelve o'clock, making the regular call which I made at that time of the day.

Q How long-- A. Let me finish, please. And his condition at that time was very poor. It was so poor, it was because of that fact I stayed past the usual length of my normal visit, and when he was under the effect of the medicine which I had given him I was getting ready to leave, when this word came up that you were going to come upstairs. In fact, I had my coat partly on when the buzzer rang and it was answered, and Mrs. Stoebling told me what was going on, but previous to that nothing had been said to me.

Q I am trying to find out from you why you used the word "arrest," when no one had ever suggested the word, either by the Committee or any person interested in this investigation? Where did you get the word "arrest"?

A The word was not given, as I say, by the Committee. Mrs. Stoebling made that remark while I was standing in the living room of her apartment.

Q Was that after the Committee had gotten into the apartment or before? A. Before.

BY MR. MURRAY:

Q Did I understand, Doctor, that you have seen Mr. Stoebling today once? A. That is right.

Q Did you examine him in any way? A. Oh, yes, every time I see him.

Q What is his condition today as compared with his condition Saturday? A. Practically no difference.

Q Practically the same? A. Yes.

Q But you think that there has been an improvement in his condition since January 27? A. Since January 27, yes. I mentioned before that there is a slight improvement.

Q Would you say, Doctor, that Mr. Stoebling should be in a hospital? A. I don't think it is necessary in view of the continuous attendance which we have by the nurses, and the repeated visits by myself. I think the quiet home, or, as a matter of fact, the quiet of a good hospital room,

if there is not much noise around, it wouldn't make any difference. It is the continual watchfulness, both by the nurse and the examination by the doctor.

Q But Mr. Stoebling had no nurse on January 27, on January 28, or on January 29, did he, Doctor?

A On January 29.

Q What time did she come? A. She came about two o'clock.

Q Two o'clock? A. About two o'clock. I wasn't there when she came. I am just saying about.

Q Was she there when the Committee went back the second time to his house; do you know? A. What time did the Committee come back?

Q They went back at the time you had made the appointment, and we were all there at three o'clock. You were not there, and you were not there at half past three. I think it was four o'clock-- You said you got there at four. By my watch it was around four o'clock when we left. That is the time when the Committee was there, and instead of yourself being there we had one of the burly armed cops of Jersey City to burst in on us. Would you say the nurse was there at that time, Doctor? A. When you came up at three o'clock?

Q Yes. A. I don't know.

Q You don't know? A. No.

Q By the way, has there been a chart kept during his illness? A. Oh, yes.

Q Since what day? A. Since the 29th of January.

Q Is it customary to keep that chart in the sick room?

A No, she has it outside.

Q But it is in the apartment there? A. Yes, it is in the apartment there.

Q Kept by the nurse? A. By the nurse.

Q They take the patient's temperature, pulse?

A And respiration.

Q How often? A. They take it four times a day.

Q Four times a day? A. Yes.

Q That has been done? A. That has been done.

Q Is he running any temperature, Doctor?

A Well, if you call 99 a temperature, yes. It is so little that it amounts to practically nothing.

Q What is his average pulse? A. The pulse has been ranging-- it is never the same. It has been ranging from 50 to the highest, on one occasion, 70.

Q 70? A. That is right.

Q Is that normal in an adult, 70 to 75? A. Well, it advances as one gets older. I should say yes, a man of his age, he would be more likely to be up around 78.

Q Was that chart there Saturday when you three doctors visited him there? A. It was.

Q Did any of the doctors with you ask to look at that chart? A. No, they didn't.

Q Was the chart shown to any of the doctors?

A No one asked to see it. It was on the library table.

Q The condition of Mr. Stoebling is better today than it was on the 27th of January; is that so, slightly improved, at least? A. That is right.

Q Would you say that Mr. Stoebling's condition is good enough now for him to be taken out of the house?

A Is that the end of the question?

Q Yes. A. My answer is no.

Q Even on a stretcher? A. Even on a stretcher, unless they were to bring him to a hospital, except if some acute condition arose, which would necessitate doing something in the hospital which we couldn't do at home.

Q What might happen from his present sickness for such a condition to arise? Could you tell us? A. What might happen? Yes, he might engraft on top of what he already has another occlusion of one of the branches of the coronary arteries. He might have what is commonly called a stroke.

Q Is that occlusion or acclusion, oc or ac?

A That is oc.

Q Is that the end of the answer? A. And he also might develop what is commonly known as a stroke. I believe that is the answer.

Q I don't know the medical terms nearly as well as you, but I am trying to get the meaning, going back on my Latin a little bit. That is why I asked if you said acclulsion or occlusion. Could either one be used or is it occlusion?

A Occlusion is the one.

Q Does that mean that there is a collecting together of something in the artery? A. There is something blocking--

Q Blocking up the artery? A. That is correct.

Q I suppose that would be blood, would it not? A fibre?

A It usually is.

Q That collects together and clogs up? A. It is what is known as a thrombus.

Q What did you say Mr. Cassidy's diagnosis was that Mr. Stoebling had? A. Myocardial insufficiency.

Q And Dr. White said he had what? A. Coronary heart disease, that occlusion.

Q How many occlusions had he had? A. He has had five acute episodes.

Q Five? A. I can repeat the times, if you wish.

BY MRS. SANFORD:

Q You mean, in the last three years? A. Yes. Three since November 19; one November 19 of last year, one January 4 of this year and one on January 27.

BY MR. MURRAY:

Q One on January 27? A. That is right.

Q What is the usual state that a person goes into with an occlusion? A. The first symptom, as a rule, is pain over the heart or down at the end of the breast bone or down towards what is known as the pit of the stomach. It is followed by an acute collapse on the part of the patient. He just bowls over, wherever he is.

Q Would he be unconscious? A. Not necessarily.

Q Not necessarily so? A. No.

Q Is that pain a different pain or in different parts than the pain caused by angina pectoris? A. The common pain of angina pectoris radiates upwards towards the left shoulder and down the left arm, although it may go to other places, but that is the common--

Q Would there be pain, as a rule, in the chest, with angina pectoris? A. Yes. That is what angina pectoris means.

Q And it is the consensus of opinion of you three doctors that Mr. Stoebling has not got angina pectoris? Is that so? A. That is correct.

Q So that, on January 27, what condition did you find Mr. Stoebling in, after this occlusion, when you arrived there? A. He was lying in bed. His skin had that peculiar

Q Is that an extension of the one outside?

ashy gray color which is common to an acute attack. He was breathing with difficulty. His pulse was very feeble, and its rate was approximately 60. His blood pressure was down to 104. The heart sounds, when listened to by the stethoscope, were barely discernible. That is the main picture.

Q And on the 28th was his condition somewhat improved?

A The pulse rate was approximately the same. The pain was not as acute. That is, at the time the clot rose into this particular part the pain becomes very acute, but it becomes dull and boring after that.

Q Did you give any orders or leave any orders, Doctor, in reference to who should or shouldn't see Mr. Stoebling, on January 27 or January 28? A. Oh, no, I gave no orders.

Q You gave no orders? A. In this respect I mentioned no specific persons, but I said he was better, kept confined to bed, and that no calls were to come in to his room by telephone.

Q You meant telephone calls? A. Telephone calls, and that nothing connected with his particular line of business, as Commissioner of Registration, must be brought to him either by phone or by personal message, until I said so.

Q Has Mr. Stoebling got a phone right at his bedside?

A There is a phone right at his bedside, yes.

Q Is that an extension of the one outside?

A I believe that it is. I couldn't testify exactly to that, though.

Q Do you know whether or not your orders were carried out in respect to not permitting calls to be put into his room, or visitors in to see him and talk to him?

A They were, as far as I know.

Q Don't you know that his stenographer-clerk, Miss Fila, otherwise known as Alice Seglie, was permitted in to talk to him? A. If she was it was without my knowledge.

Q But you know that Mr. Max Miller was permitted in to talk to him? A. Not to my knowledge.

Q Don't you know that his attorney, Mr. Dowden, was permitted in to talk to him? A. I don't know anything about it.

Q Or Mr. Pass? A. I also don't know anything about it.

Q Or Judge Haber? A. The answer is still the same.

Q You don't know that any of those gentlemen were in there? A. Nothing was said that any one of those persons were in the room. If they were it was against my orders.

Q What would you say, Doctor, if you were informed that those gentlemen were in to see and spoke to Mr. Stoebling on the 27th or 28th, or both of those days or nights?

A I am afraid I would have an answer for them that they would not have liked.

Q Did you notice any detrimental effects or any difference in the condition of Mr. Stoebling on Friday night or Saturday morning? A. On Friday night he developed a condition which we call partial heart block. That is-- I will try to give the word picture of it, as near as I can. The heart beats at a certain number per minute, and you feel the pulse. Some of those beats do not come through, so that there is a difference between the rate at the heart and the rate at the pulse, and that is due to the fact that some of the impulses are so weak that they do not reach the ordinary common place at which we take the pulse. That is a sign that something is either wrong, first of all, in what is known as the nerve conducting mechanism of the heart or in the actual muscle itself.

Q At what time Friday night did you notice that, Doctor? A. When I came in to visit him.

Q About what time did you go in to visit him?

A About nine o'clock.

Q Was he perfectly conscious at that time?

A Yes, he was conscious.

Q He could talk coherently and intelligently?

A Apparently, I believe.

Q And did he sit up? A. No, he didn't.

Q He didn't sit up? A. No.

Q You don't think it would be advisable to move Mr. Stoebling out of the house, even on a stretcher, do you, Doctor? A. Except in an acute emergency, as I mentioned before.

Q Well, with the occlusion wouldn't that indicate more the necessity of quiet? Is there anything that could be done for him in the hospital that could not be done for him home, if such an acute condition arose suddenly? A. No. In reviewing this thing I realize that I said before, perhaps, if there were another sudden occlusion on top of what he already has, or he developed a stroke, it might be necessary to transfer him to a hospital, but on reviewing what would be done at such a place I would have to reconsider that question and say this: I can^{just} think of three things that might have to be done, and I cannot see, with proper supervision, why it cannot be done at home.

Q What are those three things? A. Well, the administration of oxygen, perhaps with carbon dioxide in between, and that has different effects, and the other thing I am thinking of is a transfusion. Now, that may be given at home, too.

Q What is the third? A. I mean the oxygen, carbon dioxide, and the transfusion. It would necessitate the use of several nurses and one or two doctors, depending on what was the particular thing we had to do. It could be done but it would mean more work.

Q With a person who has had five occlusions, if another one occurred, in your opinion as a doctor and as his personal physician, would you think it advisable to order his removal to a hospital or out of the house, even on a stretcher, or do you think it would be better to leave him there and call the aid into the house? A. On second consideration I think I would leave him there and have a consultation, if I didn't think I was qualified to meet all the conditions which were present.

Q Then you think it would ^{be} dangerous, in fact, it may cause a death, his death, if he were removed from his house?

A Yes, that is entirely likely; possible, I mean.

Q By anyone? A. By anyone.

Q For any purpose? A. That is right.

Q Would you think it sort of criminal, then, if anybody were to remove Mr. Steebing out of his house?

A Without my consent, yes.

Q Well, if his condition was the same or approximately the same as you before testified here, you would not consent, would you, Doctor? A. I certainly would not.

Q Do you think that he is apt to improve, say, within the next couple of days or the next week, and that your advice would be, "Yes, you can move him out," rather than what you say now? A. No. My answer, within a few days or a week, would

still be no.

Q How long do you think it would be inadvisable, not only inadvisable but dangerous and criminal, if anybody moved Mr. Stoebling out of the house, even to a hospital?

A When we had our consultation, the three doctors together, at three o'clock Saturday afternoon, February 5, we talked this particular phase over, and it was the concensus of opinion that Mr. Stoebling should be kept in bed under the same conditions which he is now kept, for a period of at least six weeks.

Q You mean in his own house? A. In his own house.

Q And at that examination there were the three of you doctors and a nurse? A. Yes.

Q Was Mrs. Stoebling in and out at all?

A No, she wasn't there.

Q She could have been, if she had desired, couldn't she?

A Oh, yes.

Q Was anybody else there? A. No, that was all.

Q Anybody outside in the rooms? A. Nobody.

Q Now, Doctor, being that you do not think he could be moved, being that you think his condition has improved now over what it was on the 27th, 28th, 29th, and so forth, of January, would you think it would be in any way seriously detrimental for Mr. Stoebling to talk for about five minutes

to, for instance, his stenographer-clerk, Mrs. Fila, and the chairman of this Committee, Mr. Young, in the presence of, need be, yourself and another doctor, or without either you or another doctor being present. A. Is that the end?

Q Yes. A. I will answer it in this way: it is a well known fact, by anybody who has done any amount of heart work, that there are two factors which bring on an acute attack in this particular condition. One is physical stress or strain, and the other is emotional strain. Putting him in bed removes the physical strain. Keeping him away from all those things which I have previously mentioned removes, as far as I can, those emotional factors which may bring about an acute attack.

I have seen, I can recall offhand now, three cases of something which was apparently trivial, and which was only emotional and not physical, which was the cause of death, within several hours, of patients suffering from the same condition as Mr. Stoebling. So then, because of my experience along that line, and the experience of many other men who have said the same thing, I would say, until he were in better condition, I would not even permit him seeing outside people, because there we would bring in the emotional factor, and I would not risk what would be liable to happen.

Q Do you know whether or not Mr. Stoebling visited the City Hall in Jersey City on January 27 before he collapsed?

A I do not, no.

Q Did you hear him, or anyone around him, mention that fact? A. No, I didn't.

Q Did he tell you or did you hear anyone around him say, or did you inquire, whether your orders in reference to keeping everyone out since the 27th of January, have been carried out? A. I made my orders so emphatic; I said I meant every word that I said, and because of the fact that I had made it so emphatic and told them what the consequences were liable to be, that I expected, if any encroachments were made upon my orders, that at least I would be notified by the nurse who was in attendance, both today and night.

Q But she wasn't there until the 29th, in the afternoon or the early evening? A. Yes, in the afternoon.

Q So those visits could have occurred on the 27th or 28th, or the early part of the 29th, before the nurse got there, and she wouldn't know it and you would not know it, necessarily? A. No, I wouldn't know it unless I was acquainted with it.

Q But he has improved, at least slightly, since that time?

A Yes, slightly.

Q Do you mean to say, that in his present condition, in your opinion it would be detrimental for him to have a five minute conversation with two people, one of whom has been very

close in business affairs, in political affairs with him for at least ten or eleven years, his own secretary? I refer to Mrs. Fila. A. My answer would still be no.

Q How detrimental do you think it would be, and in what manner do you think it would be injurious to him?
be

A It would^{be} injurious in this way; that it would, in all likelihood, bring on the emotional strain which I mentioned before. The emotional strain would bring on another acute occlusion. I don't know which one of those occlusions is going to be the last one, but there will be a final occlusion, and I am not going to be the responsible factor in allowing those things to be permitted, which are liable, in all likelihood, to cause such a condition to happen.

Q Do you think, if you informed him beforehand that his secretary was going in to ask him two questions, and that there would be a second party there, who would be Mr. Young, chairman of this Committee, to stand by and just listen to the answers to those questions, two or three questions, do you think that that would be very detrimental to his health?

A I do because I know it is going to involve this situation in which he has been placed. As soon as anything is brought up which has to do with that, the emotional ailment is bound to be brought out, and what its final result may be, I refuse to stand responsible for.

Q You would not so advise? A. I would not so advise.

BY MR. PALESE:

Q Doctor, you know, as a matter of fact, that he was served with a subpoena to appear before this Committee?

A Only from hearsay.

Q Didn't you know that it was a fact that a subpoena had been served on Mr. Stoebling to appear before this Committee? A. Just from what I read in the papers.

Q When did you read it in the paper?

A I don't know the exact date.

Q Suppose that the subpoena had been served on him on the 28th of January; would that be hearsay to you?

A Yes.

Q Did you hear it before that, prior to that date?

A I don't recall the exact day but I know it was the latter part of that week. You are speaking of the 28th or 29th, whatever it is.

Q You say that you prohibited visitors to Mr. Stoebling on the 27th of January? A. Yes.

Q Would you be surprised if you knew that Mr. Stoebling had signed his name to a letter after the 27th of January?

A If he did I didn't hear anything about it.

Q He wrote a letter to this Committee, with his signature. A. I am sorry, I didn't know anything about it.

Q Now, I will read you the letter which he sent to this Committee:

"Honorable Henry Young, Jr.
Newark, N. J.

"Dear Sir:

"I have this day been served with a subpoena, commanding me to produce before you forthwith the records of my office in connection with the Election of November 2d, 1937.

"I am charged with the sole responsibility for the safeguarding of these records and have no authority to permit them to come into the possession or control of any other person.

"At present I am confined to my home by illness and under the orders of my physician am unable to leave my house. As soon as I am physically able to comply with this subpoena, I shall personally appear with the records of my office which you require. Until that time, however, I am unable to comply with your subpoena.

"I am sure you realize my position.

"Respectfully,

"(signed) Charles F. Stoebling."

I presume that letter was written and signed contrary to your instruction? A. I certainly know nothing about that.

Q Would you say, from the condition that you saw him in on the 27th or 28th, that he was in condition to dictate such a letter and sign it? A. Now I mentioned why his condition was such as it was on the night of the 27th. You may recall I mentioned in my testimony that at that time he presented kind of a condition which is known medically, as partial heart block.

Q That occurred that night? A. I noticed it that night when I made the visit.

Q How do you know that he wrote the letter? What time of day did he write it? A. I don't know. That is the first I heard of it.

Q If you got there before the letter was written, then it was due to some other condition? A. Let me get this.

Q You saw him before the letter was written, and you say that you saw a difference in his condition? A. On the night of the 28th.

Q What time on the night of the 28th? A. I said it was about nine o'clock.

Q When had you seen him prior to nine o'clock?

A I saw him in the morning.

Q What time in the morning? A. About eleven o'clock.

Q You had not seen him from eleven o'clock to nine o'clock at night? A. No.

EXAMINATION BY MR. GIULIANO:

Q Doctor, would you say that Mr. Stoebling today could do the same things that he did on January 27 and 28th?

A Let us have the question.

MR. GIULIANO: Mr. Stenographer, will you read the question, please?

(The last question was read by the stenographer.)

THE WITNESS: Whether he could do which? One cannot say definitely whether he could or could not do it. One could attempt to do a thing, but what the result of such an attempt would be I can't say, that this is what is going to happen or that is what is going to happen.

Q Doctor, would you say that Mr. Stoebling could again dictate a letter similar to the one that Mr. Palese read to you today, the same as he did on January 28? A. Whether he could do it or not, I don't know, but I would not permit it.

Q I am not asking whether or not you would permit it. I am asking you, Doctor, could he do it? A. I can't answer that question.

Q Could he read newspapers today, Doctor?

A Could he read them?

Q Yes. A. He could if he were allowed.

Q Would you allow him? A. I have not allowed him to

do it.

Q Did you allow him on January 27? A. I didn't mention the newspapers at that time, but, as I testified in my testimony before, I spoke of people coming in and telephone calls, but when this Committee came in on Saturday, January 29, I thought there might be at that time some things in the paper which would certainly be very detrimental to him if he were to read them, and the effect upon him, so it was at that time that I gave the order that by no means should newspapers be allowed to enter his room.

Q You don't know, Doctor, whether he read anything in the Press the night before? A. This is the 28th?

Q Yes. A. I don't know.

Q You say that you were there at nine o'clock?

A I was there at nine o'clock.

Q Was Mr. Haber there while you were there?

A No.

Q Had he been there? A. I don't know. Nothing was mentioned.

Q Would you say that nine o'clock was late in the evening, or the early evening? A. Nine o'clock is the middle of the evening.

Q And, of course, late in ^{the evening} would be after nine o'clock, I presume? A. Yes.

Q Doctor, I want to read a little testimony of Mr. Haber. Then I will ask you a question from that. It is on page 2 of the transcript:

"Late last night the Commissioner was very much distressed at the news reports of his position. He had read the articles appearing in the Press, charging him with some serious things about the records of his department, and he consulted with me, and I told him that the subpoena has to be obeyed."

Was that with your consent or did he go out of his bounds of a physician's orders? A. He made the statement as of the night of the 28th?

Q Yes, that same evening, when you say you saw him at nine o'clock. A. And you say that he came in after I was there?

Q Late that night; Mr. Haber. A. And he said that Mr. Stoebling had seen the papers?

Q Yes. I know there is confusion all through the testimony, Doctor. There seems to be a lot of discrepancy.

A I believe there is a question involved in this thing?

Q Yes. Was it within the bounds of your orders or without? A. That is without the bounds.

Q And you strictly told Mr. Stoebling not to allow any person to talk to him, is that so? A. Yes. I said I

wanted to do all the talking.

Q You wanted to do all the talking? A. That is right.

Q Don't you think, Doctor, if you were to do all the talking, maybe it would be a good thing if you asked Mr. Stoebling, in order to relieve this condition, to turn these records over to this Committee? A. I wish I could.

Q Why couldn't you? A. Because I don't think-- as I said, he is now in what is known as an anginoid state, which, in plain English, means that he is almost continuously, almost continuously, in a condition of pain over the heart, and he so mentioned to Dr. Alling, who, I presume, will be called to testify as to what he found and what he thinks about it, and it is because of this condition that I feel I am not going to be the responsible factor in allowing something to happen, which is likely to be fatal.

Q Doctor, I presume that on Friday evening when you were there, at nine o'clock, that no one was to see him after that? Is that so, Doctor? A. Your presumption is correct.

Q Now, if I told you that Mr. Dowden, of his legal staff, saw him that evening and that Miss Seglie saw him that evening and Judge Haber saw him that evening, and Mr. Miller spoke to him that evening, and that Mr. Stoebling read in the Press about the subpoena, or the records, rather, wouldn't you

say that Mr. Stoebling at the present time can at least, in this public question, devote five minutes of his valuable time to the Chairman of the Committee, in order that he may instruct his secretary to turn these records over to this Committee? A. All I can say, if that is a fact, and I imagine it is, that these things did occur that particular night, then it is a miracle that nothing happened.

Q Did you ever hear, Doctor, of a second miracle happening? Possibly a second miracle would happen.

A It might be a coincidence.

Q Doctor, you say, in your opinion, that you would not allow Mr. Stoebling, because of his physical condition, to give any orders for the next six weeks. Am I correct in that assumption, from the testimony? A. No. My testimony was that it was consensus of opinion of the three doctors in consultation on this past Saturday, that he should be kept in bed for a period of time of at least six weeks.

Q And no orders, not to talk to anyone except yourself?

A And then it was further said-- this is the physical part-- it was further said that emotional strain or stress is just as important a factor, in this or any similar case, as the physical.

Q Then, in your opinion, Doctor, you would say that Mr. Stoebling should not discuss this matter or any other duty for

the next six weeks, in connection with his office as Commissioner of Registration? Am I right in that assumption?

A That is correct.

Q Then I gather from that, that the office of the Commissioner of Registration is to do nothing for the next six weeks because Mr. Stoebling cannot give any orders to any employees under his supervision? A. That part I couldn't answer. I don't know anything about it.

Q You can't answer? A. No.

Q Doctor, do you know, and I am just asking you this question as a layman, do you believe that these records are public records? A. I am sorry I couldn't answer the question, even as a layman.

Q Doctor, then, it is your opinion that nobody, not even his secretary, should discuss anything which pertains to the office of the Commissioner of Registration, for the next six weeks, is that so? A. Or until such time as I think it would be O. K.

Q We know for at least six weeks. A. That is our assumption that it will be six weeks. It might be four weeks and it also might be eight weeks.

Q At the present time it is six weeks? A. That is our assumption at the present time.

BY MR. PALESE:

Q Doctor, were you at Mr. Stoebling's home on the morning of Saturday, January 29, when Judge Haber called the home? A. I was there at noontime.

Q Were you there when Judge Haber called?

A Over the phone?

Q Yes. A. There was a phone call. What it was, I don't know. I heard the phone ring. What the message was I don't know. I was inside. Of course, you can hear.

BY MR. OSMERS:

Q You were with Mr. Stoebling? A. Yes, I was with Mr. Stoebling.

BY MR. PALESE:

Q- Did Mrs. Stoebling tell you who had made the telephone call? A. No, she didn't mention it.

Q Did she say that it was Judge Haber calling from Newark? A. I just mentioned that she didn't mention it.

Q Here is what Judge Haber said when he was asked by this Committee to call Mr. Stoebling's home: "I called Charlie Stoebling's home. Mrs. Stoebling answered me. Charlie, of course, would not answer the phone. I know that as a fact, because I know the physical layout. He is in bed. Mrs. Stoebling said that she would talk to the doctor and she would call me back in a little while, and I have been waiting at

the booth until she phoned me back.

"I can make no change in my report. Charlie is in no position to appear here. The doctor was there then and he cannot personally take the responsibility to give you the books which are all in the vaults."

Did Mrs. Stoebling tell you that Judge Haber was on the phone here, from Newark? A. Mrs. Stoebling?

Q Mrs. Stoebling, yes. A. Not to my recollection.

Q Then Judge Haber is mistaken when he gave us that information? A. I was there at the time I specified. Whether his was the phone call that came in, that I can't testify.

Q You were there about twelve o'clock? A. That is right.

Q Were we there about one o'clock? A. Approximately.

Q Judge Haber was here about 10:30, when the telephone call was made, so that you were not there at that time?

A I was not there at 10:30.

BY MR. MURRAY:

Q Were you there at any time before the telephone call that day? A. I imagine I was at the Greenville Hospital.

Q Did anybody tell you, outside of Mrs. Stoebling, that Judge Haber was on the phone, when you were there at any time on Saturday? A. No, nobody said anything about he was on the phone, at any time.

Q Doctor, you testified that on the 27th and 28th of January, and the early part of the day of January 29, Mr. Stoebling was in a worse condition than he is today, and that he has improved from that time to today, and you think that an emotional action may be affected by a visit, you said, or a talk with him of five minutes or less.

Now, having heard the testimony here and knowing now that these gentlemen, or a good many of them, Judge Haber in particular, was in talking to Charlie Stoebling on these days, and, in fact, on the evening of Friday, January 28, alone, and on your last visit to him having observed the fact that he has improved physically since that time, and having observed the fact that he withstood the running in of these half dozen or more people, don't you think that in his improved condition he could certainly stand an interview of five minutes or less with his secretary and the Chairman of this Committee? A. I answered the question the same.

Q Your answer is still the same? A. That is right.

Q Are you on the payroll of Jersey City? A. If that is what you call it, the payroll, I have a position as physician and taking care of a babies' clinic at the Section of Child Hygiene, to which I devote a part of my time each afternoon.

Q And who appointed you to that position, Doctor?

A. That is right.

A That was a Civil Service appointment. I took the examination for Sanitary Inspector and passed it, and I applied for the position in this particular thing. An examination was given to me, I know that, and I was appointed.

Q How many took the examination at the same time that you did? A. When I was out in Trenton, a couple of dozen.

Q A couple of dozen? A. Yes.

Q Were they all from Jersey City? A. No, all over the State.

Q You didn't have to be a resident of Jersey City?

A No. I may state now that the examination for Sanitary Inspector--

Q But you don't get paid as Sanitary Inspector, do you, Doctor? A. Yes, you do. That is with the Board of Health.

Q Do you get paid as a Sanitary Inspector?

A No, my position is not as Sanitary Inspector.

Q Who is the Sanitary Inspector? A. I don't know who they are. There are several of them down there.

Q Do you mean that you took an examination in that department over which Inspector Boyle has charge of, in the City Hall? A. I believe it is Mr. Hagen.

Q Mr. Hagen? A. James Hagen.

Q That is the department in which you took an examination?

A For Sanitary Inspector.

Q For Sanitary Inspector? A. That is right.

Q And they placed you, after that examination, in this babies' clinic? Is that what I am to understand?

A After the examination after that.

Q Did that examination have any connection with the position as physician to the babies' clinic?

A Oh, yes. I was notified I would have to come down to the General Chambers at the City Hall for an examination, the purpose of which was that the successful party would be appointed to this position in the Child Hygiene Department.

Q I get from your testimony that you went to Trenton to take the examination? A. That is for Sanitary Inspector.

Q Why did you bring the Sanitary Inspector in when I asked you about your being on the payroll as a physician to the babies' clinic? A. Because I was notified it was necessary to take that in reference to taking this other one.

Q You would have to be a Sanitary Inspector?

A That is what they said.

BY MR. OSMERS:

Q As I understand it, a Sanitary Inspector deals with the inspection of sewers, buildings, health work. You are not going to leave an impression in the minds of the members of the Committee that there is, by any stretch of the imagination, a connection between a Sanitary Inspector and a physician in a babies' clinic? A. I am not.

Q Then don't. A. I am telling you what I did.

Q Are you trying to give the impression to this Committee that there was any connection in the Civil Service Examination for Sanitary Inspector, that you took in Trenton, and your appointment to the payroll in Jersey City as a baby doctor? A. When I heard this thing was open, that is what I was told, I would first have to receive a diploma as Sanitary Inspector.

Q Doctor Stockfisch, are you familiar with the fact that many plumbers in New Jersey are Sanitary Inspectors?

A If they are, I don't know anything about it. If by your remarks you are trying to cast aspersions on my ability as Sanitary Inspector--

Q No, as a witness. A. O. K., you may try.

Q Is this position which you hold in Jersey City a Civil Service position? A. Yes.

BY MR. MURRAY:

Q As a physician to the babies' clinic? A. Yes, in the division of Child Hygiene. That is under the supervision of Dr. O'Gorman.

Q Who told you, in the City Hall of Jersey City, that you had to take an examination and be a Sanitary Inspector before you could be appointed a physician to the babies' clinic? A. I don't know, but that was not more than--

Q Did you see John Malone in reference to that, ^{at} all,

the Deputy Mayor of Jersey City? A. No.

Q Are you sure? A. I didn't see him.

Q Who was it that came from John Malone to you, or from you to John Malone, to tell you that you should first be a Sanitary Inspector before they could appoint you as a physician to the baby clinic? A. If I remember correctly-- I might be wrong-- it was James Hagen.

Q Did he tell you that he came from the Mayor's office at all? A. No.

Q Did he tell you that he brought word from the Mayor's office, from the Deputy Mayor, John Malone, or from Delaney in that office, or anyone else in that office?

A He didn't mention anything to me.

Q But you knew that you couldn't get that position unless they said so, didn't you, Doctor?

A Who is "they"?

Q Either Mr. Hague or the Deputy Mayor, Mr. Malone.

A I was interested in one thing, in getting a position in which there would be financial reimbursement. Who was the one behind it-- it didn't make any difference to me if I was doing work called painting, if they paid for it.

Q You had to get the job first? A. Yes, you bet.

Q You tried to get the job, did you not?

A I did.

Q Who was interested in you? A. Some doctor from out in

Q What did you do to try to get it?

A I took the examination.

Q Outside of the examination? Did you say the examination would have gotten you the job? A. That I don't know.

Q How did you come out in that examination? Do you recollect? A. I passed it O. K.

Q O. K.? A. Yes.

Q What percentage did you get, if you remember?

A That, they don't hand that out.

Q They didn't hand that out? A. No.

Q How many took the examination in the City Hall?

MR. PALESE: You are speaking about the Sanitary Inspectors?

MR. MURRAY: No. I understood that the doctor said that he had to take an examination as a physician, to be appointed a physician in the babies' clinic.

Q Isn't that ^{what} you understand we are talking about now?

A That is what you are talking about now.

Q How many were in the City Hall in Jersey City on the day that you took the examination for that position or assignment or job? A. I was the only one there.

Q You were the only one that took the examination?

A That is right.

Q And who examined you? A. Some doctor from out in

Newark here.

Q Some doctor in Newark? A. Yes.

Q Do you recollect who it was? A. This was about eleven years ago. I can't recall.

Q Had you been on the payroll for eleven years?

A Yes, I have had the position for eleven years.

Q On the payroll of Jersey City? A. On the payroll of Jersey City, yes.

Q Are you on the payroll of Hudson County too, Doctor?

A No.

Q Are you on the state payroll in any capacity?

A No.

Q Did you talk to A. Harry Moore, Governor of the State of New Jersey, in reference to getting this position or assignment of the job as a physician in the babies' clinic?

A No, I didn't.

Q Are you sure you didn't? A. Positive.

Q You belong to the Kiwanis Club, don't you, Doctor?

A Yes. You know that.

Q Are you sure you never spoke to his Honor, A. Harry Moore, in reference to this job? A. No, I didn't.

Q Positively sure? A. Absolutely.

Q Whom did you talk to? A. I was notified by somebody that there was a position open, a doctor who was already in the Board of Health.

Q In Jersey City? A. In Jersey City, and that such a position was open, and then, of course, I went down and I saw-- what is his name?--James Hagen, because I knew he was in the Board of Health, as he lived in the same apartment house I lived in.

Q Did you see James Hagen? A. James Hagen, so I thought I would ask him and find out how to go about this, what qualifications were necessary, and if I had the proper ones, and he was the one that said, "I think it might be a good idea for you to take this examination which comes up in several months, whatever it is, at Trenton, for this position," which you all seem to think is so funny, Sanitary Inspector.

BY MR. OSMERS:

Q Don't you think it is funny? A. It is funny the way you handle it.

BY MR. MURRAY:

Q Doctor, just answer the question, please. You said that when you got the notion that you would like to have that, that you went down-- you went down where? A. I saw James Hagen.

Q You went down where, Doctor? A. At the City Hall, in that department.

Q The Jersey City City Hall? A. Yes.

Q And I understood you to say that you spoke to a doctor. Is James Hagen a doctor? A. No, no.

Q What doctor in the City Health Department of Jersey City did you talk to about this position? A. That was Dr. Brennock.

Q Is he connected with the Health Department in Jersey City? A. He is.

Q You are assisting Dr. Brennock now, aren't you, somewhere? A. We are associated. If he operates I help him. If I operate he helps me.

Q- Are you associated with him at any hospital?

A We are both at the Greenville Hospital.

Q Who else did you consult in reference to this position as a physician at the babies' clinic, in reference to getting it? A. That is all. I wrote to the Commission. The details I can't remember. My goodness, it is eleven years ago.

Q It would not be such a detail if you had to wait for word from a certain party as to whether or not you should take the examination and whether or not you were going to get the job? I mean James Hagen. Isn't it true, Doctor, "Now that you have seen me, you will get the job if you take the examination as a Sanitary Inspector, and then come down and we will give you a personal examination, with nobody else here"?

He didn't tell you that right off the reel, with authority, did he? A. When I completed the examination at

Trenton and I received the word that I had passed the examination and received the diploma for it, I again went down to see Mr. Hagen. He said, "You will be notified as to when the examination is held. I will let you know," and he let me know.

Q In writing? A. Oh, no. We lived in the same apartment house.

Q By word of mouth or telephone? A. No. He came in to see me.

Q Do you remember about what the conversation was?

A He came in to say, "Well, you got the first step in it, and the next step is the examination which will be on such and such a day. You ought to appear at the City Hall. Questions will be asked and you will have a written as well as an oral examination."

Q He told you the date, did he, Doctor?

A Yes, he gave me the date.

Q And you went down there? Do you remember what the date was? A. No, I can't remember, except that it was approximately eleven years ago.

Q Approximately eleven years ago? A. Yes.

Q How long did it take you that day to take the examination? Do you remember? A. It was about an hour.

Q Was it an examination or was it a little conference and talk about the qualifications, and so forth, and then you

were appointed to the job? A. No. He asked me quite a few questions.

Q Was it a Civil Service Examination or just an examination by him, as head of that department?

A I was told that he is the man I am to see and that he is going to examine me, so I went in and saw him and he examined me.

Q Did he give you written questions? A. There were just two written questions.

Q And about how many oral questions? A. About ten, I should say.

Q What were the two written questions; do you remember?

A No, I don't remember.

Q They were not, "What is your name and where do you live?" were they, Doctor? A. No, they were not.

Q How much compensation do you get from the City of Jersey City for this position that you hold?

A That, I think, is a personal affair. I don't think I have to answer that.

Q It is a public affair, Doctor. A. It is a matter of record, though, and it can be ascertained by anybody. At the present time it amounts to approximately \$1800 a year.

Q \$1800 a year? A. That is correct.

Q What is the base salary a year, without cuts?

A The basis is \$2100.

Q Have you been getting \$2100 for eleven years, from the city payroll of Jersey City? A. Oh, no, no. Back in the beginning it was--

Q It was less than that? A. Yes.

Q Now the base is \$2100? A. Yes.

Q Do you vote at the primaries, Doctor?

A I sure do.

Q What box do you vote at? A. I don't think I have to answer that question.

Q I think so. I didn't ask you whom you voted for.

A It is also a matter of public record that when I get to the polls I ask for a Democratic ballot.

MR. MURRAY: That is all.

BY MR. OSMERS:

Q Doctor, are you listed on the check, or on whatever means you are paid with, as a doctor or an inspector?

A Physician.

- - - -

F R E D E R I C K A . A L L I N G , being duly sworn
according to law, testified as follows:

EXAMINATION BY MR. WIENER:

Q Dr. Alling, you are a practising physician, duly
licensed in the State of New Jersey? A. I am. .

Q And as such you maintain an office for your practise?

A Yes.

Q Where is your office? A. 15 Washington Street,
Newark.

Q Doctor, are you connected with any institutions or
agencies concerning your profession? A. Yes.

Q Will you please tell me and the lady and gentlemen
just what those connections are? A. I am attending physician
at the Newark City Hospital, attending physician at St.
Barnabas, attending physician at the Presbyterian Hospital
in this city. I am consulting physician at the Newark Eye
and Ear Infirmary. I am consulting physician at the Essex
Mountain Sanitarium, also the Rahway Memorial Hospital.

Q What is your experience in the branch of medical work
known as cardiac work? A. I may say considerable.

Q Are you also a consultant in that field? A. Yes.

Q Most of your work is cardiac work? A. I should say
over seventy-five per cent.

Q Doctor, last Saturday you were requested by this

family, that they are diagnosing repeated attacks of coronary

Committee to go to the home of Charles F. Stoebling and conduct an examination as to his condition?

A Yes.

Q I understand that when you arrived there you were met by Dr. Stockfisch and Dr. White? A. Yes.

Q And you proceeded to the apartment of Mr. Stoebling?

A Yes, that is correct, except that Dr. Stockfisch met me and we went up in the apartment. Dr. White came in afterwards.

Q Thereafter, you proceeded in the examination or consultation which resulted in the examination of Mr. Stoebling?

A I asked for and examined the history, from Dr. Stockfisch, and then went into the bedroom where Mr. Stoebling was examined.

Q Was Dr. Stockfisch and Dr. White present during your examination? A. Yes.

Q Were there any records shown to you prior to or after your examination, which would help you in your diagnosis?

A No.

Q As a result of your examination, Doctor, what diagnosis did you make, or do you want to start right at the beginning of your examination and tell these people how you came to your conclusions? A. I did not agree entirely with the other doctors' diagnosis. It may sound like somewhat of a quibble, but they are diagnosing repeated attacks of coronary

occlusion. The spots in the coronary arteries and the heart muscles were not as common as I think they suggested. I thought it was more a question, he may have had one attack of coronary occlusion possibly three years ago. I say "may," because that is entirely on a question of history of the case.

I feel that Mr. Stoebling is having repeated attacks of so-called angina pectoris. This condition is due to a sclerosis or hardening of those arteries which have been mentioned, which supply the heart muscle with blood. If you move your right arm hard your heart has to supply more blood to that muscle. When the muscle works, any muscle, even your leg, the muscles have to have more blood. Your heart has to do it. Any exercise which the body has had, the heart muscle has to work more and harder to supply that blood.

If you have lead pipes and you go away, in the summer, rust will form in these pipes. The penalty for getting older, the wear and tear of modern life, is sclerosis or hardening of the arteries. If we live long enough that is going to get us all, and that is what causes the pain, because, as more demands are put on the heart muscles the heart muscle is unable to supply those demands, and that is what they call ischemia or a lack of blood to the heart, as well as the pain ensuing. That is what I think Mr. Stoebling has. It is called effort angina. Angina is a word meaning pain, pain brought on by effort.

Q Now, Doctor, my understanding is, from the testimony of Dr. Stockfisch, that he tried, in his testimony, to describe a coronary thrombosis, from the symptoms and the description of the condition that he found, and Dr. Cassidy, I believe, and Dr. White; that in his opinion there is a coronary thrombosis.

Now, do I understand that you differentiate from that, and you really describe it as angina pectoris?

A Yes.

Q I wonder if you will be kind enough to describe the difference between these two conditions? A. The attack of angina pectoris pain is very severe, very sudden, and of comparatively short duration. By short, I mean minutes.

A patient will stand stockstill, that is it, until the attack disappears.

The pain of a coronary occlusion-- the pains are very much alike, I will grant-- but the pain of coronary occlusion lasts hours, occasionally for days. It is very hard to control it with any drugs, including morphine.

Q Doctor, this arteriosclerosis or hardening of the arteries, or angina pectoris, or this arterial disease, whatever it is known as, is that chronic or acute?

A Which?

Q The one that you described Mr. Stoebling as having, the angina pectoris? A. They are both the result of

chronic processes.

Q It is a chronic process? A. They are both an acute manifestation of a chronic process. I would like to just say one thing more in answer to your question about differentiating between chronic occlusion and angina pectoris.

Q Go ahead. A. There can be a differentiation, no question about it. The coronary occlusion is always an inflammatory process; consequently, there is a rise in temperature. I mean the leukocytes jump and increase in numbers, the white cells, in the blood, always a temperature, and there are eighty per cent. electro-cardiograph changes if they are taken over a period of two or three days after the attack, which will persist for several months.

Q Isn't it also true that in that comparison the angina syndrome is different, the occurrences are entirely different?

A As far as duration is concerned, yes.

Q In addition to that I refer to the coronary stoppage that occurs in the thrombosis as compared to the non-stoppage or occlusion, as it has been technically termed, which occurs in the other case, that is, coronary thrombosis?

A I am awfully sorry. I didn't quite get it.

Q I will make myself more clear. I am not a physician. The coronary stoppage or occlusion invariably enters into the cases where we have a thrombosis? A. Those are synonymous terms. Thrombosis is a clot. Occlusion is a clot. They are

both the same conditions.

Q You didn't find such a condition in Mr. Stoebling when you examined him? A. I did not, but that is taken, a great deal, on the clinical history which I have gone on in my diagnosis.

Q To make myself more clear, Dr. Stockfisch had described five attacks, five so-called stoppages or occlusions which have taken place over a period of time, that he knows about. Now, in your experience, can you reasonably say that a person who has had five occlusions over a period of time could live or survive? A. I have never seen more than three, and I don't think that there is any question at all but what the electro-cardiograph would have shown signs which would have meant that he had one or more coronary occlusion attacks.

Q Doctor, I want to put this on the record. How many coronary cases do you see in the period of a week, as a general rule? A. This particular kind or other kinds?

Q Of all types. A. Including the hospitals?

Q Yes. A. For a week?

Q Yes, approximately. A. A hundred or more.

Q Within that hundred, how many angina pectoris cases do you face in a week? A. Ten or fifteen.

Q And how many occlusion cases? A. Now, you are talking about the occlusion. You mean old or new?

Q Let us call it old or new, which are coronary thrombosis.

Dr. Frederick A. Alling

A Two.

Q How long have you been practising? A. Twenty-six years last June.

Q Now, in all your experience in cardiac work-- I am reading this part of the question because it is very important-- have you ever seen a case where a person had five attacks, five occlusion attacks, at separate intervals, and that such person survived? A. No.

Q Dr. Alling, I think you were present when Dr. Stockfisch described the prescription or form of medicine which he had prescribed for Mr. Stoebling? A. Yes.

Q Now, what type of coronary disease is it customary to prescribe in such fashion for?

A This drug that you mentioned, the drugs?

Q Yes. A. Phenobarbital, which, of course, is the chemical name for luminal, which is the tradename, is an ideal drug to give. The aminophyllin, which is a theopyllin preparation is used-- it has reached the stage where it is probably more theoretical, if it does increase the flow through the coronary arteries. It is not used in occlusion.

Q In other words, it is particularly prescribed for angina pectoris cases? A. Right.

Q So that what we have is, Dr. Stockfisch diagnosed a coronary thrombosis and prescribed a medicine for angina

pectoris? A. It has been done.

Q You wouldn't do it, would you, Doctor?

A Not if I were sure it was a coronary occlusion.

Q Doctor, you heard Dr. Stockfisch describe this so-called electro-cardiograph which is for the measurement of the heart, as I believe? A. No, it is the electrical reaction of the heart.

Q The electrical reaction of the beat of the heart?

A That is right.

Q Dr. Stockfisch testified that Dr. Cassidy made a diagnosis from this electro-cardiograph. Now, is it possible to reasonably make a diagnosis without the syndrome or without the history or without the particular observation of the patient? A. It can be done but it is done with a great deal of risk. I never made a diagnosis on the electro-cardiograph until I either examined the patient or I got a history and some physical symptoms were given me by the doctor who sent me the case.

Most insurance companies, if I will do one for the Prudential or some other insurance company, at their request, lots of times they do not want me to make any diagnosis at all. They will do their own diagnosing. I will take the graph.

Q Now, Doctor Stockfisch admitted at the beginning of his testimony that he is not a heart specialist. He attempted

to describe heart stoppage. I wonder if you will be kind enough to tell us just what a heart stoppage is, so that we will know what we are talking about.

A A heart block occurs in one or two conditions. One is a condition where a tremendous amount of digitalis, for instance, has been given. Chiefly, it is due, again, to arterio-sclerotic changes forming around all these fibrous changes in the heart, between the top and the bottom part of the heart, so the impulses which originate at the top of the heart do not all go through to the bottom. You cannot hear the auricle beat of the heart, generally. You always hear the bottom heart beat and then that wait again, for the pulse.

Q That is, the valve part you cannot hear? A. No, the auricle. That we call the auricle and ventricle; the top and bottom parts of the heart.

Q Differentiating between the apex? A. Yes, I would say the top part of the heart, the auricle, and the lower part the ventricle.

Q Doctor, do you have your notes here with you concerning the interview that you had with Dr. Stockfisch? A. Yes.

Q Do your records disclose when the last occlusion was supposed to have taken place? A. Of course, that is the history. I did not obtain that from Mr. Stoebling. I obtained it from the doctor. One attack three years ago,

November 19, 1937, January 27, 1938, and another one in January, 1938, earlier, which I did not put down. The first attack three years ago, another attack November 19, 1937, a milder attack January 28, and the earlier-- I think Dr. Stockfisch told me the fourth. I haven't got that with me; and the last attack was on midnight January 27. On February 2 was the time Dr. Stockfisch told me he had the symptoms of heart block, the pulse getting down to fifty.

BY MR. PALESE:

Q Is it possible for symptoms to manifest themselves after a person has had a coronary thrombosis? Are there any symptoms to manifest themselves after the condition has occurred? A. Immediate or late?

Q After the attack has occurred? A. It takes six weeks for the wedge-shaped piece of heart, which has been shut off and blocked off by the clot, to become scarred and healed.

Q Does it take that long for the tissues to heal?

A It takes that long for the heart muscle. Of course, that takes longer than any other tissue because the heart is moving all the time.

Q If Mr. Stoebling had an attack on January 27 of this year, and you made your examination on February 5, would there have been any symptoms of this occlusion, if it had occurred on January 27, when you made your examination? A. None except

what I found, none referable to a coronary occlusion.

Q And what were your findings; that he had a coronary occlusion on January 27, when you made your examination on February 5, that he had had one of those attacks?

A On my examination?

Q Yes. A. Nothing, unless I took an electro-cardiograph.

Q Did you do that? A. I did not.

Q That would show it? A. It might have shown over eighty per cent. cardiographic changes.

BY MR. WIENER:

Q As to the occlusion which is supposed to have taken place on January 27 of 1938, did you receive any exact time of the day as to that particular attack?

A January 27?

Q Yes. A. No, I received no time.

Q I assume that it was before midnight, because then it would be January 28? A. I beg your pardon? At midnight January 27?

Q Midnight January 27. A. Unless I am wrong, I think Dr. Stockfisch told me he had been taken down with it on January 27.

Q Doctor, assuming that Mr. Stoebling had this attack, this occlusion, on midnight January 27, what would his physical and general condition have been at nine p.m. of January 28, the next day? A. He would have been in a very

serious condition of shock, which he would not have gotten over. From the time the occlusion hit him he would unquestionably have been running some temperature, and he might or might not have been under the influence of morphine, which he should have had.

Q And if you were treating the case he would have been under the influence of morphine? A. Yes, oxygen or not, as I saw fit.

Q In that condition, having suffered this attack of occlusion, could he have had a conference with several people, and as a result of such conference could he have dictated a letter, which is approximately twelve lines long, and have signed his name thereto? I am asking this, in all reasonableness

A This is twenty-four hours later, approximately?

Q Twenty-one hours later. A. I doubt it.

Q Could he have read a newspaper and discussed the matters in the newspaper with people? A. No.

Q Still referring to this so-called occlusion, on January 27, could Mr. Stoebling have been in such a condition as to reasonably expect him to have a conference with his attorney, of, say, half an hour or an hour's duration?

A When?

Q At the same time. A. On the 28th? No.

Q Doctor, I just wanted to go back for a moment concerning your diagnosis. You speak of angina pectoris. Just what

degree of disease can you say that you reasonably found there?

A Of course, that is divided into mild, moderate, and severe, the way most diseases could be differentiated. I should say that Mr. Stoebling, according to my ideas was within a moderate and a severe case of angina pectoris.

Q That is coronary sclerosis, in other words?

A Causing the pain.

Q The normal hardening of the arteries in these cardiac conditions? A. Not normal; the abnormal hardening of the coronary arteries in this condition, yes.

Q Abnormal, as to health building. Heart conditions of that type usually result in something of that type?

A Yes.

Q You put him in the moderate stage? A. Moderate to severe.

Q His being in that stage you would say that he would have to be confined to his bed for how long?

A Three to six weeks.

Q When you say three to six weeks-- A. That depends entirely on whether or not he has a recurrence of pain. If he has a recurrence of pain he should be kept in bed at least another week, with coronary occlusion, and they have to be in bed for the better part of two months flat, and they get up, very gently, for the next month, which is a three months' proposition for the occlusion, always.

Q What is the general thought as to the improvement of people suffering either from angina pectoris or this occlusion? A. They go about their business, try to walk as near the narrow path as possible, avoid physical exercise, mental excitement.

Q When you spoke with Mr. Stoebling did you find him rational? A. Very much so.

Q Did you find him able to converse and express himself and make it clear as to what he wanted to say to you?

A He was.

Q Doctor, in your opinion, is Mr. Stoebling in such a condition today that he could be permitted, without risk to his health or physical condition, to be called upon for a limited period of say, five, ten or fifteen minutes, by one or two people? A. Yes, I think he could, with one person, without any danger. Again I say that, because I went in as a stranger and I didn't bother him a bit. I think Dr. Stockfisch will admit that.

Q And there would not fall on anybody's shoulders the responsibility of any danger to this man's health?

A Oh, there is nothing sure but death and taxes.

Q I mean, a conversation concerning matters which he has probably been talking about every day, although we are led to believe differently. In other words, I want to make it more definite. Could Mr. Young, the chairman of this Committee,

15 Dr. Frederick A. Alling

and Miss Seglie, Mr. Stoebling's own secretary, call upon him and spend five minutes with him, without his condition necessarily changing as a result of such a visit?

A Yes, I think it could be done.

BY MR. PALESE:

Q Doctor, wouldn't it be equally so, if he had written the letter that you have just examined, concerning the subpoena which had been served on him, when he knew the purpose that Mr. Young would call upon him for?

A I should think there would be no difference at all.

BY MR. WIENER:

Q Doctor, I just wanted to put this complete hypothetical question to you. Assuming that Mr. Stoebling had an attack, as described by Dr. Stockfisch, an occlusion on midnight of January 27 of this year, and on the following day which was on Friday, he had a conference with a Mr. Max Miller and a Mr. David Wiener, for about an hour, at which time he was served with a subpoena and at which time he appeared perfectly rational and temperate; and that evening he had a conference or a series of conferences with Mr. Miller, Miss Seglie, Mr. Dowden, Mr. Pass and his personal attorney, Judge Haber, as a result of which series of conferences or conference he dictated and signed a letter addressed to the Chairman of this Committee; can we reasonably assume that Mr. Stoebling today is able to confer with Mr. Young and Miss Seglie for a

period of five minutes? A. He is.

BY MR. PALESE:

Q Doctor, with the same set of facts can we assume that on the evening of January 27 he had a coronary occlusion?

A I say no.

MR. PALESE: Mr. Wiener, have you any more?

MR. WIENER: Mr. Murray has a few questions.

EXAMINATION BY MR. MURRAY:

Q Doctor, do I understand that the terms coronary occlusion and coronary thrombosis are synonymous?

A Right.

Q You were here during the testimony of Dr. Stockfisch, I believe? A. May I correct that just a moment. A coronary occlusion is the result of coronary thrombosis. An occlusion of the coronary vessel is a clot which has already been formed there. A thrombus is a clot, so that a coronary thrombosis is a clot in the coronary. That is a very fine point. They are practically the same thing.

Q A thrombosis may be travelling and an occlusion is stationary? A. Right. The thrombus can travel.

Q I want to distinguish between the occlusion and a thrombus, and between a coronary occlusion and angina pectoris. Are the pains similar from a thrombosis and an angina pectoris?

A They are very similar except, in an occlusion or coronary thrombosis, they are very much more severe and last

longer.

Q Is the duration longer? A. It is altogether with the duration.

Q That is the thrombosis? A. It lasts hours to a day or two.

Q In either condition, then, is it possible for a physician attending a patient to positively know whether or not that patient is actually in pain, when he says so?

A You can tell pretty definitely whether they are in pain or not.

Q I think I understood you to testify, Doctor, that in a coronary thrombosis there is always a temperature that is conveyed by inflammation? A. Yes, always.

Q And the temperature would indicate that?

A Yes, always, one degree or more.

Q One degree or more? A. Yes.

Q Did you see any chart kept of the physical variances of Mr. Stoebling's condition? A. No, I didn't, but I asked Dr. Stockfisch about that and he said that at no time had Mr. Stoebling's temperature gone above ninety-nine and two-fifths or three-fifths.

Q Did he say whether or not a chart had been kept?

A He didn't say.

MR. MURRAY: That is all, Doctor, thank you.

(At this point a recess was taken until two o'clock p.m.)

A L F R E D A N T O N A C C I, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. GIULIANO:

Q You are a lieutenant in the Hudson County Police Department? A. Yes, sir.

Q For how long have you been such? A. Let me amend that answer; acting lieutenant for the past nine years.

Q You have been acting all that time? A. Yes, sir.

Q Were you assigned to the recount at the Hudson County Board of Elections in Jersey City? A. I was.

Q Who assigned you there, Lieutenant?

A Inspector Neary.

Q Was there any other detail that you had, except that assignment? A. No. The only detail I had was, I was instructed to report there-- I forget the day now-- it was on a Monday, to help preserve law and order up there while the recount was going on.

Q Had you ever been assigned to any other recount, Lieutenant? A. Never. Previous to this one, you mean?

Q Yes, previous to that. A. No.

Q Can you tell me, Lieutenant, what jurisdiction you, as an acting lieutenant, have over election matters?

A Well, I had no jurisdiction over election matters, but as an officer I was placed there, as I told you before, to preserve order.

Q Were you ordered there by Supreme Court Chief Justice Brogan? A. I was not.

Q Did you know that an order for the recount was signed by him? A. I didn't know anything.

Q The only thing that you knew, you were acting under the instructions of your superior? A. Acting under orders of Inspector Neary.

Q Did you know where he received or how he received his orders? A. No, I did not.

Q Were you present at the vault in the Spingarn-Arcade Building in Jersey City at the time the Sergeant-at-Arms of the House of Assembly appeared? A. What day was that?

Q I think that was last Tuesday. A. Well, on a Tuesday I was there, yes.

Q What did the Sergeant-at-Arms do, if anything?

A Well, what they done particularly I can't remember because the questions were not directed to me. I was just there merely as a subordinate. Therefore, I didn't pay much attention other than listen to the orders from my superior.

Q Was a resolution read in that room by the Sergeant-at-Arms? A. There was a resolution read, yes, or they said it was a resolution. I didn't see it.

Q Was Inspector Neary standing next to you? A. He was.

Q And you could have heard the resolution if it was read?

A I could have, yes.

Q Didn't you hear Mr. Young read, word for word, from a certified copy of resolution containing the same?

A I didn't pay no attention to it.

Q Didn't Mr. Young say to Inspector Neary and to you, "This is Mr. Hogan, the Sergeant-at-Arms of the House of Assembly"? A. Mr. Young never directed any remarks to me.

Q Didn't Mr. Young say it to someone in that room?

A I don't remember.

Q Would you say that he didn't say it? A. I wouldn't say anything. He might have said it but I didn't hear it.

Q Did you know what Mr. Young was there for?

A No, I can't say I do.

Q Do you usually take details just to go somewheres and not be told what has got to be done nor what will happen there?

A I didn't take the detail. I was ordered.

Q The details of what is to be done and what will happen, if anything? Do you mean to tell me that no one told you what was going to happen there? A. I told you I was sent there and told you what I was to do. I tried to do what I was ordered to do, to the best of my ability.

Q Didn't Mr. Hogan ask you and Inspector Neary to remove yourselves from in front of the vault? A. No one directed any remarks to me, Mr. Counsellor.

Q Didn't Mr. Ferguson attempt to remove the seal on that vault? A. Well, now, as to the attempt I can hardly

say. I may have been looking the other way. There is quite a few people in the room, and at the time he might have made the attempt-- I wouldn't say that he did-- I might have been looking the other way. I saw him make no attempt.

Q Did he walk up to where you and Inspector Neary were standing, and didn't you or Inspector Neary say he would not allow Mr. Ferguson to remove that seal? A. Mr. Ferguson was standing on the far side of the room. Inspector Neary was standing between me and the committee, and I could not have seen Mr. Ferguson because of that reason.

Q Now, you say that you were there for law and order?

A That is right.

Q Were there any disturbances there before Mr. Hogan asked you to remove yourself from in front of the vault?

A No, I can't say there was.

Q Isn't it a fact that you got instructions to place yourselves before the vault and not allow anyone to attempt to take the seal off? A. That is so.

Q Who gave you those instructions? A. Inspector Neary.

Q Then you were not there for law and order? You were there to watch the vault? A. That is not for me to say.

Q Then what did Inspector Neary tell you?

A You were just after hearing it. What is the use of repeating it?

Q I would like you to repeat it. I want to see if you are straight in your answers. A. What did he say and when did he say it?

Q Yes. A. What are you talking about?

Q I am talking about the morning that you and Inspector Neary were in the Spingarn building. A. Yes.

Q What instructions did Inspector Neary give you?

A At what time?

Q Any time in the morning. A. Oh, he may have given me any number of instructions to remain there at that point and continue doing what I had been doing for the past ten weeks.

Q Had you been standing in front of the vault for ten weeks? A. Not at all. There is men who took my place at various times.

Q At any time did anybody stand in front of the vault?

A Many times.

Q Are you positive about that? A. During the ten weeks, certainly.

Q Wasn't the vault always open? A. No, it is closed at night time.

Q During the day? A. The vault was opened during the day when the majority of the Election Commissioners were there during the recount; at no other time, to my knowledge.

Q Did you ever speak to Mr. Corcoran? A. Well,

during the recount I may have said good morning and passed the time of the day.

Q Did Mr. Corcoran give you any instructions on guarding the vault? A. No, I wouldn't accept them if he--

Q You would not accept them? A. No.

Q Now, I am going to get back to where Mr. Hogan was. Mr. Hogan came into this room with some deputies. Do you recall that? A. He came in the room with some men. I don't know whether they were deputies or not.

Q Now, Lieutenant, you knew they were deputies?

A There was nothing to indicate that they were deputies. They had no badges, no uniforms. They didn't look any different than you do.

Q I was there? A. Yes, you were there.

Q What did you think I was there for? A. You were there, as I understand, as counsel of the committee.

Q What did you think we were there for? A. I don't know what you were there for.

Q You mean to tell me that you didn't know that we were there for a definite purpose? A. I am telling you-- I am not good at guesswork.

Q You read the Jersey Journal that morning?

A I don't read that paper.
you read

Q Did the Dispatch? A. No, I don't get up early enough in the morning to read that. That comes out in the

morning.

Q You are pretty cagey, aren't you, Lieutenant?

A No, it is not that, but as long as you are going into it that way, I will have to answer that way.

Q I think you are going into it in a pretty slick way.

A I will answer any question put right.

Q I am going to ask you again, isn't it a fact that Mr. Young read a paper which purported to be a resolution, certified to by the clerk? Isn't that a fact? A. He read a paper. I answered that yes, before.

Q And you say that you don't know what he read?

A I don't remember the contents because I paid no attention to it. It wasn't being read to me. It was being read to the Inspector and I didn't think it was up to me to interpret what it was. I was there merely to take orders from my superior.

Q Did you hear the Inspector say, "Don't serve any resolution on me. Take it up with Supervisor O'Neil."?

A No, I didn't hear any such thing, Counsellor. It may have been said but I didn't hear anything.

BY MR. PALESE:

Q What did you hear that morning? How big is this room where this resolution was read? A. It is about as big--

Q Is it any larger than this room? A. It may be

slightly larger.

Q Do you suppose that that gentleman down there is having any difficulty in hearing you talk, at the end of the room? A. Well, Mr. Palese, I could be standing next to you and not be paying any attention.

Q And you would not get one word of what I was talking?

A You could hear a mumble but just what it would mean I would not interpret what was said.

Q Don't you know that under that resolution read by Mr. Young-- A. I admit I heard the resolution. There was conversation that I didn't pay that much attention to.

Q Don't you know that Mr. Young told the Inspector that the Sergeant-at-Arms was there with them and the deputy?

A I didn't hear it.

Q How far away were you from Mr. Young? A. Probably three feet, four feet.

Q You didn't hear a thing of this resolution?

A I wasn't paying no attention to it.

Q What were you there for? A. I was there for the purpose I already stated.

Q And you had your ears pointing some other way?

A The ears don't have to point.

Q I mean on this day, they did not hear what was going on? A. I did not attempt to hear. It wasn't my business to interpret anything.

Q I am not asking you to interpret what was said.
I am asking you if you heard what Mr. Young said.

A I heard talking, yes.

Q You were two or three feet away from him and he read two or three pages, and you didn't know what he was reading?

A Of course, I got a word here and there.

Q What was the word that you got as to what the contents of the resolution was? A. I can't remember now. There would be so much of it.

Q When he got all through you didn't know what was in the resolution? A. No.

Q And you don't know today? A. No, only what was in the papers.

BY MR. GIULIANO:

Q You did read the newspapers? A. Later on.

Q When was the last time that you read a newspaper?

A I was just trying to read one in the hallway.

Q You read English? A. A little bit.

Q Do you remember that the Sergeant-at-Arms asked you and Inspector Neary to remove yourselves from in front of the vault; that he had an order from the House of Assembly to take certain records that were in that vault? A. The Sergeant-at-Arms never addressed himself to me.

Q He addressed himself to Inspector Neary, and you were there, weren't you? A. I was next to him.

Q Did you hear him talking? A. Certainly I heard him talking.

Q Did you hear anything that the Sergeant-at-Arms said?

A Not particularly, no.

Q Do you mean to tell me that you, as a police officer, are assigned with an inspector, and we will say that something happens, and just because you are with Inspector Neary you won't do your duty or even listen or look as to what is going on? A. As a matter of fact, I was doing my duty. I was there as a subordinate, and it was up to Inspector Neary, being of higher rank, to take full responsibility of the situation. Therefore, I paid no attention other than taking his orders.

Q If you were to testify that a crime had been committed in that room, you want this Committee to believe and you want me to believe that you were acting under Inspector Neary's supervision and that you saw nothing, if something did happen there? A. Maybe if something exceptional happened I would have taken notice.

Q You didn't think anything exceptional happened when the Sergeant-at-Arms or Mr. Young read the resolution passed by the House of Assembly? A. No, it is just like reading a letter or some kind of notice. I didn't think it is anything exceptional.

Q Would you be moved if the House of Assembly would

ask for the passing of a bill abolishing your job? Do you think, then, you would know what the House of Assembly meant by a resolution or a bill? A. That would be something.

Q And you would read about it in the newspapers, too. Now, Lieutenant, let us get down to the ground. You knew why you were there? A. I told him why I was there.

Q You knew that this Committee was going to come there for the books? A. Nothing of the kind.

Q What did you think these men and the newspaper photographers were doing there? Were they around guarding the vault? A. They were there for the past ten weeks.

Q All of that? A. Pretty near all of that.

Q When was the last time that you saw a photographer there in the last ten weeks? A. We had seen some. We saw ^{some} the day before, on a Monday. Weren't they down on Monday?

Q Was the recount going on then? A. No.

Q When was the last time during the recount that you saw a photographer taking a flash there? A. I believe it was the first day I came there.

Q How long ago was that? A. About nine weeks.

Q That is right. And you have not seen any since then except the day we came there, last Tuesday? A. I wouldn't say that. They might have been there and I stepped out.

Q How many were there last Tuesday? A. Quite a few.

Q Didn't you think, as Lieutenant of Police, that it

was quite unusual, and that something was happening if so many photographers were in the halls and in the rooms of the Hudson County Board of Elections? A. Yes, it was a little unusual.

Q You, as a lieutenant, were to preserve law and order, and you didn't take the time to question the photographers as to what they were doing there? A. You see, you never want to get in trouble with any newspaper men.

Q I agree with you. A. Answering your question, yes, that is the reason. Of course, you have got to give them all the courtesy.

Q You didn't think enough to find out, as Lieutenant, whether or not Mr. Hogan was the Sergeant-at-Arms of the House of Assembly? A. I didn't think it was my place.

Q Did you know that Mr. Young was a member of the House of Assembly? A. Only what I read from the papers, yes.

Q Did you doubt that he was a member of the House of Assembly? A. Of course not. Why should I doubt it?

Q Did you doubt that I was one of the counsel of this Committee? A. I don't doubt it.

Q You didn't question me or Mr. Young as to whether or not we were there to break the law? A. I couldn't question anyone.

Q You shouldn't? A. No.

Q How long have you been a police officer?

A Because of the fact that my superior was there at the time, if there was any questioning to be done he should be the one. If I were alone there, it would be a different thing.

Q Did you see anybody trying to take the seal or attempting to take the seal off the vault door? A. No, I didn't.

Q Was there a skirmish of about thirty seconds there when someone attempted to make a grab for the door?

A As to the door, I am still wondering how it occurred. I must have been looking the other way, and all of a sudden I felt myself being pushed back against that vault door. I looked forward and I saw sort of a stocky fellow who I found later was Mr. Joseph Giuliano, if that is what you mean.

Q That is what I mean. You know what I mean, Lieutenant. You know pretty well. You say that you were pushed against the vault door? A. The vault door.

Q Wasn't your back against the vault door? A. I was probably partway over the vault door.

Q You never moved from the vault door? A. I wouldn't say I never moved, from it.

Q While we were in the room? A. Oh, no.

Q You had pretty definite orders? A. I had orders, yes. I admitted that before.

Q To watch the vault? A. Yes, that is right.

Q That the Assembly Committee was coming over?

A I don't know nothing about the Assembly Committee.

Q Did you ever hear about the House of Assembly?

A Yes.

Q Do you know what it is? A. I think so.

BY MR. PALESE:

Q Lieutenant, what did you do when you were pushed near the vault? A. As Mr. Giuliano said, it was over so quick, it was a matter of half a minute, there was nothing I could do. I went back against the vault door and it was all over.

Q Did you try to arrest the man who did the pushing?

A As I said to Mr. Giuliano, I was there as subordinate. If there was any arresting to be made there, I think it was the place of my superior to order it.

Q Do you mean to say that if you and Inspector Neary are going down the street and you saw a crime committed, that you would wait until you got orders from Neary to make an arrest? A. There was no crime committed.

Q If I saw you on the street and pushed you against a house, you would stand for it? A. That was an accident.

Q Did you find out whether it was an accident?

A I say, it wasn't up to me to find out. My superior was there and he knew if there was any action to be taken he would have to take the further action.

Q Did you ask the Inspector whether or not you should arrest the man who pushed you up against the vault?

A No. His silence indicated to me it was all right.

Q That is how you work in Hudson County, if you are with a superior and anything should happen you wait until you get your orders from the superior? A. Anyway, a consequence of that kind, it did not amount to anything. He might have slipped. That is all I know.

Q When did you first make up your mind that there had been an accident? Right following it? A. That was a room-- if there was any effort made on their part to force the safe, as you people are trying to get me to say, that they would have continued on? But the fact is that it happened in one half a minute and nothing else was done, which indicated to me that there was going to be no trouble.

Q And you just took the push for an accident; is that it? A. Well, that is it.

BY MR. GIULIANO:

Q In other words, in your police duty you never do anything unless your superior tells you to do it?

A If he is there. After all, I think he should be the one to do the honors.

Q Suppose that your superior was injured, and I hope he never is, and you knew the person who did it, would you wait until your superior told you to go and arrest him?

A No. In that case it would become a little more serious.

Q And this is not serious? A. No. No one was hurt. Everybody was smiling. I figured everything was all right.

Q You don't think this Committee is really serious in what they are doing? A. I am not saying any such thing. Do you deny that you smiled that day?

Q I am always smiling. For the record, I am known as "Smiling Jim," but I am not smiling at you, Lieutenant. Maybe you think it is a laughing matter. I don't. I think you are evasive. I think you are pretty cagey, and you don't want to answer questions that are put to you.

BY MR. PALESE:

Q How long have you been a member of the Police Department? A. Fifteen years.

Q And if, on that occasion in the Spingarn Building, you had heard the resolution which was passed by the House of Assembly, directing the Sergeant-at-Arms to seize the poll books, and if you thought that the House of Assembly had the right to do that, would you disregard that and take the orders given you by Inspector Neary? A. I would have to take the orders given to me by Inspector Neary.

Q Do you mean to say, Lieutenant, that ^{if} you saw a crime committed or some person is violating the law, and your inspector tells you not to arrest that person, that you

won't arrest him? A. Are you assuming?

Q I am assuming that a crime has been committed, and you have orders from your inspector not to arrest the person. What would you do under the circumstances? A. I would do as he directed, and-- just a moment. You asked a question. Let me answer.

Q All right, I will let you answer. A. His superior knowledge of the police business, and his being present at the time, relieves me of the responsibility.

Q Who gave you that piece of law? A. That is my opinion.

Q That is your opinion, that if a crime is committed and you don't think it is a crime, you don't have to arrest the person? A. If he is present there.

MR. GIULIANO: That seems to be the opinion of all the subordinates in Hudson County. We had Miss Seglie and now we have you. In other words, if Chief Justice Brogan makes an order and Inspector Neary does not agree to go along with the order, you are even going to defy the Supreme Court, because he says so?

THE WITNESS: I believe that if such an order was given it would not be directed to me.

Q Supposing it were directed to you, to do a certain thing? A. What thing, for instance?

Q Supposing that it was so directed to you, to keep away

from that vault in Hudson County, so that the Sergeant-at-Arms of the Assembly could get those records, and Inspector Neary said, "Don't permit the Sergeant-at-Arms to get the books." Would you take the order of the Assembly or the order of Inspector Neary? A. I would take the order of Inspector Neary.

Q That would also apply if the order came from Chief Justice Brogan, directing you to permit so and so to get the books, and you would take the orders from Inspector Neary and not from the Court? A. Yes, sir.

BY MR. GIULIANO:

Q Let us suppose that Frank Hague-- you know who Frank Hague is? A. I have a slight idea.

Q Who is he? A. He is the mayor of Jersey City.

Q Let us suppose that Frank Hague asked you to allow us to go into the vault, and Inspector Neary said to you, "Don't you do it," would you listen to your inspector, again, too? A. Absolutely. Have you been a soldier, Mr. Giuliano?

Q I am sorry, I have not. A. If you were you would not ask that question.

Q I am sorry I have not been. I have two brothers; maybe that would help you. A. I mean you always obey your superior officer.

BY MR. PALESE:

Q Not as a police officer you don't, Lieutenant.

MR. OSMERS: You obey the law.

Q When you see the law violated, it is your duty to apprehend the violator and not listen to your superior.

A All right, Mr. Palese. At the time you asked the question, Inspector Neary was present and I think that relieves me.

Q It makes no difference whether he is present or not present; if he violated the law you, as a policeman, ought to see that the law is taken care of.

BY MR. GIULIANO:

Q Lieutenant Antonacci, did you prevent the Sergeant-at-Arms of the House of Assembly from going to the vault in order to take from that vault certain records which were set forth in a certain subpoena served upon Mr. Stoebling?

A I don't recollect stopping anyone from going in there, but if that effort I was just citing not long ago, about pushing us in there, was stopping him, then I was stopping him, and if I did stop him I was so directed by my superior.

Q In other words, you were instructed by your superior?

A That is right.

Q And if anybody tried to get in this vault you would do everything possible to keep him out? Isn't that a fact?

A I would not say that was it. As I said previously, I was there to preserve law and order.

Q That is not an answer to my question. I am asking you a question. Answer yes or no. Isn't it a fact that you were

there? A. That is right.

Q To prevent anyone from getting into that vault?

A I wouldn't say that, no. If Mr. Stoebling came there I would have no other course but to let him go in there, but, of course, it wasn't up to me. Inspector Neary, who was my superior, was there on the spot. It would be up to him to decide whatever the little thing is.

BY MR. OSMERS:

Q Did you say that you would have allowed Mr. Stoebling to come in? A. Through my orders from Inspector Neary, who was present at that time.

Q You would permit Mr. Stoebling to go into it? You said that if Mr. Stoebling came there you would have no other recourse-- I believe I am correct on that-- you say now that you would have no other recourse? Do you want to change your testimony? A. It is not a question of changing testimony. I said, as long as Inspector Neary was there it would be up to him to decide the question, and not I. As I said all along in this testimony, I am only expected to follow out-- I was under the strict orders of my immediate superior, Inspector Neary, and any orders I carried out was given to me by him.

Q Inspector Neary did not order you to keep the people out of the vault? A. I think I said-- what was said was, He told me to preserve law and order and prevent anybody from

going into the vault.

BY MR. GIULIANO:

Q That included Mr. Stoebling, too? A. No word was mentioned about Mr. Stoebling.

Q Suppose that Mr. Stoebling came in and you were there alone, and Inspector Neary had been called back to headquarters, and before you left he said, "Don't let anybody go into the vault," would you allow Mr. Stoebling to go into that vault?

A If I knew Mr. Stoebling probably I would, but in any case I would have to get in touch with my immediate superior.

Q You are sure to add that to your answer.

A After all, I wouldn't go on my own.

Q You mean to tell me that if Mr. Stoebling came in there and you were there alone, you would have to call your superior? A. Now, counsellor--

Q I am asking you that; do you mean to tell us that if Mr. Stoebling came in there and you were alone and you had definite instructions from Inspector Neary not to allow anybody in that vault, that you would first call up the Inspector?

A Yes, I would first get in touch with my inspector.

MR. GIULIANO: Now we know where Mr. Stoebling stands.

BY MR. MURRAY:

Q Was this man sworn? A. Yes, I was sworn.

Q I wasn't here for all the testimony, but I gathered

from what you said, Lieutenant, that you were in a trance while standing in front of that vault door. How far were you from Inspector Neary, when both of you were standing in front of that vault door on the Tuesday that this Committee went over there in an endeavor to gain entrance to that vault?

A I was standing right next to him.

Q How close? A. Almost touching him.

Q Almost touching him? A. Yes.

Q So that you were probably a foot or less away from him? A. That is right.

Q Do you recollect that the Superintendent of Elections, John Ferguson, was there? A. I heard his name mentioned.

Q Never mind about whether you heard his name mentioned. Weren't you looking at him? A. I probably was.

Q Never mind "probably;" were you or were you not looking at John Ferguson? A. Yes.

Q Yes you were, all right. How far away was John Ferguson from you when you were looking at him?

A Well--

Q About how far? A. About four feet.

Q And you had your attention focused on him, did you not, Lieutenant? A. I did not.

Q You were looking at him. Did you have optical illusions while you were looking at him? A. My eyes glanced around at the crowd.

Q Your eyes were glancing right at him.

A Not especially at him. There was other people.

Q Weren't you looking directly at John Ferguson-- just a moment, you will need all your time to digest these questions-- weren't you looking at John Ferguson directly?

A When.

Q When he was standing these ^{three} feet away from you that day, Tuesday, when the rest of the Committee, with the Sergeant-at-Arms and his deputy, were at the vault on the seventh floor of the Spingarn-Arcade Building? A. No.

Q What were you doing? A. I was looking straight ahead through the window, out of the building.

Q You just testified that you were looking at John Ferguson and you saw him there? A. No. I saw him during the morning, there.

Q I am talking about the particular time when the Committee was there and you were a foot or less away from Inspector Neary. Didn't you see John Ferguson there?

A I saw John Ferguson there, yes.

Q You testified before that you saw him? A. Yes.

Q You didn't see John Ferguson there in front of you about four feet, while you were looking out of another window, in the opposite direction? A. No, of course not.

Q Who else did you see near John Ferguson, I mean? Didn't you see, and weren't you as well as Inspector Neary

introduced to the Sergeant-at-Arms of the House of Assembly of the State of New Jersey? A. He was not introduced to me.

Q Wasn't he introduced in your presence, while you were looking? A. He might have been.

Q Not "might have been." Don't you know that he was?

A No.

Q You were looking right at him? A. I could not have been.

Q Why? A. Because I was standing in front of the vault.

Q Yes, I know where you were. A. Where Mr. Ferguson was standing in relation to that vault?

Q Yes. A. Where was he standing?

Q He was standing to your left. A. He was between me and Mr. Ferguson.

Q What has that got to do with Hogan? A. I am trying to show you that I could not have been looking at Mr. Ferguson.

Q I am not talking about Mr. Ferguson. I am talking about Mr. Hogan, Sergeant-at-Arms of the House of Assembly.

A I wouldn't know him if I met him this minute.

Q I am not asking you that. You saw him that day? He was introduced to you and to Neary and everyone else. He was made known by Mr. Young, was he not? A. It was probably

done.

Q I want to show, and you will admit, that you were wide awake. You were under orders there, were you not?

A Yes.

Q And when you are under orders, Lieutenant, even though there is an inspector or chief there, you haven't got your body there and your mind a block or two blocks or miles away as a rule? A. Sometimes.

Q As a rule? A. Not as a general rule, no.

Q All right, you didn't that day. A. I will tell you the truth. I wasn't paying much attention. There had been so much turmoil about the thing, I just thought--

Q You thought what? A. There had been so much going back and forth. The previous morning it was the same thing, all over again.

Q No, it wasn't the previous morning because that was the first morning this happened, so the same thing could not have happened the previous morning, which was Friday morning. What were you thinking about? A. You have got the days mixed.

Q Monday morning? A. Monday morning the Committee came in there.

Q Who was with the Committee? A. There was quite a crowd.

Q Of the Committee? A. Of the Committee. Quite a

crowd came in with the Committee and Mr. Wiener said to me, "I will have to identify these people." He identified them and they got there.

Q The Committee, on Monday morning? A. On Monday morning.

Q Was Mr. Palese there Monday morning? A. I think it was Monday morning.

Q Was Mrs. Sanford there on Monday? A. I don't remember whether the lady was there.

Q Are you sure she was there on Monday? A. Some lady was there; I know that. Now, I am not sure about Monday now. It might have been Saturday. I think it was on a Monday. I think it was on a Monday.

Q Now, it looks, Lieutenant, as though you have your days and dates mixed up. A. Maybe we have.

Q That same thing did not happen on Tuesday, that confusion of opening the door and letting the crowd run in? That did not happen on Tuesday? A. What?

Q Just what I said. A. The rushing in you mean?

Q Yes, it didn't happen that day. Where were you when the Committee first came, do you recollect, on Tuesday?

A Yes.

Q Where were you? A. I was at the outer door of the hall.

Q Outside of the door in the hall, outside of the room?

A That is right.

Q When the Committee first came? A. That is right.

Q Where was Inspector Neary? A. He wasn't there at the time.

Q On Tuesday? A. He wasn't in the hall with me at the time.

Q He wasn't in the hall? A. No.

Q Where was he? Do you know? A. I think he had gone. I couldn't tell you where he had gone; over in the inner office or downstairs somewheres.

Q And the Committee came along and wanted to get inside the door, into the room? A. That is right.

Q Did you let them in? A. No, I didn't.

Q Why didn't you? A. Well, I will tell you the truth. I didn't know that they had the right to go in.

Q What did you have to do to find out whether they had the right? A. Just at that time the Inspector showed up and I called him over and he took care of the situation from then on.

Q Where did you go? A. I remained with him.

Q What did he say to you when he came along?

A He didn't say a word.

Q What did you say to him? A. I told him Mr. Wiener said that the Committee is here and wants to get in. I said, "It is up to you and you are here now and take care of it."

Q What did he say? A. I suppose he went right on and took care of it and let them in.

Q What did he say? A. He didn't say anything.

Q He didn't say anything to you and you didn't say anything to him? A. No.

Q You were two dummies; is that right? A. All right.

Q Do you understand the deaf and dumb language?

A I never took it up.

Q You didn't? A. No.

Q Then was the door to the room opened?

A I suppose--

Q Don't you know? A. Do you know whether I am asking you a question? A. That is right.

Q You opened it? A. No, I didn't open it.

Q Did the Inspector open it? A. I don't think so.

Q Who did? Do you know? A. I think there was another officer at the door.

Q Who was it? I thought you said that you were at the door in charge on the outside? A. I was one of them. I wasn't there alone.

Q You don't know who opened it? A. No, I don't recall.

Q But it was opened? A. Yes.

Q And you didn't say anything to the Inspector and he

didn't say anything to you? A. That is right.

Q What did the Inspector do and what did you do then?

A We both went in. I went in with the Inspector and the Committee, and I think that there was a few newspaper men came in there, and we proceeded to the vault, and he then told me, "You stay over here and protect this vault."

Q Who told you? A. The Inspector, when we got there, and I remained there from that time with him.

Q Is that all he told you, "Just remain here with me"?

A We were to see that this is not disturbed, no damage to be done to this property, this county property.

Q What property? A. The vault, for one thing.

Q Did he mention anything else? A. "Prevent them from going in and taking the boxes in there, which is also county property, and you are to stay here with me and see that that is done."

Q That what is done? A. Now I just said it.

Q What did you just say? A. What do you want me to do, keep repeating? I said, to preserve law and order and protect that property.

Q To protect it from being taken out of the vault?

A I imagine that is it.

Q So that you were on your guard and had your mind set to follow out the orders of your superior? A. That is correct.

Q So that you were on your metal that day, standing within one foot of your Inspector, and you were facing with the crowd or Assembly delegation, were you not?

A No, the crowd was to my left.

Q But you were facing-- your body was this way and your face was this way (indicating), wasn't it?

A The crowd was to my left. I was facing that way (indicating).

Q Did you see any picture of yourself at that vault door then? A. No, of course not.

Q It is your custom, Lieutenant, that when you are trying to preserve order, to prevent a group there from getting in behind you, that you will look this way (indicating)? Is that the way you would do police duty? A. What is that?

Q I say that when you are stationed to prevent a crowd from getting into that place which is at your back, as this vault was, and that group is over here (indicating), is it your custom to do police duty by looking over in this direction (indicating) and not in that direction?

A The Inspector was next to me on the left.

Q Is it your custom? A. I will not answer the question that way.

Q Why? A. Because it will read in such a way as if I was derelict in my duty.

Q What, then, were you? Are you telling the truth?

A My back was to the vault door.

Q Are you telling the truth? A. I am telling the truth.

Q Were you looking to the right when your duty was to watch this crowd at the left? Were you or were you not?

A At times I was.

Q Were you, while that group was there, derelict in your duty? Were you looking to the right or were you looking to the left? A. I was looking around.

Q You were looking around? A. Yes.

Q What do you mean "around"? A. Not keeping my gaze in any one direction.

Q At times you were derelict in your duty and at other times you were not? Is that what you want us to understand?

A If that is what you want to understand.

Q You just said that you were looking to the right, and you are trying to make a statement that would put you in the position of being derelict in your duty. If you were looking to the right and not looking to the left, then you were derelict in your duty. A. You are trying to give the impression that the people on my left were trying to do something, that they were under suspicion.

Q Yes, maybe they were. Don't worry about them. Worry about this. They must have been under suspicion, when you get your orders to do police duty and protect their getting into

the vault. You testified before, and do you still say, that you were looking to the right, away from these people, and not looking at them at that crucial time. A. No, I was just--

Q You are changing your testimony. A. Will you give me the chance to open my mouth?

Q You will have. A. Then for God's sake, keep quiet. I told you it had to be a statue, to be fixed in one direction.

Q You didn't tell me that. A. I got to tell you; you don't seem to understand, that a person in any position will allow his gaze to wander from place to place. I didn't have to look at any particular person all the time. I kept gazing around. I didn't have to be looking to my right or straight ahead. You are trying to give everybody the impression--

Q What I want to know is if you still want that testimony in this record. A. What testimony?

Q That on that day you had been given your orders to prevent this group from getting into that vault. I want to know if you still want the testimony in this record, that instead of looking at that group you were looking to the right, away from that group. A. No.

Q Then you want your testimony changed; is that it?

A (There was no answer.)

Q All right, you have a right to change it. Tell us now

where you were looking. A. I was glancing around.

Q So the testimony is practically the same, that you were not looking at these people? Right? A. I may have glanced at them.

Q Isn't it a fact that you don't know what you were doing? A. It may have been so, but sometimes you will look, and a lot of people are funny--

Q Do you know what you are doing now? A. I think I do.

Q What are you doing? A. I am testifying here before this Probe Committee.

Q That is right. Don't you recollect that while you were within one foot of Inspector Neary, that John Ferguson was told to advance toward the door of the vault and break the paper seal on that door, and don't you know that John Ferguson did advance toward that door, to get between you and Inspector Neary, to break that seal? A. I didn't see Mr. Ferguson approach or advance.

Q What happened when he advanced towards the door, with the intent to break the seal, as far as you and Inspector Neary were concerned? A. As I said, Mr. Murray, I didn't see Mr. Ferguson advance or do anything there. Therefore, I can't tell you what took place. I didn't see it.

Q You are just after testifying that you did see him advance to break the seal. A. Mr. Murray, if Mr. Ferguson

advanced, he could only have approached from one direction, and that is to my left.

Q That is true. A. And Inspector Neary was to my left.

Q That is true. A. And he is slightly taller than I am.

Q That is true. A. I would have had to look right through him in order to see Mr. Ferguson advance.

Q You would have to look through Lieutenant Neary?

A To be able to look through him.

Q How thick are you? A. I don't know how thick I am. It is a question of how thick he is.

Q I mean physically. A. Well, he is not very heavy.

Q I mean you. I am not joking. I mean it.

A About forty-two inch chest.

Q Expanded? A. No.

Q How thick would you say Inspector Neary is?

A I couldn't guess at that.

Q You would say that he is thinner than you?

A Slightly I think, yes.

Q And you know that John Ferguson is much bigger than either of you; isn't that true? A. Oh, yes, broader.

Q Everywhere? A. He is taller and broader.

Q A pretty tall man? A. Yes.

Q And broad? A. That is right.

Q And the position of you and Inspector Neary in front

of that vault was somewhat like this desk (indicating the stenographer's desk) and myself? A. No, we were almost touching, I said.

Q You were almost touching? A. Yes.

Q Do you mean to tell me that Inspector Neary had his back almost to the door of the vault? A. He did.

Q He did? A. Yes.

Q Was he right back to it? A. Well, within a couple of inches, about six inches, yes.

Q How near the door were you? A. About the same distance from the vault door.

Q So that he was on your left? A. That is right.

Q And he is thinner than you are? A. That is right.

Q He was within a few inches of the door of the vault?

A That is right.

Q And you are thicker than he is, and you were about the same distance? That is correct, isn't it, Lieutenant?

A Yes, sir.

Q And John Ferguson is a bigger man and a taller man than either of you? A. Yes, he is.

Q So that it was physically possible and easy for you to see John Ferguson? You would not have to look through him, Lieutenant? He would not have to be transparent for you to see from your position to John Ferguson's position?

A Not if I was looking in that direction.

Q You testified that you were doing your duty and

looking in that direction, at least at times?

A At times, yes.

Q So that you did see John Ferguson advance towards the vault door? A. No, I didn't. That is one of the times when I must have been looking the other way.

Q So that you were looking the other way again? Right?

A I must have been.

Q Did you see Inspector Neary repulse John Ferguson at all? A. No, sir.

Q Would you say that he didn't? A. I don't think I would have the right to say anything.

Q Never mind what you have a right to say. Will you testify that Inspector Neary did not repulse John Ferguson, physically? A. Yes, I think I would say that.

Q How could you say that he did not repulse him if you were not looking? A. Well, because I know Inspector Neary.

Q You know Inspector Neary? A. Yes, I know the kind of man he is.

Q What has that got to do with this? A. I don't think he would be the kind of man, physically, to repulse, I mean, a man of Mr. Ferguson's caliber.

Q A man of Mr. Ferguson's caliber? What kind of caliber is that? A. Very good.

Q Do you think he would physically repulse somebody of a different caliber? A. Well, I am not saying that.

We are talking about Mr. Ferguson now. After all, Inspector Neary is a policeman.

Q And he was there for a specific duty, as you were?

A That is right.

Q And that was to repulse anybody that endeavored to get in there? A. No, to preserve law and order and protect property.

Q And to prevent anyone from getting into that vault?

A That is the orders that he gave me.

Q You don't think that he would give you orders to do something he would not do himself, under the same circumstances?

A I don't know what he would do. I only follow his orders.

Q Do you think he would give you those orders that day, if the Committee and the Sergeant-at-Arms endeavored to gain entrance, that he would say, "You go to it, Lieutenant; those are your orders," and that he would step aside?

A I didn't get the question. I am thinking of something else.

MR. MURRAY: Mr. Stenographer, will you please read that question?

(The last question was read by the stenographer.)

THE WITNESS: What do you mean?

Q I mean that he would fail to do his duty and leave it all on you to keep these people out. A. If he done that?

Q I say, do you think he would do that?

A No.

Q Then you think that if he gave you the orders to do that, that he was also there to do the same kind of police duty? A. That is a supposition on my part.

BY MR. PALESE:

Q You don't think the Inspector would run out on you, would you, if he gave those orders? A. No. If he gave them I think he would be man enough to stand by them.

BY MR. MURRAY:

Q So that, in your estimation the two of you were there to do police duty, maintain order, prevent anyone from getting into that vault? Right? A. Yes, sir.

Q Therefore, when John Ferguson advanced to break the seal, and those were your orders, you mean now to tell this Committee and to testify here that you did not see John Ferguson advance and you did not see the Inspector repulse him, but you won't testify that he did not repulse him? Is that true? A. How can I testify that he did not repulse him?

Q You understand that question. A. I understood the question but I can't testify to that because I didn't see him.

Q You can't testify to what? A. Would he repulse him?

Q Did he repulse him? A. I didn't see him repulse him.

Q You didn't see him repulse him? A. No.

Q Was the seal broken? A. No, sir.

Q And you were within one foot of the Inspector when John Ferguson, a bigger man than either of you, advanced there, and just at that particular time your testimony is that you must have looked the other way again? Is that so?

A I might have been glancing the other way.

Q Did you hear Mr. Ferguson say anything? A. No, I did not.

Q You did not? A. Honestly, I didn't.

Q You didn't hear him say, "Well, gentlemen, I tried but they won't let me break the seal"?

A I didn't hear it.

Q Did you see John Ferguson when anything like that was said? A. No. You see, the position I was in, I couldn't very well see him.

Q I know the position you were in, Lieutenant. I was there. A. Then you ought to know.

Q Didn't the group that was there back from you a bit, and the Inspector and you went near the vault door, and wasn't John Ferguson probably, I think, he was the tallest man in the room? A. I think he stood out all right.

Q Don't you think that he was the biggest man in the room, all around, physically? A. Yes, I think so.

Q So it would not have been hard for anyone to see him, not alone you and Inspector Neary that were up against the door, but the rest of us? A. I couldn't help but seeing

him if I was looking in his direction.

Q O. K. He was easy to be seen. Lieutenant Neary is nearer the door, thinner than you are, and each of those times you turned your head away and didn't see him?

A It just happened.

Q You are afraid it may appear as though it is a dereliction of duty, so you think that is what I am trying to prove, but, nevertheless, you are testifying that those were the facts. O. K. If they were, we will leave them there.

You didn't see John Ferguson advance and you didn't repulse him yourself? A. No.

Q You didn't see him repulsed by Inspector Neary, and you won't testify that Inspector Neary did not repulse him? Is that true? A. That is right.

Q Don't you recollect Inspector Neary saying substantially this, "Why tell me? I have nothing to do except to follow out my orders. Why don't you read the resolution that you say you have, to John Corcoran of the Board of Elections, or why don't you read the resolution to Alice Seglie, who is Stoebling's clerk?" Do you recollect your Inspector saying substantially those things? A. I only heard some kind of answer but I can't tell you exactly.

Q I am not asking you to say exactly. I am asking you, don't you remember your Inspector, who was within one foot of you, saying substantially what I have just said?

A I think he said something like that but I just said I

won't go into it word for word.

Q I don't want it word for word, but he did substantially say that? A. Something of that kind.

Q Don't you further recollect, then, that Mr. Young told him, told your Inspector in your presence, while you were within one foot from your Inspector-- you know Mr. Young, don't you? A. Yes.

Q Did you see him there that day? A. Yes, I saw him.

Q Don't you recollect Mr. Young having a resolution read there? A. I heard someone reading it.

Q Don't you recollect your Inspector saying, "Well, all right,"-- substantially, I mean now, not word for word, "That resolution may be all right. It may be real authority, and so forth and so on, but we are under orders here to do certain things. Why don't you go and read that to or talk to John Corcoran about it?" And after the resolution was read saying about the same as he had said previously?

A Something like that.

Q So you do remember that a resolution of the House of Assembly of the State of New Jersey was read to your Inspector in your presence, and you testified substantially to what it said and what you heard your Inspector say? Now, after that isn't it true that the Sergeant-at-Arms, Mr. Hogan, or a man who was said to be Mr. John Hogan, Sergeant-at-Arms of the House of Assembly, together with an assistant, who was

Mr. Joseph Giuliano, advanced towards you and towards Inspector Neary, endeavoring to get to the door of that vault that was behind you? A. Did they advance, you say?

Q Yes. A. Well, as I said before--

Q Now, yes or no. A. I can't answer that yes or no.

Q Can't you? A. No. You will take my answer or you won't take it at all, because I didn't see them advance.

Q You didn't see them advance? A. No.

Q Were you asleep again? A. No.

Q Were you looking the other way again? A. That is right.

Q Which way were you looking this time? A. To my right.

Q You were looking to your right again? A. Yes.

Q Is this the second or third time that you were derelict in your duty? A. It may have been the tenth time, for all I know. I wasn't looking at any one place steady.

Q Is that the way you usually act when people are delegated with authority, or whether they are not delegated with authority, and they endeavor to get some things which you are expected to guard, that you usually look the other way? A. No, Mr. Murray.

Q But you did this particular time, in each particular instance when anyone advanced toward you or toward the door

behind you, which you were put there to guard?

A You left out one important factor, that Inspector Neary was there at that time.

Q That has got nothing to do with you. A. It has got all to do with it.

Q You testified that you had certain specific orders? Right? A. That is right.

Q And that you were there to carry them out?

A That is right.

Q And that you had received those instructions from your superior, Inspector Neary? Right? A. That is right.

Q And you were carrying out those duties to the best of your ability? Right? A. That is right.

Q And that is what you were there for? Right?

A That is right.

Q But each particular time that these people advanced, or that any of them advanced to that door, to carry out the powers entrusted to them either in this resolution or by some other law, you happened to look the other way? Is that what you want us to understand? A. Those times it did happen, sir.

Q Don't you know that John Hogan, the Sergeant-at-Arms of the Assembly, advanced towards Inspector Neary, endeavoring to get to that vault door? A. No.

Q Didn't you testify that a gentleman, who happened to be Joseph Giuliano, advanced toward you in an endeavor to get

to that door? A. I knew it after I was pushed back.

Q You knew it after you were pushed back, but you knew it? A. After I was pushed back.

Q After he came in contact with you? A. Yes.

Q But you knew it? A. I knew it then.

Q How is it that you didn't know before he came in contact? A. Because I was looking the other way.

Q You were looking the other way? Right?

A Because it was the same time. Don't give the Committee the idea that I was looking that way all the time. This happened at the same time.

MR. PALESE: I was wondering how--

THE WITNESS: There was other people there.

Q That was the same time as what? A. That is the same time you say Sergeant Hogan was attempting to advance on Inspector Neary.

Q How do you know that it was the same time as the time when Sergeant-at-Arms Hogan was advancing on Inspector Neary?

A Because there was only one attempt to get to the vault.

Q How do you know? A. Because I was there.

Q Did you see it or did you hear it? A. No, I felt it.

Q You felt it? A. Yes.

Q You know, I left out the word "felt" purposely. Of course, you had to make that remark, too, but you have got

memory enough to remember that you didn't see it and you didn't hear it, and you are very quick to remember that you felt it? Right? A. That is easy to remember.

Q That is easy to remember, and the whole thing is easy to remember, if you want to remember, but, it is fine, if you like this testimony in there that that is the way you performed your duties, that will be fine. It will make nice reading.

Then you do know, however, by feel, by touch or contact and not by sight or hearing, that there was an attempt made to get into that vault? Right?

A Yes. I found that out afterwards.

Q What did you do then, when Joseph Giuliano, assistant to the Sergeant-at-Arms to the Assembly of New Jersey, endeavored to get to that door? A. I done nothing because it was over in a flash.

Q Did you step aside? A. I did not.

Q You still stood there guarding the door?

A That is right.

Q And you didn't let him open it? A. I did not.

Q You would not let him open it, would you?

A You are right.

Q You would not let him open it, would you?

A I would not let him open it.

Q So that you refused to let them carry out the mandate

of the House of Assembly, under that resolution?

A Under the orders of my Inspector, yes.

Q You prevented them? You stopped them? Right?

A Yes, if you want to call it that.

EXAMINATION BY MR. GIULIANO:

Q Did you ever work on Election Day in a district, Lieutenant? A. No.

Q I was wondering if you looked out of the window when they counted the ballots.

BY MR. PALESE:

Q Officer, how long had you been in this room where this vault is? A. About ten weeks.

Q When you first went there, what were your orders from Inspector Neary? A. They were to preserve law and order. It was just merely a question of keeping the crowd in check, because it was a public meeting, a public meeting house, and there was always plenty of people who would probably pass remarks; if you didn't keep them in check they would probably raise a disturbance.

Q During that period of time did you have any instructions to keep any individuals out of the vault?

A Well, no. While the vault was locked, yes, that is what we were there for. While the vault was open then the Commissioners were present.

Q Did you have any instructions, then, from Inspector

Neary to prevent anyone from opening the vault during the term of the recount? A. No, I didn't.

Q So that the vault was opened every day?

A Yes.

Q And you were not given any orders to prevent any person from opening the safe? A. That is right.

Q When did you get any orders to prevent any individual or individuals from opening that safe?

A We always had the orders to prevent anyone from opening the safe without the Election Commissioners there. That was our instructions right along, but during the recount no attempt was ever made to open the vault without the election commissioners.

Q And your orders were that the safe could be opened in the presence of the County Board of Elections?

A Yes.

Q Was that the reason why, on the Tuesday when the Committee was there, that the safe was not permitted to be opened, because the County Board of Elections was not present, or was it because you had received instructions from Inspector Neary? A. Well, from both; the members of the Board of Elections that were present, and at the same time I had received orders from Inspector Neary. Certainly, of course, because he was himself present at the time and he could decide the question whether or not I could--

Q Did the orders change from the time you first went there until this Tuesday, as to your duties there?

A Not that I know of. Those were the standing orders.

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M A X M I L L E R, being duly sworn according to law,
testified as follows:

EXAMINATION BY MR. GIULIANO:

Q What is your full name? A. Max Miller.

Q Where are you employed? A. In the office of the
Commissioner of Registration of Hudson County.

Q How long have you been employed there? A. About a
year and a half.

Q What is your official title? A. Clerk.

Q What kind of clerk? A. Well, doing clerical
work, compiling reports of different departments, investiga-
tions.

Q And what is your salary? A. Approximately \$3,600
net.

Q That is \$4,000? A. \$4,000 is the salary.

Q You say that you are a clerk? A. Yes.

Q Aren't you the head of some department in that
bureau? A. No, sir.

Q Have you charge of any of the poll books, the registra-
tion books? A. I have not.

Q You say that you have charge of investigation?

A No.

Q What are your duties? A. My duties are in a general
clerical way, in compiling reports from departments monthly,
making the annual reports, and likewise also compiling the

reports after primary and general election on the voters throughout every district in the county.

Q Do you compile those all from names that appear on the challenge lists? A. I get them from the department heads and we prepare them, then, for the purpose and make it up in book form. They are mailed throughout the state to different people; like every member of the House gets one, members of the Senate get one, and different other people.

Q Do you do anything with those challenge lists before Election? A. No, that is really done after Election.

Q How many people would you say voted, whose names appeared on the challenge lists in the last general election?

A I wouldn't know that until after you get the poll books.

Q Are the slips in your department now?

A You mean the poll books?

Q The challenge slips. A. They probably are.

Q Why do you need the poll book? A. The poll book has the exact number of voters that voted in the last general election.

Q Don't the challenge slips have a notation after each name on the challenge slip, as to whether or not the person voted? A. No, not until after we really go and compare with the poll books that are returned, under the Commissioner of Registration.

Q Now, you have seen challenge slips, haven't you?

A I don't get them at all. I never see them.

Q You never see the challenge slips?

A No, I don't see them.

Q How can you compile the records if you don't get the challenge slips? A. I get them from the various heads of departments.

Q The Election is over and those slips are in your possession now? A. Yes, they are.

Q Are they in your possession yet? A. They are not in my possession yet.

Q Why not? A. Because they have not really completed their reports of the departments yet, to hand them to the Commissioner, who gives them over to me.

Q Since November those reports have been given to you?

A They have not, because all the poll books have been in the custody of the Commissioners of Election and have been in the vault ever since.

Q Did you receive your pay check for February 1?

A I did.

Q Who signs the pay roll in your department?

A Why, Alice Seglie signs the Commissioner's name.

Q She has authority to sign the Commissioner's name?

A She had authority then to do that.

Q And who certifies to the employees? A. The Commissioner.

Q Was he able to do that on February 1?

A That I don't know.

Q You received your check? A. I received my check all right.

Q And you presume that he was well enough to certify to your name being on the payroll? A. I doubt very much whether he was in a condition to certify.

Q Isn't it the duty of the department heads to certify to all those in his employ? A. Yes.

Q How did you get your pay check if he didn't?

A Through that particular work being given over to Miss Alice Seglie for her to do in his behalf.

Q And it is your impression that Miss Seglie handled the supervision of the office with respect to payrolls?

A Sometimes; when he is not able to do it.

Q Would you say, this time? A. It may be that, I don't know.

Q She signed the payroll? A. I don't know that for sure.

Q What do you know? A. I don't know anything about what you are asking now.

Q I thought you testified that Miss Seglie signed Mr. Stoebling's name to the payroll? A. When he was away on vacation she did.

Q Who signed it on February 1 or before February 1 in

order for you to get your check?

A I have no knowledge of that.

Q Do you know anything about the poll books?

A Well, it all depends on what you are asking.

Q Let us take in any year, this particular year, 1937.

Are the signatures compared in your office, that is, the signatures in the poll book with the signatures in the register binders? A. They are, just in a casual way. The different heads of departments will put those things in the hands of the clerks who are working there, and if they see any varied real discrepancies in between the two an investigation is made immediately.

Q Then, in the 1936 Election, do you recall about what the percentage of votes were in all Hudson County?

A No. We have that in book form.

Q Approximately? A. You don't mean last year's election, do you? A.

Q 1936, in comparison with 1937? Was it about the same?

A About the same thing.

Q You compare each one of those signatures?

A Not each and every one they don't compare.

Q They do some comparing? A. They do some comparing.

Q Were any fraudulent signatures found, that you know of? A. No, not, that I know of, because the men begin at that work, this last election, directly after, when the recount begun.

Q Then, as a clerk, can you see any reason why this Committee should not have the books to really corroborate the facts that the clerks did not find any fraudulent signatures?

A You should have and you are going to get them.

Q When? A. You are bound to get them.

Q When? A. When the Commissioner is able, according to the request of your Committee, to come here and deliver them.

Q Let us suppose that Mr. Stoebling continues in the same condition from now until November, or the end of this year, do you think that the books should be delivered at the end of the year, or when we want them? A. Well, I think they can be delivered within a reasonable time, because I told your Committee when I was here with Judge Haber, that I believe if you waited a little while-- because I know he has recovered from the same illness like this after probably a week or so. He has had attacks like this before and came out of them if he wasn't really molested and troubled by anybody and had absolute rest, and he has always snapped out of these things and could really attend to his work and duties.

Q You heard Dr. Stockfisch testify this morning?

A Yes.

Q He said that in his opinion it would be at least six more weeks. A. Yes.

Q And you heard Dr. Alling, the doctor for this Committee,

testify, who said that if his condition is what Dr. Stockfisch said it was, it would be about two months?

A Right.

Q Do you think, as a clerk in a public office, that this Committee should wait two months in order to receive those books? A. Well, in the intervening period there probably are other things that you might care to investigate, while you are waiting.

Q We are not interested in anything else, Mr. Miller. We are running the investigation. What is in those books to hide? A. There is nothing to hide, in so far as the Commissioner of Registration is concerned.

Q There is nothing? A. Positively not.

Q Is there something in there because of somebody else--

A Probably the neglect on the part of the policing authority on the day of election.

Q You mean the Superintendent of Elections?

A It may be so; I don't know.

Q Let me tell you this, Mr. Miller; do you know that the Superintendent of Elections, the department that you are now saying is responsible for that policing, willingly, through a clerk, gave this Committee every record we asked for? Do you know that? A. And we are perfectly willing, and Mr. Wiener knows, in his appearance before the Commissioner in his house, that he will cooperate in every respect with this

Committee.

Q I am not asking you what Mr. Wiener did, but I am telling you to answer the question, if you know that Mr. Ferguson, the department which you are saying is responsible if there is anything wrong, willingly gave this Committee his records? Do you know that? A. I don't know whether he did or not.

Q For the record I want to tell you that he did, and he is not hiding anything. A. And there is nobody in the office of the Commission of Registration that is hiding anything, either, only there isn't anybody that has any power to give any records out of that office.

Q That is your opinion. A. That is my opinion, honestly and truthfully.

Q Why are you testifying to what your salary is if you do not think we have the right to the records?

A You have the right to the records, positively so.

Q Do you know that this Committee is only in existence for one year? A. I don't think you will have to wait that long. I think the Commissioner will be well enough to give you, in accordance with the demands of the subpoena, that he will come here personally and produce the records under subpoena.

Q You were with Mr. Wiener when he went to Mr. Stoebling's house? A. Yes.

Q What do you think of a public official who promises an attorney of this Committee that he will deliver the books, through his clerks, and then the next morning refuses to deliver the books? A. I don't know about the change of mind. All I can tell you, when Mr. Wiener and I came down there I asked Mr. Wiener that he wait probably half an hour, that I will call up his wife, that I will go with Mr. Wiener, because the Commissioner had expressed the wish to work and cooperate with the Committee, and when Mr. Wiener and I went down there we probably talked about a dozen words with him, and propped his head up on the pillow, and then Mr. Wiener laid down a subpoena and laid down the two dollars.

I said, "Mr. Wiener, I think it would be a good thing if we left him now. He has the subpoena." And then he went off into a sleep, I think, and I said we had better leave him alone, and Mr. Wiener said, "Right." Whether or not the Commissioner heard that-- that he will waive personal appearance-- or not whether the Commissioner heard it I don't know and I couldn't tell, but he said then, "Give them everything they want."

Q Give them everything they want? A. Yes.

Q Do you know what made him change? A. I really don't know.

Q You say that he went off in a sleep after that?

A He went off in a doze. His head went back and his eyes

closed.

Q When was the last time that you saw Mr. Stoebling?

A After Mr. Wiener and I went back to the office, I think it was his wife called up there to send down the two lawyers, so that they can make arrangements to deliver the books. Dowden and Pass went there, and Mr. Wiener and I waited. Dowden and Pass went there and came back and they were to make some elaborate arrangements or said something about the conditions, about what would be done the next morning.

About nine o'clock that evening, I got a call from his wife. I said, "What is the use for me to come down? Let him rest." "I want to talk with you." I went down about a quarter past nine. It only took about fifteen minutes to come from my house.

She said, "What happened? What did Dowden and Pass tell the members of the Committee?" I told her. She said, "That is not what he said; that he would go there in a few days."

I said, "Listen, I don't want to be put in wrong with Mr. Wiener, because the Commissioner worked with Mr. Wiener all during the recount one hundred per cent.," and everything he asked me to do, and Mr. Freeman and Mr. Clee, they came over and looked at the records in the office. We couldn't give them the poll books. We said that we will open up the books for them, the registration binders, and give them

anything they wanted. That had been the Commissioner's order to me, "Let them do anything they want." Then I went down there about a quarter after nine, and it was about a quarter of eleven, I think, that I was able to talk a few words with him, and I ^{had} heard nothing about the doctor ordering anybody out. Had I known it probably I would not have gone down.

I just went right up to the door, rang the bell; they opened the door and I walked in. I did not ring. There was the man in the hallway, in the corridor, who asked whether or not I could come up. I just went up, as Mr. Wiener and I went up, about a quarter of eleven. I had a man waiting there.

I said, "Listen, Charlie, everything is all fixed for tomorrow morning. The armored truck is coming." He said he can't go there. He said he can't go there. I said, "That is all arranged for." I said, "At least you have got to do this, you have got to give me a letter so that I can take it over to the Committee," so he said, "Go ahead and write a letter." I drafted a letter. I went back to the office and drafted a letter and came back, and about twelve o'clock I propped that letter on a picture on the dresser in the room, and he signed the letter. Of course, I had gotten ^{in touch} with Mr. Haber in the meantime, and I gave it to Haber in the meantime and I said, "You go before the Committee."

Q It wasn't Stoebling that dictated the letter?

A No, sir, I had dictated the letter because he had made an agreement with Mr. Wiener that he would cooperate and deliver the books, and I wasn't going to be put on the spot in any respect, and I was going to let the Committee know that Mr. Wiener had told the truth, that he had that directly from him in those few words, that he would deliver the books himself.

Q Did Mr. Stoebling read the letter? A. No, I read it off to him and his wife read it to him, I think I read off every word of the letter and subpoena to him, if Mr. Wiener will remember rightly.

Q You dictated to a stenographer? A. I went back to the office to write it myself.

Q You wrote it yourself? A. Yes.

Q When was this? A. On the twenty-eighth, Friday. We were there Friday afternoon, Mr. Wiener and I, and that night I went back and wrote the letter. I won't have it presumed that he was taking any issue whatsoever.

Q Who was in the room when you went there?

A I was all alone. I went in and said, "I got the letter, this letter I wanted him to sign, "and I want Judge Haber to deliver it."

Q Did Judge Haber talk to him that night?

A I imagine so.

Q Was Mr. Dowden talking to him?

A I don't know. I wasn't there just at the moment when they may have been talking.

Q Did you ask, when you went back to Mr. Stoebling, why he had changed his mind? A. No.

Q Didn't you think it was unusual for Mr. Stoebling, who had been served with a subpoena to produce certain records, and had made a definite promise to one of our counsel, that he should change his mind? A. Well, not in the condition of health of that man. You don't know the headstrong man that man is.

Q You know it. A. In the office we know it.

Q Mr. Miller, have you seen Mr. Stoebling since last Friday? A. I have not, sir.

Q Who is running that office while he is away?

A Well, the different heads of departments are running things in a general way, according to the requirements. They know pretty much what has got to be done.

Q What is being done now that Mr. Stoebling is away and they haven't got the poll books? A. They don't need the poll books. They do the work as outlined by Mr. Gumaer and Mr. Montelli.

Q What, for instance, are they doing now?

A They can do a lot of work, checking, investigating.

Q You investigate registration? A. They do

occasionally, yes.

Q I get it from you that you are the statistics clerk, a statistician? A. I do almost everything that is asked of me by the heads of departments and the Commissioner himself.

Q I presume these people are out checking up on registration slips? A. They do occasionally.

Q Since you have been there, how many fraudulent slips have you found? A. I don't know. The records will show. You can come to our office and get those things.

Q Will you bring them here? A. I don't think I have the right to bring them out of the office, but we are here today to offer you the entire office.

Q How long have you been connected with this department?

A About a year and a half, I imagine.

Q Can you tell us approximately? You don't have to be exact. A few hundred out of the way or a few thousand; how many fraudulent slips have you found through your registration? A. The office result, I think, is taken from the register rolls itself, without any recommendations from the Bureau of Elections. About 8,000, something like that.

Q You found 8,000 fraudulent? A. Whether they were fraudulent or errors, I am not in a position really to answer that.

Q Then your department is chargeable with fraudulent registration? A. No, they are not.

Q This is just done through the goodness of a public official, Mr. Stoebling, or why?

A They make investigations of their own accord, independent of the Bureau of Elections.

Q And are those records under your direct supervision?

A They are not. They are under the heads of the departments.

Q Do you compile these records? A. When they are brought to me I do, sir.

Q Have you compiled any records of registration from the last primary and the last general election? A. We have compiled some on which we have made a report to the Commissioner himself.

Q How many would you call fraudulent? A. I wouldn't say whether they are fraudulent, because we haven't got the power in our office that way. To remove them out of the binders I think the order comes from the Bureau of Elections.

Q What do you do with them? A. When there are deaths and the like of that, and removals, we have the right to place them on the challenge list, and the list is delivered to the Commissioner of Registrations, not through the Bureau of Elections.

Q You have checked up, I presume, the new registrations from the last primary day and the last General Election day, haven't you? A. No, we don't check them up. That is the other bureau. The other bureau is chargeable with those things.

Q Are these 8000 people people who died in Hudson County in a year? A. No, they are those who died and removed, and the like of that.

Q Removals for what purpose? A. Who knows? They might move out of the county.

Q You say that in about eighteen months' time there have been about 8000? A. About 8000, I imagine.

Q Have those slips ever been put back in the binders?

A They are not put back in the binders.

Q You are positive of that? A. Oh, no, they are not put back in the binders unless the individual, whose name probably may be placed on the challenge list, would go to the court and the court orders them to do that.

Q May I just ask you one question, if you know who pays for the poll books? A. I think the Secretary of State.

Q The Secretary of State pays for them? A. I think so.
BY MR. PALESE:

Q Mr. Miller, this letter that you prepared for Mr. Stoebling or is that your own -- A. No, I will tell you why. Mr. Wiener and I had a talk with him that afternoon,

and a very pleasant one, and he had indicated it and expressed it in a very few words, "Give them everything they want."

Q What did he say to you that prompted you in preparing this letter? A. Because I have written many letters.

Q What did he say to you when you called that evening that prompted you to write this letter? A. He told me, "As sick as I am I will cooperate and give them everything they want," and I drew this letter.

Q That is all he said to you? A. That is all.

Q And you are the one who put in, "At present I am confined --"? A. Surely. I had to say it. Mr. Wiener admitted to me that he was a very sick man, "He can't appear there," and he said, "Of course, Max, I will waive personal appearance."

Q How long was it from the time you got the information from Mr. Stoebling until you went back and had him sign this letter? A. Probably about three-quarters of an hour.

Q That was about what time Friday evening?

A About ten minutes of twelve I had him sign the letter.

Q And had Judge Haber been there before? A. He may have been.

Q Did you know if Judge Haber had been there before, talking to Mr. Stoebling? A. His wife mentioned that.

Q Do you or do you not know what time it was? A. No.

Q Do you know when Mr. Dowden had been there?

A He had been there in the afternoon, as Mr. Wiener and I had asked both of them to go down in the afternoon to speak with him.

Q That was after Mr. Wiener had been there? A. That was after Mr. Wiener had been there with the Commissioner.

Q Who else, in the evening, had been to see Mr. Stoebling?

A I don't know. They usually had a lot of people coming down pestering him for jobs and help, and the like of that.

Q Do you know whether Miss Seglie had been down there after Mr. Wiener? A. Really, I don't know. I couldn't answer that.

Q Did Mr. Stoebling say anything to you about her being there? A. He didn't say, no, sir.

BY MR. GIULIANO:

Q Mr. Miller, records have gone out of this department without Mr. Stoebling? A. Never, without they were delivered, and, of course, the men remained with the records and returned them to the office that very same day or night after the work had been through, in court, but it is returned the next morning if necessary.

Q Was Mr. Stoebling sick on December 28? A. He has been sick, off and on, so often that it is pretty hard to estimate, even to remember when he wasn't.

Q Do you remember the proceedings before Chief Justice

Brogan on a motion to strike out the petition filed by Senator Clee for a Supreme Court investigation?

A I think that came after I had agreed to permit Mr. Clee and Mr. Freeman to look at the registration binders in the office, and Mr. Clee said, "Well, Max --"

Q Now, Mr. Miller, I don't care who you let look at the books and you don't. I am asking you a specific question: do you recall the proceedings before Chief Justice Brogan on a motion to strike out the petition filed by Senator Clee for a Supreme Court investigation? A. I remember hearing of it. I wasn't in the Supreme Court, in chambers.

Q Were you in the office of the Commissioner of Registrations? A. I was.

Q Didn't the attorney, Mr. McCarter, or his representative, serve upon someone in the office of the Commissioner of Registration a subpoena for certain records? A. I believe they did.

Q Weren't those records produced before Chief Justice Brogan in the Supreme Court in the Court House?

A After Miss Alice --

Q I didn't ask you "after." Yes or no?

A The Commissioner told her to delegate Mr. Gumaer with the records to the court, and watch them and guard them and return them back again to his office after they were through with them.

Q They were in the courtroom? A. Yes.

Q Were you there in the courtroom? A. No, sir, I wasn't.

Q Were there any police guards with the records?

A I don't know.

Q Did they even ask for any police guards? A. I don't know.

Q Did Mr. Stoebling actually carry those records into the Court House? A. He never did.

Q He never did? A. No.

Q And we don't want him to carry them here, either.

A I believe that, too. I don't think he could carry them over.

Q Neither could you. A. I know we usually have had men from the office who did deliver them.

Q Let me ask you this, Mr. Miller. If a Supreme Court subpoena was served upon you to produce the records under your control, and if that happened to be poll books, and Mr. Stoebling was in a state of unconsciousness and could not speak or hear, would you or would you not produce the records? A. I would not produce them.

Q Then you would defy a Supreme Court subpoena? A. I have no power, no right. I am not deputized.

Q You really believe that the Supreme Court has no power?

A If you have the power You come in and take the records

out yourself.

Q Do you mean to tell us that you feel that Mr. Stoebling, who is a public servant, has more authority than the Supreme Court or a Committee of this House? A. No, he is not defying your Committee.

Q Somebody is. A. He is not defying your Committee.

EXAMINATION BY MR. MURRAY:

Q Mr. Miller, I think you testified that at the time the records were delivered from your office to the Court House, when Mr. McCarter had an application there before the Chief Justice, that Mr. Stoebling ordered Alice to tell Gumaer to bring them down there? Is that what you testified?

A Alice called him on the phone at his house.

Q How do you know? A. Because Alice mentioned the fact to me in the office right on that day.

Q Is that the only source of your information? A. That is all I could get. She said, "I got to call the Commissioner because they want the books."

Q Does she report to you? A. No, sir, she does not.

Q Where were you at that particular time or how was it that you came to find that out? A. Because during the recount in before Judge Brown, I went with the books every day with Mr. Gumaer and some other employees and remained there during the entire progress of the hearing of the case before Judge Brown.

Q Is that why she told you that Mr. Stoebling told her to tell Gumaer? A. No, because I have been very close to him there and very close to Alice.

Q Didn't the Commissioner tell you that? A. Oh, no, he didn't tell me that.

Q He didn't tell you that? A. No.

Q You are sure that Alice Seglie told you that, are you?

A Yes.

Q Was there anybody else around when she told you?

A No, just Alice and I.

Q When was that? Do you recollect?

A I don't know the day just exactly.

Q Do you know approximately? A. No, because every day there were different things happening there. People were coming in. Mr. Wiener came into the office every day. He talked to me during the recount, and other folks.

Q You remember that? A. Well, I couldn't remember just the exact dates.

Q How long before the day when these signature copy registers went down to the Chief Justice, was that done?

A I didn't get the question.

Q Do you know what records were brought down to the Supreme Court? A. No.

Q What records did Alice tell you that the Commissioner told her to see were sent down. A. She said that the court had

subpoenaed the records. "I have got to call the Commissioner," and when she came back she said, "Marty Gumaer will take them down."

Q Why did she ask you and why did you tell her what she had better do? A. Because he is the Commissioner.

Q Who is the Commissioner? A. The Commissioner of Registration, Charles Stoebling.

Q What are you? A. A clerk in the office.

Q Why did you tell Alice Seglie what to do?

A Because when there comes a subpoena I believe it should be honored.

Q Why was it up to you to tell her what should be done?

A Any other clerk might have been in the office.

Q Why did you tell her? A. Because I was there at the moment.

Q What part of the floor were you on, in this office?

A In the Commissioner's private office, telephoning.

Q Where were you telephoning to? A. I can't just remember. I might have been calling up for probably somebody in the place. We were getting calls all around.

Q What was Alice doing? A. Doing some work of a clerical nature at her desk.

Q What time of day was that? Do you remember?

A That was in the morning, wasn't it?

Q I don't know. I wasn't there. A. I think so.

Q You think that it was in the morning?

A I don't know for sure. I couldn't answer it offhand.

Q Was the subpoena served on you? A. They usually--

Q I didn't ask you what they usually. Do you know whether or not they handed the subpoena to her or not?

A I don't know.

Q Did she have it in her hand when she went to speak to you? A. I don't know.

Q You are getting contentious. A. No. If you can answer the question answer that.

Q Do you want to cooperate? A. Sure, I do, a hundred per cent. I always do.

Q Do you think that Commissioner Stoebling is superior --

A I know he wants to cooperate.

Q Would you say that his refusal to hand over the books is cooperating with the Committee? A. He has not refused to hand over the books to the Committee.

Q Then it is the police alone -- A. I don't know anything about the police.

Q What is preventing the books from being handed over?

A His illness.

Q Who told you that? A. What I hear from the testimony, from the doctors.

Q The Commissioner didn't tell you that, did he?

A No, I have not seen the Commissioner since the night

after Mr. Wiener and I were there.

Q You said you knew that Alice Seglie has got authority to sign Charlie Stoebling's name as Commissioner of Registration? A. In his absence she did it.

Q He is absent now? A. I don't know whether she has authority now or not. During the vacation period she did have.

Q How do you know that she did have? A. I know because she did have.

Q How do you know? A. She told me so.

Q Did anybody else tell you so? A. No, sir.

Q Did she tell you that she had a power of attorney to sign his name? A. No, sir.

Q What did she say to you? A. I saw her sign it.

Q That is something you saw? A. That is sufficient for me to think she must have had a power of attorney.

Q She didn't tell you? A. She told me, "I am signing the payroll."

Q Did she tell you she had authority to sign his name?

A No. I didn't tell you that at all. I presume she did have when she signed.

Q Before you say you saw her sign. Before you testified that she had the authority. A. I don't know. I presume.

Q You don't know whether she did or not?

A No.

Q Did Mr. Stoebling ever tell you she did? A. No.

Q He did not? A. No, sir.

Q Are you sure of that? A. Positively.

Q You don't know now whether she has got any authority to sign his name to anything? A. I don't.

Q Did you see her certify the list of the payroll of the office of the Commissioner of Registration for February? A. Every employee does, when he or she goes in to get the check, sees the payroll.

Q What concern is it to every employee to see that payroll? A. Because they have got to attach their names on the payroll and sign it themselves for the check they receive.

Q Is that alongside of every name on the certified list each and every month? A. Yes, sir.

Q So that you would not necessarily have to see everybody else's on the paper? A. You do see everybody else's that is ahead of you or down under you. You see the entire list. There are three or four sheets.

Q Did you see whether that was certified by the Commissioner, Charles Stoebling? A. I didn't look for it.

Q You didn't look for it? A. No.

Q But you do know he certified it, don't you?

A He must have, otherwise we would not have gotten the money.

Q You know it is the law that he would have to certify it?

Right?

A I imagine so.

Q Don't you know or -- A. No, sir, I don't.

Q You know he would have to, or try to delegate that authority, don't you? A. He has really delegated me at times to go and deliver books to particular places.

Q He has done that? A. Surely; in court.

Q And he could do that now? A. Surely, and that is what Mr. Wiener and I were working on for a week, in order that he could give me the power to do it.

Q Weren't you in Charles Stoebling's house when he certified the payroll for February? A. I was not.

Q Didn't you bring that list over to his house?

A I didn't.

Q Are you sure of that? A. Positively, not.

Q Didn't you help prepare and get that list ready in his office? A. I did not.

Q Didn't you have a conversation with Mr. Stoebling in reference to that? A. I did not.

Q But you know that he would have had to certify it or else you would not have received your pay for February?

A Unless he deputized Miss Alice to do it.

Q Unless he deputized her or someone else?

A Unless he deputized someone else.

Q He could deputize someone else? A. I imagine so.

Q Do you know what is entailed under the law, to legally

and properly certify the payroll? A. Of course, I did know years ago. I don't know whether the act has been amended.

Q What was it years ago? A. It required the personal attesting of the head of the department or commissioner, that he O.K. the payroll.

Q In other words, that everybody whose name is on the payroll was employed there, as far as he knows, performing their work? A. That is right, and makes an oath accordingly.

Q Approximately how many employees are there in that office? A. I think there must be 150 to 160.

Q So that a properly and legally certified payroll like that would require going over it and seeing whose name was on there? A. Right.

Q And 150 to 160, how long, approximately, do you think it would take a person to do that? A. They are all on probably three sheets or four sheets; in other words, big sheets put in folders.

Q Are they put on there alphabetically?

A Not necessarily.

Q How long are they put on there? A. For the length of time the people are there. In other words, the people who have been there many, many years are at the top of the list. They are not alphabetical.

Q How long do you think it would take a person to do that, especially a person who was not perfectly well?

A Ten minutes, not more than ten minutes. I can look over that whole list of good Republicans and know who has been working and who has not.

Q How about the good Democrats? A. The good Democrats, if there are such.

Q Don't you think there are such? A. I imagine so.

Q Don't you know? A. I am only interested in Republicans.

Q Don't you ever consult any Democrats?

A I never do.

Q Didn't you consult any Democrats in reference to these books? A. I did not.

Q Didn't any Democrats consult you? A. No.

Q Are you positive? A. Positively, not.

Q Are you sure that John Malone, the Deputy Mayor of Jersey City, did not send any word to you in reference to these books? A. If he did I don't know about it.

Q Who was it that brought you word? A. Nobody brought me word. I have been working with the Committee here and its members representing your Committee.

Q There are approximately 160 names on the payroll?

A Approximately that.

Q How long do you think it would take Mr. Stoebling, in his present condition or the condition that you last saw him in, to go over that payroll and know who was on it?

A I don't think he could read it.

Q You don't think he could read it? A. I don't think so.

Q Why? A. Because he couldn't read the subpoena we had brought to him. He didn't know what we were talking about when we brought the subpoena to him.

Q When was that? A. On the afternoon of the 28th, when Mr. Wiener and I went down.

Q That was Friday? A. Friday.

Q Did he improve any during the evening or the early afternoon? A. I had to wait approximately an hour and a half or an hour and three-quarters before I could see him and read the letter that I wanted him to sign.

Q Did he improve any in the afternoon or evening, at the time you read the subpoena to him? A. No, just about the same, when Mr. Wiener and I left him.

Q You read the letter? A. I read the letter twice.

Q You testified that he didn't know what you were reading when the subpoena was read to him, and he did not improve any by the time you went in with your letter? A. Right.

Q Then you went in and read this letter to him, when he didn't know what you were reading to him? A. Right, and

I told him.

Q Didn't you testify right here a few seconds ago that he didn't know what was being read to him when the subpoena was being read to him? Didn't you testify to that right here now? A. I don't believe he did, no.

Q Then you say he did not improve any between then and the time you read this letter? A. He was just the same as he was.

Q So that when you read this letter to him --

A He was just the same as he was.

Q He didn't know what was being read to him?

A I wanted that letter for Mr. Wiener's protection.

Q Is that right or wrong? A. I wanted that letter for Mr. Wiener's protection so that he wouldn't --

Q Never mind what you wanted the letter for. Answer the question. A. If you want an answer to the question, I am trying to tell you why.

MR. PALESE: One at a time. Please answer the question and if you cannot answer, all right, tell us so.

Q You testified, Mr. Miller, right here a few seconds or minutes ago that in your opinion you knew, when the subpoena was being read, that Mr. Stoebling did not know what the meaning of it was and what was being read to him. You also testified that there was no improvement by the time you went

in with this letter? A. Right.

Q And that you read this letter to him? A. Right.

Q And that you had him sign this letter? A. Yes.

Q So that he did not improve any between the time the subpoena was served on him and the time that you presented this letter, and if he didn't know the contents of this subpoena after it was read to him, or its meaning, then he didn't know what this letter meant, and he didn't know what he was signing? Isn't that so?

A He told us that afternoon he wants to work with the Committee. That is the only way I can answer your question.

Q That is not the only way. What is the conclusion?

A The conclusion is that the man was willing and is willing to cooperate.

Q Never mind about that. I mean about when he signed this letter, which you say you dictated. You testified that he was in no different condition then than he was when you were there previously, the same day, with Mr. Wiener, when the subpoena was read by you to him?

A Right.

Q And he didn't know what was in that subpoena; he couldn't understand what was in the subpoena when you read it to him? Is that what you testified? A. He must have known --

Q Isn't that what you testified? A. I am not testifying

that he knew what was in the subpoena. I know he went off into a doze while I was reading the subpoena, and Mr. Wiener said, "We had better get out of here now."

Q You testified that in your estimation he did not know what was read or what was in it? A. I don't know whether he knew what was in it but he was willing to take it, and we laid the subpoena on his arm and gave him two dollars, and that night I had him sign the letter because he expressed his willingness all along, and during the entire recount that he would work with the Committee, and I assumed that he would do it.

Q But he didn't? A. If you give a man who is ill a possible chance to come over he would, through his appearance indicate his willingness to work with you.

Q Would you say that he was so ill when the subpoena was served on him and read by you, that he was so ill that he did not get the significance of that?

A I would rather let Mr. Wiener answer that.

Q I am asking you. You testified already that you didn't think he knew what it was. A. That man is a very sick man. I would rather Mr. Wiener answer that question.

Q You refuse to answer? A. I would rather let him answer.

Q You refuse to answer? A. Yes, I will have to refuse because I can't say when a man is sick. I am no physician.

I judged it by his appearance and the way he lapsed off into the pillow and closed his eyes.

Q You don't think he is faking? A. I don't.

Q You think that he is sick? A. He is very sick.

Q Didn't you think that he was so sick that he didn't understand or get the full significance of this subpoena?

A Mr. Wiener and I were there quite a while. We didn't let him talk very much. Mr. Wiener said, "Don't let him talk," and I read the subpoena off and while I was reading it he closed his eyes, and I kept on reading it. I said, "It is all right, it is just what you wanted, Charlie. You want to cooperate and it is O.K." That was all.

Q What did he say? A. "Go ahead," and we left the subpoena on his arm; I mean, Mr. Wiener.

Q Would you say he was in a dazed condition? A. Yes, and Mr. Wiener will agree that he was in a dazed condition.

Q Would you say that he understood fully what was going on? A. He must have understood. I believe that.

Q You think he was in a daze, but he understood what was going on? A. Well, this is a sick man. I can't judge whether or not he knew or didn't. I imagine he did know, because I held that up at night on a card, a picture.

Q I am talking about the subpoena. A. He knew what was in that subpoena, no doubt.

Q When you went back with the letter he wasn't in any

better physical condition? A. He was in about the same condition.

Q He was in about the same condition when you went back in the evening? A. Yes.

Q I understood you to testify when Mr. Giuliano was talking to you, that his lawyers had been up to consult with him and that a statement was given out to the papers?

A Yes.

Q And then something happened between you and Mrs. Stoebling, is that right? A. Yes.

Q What happened, and how did it come about?

A About nine o'clock his wife called me up that night, and asked me to come to the house.

Q Where were you when she called? A. At my home, and I went there, and she said, "What is happening and what is going to be done?" And I told her. She said, "That is not the way I understood it this afternoon when the lawyers were here."

I said, "What did you understand? Mr. Wiener is under the impression and led to believe that they are going to come over here tomorrow morning with an armored truck to get the poll books."

She said, "No, he is afraid to let the books out of his possession." That is all I know of it.

Q Was that over the phone? A. No, that was in the house.

Q Then what happened? A. I said, "You can't let Mr. Wiener hold the bag. He has already called up and made arrangements for this." I said, "At least you have got to give this man some letter so they know he reported rightly."

Q This was Mrs. Stoebling? A. This was Mrs. Stoebling.

Q Did you call Mr. Wiener then? A. I don't think I called him that night.

Q Did you call him at all? A. Yes. The next night we were together.

Q When? A. The next night we were together.

Q The next night? After the visit to Mr. Stoebling on Saturday? A. After you went down with your Committee he and I met about a quarter to nine.

Q After you had the conversation with Mrs. Stoebling, what did you do? A. I said, "We had better get a letter ready so that this man is not put on the spot."

Q You were very solicitious about Mr. Wiener?

A I will tell you why; because Mr. Wiener and I had been working together on this thing.

Q What happened after you had that conversation with Mrs. Stoebling? What did you do then, if anything?

A I went off and wrote the letter.

Q Where did you go to write the letter? A. To the office.

Q Did you consult Judge Haber in the meantime?

A I did not. He went down there himself.

Q He went down to Stoebling's house? A. I imagine so.

Q Why do you imagine? A. I don't know.

Q You don't know? A. No.

Q What makes you think you imagine he went down to Stoebling? A. Because he was here the other day and testified accordingly, and I happened to be in the courtroom when he was testifying.

Q Did you go up to the Commissioner's office?

A Yes.

Q Who was there? A. Nobody was in there.

Q All by yourself? A. All I had to do was use the typewriter, get the letterhead and use the typewriter.

Q Do you have a key? A. No, it was open.

Q The front door was open? A. Yes.

Q Is it usually left open at night? A. When the cleaners are there.

Q Are they there always until twelve or one o'clock?

A Cleaning up.

Q Whom did you phone to between the time that you left Mrs. Stoebling and the time that you brought this letter back?

A Nobody.

Q Whom were you talking to? A. Nobody.

Q You didn't meet anyone? A. No, sir.

Q You did not speak and consult -- A. I had nobody to

talk to.

Q Are you sure about that? A. Positively. I did not speak to anybody.

Q How long did it take you, approximately, from the time that you were talking to Mrs. Stoebling until you got back there? A. I think I got back there in three-quarters of an hour.

Q Then did you submit this letter to Mrs. Stoebling?

A I did. I said, "Here is the letter I drew up, and here is the letter the Commissioner ought to sign in order to let Mr. Wiener out of the hole."

Q That he ordered? A. That he ought to sign.

Q So that it is a fact, Mr. Miller, that you went up to the house after the attorneys had advised him to hand these poll books over, and these registration books over, and it is a fact that he agreed to do so, and it is a fact that you were there in the afternoon when the subpoenas were served, and you thought he did not quite understand everything, and that he was not in a condition, physically and mentally, to understand, and then you and Mrs. Stoebling spoke this matter over, after nine o'clock that night, and without consulting the Commissioner you went out, after having spoken to Mrs. Stoebling, and composed this letter? Is that so?

A No. She only told me that what Mr. Dowden and Pass had reported back was not the Commissioner's wishes; that he

wished to appear personally, according to the subpoena, which commanded him to be present himself.

MR. MURRAY: Mr. Stenographer, would you mind repeating that answer?

(The last answer was read by the stenographer.)

Q You did not consult the Commissioner about it, did you? A. I couldn't talk to him.

Q You couldn't talk to him then? A. No.

Q Why not? A. He was sleeping.

Q How do you know? A. I said, "How is he?" She said, "He can't get off. He is asleep. You can't talk to him, you know, even to get him to put his name to the letter."

Q You didn't know that, of your own knowledge?

A No.

Q You did not care? A. Yes, I cared a lot, because I had been calling up every morning and every night.

Q Then you thought you should not consult the Commissioner then, because of the bad condition up there?

A I did consult her to go in and talk with the Commissioner, if it would be possible.

Q Why didn't you consult her to go and have him sign the letter? A. I went in there with her. She held his head up and I held the letter on a picture which was on the dresser, and he signed the letter.

Q And it took him how long? A. It didn't take him long

to sign the letter.

Q He didn't read it? A. I read it off to him and his wife read it off to him. I read it first and she read it again.

Q What did he say? A. Nothing.

Q Did he ask you who composed the letter? A. He didn't ask a question.

Q Did he ask you if the attorneys had been consulted?

A He asked me not a word.

Q Did he ask you why you changed your mind on this thing?

A I didn't change my mind. I have not yet.

Q Did you tell Mrs. Stoebling that you thought Mr. Stoebling should hand over the books? A. Positively. I do yet, today.

Q Did you tell Mr. Stoebling, when you read the letter to him, that he should hand over the books? A. He should, because I thought he would be better and well enough to come off in a couple of days.

Q Did you tell Mr. Stoebling then, Friday night at eleven o'clock, when you testified that you went in with this letter, that you still thought he should hand over the books?

A I didn't get an opportunity to read the letter.

Q You surely had an opportunity to read the letter? You had an opportunity to tell him that. A. I didn't get the opportunity. You see, Mr. Murray, his mind was all along to

work and cooperate with the Committee.

Q Did you suggest anything to him about changing or continuing his previous policy? A. No, sir, I did not.

Q You did not even suggest it? A. I positively did not, and I do not, today.

Q So that you went out and presented this letter to a sick man, so sick that the doctor had left orders that nobody was to get in the sick room? A. I didn't know a doctor had issued such orders.

Q You know now? A. I knew it when Mr. Wiener and I went down the next night and tried to get in.

Q You didn't think he was too sick to have the letter read to him? A. No, because I didn't want to have Mr. Wiener put on the spot.

Q Never mind your reasons. A. I want you to have my reasons. Mr. Wiener was with me all the time.

Q Suppose that Mr. Wiener was not in it, and suppose that no agreement had been made by the attorneys that the Commissioner was to hand this over; suppose that no agreement had been made by the Commissioner and Mr. Wiener and yourself that these books were to be handed over, would you have reminded him at all? A. I would still say that the Commissioner, unable to appear, should write a letter to the Chairman of the Committee expressing his willingness to cooperate and deliver the books when he is able to come

personally, himself.

Q In other words, it is your opinion, and you would so advise the Commissioner, that he should not hand these books over unless he can get up and go personally to get the books?

A Or invite your Committee to come to the office of the Commissioner of Registration and make your headquarters there, for the investigation commission.

Q That is your advice to the Commissioner?

A It would be, yes.

Q That is your advice to the Commissioner? A. It would be, yes.

Q When you say that you advised him to give these books over to the Committee, that is not so?

A Yes, I do say so.

Q You are advising the Commissioner, then, "Hold these books where they are until you are well enough to go out and personally hand them over, or compel this Committee to go into your office and work on those records in your office"?

A Positively.

Q That is your advice? A. I think so.

Q Then you are not cooperating with this Committee, are you? A. Positively, a hundred per cent.

Q Then you are not sincere? A. I am sincere.

Q All these days you have been professing your sincerity?

A I have not spoken to you.

Q I didn't say that you spoke to me. You would not have fooled me. A. I have not fooled you and you are not fooling me, because you are a faker, too.

MR. PALESE: Will you please wait a minute?

THE WITNESS: I know, but the idea is I am answering.

MR. PALESE: There is no question pending.

THE WITNESS: He has made insinuations at me.

MR. PALESE: Mr. Miller, there is no question pending.

Q Didn't you tell Mr. Wiener on a certain day in January that arrangements had been made, and by your advice, that these books should be turned over by the Commissioner to this Committee? A. They should be.

MR. MURRAY: Will you read the question to him, Mr. Stenographer.

(The last question was read by the stenographer.)

THE WITNESS: Yes, I did do that. Mr. Wiener and I were down there in the office after we had returned from the Commissioner's house.

Q Do you recollect what day that was? A. I think that was the 28th, wasn't it? I did it. We came back from the Commissioner's house.

Q That was Friday, January 28? A. Right.

Q And on Friday night, January 28, at eleven o'clock you

presented a letter to the Commissioner to sign, which ^{had} just the opposite effect? A. I done that --

Q I am not asking you for what purpose. A. You are not going to get me to say yes or no.

Q Then you refuse to answer? A. No, I don't refuse to answer.

MR. PALESE: Mr. Stenographer, will you please read that question?

(The following question was read by the stenographer:

Question: On Friday night, January 28, at eleven o'clock you presented a letter to the Commissioner to sign, which had just the opposite effect?)

MR. PALESE: You can answer the question, that the letter that you presented did have the opposite effect. You can answer that question. Didn't the letter that you presented to Mr. Stoebling have the opposite effect from what he had said he would do?

THE WITNESS: Wait a minute. If this is off the record--

MR. PALESE: There is nothing off the record.

THE WITNESS: I don't know what arrangements he made with counsel on the delivery of those books, and Mr. Wiener-- because Mr. Wiener and I were in the office when counsel came back and they told us they were

going to permit them to come in with the truck. We never had that from the Commissioner that day.

Q Didn't you believe the Commissioner? Yes or no?

A I might have believed him that day. Mr. Wiener believed him and I believed him.

Q Didn't you tell Mr. Wiener, in your estimation that that is what you knew the Commissioner wanted and that is what you thought should be done? A. I told him if that really came through the attorneys he ought to be able to depend on it.

MR. MURRAY: Mr. Stenographer, will you read the last question?

(The last question was read by the stenographer.)

THE WITNESS: In my estimation, yes.

Q You told him that? A. But knowing nothing of it, knowing nothing of what happened between the attorneys and the Commissioner --

Q I didn't ask you that. I asked you if you didn't tell him that, in your estimation, that is what should be done? A. That is what should be done, yes.

Q And that you believe that is what should be done?

A Right.

Q And you led them to believe at that time, if you didn't tell them the purpose, you told them that you so advised or would advise?

A I would so advise.

Q Still, on that same night you brought this letter which had the opposite effect, and shoved it under the Commissioner's nose, to sign it? A. When the Commissioner's wife told me he wanted to appear personally with the records what else was there to do, to protect Mr. Wiener?

Q That is what you did? A. Yes, I did it.

Q And you knew that the signing of this letter would have and did have just the opposite effect? A. I didn't think so at the time.

Q But you know so now? A. Now I know it.

Q You are just after testifying that it is now your belief that he should not hand these records over; that he should not permit this Committee to get these records unless he personally is physically able to go out and personally hand them over, or unless this Committee agrees to do their operating and looking at those records in the office of the Commissioner of Registration? A. I shouldn't say, if he is well enough to execute an order given orally or in writing for these books to be taken out, that they ought not to be delivered to your Committee. They should be.

Q Do you then change your testimony there, and will you now say that you think he should give a written order to someone in your office or in the office of the Commissioner of Registration, to turn these records over to this Committee?

A He should give either a written or oral order for that, in order that you get those records.

Q Is that your belief now? A. I believe so, yes.

Q You are changing your testimony back and forth.

A No, I am answering your question, which you are putting in here all the time, but those records were not placed in that vault at the Commissioner of Registrations' request.

MR. PALESE: I don't understand that.

THE WITNESS: On the day that this happened Mr. Wiener came in about eleven-thirty, to the office, and he said, "I have got an order here for the end of the recount," and there was a little anxiety on the part of Mr. Wiener because that vault would remain open, and what might happen to the poll books, so he said to me, "Max, what do you think we ought to do with the poll books?"

I said, "I don't know. After the recount is over we will probably have to take them back to the Commissioner of Registrations' rooms for you to work on them."

He said, "I have got to guard them and protect them. What do you think I should do?"

I said, "The best thing is to go in there and lock the ballot boxes up and guard them and protect them."

He said, "Let us go," and we rushed right out with Alice and got hold of someone in the Bureau of Elections and said, "We had better put the things in this vault."

I didn't know at that time that it was a vault of the County Board. I didn't know who owned the vault. We put them in there, locked them up and put on the seal. That vault was open when we came there, I guess about ten minutes of twelve, if I remember rightly, and the chances are if we had not been so anxious to protect them, between Mr. Wiener and I, the vault would have remained open and we would have distributed those books that afternoon to the different departments, but he felt they ought to be protected and guarded and the Bureau of Elections men ought to guard them, and we shoved them in, and we made a mistake in putting them in there. That is the answer to that.

Q Are you referring to the poll books? A. Yes.

Q Did you personally help to put those in there?

A Oh, no, I didn't.

Q Were you there when they were being put in the vault?

A No, sir, I wasn't.

Q Do you know whether they are in the vault or not?

A They ought to be, and if they are not we have got men to--

Q I didn't ask you that. I get from your testimony that you helped Mr. Wiener to put them in or helped Wiener out by seeing that they were put in? A. Wiener wanted them guarded.

Q You don't know whether the books are in there?

A I don't know, Mr. Murray.

Q If Mr. Stoebling is well enough to sign a paper or to tell that Alice Seglie should be deputized to sign his name to the paper, don't you think that the Commissioner is well enough to sign a paper or say orally, "Hand the books over to so and so in my office."

A I have not seen him since a week ago Friday night.

Q You have not seen him since a week ago Friday night?

A No, sir. I called them that morning and that afternoon, and the report I got from the nurse is, "He is resting," and that there were no visitors permitted.

Q In your testimony there, talking to me and referring to me, you said, "You are a faker, too." Who is the other one?

A That is in the heat of the moment. Why, people will say things.

Q Because the Committee should know who I am. You said that you think that I am a faker, too. You put in a "too." You put in another person. To whom were you referring?

A Jim, you have always been looked upon as a troublemaker

in Hudson County.

Q It is too bad I am making trouble for you, but I have only started. Answer the question, please. It looks to me that you made quite a lot of trouble here with your machinations.

A What is the question?

MR. MURRAY: Mr. Stenographer, will you please read the question to him?

(The following question was read by the stenographer:

Question: Because the Committee should know who I am. You said that you think that I am a faker, too. You put in a "too." You put in another person. To whom were you referring?)

THE WITNESS: We will withdraw that and retract it.

Q Then you don't think I am a faker? A. No, Jim, you are sincere in your efforts.

Q Thank you.

EXAMINATION BY MR. WIENER:

Q Now, Mr. Miller, on Friday, January 28, I came into your private office at about a quarter of twelve, is that right?

A Around noontime.

Q And I told you that the recount was over?

A You were terminating the recount and it would be over at the conclusion of the count of that box which was now in

progress.

Q That is right. That box had been finished by that time?

A Yes.

Q About ten minutes to twelve. Now, on Thursday afternoon, the day prior thereto, you and Mr. Stoebling and myself had a conference.

A Go ahead, relate some instance. Probably my mind would be refreshed.

Q That was the time that Dr. Stockfisch came in and suggested that we make our conference short, and I was permitted to go back for five or ten more minutes?

A Right. Was that on Thursday?

Q January 27, 1938, at 50 Glenwood Avenue, Jersey City.

A Right.

Q Do you remember that? A. Yes.

Q And at that time it was agreed that I was to come back the next day concerning the production of these poll books before the probe? A. Right.

Q In other words, I went there to discuss the question of serving Mr. Stobeling with a subpoena, to discuss it with him beforehand? A. Yes.

Q I did not invade the bedroom of a sick man? and force a subpoena on him? A. No.

Q I was there the next day at his invitation and request?

A At his invitation and request.

Q And at the conference on Thursday I put the question to him as to what would be the best means of producing these books so that the business of his office would not be tied up?

A Right.

Q And we reached an understanding that the signature copy registry books would be subpoenaed from the First Ward, the ten districts, alone, and no others?

A That was on that day, only the ten.

Q Along with all the poll books which were not needed in the ordinary carrying on of the business?

A That is correct.

Q What time did we reach Mr. Stoebling's apartment the next day? A. The next day, about one-thirty.

Q And we were shown into Mr. Stoebling's room?

A We had to wait about ten minutes before we got in, do you remember, in the outside living-room?

Q I thought it was two or three minutes. Do you remember who was there? A. Mrs. Stoebling.

Q Who else? A. You and I, that is all.

Q There was another gentleman there from your office?

A (There was no answer.)

Q Then at about twenty minutes of two we proceeded into Mr. Stoebling's bedroom? A. Right.

Q He shook hands with me? A. Yes.

Q He asked you to raise him in bed? A. I did.

Q You raised him and put a pillow under his head?

A I did.

Q I asked him how he was and you asked him how he was, and he responded? A. He did.

Q And we both told him he appeared in much better health?

A We thought so.

Q Than the day before? A. Correct.

Q His color had returned and he appeared more able to receive company? A. Yes.

Q I thereupon informed him that the recount was over? Is that right? A. Yes.

Q And I handed him a certified copy of the order discontinuing the recount? A. I thought you left that at the office.

Q Do you remember my requesting you to read that order?

A Yes.

Q Then you did read it? A. In the office I read it.

Q To Mr. Stoebling? A. Not the order.

Q I asked you to read the order. I distinctly said, "I don't want you to take my word for anything."

A I don't think, Dave, we read the order.

Q I am positive of it, Mr. Miller. I know that I had to serve it right there so there wouldn't be any question.

A He was not evading anything.

Q We disagree with you on that. You read that order to

him because he specifically raised the question as to whether or not the poll books were still in the custody of the Supreme Court or the recount. A. If you say so, I don't want to dispute you.

Q He asked that question, and in response to that I had you read the copy of the order discontinuing the recount, which I had handed him. I said, "Here is your official copy."

A My recollection is that we only read the subpoena.

Q And I am positive that you read, at my request, the order discontinuing the recount.

A I won't dispute that.

Q And it was three pages long? A. I won't dispute that.

Q And thereafter he again said to me, "Are you sure that those poll books don't belong to the various municipal clerks?" A. Yes, I remember that.

Q And you, at my request, opened a book, I believe, page 106 in the Election Act? A. Yes.

Q And I again had you read a paragraph, which, in short, states that after the election the poll books shall be returned to the Commissioner of Registration?

A Right.

Q And he shall keep them in his office for a period not longer than the October preceding the next General Election?

A Right.

Q And we thereupon satisfied Mr. Stoebling that he had custody of these poll books? A. Right.

Q I thereupon handed him, in the presence of you and his wife, Mrs. Stoebling, the subpoena, and delivered to him two one dollar bills. Is that right?

A You laid it on his arm.

Q And he took it in his hand? A. He didn't take it in his hand, but that didn't make no difference.

Q It is going to make a difference. He took the two dollars in his hand and turned them over to Mrs. Stoebling.

A He handed the two dollars to his wife, and the subpoena? No.

Q He held the subpoena? A. Yes.

Q Do you remember what he said when he handed the two dollars to his wife? A. No; something about money.

Q Something about giving it to her now; that she would take it from him later on anyway? A. Yes, that she would take it from him.

Q This is a very sick man that we only spent three or four minutes with? Thereupon, he said to me, "Does this subpoena mean that I will have to appear there with the books?" And I thereupon suggested that you, his agent, read the subpoena to him. Is that correct? A. Right.

Q You read the subpoena to him? A. And while I was

reading it he went off into a little sleep, closed his eyes, and rested his head back. I don't remember that; I am sorry.

Q And when we concluded he said, "I don't think I will be able to be there myself tomorrow." Is that right?

A Right.

Q And I said, "The Committee is interested in the poll books and I am sure that if you have these poll books and signature copy registry books delivered, there will not be any question as to your personal appearance"? A. Yes.

Q "And if the books arrive there I will take up with Mr. Young --" I mentioned his name, the Chairman of this Committee -- "the question of your not appearing, and I am sure it will be all right, if the books are there."

Is that correct? A. Something to that effect.

Q You wouldn't say I didn't say it? A. No, I wouldn't say that.

Q And he thereupon said, "Mr. Wiener, I am very anxious to cooperate." Did he not? A. Something like that he said.

Q And he said, "I would like to talk to my lawyers concerning the manner of delivering these poll books," and I agreed that he should, by all means, talk with his attorneys. Is that right? A. Right.

Q I stood up and you stood up and I shook hands with Mr.

Stoebling. He was perfectly conscious and said, "Goodbye."

Is that right? A. I think that is true, yes. He shook his head and so did I.

Q On my way out he again shouted or said--

A He didn't shout. He mumbled. That is about all.

Q So that we could hear him, "The books will be over," or something to that extent. Do you remember that?

A Not just exactly. I know he mumbled something. That was truthful, of what was being done.

Q What time did we leave Mr. Stoebling's apartment?

A I think we must have been there half an hour in both rooms. Then we went back to the office.

Q Did you not say in your previous testimony that we were there only five minutes? A. We were in with him probably five or ten minutes. We were in the outer room and we talked to his wife alone.

Q As a matter of fact, when you and I, in the car, got out to Journal Square and we were looking for Bennie Dowden, his counsel, I said that it was three o'clock.

A I don't remember what time it was. I remember I went up in the building looking for him. We went around to Journal Square to look for him.

Q It was three o'clock, probably an hour and a half after we entered Mr. Stoebling's apartment? A. It might have been, Dave.

Q So that we really spent in that apartment probably an hour and a half? That is more than ten minutes.

A I didn't think we were in with him more than ten minutes.

Q Let us go back a minute. We read an order of three pages. A. I remember only reading the subpoena.

Q I am positive we read it. A. I don't remember that.

Q We returned to the office and you directed Mr. Dowden and Mr. Pass-- A. (Interrupting) To go down there because he wanted to see them.

Q What time did they come back? A. About four-thirty, a quarter of five, and we waited there, with all the reporters.

Q And Mr. Dowden made a statement to the newspapers?

A He gave the reporters everything, as to what was going to be done, and you said to the boys--

Q You had no reason to believe that Mr. Dowden was not telling the truth? A. I think he was.

Q That was about five-thirty?

A That was about five-thirty.

Q Then Mr. Dowden and Mr. Pass and you and myself went into the inner office, and Mr. Pass insisted that an armored truck be used, and that he or Mr. Dowden or both be permitted to accompany the truck into Newark?

A I know you were making arrangements for that, too. I

didn't know that he was insisting on going himself.

Q Yes, he did. And thereafter we made such arrangements to satisfy Mr. Stoebling's counsel.

A From what you tell me I believe they did.

Q Right from your office I called the various armored trucking companies until I got them? A. Yes.

Q And made several other phone calls in the meantime to members of the Committee, informing them of the promise that had been made to me? A. Yes.

Q That got us down to a quarter to seven?

A Yes.

Q And it was almost seven o'clock when we left?

A Yes.

Q What time did you go home? A. I went home right after that.

Q What time did you get home? A. In probably fifteen or twenty minutes after that.

Q You thereafter received a phone call? A. About nine o'clock at night.

Q How is it that you didn't call me at my home, or call any members of the Committee as to the change?

A I didn't have your phone number. I didn't meet you until the next night.

Q Did you try to get anybody? A. No.

Q You knew we were going to have the truck there?

A I didn't figure there was anything wrong with it. I figured I will deliver the letter over there, and if he changes his mind probably the books will be over there, anyway. I didn't know what he was going to do, a man in that condition of health.

Q And you say that you did not really talk with him; that you were doing this on your own?

A I talked to his wife. I said, "What is he going to do? Is he going to deliver the books?" She said, "They want him personally there."

Q You mean that his wife is the one who gave the instructions? A. Yes.

Q In other words, you are talking orders from his wife and not from him? A. Oh, no, I am not taking orders from his wife. I read the letter to him and his wife read the letter to him.

Q You say that he was in no condition to be able to know what was in that letter? A. He was in condition in the afternoon.

Q Did you have any conversation with his wife?

A Yes. She was the one who called me.

Q Was he satisfied, about the letter? A. Yes.

Q You knew he was in no condition-- A. He was in condition in the afternoon and he was in pretty good condition at night when we propped him up and had him sign the

letter.

Q Did you hear both Dr. Stockfish and Dr. Alling say that a condition of the type that he has, in no way affects his mind? A. I don't know. I heard such a lot of testimony, one man conflicting with the other, in so far as the physicians were concerned.

Q They both agreed that there was nothing wrong with his mind; that he was perfectly rational and could talk?

A I believe the man is perfectly O.K., if they let a man go in and talk to him. I have been trying to go in for a week to see him.

Q At the time that you and I spoke to him that day he was perfectly rational and normal? A. At that time, he was.

Q He knew what he was doing? A. He evidently did.

Q You went to work and took his wife's word that that is what he meant? A. I figured his wife had the message from him as to what he wanted to do.

Q Would you take a message from his wife under all circumstances? A. Not under all circumstances. On important matters, where the Commissioner is responsible, as he is, I should say yes.

Q Do you think that she had any right to order you around?

A If she had an order from the Commissioner?

Q You don't know? A. No.

Q But what you are really getting at is that Charles F. Stoebling, at the time you presented that letter, was in such condition that he would have signed anything at the request of those close to him? A. Oh, no, he knew what he was doing that afternoon.

Q You said you didn't think he knew what he was doing that night? A. From the moment, no doubt, when you can talk with a person, and they open their eyes and you feel they are conscious of what is going on--

Q Let us get this straight. You walked in with that letter, without talking to him about it? A. Oh, no, I said, "Charlie, we have got the letter. You want to go over yourself and you can't appear there."

Q How did you know that it was Stoebling's wish that this letter, addressed to this Committee, state that he is sorry he can't personally appear, but that he is willing to send the books? A. He didn't say he was going to send the books to me.

Q You don't know whether he made that request?

A No.

Q But you were ready, able, and willing to go in and have him sign what somebody else told you? A. Somebody else didn't tell me.

Q You said you had no conversation with him?

A After that next afternoon I said to you, "I think if I

can get in and talk to him that I can very likely get an order from him to deliver the books to your Committee."

Q Does Stoebling know whether the books have been delivered as yet? A. I really don't know.

MR. WIENER: That is all.

MR. PALESE: All of the people who have been subpoenaed in this matter are to return upon the call of the Chairman, so that if there are any here who are under subpoena today they are to return under the call of the Chairman.

Assembly Investigation of)
alleged Fraudulent and Illegal)
conduct at the General Election)
on November 2, 1937, etc.)
)

Minutes of meeting of the Special Legislative
Committee in the above entitled matter, held at Room 301,
Essex County Court House, Newark, New Jersey, on Wednesday,
February 16, 1938, at ten o'clock a.m.

Present:

Henry Young, Jr., Chairman,
Mrs. Olive C. Sanford,
Rocco Palese,
Frank C. Osmers, Jr.

Absent:

Norman P. Featherer,

ROBERT H. McCARTER, ESQ., and
JAMES R. GIULIANO, Esq., and
JAMES F. MURRAY, Esq.

MR. YOUNG: We have here a reply from Mr. Kimberling, the Superintendent of State Police, enclosing a copy of the opinion that he received from the second Assistant Attorney General of the State of New Jersey.

MR. OSMERS: I move that the letter received from Mr. Kimberling be spread on the minutes.

MRS. SANFORD: I second the motion.

(Motion carried.)

(Copy of letter dated February 15, 1938, from Colonel Mark O. Kimberling, Superintendent of the New Jersey State Police, follows:)

"STATE OF NEW JERSEY
DEPARTMENT OF STATE POLICE
STATE HOUSE

"February 15th 1938

"Special Committee of the Legislature
of the House of Assembly of New Jersey,
Room 301, Court House,
Newark, New Jersey.

"My dear Mr. Chairman:

"Pursuant to the receipt of the resolution of your Committee dated February 14, 1938 calling upon me as Superintendent of the New Jersey State Police to proceed to Hudson County to seize certain records and to bring them to the Committee, I felt it my duty to request a

decision from the Attorney General as to my authority to follow out the dictates of the resolution, and I am inclosing herewith a copy of the decision received today, which was signed by Mr. Theodore Backes, Second Assistant Attorney General of the State of New Jersey, which confirms the previous decision rendered on February 1, 1938 by Mr. Robert Peacock, Assistant Attorney General.

"It will be noted that the last paragraph of this decision states, 'On the first instant, Mr. Peacock gave you an opinion which clearly set forth the powers and duties of the State Police, and I am satisfied that the conclusion then reached was correct. Furthermore, I am clearly of the opinion that the State Police are without legal authority to carry out the command of the House Committee as embodied in its resolution of February 14, 1938.'

"You are advised on the basis of the above opinion, it is concluded that as Superintendent of the New Jersey State Police, I am without legal authority to carry out the command of the House Committee as embodied in its resolution of February 14, 1938.

"Very respectfully yours,
(s) MARK O. KIMBERLING
Mark O. Kimberling
Colonel and Superintendent,
New Jersey State Police."

MOK:P
Inc.

(Copy of the letter from the office of the Attorney General of the State of New Jersey, addressed to Colonel Mark O. Kimberling, Superintendent, New Jersey State Police, Trenton, New Jersey, dated February 14, 1938, follows:)

"STATE OF NEW JERSEY

"OFFICE OF THE ATTORNEY GENERAL

"Trenton, N.J., February 14, 1938.

"Col. Mark O. Kimberling,
Superintendent, N.J. State Police
Trenton, N.J.

"Dear Colonel:

"Your letter requesting an opinion concerning the resolution handed to you today by Assemblyman Henry Young, Chairman of the House Investigating Committee appointed by the Speaker of the House of Assembly to investigate, among other things, certain matters in Hudson County, is at hand.

"The provisions of that resolution read as follows:

**** that the members of the State Police or as many of them as may be necessary, do forthwith proceed and repair to the office of the Commissioner of Registration in the County of Hudson, on the 7th floor of the Spingarn-Arcade Building, No. 591 Summit Avenue, Jersey City, and

there take into their possession by whatever means may be necessary, all signature copy registers of all the districts of the First Ward of Jersey City and all the poll books of all the election districts of the various wards and municipalities of the County of Hudson which may be in said office or in any vault or vaults in said office or maintained on the 7th floor of the said Spingarn-Arcade Building in which vault or vaults said poll books have been placed for safekeeping by the said Commissioner of Registration and which vault or vaults may be more particularly identified by a seal placed on the door thereof by John Ferguson, Superintendent of Elections of Hudson County and deliver all the public records so taken into their possession to the Special Committee of the Legislature, appointed as aforesaid, in pursuance of Assembly Resolution No. 1, at the Essex County Court House, Room 301, Newark, New Jersey, on Wednesday morning, February 16, 1938, at ten o'clock in the forenoon; and this resolution shall be their order, warrant, direction and process in that behalf;**.1

"On the first instant, Mr. Peacock gave you an opinion which clearly set forth the powers and duties of the State Police, and I am satisfied that the con-

clusion then reached was correct. Furthermore,
I am clearly of the opinion that the State Police
are without legal authority to carry out the command
of the House Committee as embodied in its resolution
of February 14, 1938.

"Yours very truly,

DAVID T. WILENTZ,
Attorney General.
By Theodore Backes
Second Assistant Attorney
General."

MR. PALESE: I move that a bill be prepared by counsel to the Committee or by any assistant whom counsel seeks to employ, for the purpose of empowering any public employee having knowledge of means of access to public records, when directed by a Committee of the Legislature, to use that knowledge, even though the records be not directly in the employee's custody, and to deliver those records to the Committee in accordance with the order of the Committee requiring that the employee shall do so; and the receipt of the Committee for the delivery of those records shall be sufficient acquittal to such employee for any responsibility in respect to the employee's actions under such order.

MRS. SANFORD: I second the motion.

MR. OSMERS: If Mr. Palese will accept an amendment, I would like to move that the resolution be amended to include a penalty clause.

MR. PALESE: I will agree to that.

MRS. SANFORD: I second the motion.

(Motion carried.)

MR. PALESE: I move that counsel be requested to prepare such necessary bill or bills as will effectuate the powers of the Committee of the Assembly, in general terms, to direct the State Police to obtain

for the use of the Committee public records in a proper case, and authorizing the State Police to use whatever means of violence, force, breaking and entering, or other methods are necessary to perpetuate the order of the Committee; and that the law shall empower the State Police to arrest anybody obstructing them in the carrying out of the order of the Committee, and that anyone so obstructing the State Police shall be guilty of misdemeanor or other penalty as advised by counsel.

MR. OSMERS: I second the motion.

(Motion carried.)

MRS. SANFORD: I would like to offer a resolution that Dr. Frederick A. Alling be requested to make a re-examination of Charles F. Stoebling, Commissioner of Registration of Hudson County, and that further examinations of Mr. Stoebling be made by Dr. Alling at intervals of about three days.

MR. PALESE: I second the motion.

(Motion carried.)

MR. YOUNG: I make a motion that there be produced before the Committee for its examination, the ballots of the Third District, Ninth Ward, of Jersey City.

MRS. SANFORD: I second the motion.

(Motion carried.)

(ADJOURNED.)

745.

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ASSEMBLY INVESTIGATION OF :
ALLEGED FRAUDULENT AND ILLEGAL :
CONDUCT AT THE GENERAL ELECTION :
ON NOVEMBER 2, 1937, etc. :

- - - - -

Transcript of stenographer's notes of
conference held between members of the Special Legislative
Committee in the above matter and Theodore Backes, Esq.,
and Robert Peacock, Esq., representing the office of the
Attorney General of the State of New Jersey, held at
Room 301, Essex County Court House, Newark, N. J., on
Friday, February 18, 1938, at ten o'clock a.m.

Present:

Henry Young, Jr., Chairman
Mrs. Olive C. Sanford
Rocco Palese

Absent:
Frank C. Osmer, Jr.,
Norman P. Featherer

- - - - -

ROBERT H. McCARTER, Esq.,
DAVID H. WIENER, Esq., JAMES R. GIULIANO, Esq.,
and JAMES F. MURRAY, Esq.

MR. YOUNG: It is very nice of you gentlemen to come here today. We do not want to heckle you in any way, but we do want to find out just what is wrong with the statute or our resolution, and we are asking you more for advice than anything else.

We think the most orderly way of getting the advice is to ask you questions with regard to the opinions and the statutes, to see just how we can work it out, and I think, perhaps, as you are both Assistant Attorney Generals you are entitled to consultation with each other, so that we will ask the questions of both of you.

MR. BACKES: Any way that it pleases you.

MR. YOUNG: Now, the Revised Statutes, Article 52-13-1, which is here, provides, in the excerpt which we have made of it, as follows:

"Any special committee directed by resolution to enter upon any investigation or inquiry, * * * shall have power to compel * * * the production before it of such books and papers as it may deem necessary."

Those are excerpted words.

MR. BACKES: Have you only read part of the statute, sir?

MR. YOUNG: Yes, I have read part of it.

MR. BACKES: Let us read the statute this way:

"Any special committee directed by resolution to enter upon any investigation or inquiry, the pursuit of which shall necessitate the attendance of persons or the production of books and papers, shall have power to compel the attendance before it of such persons as witnesses and the production before it of such books and papers as it may deem necessary."

MR. YOUNG: Do you think it is unfair to take out the fact about persons and--

MR. BACKES: Yes, I do. You ought to read that section in accordance with the State Police section.

MR. YOUNG: I have not come to the State Police section yet.

MR. BACKES: This section speaks of persons; a process issued to a person to compel his attendance or his appearance. Can't you also compel the person whom you have summoned to produce certain books and papers?

MR. YOUNG: What is the meaning of the word "compel," as used in the statute?

MR. BACKES: I would say that the word "compel"

there is mandatory compliance.

MR. YOUNG: May compel compliance? What measures may the Committee take to compel the compliance?

MR. BACKES: Out of the statute, sir, you mean?

MR. YOUNG: Under common law or statute or whatever method there is of compelling compliance?

MR. BACKES: I am not willing to discuss the inherent power that may reside in either House of the Legislature. That phase of the case I have not looked at carefully. You will find that the matter is gone into somewhat in the case of the State versus Brewster, which involves a case in Mercer County, taken up in the Supreme Court and the Court of Errors and Appeals. Undoubtedly there is a certain inherent power in either House of the Legislature to compel attendance of witnesses and the production of books and papers, where there is a joint resolution or a single resolution of the House ordering an inquiry or investigation.

MR. YOUNG: What is the method of compelling compliance?

MR. BACKES: The method, it seems to me, is by issuance of a writ or process, in the nature of a subpoena, either a subpoena to testify or a subpoena duces tecum.

MR. YOUNG: That subpoena having been disregarded, what is the method of further compelling the attendance?

MR. BACKES: That is where I have not given any thought to it. I don't know. I have gone further in the research than the interpretation of this section of the statute, and the section of the State Police Act. I mean to say that I have read both statutes.

MR. YOUNG: What we want to know is what power the Committee has to compel compliance?

MR. BACKES: It seems to me that your procedure is purely civil, and, in the first instance, I should think it would be a subpoena.

MR. YOUNG: That subpoena having been disregarded in the first instance, what is the second instance? What is the next step?

MR. BACKES: Disobedience; contempt.

MR. YOUNG: That would not produce the books, would it?

MR. BACKES: That, of course, I cannot answer. Ordinarily, it does.

MR. YOUNG: Do you think, sir, if a subpoena has not been complied with, that the proper method of compelling obedience is a contempt procedure?

MR. BACKES: I should say so, sir. It seems to me that the power to punish for contempt not only *resides in the court but resides also in the Legislature* or either branch of it. I don't think that the power to punish for contempt resides in the courts alone.

Of course, I realize that the departments of government are divided into three classes, and a person belonging to one department may not properly exercise any power belonging to the other, but the line is not defined clearly. I think that the authorities hold that the power to hold for contempt does reside in the Legislature or either branch thereof.

MR. YOUNG: Assuming that there has been a contempt, and assuming that the attempt to punish for contempt is inefficacious to produce the records sought, is there any other method by which the Legislature can compel compliance with this order?

MR. BACKES: Under existing law, sir?

MR. YOUNG: Yes.

MR. BACKES: Not that I know of.

(Addressing Mr. Peacock): Is there anything that you would like to add?

MR. PEACOCK: Nothing that I know of.

MR. YOUNG: First of all we had a resolution of the House directing the Sergeant-at-arms to go to the

Spingarn-Arcade Building and there take into his possession the records which the Committee had subpoenaed. That is a resolution of the House. Would you say that that resolution had no force or effect?

MR. BACKES: I wouldn't want to pass upon that, sir. I haven't given that any consideration at all.

MR. YOUNG: Mr. Peacock was the gentleman who passed on that resolution. What is your opinion, Mr. Peacock?

MR. PEACOCK: I said that the powers of the State Police were set forth in the statute, to serve or assist in serving a process, and I also advised that the Superintendent could designate troopers to assist you in serving the process. I said that they had no power to break in and take records, under their statute.

MR. YOUNG: It is not in your opinion, sir.

MR. BACKES: I possibly misunderstood the purport of your inquiry. I thought you were addressing your remark on the question of the legality of the resolution itself; that is, as to whether the House has the power to pass such a resolution. Was that your thought?

MR. YOUNG: That was my thought.

MR. BACKES: I take it that the House has the right to pass a resolution of inquiry or investigation.

MR. YOUNG: I mean the second resolution, which directed the Sergeant-at-arms to go and take these records, Mr. Backes.

MR. BACKES: Of course, that resolution was practically directed to the State Police.

MR. YOUNG: It was not. I think Mr. Peacock rendered an opinion on that resolution.

MR. BACKES: Are you talking about the first or second?

MR. YOUNG: The second. There were three resolutions; one by the House establishing the Committee, the second by the House directing the Sergeant-at-arms to go and take the records, and the third by the Committee ordering the State Police to get the records, and it is the second one of the two on which Mr. Peacock wrote his opinion.

MR. PEACOCK: The first resolution was the one that directed the Sergeant-at-arms to call upon the State Police for assistance? That is the one you are talking about?

MR. YOUNG: That is the one I am talking about, yes.

Perhaps you can answer the question.

MR. BACKES: I ought to say this, that we were in conference on the opinion, and not only Mr. Peacock and myself but others.

MR. PEACOCK: My opinion is approved by Mr. Backes, who is the senior in the office.

MR. BACKES: I ought to say this, that the contents of both opinions were communicated to the Attorney General before they were forwarded, and they both received his approval, so that if any question should arise as to our right to sign these opinions I can have them signed by the Attorney General at any time.

MR. PEACOCK: This opinion that I gave, I think, February 1st; is that the one that you refer to, "Your request for an opinion as to your duties regarding resolution adopted by the House of Assembly of the State of New Jersey, on Monday, January 31, 1938?"

MR. YOUNG: We are confining these questions to this: was it within the power of the House of Assembly to direct the Sergeant-at-arms to go to this Spingarn-Arcade Building and there take into his possession the records which have been subpoenaed?

MR. PEACOCK: I can't answer that question. Mr. Backes can answer that.

MR. YOUNG: Can you answer that question?

MR. BACKES: I cannot because I have not given the matter any consideration. I am frank to say, I am wondering where the power of the Sergeant-at-arms would be to execute a writ which was not directed to a human being? Where does that power to issue a writ and seize-- I am talking very frankly, which I understand that you want me to do-- that is my difficulty about it.

MR. YOUNG: I should say, by analogy to the power of an officer in replevin to break and enter; I say by analogy to the power of an officer in a replevin action to break and enter; by analogy to the power of a constable in a landlord and tenancy proceeding, to break and enter and put into possession; I say by analogy to the power of an officer under a writ of attachment, to break and enter. None of those things are directed to a person.

MR. BACKES: But they may be proceedings in rem, as against the thing itself.

I have never known of an instance, where it was the desire to have produced books, papers and documents, where the writ was not issued to the individual having custody or control of the books, papers and documents, directing him to bring them in.

MR. YOUNG: I am still trying to find out what

the effect of our proceeding is. We served a subpoena directing Mr. Stoebling to bring in the records. He failed to comply with that direction.

MR. BACKES: Yes.

MR. YOUNG: Then, by analogy with replevin or summary proceedings in landlord and tenancy cases, or by analogy with an attachment, we directed that the officer of the House go to the place where those things were stored and there take them into his possession.

MR. BACKES: Mr. Young, I really have not given the matter sufficient thought to express an opinion that would be worth anything. I do not know how far we dare go in our law, in a purely civil proceeding. I often wonder what the seizure clause of our Constitution means, unreasonable seizure.

Are you justified, in a purely civil proceeding, in breaking in or causing a breach of the peace, or things of that kind? Those are the questions which I have not gone into and upon which I do not want to express an opinion.

MR. YOUNG: Therefore, may I say that that the statement is, that your own, and Mr. Peacock's prior opinion, was not based on the legality of the direction to the Sergeant-at-arms?

MR. BACKES: No, sir.

MR. PEACOCK: No, sir.

MR. BACKES: Let me explain this; the State Police Act directs the State Police, at the request of the Assembly or any of the Committees, to serve subpoenas, summonses, warrants, attachments, orders of arrest or other process. Now, a subpoena is a process. It is a writ, and the words "or other process" as used in the statute, under the *noscitur ex sociis* or the *eiusdem generis* means writs or processes of like kind. It cannot be anything else. So that, when you call upon the State Police to act they are confined to doing the things authorized to be done under the statute.

MR. YOUNG: Your opinion was based not on the legality of the order of the House to the Sergeant-at-arms to go and take these records?

MR. PEACOCK: No.

MR. BACKES: No.

MR. YOUNG: And your opinion was therefore not based on the legality of the State Police assisting him in taking those records?

MR. BACKES: No, sir. The sole question presented to the Attorney General for determination was whether the State Police were justified in entering and seizing papers, and, of course, the opinion was confined

to the proper interpretation of the statute creating the Department of State Police and defining their powers and duties.

MR. YOUNG: May I say, Mr. Backes, that I do not quite understand you. You say that your opinion did not consider at all the legality of entry, with regard to the Sergeant-at-arms?

MR. BACKES: No.

MR. YOUNG: And there is nothing in the opinion, as I read it, that has anything to do with the legality of an entry by the State Police?

MR. BACKES: We did not consider at all the question of the duty of the Sergeant-at-arms.

MR. YOUNG: There is nothing in the opinion, as I read it, and I have read it time and again, that discusses in any way the legality of an entry by the State Police. That is so, isn't it?

MR. BACKES: Yes.

MR. YOUNG: The sole point of the opinion goes to the point of whether the Sergeant-at-arms may request assistance of the State Police, isn't that so?

MR. BACKES: That is correct.

MR. YOUNG: And you have said that he may not?

MR. BACKES: No. We have said that the State Police may aid the Sergeant-at-arms in the service of

the kind of process which the State Police are authorized to serve under the statute.

MR. YOUNG: Then your answer is that the Sergeant-at-arms could not request assistance unless there is a proper process within the statute?

MR. BACKES: That is, if the Sergeant-at-arms requested the State Police to do anything more than to aid him in serving, say, a subpoena, summons, warrant, attachment, order of arrest, or some similar process spoken of in the State Police Act.

MR. YOUNG: If that is the case, that statute also says "execute," Mr. Backes. Is there any difference between that--

MR. BACKES: Mr. Young, words are known by their associates. You cannot pick out an isolated word and give that ^a meaning different from its associated words.

MR. YOUNG: The service of a process and the execution of a warrant are entirely different things, aren't they?

MR. BACKES: A process ordinarily is used to compel obedience. That is the attendance. A warrant may be to produce the body.

MR. YOUNG: They are, then, different? One is simply handing to one man a paper, and the other is

to bring, through some subpoena, a body or to order a body--

MR. BACKES: Their technical meaning I have not in mind just now. I want to pick out a dictionary and find out what the technical meanings were of those words.

MR. YOUNG: There is a difference between "serve" and "execute," isn't there?

MR. BACKES: Undoubtedly. A process may be a lien process and it may be a final process, but a subpoena may be the first beginning of a suit, and the execution may be the last.

MR. YOUNG: There is a difference?

MR. BACKES: I should say there was a distinction.

MR. YOUNG: Why didn't the opinion take into consideration that word "execute"?

MR. BACKES: Execute something in the nature of a process? Mr. Young, you will notice that the statute states that process, service of process, so those things spoken of in the statute must be something in the nature of process, to compel the attendance of people.

MR. YOUNG: Your statement is now that while there is a difference between service and execution, that there was no process either to be served or executed?

MR. BACKES: I would say that the word "execution," as used in the statute, means execution, similar to process, to compel the attendance of persons. I take it that they are disassociated.

MR. YOUNG: And not compel the production of records?

MR. BACKES: Not disassociated with the person.

MR. YOUNG: Then the defect is not one of power in the State Police, that process being a proper process; is that correct?

MR. BACKES: Within the constitutional limitations, if there are any in respect to that. Of course, I would not want to venture an opinion and I don't know what you may have in your mind. I would say this, that the State Police Department is an agency of the government and subject to the will of the Legislature.

MR. YOUNG: And you admit that it is subject to the will of one House, I take it?

MR. BACKES: What was that?

MR. YOUNG: I say, you admit that it is subject to the will of one House of the Legislature?

MR. BACKES: The State Police?

MR. YOUNG: Yes.

MR. BACKES: Within the limitations presently

described in the State Police Act.

MR. YOUNG: Yes, I admit that, too. Why did you say one trooper, in your opinion, if that be so?

MR. BACKES: I think one trooper is enough to serve a writ or a subpoena.

MR. YOUNG: That was not the opinion of the Sergeant-at-arms or of the Committee. What legal ground was there for saying "one trooper"? That is what we are trying to find out?

MR. BACKES: I am not sure that that phase of the matter was given any consideration.

MR. PEACOCK: You may designate a trooper to go with the Sergeant-at-arms to see that the summons or other process is served. He can send a dozen if he wants to. That does not mean that he can send only one trooper. He can send as many as he pleases. We could have said "a trooper or troopers."

MR. YOUNG: You said one trooper in your opinion. You said, "You may, however, upon a proper request being made designate a state trooper to go with the Sergeant-at-arms. . . ." Isn't that so, one trooper?

MR. PEACOCK: No. You may designate a trooper to go with the Sergeant-at-arms to see that a process is served, but it doesn't make any difference whatever.

The Superintendent of the State Police can send his whole force to assist.

MR. YOUNG: What is your explanation of the lack in the word "execution"?

MR. PEACOCK: I take the same view as Mr. Backes does, that it means service and execution of process. Your resolution directs the Sergeant-at-arms to go to the building and take into his possession, on behalf of the House of Assembly-- I should say, the Committee-- all the signature copy registers of all the districts of the First Ward of Jersey City, and so forth. And then it says, to call upon the Superintendent of State Police for assistance as may be necessary in the execution of this resolution.

My opinion sets forth the duties of the State Police in the service and execution of the process, and that he had no other powers, that he had no power to go in and take those records.

MR. YOUNG: Will you point out to me in this opinion, where you say that the resolution of the House is not process?

MR. PEACOCK: I have never said that. I said that the State Police can go and serve the resolution for this process, but I think that after the service of the resolution the State Police duty is at an end, that

they cannot go in and take the records. All that they can do is assist in serving the process. That is as far as I went in my opinion, and that is the explanation I wrote out.

MR. YOUNG: Where does it say in your opinion that they cannot take the records?

MR. PEACOCK: Where does it say who cannot take the records?

MR. YOUNG: That the State Police cannot take the records.

MR. PEACOCK: I didn't say it. I say that the powers of the State Police are clearly expressed in the statute. This is what I said:

"The powers of the State Police are clearly expressed in the statute, and beyond the exercise of the powers so defined, the State Police may not go."

"It is to be borne in mind that the State Police are acting under a Legislative act and that the Committee of the House is acting under a resolution of that House alone. In my opinion, you have no warrant in the law whereby you may use the State Police for the purpose of assisting the Sergeant-at-arms in executing a resolution to which reference has been made. You

may, however, upon a proper request being made, designate a trooper to go with the Sergeant-at-arms to see that the summons, subpoena, warrant or other process is served. I therefore advise you that as Superintendent of the State Police you are without power to comply with the request of the House of Assembly as expressed in the resolution of that body."

It did not mean that they had the right to go in there and take in their possession all of those records. The crux of my opinion is that the State Police can send a trooper or troopers to go with the Sergeant-at-arms to serve any process that you people desire to issue. Beyond that the power of the State Police is at an end. If the person refuses to give them up I contend that the State Police cannot break in and take the records if it is necessary to break in or use other methods to get it.

That is all that my opinion says, and that is all it was intended to say.

MR. YOUNG: Where, in your opinion, does it show that this was not process, either the first or second resolution?

MR. PEACOCK: It does not say it. No one ever intended to say that it was not process. I say that when you issue a resolution, under the statute, it

is the duty to serve it, and the Sergeant-at-arms can serve the process and the State Police will assist in serving the process, if it takes one trooper or one hundred troopers who are going to assist.

MR. YOUNG: You say that this first resolution, on which you wrote an opinion, was process?

MR. PEACOCK: Certainly.

MR. YOUNG: You say that the second resolution was also process, on which Mr. Backes signed the opinion?

MR. PEACOCK: I have not gone into that.

MR. YOUNG: How do you feel about that, Mr. Backes?

MR. BACKES: You are presenting for my consideration the question of the power of the House to pass a resolution. That was not the question presented by the State Police. We did not consider the question of the validity or the power of the House to pass such a resolution. We considered the resolution itself, what the direction therein was to the State Police. I have not considered the question of whether the House had the right to adopt such a resolution. I assume that it had.

MR. YOUNG: We are asking you simply now, whether the first resolution on which Mr. Peacock wrote an

opinion was process or not.

MR. BACKES: Do you mean whether the matters therein contained were process?

MR. YOUNG: Yes.

MR. BACKES: That I would not want to answer until I have examined the resolution. We only examined the resolution for the purpose of seeing what the House desired the State Police to do.

MR. YOUNG: Now, would you say that the second resolution, upon which you wrote your opinion, was process?

MR. BACKES: I would want to examine carefully the resolution and its form before I would want to venture an opinion as to whether it is process.

Speaking frankly, sir, the thing which is in the back of my mind and bothering me is whether the writs, whether the process, should not run in the name of the State of New Jersey, under the Constitution.

I have raised no question, sir, nor have I considered the question of the power of the House to adopt such a resolution. I assume that the resolutions were proper, and therefore went to the substance of it to see what duties were asked of the State Police, in pursuance of the resolutions.

MR. YOUNG: I am asking you whether you con-

sidered this resolution upon which you wrote the opinion, or, at least, upon which you signed the opinion, to have been process?

MR. BACKES: I doubt whether that is process, sir. You have asked me for an opinion. I doubt it. If you will look at the Constitution you will find that all writs are to go under the name of the state.

Sir, I am not really raising that as a question. It is raised simply because you have asked me and because that is a matter that has bothered me in the last few days, in considering this question as to whether an order can be said to be a writ, and, if it is a writ, whether the writ should not run in the name of the State of New Jersey, that is, "The State of New Jersey," and blank reading. Sir, that is a mere matter of form and I do not think it is a matter of importance. However, as you presented it I must frankly answer it.

MR. YOUNG: Then, you say, if we had put at the top of this paper the name of the State of New Jersey, it would have been process; otherwise we cannot issue warrants, process, execution, attachment or any other process? We are specifically authorized by the statute, apparently, to issue them or to have assistance in their service. Had we put at the top of this paper the name of the State of New Jersey, or

"State of New Jersey to so and so," it would have been process?

MR. BACKES: It may, sir, and it may be process as it is now.

MR. YOUNG: Is it process or not?

MR. BACKES: A process such as is spoken of in the State Police Act, a subpoena, summons, warrant, attachment, order of arrest or other similar process.

MR. YOUNG: It does not say "similar."
I say, any other?

MR. BACKES: Or.

MR. PEACOCK: As may be issued by your Assembly or Committee.

MR. YOUNG: Now, assume, therefore, that there is no defect in the statute, the State Police is to assist the Assembly in the service of process of any nature? Is that so?

MR. BACKES: The statute is ample, sir, for the State Police to serve a process of the kind described in the State Police Act, particularly described in the State Police Act, or process of similar kind, whatever it may be.

MR. YOUNG: But the Act is not sufficient in your opinion, to allow the State Police, under suitable process of the House, to break and enter and get records?

Is that your opinion?

MR. BACKES: Absolutely, sir.

MR. YOUNG: In other words, the Act in that respect is deficient?

MR. BACKES: I didn't hear the last word.

MR. YOUNG: The Act in that respect is deficient?

MR. BACKES: I wouldn't say the Act is defective.

MR. YOUNG: I didn't say "defective." I said "deficient."

MR. BACKES: Deficient; yes, sir.

MR. YOUNG: And the orders given under that Act are, in your opinion, uncertainly, process? You don't know whether they are or not?

MR. BACKES: I wouldn't want to answer that question. I really do not understand the purport of the question. What is it?

MR. YOUNG: What I am getting at is this: What we have served on Colonel Kimberling may or may not be process, and you don't want to give an opinion on it.

MR. BACKES: It is an order of some kind and it may be process, but the sole question which we had to determine was whether the orders therein contained were such that he could comply with them, under the powers and duties cast upon him and his department by

statute.

MR. YOUNG: Now, can you and Mr. Peacock, together, suggest what change should be made in this statute in order to enable the State Police--

MR. BACKES: I have given it no thought. I have given the matter no thought.

MR. PEACOCK: You mean whether we should suggest an amendment to the act, allowing them to comply with that?

MR. YOUNG: Yes.

MR. PEACOCK: I have not gone into that, Mr. Young, at all.

MR. YOUNG: It could be done, however, couldn't it?

MR. BACKES: I wouldn't want to answer that. That is a broad question.

MR. YOUNG: Now, I would like to call your attention to this Title 2-42-26. I just want you to read that section, if you will.

MR. BACKES: Yes, I have read it.

MRS. SANFORD: Will you read it loud so we know what it says?

MR. YOUNG: This is under "Attachment," Mrs. Sanford, and provides for the powers of an officer in the executing of a writ of attachment:

"The attaching officer, if refused admittance after demand therefor, is empowered and required to break open any house, chamber, room, shop, door, chest, trunk, or other place or receptacle where or in which he is informed or had reason to believe any money, goods, chattels, books of account, bonds, bills, notes, papers or writing of defendant may be deposited, secreted, had or found."

That is a specific statutory provision giving the power to a legal officer to break and enter for the purpose of an attachment, isn't that so?

MR. BACKES: Undoubtedly.

MR. YOUNG: I believe that I have heard that you are the outstanding constitutional officer of the state. Do you think that is constitutional?

MR. BACKES: I am not going to express an opinion upon that, upon a mere blush.

MR. YOUNG: This is the Attachment Act of 1901.

MR. BACKES: That has been in there, and I don't know whether it has ever been questioned or not. I have not looked at it.

MR. YOUNG: It is thirty-seven years old.

MR. BACKES: Are there any cases on it?

MR. YOUNG: I don't know.

MR. BACKES: I don't either.

MR. PALESE: Mr. Backes, on the duties of the members of the State Police, where they are given the authority to execute an attachment, at the order of the Senate or the General Assembly or of a special committee of the General Assembly, what, in your opinion, is the meaning or the purpose of the word "attachment" in the statute?

MR. BACKES: Executing an attachment against the individual or person, as an attachment for contempt.

MR. PALESE: Not in the same sense that is used in the statute on attachment, where a person, under a writ of attachment, can have the right to break and enter a building?

MR. BACKES: That is in the Attachment Act. That is a proceeding in rem; that is, as against the thing, under the Attachment Act.

The other statutes that you are considering relate to a method of bringing the person in, and also, possibly, papers, or documents as he may have in his possession. The proceedings are entirely different.

MR. PALESE: You mean it has a different meaning as used in this statute?

MR. BACKES: One is an attachment made against land and tenant's goods and chattels, money and effects.

MR. PALESE: Wherever they may be found?

MR. BACKES: Yes.

MR. PALESE: That is the statute that you just read?

MR. BACKES: Yes.

MR. PALESE: But when that same word "attachment" is used in the statute with the State Police it has a different significance?

MR. BACKES: Yes. You take the word "attachment," as used there it must be read in connection with the subpoena, the summons, the order of arrest, producing the body.

MR. PALESE: Suppose that it is used in connection with the following language of the statute, which provides attachment by the order of the Senate or the House, either House, or a committee of the House, to get public records. Suppose that you use that phrase, "Attachment by an order of the Legislative Committee."

MR. BACKES: I really don't understand the question.

MR. PALESE: You said that the word attachment as used in this statute applies to the arrest of a person. Is that correct, and that the State Police can assist?

MR. BACKES: In a given instance, sir.

MR. PALESE: And it only applies to the individual?

MR. BACKES: If a person was attached for contempt by the House of Assembly, the attachment would go forth, which would require the production of the body of the offender. That is, the person to be attached.

MR. PALESE: Doesn't the word "warrant" or "commitment" take care of that? There are the words in the statute, "warrant" and "commitment." Wouldn't a person adjudged in contempt be brought in by commitment of the Committee and not by writ of attachment?

MR. BACKES: I am not going to try to define clearly the meaning of each word that is used in that clause, but it has reference to procedure. That language is practically the same, you will find, in many statutes regarding civil processes issuing out of courts. You can issue subpoenas, summonses, and attachments, and, under certain circumstances, orders of arrest.

MR. PALESE: But they all have different meanings under the statute? A subpoena has one meaning and a warrant has another.

MR. BACKES: Yes, but they all relate to civil process as distinguished from criminal process.

MR. PALESE: You say that the same construction is applied to that word "attachment" in this Act?

MR. BACKES: I think the statute has reference to purely civil proceedings.

MR. PALESE: Mr. Backes, do the State Police do any work in conjunction with civil proceedings? We are talking about the State Police. Do they do anything in connection with the issuance of civil processes, warrants, attachments, processes?

MR. BACKES: I assume they practically all function for violation of our penal statutes or civil cases, fish and game, motor vehicle, and the like of that. They are not criminal; they are civil. A man may incur penalties under them, and I understand that they make many arrests.

MR. PALESE: An arrest for murder; is that civil?

MR. BACKES: That is criminal.

MR. PALESE: An arrest under the Fish and Game Laws--

MR. BACKES: Fish and game, motor vehicle.

MR. PEACOCK: Medical and dental are all civil, under the Court of Errors and Appeals' decision.

MR. YOUNG: Does that make much difference, because the attachment of the person is a civil process, as you define it?

MR. BACKES: I think it is.

MR. YOUNG: A replevin action is a civil process, isn't it?

MR. BACKES: Yes.

MR. YOUNG: The summary eviction of a tenant by force is a civil process?

MR. BACKES: I wouldn't answer that because I never had one of them.

MR. YOUNG: It may be impolite but it is, nevertheless, similar in the eyes of the law.

MR. BACKES: It may be.

MR. YOUNG: So, where is the distinction?

MR. BACKES: I didn't get that.

MR. YOUNG: Where is the distinction? What we are asking these people to do, under your definition, is civil process?

MR. BACKES: Mr. Young, I really do not get the purport of your inquiry, that is, the thought which you may have in back of your mind.

MR. YOUNG: Well, sir, I understand you to say that the powers of the State Police are to serve civil processes, is that correct?

MR. BACKES: I think that there are additional powers.

MR. YOUNG: Yes, but I mean in that particular statute.

MR. BACKES: This particular statute, as I think, refers solely to civil processes.

MR. YOUNG: And in what way does the process that we have attempted to direct to the State Police--

MR. BACKES: That is civil process, but that directed the State Police to not summon a person to appear but to produce books and papers, and the process was to go and get the papers and bring them in.

MR. YOUNG: Exactly. A replevin action is not an action to summon a person to appear but to go and get the automobile and turn it over to the true owner, isn't it?

MR. BACKES: I don't catch the purport of that, either.

MR. YOUNG: It is a fact, isn't it?

MR. BACKES: I didn't get the question.

MR. YOUNG: I say that a writ of replevin, sir, is not a process to go and bring someone in or to serve a subpoena, but it is a writ directed to the officer to go and get the automobile and restore it to the true owner? Isn't that so?

MR. BACKES: I assume that is so but I am not familiar with the Replevin Act. That is another one I know nothing about.

MR. YOUNG: Perhaps you are familiar with it, Mr. Peacock?

MR. PEACOCK: I have not had many in my life, but I think you are correct in that.

MR. BACKES: When you consider that all my working times have been in the Attorney General's department, you can readily understand why I don't know anything about a writ of replevin.

MR. YOUNG: A writ of attachment, according to your scanty knowledge of those things, is also a writ not to bring in a person?

MR. BACKES: That is a proceeding in rem.

MR. YOUNG: So to speak, then, an order of assistance or an order empowering a constable to evict a tenant by force, is not an order to bring in a person, but it is also a proceeding in rem, so to speak.

MR. BACKES: I don't want to answer that. I don't know.

MR. PEACOCK: Mr. Young, I hope that you do not think that Mr. Backes and myself are trying to antagonize your Committee. We want to cooperate with your Committee in every way. We have never given

opinions for political purposes. We have only given them on the law, and we are willing to help in any way or give any advice you want to get from the Attorney General's office. I just want to state that to you.

MR. YOUNG: We doubt not the expectation, Mr. Peacock, but, frankly, we do not seem to be able to find out just where you think we are wrong.

MR. McCARTER: Your criticism of the order concerning which you wrote the opinion; you had that in mind?

MR. BACKES: Yes.

MR. McCARTER: Your criticism is that it is not such an order or document as would justify the State Police to act, because it is not directed to any person?

MR. BACKES: That is correct, sir. You see, Mr. McCarter, the particular words spoken of in the State Police Act, that is, the writs which they may serve, are subpoenas, summonses, warrants, attachments, orders of arrest, and then the statute goes on and says, "or other process." Of course, when the statute uses the words "or other process," it must mean process somewhat similar to that particularly spoken of in the statute, and that, Mr. McCarter, was really the thing that guided us.

MR. McCARTER: Would an order, in your judgment,

of the House, similar in character to the one about which you wrote your opinion, be effective if it included in the direction the name of Mr. Stoebling, the alleged custodian of these books?

MR. BACKES: Mr. McCarter, I am not sure that I really gather what you have in mind. If a subpoena were addressed to Mr. Stoebling to appear and at the same time to produce certain books and papers, such a writ could be executed and such a writ could be served by any member of the State Police.

MR. McCARTER: Now, you recognize the fact that Mr. Stoebling has had a subpoena and has refused to obey it, and these proceedings are taken for the purpose of endeavoring to effectuate the desire of the Committee to get those books. Now, is it a fact, that in your judgment the Assembly Committee is powerless to effectuate this subpoena, if a man refuses to obey?

MR. BACKES: Frankly, under existing law I fear that that is so. Maybe eventually it will require remedial legislation. I really do not know of any law on the subject which will warrant going in and seizing.

MR. McCARTER: Thank you.

MR. YOUNG: Well, sir, here is the situation, Mr. Backes: What we are trying to find out, if you can,

under a writ of replevin, go and get an automobile, even though you never serve process on the person who has it in his possession; if, under a writ of attachment you can go and open every safe deposit box, even though you never serve that process on the person in whose name that box stands; if, under the order of a court, you can break and enter and throw out a tenant, even though you never serve the order of the court upon the tenant, why can you not, by order of the Legislature which is intended to be process, such as a writ of replevin and a writ of attachment, as mentioned in the Act, and which is directed in rem, that is, to get the particular records, why can't you do that?

MR. BACKES: I don't think you can do it under the State Police Act. The proceedings which you read to me are under the Attachment Act, and, as we all know, that is something against the particular thing in question; that is, as we term it, a proceeding in rem.

My own notion is that our statutes do not cover the situation which you have in mind and which you have expressed to me. I am fearful that we have not sufficient law.

MR. YOUNG: Well, I still do not understand you, because the attachment act says that you may go to a locked place and execute the attachment.

MR. BACKES: If such language were used in connection with the process spoken of in the State Police Act, it might be a justification for the State Police in their endeavor to serve the process, to do the very things which are spoken of in the Attachment Act, if those powers were conferred by statute.

MR. YOUNG: But the State Police statute says that the State Police shall execute an attachment.

MR. BACKES: But what kind of attachment? Purely an attachment to compel the attendance of persons; as I have explained to you the associated words govern the meaning and give you a clue to the proper interpretation of that statute.

Of course, if we disagree upon that we cannot help it. I cannot explain the matter any more fully than I have.

MR. PALESE: Mr. Backes, is it your thought that where the word "attachment" is, that if it were described the same as process or writ of attachment was used in civil matters, that that would in all probability cure the situation?

MR. BACKES: It might, sir, if, in addition to the words that are now used in the State Police Act, it should be provided that where a subpoena duces tecum had been issued and books, papers and documents cannot be

obtained, that thereupon the officer might break in and seize those records.

MR. PALESE: That is a suggestion that might solve the problem? Is that a suggestion?

MR. BACKES: That is merely a suggestion.

MR. YOUNG: What form should the order take, to the State Police, under such an amended State Police Act?

MR. BACKES: Assuming the resolution of the House to be within the power of the House to pass, and I assume that that is correct, if the resolution is sufficiently broad to authorize the issuance of the subpoena duces tecum addressed to your Sergeant-at-arms, and then the statute should empower the State Police to aid in the service of that subpoena duces tecum, and if the books and papers called for were not produced, they should have the power to enter any premises and for that purpose to break in, if necessary, and obtain the books, papers, and documents and produce them.

MR. YOUNG: Do you agree with that, Mr. Peacock?

MR. PEACOCK: Yes.

MR. YOUNG: We have had prepared here an amendment or supplement to the State Police Act. You might read it over and let us know if it will be effective.

MR. BACKES: The paper which I have before me reads as follows:

"A further supplement to an Act entitled, 'An Act creating a department of State Police, providing for the appointment of a Superintendent thereof, together with the officers and men who shall constitute the force, defining their powers and duties and making an appropriation for the expenses connected therewith' passed March 29, 1931.

"BE IT ENACTED by the Senate and General Assembly of the State Of New Jersey:

"1. In addition to the duties prescribed by the Act to which this is a supplement, and any other supplement thereto, it shall be the duty of members of the State Police, as and when thereunto ordered by any Committee of the Senate or General Assembly of the State of New Jersey, which order shall be evidenced by the signature of the Chairman of said Committee, to go to the place of custody of any public records of this State, designated in said notice, and which records the said Committee by subpoena have been unable to secure, and then and there take into their possession and deliver wherever

the said notice signed as aforesaid may designate, any such records they may there find, whether the same be under lock or in any vault, safe or other receptacle in any office or building in this State devoted to business purposes; and to that end they are hereby authorized, empowered and directed, if necessary, forcibly to enter any such office, and if required, to break any lock or door that prevents their seizing the said records.

"2. AND BE IT FURTHER ENACTED that any person or persons who shall obstruct or interfere with any member of the State Police who is engaged in carrying out or executing the said order, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalties thereof.

"3. This Act shall take effect immediately. This Act is designed to enable a Committee of either House of the Legislature to require the State Police, if necessary, forcibly to take and deliver, as directed, any public records that may be desired by such Committee."

MR. YOUNG: Do you think that that Act would

be sufficient to enable us to do what we desire to do?

MR. BACKES: On such short notice, Mr. Young, I would not want to pass on the sufficiency of an Act of such great importance as this.

I notice one thing, Mr. Young; I do not know whether there is any substance to it or not, but you have supplemented the State Police Act. That is correct, isn't it?

MR. YOUNG: Yes.

MR. BACKES: Since the adoption of the Revision there is but one title to all of the Revised Statutes.

MR. YOUNG: Assuming that we change that and supplemented the proper part of the Revised Statutes.

MR. BACKES: I am only calling your attention to that because that may be so.

MR. YOUNG: I had that in mind myself.

MR. BACKES: We had a great deal of trouble in the department in coming to the conclusion as to how to change and amend statutes since the adoption of the revision, and I do know that the titles are wrong, of the old statutes. Isn't that so?

MR. YOUNG: I believe they are. You do not care to give an opinion as to the efficacy of that proposal?

MR. BACKES: Not upon one reading of it.

MR. YOUNG: I will let you read it all the time that you want.

(Addressing Mr. Peacock) I suppose that you are in the same "pickle" as Mr. Backes is?

MR. PEACOCK: Yes, I would be in the same position.

MR. BACKES: I will say this; this Act may accomplish everything that you have in mind but I would not want to pass an opinion on a mere once reading of the statute.

MR. YOUNG: For your advice we are asking this question: would it be a good thing to enact legislation specifically authorizing the Chairman of that Committee to call upon the State Police? Here we have a direction to the State Police to comply with an order of the Chairman of the Committee. Would it be advisable also to enact legislation giving the Chairman of the Committee power to call upon the State Police? Or is that unnecessary?

MR. PEACOCK: Under the direction of the Assembly.

MR. BACKES: I would think that this sort of statute, if good, would accomplish the purpose. I am not passing on the constitutionality of the statute, nor whether a statute of that kind would be good under all circumstances. Assuming that it is good I think that

it would accomplish what you have in mind.

MR. PEACOCK: Is that an amendment to the State Police Act of the powers and service?

MR. YOUNG: Yes. Now, I will read this one to you and whether this is also efficacious, I don't know. This is an act to require public employees having knowledge of means of access to certain public records, whether in the direct custody of such employees or not, to use that knowledge and permit any Committee of the House of Assembly of New Jersey, having endeavored by subpoena to secure said records, to secure the same.

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey;

"1. Whenever any employee of any public officer knows the combination of the lock behind which are any public records which any Committee of the House of Assembly is empowered to look at, but which by subpoena it is or shall be unable to obtain, such employee shall, upon direction of said Committee, over the signature of its Chairman, use that knowledge and unlock the door of the room or receptacle where such records are located, even though such records are not in the direct custody of such employee, and allow the

said Committee, or its Chairman or representative, to take possession thereof; and that the receipt of the said Committee, signed by the Chairman, shall be sufficient justification and defense for any alleged responsibility of said employee for the safekeeping of said records.

"2. This Act shall take effect immediately."

MR. PEACOCK: Said officer in charge, deputy, or other employee.

MR. BACKES: Did you ask, in my opinion, whether that was a good act?

MR. YOUNG: No, I didn't. I asked if that was in compliance with the suggestion that you make.

MR. PALESE: Mr. Young, I would suggest, of course, if it meets with the approval of the Committee, we have here two tentative forms of legislation that the Committee feels may take care of the situation, to obtain public records.

It is my suggestion that we give these two tentative forms of bills to Mr. Backes and that he get for us by Monday afternoon, if possible, the approval of these two bills to accomplish our purpose, or to give us bills that will have for their purpose the production before this Legislative Committee of public records.

Have I made myself clear, Mr. Backes, as to what

we would like to have by Monday afternoon? Will that give you sufficient time, giving you these two copies?

MR. BACKES: The library closes tomorrow at noon and will not be open until Monday morning. Now, I would not undertake to pass upon the first bill which was read here in that time. The second bill is rather simple in its purpose, and I think it is a good bill. The first bill may be fraught with some danger, and I wouldn't want to pass upon it by Monday morning or Monday night?

I want ample time to decide whether or not such an Act is good or bad. I would like to have ample time to consider it.

The first bill, Mr. McCarter, is a bill of great importance. The second bill simply requiring an employee of the government to disclose certain knowledge as to the whereabouts of a paper. That is a very simple proposition.

MR. McCARTER: When do you think you could either say that this proposed draft of the first bill is right and should be enforced, or when would an addition to it be ready? Time is of great essence here, Mr. Backes.

MR. BACKES: I understand that.

MR. McCARTER: We want to conform, so far as we may be advised by you people, with what you deem to be

necessary. We cannot believe that such a situation as exists in Hudson County should be permitted to continue, if it is possible for the Legislature to take some action to accomplish it by some bill that you might assist in drafting.

MR. BACKES: We are at your service, sir.

MR. YOUNG: I want to thank both of you gentlemen for appearing here today.

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