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N. J. Committee for the

ASSEMBLY INVESTIGATION OF :

ALLEGED FRAUDULENT AND ILLEGAL : BOOK ONE

CONDUCT AT THE GENERAL ELECTION :

ON NOVEMBER 2, 1937, etc. : Testimony

- - - - - - - - - - - - - - - - - - - -

I N D E X

January 29, 1938 1

Witnesses:

Benjamin Dowden 18
Alice Seglie 45

Statement of Isadore Haber- starts 2

Statement of Dr. Robert Stockfisch 34

January 31, 1938 64

Witnesses:

Alice Seglie 80

Jacob L. Levey 113

Benjamin Dowden 120

February 1, 1938 163

Witnesses:

Alice Seglie Fila 165

John R. Hogan 196

James R. Giuliano 202

David H. Wiener 205

974.90
I62
1938

I N D E X

(Continued)

Witnesses:

George Scheetz	222
Andrew O. Wittreich	233
Patrick H. Sullivan	242
William C. Montelli	265
John Rotherham	281
William F. Clossey	294
Patrick James Dolan	308
Harry W. Vanderbach	323
Patrick James Dolan (recalled)	348
Joseph E. Neary	352
Alice Seglie (recalled)	380
John F. O'Neil	382-a

Assembly Investigation of

Alleged Fraudulent and Illegal

Conduct at the General Election

on November 2, 1937, etc.

Transcript of stenographer's notes of hearings held in the above matter at Room 301, Essex County Court House, Newark, New Jersey, at the residence of Mr. Charles F. Stoebling, 50 Glenwood Avenue, Jersey City, New Jersey, and at the headquarters of the Hudson County Board of Elections, 591 Summit Avenue, Jersey City, New Jersey, on Saturday, January 29, 1938.

Present:

Assembly Committee
Henry Young, Jr., Chairman,
Mrs. Olive C. Sanford,
Rocco Palese,
Frank C. Osmers, Jr.,
Norman P. Featherer.

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

(Louis Kabot sworn as official stenographer.)

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MR. ISADORE HABER: I appear here for Mr. Stoebling personally, and as his personal attorney.

MR. PALESE: What is your name?

MR. HABER: Judge Haber of Union City.

He was served with a subpoena by this Committee to produce the records of his department here this morning, and I understand that attorneys for the bureau or department had told the Committee that the books would be brought here. 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.

He says that he wants to obey the subpoena, and the subpoena calls on him to produce these records and to appear to testify. He is in no position to appear personally, and I think the Committee can be well satisfied on that if they would personally visit Mr. Stoebling. That is an invitation that the Committee has, at any time today, to visit Mr. Stoebling at his home, and you will find that he has suffered very bad effects. He is in no position to leave in order to testify so he cannot obey the mandate of your

subpoena.

He cannot and does not want to leave the books out of his possession. He would like to come here himself or be examined at his home or at his office, as soon as your doctor will examine him and say when he can appear, so that he can produce the books and make a statement to you or be examined by you. The books are under his control, under the statute, and I am sorry to say that I do not believe there is anything in the Election Law which permits a deputy to take charge of these books. I do not think that the law provides for a deputy in his department. I do not think that the law gives him the right to have a deputy in his department. If he had a deputy, the deputy would step into his shoes and produce the books. You understand that the records are all under lock and key in a vault. They are being guarded.

If you will have a doctor examine him this afternoon and the doctor says that he can be examined today or moved today he will be moved today, whether it be across to his own office or whether it be here to the Court House. If the doctor says he can be moved on Monday, he just as well would come over here, I am sure. If the doctor says he can be moved on Tuesday then he could come Tuesday, but it is his

right to appear here before you and make a statement to you, when he produces the books.

That is about all I can say.

CHAIRMAN YOUNG: Judge, let me say this: in the first place you must realize that we do not desire to examine Mr. Stoebling personally. If at some later date he desires to appear before us and make a statement we will be very glad to have him come.

In the second place, he is subpoenaed as a public official and not as a private citizen and, as such, I do not see that he has a right to personal counsel.

MR. HABER: I am not really-- as I said before, I happen to be his personal counsel, and whether I am here as his personal counsel or in his place, I don't know that there is very much difference, but this subpoena, as you realize, is a subpoena upon him personally to appear, "We command and summon you to personally be and appear before this Committee and bring with you all poll books."

CHAIRMAN YOUNG: Now, you say that he cannot appear by deputy with the poll books. Then how can he appear by attorney without the poll books?

MR. HABER: Well, I am only appearing here for

him, to speak for him. You don't have to say that I am appearing as an attorney or as his attorney. I am appearing as his friend. What I am trying to tell you, Mr. Chairman, is this: first, permit me to read this letter from him to you.

"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 want you to believe, as Charlie impressed me, that he is sincere in this. There is no effort to evade. He is under subpoena, and at the same time, under the duties imposed upon him by the Election Laws--the Election Laws do not provide for a deputy. He is responsible for those books. He wants to give you those books but he wants to be here. You know, at least, I believe you know, that the man is ill and confined to bed.

Now, you have an invitation, either the Committee or one or more of this Committee, or your physician, to attend today, within the hour, or this afternoon, to examine him and talk to him. If you find that he can be moved he will be moved today to a place that you designate, and the books will be there at the same time. He will make a statement to you when he produces these books. I think that is his privilege. In other words, this request is sincere. The records at the present time are under lock and key. They are under a watchman's guard. You can place additional guards there if you desire.

It is not a case where a man was well before he got the subpoena and became sick after he got the

subpoena. It is a matter of record that he is not well, so whether you examine the man this afternoon or Monday or Monday afternoon, whenever your physician or you are satisfied that the man can be moved, then he will be moved.

CHAIRMAN YOUNG: Judge, I don't want to carry the argument too long. It seems that the request is a quibble, to be truthful with you. He says that he cannot deliver these books to the Committee by agent because he is in custody of those books under the law, yet on every Election Day and every primary day, on every General Election Day and on every special Election Day, Mr. Stoebling delivers those books to people who are not his people, who are, under the law, the agents of the law.

MR. HABER: You mean the Election Boards?

CHAIRMAN YOUNG: Yes.

MR. HABER: The Act provides for that.

CHAIRMAN YOUNG: He is not in possession of those books. They are taken from his possession. He has not them in his custody during the times that they are out with the other Election Boards and at other times prior to the election.

MR. HABER: That is the Act which provides that the records are to be distributed or given to the

Election Boards, and so on.

CHAIRMAN YOUNG: We are asking for the signature copy--

MR. HABER: These are the originals.

CHAIRMAN YOUNG: Duplicates to the ones sent out to the Election Boards.

MR. MAX MILLER (of the Hudson County Board of Elections): Those records have been available before to Mr. Freeman, when they came and asked for them, but when the poll books are returned by the Election Boards, after these names have been added, after the person has voted, they are then placed in the custody of the Commissioner of Registration, who shall check with his binder and forms, and not having had an opportunity really to check at any time, we immediately, after checking, return them to all the municipal clerks in the various towns and cities in the county, so they are not the property of the Commissioner of Registration. They are placed in custody only for him to check and then return to the municipal clerks. That is all.

CHAIRMAN YOUNG: In effect, they are not his property at all?

MR. MILLER: They are not his property. They are placed in his particular custody and charge for

checking with the binder and forms in order that we may ascertain who of the registered voters have voted, and immediately after checking we return them, at least one month before the next election, to various municipal clerks in the towns and cities of the county. After they are through checking they have to be returned to the municipal clerks. They are not the property of the Commissioner of Registration. When they are returned to the various municipal clerks then it is their property, and they should be the ones who should be subpoenaed.

MR. OSMERS: May I ask a question? I am very much confused here because Judge Haber has just made a statement that these books are the property of the Commissioner of Registration, and this gentleman has said that they are not. I wonder if they would be willing to confer and make a decision.

MR. HABER: I bow to Mr. Miller's knowledge of that section of the Act.

MR. MILLER: The poll books are delivered to the Commissioner of Registration.

MR. OSMERS: Mr. Chairman, I think we are wasting time if people are going to come here and say one thing and then have some man contradict him. In the meantime, this Committee is not going to get very far.

MR. HABER: My request is just as I have pointed out to you before. I think you will agree with me that the application is sincere. The man is ill. A man, after all, being required to produce the books, should be heard. He is entitled to be heard when he produces the books. He is willing to produce the books. The books are not in jeopardy. The records are not in jeopardy. They are under your guard as well as his guard. You have the privilege to examine them. You can examine him yourselves or by a physician at any time that you or a physician decide that he shall be examined and the books produced, and he will be examined and produce the books then, if he has to come on a stretcher.

CHAIRMAN YOUNG: I am not questioning about Mr. Stoebling being ill. I have known that for weeks. I do say this, when he returns the books to the municipalities he does not return them personally, but by deputy or agent or someone else, and there is no reason why he cannot produce them here by deputy or agent or whatever agency he chooses.

We are calling on you for these books this morning. We don't care about Mr. Stoebling being here. We will be very glad to examine him later when his health is such that he can be examined. There is no

necessity for Mr. Stoebling to personally produce the books.

MR. PALESE: Do I understand that he now has possession of the books?

MRS. SANFORD: Are they out of his vault?

MR. HABER: No, they are in the vault, being duly guarded, under lock and key, and I think they are your guards as well as his own.

CHAIRMAN YOUNG: The Committee cannot wait on Mr. Stoebling's health to start its activities. There is no necessity for him being here. In the ordinary course of events, in his office, when he finally gets through with them, he would not personally hand out thirteen hundred books over the county. It has to be done by agents when it is done, and the same conditions apply here. If Mr. Stoebling desires to direct that the books be brought over here this morning we will wait for them.

MR. PALESE: As I understand it, the books are now in his possession, and they are physically under his supervision?

MR. HABER: I have not seen them myself, but I am so informed.

MR. PALESE: Did he say to you that they are in his possession or supervision at the present time?

MR. HABER: I have not talked to him, whether

they are or not, but I am given to understand they they are in the vault under lock and key.

MR. PALESE: Under his supervision and charge?

MR. HABER: Under his supervision and charge but under the actual supervision of the guards.

CHAIRMAN YOUNG: If they are brought over here they will be under the actual supervision of the guards.

MR. HABER: And this Committee.

CHAIRMAN YOUNG: And this Committee. I think that is all I can say, Judge. We will wait for them.

MR. HABER: All I can do is to relay your message.

MR. PALESE: Have you advised him that because of the fact that the Act did not permit the delivery of those books by deputy that he should not have the books here this morning?

MR. HABER: No, I did not advise him not to have the books here. He told me that was his desire, not to have the books here because he wants to make this statement, that he has charge of the books and that he has no deputy, and I am appearing here to express his views to you.

CHAIRMAN YOUNG: The books will speak for themselves. Anything he wants to do in relation to the books, after we have them, it is perfectly simple.

MR. PALESE: Judge, you are making the argument that under the Election Laws he is the only person who can bring the books here? Is that your argument or his argument?

MR. HABER: Well, we discussed it and I know of no provision under the Election Laws that would indicate that a deputy could act for him.

CHAIRMAN YOUNG: You know of no provision of the Election Laws stating that he is to personally deliver each one of those books to each municipality when he gets through with them?

MRS. SANFORD: And the same people who deliver them to the different districts ought to be able to bring them over here.

CHAIRMAN YOUNG: Suppose we recess to eleven o'clock, and Judge Haber--

MR. GIULIANO: May I ask if Mr. Stoebling is not even able to get up so that we can get the books? After all, this Committee served him with a subpoena and I am not asking Mr. Stoebling to appear. We want the books. If Mr. Stoebling is not well that means we are never going to receive these books.

MR. HABER: That would be an anomaly. You are entitled to the books.

MR. GIULIANO: Why aren't they here this

morning? We are not interested in whether Mr. Stoebling is sick or ill. We are interested in the books, and interested in proceeding at this time under the resolution passed by the Assembly, and I think that you should so advise Mr. Stoebling. When we get ready to question Mr. Stoebling and he is ill, that is another case, but this morning we are interested in the books.

MR. PALESE: That is the question I put to the Judge, whether or not the refusal was on his suggestion or the suggestion of Mr. Stoebling, and he just said that we are entitled to the books.

MR. HABER: Well, I say, in answer to the question put by the Assemblyman here, whether Mr. Stoebling gets up there or not, and assuming that he does not get up there, does it mean that you never get the books? I say that you are entitled to the books. You are, after all, the creature of the Legislature that created the board or bureau, and, as such, you are supreme in my estimation.

MR. PALESE: If that is true, why didn't you advise him to make arrangements to have the books here this morning?

MR. HABER: Well, I did discuss it with him, and the mere fact that the books are in custody and

under guard, he made this request, that he wants to produce them personally, and I cameover here and--

MR. PALESE: You know it is a physical impossibility for a man to bring here thirteen hundred or fourteen hundred poll books. You know it is a physical impossibility for Mr. Stoebling to bring here before us thirteen hundred or fourteen hundred poll books himself which I understand is the number of poll books now in his custody or under his supervision. It becomes necessary for him to have aids and assistants to bring those books here. Am I not correct about that?

MR. HABER: You are correct.

MR. PALESE: What difference does it make whether he tells you or tells John Jones to bring the books here, or whether he accompanies the books in a truck and stays downstairs and follows each individual book as it is brought up to us?

MR. HABER: He is not a young man. He has certain ways and he still insists that he wants to be here when the Committee convenes, to make a statement.

MR. PALESE: On what?

MR. HABER: I don't know.

MR. GIULIANO: There was a definite promise

made by someone in authority in Hudson County, that these books would be here this morning. The subpoena, as I understand it, said "forthwith," and after a great deal of wrangling, they agreed to produce the books here this morning.

We are not interested in Mr. Stoebling making a statement when the books are delivered. If Mr. Stoebling is called and put on the stand and if he is ever questioned he can answer the questions and say what he wants. We are not interested in statements. We are interested in the records of Hudson County, and we want them here this morning and they should be here this morning.

CHAIRMAN YOUNG: That is all right, I think, as far as this is concerned, Judge. Understand perfectly, we expect them here this morning. He realizes the penalty of failure to obey a subpoena, and I suggest that we recess until eleven o'clock to give him a chance to produce the books.

MRS. SANFORD: I so move.

MR. OSMERS: I second the motion.

(Motion carried.)

(At this point a recess was taken until Mr. Haber returned to the room, after which the Committee resumed its hearing.)

MR. HABER: 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. I can just renew my former application to you, that you convince yourselves of the fact that at the present time he is physically unable to appear, and you can arrange for his production of the books on Monday, after you talk to him yourself.

CHAIRMAN YOUNG: I have no desire to talk to Mr. Stoebling. I want the books. Has he got a representative of his office here?

MR. HABER: Well, Mr. Dowden is an attorney representing the bureau. I do not represent the bureau.

MR. GIULIANO: May I ask that Mr. Dowden be sworn, Mr. Young?

B E N J A M I N D O W D E N, being duly sworn, testified as follows:

EXAMINATION BY MR. GIULIANO:

Q Mr. Dowden, where are you employed? A. In the Commissioner of Registration's Office, Jersey City.

Q What is your official title? A. I have no official title. You are just designated as a clerk, under the Act.

Q Aren't you in the legal department? A. I handle the legal end of the department, yes, sir.

Q Haven't you been the legal advisor of Mr. Stoebling in the past? A. Yes, sir, and I still am.

Q You are the legal advisor of Mr. Stoebling?

A Yes.

Q Last night did Mr. Wiener talk with you with respect to the subpoena and the production of the books before this Committee this morning? A. Yes, sir.

Q As legal advisor to Mr. Stoebling did you not inform Mr. Wiener that the books would be produced here, and that all matters set forth in the subpoena would be here before the Committee? A. Yes, sir.

Q As his legal advisor did you not think it proper that the books be here this morning, as you had promised?

A Yes, sir.

Q Mr. Dowden, may I ask you now why you have changed your mind? A. I haven't changed my mind.

Q Mr. Dowden, may I ask you why you have not insisted, as the legal advisor, that the books be here this morning, as you informed Mr. Wiener last night?

A Will the stenographer read the question?

(The last question was read by the stenographer.)

THE WITNESS: I did insist.

Q Mr. Dowden, do you think that it is proper that the books are not here this morning? A. As far as proper is concerned, I would say I would have brought the books. The situation is this; I figured that there was a subpoena served and that the better policy would be to have the books brought here. I told Mr. Stoebling that it was my opinion. He seemed to be very much perturbed over the fact that there was some question as to what would happen with the books when they got here and got out of his custody.

He said, "I am primarily responsible for those books." Of course, when you are trying to describe something as I am describing it here, it is difficult, because you have to know the background of the situation. That man was laying in bed when I talked to him yesterday afternoon, and he was also in bed last night. He seemed to be fearful that if he let the books go out of his custody he would be responsible to someone. I told him that my personal opinion was that there was nothing to fear. I said that it was a branch of the Legislature. He said, "I want to cooperate with them in every way," and, after

all he said-- I am simply giving you my opinion. I can't give you any guaranties one way or the other, but I can tell you and tell this committee that I have not changed my advice or my opinion.

Q Mr. Dowden, then it is your opinion that the subpoena was proper and legal? A. From a technical point of view, I would say no, but from a practical point of view I would have honored the subpoena.

Q Do you know that when the books are delivered to this Committee, Mr. Dowden, no one has access to them except the members of this Committee? A. I presume that is so.

Q Do you know, and through you I presume that Mr. Stoebling knows, that the records, when they are delivered to this Committee, are put in a vault of a bank, or a vault with proper protection? A. I don't know what Mr. Stoebling knows. I can only speak for myself, and the things he might have told me. I went on the theory that it was a branch of the Legislature which was entitled to get all the cooperation possible.

Q When did you last speak to Mr. Stoebling?

A I spoke to him last night.

Q At that time, what did he tell you? A. He said that there was a conflict of opinion. He said he thought the better policy would be to come out here with a letter and present it to the Committee and let the Committee do as it

might deem fit.

Q And do you believe that Mr. Stoebling has got somebody else's opinion, when you say that there is a conflict of opinion? A. There certainly is a conflict of opinion, when you decide one thing at four o'clock and later on you change. There is certainly a conflict of opinion.

Q May I ask you if you know who the other person or persons are who gave Mr. Stoebling an opinion?

A I don't know as he would have any special opinion from anybody.

Q Is there anybody else in your office as a legal advisor of Mr. Stoebling? A. Yes, Mr. Pass.

Q Mr. Pass was present last night? A. No, sir. He was present with me yesterday afternoon.

Q Did you discuss with Mr. Pass the advisability of delivering the books this morning? A. No, sir. He was there when we spoke. I took it on my own initiative to advise that they produce.

Q And Mr. Pass did not advise Mr. Wiener also?

A Yes. Pass was there. There is no question about it. We agreed to that yesterday afternoon.

Q And it is your opinion, and the other legal advisor also is of the opinion, that the books were to be delivered here this morning? A. I don't remember my saying they would produce the books this morning. I advised that they be

produced.

Q And Mr. Pass did not object, when you advised Mr. Wiener that the books would be here this morning?

A No, because I am older and he generally follows what I suggest. That is the reason.

MR. GIULIANO: That is all.

BY CHAIRMAN YOUNG:

Q It seems to me that you are actually employed as counsel for the Commissioner of Registration? A. I call it clerk. I act as counsel. In other words, I take care of the legal aspects of the business.

Q For the Commissioner of Registration? A. Yes. As a matter of fact, there is no designation of legal counsel or, even, deputy. He simply gets such assistance as may be necessary.

Q What I am trying to drive at is this: you are employed by Mr. Stoebling, in his capacity as Commissioner of Registration,as his legal advisor? In that capacity?

A Yes, sir, that is the practical aspect of it.

Q And the other gentleman, Mr. Pass, is also a colleague of yours in that capacity? A. Yes, sir.

CHAIRMAN YOUNG: Well, it seems to me, as the matter stands, Mr. Stoebling being a public official, and having been advised by his counsel, retained by him as such public official, to produce the books

subpoenaed, that he has no right or obligation to produce before this Committee private counsel giving a different opinion. The matter stands as it did. The subpoena was properly served. If his private counsel, who is here, is sincere about Mr. Stoebling's health, I should think that he would want to avoid for him the possibility of an action for contempt, and I think we will still wait for the books.

Will you inform Mr. Stoebling on that, as his official counsel?

MR. DOWDEN: We will relay the message over the telephone.

MR. PALESE: These poll books, were they not used in the recount?

MR. DOWDEN: I think they were present at the recount, because when you have a recount they bring in the poll books with the boxes.

MR. PALESE: Who produced the poll books for the purpose of the recount?

MR. DOWDEN: They were at the Commissioner's office.

MR. PALESE: Were they used in the Commissioner's office?

MR. DOWDEN: Yes.

MR. PALESE: Who got the books out of the safe?

MR. DOWDEN: I think Miss Seglie.

MR. PALESE: Was Miss Seglie an employee of the Commissioner's office?

MR. DOWDEN: Yes.

MR. PALESE: Who gave her the orders to produce the books for the purposes of the recount?

MR. DOWDEN: Personally, I don't know who gave her the orders. I am not trying to quibble. Mr. Williams may know that better. I think when Commissioner Stoebling was taken sick that some arrangement was made by the County Board for assistance in carrying out the functions which would ordinarily be carried out by the clerk of the Board. I may be wrong on that. I am willing to stand corrected on that.

BY MR. GIULIANO:

Q In other words, the Commissioner of Registration did not have to be present when the books were delivered at the recount? Is that so? A. He wasn't there. There is no question about that.

Q And a clerk of the office had the authority to deliver to the Board of Elections the respective poll books as they were wanted at the recount? Is that so? A. Yes.

Q And Mr. Stoebling has not been at your office since the time the recount started, which is some eight to ten weeks

ago? Is that so? A. He has been there maybe a couple of times, maybe three or four times.

MR. PAUL WILLIAMS: He did not participate in the recount?

MR. DOWDEN: No.

Q In other words, up to the present time, there have been approximately 180 districts counted in the recount, from the poll books in each district, making a total of 360 books, and those 360 books were produced at the Board of Elections, at the recount by a clerk of Mr. Stoebling's office? Is that so? A. I don't know whether I can answer that yes or no, for this reason; I think he was designated by resolution of the County Board of Elections, to take his place.

MR. DOWDEN: Mr. Williams, you know that.

Q I am not interested in what Mr. Williams knows. I want to know from you, as counsel to the Commissioner of Registration if it is not a fact that some 360 poll books have been produced at the recount before the Hudson County Board of Elections by a clerk of your office? Is that a fact or isn't it? A. Yes.

Q It is so? A. Yes.

BY CHAIRMAN YOUNG:

Q You say that that clerk, Mr. Dowden, was deputized by the County Board of Elections? A. I am not sure, but my

recollection is that when Commissioner Stoebling was sick, in view of the recount something would have to be done, and I think they passed a resolution. I am not positive about that but I am pretty certain that the County Board passed a resolution authorizing her to take over the duties.

CHAIRMAN YOUNG: The circumstance, then, is that there is actually a deputy.

BY MR. GIULIANO:

Q Isn't it a fact, Mr. Dowden, that in your capacity as legal assistant or legal aid to the Commissioner of Registration, you, knowing the election procedure under a recount, that all poll books are in the custody of the Commissioner of Registration and that he must produce them for examination in his office? A. The poll books are not always there. The last recount we had over there, some of the poll books would occasionally be found in the boxes. When they closed them at election time they dropped them right in the boxes.

Q You know that is an error? A. I know that is an error but you asked me a question and I am answering it.

Q Isn't it the proper procedure in a recount, that all of the books should be in the custody of the Commissioner of Registration? Isn't that the proper procedure? A. No. My understanding is that it goes under the jurisdiction of the County Board of Elections.

Q That is your understanding? A. Yes.

CHAIRMAN YOUNG: Well, the recount is terminated, anyway. We will just wait here and you can tell Mr. Stoebling to inform his deputy to send them over.

MR. DOWDEN: All right.

MR. OSMERS: I move for a ten minute recess.

MRS. SANFORD: I second the motion.

(Motion carried.)

(Following the recess, Mr. Dowden returned to the room and made the following statement.)

MR. DOWDEN: Mr. Chairman, in compliance with your instructions I phoned Mr. Stoebling's house. I was unable to talk to Mr. Stoebling. I was talking to Mrs. Stoebling. She said that he cannot possibly be disturbed; that he is sound asleep at this time. I told her what you had said, and I told her I would report back.

She said that, "If they want they can come over with their doctor and see that we are speaking the truth."

That is the only thing I can report to you, and it is up to you people to make such order as you want. I am not trying to stall you. You can go over there, sir, with your own physician and see what the situation

is.

CHAIRMAN YOUNG: I don't care to call on Mr. Stoebling. I want the books. I just say to you that you have twenty minutes to get the books. I tell you that as counsel for Mr. Stoebling.

I say to you also that I have been downstairs and looked up the law. Unless the books are on their way today I shall apply to the Speaker of the House for the issuance of a warrant for Mr. Stoebling's arrest, for the sergeant-at-arms, if necessary, to go in there and get Mr. Stoebling out and get the books out also. That is all there is to it.

MR. GIULIANO: May I say that this is a lot of stalling. Mr. Dowden admitted that one of the clerks, Miss Seglie, delivered two books, as the boxes were counted from each district, at the recount. Some 360 books were delivered without Mr. Stoebling ever being at the recount, if I remember correctly, and I think that my memory is correct, and I see no reason, unless there is a hidden reason that we know nothing about. Those books should be here, and if the Chairman advises that a warrant be issued, I believe counsel feels the same way. We have got to have those books today, not Monday, not Tuesday or any other day. We want them now, as the subpoena reads.

Stop stalling. We ask no more except what is in the subpoena.

CHAIRMAN YOUNG: That is the situation, and you can avoid for Mr. Stoebling a lot of embarrassment and discomfort.

MR. MURRAY: Last night about eleven o'clock I was up to Mr. Stoebling's office, and Miss Seglie was there. I asked what the disposition was, what disposition was going to be made this morning in reference to those books and she told me that she understood that orders would be issued to her this morning. Evidently, orders have been issued by Mr. Stoebling not to give those books up. There is no necessity for Mr. Stoebling to get out of bed to give the orders to deliver them any more than it is necessary for him to get out of bed to give the order not to deliver them.

CHAIRMAN YOUNG: Mr. Murray, we realize that. We are waiting for the books. You had better get in touch with Miss Seglie, Mr. Dowden.

MR. GIULIANO: May I suggest that Mr. Dowden call Mr. Stoebling and give him the opinion of this Committee?

CHAIRMAN YOUNG: Mr. Stoebling is incapacitated, and by Mr. Dowden's own admission he has a deputy.

The deputy is Miss Seglie.

MR. DOWDEN: It is up to the Committee.

CHAIRMAN YOUNG: All right, I direct it. This Committee will so authorize me to do. I will call her right up now.

(At this point a recess was taken.)

CHAIRMAN YOUNG (following the recess): I just want to state for the record that in compliance with the Committee's instructions I called Miss Seglie. She admitted that she has been acting as deputy for Mr. Stoebling. She admits that the books have remained at the office in her charge. I directed her, therefore, as his deputy to bring the books over or send them over. She refused to do so on the ground that she had received direct orders from Mr. Stoebling not to do so, and she did not dare to disobey those orders. That is all that I can see there is to say.

MR. GIULIANO: Then, Mr. Chairman, I think we ought to follow your suggestion, that the Speaker of the House and the Sergeant-at-arms be notified, and that a warrant be issued holding Mr. Stoebling in contempt for the refusal to deliver the books as set forth in the subpoena.

CHAIRMAN YOUNG: That, of course, will have to be set forth on a definite date. If it is consonant

with the thoughts of the Committee and with the opinions of what should be done, I will have the warrant prepared, served and returnable here Tuesday at some time.

MR. OSMERS: That is satisfactory to me.

MR. GIULIANO: Mr. Chairman, if we wait until Tuesday, I am a little skeptical, about holding the procedure off until Tuesday. It certainly gives Mr. Stoebling from now until Tuesday, and I believe that that is just the time he wants.

CHAIRMAN YOUNG: Time to get out of town.

MR. GIULIANO: I don't know whether he wants to get out of town but I cannot see why a public official, with public records which the public itself is allowed to come in and look at, why you, a Committee, a creature of the Legislature, must be refused those things that an individual is entitled to. You give Mr. Stoebling until Tuesday. I don't know if Mr. Stoebling is even going to be in Jersey City. We have no reason to believe he will be in Jersey City. I say that we ought to meet tonight before twelve o'clock and the warrant should be issued making it returnable immediately, sometime today.

CHAIRMAN YOUNG: I think this suggestion to

hear Mr. Stoebling apparently is only a desire on his part that the books shall be delivered to the Committee in his presence. I therefore suggest that we go to his home and that the books be there produced.

MR. GIULIANO: As counsel may I say this, and I know that Mr. Murray joins me in saying that we are perfectly willing to leave here now and go to Mr. Stoebling's home and make a demand for the books, and if he has a statement to make let him make it then.

MR. MURRAY: Mr. Chairman, may I impress on you, the same as Jimmy has, of the absolute necessity of quick action on this matter. I don't think it would be too much to ask the Committee to do this: let us get the warrant issued, let us get it served, and let us put someone there to see that Mr. Stoebling does not get out of the city. If he is too ill to act today, then let us do it today, not Tuesday. That is what they want. Perhaps, the books won't be there by Monday. This is Saturday.

CHAIRMAN YOUNG: It will save us coming down Tuesday. It will help to get around the technical objections that Mr. Stoebling has made that the books be delivered to the Committee in his presence.

MR. GIULIANO: If that is the only objection, Mr. Chairman, I think we ought to go over there. Mr.

Stoebling said that he would deliver the books.

MR. PALESE: I move that this Committee forthwith adjourn to the home of Mr. Stoebling in Jersey City.

MRS. SANFORD: I second the motion.

MR. MURRAY: May I suggest in the meantime that we get someone working, to have the Speaker or Sergeant-at-arms get the warrantdrawn up so that at his refusal it will be ready immediately to be served, or as soon thereafter as it will be possible to do so.

MR. OSMERS: Is that motion carried?

CHAIRMAN YOUNG: Yes. We ask for the cooperation of Mr. Miller to hold the office of the Commissioner of Registration in Jersey City open until this Committee has been at the home of Mr. Stoebling.

(Following the hearing at the Essex County Court House, Newark, New Jersey, the Committee departed for the residence of Mr. Stoebling at 50 Glenwood Avenue, Jersey City, New Jersey, where the following discussion took place between the members of the Committee and Dr. Robert Stockfish, personal physician to Mr. Stoebling.)

DR. STOCKFISH: 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 or something or other. The one thing I would like to have you keep in mind is this. I will tell you my side of the story. I have just got an inkling of this, and I am here, definitely here, for a very definite purpose.

CHAIRMAN YOUNG: We have subpoenaed Mr. Stoebling to produce before us in Newark certain records of his office. In the opinion of the Committee and in the opinion of Mr. Stoebling's counsel, as an official and not as a private counsel, those records can be delivered without Mr. Stoebling being present. We don't care to see Mr. Stoebling. We don't care to have him come to Newark. We don't want anything but those records.

His request, made through his personal counsel,

apparently was that he was willing to bring the records when he was physically capable of doing so. When they were brought they would be turned over to the Committee and remain in the Committee's custody, in any event. We, therefore, thought, in view of Mr. Stoebling's illness, if we could come here, if he insists on turning over the records personally, the Committee could come here and have him turn them over to us. They will be taken care of absolutely and properly by us.

We hate to invade his home this way, but we have subpoenaed the records and the records were not produced. He has given orders that he will not give us those records. Even if he gave the orders to turn them over to us he will be acting on advice of counsel.

DR. STOCKFISH: The official part of this I know nothing of. I am merely here in the capacity of his private physician, to tell you what it is, and to absolutely and definitely warn you that he cannot be taken away from that room and cannot be seen. His condition was so serious that I was called away from the hospital where I was treating a case, and I have stayed here for the past hour. It was necessary for me to give him a sedative, and at the

present time he is sleeping. I just made sure now when I went in that that was still the case, and by no means is it possible at the present time to see him, and certainly by no means is it possible to move him. As far as the official part of the business is concerned I have nothing to do with that. Mr. Doherty perhaps can tell you about that.

MR. GIULIANO: Doctor,can you tell us definitely how long this man is going to be ill?

DR. STOCKFISH: I couldn't answer definitely.

MR. GIULIANO: A week, a month, two weeks?

DR. STOCKFISH: Certainly not a week. It will be at least a month. That would be about the minimum.

CHAIRMAN YOUNG: You see, Doctor, the situation is this; we cannot proceed with our business while he is adopting the attitude that he has, which, incidentally, is inconsistent with the attitude that he has heretofore adopted in regard to the recount. The only thing that we ask Mr. Stoebling to do is to countermand an order and place a deputy in his office, an order in which he directed that the subpoena be not obeyed. We are asking that he direct that it be obeyed. That takes nothing but a word from you or a word from Mr. Stoebling to the

secretary, Miss Seglie, who has been acting as his deputy. That is all we are asking of you. We do not care to see him. We do not care to take him out of here. We do not care to do anything else in that regard but we do ask that that be done.

DR. STOCKFISH: I, myself, of course, would not give any O.K. to the request, of course. I am only here as a physician.

CHAIRMAN YOUNG: If it cannot be done I am afraid we will have to issue a warrant and that warrant will have to be executed on the records, not on Mr. Stoebling. It will be executed on the records. I am only asking you personally as his physician to impress on him that he is acting on advice of counsel if he gives us the records. The records themselves will be protected in every way. We have guards and an amored truck and a bank vault to place them in. There can be no criticism of that in complying with our request.

The only thing I can say, I don't know how long it will be that Mr. Stoebling will be asleep, but I think a part of the Committee is perfectly willing to wait until he can be awakened, to give some answer to that proposition.

DR. STOCKFISH: The waiting part is all right

with me. After all, it has just been half an hour that he has been sleeping. Would some of the Committee be willing to wait a couple of hours?

CHAIRMAN YOUNG: I would; three hours or four hours. You don't think he will be ready or awake in an hour? We have a bank vault being held open for Mr. Stoebling's records. We have all the people in his office waiting for Mr. Stoebling to wake up, and we have a truck waiting for Mr. Stoebling to wake up, and we propose to wait.

DR. STOCKFISH: If you gentlemen knew what coronary disease of the heart is you would know what a serious proposition I am up against. That will drop a person suffering from it any day, and any unusual excitement is all that we need to set that in flight. You have got a thrombosis in one of the blood vessels. That is the finish. He was close to that three years ago and he dropped, and I wouldn't want such a thing to happen again, but I realize that something must be done.

CHAIRMAN YOUNG: Doctor, Mr. Stoebling conferred with Mr. Dowden and Mr. Pass and I believe that he conferred with Judge Haber last night. Isn't it possible that he can be spoken to today for five minutes on the same matter by you, if you care to do it?

DR. STOCKFISH: Will you just let me go inside for about five minutes?

(At this point Dr. Stockfish went out of the room, after which he returned and made the following statement.)

DR. STOCKFISH: The answer at the present time is no, right now. You will be back about three o'clock?

CHAIRMAN YOUNG: Doctor, is that your answer or Mr. Stoebling's answer?

DR. STOCKFISH: That is my answer. I didn't even awaken him. It is not how he feels about this thing. It is how I feel about how his condition is.

CHAIRMAN YOUNG: We appreciate that, Doctor.

DR. STOCKFISH: I am figuring on perhaps a certain amount of rest to reduce the irregularity which is now present in the blood, which means that there is a danger sign. If I wake him before he has a certain amount of rest, I don't know what is going to happen. I prefer to have this extra time to see if we can straighten out the irregularity that he has had.

CHAIRMAN YOUNG: There is something peculiar about it. I understand from his office that directions were given at his office, presumably at his request,

that everyone leave his office.

DR. STOCKFISH: I don't know anything about that. I wasn't here.

CHAIRMAN YOUNG: That went in in the last twenty minutes.

DR. STOCKFISH: If there was any such thing, it wasn't while I was in there with the patient.

MR. PALESE: Do you mean to say that you were in there and waited there five minutes and didn't say a word about it?

DR. STOCKFISH: I did not. I absolutely did not speak to him.

MR. PALESE: Did it take you all that time to find out that he was asleep, to give us his answer?

DR. STOCKFISH: No, I went in there to test his pulse and watch the breathing. The pulse must not be tested every twenty seconds or every minute. It must be tested at frequent intervals, to test this irregularity. Sometimes it may not be present in three or five minutes.

CHAIRMAN YOUNG: We are going over to his office.

DR. STOCKFISH: What you gentlemen do in that respect means nothing to me.

MR. MURRAY: Doctor, would you say that an

arrangement whereby his own deputy, Miss Seglie, and the Chairman of this Committee would go into the room-- would you say that that would be apt to so unduly perturb him that it might have a serious affect? Just to give them an order to turn over the records or the words, "Turn the records over to the Committee"?

DR. STOCKFISH: Right now?

CHAIRMAN YOUNG: No, not this minute.

DR. STOCKFISH: Right now I would say definitely the answer is no. When I come back in two hours I will again see what the situation is, and I will again at that time acquaint you of his condition to see what the chances are.

MR. MURRAY: That is not answering my question.

DR. STOCKFISH: I can't answer the question as to what his condition is going to be two hours from now, until I see what it is two hours from now.

MR. MURRAY: If you woke him right now, and his deputy, Miss Seglie, and you and the chairman went in, all he would have to say would be, "Turn the records over to the committee." Would you say, in your opinion, that the effect would be so

detrimental that it should not be done?

DR. STOCKFISH: If he were awake and I thought that his heart action was stronger and that the irregularity which is now there had disappeared, and that his general condition would warrant that, I should say yes.

MR. MURRAY: You would say yes what?

DR. STOCKFISH: I would say that he could see you only if those conditions are present.

MR. GIULIANO: You don't think it is dangerous for such a question to be asked him or for him to make such a statement, do you?

DR. STOCKFISH: You have to realize that the man has been on edge for several months. He has been hounded on the right and left, and I well know of it because every time I see him his condition is worse. When he is kept away from phones and business his condition is better. As soon as someone comes in and hounds and pounds him then there is a drop.

MR. GIULIANO: Do you think that we are hounding him? These are public records.

DR. STOCKFISH: I am not stating that you are. There are other people wanting this and that and the other thing.

CHAIRMAN YOUNG: May I ask you this; is this

hounding, if we, as a public committee make a public request? Is that what you call hounding?

DR. STOCKFISH: No, I am not speaking about you gentlemen. I am speaking of other petty things that come into his official life; perhaps something more serious, and other things which I cannot even discuss, in the family. All things have been detrimental to his condition. He is sitting right now on a can of dynamite. He is sitting there, and I don't know which way it is going to blow.

MR. GIULIANO: You are speaking of his health; not political.

DR. STOCKFISH: I am speaking of his health.

MR. MURRAY: Don't you think that this affair, of this Committee coming here, if it was terminated don't you think that that would tend to ease him up, if it were terminated?

DR. STOCKFISH: I wish I could answer it. I can't answer it. I only know he is in some sort of political turmoil.

MR. MURRAY: I mean, the physical effects of this mental agitation. Don't you think the physical reaction would be beneficial?

DR. STOCKFISH: I imagine anything that would be a good end to anything is good physically, both

physically and mentally.

MR. MURRAY: And while in a suspended state---

DR. STOCKFISH: Then you are in a suspended state.

MR. GIULIANO: Has he a nurse here watching him all the time?

DR. STOCKFISH: I have been phoning for one. She has not been here.

MR. MURRAY: Mrs.Stoebling, is he conscious of the fact that we are here or is he under the influence of the sedatives, or doesn't he know that?

MRS.STOEBLING: He doesn't know a word of it.

MR. MURRAY: Then we are not exciting him.

DR. STOCKFISH: If he did he must have been acquainted of the fact before I came here, not during my stay here.

MR. WILLIAMS: Ben, did you ask Miss Seglie to keep the office open there?

MR. DOWDEN: I told her to wait.

A L I C E S E G L I E, being duly sworn according to law, testified as follows:

BY MR. YOUNG:

Q You are employed by whom, Miss Seglie?

A By the Hudson County Board of Elections.

Q That is a Civil Service position? A. Yes, it is.

Q What are your duties in your employment?

A I am clerk-stenographer for the Board.

Q What are your specific duties? A. I take care of all the records and minutes and correspondence, and whatever comes up for Mr. Stoebling I take care of, and the Board.

Q Have you the combination of the vault in which the records of Mr. Stoebling are kept? A. You mean this vault here (indicating)?

Q Mr. Stoebling's records, the poll books and the signature copy records? A. They are all in this vault at the present time. Yes, I have that.

Q You have a key for that vault? A. Yes, I have.

Q Are there any other persons besides yourself that have access to that vault? A. Mr. Stoebling; that is all.

Q Just you and Mr. Stoebling have access to that vault?

A Positively.

Q How long has Mr. Stoebling been sick, Miss Seglie?

A He has really been home-- at the time I think the

Ziegener count started. That was right after the primary election, I believe.

Q During that time have the poll books and signature copy registers remained impounded?

A Which are you referring to? The General Election?

Q The General Election. A.They were impounded at the time the recount started.

Q Where have they been kept? A. Right in this vault here, never left out of there.

Q Have any of them been taken from the vault since?

A No. The only time the poll books were taken out was the time the districts were counted. We then took out the districts, they were counted and put them back.

Q Then they were removed from that vault?

A Taken out here and brought on to the table. The Commissioner would hand them to counsel, and they would be returned to the vault.

Q Who was in charge of the operation of removing them from the vault? A. We had two of the men from the office take a ballot box out and the poll books; they either handed them to me or to Commissioner Wittreich or to Commissioner Sullivan, and they in turn allowed counsel on both sides to examine them. Then they closed the books up and put it back in the vault.

Q Do you know that a subpoena has been served on Mr.

Stroebling to produce the original duplicate signature binders of the ten districts of the First Ward of Jersey City, and the poll books for all of the districts in Hudson County; that the subpoena was served yesterday to produce them forthwith before this Committee in Essex County?

A No, sir, I didn't see it and I haven't heard a thing about it.

Q You didn't read about it in the paper?

A I didn't read any paper. I was working here until 10:30 last night.

Q Have you had any instructions today about the vaults? A. We had planned to return the ballot boxes to Jersey City, Union City, and Hoboken, in reference to the last three counts, and last night I got word I was to hold them here until Monday.

Q From whom did you get that word? A. Mr. Stoebling; not direct, but from his wife.

Q His wife called you? A. I have not spoken to Mr. Stoebling. I called last night whether I should release the boxes and let everything go out. She told me I should hold them.

Q What do you mean by "let everything go out"?

A Just the ballot boxes and whatever we had, to the City Clerks, in reference to the last three counts.

Q What instructions did you have with regard to the

vault today? A. Nothing outside of not to let any of the boxes go out until I heard further from him.

Q Did you receive instructions last night as to what was to be done with the vault? A. Yes. He told me not to open the vault or let anyone go at it.

Q You were directed not to open the vault, is that so?

A Yes.

Q Through Mrs. Stoebling? A. Yes.

Q You recollect that I spoke to you on the phone this morning? A. Yes, sir, I do.

Q I requested you, if you could, to turn over to the Committee those matters which had been subpoenaed.

A What matters?

Q The signature copy registers for the ten districts of the First Ward of Jersey City, and all of the poll books of the county? A. Yes.

Q I asked you if you could turn those over to me?

A Yes.

Q I believe I said that I understood you had access to them during the recount? A. Yes, that is right.

Q Your reply to me was what, if you recollect?

A I don't recall what I said to you. I just don't remember what I said.

Q Didn't you tell me that you had received orders not to open the vault or to let anything go out?

A That is right.

Q Did you not state, having received those orders, that you were in no position to do anything else but obey them?

A That is right, yes.

Q Those are Mr. Stoebling's orders? A. Yes.

Q Delivered to you through --

A His wife. She told me he was not well enough to come to the phone, and she said that Mr. Stoebling said I shouldn't let any boxes or anything go out of there until I heard further.

Q You received a telephone call about twelve o'clock with respect to keeping the office open, did you not?

A I did.

Q From whom? A. Mr. Dowden.

Q Could you tell us specifically what that request was?

A No, I don't. I heard so many things. I just don't remember what he told me. He just said something about staying there and not leaving the office.

Q Did you receive a subsequent telephone call or a prior call from Mrs.Stoebling? A. I spoke to her a few times this morning in reference to different things.

Q Did you speak to her about leaving the office?

A Yes, I told her I was going to leave.

Q What time was that? A. I don't remember. I spoke to her several times.

Q Was it before or after you had received the telephone call from Mr. Dowden, that you told her you were going to leave? A. I don't remember now.

Q Did she say that you might go or did you simply say that you were going? A. I said I was leaving, and that is all.

Q Now, assuming that you called her before you received the phone call from Mr. Dowden, and you told her you were leaving, did you then, upon receiving the telephone call from Mr. Dowden, call Mrs. Stoebling and ask for instructions?

A No, I was talking to her about different things. I just told her I was leaving. She didn't mention anything about that any more. I just said I was going.

Q You didn't inform her that you had had a request to stay here? A. No. I just told her I was leaving; that is all.

Q How many phone calls did you make to Mrs. Stoebling?

A I don't remember. I have been on the phone all morning, between Mrs. Stoebling and Mr. Dowden and a couple of other people. I don't remember how many calls I made.

Q I mean to Mrs. Stoebling. A. I spoke to her a few times.

Q You spoke to her a few times? A. Yes. It wasn't only in reference to the office. I spoke to her about different things.

Q Did she call you or did you call her?

A I called her.

Q In each instance? A. I guess she called me, but I don't remember now. I spoke to her a few times.

MR. OSMERS: I heard Miss Seglie make the statement-- I spoke to her in front of this building-- that Stoebling had called her up and told her to leave.

MISS SEGLIE: Mr. Stoebling did not call me.

MR. OSMERS: And when I asked you about it later you said that it was his wife.

MISS SEGLIE: Positively not; I have not spoken to Mr. Stoebling.

MR. OSMERS: You changed it, but you made the statement that Stoebling had called up. Did they call you up and tell you to leave or did they not? Did they or did they not? Did they call you or did they not? I heard you say they did.

MISS SEGLIE: She called me, yes.

MR. OSMERS: Who told you to leave?

MISS SEGLIE: I was talking to her and I said I was going to leave now and she said, "All right."

MR. OSMERS: Why did you say downstairs that you called her and she told you to leave?

MISS SEGLIE: That is the same thing.

MR. OSMERS: It is the same thing?

BY MR. GIULIANO:

Q Miss Seglie, in the recount, when the books were delivered to the Board, did you have to get instructions every time from Mr. Stoebling? A. What do you mean, did I have to get instructions?

Q The poll books were delivered to counsel and to the Board of Elections? A. Yes.

Q Did you have to call Mr. Stoebling or did Mr. Stoebling have to call you when the poll books were delivered for examination? A. When the poll books are here during the course of the recount, they are in charge of the County Board.

Q You are positive about that? A. As far as I know, yes.

Q Are you sure about that? A. I think so.

Q If you were called now to deliver those books for examination here, what is your answer? A. As I understand, when Mr. Corcoran read the order yesterday about the discontinuance of the recount, I remember correctly-- I think he said that the poll books, after the recount terminated, were then in the hands of the Commissioner of Registration.

Q And you are the only person now in charge of the poll books as a result of their being returned to the office of the Commissioner of Registration? Is that so?

A The only thing I know, they are in the vault, and I am the only one besides Mr. Stoebling that has the combination.

Q You are the clerk, the deputy, in charge of the records as they now stand, are you? A. I am clerk-stenographer to the Board of Elections; no deputy.

Q Are you now in charge of the records as they are in this department? A. Well, I take my orders from Mr. Stoebling.

BY MR. YOUNG:

Q Mr. Wiener has just within the last few minutes served you with a subpoena to produce those records? A. Yes.

Q They are the same records that Mr.--

A (Interrupting) I have a subpoena here. I didn't see just what it called for.

MR. HABER: I would like to say something at this time.

MR. GIULIANO: Miss Seglie is testifying, Judge. I don't want to have a disturbance. I think she can read it alone. I don't know who you represent.

MR. HABER: I was asking, a few minutes ago-- if you want this off the record.

MR. PALESE: May I have that subpoena for a second? Let us read it to her.

(Miss Seglie hands paper to Mr. Palese.)

MR. PALESE: Have you read it?

MISS SEGLIE: Yes, I have read it now.

MR. PALESE: Do you understand it?

MISS SEGLIE: I believe I do.

MR. PALESE: I will read it into the record.

This subpoena reads as follows:

"NEW JERSEY, ss: The State of New Jersey to

Alice Fila, Custodian of the Vault in the Office of the Commissioner of Registration of Hudson County, said office being located on the seventh floor, 591 Summit Avenue, Jersey City.

WE COMMAND AND SUMMON YOU, to lay aside all and singular, business and excuses, and personally to be and appear before the Special Committee of the House of Assembly, which was created by resolution of the House of Assembly, adopted on the 17th day of January, 1938, and directed to make a survey of all questions of public interest, including a survey of the finances and expenditures of the State, Counties and Municipalities; to investigate violations of law and the conduct of any State, County or Municipal official; State, County, or Municipal Department; State, County or Municipal Commission; State, County or Municipal Board or State, County or Municipal body; to investigate alleged fraudulent and illegal conduct at the General Election on November 2, 1937; to investigate the alleged tampering with and marking

of or altering of, or counting ballots cast at said General Election; to investigate the alleged tampering with, or altering of permanent registration records and duplicates thereof, the poll books and other election records, used at or provided for, said General Election; to investigate alleged fraudulent and illegal conduct on the part of the County Board of Elections and on the part of the District Board of Elections at said General Election; to ascertain whether the duties of such officials, departments, commissions, boards, bodies and of such County Boards of Election and of such District Boards of Election have been or are being lawfully and properly discharged, and to report its findings as a basis for such legislative action as the General Assembly may deem necessary and proper, on the 29th day of January, 1938, at two o'clock in the forenoon of said date, at said office, to testify all and singular what you know concerning the said matter under inquiry, and bring before the said Committee at the time and place above mentioned all the poll books used in each and all of the election districts, wards, municipalities, of Hudson County in the last General Election held November 2, 1937.

(signed) Henry Young, Jr.
Chairman

ATTEST:
(s) MILTON SCHAMACK
Clerk of Committee."

MR. PALESE: Are the poll books that were used in the last election in the vault?

MISS SEGLIE: Yes, they are.

MR. PALESE: Have you the combination for the vault?

MISS SEGLIE: Yes, I have.

MR. PALESE: Now, we ask you to give us the poll books.

MISS SEGLIE: I don't think I have any authority to do that unless I have word from Mr. Stoebling.

BY MR. GIULIANO:

Q Again I ask you, Miss Seglie, did you get authority every time you turned the poll books over to the persons in the last recount? A. Yes, I did, from the County Board.

Q Every time? A. In the morning before we started the recount, and when the four commissioners were here, Mr. Corcoran or Mr. Wittreich or Commissioner Sullivan or Mr. Scheetz would be here and I would open it up. At the end they would close it.

At that time they were in the hands of the County Board.

Q Now they are in your hands? A. Now I understand they are in the hands of the Commissioner of Registration.

Q You are acting as his deputy? A. I take orders

from him.

Q You are acting as his deputy? A. I am acting under his orders.

Q I am asking, you are acting as his deputy?

A I do what he tells me to do.

Q Did he tell you last night to turn over the books?

A Whether he told me last night not to turn over the ballot boxes or open the vault for anyone?

Q Did he tell you last night not to open the vault or turn over the books? A. No.

Q Did Mr. Dowden tell you? A. No, sir.

Q Did Mr. Pass tell you to turn them over?

CHAIRMAN YOUNG: I think, Miss Seglie, under the circumstances, and if the Committee agrees with me, that we as the Committee of the Legislature investigating this office, do now direct you to open the vault and turn over the books.

MISS SEGLIE: I don't think I have any authority to open it up.

CHAIRMAN YOUNG: We are not asking you for the authority. We are asking you to turn them over to us.

MISS SEGLIE: I am giving you my opinion.

CHAIRMAN YOUNG: I am asking you if you refuse to do so or you are just giving your opinion?

MISS SEGLIE: Yes, I will have to refuse.

BY MR. WIENER:

Q Miss Seglie, do you know of any preparations that were made last night for the turning over of these poll books today? A. I can honestly say that I saw you, Mr. Dowden and Mr. Pass and a few men in and out all day, and no word was ever said to me last night about any poll books.

Q Were you at any time present when Mr. Miller and Mr. Dowden instructed the men to be here at eight-thirty, which is earlier than usual, this morning?

A I instructed the men.

Q At whose request? A. At the County Board's request yesterday to return the ballot boxes to the three municipalities.

Q Do you know of any preparations that were being made to get these poll books out of here this morning?

A The only thing I knew was from what I could hear you speaking or someone else, and I didn't pay any attention to it. I wasn't told anything.

Q Didn't I personally tell you that it was my understanding that these books were to be surrendered to me this morning? A. You did last night, I think.

Q That the men would be here along with a truck early

this morning, to carry out the wishes of Commissioner Stoebling? A. You told me that but I haven't spoken to Mr. Stoebling about it.

Q When you left here it was your understanding, is that true, that those books were to be turned over to me this morning?

A I understood I was to open the vault and release the ballot boxes.

Q When you left here last night, after your conversation with me, regardless of in whose presence it was, was it your understanding that I was to come here this morning with a truck to get these poll books? A. That is what you told me.

Q Were there any people present when I told you that?

A I don't remember.

Q Wasn't that in the presence of Mr. Dowden and Mr. Miller, when we discussed that? A. It might have been; I don't remember.

Q There were other people in the office?

A There is always people around there.

Q Did you say that you and Mr. Stoebling were the only people that have access to the vault? A. Positively.

Q *Has Mr. Stoebling's representative directed that you* should refuse to open the vault? A. Yes, I don't think I have the right to do it unless I am told.

Q You are not refusing to do that by virtue of the fact that you are at present the custodian and only person who can get into that vault?

A What do youmean?

Q I mean by that it is not your personal opinion, or are you doing that because you have been so instructed?

A I am doing that because I feel-- because if I do open the vault I should get my orders from Mr. Stoebling.

Q You individually,personally, are in charge of this particular vault? A. When Mr. Stoebling is out, yes.

Q As custodian of that vault, the responsibility being at present yours because Mr. Stoebling is not here, you refuse to open the vault, unless Mr. Stoebling authorizes you to do so? A. That is right. I feel, whatever I do, I want a superior --

Q Now, Mr. Stoebling, personally or through some representative of his, presumably his wife, has instructed you not to open the vault for anybody?

A That is right.

Q Today? A. Yes.

Q Then the matter of your not opening the vault is not a personal act of yours but you are acting on orders?

A Orders.

Q Directly or indirectly from Mr. Stoebling?

A Yes, that is right.

Q Therefore, you refuse on the ground that you have been told by your superior not to open the vault?

A That is right.

Q Now, Miss Seglie, concerning the telephone conversation from Mrs. Stoebling, Mrs. Stoebling, I believe, instructed you or requested you, or you told her that you were going to leave this office at about one o'clock?

A Yes.

Q Which was prior to the time that the Legislative Committee was to arrive at Mr. Stoebling's home?

A I don't know just what time they were to arrive there.

Q Did I at that time tell you that the Committee was expected at Mr. Stoebling's home, and that in my opinion Mr. Stoebling had already made up his mind not to turn over these books in line with his promise,because you were being instructed to leave the premises, in view of the fact that you were the only person in addition to Mr. Stoebling who had access to the particular vault, and in that event that Mr. Stoebling had had it impressed on him to open the vault and produce the books, because there would be no one here to do that? A. I think that is right.

MR. PALESE: I think we ought to recess and take up the advisability of holding this girl in contempt for refusal to obey the subpoena?

MR. WIENER: May I suggest that the Committee recess. Miss Seglie is still under subpoena.

CHAIRMAN YOUNG: It is possible that Mr. Stoebling is willing to take Miss Seglie off the spot. We are hoping to see him around three o'clock. I suggest that we request Miss Seglie to return here at perhaps a quarter of four, under that subpoena.

Why don't you come over there to Mr. Stoebling's house? I will be glad to see you over there.

MISS SEGLIE: I am willing to go anywheres to straighten it out. I don't care.

MR. GIULIANO: I move that the Committee meet at Mr. Stoebling's house at three o'clock,and that further questioning of the witness be taken up at three o'clock.

CHAIRMAN YOUNG: Being under subpoena, I now direct that you be at Mr. Stoebling's house at three o'clock.

(Following the taking of the above testimony the Committee returned to the home of Mr. Stoebling at 50 Glenwood Avenue, Gothic Towers, Jersey City, New Jersey, at three o'clock p.m. Admittance to the apartment of Mr. Stoebling could not be obtained, and the Committee returned to its headquarters at Room 301 Essex County Court House, Newark, New Jersey.)

After waiting at the Court House in Newark for the delivery of the required books, the books not having been received by 5:20 p.m. the Committee adjourned.

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Assembly Investigation of :

Alleged Fraudulent and Illegal :

Conduct at the General Election :

on November 2, 1937, etc. :

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Transcript of stenographer's notes of hearing held in the above matter in and before the House of Assembly, State House, Trenton, New Jersey, on Monday, January 31, 1938, beginning at nine o'clock p.m.

Present:

Assembly Committee
Henry Young, Jr., Chairman,
Mrs. Olive C. Sanford,
Rocco Palese,
Frank C. Osmers, Jr.,
Norman P. Featherer.

- - - - -

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

THE SPEAKER OF THE HOUSE: The Chair assures the gentleman from Middlesex that his comments will be noted in the minutes.

MR. DeVOE: May I ask, Mr. Speaker, if the stenographer is the official stenographer of this Committee, under resolution number one?

THE SPEAKER: According to the resolution, if you would read it, you would find that the Committee's clerks and other attaches are appointed by the Committee and not by the Speaker. Therefore, if you are asking that question it must be answered by the Chairman of the Committee.

MR. DeVOE: Mr. Speaker, will the gentleman from Essex answer a question?

THE SPEAKER: The gentleman from Essex will submit to a question.

MR. DeVOE: The stenographer, I do not believe, has been sworn. I want to know whether the stenographer at the bar is the stenographer of the Committee and whether he has been sworn.

MR. YOUNG: He has been sworn as our stenographer.

MR. DeVOE: Mr. Speaker, I submit at this time and I would like to move that we reconsider the vote by which the report of this Special Committee, made

tonight, was adopted.

I make this motion for the purpose of stating the question to the house, that I did not know at the time this Committee report was made that the report--

THE SPEAKER: The Chair regrets the necessity of recalling to the gentleman from Middlesex that he said he would like to re-state his statement. Instead of that he makes a motion and then before the motion is acted upon he attempts to re-state his statement. Which is it you want to do?

MR. DeVOE: I will re-state my statement in connection with my motion or I will re-state it and make the motion afterwards.

THE SPEAKER: That will be better.

MR. DeVOE: Mr. Speaker and members, I wish to state here on the record that the gentleman from Salem states here, in answer to my question, that the Committee meeting of today under resolution number one, which was partly responsible for the report made tonight, was called without notice to him.

THE SPEAKER: That is the statement that you wanted to get on the record and which you made before?

MR. DeVOE: That is true.

THE SPEAKER: That far we are agreed. That

statement will go into the records. Now you propose to make a motion.

MR. DeVOE: I make a motion that the vote by which this report was approved tonight be reconsidered as it was not made as the official action of the properly called Committee.

THE SPEAKER: All in favor of the adoption of the reconsideration motion by the gentleman from Middlesex will answer by saying aye; opposed, no.

(The noes do have it.)

MR. YOUNG (Essex): May I now have the privilege of answering Mr. DeVoe? When we returned from Jersey City to Essex County, the members of the Committee who returned with myself, Mrs. Sanford, Mr. Palese and Mr. Featherer, we discussed at some length whether we should issue warrants for the arrest, or request the Speaker to issue warrants for the arrest of Mr. Stoebling and Miss Seglie. Finally, Mr. Palese and Mr. Featherer, desiring to catch a train which left at 5:15, the question was left with me to discuss the matter with counsel. I arranged for that interview this morning and this report and these resolutions are the product of that discussion.

There is before the House a resolution which

has just been read. Perhaps the Clerk had better read it over again.

THE SPEAKER: Oh, no, that resolution is way behind. Mr. McCarter is now on the floor and the Chair recognizes Mr. McCarter.

MR. PESIN (of Hudson): Mr. Speaker, I would like to raise a point of order.

THE SPEAKER: There is no point of order.

MR. PESIN: I am asking for a point of order, Mr. Speaker.

THE SPEAKER: What is your point of order?

MR. PESIN: I should like to be straightened out as to whether or not this is a session of the House or whether it is a session of the Committee?

THE SPEAKER: Do you want me to tell you?

MR. PESIN: Yes.

THE SPEAKER: This is a legal session of the House of Assembly.

MR. PESIN: Then, under the circumstances, I can't see the propriety of this Committee acting as a Special Committee. We have no resolution before us that the House meet in whole. Then I raise that point order.

THE SPEAKER: There is no point of order raised.

MR. PESIN: I raise that point of order.

THE SPEAKER: Your point of order is not well taken. The Chair declares you out of order. The Chair will now listen to Mr. McCarter and nobody else. Mr. McCarter has the floor.

Ladies and gentlemen of the House, Mr. McCarter.

MR. McCARTER: Mr. Speaker, and members of the House of Assembly: I come here before you as senior counsel of this Committee. We have encountered considerable inconvenience and a serious condition exists. I have read the testimony that was taken on Saturday. I was not present myself, and I am astonished to find that under the apparent excuse of Mr. Stoebling being sick he has apparently defied the subpoena of the Committee and declined to permit anybody to take these books,as the subpoena directed, before the Committee, although he has at least three times recently permitted the books to go without his personal presence.

The report discloses that Mr. Stoebling, although on Friday afternoon in conference with one of the counsel of the Committee, had arranged specifically the details of what books should be delivered and what books should go, and as a matter of convenience to his office only ten districts of the

First Ward of Jersey City should be sent with this subpoena, he suddenly changes his mind and although he had, as I said before, permitted those books to be sent for the recount, to be sent on the effort to have a recount with reference to the primary, and on another occasion, nevertheless, he suddenly makes up his mind that "I want to be present when those books go, and I am sick, and therefore they cannot go." Now, the question that you have to take up tonight is this: Is this House and is the Committee of this House to be thus defied? The illness is a mere excuse. Time and again those books have gone by subpoena's direction without Mr. Stoebling going with them, and this sudden sensitiveness about the books was implanted in his mind, I don't know by whom, between Friday afternoon when the arrangement was made between counsel of the Committee, Mr. Wiener, and exactly how many books are to be taken under the subpoena, and how they shall go, and the whole plan laid out.

Now, we have subpoenaed, and they are present, as I understand, Miss Seglie and Mr. Dowden and Mr. Pass, counsel for this gentleman and his right-hand man. Miss Seglie is the assistant who has the keys for this place where these books are. They are under

a combination which she alone can elucidate and explain, and she defiantly objects to the books being taken away. Under what authority? Except the authority of this man who changed his mind overnight.

The question now is, gentlemen of the House of Assembly, are you to be defied? Is your Committee to act or isn't it? Is Hudson County stronger than the Lower House of Assembly of the State of New Jersey? It seems to me that the honor of the state is at stake. It seems to me that we might as well give up observance of the law, if somebody who has books which this Committee has been seeking to get now for two or three days, simply says, "I am sick. I can't go and I won't let the books go without me." What are you going to do about it? And the young lady who has heretofore opened the vault and permitted the books to go, in answer to subpoena says, "I obey my higher authority and now I will not open the vaults."

It seems to me that this Committee should be backed by the full strength of this House, and that this Committee should be shown, by the adoption of a resolution tonight that the House is supporting them. This Miss Seglie, the assistant-- I don't care

whether you call her deputy or what she is-- she is the one who has always heretofore acted, and who has acted three times recently, when we were endeavoring to get those books and couldn't get them, yet she did get them without the slightest trouble, and now, all of a sudden, because the court's protection is no longer here she says, "I will not let them go and I will not unlock that combination."

You must remember that we were before the Chief Justice of New Jersey in an effort to see these books and get an order that they be produced, and one day they were produced, some of the very ones we wanted, but before we could use them they were taken back, and the order that we should have them was never given. Is it possible that these books, which are part of the public records retained in a hall that is paid for by the public, in the custody of a man who is the servant of this House, shall be so guarded and secluded that the House of Assembly of the State of New Jersey cannot get them?

You will recall the fact that after the election, when it appeared that by a vote of some forty-odd thousand the County of Hudson had elected Governor Moore, and you may remember that when the suggestion of an investigation took place those high in

authority in that county said, "We welcome an investigation. We welcome it. Come on and make it, if you dare. We defy you to show anything wrong." Well, we dared to do it. We dared to take the trouble and the pains and the expense of starting the ball rolling, and then we were met with objections by counsel, and the court would not help us to get the books, and then we came to the Legislature, and now every resource is put to and adopted that this display of those books should be had.

Forsooth, what is the matter with the books? Why can't we see them? On one side are the genuine signatures of the voters. In the poll books are the signatures actually made, and they are afraid and ashamed to show them to us, and we therefore ask your leave to examine these three witnesses here so that you may see and hear exactly what they say. Then we are going to ask the House to pass a resolution appropriate to the occasion and give this Committee further power in the premises.

MR. YOUNG: Miss Seglie, I believe to be present. I believe she has an attorney present, Mr. Doherty. I should like to move that he be accorded the privileges of the floor for the purpose of re-

presenting her.

THE SPEAKER: If there is no objection he will be granted the privilege of the floor for the purpose of acting as personal attorney for Miss Seglie.

MR. YOUNG: Mrs. Alice Fila or Alice Seglie was subpoenaed before the bar of the House at nine o'clock this evening, and I should like to know if she is present.

MISS SEGLIE: Yes.

THE SPEAKER: I understand that you have done that because she has already refused to comply with an authorized subpoena of a Committee of the House of Assembly, and that she, therefore, is here to prove why she should not be held in contempt of the House of Assembly.

Miss Seglie, please take the chair.

MR. DeVOE: Mr. Speaker, at this time I would like to have again on the record the fact that I don't quite understand, like Mr. Pesin of Hudson, the procedure. The Committee seems to be functioning in the body as a whole. Do I understand, Mr. Speaker, that I am sitting here as a member of that Committee to take part in these deliberations?

THE SPEAKER: If the gentleman from Middlesex

will read the rules of the House he will find that there is nothing there that says, in a procedure of this kind, that we must resolve ourselves into a committee of the whole.

If there is anybody that wants or declares the witness to appear here tonight in contempt, it is the Speaker. Therefore, this is an authorized meeting of the House of Assembly to find out definitely whether the House of Assembly is as big as they think they are, whether some people in this state think they are bigger than the Legislature.

I should like to know whether the gentleman from Middlesex desires to speak or not. Let me say further, as long as I am in possession of this gavel under the authority of this House, you can rest assured that I am going to do the duties of my position as Speaker fearlessly and courageously, as I promised to do when I took the oath of office.

MR. DeVOE: Mr. Speaker, did I understand you to say fairly?

THE SPEAKER: Yes, sir, positively, fairly, as fairly at least as the Democrats did last year when a Democrat had this same gavel.

MR. DeVOE: That is very fair.

THE SPEAKER: The gentleman from Middlesex, please stick to the subject.

MR. DeVOE: That is what you are not doing. Just a minute, I have the floor and you are not sticking to the subject. I object to this witness being called here and sworn here to give any testimony of any kind because this House of Assembly has not called her here.

THE SPEAKER: The chair rules that the young lady is here strictly in accordance with the Legislative authority. Therefore, we are going to proceed with examining her.

I don't see why there can be any objection in the House of Assembly in finding out whether they are big or whether they are small.

MR. ROBERT H. DOHERTY (of Jersey City, New Jersey):

Mr. Speaker, may I, as counsel for Miss Seglie, at this time interpose a legal objection on the record to the fact that this subpoena, in the hands of Alice Fila, who has been subpoenaed before this Special Committee, that no mention is made in this subpoena that she was to appear before the Assembly as such. I therefore take it that the proceeding in examining this witness not publicly-- we want it public. We are perfectly willing that the Assembly

sit here as spectators but we do not feel that this investigation, if it be an investigation, should be held before the Assembly, because the very subpoena itself indicates that this is returnable before this Special Committee in the Assembly Chamber at nine o'clock, and I would like to interpose my objection to show that this proceeding now is entirely illegal.

THE SPEAKER: The objection will be entered. We will proceed.

The gentleman from Essex.

MR. YOUNG: The gentleman's objection can be entered on the record. That is all that need be said.

MR. McCARTER: Mr. Young has made a statement that the objection is made. I would like to ask the gentleman who made the objection if he is the assistant county counsel of Hudson County?

MR. DeVOE: I object to the question as immaterial, as a member of the House.

MR. DOHERTY: I am.

THE SPEAKER: The question is decidedly material.

MR. McCARTER: What is the answer?

MR. DOHERTY: Why is that relevant, Mr. Speaker?

THE SPEAKER: The objection is overruled by the Chair.

MR. McCARTER: Will you answer the question?

MR. DOHERTY: I am asking the Speaker. I ask by what right--

THE SPEAKER: Do you recognize that I am controlling it?

MR. DOHERTY: I do.

THE SPEAKER: All right, your objection to the proper procedure appears to fall of its own weight.

MR. DOHERTY: May I, in answer to the question--

THE SPEAKER: You just said that you objected to my procedure, and entered an objection. You then turned around and say that you recognize me as being in control of this particular procedure, that you recognize me as being able to--

MR. DOHERTY: For the purpose of the record--

MR. DeVOE: I suggest that we all talk at once at this time.

THE SPEAKER: The trouble is the tail wants to wag the dog here tonight but apparently it won't.

The question of Mr. McCarter is quite relevant, and the Chair would like to hear your answer.

MR. DOHERTY: I am the Assistant County Counsel of Hudson County, and I represent this young lady because I represent the Hudson County Board of Elections, and she is a clerk in that Board.

THE SPEAKER: If you are ready, we will have the witness sworn.

MAJORITY LEADER WILENSKY: I move you that while this questioning is going on that no member of the House be permitted to intervene.

MR. DeVOE: I object to it. I am a member of the House. Mr. McCarter is not.

MR. WILENSKY: I amend that to say then, until they are through and then any member can recall the witness.

MR. DeVOE: I object to it.

A L I C E S E G L I E F I L A, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. McCARTER:

Q Who besides you, Miss Seglie, knows the combination of the vault in which the books, that have been spoken of so much here, are kept? A. Mr. Stoebling.

Q No one else beside him and yourself? A. No, sir.

Q Did you recently open the safe and permit the books to be taken out in obedience to a subpoena to produce them before the Chief Justice?

MR. DE VOE: I object to the question as not material to this inquiry. I would like to have the objection noted on the record. Whether or not the

witness did anything in a prior proceeding has no bearing on this proceeding.

THE SPEAKER: If a few of the Advisory Masters around the Chair will leave the Speaker take care of this by himself, he will do so. The objection is overruled.

Q Will you answer the question, please?

A Yes, I will answer it. The only time I opened up the vault was during the process of the recount.

Q During the recount? A. Yes.

Q And the books were taken out there without Mr. Stoebling going with them? A. As I understand--

MR. DeVOE: Mr. McCarter, don't bulldoze the witness.

(Laughter.)

THE SPEAKER: The Chair makes this observation: unless you want the galleries cleared, please take this seriously because I will clear that as well as I did the floor. This is a serious business.

Q And the books were taken out without Mr. Stoebling going with them? A. Because during that time--

Q Never mind because. Isn't that a fact?

A The books then were under the custody of the County Board of Elections.

Q Never mind. Will you answer the question, please?

Weren't the books taken out on the occasion that you have just alluded to, without Mr. Stoebling going with them?

MR. DOHERTY: I object unless he is more specific in what he means by "out." Out of the office, out of the building?

MR. McCARTER: Out of the vault?

THE WITNESS: Out of the vault, yes.

Q Into another room? A. A room directly near the vault.

Q Another room? A. Yes.

Q You were told on Friday night last that Mr. Stoebling would not permit these books to go because he could not go with them, weren't you?

A I wasn't told that, no.

Q You were not? A. No.

Q Who told you not to open the vault? A. Mrs. Stoebling.

Q Mrs. Stoebling? A. Yes.

Q By phone? A. Yes, sir.

Q From her house? A. I presume it was.

Q If she had not told you that you would have opened it?

A Yes, sir.

Q And you had learned that they were to be opened and to be sent the next day to some place, hadn't you?

A No, sir.

Q What? A. No, sir.

Q No? Very good. Is that the only time that the books were taken out without Mr. Stoebling?

A What do you mean, "Is that the only time?"

Q The time that you have just alluded to on that recount.

A Yes, sir.

Q The only time? A. Yes, sir.

Q Were they not taken out under the subpoena and produced before Chief Justice Brogan? A. At what time?

Q Well, during the past month or six weeks?

A Not that I know of, no.

Q Not that you know of? A. No, sir.

Q On the 28th of December? A. I don't remember the 28th of December now.

Q You know that they were sent out to the Chief Justice, don't you? A. No, sir, I don't.

Q You know they went somewheres? A. For what purpose?

Q Never mind for what purpose. You know that the books went somewhere. A. I don't remember. No, sir, I don't know that.

Q You don't know that? Very good. Now, when had you first heard that the subpoena had been served on Mr. Stoebling?

A I had not heard about it until Saturday afternoon.

Q Saturday afternoon? A. Yes, sir, about the subpoena.

Q Was any reason given you by Mr. Stoebling why those

books should not be sent out in accordance with the subpoena?

A Mrs. Stoebling did not tell me that the books were not to go out.

Q What did she tell you? A. She told me not to open up the vault.

Q Not to open up the vault? Was any reason given?

A No, sir.

Q What? A. No, sir.

Q No reason given at all, or just not to open the vault?

A Yes, sir.

Q What did she say to you? A. She just said, "Don't open up the vault."

Q Did you ask for a reason? A. No, sir. I just take my orders.

Q Is she your boss? A. No, sir, but Mr. Stoebling is sick and through her I get my orders.

Q Did she say that Mr. Stoebling said the books were not to go out? A. She said Mr. Stoebling said, "Don't open the vault."

Q Now, you appeared before the Committee and testified, didn't you? A. Yes, sir.

Q And you refused to open the vault? A. I did.

Q Are you willing now to open the vault? A. No, sir.

Q You are not? A. No, sir.

Q You have been subpoenaed to produce the books before

the Committee, have you not? A. I have been subpoenaed to appear.

Q No, no, you have been subpoenaed before the Committee, on Saturday last, to open the vault and produce the books?

A That is right.

Q And you declined to do it? A. Yes.

Q And you still decline to do it? A. Yes, sir.

Q Because Mr. Stoebling told you not to do so?

A Yes, sir.

Q That was on what time? A. That was Saturday morning.

Q Otherwise you would have opened the vault?

A Yes, I would have, not for letting the books go out. We had other reasons Saturday morning.

Q I didn't ask you what your reason was.

A Well, I am telling you.

Q She told you not to open the vault and you didn't do it? A. That is right.

Q And you won't do it now? A. No, sir.

Q Not if you are commanded by the Speaker of the House to do it? A. Not until I get my orders from Mr. Stoebling, my superior.

Q You think this House has no right to require those books?

MR. DeVOE: Mr. Speaker, let us have some court-

room parlance or regulation. Mr. McCarter stands there and says to this young lady, "Do you think?" And he knows and I know that neither one of is interested in what she thinks.

MR. McCARTER: It is very hard work to get it from this young lady.

MR. DOHERTY: I want to enter the same objection; what this girl thinks is entirely immaterial.

Q Did you recognize Mrs. Stoebling's voice?

A I certainly did, yes.

Q You know her very well? A. Very well, yes.

Q You visit her at her house? A. Frequently.

Q So she told you not to open the vault and you said "All right," and you haven't opened it yet to anybody?

A That is right.

Q Didn't you open it when the books were in use at the probe, in the dispute between Mr. Stoebling and his antagonists? A. During what probe?

Q Ziegener probe before Judge Brown? Didn't you open it then? A. During the course of the recount?

Q You heard what I said. A. I am asking you if it was during the course of the recount.

Q This is not a recount. We are speaking of an entirely different thing. This is the proceeding before Judge Brown on the fight between Mr. Ziegener and Mr. Stoebling. Didn't

you open them then? A. I don't remember that time.

Q You don't remember that time? A. No, sir.

Q Could anybody else have opened them but you?

A No, sir.

Q How long has Mr. Stoebling been sick? A. He has been sick since-- he had been sick when the Ziegener recount started. The primary was in September. October I believe it was.

Q Then, if the vault was open and the books produced before Judge Brown you must have opened it?

MR. DOHERTY: I object to that as calling for a conclusion of the witness.

Q Nobody could open it but you? A. No.

Q You say that he was sick. He was sick abed, wasn't he? A. He was sick.

Q And sick abed during that contest? A. He had been in after the recount.

Q I am not asking you about that. I am asking you about the time they went before Judge Thomas Brown?

A At the time they went before Judge Brown I don't remember whether he was in that day or I was in; I don't remember.

Q At any rate, he did not go with them when they were taken before Judge Brown? A. I don't know whether he did or not.

MR. DOHERTY: I can answer that.

Q In December, was your employer sick or not? In December? A. During the month of December he came in a few days and then again he stood home.

Q Did you open the safe by the combination at the time that the books were before Justice Brogan?

A I don't remember if I did.

Q You don't remember if you did? A. No, sir.

Q All right, very good.

MR. MUIR (of Union): Would I be out of order in asking the young lady witness to please try to make her answers a little bit louder? We, at the back row, can practically hear nothing. We may have to vote on something later. We hear Mr. McCarter very plainly. As a rule we cannot get the answer at all. I realize the young lady is in a bad position but if she could we would like to hear just what she says.

THE SPEAKER: Try to speak louder.

THE WITNESS: I will.

Q How many days were the books taken out after you had opened the safe, during the recount?

MR. DOHERTY: I object unless counsel is more specific in regard to the word "out." Out where? Out of the vault or out of the building?

MR. McCARTER: Out of the room.

THE SPEAKER: Will counsel please reframe the question?

Q How many days did you open the vault, during the recount, to get the books that were desired to be taken out, including the books that this subpoena is seeking to reach, and permit them to be taken either to an adjoining room or out of the building?

MR. DOHERTY: I object on the ground that it is a double question. I suggest that he ask first whether they were taken out.

THE SPEAKER: Mr. McCarter, abide the question.

Q How many days, for the purpose of the recount, did you change or open the safe? A. Well, I think the recount started back in-- let me see--

Q Speak louder so they can hear you back there.

A The recount must have started around the 15th of November, I believe.

Q Yes; and ended when? A. It ended-- today is Friday-- it ended Thursday, I believe.

Q Last Thursday or last Friday, one or the other?

A Yes.

Q They went out every day during that period?

A They went into the room adjoining the vault.

Q Another room? A. Only in the recount room, in the

presence of the Board and counsel.

Q You opened the vault for that purpose? A. Yes.

Q And Mr. Stoebling was not there, was he?

A No.

MR. McCARTER: So much for that.

BY MR. DOHERTY:

Q Miss Seglie--

THE SPEAKER: The Chair understands that the attorney for the witness has no right to question.

MR. DOHERTY: I submit that I understood that I was to be here to represent this young lady.

THE SPEAKER: You are representing her in the form of objecting to questions only.

MR. DeVOE: At this time may I make a motion, in all fairness to the defendant, that this gentleman, her personal counsel, be given the privilege of the floor to ask questions.

MR. McCARTER: The county counsel of Hudson County.

MR. DeVOE: I make a motion to that effect.

MR. YOUNG: I am perfectly willing. There is no reason why we shouldn't have the whole thing. I don't see why Mr. Doherty cannot ask all the questions he wants to.

THE SPEAKER: The Chair wants to be correct.

I am given to understand that that is all the authority he has, but since counsel has no objection this House has no objection to him asking questions, and the privilege is granted.

MR. YOUNG: I do not want to pass on his authority but I certainly think we ought to have the witness given every opportunity she desires. Authority or no authority I am willing to let Mr. Doherty go ahead.

MR. DOHERTY: The only purpose I have, Mr. Speaker, in now examining the witness at length or not at length is to clear up some matters that the House might be interested in, particularly in regard to the vault and its location in this room that has been here referred to by counsel.

EXAMINATION BY MR. DOHERTY:

Q Now, Miss Seglie, this vault where these records are kept, how far is that away from this room in which these books were taken out at the recount? A. The door opens right into this room.

Q Assuming that this dais or stand here is the vault, and the door of the vault opens here (indicating), how far were those books carried from the door of the vault before they were deposited? A. Right here (indicating).

Q To a table almost adjoining the vault?

A That is right.

Q They were not taken out of the room? A. Positively not.

MR. McCARTER: What?

THE WITNESS: They were not taken out of the room.

Q And at the times that these records were taken out of that vault, who was present? A. The four members of the County Board, and counsel on both sides.

Q That is the County Board of Elections of Hudson County?

A Yes.

THE SPEAKER: May I ask this question of the witness? Was Mr. Doherty present? Was he present?

THE WITNESS: No, sir.

THE SPEAKER: He said that he is the attorney for the County Board and I just wanted to know if he was there.

MR. DOHERTY: No, I wasn't there.

Q And on these occasions when Mr. McCarter says the books were taken out, once to Chief Justice Brogan, have you a recollection as to whether or not they were accompanied by Mr. Stoebling? A. I don't remember.

Q Do you recollect when they went before Judge Brown in the altercation with Mr. Ziegener, whether or not at that time

those records were in the custody of Mr. Stoebling?

A No, I don't remember whether he was in at that time or not.

THE SPEAKER: May I interpose a question or not?

MR. DOHERTY: Yes.

THE SPEAKER: How long ago was this?

MR. DOHERTY: Within the last four months, I imagine.

MR. McCARTER: Less than that.

THE SPEAKER: The young lady's memory will not clearly take her back four months. She says she doesn't remember. I am just trying to find out whether her memory is so bad that she cannot try to remember what happened during the last four months.

Q On how many other occasions, to your knowledge, were those records ever taken out of the custody of some member of the Hudson County Board of Elections or of the Commissioner of Registration? A. Every time the books went out before that, when Mr. Stoebling was feeling good, he went with them.

Q In other words, on every occasion that those books went out of that vault they were always under the control of some member of the Board of Elections or of the Commissioner of Registration, were they not? A. Yes, that is right.

Q And when this subpoena was served upon you, did you understand that those records were to be taken out of the County of Hudson? A. Which subpoena?

Q The subpoena duces tecum, where you appeared before this Committee of the House? A. Yes, sir.

Q What is your official position with the Election--

MR. McCARTER: I object. The point is that she has got the twist of the wrist to turn the combination. She defies the authority of this House, directing her to do that.

THE SPEAKER: Still, Mr. McCarter, I think it would be advisable to get in her official position.

MR. DOHERTY: The purpose of it is that this lady has no authority to hand over any key. I want to show what her official position is, and she would be derelict in her duties if she did that.

Q What is your official position? A. Clerk-stenographer to the County Board of Elections.

THE SPEAKER: Let me interpose a question.

BY THE SPEAKER:

Q Isn't it a fact that Mr. Stoebling has used you, in fact, if not in title, as his deputy? A. Not as his deputy.

Q Why did he give you the combination of the safe, which was entrusted to nobody else?

MR. DOHERTY: I object. I want to interpose on the record that I object to it.

THE SPEAKER: I am the speaker.

MR. DOHERTY: I want to object; I want to get in on the record.

THE SPEAKER: I have the right to ask that question.

MR. DOHERTY: You have, and I have the right to object.

THE SPEAKER: She has testified that she is the only one in possession of the combination. Now, he must have had a definite reason for giving her the combination. You don't go around giving your telephone number or the combination of your safe to the ordinary stenographer in your office. At least, it is not the practise. Therefore, she must have been recognized by Mr. Stoebling as just a little bit more than an ordinary clerk-stenographer, which is the title of her position.

MR. DOHERTY: I have no objection if the Speaker would ask her that question but what enters into Mr. Stoebling's mind, in entrusting a key to her, I don't think this witness can answer.

THE SPEAKER: Let me put it this way. She did accept the combination to the vault, knowing that

she was the only one who had it besides Mr. Stoebling, because she so testified tonight. Is that so, miss?

THE WITNESS: Yes, it is.

Q As a clerk-stenographer, what are your duties with regard to taking these books out of the vault? Do you have access to that vault at all times or only during working hours? A. Only during working hours.

Q And that was for what purpose? A. For the purpose of opening up the vault, if Mr. Stoebling asked me to get something out of there, and for no other purpose?

Q As Clerk-stenographer, do you know whether or not-- I will withdraw the question. You are not the deputy?

A No, sir.

Q Or deputized under the law to represent Mr. Stoebling, are you? A. No, sir.

THE SPEAKER: May I ask one more question right there, Mr. Doherty?

MR. DOHERTY: Surely.

THE SPEAKER: You did perform all the duties of a deputy, nevertheless?

MR. DOHERTY: I object to that as calling for a conclusion of the witness, unless she knows what the duties of the deputy are.

THE SPEAKER: She knows whether or not she has

been deputized and she must know what the duties are.

MR. DOHERTY: I don't know whether she does or not.

THE SPEAKER: Let her say no.

MR. DOHERTY: I have no objection if the Speaker would ask me what the duties of the deputy are. I don't know whether she knows what Mr. Stoebling's duties are. She is only a clerk in the office.

THE SPEAKER: She performs his duties when he is not there.

MR. DOHERTY: She opens the vault. That is what she testified to.

THE SPEAKER: All right, go ahead.

MR. DOHERTY: Is there a question pending? Mr. Stenographer, will you read the question?

(The last question was read by the stenographer.)

Q Do you know what the question is? A. Yes. I am no deputy. I don't know what duties you are referring to.

BY THE SPEAKER:

Q How much stenographic work do you do in the office?

A I take dictation from Mr. Stoebling for correspondence, and whatever he may have.

Q Mr. Stoebling only? A. No. The members of the County Board, whenever there is a meeting or recount going on.

Q You are the official stenographer to the Board when it meets? A. Yes, I am.

MR. DOHERTY: I have no further questions.

BY MR. McCARTER:

Q Did you testify before the Committee last Saturday?

A Yes, sir.

Q I am referring to page 56 of the record. Were you asked and did you answer as follows:

"Question: Now they, the books, are in your hands? Answer: Now I understand they are in the hands of the Commissioner of Registration.

"Question: You are acting as his deputy? Answer: I take orders.

"Question: You are acting as his deputy? Answer: I am acting under his orders."

You testified that way, did you? A. Yes, sir.

Q Will you open that safe if the books are taken to the same room they were taken to during the recount?

A Will I open it now, you mean, to take them in the next room?

Q Yes. A. No, sir, not unless I get orders from Mr. Stoebling.

Q So you decline to let the safe be opened or to open it, even to take them in your next room, for this Committee?

A I won't open the safe, no.

Q What? A. No. I refuse to open it.

BY THE SPEAKER:

Q May I ask,Miss Seglie, if there is anything else in the safe that you need besides these books? A. There are ballot boxes there from the Moore-Clee recount, and other records which we generally keep in there when they become inactive.

Q Suppose that we wanted to get some of those records, would you open the vault? A. No, sir. Under no conditions would I open the vault when it is sealed.

Q Is it sealed now? A. Yes, sir, it is sealed every night since the recount is on.

Q Who seals it? A. The seal is put on by the Superintendent of Elections, some deputy from Mr. Ferguson's office.

Q I understand, then, that the business transacted in your office is at a complete standstill? Insofar as the records in the vault are concerned? A. There is nothing in there to hinder our work.

Q I am asking you if the books that they want are actually in the vault? A. They must be in there. They were there when we put the seal on the vault and the seal is still on there.

Q I would like to ask two or three more questions, if I might, to clear this thing up in my mind. How certain are you, that Mr. Stoebling issued orders to his wife that she

should tell you not to open the safe?

A Will you repeat the question?

Q I am asking you how sure you personally are that it was Mr. Stoebling who told Mrs. Stoebling that she should tell you that you should not open the vault?

A I am quite sure. She would not have told me if he didn't tell her.

Q Did you hear him tell her? A. No. I was at the other end of the phone when she told me.

Q So that you actually, under ordinary circumstances, took the orders of Mrs. Stoebling and not of Mr. Stoebling?

A Yes, sir, I didn't speak to him.

Q Do you take instructions from parties who have no part in the state government or county government?

A In a position like this I figure that the only one closest to him would be his wife, and she told me.

Q You are satisfied that it was her notwithstanding you didn't see her? A. Yes, because I am pretty sure I know her voice.

Q I didn't say pretty sure. I said positive.

A I will say sure. I would not say positive.

Q It might have been somebody else who said, "This is Mrs. Stoebling?" A. No. I know her voice.

MR. McCARTER: Her voice?

THE WITNESS: Yes, sir.

Q You didn't see her? A. Naturally, I couldn't see her.

Q May I ask one further question to clear it, to clear up another doubt in my mind. Supposing we were going to have an election the day after tomorrow and Mr. Stoebling was still sick, would you defer the election or get the books out of the vault so the election could proceed?

MR. DeVOE: I object.

THE SPEAKER: Object all you want. I am asking the young lady a question.

MR. DeVOE: I should like to have my objection on the record.

MR. DOHERTY: I would like to have my objection on the record.

MR. DeVOE: I object because we are not dealing in suppositions. We are trying, or Mr. McCarter says he is trying, and I am sure he is trying to tell facts. Therefore, I object to the Speaker's question.

MR. McCARTER: I say that the question is perfectly proper and it evidences the bad faith and the utter ridiculousness of the position that she took.

THE SPEAKER: That is why I am trying to clear it up in my mind. I am not going to declare anybody in contempt of this Legislature until I have the

privilege of asking all the questions necessary to clear up my mind, and I ask her, the objections of the minority party and her attorney notwithstanding, if we were to have an election the day after tomorrow would she, in the absence of Mr. Stoebling, through illness, defer the election or would she get the books?

MR. DOHERTY: I object on the ground that it is not a question of what she would do but what instructions she would get from Mr. Stoebling. She has all through here stated that she is not taking this personal responsibility and she has stated she is doing this because Mr. Stoebling told her that he personally wanted to be in attendance when those records were delivered.

THE SPEAKER: All right. Assuming that Mr. Stoebling told her the same thing in connection with the election, that he wanted to be personally present to distribute the books, as he is entitled to do and required to do under the law, then I ask her if she would or she would not hold up the election.

MR. DOHERTY: I object on the further ground-- I am merely interposing my objections and I am merely doing it for the purpose, Mr. Speaker--

THE SPEAKER: But you are telling her not to answer my question.

MR. DOHERTY: I am interposing the objection on the record. I am objecting to your question on the ground that you--

THE SPEAKER: I assume that she is going to answer it.

MR. DOHERTY: I am objecting to your question on the ground that you are assuming something that is entirely foreign to the situation that is now before the house, in assuming that there is an election tomorrow. Under the Election Laws those books go out in the custody of men who, under the law, are responsible for those books.

THE SPEAKER: Mr. Stoebling being the man.

MR. DOHERTY: Mr. Stoebling has the right, under the Election Laws, to distribute them to the polling precincts, and then they are in the custody of those whom the law says they should be.

THE SPEAKER: Mr. Stoebling is now on his back with a serious illness and he can't do it. Therefore, he has deputized someone else.

MR. DOHERTY: That may be the fault of the Legislature in not authorizing Mr. Stoebling to do so. I want to point out, Mr. Speaker, for the purpose of the record, that under Section 380 of the Election Laws Mr. Stoebling is the Commissioner of Registration and

he alone is responsible for the election machinery. He is absolutely supreme. The Legislature gave him that power. He is absolutely supreme. He has control of the employees.He may appoint them. He may discharge them. He O.K's all bills.

THE SPEAKER: Who has?

MR. DOHERTY: Mr. Stoebling has, under the Election Law, and under the other election rules that are set up. Assuming there would be an election tomorrow he would naturally say to the clerks, "Send those books out, these binders, these books used in the polling precincts and the different precincts,"because that is part of the election machinery made here. We have a situation where this Legislature is asking Mr. Stoebling to produce something before the Committee where he is not present, where he has no control over these vast records which may become lost, and for which he is responsible.

THE SPEAKER: Is that all of your objection?

MR. DOHERTY: That is my objection.

THE SPEAKER: May I call your attention to just this one thing, in order to get the books and distribute them by the so-called clerks and deputies, this little lady has to open the vault, and that is the

main crux of the whole case.

MR. DOHERTY: She would get her orders from the man who is responsible.

THE SPEAKER: No. He is not here. If he told her not to open the vault she would hold up the election. You have noted your objection.

Do you want to answerthe question?

THE WITNESS: In a case like that I would not be able to answer right now. I would have to think about it.

BY MR. McCARTER:

Q You would want to hear what Mrs. Stoebling said, wouldn't you? A. No, sir, I would use my own judgment.

THE SPEAKER: The Chair recognizes the lady from Essex, Mrs. Sanford.

MRS. SANFORD: (Essex) I would like to ask a question. Mr. Doherty spoke of Mr. Stoebling as being a creature of the Legislature, that his position was created by the Legislature. I wish to know if a creature of the Legislature is not responsible to a request from the Legislature?

MR. DOHERTY: May I answer that?

THE SPEAKER: Mr. Stenographer, will you please read that question so they can hear it?

MR. DOHERTY: The question was read to me. I

say yes, Mr. Stoebling would be responsible to the laws but not this clerk.

THE SPEAKER: She objects to being called the clerk.

MR. DOHERTY: That is her official title.

THE SPEAKER: She is a clerk-stenographer.

MRS. SANFORD: It seems to me, however, if he is responsible and is unable to carry out his responsibility, he is perfectly able to pass his responsibility on to the person who has heretofore had the responsibility of opening the vault and giving out the books.

MR. DOHERTY: I think that is beside the issue here. What he is capable of doing is not before this Committee.

MR. DeVOE: I arose a minute ago to make an objection, but it is all right; it has passed.

THE SPEAKER: You always insist on that.

MR. DE VOE: The reason I object, and I think it should be followed; I think questions of counsel by members of the House cannot possibly be used in evidence in this case. We have a witness on the stand, and if Mrs. Sanford wanted to ask her material questions that is another matter, but aside from that I would like to ask the witness a question if it is my turn.

THE SPEAKER: We will consider it your turn.

MR. DeVOE: Miss Seglie, did you say, and I think it is quite important to all of us, that there is a seal put upon this vault every night?

MISS SEGLIE: Yes, sir.

BY MR. DeVOE:

Q Has that been going on for the past two weeks during the recount? A. Every night, yes.

Q And who puts that seal on? A. The Superintendent of Elections; John Ferguson deputizes one of his clerks.

Q Is it your department which puts the seal on or another department? A. Ferguson's men put the seal on.

Q That is not in your department? A. No, sir. That is the Bureau of Elections. That is in no way connected with our office.

Q They seal it every night? A. They seal it and the Commissioners of the County Board sign it.

Q Is that a sticker or something which goes across the crack? A. A great big seal that large (indicating). Half of it goes on the door and half of it goes on the wall.

Q That seal is signed by various people?

A Signed by two members of the Board, one Republican and one Democrat.

Q Put on by Mr. Ferguson or his deputy? A. That is right.

Q Was that seal on there last Friday night?

A Yes, sir. The minute the recount terminated we sealed the vault.

THE SPEAKER: I didn't get that.

MISS SEGLIE: As soon as the recount terminated the vault was sealed.

THE SPEAKER: The vault was sealed after the recount was terminated?

MISS SEGLIE: After the last district was counted Friday or Thursday they sealed the vault.

THE SPEAKER: And a new seal has not been put on since?

MISS SEGLIE: No, sir, the seal has not been changed.

Q Miss Seglie, did the recount, and I refer now to the Clee-Moore recount-- did you refer to that one?

A Yes, sir.

Q Did that terminate prior to Saturday of last week?

A Friday afternoon.

Q When it terminated was there a seal put on the vault?

A Yes.

Q Immediately? A. Yes.

Q By Ferguson and his deputies? A. Yes.

Q Signed by the two members? A. Yes.

Q Was it there on Saturday? A. Yes. It is still

there now.

Q Was it there Saturday when you were asked to open the vault? A. Yes.

THE SPEAKER: Do I understand that there isn't anything in there besides the poll books that we want?

THE WITNESS: The ballot boxes.

THE SPEAKER: Is that seal put on there to protect the ballot boxes?

MR. DeVOE: I object to it.

THE SPEAKER: I didn't object to your questioning.

MR. DeVOE: I would like to put my objection on the record. This question calls for a conclusion by the witness and therefore it is not material.

THE SPEAKER: She knows why it is there and she knows it was put there to protect the ballot boxes.

MR. DeVOE: Don't you make a political speech.

MR. DOHERTY: I object on the further ground that her department had no authority in the placing of the seal on there.

THE SPEAKER: We understand that exactly. The young lady in the office, having charge of the vault, knows definitely why the seal was put on there, and I am asking her if it was put there to protect the

poll books or ballot boxes.

MR. DOHERTY: I object to that, unless she knows.

THE SPEAKER: If you only had the poll books in there was it the habit to seal it up with that seal?

MR. DOHERTY: I object on the ground that she doesn't know.

THE SPEAKER: Was it put there to protect the ballot boxes or poll books?

MISS SEGLIE: You will have to ask the Superintendent of Elections. I don't know why they put it there.

THE SPEAKER: I will ask you this question. Until such time as they were storing the ballot boxes in there were they in the habit of putting some seal on?

MISS SEGLIE: Yes, sir, we always sealed the vault when there are ballot boxes in.

THE SPEAKER: I said when there are no ballot boxes in there did they still put a seal on, when they had no ballot boxes in the vault? Did they used to put the seal on there before you started storing the ballot boxes in there? You began to answer--

MISS SEGLIE: You mean if there was no recount going on?

THE SPEAKER: You do not have any ballot boxes in there--

MISS SEGLIE: The only time we seal the vault is when the poll books or ballot boxes are in there for some purpose.

BY MR. McCARTER:

Q If Mr. Ferguson will tomorrow morning either remove that seal or authorize somebody to do it, will you then open the vault? A. No, sir.

BY MR. DOHERTY:

Q I want to ask this young lady whether or not she is now in a position to open the vault?

THE SPEAKER: Is that the question whether she can open the vault physically?

MR. DOHERTY: I don't know, physically, mentally, or whatever her powers are.

THE SPEAKER: Will the stenographer repeat the question?

(The question was repeated by the stenographer as follows:

"Question: I want to ask this young lady whether or not she is now in a position to open the vault?"

MISS SEGLIE: No, sir.

MR. McCARTER: Why not?

MISS SEGLIE: Because I haven't got my orders from Mr. Stoebling to open it up.

BY THE SPEAKER:

Q Do you know the combination to open it now, to open the vault? A. Certainly.

Q Then you could open it if it wasn't for the objections of Mr. Stoebling? A. I could open it if he ordered me to open it, yes.

MR. DOHERTY: Thank you very much, Mr. Speaker, for your courtesy.

MR. McCARTER: Goodbye, Mr. County Counsel.

MR. DOHERTY: Goodbye, Mr. McCarter.

THE SPEAKER: May I ask one more question?

BY THE SPEAKER:

Q Do you understand that these records that we are trying to get are public records? A. I don't know.

Q Never mind looking at Mr. Doherty. A. I wasn't looking at him. I was looking at you.

Q You understand that they are public records that we are trying to get? A. I don't know whether they are.

Q Miss Seglie, I trust that you understand the seriousness of your present position? A. I do, naturally.

Q You have passed a Civil Service examination to go into that office, didn't you? A. No, sir, I automatically

went under Civil Service when the law went through; eleven years.

Q You have been in that position eleven years and you didn't know that you were in the public employ?

A Yes, I am.

Q You are in the public employ? A. Yes.

Q And as a public servant, do you usually handle private business or public business? A. Public.

Q Then I ask the first question: Do you understand that these records that we are trying to get are public records? A. I guess they are.

THE SPEAKER: That is all. Call your next witness.

J A C O B J. L E V E Y, being duly sworn according to law, testified as follows:

BY MR. WIENER:

Q Mr. Levey, you are a counsellor at law of the State of New Jersey? A. Yes, sir.

Q And as such counsel you were retained by August Ziegener, as a member of his legal staff, to contest the election to the office of State Committeeman of Mr. Stoebling?

A I was.

Q During the course of that contest, which I understand was in the Circuit Court of Hudson County before Circuit Court Judge Brown, did you have occasion to subpoena the poll books and signature copy registry books, before Judge Brown? A. I did.

Q Will you please explain to this body sitting here the manner of the production of these books and the circumstances surrounding therein?

A The subpoena was served on Mr. Stoebling to produce the books and he sent them to court with a man named Marty Gumarr. He is one of the clerks in the office of the Commissioner of Registration, and a statement was made at that time that Mr. Stoebling --

MR. DeVOE: I object to that.

MR. WIENER: All right, I will ask him a question.

Q Was Mr. Stoebling present at any of these times when these books were produced? A. No, sir, Mr. Stoebling was sick at that time, too.

Q Were your men or associates in attendance at all times when these books were produced? A. Yes, sir.

Q Were those books in the vault referred to herein?

A Well, the signature copy registers are not in the vault that Miss Seglie has the combination to. They are kept in the general office and the poll books are kept in the vault.

Q What has been your experience during your employment in the office of the Superintendent of Elections, concerning the production of books of this nature?

A I believe in 1934 and 1935 I served a subpoena on Mr. Stoebling to produce the signature copy registers and other records of his office in the investigation of the illegal transfer of voters out of the City of Bayonne, and Mr. Stoebling at that time was sick and sent Mr. Gumarr with the signature copy registers and the other records to the Court House in Jersey City, where the investigation was taking place, and they were produced at that time and used by me, and Mr. Gumarr has on other occasions produced the same books.

In a recent investigation before the Supreme Court, before the Chief Justice, I was associate counsel with Mr. McCarter and the books were subpoenaed at that time and pro-

duced in court before the Chief Justice.

At that time we subpoenaed five districts of the First Ward of Jersey City, that I understand are included in the present subpoena, and at that time Mr. Gumarr produced the books. Mr. Stoebling did not appear personally.

Q Do you know whether or not Mr. Stoebling was ill in bed at that time? A. Yes, he was ill at home at that time.

Q Concerning the seal that has been put on this vault by the men employed in your office, the deputy superintendents of election, do you know whether or not the men on guard as deputy superintendents of election have had an order in their physical possession, from your office, empowering them to break the seal at the request of this Assembly Committee?

A Yes. The seal was put on there after the recount was finished, at the request of this Committee, and the men are to break the seal at any time that the Committee has access to the books.

I might say this, too, for your information, that the signature copy registers under subpoena are duplicate records. There are two sets of them, and if they were taken out of the office the originals would still be in Mr. Stoebling's office, and the office could continue to function. I know that from personal knowledge.

Q You say that if this seal were removed, Miss Seglie

could go into this vault? A. Yes. Our office has no objection to opening that vault.

MR. WIENER: That is all.

MR. SZAKOWSKI (of Hudson): The last time they had no trouble in getting those books, did they, Mr. Levey?

MR. LEVEY: Which time?

MR. SZAKOWSKI: The time that you just spoke of, when they produced all the books in court for the last recount.

MR. LEVEY: Yes. We did have a lot of trouble getting them. Mr. Stoebling would not let us look at the books and we had subpoenaed them into court, and it was only under the order of Judge Brown in the Circuit Court that we were permitted to examine the poll books in that anteroom.

MR. SZAKOWSKI: You obtained a proper order to get those books?

MR. LEVEY: A subpoena.

MR. SZAKOWSKI: And you can get the books by a proper subpoena, can't you?

THE SPEAKER: The gentleman from Hudson is entirely out of order. The investigation committee is working on this under resolution passed by the Legislature. Their subpoena is sufficient, and they

do not have to get a subpoena from the court.

MR. SZAKOWSKI: Will you allow him to answer?

THE SPEAKER: Yes, I will allow him to answer it.

MR. LEVEY: My knowledge of the law is that that subpoena is a perfectly valid subpoena, and it should have the effect of producing the books, particularly in view of the fact that they are public records. I think any citizen ought to have the right to look at the books, no less the authority of this state.

MR. DeVOE: I move that that be stricken out as the opinion of the witness.

THE SPEAKER: Do you want the question and answer stricken out, as suggested by the Minority Leader?

MR. DeVOE: I didn't ask that the answer be stricken out. I said that the answer was an opinion of the witness.

MR. SZAKOWSKI: You know, Mr. Witness, that you can, by proper legal means obtain those books?

MR. LEVEY: Yes. I say they have done that. The Legislature has done that.

MR. SZAKOWSKI: You could do that by proper legal means?

MR. DOHERTY: May I ask one question?

MR. WIENER: Whom do you represent?

MR. DOHERTY: I represent the young lady on the question of the custody of those records. Here is a witness who says that certain things can be done. I just want to ask one question.

MR. WIENER: I think that Mr. Doherty is entirely out of order. It is ridiculous to take up the time of this body in this fashion. It is an effort to make a burlesque out of this thing.

MR. DOHERTY: I resent the remarks of Mr. Wiener.

THE SPEAKER: The very first question was one by Mr. Szakowski, which the witness started to answer, and Mr. DeVoe moved that the answer be stricken out, and we asked whether or not the question should stand without the answer. Mr. DeVoe said he didn't ask to have the question stricken out. Therefore, we will leave the answer. The next question he raised was answered in due form. We now find-- Mr. Doherty wants to raise some question, and I am asking you, as Mr. Wiener does, whether or not you represent the witness in the chair?

MR. YOUNG: Mr. Speaker, may I say that this is in no sense a court procedure. We are trying to get

facts. We have here a young lady who may be held in contempt before the evening is over. Certainly, every consideration ought to be offered to her and through her to her counsel. I don't see why we should have any objection to the question of her counsel.

MR. DOHERTY: My question was in the nature of a question on cross-examination. I assume that the counsel has finished with the witness and I want to ask one question.

THE SPEAKER: Since the Chairman of the Committee has no objection, the Speaker has none.

MR. WIENER: And I have none if the informality is going to exist.

BY MR. DOHERTY:

Q You have testified that on occasion these books went down under the care of some gentleman that you mentioned. What is his name? A. Mr. Gumarr.

Q By Mr. Gumarr, to Judge Brown's court and Chief Justice Brogan's court? A. And Mr. Ferguson.

Q Isn't it a fact that those records always got back into the vault the same night? A. All I know, Mr. Gumarr took them back when he was finished.

MR. WIENER: Might I ask counsel a question as to whether or not he would advise his client to produce these books provided they were returned to the vault the

same night.

MR. DeVOE: We are asking lawyers questions. Why not ask the witness questions?

MR. WIENER: I am all through with this witness.

B E N J A M I N D O W D E N, being duly sworn according to law, testified as follows:

BY MR. McCARTER:

Q Are you a member of the Bar? A. Yes, sir. Mr. McCarter, may I ask a question, through you, to the Chair? Am I here as a witness or as a defendant?

Q You are here. You have been subpoenaed to come here, haven't you? A. Yes, sir.

Q I suppose you are here as a witness. A. I wanted to know because--

Q What position do you hold for the Superintendent of Registration? A. I am an attache of the office but I am his chief counsel.

THE SPEAKER: That is Commissioner of Registration.

THE WITNESS: Yes, sir.

THE SPEAKER: Commissioner, not Superintendent.

Q Superintendent Stoebling? A. Yes, sir.

Q Who is your associate counsel? A. Henry Pass.

Q Mr. Pass? A. Yes.

Q When did you talk to Mr. Stoebling with reference to the production of those records? A. Well, I talked to him on Friday on two occasions.

Q And on those occasions you advised him to produce them, did you not, in obedience to this subpoena?

A Yes, sir.

Q And he was sick abed? A. Very sick, yes.

Q Did you appear before the Committee? A. Yes, sir.

Q On Saturday? A. Yes, sir.

Q And did Mr. Pass appear at the same time?

A No, sir.

Q Later on? A. No, sir, he didn't appear before the Committee at all on Saturday.

Q You testified before the Committee that you had o[illegible] advised Mr. Stoebling, in obedience to the subpoena, to produce the books, didn't you?

A Yes.

Q You knew he could not go personally? A. He was helpless when I saw him. There was no question about that.

Q And you advised him to have them sent in somebody else's custody? A. I didn't particularly use the words. What I said to him, "I would arrange to have them forwarded there."

Q What did he say? He would or he wouldn't, or did he just decline to commit himself?

A Oh, no. He said, "All right."

Q All right? A. Yes.

Q That was at what time on Friday? A. I should judge that was about four o'clock on Friday afternoon.

Q The subpoena had been served? A. Yes.

Q And he said all right? A. Yes, sir.

Q Now, the next thing you knew he had given directions that they were not to go. Was the next thing you heard?

A The next thing I heard, in the evening I received a telephone call to go to his home.

Q Yes. Go on. A. And when I got there I found out that he wanted to change the plan.

Q What was the plan that afternoon?

A Mr. McCarter, may I start in and give you the whole picture?

Q I would be very glad if you would.

A Not piecemeal. On Friday afternoon I went back to the office and conferred with Mr. Wiemer, Mr. Miller, and Henry Pass. The question came up as to what would be done in reference to the subpoena. Mr. Wiemer said he wanted those poll books. He wanted to take immediate possession of those poll books. I said, "You can't get those poll books right now." He said, "What do you mean?"

Q Who is Mr. Wiemer? A. Wiener. I beg your pardon. I said, "You can't get those now." I said, "If you want to get those books the proper thing to do is subpoena them before the Committee when the Committee was in session."

Mr. Wiener agreed with me, and I was to go down and see Mr. Stoebling. Mr. Pass and I went down to see Mr. Stoebling.

Q At his house? A. Yes. That was the first occasion, in the afternoon.

Q Yes. A. And when I went in he was in his bed and I walked over and I started to talk to him and asked him what he wanted done in reference to it. He said to me, "I would just as leave let them go." I said, "Then, will I make arrangements?" He said, "Yes, but there is one thing I am worried about, and that is to allow those to go out of my custody."

I said, "What are you worrying about?"

He said, "Well, under the law I am charged with them," and he said, "If they get those books out there how am I going to get them back at night?"

Of course, the way I tell it you would think he was sitting up in lively conversation but this was gotten bit by bit.

I said, "You need not worry about this. Have the books produced and we will raise the objection when we get

them there, that you are the custodian under the act of the Legislature, and at the close of their session you are to take the books back."

He said, "If they don't do that we will institute court proceedings."

I thought it was all set at that time. I saw Mr. Wiener and I said, "Tomorrow morning the books go out," and then, it was in the evening, I received word and I called Mr. Stoebling's house. I went down, and Mr. Miller was there that evening, and he started to explain to me that the Commissioner had apparently changed his mind. Mr. Miller had agreed with me that the better policy would be to let the books go through.

Q Who is Mr. Miller? A. Mr. Miller is an attache of the office, too. Everybody was in absolute accord that the books should go. There was only one question, and Mr. Wiener can back me up on this. I questioned what should happen to the books after the Committee got through with their session. In other words, under the Legislative Act Stoebling was charged with their custody, and that was the thing to be determined by the Committee.

Q Then what next occurred? A. He said he wants a change. I said, "What?" So I went in and I started to talk to Mr. Stoebling. You might think this is an act on my part, but Mr. Wiener can tell you what he confronted in

the afternoon; the man was in a hopeless and helpless condition. I could hardly get him to give coherent answers to the questions. My purpose in trying to talk to him was to persuade him to let the books go through as we had arranged. He told me no; he said something about he was fearful of it. He didn't want to get into any trouble on the books, and with that he sort of dozed off.

Q How long a time elapsed between the time in the afternoon when it was all fixed up that they should go and the evening when you were sent for? A. I should judge in the afternoon I talked to him about four o'clock and in the evening, possibly at ten-thirty.

MR. WILENSKY: Will the witness tell me whether or not in his opinion as counsel to the Commissioner of Registration he believes these records to be public records?

MR. DOWDEN: Undoubtedly they are public records.

THE SPEAKER: Do you feel that they should be produced under the subpoena of the Committee created by an act of the Legislature,as this was?

MR. DOWDEN: I maintained that under the Committee they had to produce the records. If the House would extend to me the privilege, I would just

like to explain the position we are in on this thing. The picture has been given out that we are trying to conceal something. As far as those books are concerned they have been in the Circuit Court before. They have been under examination of Judge Brown, and the books themselves cannot possibly effect Stoebling or our office for this reason: the binders consist of registrations that come into that office, and under the laws, as the members of this Legislature know, there is only one thing that Stoebling can do and that is to enter the registration. Then it is up to Ferguson's office to check whether or not it is a legal registration.

THE SPEAKER: That is not the question up before us now. The question is the possession of the books now. We will determine later on, that is, the Committee will, as to the regularity of the registration.

MR. DOWDEN: Mr. Chairman, the only reason I want to outline the position as far as I am personally concerned--

THE SPEAKER: I have no objection.

MR. DOWDEN: The only reason I want to outline it is, Mr. Stoebling is not here. Of course, I am

in a position where naturally what I say would be more or less prejudicial because I represent Stoebling and undoubtedly I would take his part regardless of what he did. I am his attorney. But I want to give you the picture and ask you to analyze it from this common sense observation and not from what I am trying to say.

For instance, those poll books, as I said to the Speaker, consist of the registration. Stoebling cannot reject them when they come in. They have to be supervised by the Superintendent of Elections. As to the poll books those are made up in the election districts and Stoebling has no jurisdiction. Therefore, as far as those books are concerned they can't affect the Stoebling office as far as his jurisdiction is concerned. As to hiding them, we have absolutely no reason to hide them from this Legislature for the simple reason that we are the creature of this body, and if we were to antagonize you people you could immediately oust us out of our jobs. That is something that I took seriously into consideration.

BY MR. McCARTER:

Q Mr. Dowden, did you publish a report in the newspapers on Saturday morning to the effect that the direction of the

subpoena would be obeyed and the books produced?

A Certainly I did; I did that Friday night.

Q The Friday night paper? A. Certainly.

Q That was after-- A. I did that immediately after I talked to him in the afternoon.

Q And you were surprised, therefore, when he changed his mind after four hours intervention?

A Do you want my honest opinion? I wasn't surprised because he has changed his mind many other times.

Q Would you advise Miss Seglie to obey this subpoena and open that vault? A. Mr. McCarter, do you think that is fair when she has got another attorney here?

Q Well, answer the question.

MR. DOHERTY: I object on the ground as to what he would do.

THE SPEAKER: The Chair wants one point cleared up. I would like to have Mr. Doherty's answer as to whom he represented. If I am not mistaken, Mr. Doherty, you said that you were the attorney not only for Miss Seglie, but for the Board of Elections and Mr. Stoebling.

MR. DOHERTY: No, I never said that.

THE SPEAKER: I want to know whether you or he is the actual attorney who determines election matters for the Board and its subordinates. This man is a

subordinate. This man Stoebling is a subordinate of the County Board of Elections, and if you represent the County Board I am wondering whether it is you who actually represents the Commissioner of Registration. The Commissioner is a subordinate of the Board.

MR. DOHERTY: When the Legislature created this Board it gave the power to the Board to appoint a clerk; he is Mr. Stoebling.

THE SPEAKER: I think they also appointed an attorney, didn't they?

MR. DOHERTY: I am the attorney for all the county institutions-- the County Board of Elections-- every county function. I am on the county counsel staff.

THE SPEAKER: I understand you can produce a resolution of the Board of Elections, if we would like to see it, showing that you are designated as their counsel.

MR. DOHERTY: I don't get you.

THE SPEAKER: I am asking you if you can produce this resolution of the County Board of Elections or the County Board of Freeholders showing that you are the legal representative of the County Board of Elections. I am trying to differentiate between

your responsibility and this man over here, from the County Board of Elections.

MR. DOHERTY: I am not so clear on that.

THE SPEAKER: I want to know whether there is a resolution.

MR. DOHERTY: No. I have been assigned by the County Counsel. I represent the interests of the Hudson County Board of Elections.

THE SPEAKER: As the authority?

MR. DOHERTY: As a representative of the county under the act of the Board of Freeholders, and this is my particular assignment.

THE SPEAKER: To take care of the election affairs--

MR. DOHERTY: Of the Hudson County Board of Elections.

THE SPEAKER: And Mr. Stoebling is the clerk?

MR. DOHERTY: He is the clerk and that is all.

THE SPEAKER: Clerk of the Board?

MR. DOHERTY: That is right.

THE SPEAKER: And as Clerk of the Board you represent him?

MR. DOHERTY: I represent everybody in the Hudson County Board of Elections.

THE SPEAKER: How is it that this fellow comes

down here and also tells us that he represents Stoebling?

MR. DOHERTY: When the Legislature created this clerk it said to the Hudson County Board of Elections, "You create it and then you keep your hands off." He is entirely independent. He then becomes, ipso facto, the Commissioner of Registration. Under Section 380, Mr. Speaker, if you want to refer to the particular section, which is Section 380 of the Election Law--

THE SPEAKER: This man as special counsel--

MR. DOHERTY: I don't know anything about his authority to represent Mr. Stoebling. I know I don't represent Mr. Stoebling as Commissioner of Registration. I don't know anything about it.

THE SPEAKER: Do you represent the Clerk?

MR. DOHERTY: I represent him as any other subordinate clerk.

MR. YOUNG: I think we have got that matter straightened out. Mr. Doherty is counsel to the County Board of Elections and Mr. Dowden is counsel to the Commissioner of Registration of Hudson County. Some time ago we had a question asked here whether Mr. Dowden, as counsel of the Commissioner

of Registration, would advise Miss Seglie as an employee of the Board to deliver up the subponaed records. She has a right to her personal counsel, but her office also has an official counsel and I want to know what that official counsel's advice on that question is.

MR. DOWDEN: What is the question?

(The stenographer repeated the question as follows:

"Question: Would Mr. Dowden, as counsel to the Commissioner of Registration, advise Miss Seglie, as an employee of that Board, to deliver up the subponaed records?"

MR. DOWDEN: Well, I don't know just how to answer that question for this reason: Miss Seglie is employed by the Board of Elections. As a matter of fact, she is a separate entity from the Department where I am. I don't know what her relationship is except I know she is very close to Mr. Stoebling, and she generally takes her orders from him or from the members of the County Board of Elections. I don't really know how I can conscientiously answer that question.

MR. YOUNG: You say that in your official capacity as counsel to the Commissioner of

Registration you are under no obligation to advise an employee of the County Board of Elections?

MR. DOWDEN: I am not under any obligation. If she called for an opinion I would have to give it very solemn thought. Offhand, I would say, in other words, you have got a Legislative mandate and you have got to recognize it, but the question is just what her duties are. I don't know whether I can explain it clearly to you, but there is a differentiation between possession and custodianship, as I conceive it. In other words, whether or not that girl has possession or not.

I have not advised and I had nothing to do with advising, but so long as you raise the question that is the thing that came up in my mind as to what I would do. If I were to go over the thing and determine that she had the possession then I would advise her there was only one thing she should do as an employee, to turn them over.

MR. YOUNG: I want to get your position clear, Mr. Dowden. You say that in your opinion, and your advice to her would depend upon whether or not she had possession of those records or simply access to them?

MR. DOWDEN: Yes.

MR. YOUNG: If she had possession, in other words, you would say to her, "Turn them over." If she had access you would advise her not to.

MR. DOWDEN: Just repeat the question. I want to be very careful how I answer this question.

MR. YOUNG: If Miss Seglie has possession of those records and you so determined as a question of fact, then you would advise her, as a matter of law, to obey the subpoena?

MR. DOWDEN: Undoubtedly.

MR. YOUNG: If, however, you determined that she had not possession but simply access to them, that is, the knowledge of the combination of the vault and the right to go in there and go out of there and take the books out for a purpose, under Mr. Stoebling's direction, your advice probably would be to her she ought not to turn them over.

MR. DOWDEN: No. I would say to obey the subpoena in any instance. She would have to comply with the subpoena in any instance.

BY MR. PAUL:

Q Mr. Dowden, did you examine the subpoena in this case?

A No, I didn't.

Q You never saw the subpoena at all? A. The subpoena to Miss Seglie?

Q Yes. A. Yes, I did. It just came back to me. We were all down there Saturday afternoon on the sidewalk, and, incidentally, if you recall we advised her to go up.

Q Answer the question. Do you, in your opinion, as a member of the Bar feel that the subpoena is in due and proper form? A. No. That subpoena was an improper subpoena.

Q What was wrong with it? A. It said two o'clock in the forenoon.

Q What should it have said? A. Two o'clock in the afternoon. I didn't raise that technical objection. I figured out of deference to these men from Essex County, to go up, but as long as you ask whether the subpoena was any good, it wasn't any good.

Q Was that your objection to it?

A I wasn't looking for technical objections. I happened to notice it. It struck me funny when I looked at it. I didn't raise any question. You know I didn't. We were not seeking any advantage, sir.

Q Was that the only objection to the subpoena?

A To tell you the truth, that is the only thing I know, because that is what struck my eye.

Q Even though it was in the forenoon instead of the afternoon, you advised her to produce the books?

A No. We had been on the sidewalk and while we were down

there the question was whether she would go up or not, and we decided to all go upstairs. Nobody raised any objection to that; we went upstairs.

Q Did you at anytime advise her to open the vault and produce the books? A. No, sir, I didn't advise her.

Q Nevertheless, you felt that the subpoena was in sufficient form to produce the books? A. Yes, it looked all right to me. As I say, I didn't analyze it for any technical defects. I took one look and that happened to strike my eye. I didn't raise any technical objections to it.

MR. YOUNG: Mr. Speaker, I want to offer to the members of this House an explanation of the procedure here tonight. The Committee has done all in its power and we feel courageously so, to obtain these records which are vital. We have been thwarted at every turn. We desire tonight to demonstrate that when Mr. Stoebling refuses to turn those books over to us, he did it in violation of the advice of his own official counsel; that he did it after he had promised those records to us; that he did it in spite of the fact that he and his friends were aware that those records would be in custody of an Assembly Committee; he did it in spite of the fact that it

was well known that they would be properly taken care of; that they would be transported to Essex County by armored trucks; that they would be maintained in a bank vault during their stay there, and I am saying to the members of this House that while it was necessary, for their use, we had planned to have the armed guards on them. They would be safe in the custody of this Committee.

Now, Mr. Speaker, in order to effect the provisions of the resolution appointing this Committee, it is still necessary that we have those books. We have the testimony of Miss Seglie that she has the combination of the lock. She has access to those records, whether or not she has possession of them, and it is our request and has been our request that because she has that access that she should accede to the demand of the Legislature.

I therefore, Mr. Speaker, offer the following resolution and move its adoption.

THE SPEAKER: The members will get a copy.

(At this point the Clerk of the Assembly read the resolution as follows:)

MR. YOUNG: Mr. Speaker, on the resolution. I feel that nothing can be made plainer than the fact that we do not desire to hold Mr. Stoebling in contempt nor do we desire to hold Miss Seglie in contempt, if it can be avoided. I have therefore drawn this resolution which provides that should she refuse or neglect to comply with its terms the Sergeant-at-arms of the House may do the duty which the resolution imposes upon Miss Seglie. Should she fail to do it, and should the duty be imposed upon the Sergeant-at-arms by reason of her failure, and should he be successful in delivering to the Committee the records requested, I, for one, have no intention of requesting you to hold Miss Seglie in contempt. That, however, is a question for yourself to decide upon.

We have gone along with the greatest forbearance and the greatest regard for everyone's feelings, but no official, be it the Commissioner of Registration or be it his clerk-stenographer, who has access, although, perhaps, not possession of those records, should be allowed to flaunt the authority of this House of Assembly.

Therefore, we have, by the best and only means that we know, taken steps to secure to us the delivery

of the records which are necessary for the continued work requested of us and imposed upon us by Assembly resolution number one.

I move the adoption of the resolution, and I ask for a roll call.

MR. DeVOE: Mr. Speaker and members of the House: Now that this examination has concluded I think those of us, and, perhaps, all of us who have their feet on the ground will give serious consideration to this resolution.

I have not asked the Majority Leader whether or not he had a caucus of the Republican majority on this or not, but I am assuming that you men and women are approaching this resolution in a fair-minded way and with solid feet, disregarding entirely the levity that was expressed here or evinced here a short time ago.

To the lawyers present I would like to call your attention to this: Perhaps, no doubt, you thought about it, that this was not a very legal proceeding, at least not legally conducted, and I am sure that every lawyer was, in the sense of the rules of evidence, has been sitting here very much shocked, by the way this proceeding has been undertaken and conducted. Aside from that, I want to point out

to the majority and the minority members that Stoebling, unquestionably, on the evidence before this Assembly, has possession of these books. I think Mr. McCarter sitting there, and the other gentlemen of the legal force of the Committee will admit-- Mr. Young a minute ago said that she has custody, though not possession, or access or custody but not possession.

Now, ladies and gentlemen of the majority, and you, after all, have to determine this, this resolution is directed against this young girl. It is not directed against Stoebling. Why isn't it directed against Stoebling? He is in possession of those books. He is in legal possession. As I understand the situation, he is Clerk of the County Board of Elections and, automatically, he becomes the Commissioner of Registration, and as such he has charge of these books. Now, we here, the House of Assembly, certainly are making history, as the Speaker announced, when we direct someone not in possession of records to deliver up the records to this Committee. Why doesn't this resolution give the name of Stoebling instead of this girl? It would have the same effect. If he refused you can go in and seize them, as you said you were going to.

I don't know whether the men and women of this

House, especially the lawyers are going to approach this question as a sound legal proposition or they are going to play politics, and, no doubt, politics are being paid here to rush in and make history by directing a resolution of seizure against a person not in possession of the article attempted to be seized. Of course, we know that in any court of law that would not succeed. The evidence here tonight shows that she is not in possession. There has not been one iota of proof presented here to show that she has possession of these books. As a matter of fact, I have only to recall to Mr. McCarter that there is a big red seal on this vault under the hand and seal of some other interests, legally constituted interest, and this girl can be put in jail if she breaks that seal.

Mr. Speaker, on the records I wish to make this statement and objection to this resolution; that the statutesof our state give no authority to this Committee to seize any book or paper of any kind whatsoever. It does give authority to this Committee to require witnesses to appear before them, and it also lays down the facts or the law, that if the witnesses refused they can be brought in on the warrant of the speaker, but if you people are

seriously interested in this question as a legal question, as a historical proposition, as a stateman's proposition, if you turn to 52-13-1 that lays down a certain procedure for this committee to follow, and it is absolutely void, ladies and gentlemen, on the question of seizure of books or papers, and I object to the resolution, Mr. Speaker, because of the fact that there is no law in this state to support it.

Mr. Speaker, I am very much disturbed, shall I say to you, and also disappointed about the situation which developed here tonight, so far as the Speaker of the House has acted towards the minority. I think the Speaker has not presided as an impartial judge; that he has become the best advocate of the Committee. I don't know whether the members of the counsel staff of the Committee are under salary or will be paid, but I do think that the Speaker did very well as the prosecuting attorney.

I make that observation.

THE SPEAKER: I never practise law.

MR. DeVOE: That was very evident, sir, in your questioning.

THE SPEAKER: If I did, I would get a good job.

MR. DeVOE: I object to the resolution for the

reasons given, and I make the objection on the point of law and on the record of this Assembly.

MR. WILENSKY: The Minority Leader said that this is a very historical question, and I agree with the gentleman who represents the minority, in that. The constitution of this state and of the United States provides for three distinct branches of government, Legislative, Judicial and Executive. It has been testified here tonight that these records are being held by an officer who has been created by this Legislature. I therefore take it that this gentleman belongs to the Legislative branch of the government. He certainly does not belong to the Judicial branch and he certainly does not belong to the Executive branch.

It is understood, under our decisions, that one department is not to interfere with the other, but I hope that there are no courts in this state that will assume the authority which is not vested in them. I say that so far as politics are concerned it is indeed surprising to me and the other members of the House that the Democratic minority is seeking to support a man who is supposed to be a Republican. That certainly is a question of politics which we have not settled yet.

I further feel, Mr. Speaker, that these records are public records. It has been so testified and has not been questioned by any member of the minority. To my mind, there is no difference between these records and a bill of this House in possession of the Clerk. If the Clerk of this House should refuse to produce a bill I believe that we have the power to hold him for contempt and also to get the bill, regardless of where it is, and I see no difference between the Clerk of this House and the Commissioner of Registration.

If there is any question at all about receiving public records for the benefit of this Committee that was given the power to examine the records, I think we ought to settle it here tonight. Either the Legislature is not what it is supposed to be or it is the law of this state, and I say that there is ample precedent for investigating committees of this type in the United States Congress, to subpoena records and seize records. They have even go so far as to permit wire tapping, so I think we are not exceeding our authority, Mr. Speaker, and I believe that every executive branch of the State of New Jersey, including the State Police, should support the

members of this Legislature, to see to it that we receive the records.

If those records are not public records we ought to know about that, and if they are public records I think if anyone has the right to see them it is the members of this House.

I move for the adoption of the resolution and ask for a roll call.

MR. PAUL: I would like to ask the Minority Leader one question if I may. May I ask you a question?

MR. DeVOE: Yes, sir.

MR. PAUL: What is your objection to these records being produced?

MR. DeVOE: Why, Mr. Speaker, I had no objection to these records being produced. In further answer to the gentleman'sfrom Essex, he is a lawyer of some repute. It is conceded by us that he is a good lawyer and I have attempted to lay down two legal situations that I am sure Mr. McCarter understood and Mr. Paul did not. I am repeating them for Mr. Paul. The first is this: Does he believe, as a lawyer, that a cause of action can lie against a person for possession of an article which the person does not possess?

MR. PAUL: If the person has access to the records they have possession.

THE SPEAKER: What is the answer?

MR. PAUL: If they have access they have possession, under the point of law, without subpoena.

THE SPEAKER: Miss Seglie has testified that she can produce them if you get an order, and she won't accept orders from anybody but Mr. Stoebling up to this time, and we are now going to give her the orders of the House of Assembly.

MR. PAUL: As I see the resolution, it says by its own terms that those records should be produced to this Committee, and I feel personally, sir, that this is a sop, the whole resolution. I think you should, as Speaker, exercise your prerogative as Speaker and issue a warrant for contempt.

MR. DeVOE: I would like to ask Mr. Young, the gentleman from Essex, a question.

THE SPEAKER: I take it that he will answer.

MR. DeVOE: Why is this resolution against the young lady instead of against Mr. Stoebling, who has charge of the records?

MR. YOUNG: That is a very easy question to answer, sir. Mr. Stoebling is ill. The Committee has

been refused access to his apartment. We cannot serve a subpoena upon him. Apparently, we cannot serve a warrant on him. We cannot even speak to him without grave danger of his life, according to the testimony of his physician before our Committee. Mr. Stoebling may not do everything we would like him to do but we certainly would not want the means to be of his death.

His doctor informed the Committee that it might be three weeks and it might be three months before Mr. Stoebling could attend the Committee and in person hand over the records. We cannot go to Mr. Stoebling and drag him from his house to his office and direct that he open that vault.

Another subpoena addressed to Mr. Stoebling would be equally as ineffective as the last one, because another subpoena we could not even serve on Mr. Stoebling because we could not get to him. Therefore, we have had to take the last resort and request and demand, from the person who can give us possession of those records, that she do so.

MR. DeVOE: Will the gentleman from Essex answer another question?

THE SPEAKER: He will.

MR. DeVOE: Do I understand you to insinuate

or say that in order to make this resolution effective you have to serve Alice Seglie? Do you have to serve a copy of this resolution upon Alice Seglie in order to make it effective?

MR. YOUNG: I don't believe so.

MR. DeVOE: Then, Mr. Young of Essex, couldn't you pass this resolution, directed against Mr. Stoebling and not serve it upon him, and accomplish the same purposes? Will you answer the question?

MR. YOUNG: No. We are not serving a subpoena, and the reason I gave you the answer on that is because Miss Seglie is present, and the order was read to her, in her presence, and her counsel I believe now has a copy of it.

MR. DeVOE: Isn't it true, Mr. Young of Essex, through the Speaker, that, as a matter of fact, you could pass this resolution and make it have the same effect whether it had Mr. Stoebling's name in it or Miss Seglie's name in it?

MR. YOUNG: Yes, except this, that the resolution will be effective this way and not the other.

MR. DeVOE: Wouldn't it be effective, Mr. Young, if you passed it with Mr. Stoebling's name in it and did not serve it? Couldn't you then go in and seize these books under the last resolution?

MR. YOUNG: What we want, Mr. DeVoe, as Mr. McCarter so well put it is that little twist of the wrist to let us into the vault.

THE SPEAKER: Are there any further remarks?

MR. OSNERS (of Bergen): First let me say to you, Mr. Speaker, and to the members of the House, that I am not a lawyer, and secondly, I would like to say that I am a member of the Committee that has been designated by the elected representatives of the people of New Jersey to investigate election frauds in the State of New Jersey.

Now, I know that the public of this state whom we are supposed to represent as members of the House of Assembly, do not give a tinker's dam for the Minority Leader's objections to the wording of this resolution. The people of this state demand that public records be public. It demands that we, as members of the Legislature, have access to all of the public records of the State of New Jersey and not to the public records in only twenty of its twenty-one counties.

Now, the Minority Leader has raised the objection that we have not served Mr. Stoebling, that we do not mention his name, that we mentioned somebody else's name. We mentioned the name of someone that works in his department, and I ask those members in the House,

whether you are attorneys or not, whether this person who has been mentioned is a personal private employee of Mr. Stoebling or is she, in fact, a public employee, and is she paid by the taxpayers and the citizens of this state, and therefore be holden to those citizens. And that is the crux of the whole question that we have before us.

I think that all of this piffle about the form and the wording, about this or about that, is a sample of the obstructionist tactics that our Committee has met from the minute we were organized, from the moment we entered into Hudson County and stood in the lobby of Mr. Stoebling's apartment house, when the Hudson County strong-arm squad arrived there and said, "Who is causing this breach of the peace?" A half dozen men standing in that apartment house lobby, and he said, "Who is causing this breach of the peace?" And the pitiful way that that little apartment house superintendent ran around in dire fear of what might happen to him, and the way we gathered on the sidewalk in front of this Spingarn Building, and the advisors poured in on poor Miss Seglie over here, saying, "Don't go back." "Stay here." "Go home." And she said on the sidewalk, and I heard her say it,

that Stoebling called up and told her to beat it, and when we got upstairs she said that when she was on the phone she told Mrs. Stoebling she was going to leave.

Everybody scared to death. And the only question that this resolution brings before the House of Assembly is this: Are you scared to death, too?

(Applause)

MR. YOUNG: Mr. Speaker, I move the previous question.

THE SPEAKER: May I ask the attorney for Miss Seglie if he wants to say anything before we go on. My only thought is this that he is apparently going to be called on to advise her what she is going to do. I want to ask him whether he wants to speak before the resolution is voted on, or after?

MR. DOHERTY: No, I don't think so. I think, Mr. Speaker, you have extended to me every courtesy. I think the members of the House understand the import of this resolution full well, what it means to this girl.

Now that you have given me the opportunity I would like to answer the last speaker, the fact that he said when he came down to the apartment there was

a strong-arm squad.

There was one policeman came in there. We were about 25 or 30 people and they were milling on the outside or inside, and he asked Mr. Young a question, "What is going on here?" If that means strong-arm tactics are going on there, then that is a sample of the situation as he understands it. Then I say that there really is no reason why this House should take it out on this girl who is only an employee of Mr. Stoebling, who is the Commissioner of Registration. This girl is only being loyal to her boss. It would be the same thing as asking the Clerk to give up the records of a bank where there was an amored truck outside and those records were going to be taken to a foreign county, without giving anybody in the bank authority to follow those records where they are going.

I think this resolution should not be adopted. At least I think that the members of this House should weigh this matter very seriously before the cry goes out that the public is being injured. They are public records. They ought to be produced. From the legal standpoint, on the question of producing the records, the law says that when a subpoena duces tecum is served the person who is subpoenaed must first of

all testify, and he must testify from those records. Those records generally cannot be taken over by anybody who wants to look at them, and that is unfortunate, that the Legislature did not provide a means of having somebody else in authority when Mr. Stoebling was incapacitated, and not placing this young lady, who is only a clerk-stenographer, in the position of being answerable to this House for a contempt or for imprisonment because she is loyal to the man who is head of the department, because he says, "I personally would like to be present when those records are taken out, because I am answerable to the people of New Jersey for what happens to those records."

I am not speaking for Mr. Stoebling but I understand that that is his position; that he merely wants the opportunity to come in and be personally present, so he may know where they are, who has access to them, who is looking at them, where they are, in whose custody they are, and, certainly, when he is lying on his back he cannot be responsible for records taken out of the county and brought into aforeign county.

In the final analysis, certainly it is not this young lady who should be brought before the Bar of this Assembly, by this House, and condemned because she is

obeying orders.

THE SPEAKER: May I ask one question? Do you personally consider that you have had fair and reasonable treatment by the Speaker of the House, tonight?

MR. DOHERTY: I do, with the exception that at times the Speaker was rather hasty and gave me the impression of a little gag rule. I think we understood one another after a while. I think, on the whole, as the matter turned out we have had a fair chance to explain our position. I cannot complain.

THE SPEAKER: The gentleman from Middlesex, Mr. DeVoe, I think, said he wants to be heard further?

MR. DeVOE: Mr. Speaker, in view of your charming and gracious request, I now move for a recess of five minutes for the purpose of a Democratic caucus.

THE SPEAKER: I want you to say either yes or no.

MR. DeVOE: I was trying to be funny.

THE SPEAKER: You have made a statement that I have not treated you fairly, and I now ask you, as leader of the minority, is there anybody there who

wants to say anything?

MR. DeVOE: I don't believe I said that you have not treated me fairly. I said that you had not presided as an impartial judge of this hearing.

Does anyone here have anything to say?

We haven't anything to say.

THE SPEAKER: I still insist, if the representative says of the young lady that he got fair treatment, that I have been at least considerate, and I do not particularly appreciate the statement in a grave situation like this, that you were trying to write into the records, that I haven't treated you fairly, and until I have treated you fairly I am going to hold up the vote.

MR. DeVOE: I repeat my statement: I didn't say you have not treated me fairly. Don't misunderstand me. I say, with all sincerity, you have been very, very fair and generous to me.

THE SPEAKER: But you say that I am acting as a Republican, and you are acting as a Democrat.

Before we call the roll I want to make a statement as Speaker. I have a grave responsibility, ladies and gentlemen, as the Speaker of the House. It is going to devolve upon me to determine who is in contempt. This Committee was appointed by the majority vote of this house. This Committee has

tried to carry out the intent of the resolution verbatim, notwithstanding the statement of the Minority Leader that they had no right to subpoena records here or produce them. If you take the trouble to read the resolution you will find that it carried that very specific authority.

I intend to stand back of this Committee and I want the public to know that I appointed this Committee at your direction, in good faith, and I propose to stand back of them as long as they are in existence and try to perform their duty.

Now, may I say this to Miss Seglie? When I was asked to consider her in contempt I insisted that I would not consider her or anybody else in contempt of this Committee until I personally had the right to bring her before the Bar of the House, whether by subpoena or otherwise, to allow Miss Seglie to say to me that she still insists that she will not obey the dictates of the House of the Assembly, which is the creator of her position and the creator of Mr. Doherty's position by the Legislation that is passed by this House. Therefore, I want to give her every consideration.

Miss Seglie, it is because of that thoughtfulness on my part and my desire to consider your personal

welfare that I insisted that this procedure should take place. I feel that you should understand the gravity of the situation. I think your legal attorney has a right to let you understand just exactly where you stand in the event that you still defy the Legislature in not doing that which you have admitted here tonight publicly and indirectly that you can do, if you were so minded to do, but which you are not going to do and have not done up to this time because you are obeying the request of your immediate superior who, in turn, is a creature of the Legislature, indirectly.

Now, I have a very serious interest in the welfare of the young woman, because I have in my family two young girls, and I would not want them to be in your position at the moment. Therefore, I am taking this responsibility on myself of giving you the opportunity. I think I am being absolutely fair. Therefore, Iask your attorney to admit that I have been fair on the floor tonight.

With those remarks, notwithstanding the ballyhoo on the part of the dissatisfied minority, the previous question having been requested:-

MR. DeVOE: May I read the rule--

THE SPEAKER: The previous question has been

moved and now the question before the House is, shall the main question be now put. All in favor of that will signify by saying aye; those opposed no.

(A voice vote was taken.)

THE SPEAKER: The ayes have it. The Clerk will please call the roll.

(Roll call by the Clerk, the result of which was forty-one in the affirmative and seventeen in the negative.)

THE SPEAKER: The Assembly resolution having received forty-one votes in the affirmative and seventeen in the negative, the Speaker declares that the resolution will take the course of passed bills and resolutions.

MR. YOUNG: Mr. Speaker, in view of your remarks about the seriousness of a contempt charge, and for your own benefit, may I request that you personally direct Miss Seglie to open the vault and turn over the subpoenaed records-- she knows which they are-- tomorrow morning, and I do not ask that she be now required to give an answer whether she will open it or not, but I would like to have directed to her those instructions from your lips.

THE SPEAKER: Miss Seglie, will you please

rise and stand out in the corridor of the House?

(Miss Seglie stood up.)

THE SPEAKER: Miss Seglie, you have heard the resolution read. You have heard it adopted by a vote of forty-one to seventeen, and I understand that you understand what the resolution requires, that you shall open the safe and make available the books, the registry books and the poll books and so forth mentioned in the resolution of the Special Committee. Do it by the time specified in the resolution.

Do you understand the situation?

MR. YOUNG: I wish also that Miss Seglie understand that the seal of the Superintendent of Elections will be removed tomorrow morning so that she will have no objection on that score.

THE SPEAKER: Do you understand that?

MISS SEGLIE: I understand that.

THE SPEAKER: Supplementing the request of the specially appointed committee I now ask you to conform to the spirit of this last resolution.

MISS SEGLIE: And I have until tomorrow morning to decide or must I decide now?

THE SPEAKER: I understand, Mr. Young, that it

is agreeable for her to decide tomorrow morning?

MR. YOUNG: I don't care to have her commit herself tonight.

MISS SEGLIE: I would rather wait until tomorrow, if I might.

THE SPEAKER: That is agreeable.

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Assembly Investigation of ::

alleged Fraudulent and Illegal ::

Conduct at the General Election ::

on Novemher 2, 1937, etc. ::

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Transcript of stenographer's notes of hearings held in the above matter at Room 301, Essex County Court House, Newark, New Jersey, and at the office of Colonel Mark O. Kimberling, Superintendent of the New Jersey State Police, Trenton, New Jersey, on Tuesday, February 1, 1938.

Present:

Assembly Committee
Mr. Rocco Palese,
Mrs. Olive C. Sanford,
Mr. Frank C. Osmers, Jr.,
Mr. Norman P. Featherer.

ACTING CHAIRMAN PALESE: This Committee is in session. You are here, I presume, in response to the demand made upon you last evening by the Legislature as well as this Special Committee, is that correct?

MISS SEGLIE: Yes, I am.

ACTING CHAIRMAN PALESE: Now, this Committee is recessing until eleven-thirty, and we want you to be back here at eleven-thirty.

MISS SEGLIE: Yes, I will.

ACTING CHAIRMAN PALESE: Or you can stay here until that time, in response to the summons of last night by the Committee.

(At this time a recess was taken to eleven-thirty a.m.)

AFTER RECESS 12:00 P.M.

Present:

Assembly Committee:
Henry Young, Jr., Chairman,
Mrs. Olive C. Sanford,
Rocco Palese,
Frank C. Osmers, Jr.,
Norman P. Featherer.

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

(J. Vincent Donegan was sworn as stenographer.)

CHAIRMAN YOUNG: May we have Miss Seglie?

A L I C E S E G L I E F I L A, recalled, testified as follows:

EXAMINATION BY MR. YOUNG:

Q This is Miss Alice Seglie or Mrs. Alice Fila. Miss Seglie, you recall the events of last night, I take it?

A Yes, I do.

Q Did you, this morning, go to the office of the Superintendent of-- I beg your pardon-- the Commissioner of Registrations' office of Hudson County? A. I did.

Q And what time did you go there? A. I got in the office about a quarter of nine, I believe it was.

Q You were informed last night that the seal would be removed from the vault door this morning. I think I recall

telling you that. A. I was informed last night?

Q I think I recall telling you that last night in Trenton. A. You may have.

Q What did you do in that office this morning, Miss Seglie? A. I got in the office about a quarter to nine and I opened up my mail, and I called Mr.. Stoebling's home. A nurse answered the phone. I asked her if I could see Mr. Stoebling, because I thought if I could see him he could give me different orders. She said I could not see him. So I said, "I am coming up anyway." I said, "In the meantime you ask him if I can talk to him." So I got up there about-- I guess it was about ten after nine-- and I think her name was Mrs. Sullivan, I think that is what her name was. So I told her who I was. She said, "I got strict orders from Dr. Stockfisch that no one is able to see him." I told her how important it was. She said, "He is sleeping now. Furthermore," she said, "no one is to see him." So I told her to tell him that I had been there, and if he would call me back I would be at the office this morning. So no one ever called, and I came back, and then I came out here to Newark with Mr. Miller and Mr. Doherty.

Q What time did you arrive here? A. I believe we were about ten minutes late; about ten after ten.

MRS. SANFORD: A little later.

THE WITNESS: It might have been a little later.

Q While you were in the office did you make any attempt to open the vault, which you were directed to do last night?

A No, sir.

Q Why not? A. Well, I just feel I have no right to do it. I feel this way, that those records and poll books that you want, they are under the custody of the Commissioner of Registration. Now, I am employed by the Hudson County Board of Elections, and I feel that I have no right to give out any records which are under Mr. Stoebling's custody, I being an employee of the County Board of Elections, and on the advice of my counsel, as he interprets the law, I have no legal right to open up that vault or take anything out of there until I get my orders from Mr. Stoebling. I feel they are under his custody, and in order to do anything I should get word from him or some written notice that would entitle me to open the vault.

CHAIRMAN YOUNG: Do you suppose you boys could get these pictures over?

(The Press photographers took pictures during a short recess.)

(Answer read by the stenographer.)

Q Did you receive any directions from the Board of Elections not to open that vault, Miss Seglie? A. No, sir.

Q Have you an opinion from your counsel as to your duties in this matter? A. I have a letter here I think

would answer. Here is a letter I got--

MR. DOHERTY: That hasn't anything to do with that matter.

MR. GIULIANO: Let us see what it is.

MR. WIENER: Miss Seglie said she had not received any orders from the Board of Elections. If she hasn't received any word from the Board of Elections, how does she have this letter from the Board of Elections?

THE WITNESS: That is the only thing I have.

MR. DOHERTY: I suggest you read this into--

THE WITNESS: "County of Hudson, State of New Jersey, Law Department, Court House, Jersey City, N. J.

"J. Emil Walscheid, County Counsel, Robert H. Doherty, Assistant County Counsel, Thomas F. Meehan, County Attorney, Alexander B. Cieciuch, Assistant County Attorney.

"January 29, 1938

"Hudson County Board of Elections
591 Summit Avenue
Jersey City, New Jersey

"Attention of Secretary

"Gentlemen:

"Complying with your request for an opinion with regard to the situation which has arisen due to the illness of your clerk, Charles Stoebling, I advise you

as follows:

"1. Charles Stoebling, Clerk of your Board, is constituted the Commissioner of Registration of Hudson County. Under the provisions of the Election Law, and particularly Par. 380 of Article XXVIII, and Par. 216 of Article XVII, he is in complete charge of the permanent registration records of Hudson County and is also the custodian of the General Election poll books and records.

"2. Charles Stoebling alone has supervision and control of these records.

"3. No person other than the said Charles Stoebling has the right to open the vaults in which any of these records are stored or to release or remove them from the place where they are now stored.

"4. It is your duty, as members of the Hudson County Board of Elections, to safeguard and protect the records which are under the control and in the custody of said Charles Stoebling, and not to permit anyone to open the vaults in which the same are stored during his absence.

"Very truly yours
(signed) Robert H. Doherty
Assistant County Counsel."

Q Who is the clerk to which that letter was addressed?

A Charles Stoebling.

MR. WIENER: It says "Secretary."

THE WITNESS: Yes, the secretary, Mr. Corcoran.

Q How did that letter get in your possession?

A It was delivered to the office.

Q How did it get into your possession? A. Well, it was left at the window outside and the telephone girl gave it to me. All the mail comes through the outside office. It is left at the window outside. So she, in turn, gave it to me.

Q That is addressed to the secretary-- A. Secretary of the Hudson County Board of Elections.

Q How do you happen to be in possession of it?

A Any record the County Board has they give to me for my minutes.

MR. GIULIANO: May I interrupt at this time and ask that this be marked in evidence, envelope and all.

(Envelope and letter above referred to received in evidence and marked Exhibit 2.)

Q As I understand your testimony, and as I understand this letter, this is a legal opinion rendered by counsel to the Hudson County Board of Elections and transmitted to the Secretary of that Board? A. Yes, sir.

Q And we find this letter here in your possession?

A Yes, sir.

Q Are you in the custom of taking the records of the Hudson County Board of Elections away from the office?

A No, sir. I must have picked that up in a hurry with these subpoenaes when I came out. I had no other reason for that.

Q And this letter is somewhat similar to those records you have access to it but not possession of it?

A That really should be in the office. But, as I told you, I must have picked it up in a hurry with those subpoenaes I brought down last night.

Q Now, you have given all your reasons for refusing to open that vault. Do you desire to state any other reason for so refusing? A. No. I just want to say again I honestly feel I have no right to give out any records that I have no control over. I feel Mr. Stoebling is responsible for those books, and if I gave them out I feel, if he entrusted me with the combination of that vault, I have no right to give anyone anything that is in there unless he tells me. That is just the way I feel, so I would really be doing something wrong if I let anyone go in the vault unless he told me.

Q Do I understand you still refuse to open that vault?

A Under these conditions I think I will have to.

Q Well, do you? A. Yes. I feel I have no right at all to give out anything in that vault unless I am told.

Q When you were in the office this morning was the door of that vault guarded by two extremely efficient-looking policemen? A. I did not go in the back there. My office is in the front and the vault is away in the back at the end of the hall. I did not enter that at all this morning.

CHAIRMAN YOUNG: I think that is all I have to ask, unless some member of the Committee has something.

BY MR. PALESE:

Q Miss Seglie, is your refusal to open the vault and turn the books over to the Committee as a result of this letter or as a result of the fact that you don't think it is a proper thing to do? A. I feel I have no right to do it.

Q Well, does this letter which has been offered here this morning have any influence on your decision as to what you are going to do? A. No. That was merely filed with me as a record in the office. I mean, I am not going by what that letter says, I am just saying I feel until I get orders from Mr. Stoebling, that is the only thing that will makeme open up the vault.

Q You just said a little while ago that your counsel has instructed you that you do not have a right to do it, as a result of this letter? A. I didn't say as a result of that letter. I just said I was speaking to Mr. Doherty coming over here this morning, and I asked him what his opinion

was, and Mr. Doherty says as he interprets the law he does not think I have any legal right to open up that vault.

Q Now, is that the reason you are not opening the vault?

A Yes.

Q Because Mr. Doherty has told you you have no legal right to do it? A. That is the reason.

Q Or is it the reason because Mr. Stoebling won't give you the authority to open the vault, which of the two?

A Well, both reasons.

Q Both of them? A. Yes, both reasons.

BY MR. YOUNG:

Q This is, however, the first time that you had this matter called to your attention, the opinion of Mr. Doherty?

A The opinion of Mr. Doherty? I spoke to Mr. Doherty last night and then again this morning, but this had been filed with me Saturday morning, I think it was.

Q On Saturday you gave us your reason for refusing to open the vault, simply contrary instructions by Mr. Stoebling, and made no mention of this? A. No.

BY MR. PALESE:

Q Did you have that letter in your possession Saturday morning when you were in your office?

A In the afternoon? Yes, sure.

Q Where was the letter at that time? A. In the office.

Q Where? A. In my files.

Q Had you read it? A. Yes, I read it and I just laid it aside. Between all the excitement, I just put it on the desk there, and yesterday when I came out I picked up those two subpoenaes I brought down with me, and I picked up that envelope and left.

Q Where did you leave the letter after you received it?

A On my desk. I have a basket that I throw everything in when I haven't got time to file the work on it. And yesterday morning I took that basket out to see what I had to do, but between everything I didn't have time to take care of it and I left it on the desk there; and, as I say, when I left last night I picked that up in a hurry and I stuck the subpoenaes in there and had the thing in my bag.

Q Did you pick up any other papers except this letter and the subpoenaes? A. Just these two subpoenaes and that.

Q Were there any other letters in the basket where this letter and the subpoenaes were? A. No, sir.

BY MR. GIULIANO:

Q Miss Seglie, did you show this letter to Mr. Dowden, the legal advisor of the --

A No, sir.

Q (Continuing)-- Commissioner of Registration. Did you

show it to Mr. Pass? A. No, sir.

Q Isn't it a fact they are the legal advisors of the office of the Commissioner of Registration?

A Well, they give Mr. Stoebling legal advice, but this is a matter to the County Board of Elections--

Q I am not asking you that. Isn't it a fact that Mr. Dowden is the legal aide to the Commissioner of Registration? A. I know they give him legal advice.

Q Did you hear Mr. Dowden testify in the Assembly last night and state you should turn over the records?

A That I could turn over the records?

Q Yes, that he would ask you to turn over the records, that was his legal opinion.

A Well, he has no right to ask me.

Q He has no right? A. Mr. Dowden hasn't, no. I would not take orders from Mr. Dowden.

Q But he is legal aide of Commissioner Stoebling, isn't that so? A. He is employed in the office there.

A Are you Mr. Dowden's superior or is he your superior?

A I am in no way connected with the office of the Commissioner of Registration as far as being superior or anything. I am working for the County Board of Elections, and Mr. Stoebling being the Clerk of the Board, he gives me his work, and if there is any other matters he wants me to take care of, I do.

Q Now, you act as clerk to Mr. Stoebling, too, don't you?

A No, I act as clerk-stenographer to him.

Q To him? A. Yes.

Q So he is your boss, isn't he? A. He is my superior.

Q You take orders from Mr. Stoebling, don't you?

A Yes, sir.

Q So you do say that Mr. Stoebling is your superior?

A Yes, sir.

Q If Mr. Stoebling gave you orders to open that safe, you would open it? A. I certainly would.

Q Then you would go contrary to the opinion of the County Corporation Counsel, who is also your personal counsel here, is that so? A. Well, I take orders from Mr. Stoebling. I feel that anything that comes before the Board he takes care of, and he gives me my orders and I try to follow them out.

Q But you say you would disregard the opinion of the County Corporation Counsel and take orders from Charlie Stoebling and proceed to open the vault without Mr. Stoebling being there, wouldn't you? A. If Mr. Stoebling told me to open the vault I would open it.

Q Then you are disregarding this opinion, aren't you?

A Well, I feel that the matter would be up to him.

Q Then you are disregarding this legal opinion, aren't you?

MR. DOHERTY: She has answered the question.

CHAIRMAN YOUNG: I do not think we need anything further from Miss Seglie.

BY MR. PALESE:

Q Did you get an order every morning from Mr. Stoebling to open that safe? A. During the recount.

Q Prior to the recount, did you, every morning, receive a specific order from Mr. Stoebling to open that safe or did you do it as a matter of course?

A Well--

Q You can answer that question. A. We don't lock up the vault, the vault is not locked. When there is no poll books or registry binders or any records in there of importance, that is, records that we have to keep under seal, there is no reason to lock that vault. There is just stationery and old records we have to refer to every minute.

Q Well, it is locked in the evening? A. Beg pardon?

Q Isn't that safe locked in the evening? A. Not every evening, no.

Q When there are any papers in there it is locked?

A Yes.

Q When there are papers of importance in there, does Mr. Stoebling give you specific orders every morning to open the safe? A. Positively.

Q Every morning he comes to you and says, "Open the safe?"

A If necessary. But it is not necessary to open it up every morning when there is nothing of importance in there.

BY MR. GIULIANO:

Q Miss Seglie, you know the doings of the office pretty well? A. I believe I do.

Q How long have you been there? A. I have been there over ten years.

Q What is the general practise with poll books, where are they? Let us presume there was no recount or that the recount is over and the Legislature had not intended to investigate the election, where would the poll books be?

A Well, after the poll books are returned from the members of the Board or city clerks send them back to our office, the clerks in the office of the Commissioner of Registrations have to do some checking on them. That is, they compare the registry binder to see if the members of the Board inserted the ballot number, whether it is Republican or Democratic, and, naturally, they have to work on them, and so they are kept in the drawers, with permanent registry binders.

Q Just anywheres in the office, isn't that so?

A When they are working on them.

Q Now, why are those books in the vault?

A Because they were used at the recount.

Q Do you know that the recount is terminated?

A Yes, I do.

Q Are those books now being checked, as you say they are supposed to be checked, by placing the number in the registry binder of the ballot that the individual voter received? A. They cannot be checked because there is ballot boxes in there and the County Board has not returned the ballot boxes from the recount, and the books are in there.

Q In your experience, are those books supposed now to be in the hands of the Commissioner of Registration?

A I believe they are.

Q Then what are they doing in the vault?

A Because they have not been taken out of there yet.

Q Why aren't they taken out? A. I don't know.

Q Under whose instructions haven't they been taken out?

A Well, as soon as the recount terminated, I believe Mr. Wiener and everybody was around yet, they locked and sealed the vault, and it has not been opened yet. I don't know why they were not taken out of there.

Q But it is the custom that those records should be in the hands of the clerks right now? A. Not immediately, no. At any time.

Q You have no order from any court that they be held in the vault, that you know of? A. I only know that the books were there when the vaults were sealed, and I got no order to open

it up, that is all I know.

Q Of your own knowledge, do you know whether there is a court order asking that those poll books be left in the vault? A. I don't know.

Q But you do know that the general custom is that those poll books be in the hands of the clerks in order to check the people that have voted, is that so?

A Yes, when there are no recounts or anything going on.

Q And you do know that the Board of Elections has no claim to those poll books at the present time?

A As I understand, yes.

Q You do know that? A. I understand they are in full and complete charge of the Commissioner of Registration.

BY MR. YOUNG:

Q Miss Seglie, may I ask just one further question?

A Surely.

Q If there had been no recount and they were, as you say, checking the signature copies of the registers with the poll books in the ordinary course of business of the office, would those signature copy registers or poll books, particularly, be locked in the vault every night or not?

A I tell you the truth, I am in Mr. Stoebling's office. I very seldom go out in back or see what the clerks outside are doing. I take care of the records that come inside. I take care of Mr. Stoebling's work in the inner office and

what the clerks do every night when they are through with the poll books, I don't know.

Q At least, if they are put in the vault you don't know whether they are put in the vault, but you are not called upon to lock the vault? A. At times when there is no recount or anything and Mr. Stoebling was with me, I never even went near that vault. It is just since these recounts and different things came up and it was necessary to lock and seal the vault that he gave me the combination. Otherwise, he would be in every day, and whether he locked the books in there or whether he didn't, I don't know.

BY MR. PALESE:

Q How long have you had the knowledge as to the combination of that vault? A. I have had that since-- I think during the Hartley-Rudd recount.

Q That is how many months or years ago? A. That was last year. Last December. The recount was in progress and Mr. Stoebling attended for about a week, and then he took sick.

Q Why did Mr. Stoebling give you the knowledge of the combination at that time? A. Because the recount had to go on and there was no one else that had it. So I don't know whether he took it up with the County Board or what he did, but he did give me the combination.

Q You don't know the reason he gave it to you?

A The only reason I know, the recount had to go on and there was no one else that knew it, and he called me and gave it to me.

Q After you got the information as to the combination, then you opened the safe every time it was closed?

A I opened the safe every time that the County Board of Elections, the four members would ask me.

Q So if they came to you today you would open it for them? A. No, I would not.

Q Well, why have youdone it on other occasions?

A Because Mr. Stoebling told me during the progress of the recount, and he was not in and able to get in, I should open up the vault for the County Board.

Q At their request? A. Yes, he told me that.

BY MR. GIULIANO:

Q And you know, Miss Seglie, according to Mr. Doherty's legal opinion, that you violated the law when you opened the safe those times? A. Well, Mr. Stoebling told me to do it at those times.

Q You read your legal advisor's opinion, didn't you?

A Yes, I read it over quickly, yes.

Q And according to him you violated the law each time you opened it? A. (No answer)

Q The ballot boxes are in this vault, aren't they?

A Yes, sir.

Q Didn't you receive instructions to deliver those ballot boxes Saturday morning or Friday afternoon?

A Yes, sir.

Q Why haven't you done that? A. Because when Mr. Stoebling told me not to open up the vault, naturally, the boxes could not go out either.

Q Is that the general practise, to keep the ballot boxes in the vault, too, after the recount has terminated?

A Sometimes we return them immediately, sometimes we return them a week after.

Q When was the recount terminated? A. Friday afternoon.

Q Do you intend to open the vault to turn those boxes over to the different municipalities? A. I cannot open up the vault until Mr. Stoebling tells me.

Q Now, I am asking you about the records--

A The boxes cannot go out.

Q I am only talking about the boxes. A. The boxes cannot go out either unless the vault is open.

CHAIRMAN YOUNG: It is sufficiently clear she won't open the vault for any purpose whatsoever until Mr. Stoebling tells her.

BY MR. YOUNG:

Q Now, I think you were mistaken when you say the Hartley-

Rudd recount was last year. That was 1936, wasn't it?

A Well, we did have a recount last year.

Q Yes, you had quite a recount last year.

A I mean the year before that, December, 1936.

Q So that you have had the knowledge of this combination since December, 1936? A. Yes, I had to open the vault at that time.

CHAIRMAN YOUNG: Unless someone else on the Committee has questions to ask of Miss Seglie, I think we must dismiss her.

BY MRS. SANFORD:

Q You are absolutely convinced that the Legislature hasn't the power to supersede Mr. Stoebling's word, in asking you to open that, after all you heard last night?

A I still feel, I honestly believe I have no right to do anything until Mr. Stoebling tells me. I feel there are things in there that he has custody of, and until such time as he tells me to open it I have no right to do it.

Q Even when the state Legislature has authorized a Committee to ask for those books-- the House of Assembly, I should say. A. I don't know. I feel this way: I feel if you gave me the key to your home and you entrusted me to that key, and someone else came to me the day after and said, "I want to get in there, I want to take this or that out," I would not have the right to let them in there, would I?

That is the way I feel with these records. I feel if you could wait a little while, if I could possibly get to Mr. Stoebling and explain to him the position I am in, he may give me different orders, and I will be only too glad to cooperate with you people.

BY MR. OSMERS:

Q I would like to ask several questions regarding Miss Seglie's opinion as to the relationship between public servants and private servants, and public property and private property. You have just stated a case here that if Mrs. Sanford had entrusted you with a key to her home that you would feel obliged not to turn that key over to anyone that made a request? A. Yes.

Q Now, presumably, the property that was held in the house is private property, isn't that true? That was the property of an individual? A. That is right.

Q Now, may I ask you this question: Do you consider the contents of the vault, over which you have control to the combination, do you consider the contents of that vault as the private property of Charles F. Stoebling?

A No, sir.

Q Whose property do you consider the contents of that vault? A. They are public records.

Q They are the records of the public? A. Yes.

Q Do you consider the authority, that is, the House of Assembly of the State of New Jersey, higher authority than Charles F. Stoebling in the custody of public records and public property?

MR. DOHERTY: May I interpose-- I don't know whether I have any right to interpose any objections, I don't know how the Committee feels.

MR. OSMERS: The Chairman will have to rule.

CHAIRMAN YOUNG: I think you can interpose an objection, but let her answer the question first.

MR. DOHERTY: I don't think the witness understands it. I have no objection to her answering it.

Q Do you consider the authority of the House of Assembly over public records and public property greater than that of Charles F. Stoebling?

MR. DOHERTY: Now I object to it on the ground that that would call for a knowledge of the law on the part of the witness.

MR. OSMERS: I do not expect, Mr. Chairman, that Miss Seglie will give a legal opinion. I do not expect that her answer will in any way involve her as to the law. I do not presume, not being a lawyer myself, that she has any more technical knowledge of it than I have, but she must have an opinion.

A I don't know.

Q Would you consider the House of Assembly of the

State of New Jersey a higher authority than Charles F. Stoebling, regarding the custody of public property and public records, that is the crux of this whole inquiry that we have been talking about.

MR. DOHERTY: I think there ought to be something added there to give the witness a clear conception, in view of the fact that the Legislature of this state has designated Mr. Stoebling---

MR. OSMERS: In view of that fact.

MR. DOHERTY: And they are supreme over the House of Assembly.

CHAIRMAN YOUNG: Also in view of the fact that the Legislature can undesignate him, too.

MR. DOHERTY: All right, the Legislature, but not the House of Assembly.

MR. OSMERS: I would like to have an answer to the question.

MRS. SANFORD: That is a personal opinion you are asking her for?

MR. OSMERS: That is right, a personal opinion. I presume that Miss Seglie is not an attorney. I am not an attorney either. But she must have an opinion.

MR. DOHERTY: Do you understand the question?

THE WITNESS: I understand the question, but--

Q Well, that is the whole nub of the situation right there. A. I don't know.

CHAIRMAN YOUNG: Can I express it, perhaps, differently. In a contest over the possession of these records, Miss Seglie, between the House of Assembly and Mr. Stoebling, who do you consider should have those records?

THE WITNESS: I believe the Assembly should have them, but I still feel it is up to Mr. Stoebling to tell me to hand them over. I feel if you people would give me a little time and I could get to him, I could explain it to him and he would tell me what to do.

Q Does Mr. Stoebling pay your salary? A. No, sir.

Q Out of his personal funds? A. No, sir.

Q Out of whose funds are you paid? A. The county.

Q The County of Hudson? A. Yes, sir.

Q You are not remunerated by Mr. Stoebling from his private funds at all? A. No, sir.

Q You have absolutely no personal obligation to Stoebling in any way, shape or form? A. No, sir.

Q You are not an employee of his, as you have stated here?

A No, sir.

Q You are not an employee of his? A. No, sir.

BY MR. PALESE:

Q Miss Seglie, one other question. If a municipal clerk would come to your office while the poll books were in your possession, and he wanted to look the poll books over, do you have to get permission from Mr. Stoebling to permit him to look at the poll books? A. Yes, sir, I would. I have no authority there.

Q I mean to examine the poll books in your office.

A I would ask Mr. Stoebling first. I am sure he would have no objection.

Q You are sure he would not? A. You mean if the poll books had been out of the vault and some municipal clerk came in and wanted to look at those records?

Q Yes. A. Well, if he came to me I would ask Mr. Stoebling first.

Q Suppose Mr. Stoebling was not there? A. I would get in touch with him in some way.

Q Suppose you could not get in touch with him, would you refuse that municipal clerk the right to examine public records in your office, if Mr. Stoebling was not there or could not be found? A. Well, I would just tell him to wait until I could get in touch with him.

Q Suppose Mr. Stoebling was sick and you could not get in touch with him for two or three months, what would

you tell that municipal clerk who came there to examine public records in your office?

MR. OSMERS: Records of his own municipality, I suppose.

A If they were out of the vault I believe I would let him do it.

Q You would let him look at them. Why would you let him look at them if they were out of the vault, because you believe they are public records, isn't that correct?

A They are public records.

Q For that reason you would permit that individual to look at them. If they were in the vault you say you would refuse to open the vault to permit that individual--

A I have never taken anything upon myself. I have always gone to Mr. Stoebling for everything.

Q Do you mean to say every time an individual comes into your office to look at those public records, that you would always insist on getting the permission of Mr. Stoebling?

A Yes.

Q Over a period of ten years? A. Well, I will tell you how it is. If anybody comes in and wants to check up any record at all, we always get the O.K. from Mr. Stoebling.

BY MR. GIULIANO:

Q If I came in and wanted to check your registry binder and find out if Mr. Young was registered in the First

Ward, First District, would you give me that binder?

A We have always made it a practise to ask Mr. Stoebling before we give any information out.

Q Let us presume Mr. Stoebling were in California, not due back for three months, and I camein and asked you, I would like to see the registration blank of Mr. Young in the First District of the First Ward of Jersey City, would you let me see that blank? A. Well, that has never happened. Ever since I have been there Mr. Stoebling has always been well enough to be in or be within reach, and I have always gone to him with everything. I have never taken anything upon myself.

BY MR. PALESE:

Q Did you ever have any inquiry in your office over these books in ten years, whether John Jones is registered or not registered? A. Yes, we do.

Q How many a day would you have over a period of that time? A. Whatever we have we always tell him.

Q Approximately how many inquiries would you have over a day or week or year over that ten-year period, of private citizens coming into your office to examine books? How many inquiries would you have? A. Not very many.

Q Not very many come into your office, in the size of Hudson County, to find out whether certain people have voted

or registered? A. We get inquiries through the mail and all. We take care of it. I show Mr. Stoebling the letters and he says, "All right, sign them," and we send them out.

BY MR. YOUNG:

Q Supposing I had sent in a transfer card, a transfer from one district to another, and supposing that I wanted to ascertain that that transfer had actually been made on your books-- A. Yes.

Q (Continuing)-- of my own registration-- A. Yes.

Q (Continuing)-- and I went there and asked you whether that had been made, and if I could see the signature copy register in which the transfer should have been made, would you have gone to Mr. Stoebling and asked him if I might see that? A. Not for your own record, no, but for the record of anyone else, we do get an O.K. on it.

Q As a matter of fact, if I had called up on the telephone you would have given me that information, wouldn't you?

A Yes, we give information over the phone.

Q You would have done it without reference to Mr. Stobeling? A. Over the phone? I think I would. As far as producing any records of anyone else's registrations, we always get the O.K. from him.

BY MR. GIULIANO:

Q You want this Committee to believe, Miss Seglie, that never in your ten years, a Republican or Democratic District

Leader never came into your office and checked any names?

A I told you before, I have my office inside--

Q I am asking you a definite question. A. I don't know what goes on on the outside of the office if I am not there. I haven't got any permanent possession of these registry binders or anything.

Q Who has? A. The clerks outside, and those books.

Q Mr. Miller is in charge of the binders, isn't he?

A No, sir. There is three or four departments.

Q Name me the head of the department in control of the binders. A. There is a white, the original record binders that never leave the office.

Q Never leave the office? A. The white books.

Q Who has charge of that? A. Lamont Gumaer.

Q Who has charge of the yellow ones? A. There is three departments outside. There is William Montelli--

Q What is he in charge of? A. I don't know just what municipalities he takes care of. I think he takes care of some outside of Jersey City. Then there is Mr. Rotherham, I think he has outlying towns and part of Jersey City. And then there is James Toohey.

Q What is he in charge of? A. He has part of Jersey City.

Q In other words, all these men, when Mr. Stoebling is not in the office, work of their own accord?

A They do the general office work.

Q And when somebody comes in to register Mr. Stoebling does not put it in the register binder, does he?

A No.

Q Clerks like you do it? A. The clerks outside do, yes.

Q And under the law Mr. Stoebling is supposed to be the custodian of all registrations and see that they are in the binders, isn't he? A. Well, it would be impossible for one man to handle all that work.

Q That is right. And it would be impossible for Mr. Stoebling on the day before election to deliver to each municipality the registry binders, wouldn't it?

A That is right.

Q So Mr. Stoebling does not deliver them when they are necessary, does he? A. No, sir. But those records are never delivered unless he tells them to go out.

Q Do you mean to tell me Mr. Stoebling, when he is ill, on his back, in other elections has given instructions to Mr. Gumaer, Mr. Montelli, Mr. Toohey and the other gentleman?

A Yes, that those books are to go out a certain day, a certain time.

Q You are positive of that? A. Of course I am.

Q If Mr. Stoebling was unconscious, do you mean to tell

me that they would not have an election in Hudson County?

A Well, I don't know what would happen then.

BY MR. OSMERS:

Q Miss Seglie, is there anything in those vaults-- I presume you are familiar with the interior of the vaults and what they contain, probably as well as anyone?

A Yes.

Q Is there anything in those vaults of a private nature, either belonging to you, to Mr. Stoebling, to any other individual, except the public? A. No, sir, that is right.

Q Nothing at all of any character, kind, equipment, paper, records or correspondence except the property of the public? A. Not as far as I know.

Q As far as you know there is nothing but property of the general public? A. As far as I know that is all.

CHAIRMAN YOUNG: Now, ladies and gentlemen, should we adjourn for some lunch or should we sit a while? I think the one other thing we have to do is to ask Mr. Hogan what happened over there this morning.

MRS. SANFORD: Let us get through. And she still refuses our orders.

J O H N R. H O G A N, being duly sworn according to law, on his oath testified as follows:

EXAMINATION BY MR. YOUNG:

Q Mr. Hogan, you are employed in a certain capacity by the House of Assembly of the State of New Jersey?

A I am.

Q In what capacity? A. Sergeant-at-arms in the House of Assembly.

Q Did you, this morning, go to Jersey City, in pursuance of the provisions of a resolution of that House passed last night? A. I did.

Q Where did you go, Mr. Hogan? A. To the Registration Room.

Q That is, to the office of Charles Stoebling, in the vault, or room off the vault in which these records are kept?

A I did.

Q Whom did you take with you as your assistants as suggested by the resolution? A. Mr. Ferguson and Mr. Giuliano.

Q Mr. Ferguson? A. Mr. Giuliano and Mr. Davis.

Q Mr. Ferguson-- A. Mr. Joseph Rosenbaum.

Q Now, Mr. Ferguson is Superintendent of Elections of Hudson County? A. That is right.

Q And Mr. Davis is what? A. Mr. Davis is a safe and lock man.

Q Do you know whether he has any experience in safe and lock work? A. Yes, over twenty years.

Q What was the purpose of taking Mr. Davis?

A To open the vault so we could procure the books.

Q And you took along Mr. Joseph Giuliano and Mr. Joseph Rosenbaum as assistants to you in that work, is that correct? A. That is right.

Q When you got upstairs in the Spingarn Arcade Building, what did you find the condition of the corridors to be?

A I found it crowded.

Q And the door leading into the vault room?

A Was guarded by two police.

Q Did you inquire who was in charge there? A. I did.

Q Who were you informed was in charge there?

A Inspector Neary.

Q Did you inquire whether Miss Seglie was present?

A I did.

Q What were you told? A. She was not.

Q Could you give us a short description of that room and the door to the vault and the circumstances surrounding it?

A How many people was in it?

Q Yes. A. There was about thirty people in it. There was a lieutenant of the police-- inspector of police guarding the vault.

And Mr. Ferguson was also there.

Q Now, let me interrupt you.

MRS. SANFORD: Were they county police or city police?

THE WITNESS: County police.

Q Do you have knowledge as to what Inspector Neary's position is? A. He is Inspector of Police.

Q You don't know whether it is Jersey City or County police? A. No.

Q You did not know the lieutenant's name?

A No, I did not.

Q Where were they stationed? A. Inspector Neary and the lieutenant were standing in front of the vault.

Q Directly in front of the vault door? A. Directly in front of the vault door.

Q Did you observe a seal on the vault door?

A I did, a large red seal.

Q Now, I just ask you these questions, and if I am wrong correct me. I introduced you to Inspector Neary, did I not, as Sergeant-at-arms of the House? A. You did.

Q I then read to him the operative part, that is, the active part of the resolutions passed last night? A. You did.

Q I told him those resolutions were passed and that the resolution and copy were certified to by the Clerk of the House, is that so? A. You did.

Q I then warned him that any attempt to obstruct you in

the performance of your duties under that resolution would be contempt of the Legislature, did I not?

A That is right.

Q What was his reply, do you recollect? A. His reply was that Mr. Corcoran instructed him not to open the vault, not allow anyone to open the vault.

Q Who is Mr. Corcoran, do you know? A. Mr. Corcoran is a commissioner, I believe.

Q He is one of the members of the Board of Elections?

A Board of Elections, yes.

Q Did you then direct Mr. Ferguson to remove his seal from the door of the vault? A. I did. I demanded him to do it.

Q Did he attempt to do it? A. Yes, he did.

Q What happened? A. Inspector Neary told him he could not do it and pushed him back.

Q Did you then direct Inspector Neary to stand aside?

A I did. I demanded he should.

Q Did you then direct him to tell his subordinate, the lieutenant, to stand aside? A. I did, and he refused.

Q What occurred after that? A. I demanded my deputies to go there and break that seal.

Q And what occurred? A. And Inspector Neary and his lieutenant pushed them away with force.

CHAIRMAN YOUNG: That is all I have.

MR. FEATHERER: Just to clear it in my own mind, who were your assistants?

THE WITNESS: My assistants was Joe Rosenbaum and Joseph Giuliano.

MR. FEATHERER (addressing Mr. James Giuliano): You?

MR. GIULIANO: No.

MR. FEATHERER: In other words, you--

THE WITNESS: I deputized them.

MR. FEATHERER: I was just asking for my own information, not being there.

MRS. SANFORD: I would like to point out that Mr. Ferguson is the Superintendent of Elections of the county, isn't he?

CHAIRMAN YOUNG: Yes.

MRS. SANFORD: Are his powers coordinate with the County Board or is he superior to the County Board?

CHAIRMAN YOUNG: They are different functions. Mr. Ferguson, as I understand, acts as a sort of police officer during elections, and also has the power to check up the registrations and see that they are accurately made and not fraudulent. Also, during the recount he has the power to seal the records, seal the ballot boxes, and in this case to seal the vault.

He apparently attempted this morning to unseal the vault.

MRS. SANFORD: But hasn't he the power to unseal?

CHAIRMAN YOUNG: He has the power but was not allowed to.

J A M E S R. G I U L I A N O, being duly sworn according to law, on his oath testified as follows:

THE WITNESS: I asked the police officers and the officers of police, that is, the superior officers, their names. One was Patrolman Andrew Bookstaner, of the Boulevard Police.

BY MR. YOUNG:

Q Where was he? A. He was on the outside door. Together with Lieutenant Joseph Colgan of the Hudson County Police. Inside the door there was Patrolman Dave Sullivan of the Hudson County Police. In the room near the vault there was Lieutenant Alfred Antonacci of the Hudson County Police and Inspector John Neary of the Hudson County Police.

Q The last two were the two gentlemen who stood directly in front of the vault door and repulsed your brother, Joseph Giuliano when he attempted to get to the door, are they?

A They were. I might say I asked these two men if the Hudson County Police regularly had anything to do with the elections, and they said, "No."

BY MR. PALESE:

Q What was their purpose in being there, did they say?

A They said they were told to be there by their superior, the Supervisor.

Q To supervise what? A. Not to allow anybody to go in the vaults.

Q Did they give you the names of the individuals who gave them those instructions? A. He responded to questions, that is, Inspector Neary did,- of Mr. Wiener and said that he had been told by the Board of Elections. And in being questioned further he admitted that the only man that told him not to allow anybody to go into the vault was Commissioner John Corcoran.

BY MR. WIENER:

Q Mr. Giuliano, did Mr. Neary admit that his superior, that is, the Chief of Police of Hudson County, had not given him any instructions? A. That is so.

Q Did he also admit that his office or himself had not received any type of resolution instructing the Hudson County Police to police the vault or this meeting room?

A Received no written instructions.

Q Mr. Giuliano, were you present when I went into the private office of the Board of Elections and conversed with Mr. Corcoran? A. I went out of the room when you questioned him.

BY MR. OSMERS:

Q Mr. Giuliano, at any time during the visit at the office, was any reference made to the fact that Mr. Stoebling had charge of those records or was in possession of them or in custody of them? A. Nobody made any reference to Mr. Stoebling with respect to the records, that is, that he had

physical possession of the records.

BY MR. WIENER:

Q Were you present when I asked Mr. Neary if Mr. Stoebling had asked to be given this protection? A. I was.

Q Were you present when I asked Inspector Neary to step aside and permit us to take the property of the Commissioner of Registrations Stoebling which he was admittedly not concerned with? A. I was.

Q And his answer was? A. That he was working under orders of Mr. Corcoran and the Supervisor of the County of Hudson.

CHAIRMAN YOUNG: That is the County Supervisor. Who is that?

MR. MURRAY: John O'Neill.

MRS. SANFORD: That is the supervisor of the Board of Freeholders?

THE WITNESS: He is the County Supervisor. I honestly admit I did not hear the name.

D A V I D H. W I E N E R, being duly sworn according to law, on his oath testified as follows:

THE WITNESS: After these demands and the attempt to go into the vault, I walked into the private office of the Board of Elections and Mr. Corcoran, who is the secretary and to whom the legal opinion had been addressed and who evidently made the request for the legal opinion, and requested of him as to whether or not there was a meeting of the Board of Elections concerning the poll books. He said there was not. I asked him whether the Board had authorized him by resolution to ask for a legal opinion. He said there was no such resolution. I asked him whether the County Board of Elections had by resolution required the assistance of policemen to protect the ballot boxes or poll books in the vault. He said there was no such resolution. And he admitted and instructed Mr. Neary in my presence that the Board of Elections had no authority or control over the poll books. I asked him whether or not he would instruct Inspector Neary to stand aside and permit the Sergeant-at-arms to go into the vault and take out the property that he admitted was not the property of the Board of Elections and which he had no control over. He said he would not do that. That is

all.

J A M E S R. G I U L I A N O, recalled, testified as follows:

BY MR. YOUNG:

Q James Giuliano, just one question. You named several police officers here. None but the last two named had anything to do with keeping us from getting to the records, is that so? A. That is right.

MRS. SANFORD: Were the others there to keep order?

THE WITNESS: There were two here on the outside of the door and one was at the outer office where the large room was.

CHAIRMAN YOUNG: Yes, they were there to keep order. If we have to ask the Speaker to hold these men in contempt for preventing our Sergeant-at-arms from performing his duty, I want to be sure I certify the correct names.

MRS. SANFORD: They were Neary and Antonacci.

THE WITNESS: Yes. Mr. Young, does the record show Mr. Ferguson has delivered the records as subpoenaed?

CHAIRMAN YOUNG: Yes.

MR. GIULIANO: Does the record show that?

CHAIRMAN YOUNG: No. I can make that statement, that a subpoena was served on Mr. Ferguson yesterday by Mr. Murray to produce all of the challenge lists and all of the affidavits taken from challenged voters in pursuance of the challenge lists. Yesterday afternoon at the vault of the National Newark and Essex Banking Company those records were produced and are now in that vault. For the purposes of the record.

(Discussion off the record.)

CHAIRMAN YOUNG: Now, I would like to suggest to you gentlemen that we have some business to discuss which we do not necessarily want to have published or printed, and therefore, if the members of the Press will kindly leave the room and leave us here with counsel and Mr. Hogan, we will proceed.

(At this time everyone left the room except the members of the Committee, counsel, the Sergeant-at-arms and the stenographer.)

CHAIRMAN YOUNG: Mr. Hogan, you have in your possession a certified copy of this resolution?

MR. HOGAN: I do.

CHAIRMAN YOUNG: It would be my suggestion, and if some other member of the Committee will take the chair for the purposes of my offering a resolution--

maybe Mr. Palese will--

(At this time Mr. Palese took the chair.)

CHAIRMAN YOUNG: I suggest that the Committee request Mr. Hogan, as Sergeant-at-arms of the House, immediately to repair to Colonel Kimberling's office in Trenton with a request in writing for a sufficient number of state troopers in order to enable him to perform the obligation which he was by force prevented from performing this morning. And I suggest that request be made by Mr. Hogan as Sergeant-at-arms of the House, and that someone go with him to see that the letter is delivered to Mr. Kimberling,- not that I mistrust Mr. Hogan, but I mistrust Mr. Kimberling,- and request be made for immediate compliance with that request.

ACTING CHAIRMAN PALESE: We have heard the request. What is our pleasure?

MR. OSMERS: I think it is the only procedure, Mr. Acting Chairman, to follow, and I feel it would be proper for the Chairman of this Committee to accompany Mr. Hogan to Colonel Kimberling's office with the request on the part of Mr. Hogan.

ACTING CHAIRMAN PALESE: All in favor of the request or suggestion of Mr. Young will answer by saying "aye."

(Mrs. Sanford and Messrs. Osmers and Young voted "aye.")

ACTING CHAIRMAN PALESE: Contrary?

MR. FEATHERER: No.

(Discussion off the record.)

MR. YOUNG: Now, after that there only remains one step in the event of the refusal of Colonel Kimberling to supply us with the requested troopers, as requested by the Sergeant-at-arms. I think there remains but one further step, and that is to call upon the Governor to supply us with a sufficient armed force of the State of New Jersey, as he has the power to do, to compel compliance with our wishes.

Now, I should like to discuss with counsel the exact form of that request, and therefore, I would not now put it as a suggestion or resolution of the Committee.

MR. OSMERS: Mr. Chairman, I feel that this Committee has been remiss up to now in not planning its steps all the way through and having the proper procedure authorized and prepared. For that reason I would like to have just a moment given to the discussion of what is to be done on the part of Mr. Hogan and the Committee if he is unable to secure the

necessary assistance he requires from the Department of State Police. And I feel before we leave this meeting that at least the authorization for such further steps should be given. I would not want the Chairman of the Committee or counsel or anyone else to go ahead with such a step unless I was present as a member of the Committee. Therefore, I would like to see it discussed now. and the proper authorization given. I do not think any member of the Committee would want a step as important and as vital as the one we are contemplating taken unless they were there to express their views on it.

MR. PALESE: You mean as to the request to the Governor?

MR. OSMERS: Yes.

MRS. SANFORD: As I understand it, Mr. Young was simply saying it seems that was the next step.

CHAIRMAN YOUNG: Frankly, Mrs. Sanford, here is my position and worry about the thing.

MRS. SANFORD: Does this need to go on the record?

CHAIRMAN YOUNG: I think it should. I am not entirely sure about the contingencies in which the Governor can call out a detachment of militia.

MR. OSMERS: I am not either.

CHAIRMAN YOUNG: I said the request to him should be made in compliance with the law making him Commander-in-Chief of the militia. I do not want to make such a request of the Governor if it is going to be obviously impossible for him to comply with it. If there be some other means of obtaining what we want without making such a request, or if there be some other means which would make such a request superfluous, as this power of the Governor to direct the State Police to do something of this sort, is something on which we should examine the law and then proceed.

MR. OSMERS: I would like to make a resolution, Mr. Chairman, that the Chairman of this Committee be empowered and authorized to take whatever lawful steps he may deem advisable to secure the necessary records from the County of Hudson for the use of this Committee. I would like to include in that resolution that it is known to this Committee, in voting on the resolution that those contingencies may be calling upon the Governor to grant the Assembly Sergeant-at-arms armed forces and also the contingency that we may call upon the Governor or through our Chairman to call upon the Governor to order the State Police to secure those records, that our Chairman of

this Committee shall act in any of those contingencies on the advice of counsel of the Committee. I so move you.

ACTING CHAIRMAN PALESE: You have heard the motion. All in favor of the motion will signify by saying "aye."

(Mrs. Sanford and Messrs. Osmers and Young voted "aye.")

ACTING CHAIRMAN PALESE: Contrary?

MR. FEATHERER; No.

ACTING CHAIRMAN PALESE: The "ayes" have it, and so ordered.

MRS. SANFORD: Does this give him power to act without referring back--

CHAIRMAN YOUNG: I will inform all of you.

MR. FEATHERER: We will be informed, you say?

CHAIRMAN YOUNG: Yes.

MR. OSMERS: It is understood, however, that the Chairman of this Committee has the power to go right ahead, keeping the Committee posted, as to what is going on.

CHAIRMAN YOUNG: In other words, my report will be somewhat as follows: "I have consulted with Mr.

McCarter and we have determined upon the following course of action."

MR. FEATHERER: That is right.

MRS. SANFORD: And we three have authorized you to do that.

MR. OSMERS: We all have.

MRS. SANFORD: Mr. Featherer has voted against it. He only does it the way Miss Seglie does, he thinks that is his job.

MR. PALESE: We stand adjourned until we hear from the Chairman.

MR. YOUNG: I think we will have to.

MR. OSMERS: Adjourned at the call of the Chair.

(At this time the Committee adjourned.)

Minutes of meeting in the office of Colonel Mark O. Kimberling, Superintendent of the New Jersey State Police, at his office in Trenton, New Jersey, at four p.m.

Present:

Colonel Kimberling, Major Schoeffel, Mr. Young, Mr. Hogan, Mr. Wiener and the stenographer.

MR. HOGAN: Colonel Kimberling, here is a copy of the resolution.

COLONEL KIMBERLING: Of the Assembly. Now, I think-- Major Schoeffel, will you come in? Maybe I need a little support here. This is Major Schoeffel, the Deputy Superintendent. This is a copy of the resolution.

MR. WIENER: Yes, that is certified to as a true copy by the Clerk and has been presented to you in accordance with instructions.

COLONEL KIMBERLING: Now, I have received a copy this morning and forwarded it over to the Attorney General's department to Robert Peacock, the Assistant Attorney General who is assigned to the State Police. And I have his opinion on that. I asked him for his opinion as to the duties of the State Police in connection with that resolution. This is his opinion

(handing paper to Mr. Wiener.) Would you like to read that?

CHAIRMAN YOUNG: I suggest you read our request first so we won't know your answer before you know our request.

COLONEL KIMBERLING: This is your request here, is it? (Colonel Kimberling read the request.)

As I understand this request, it is based on the resolution, a copy of which you have supplied?

MR. WIENER: And the subsequent acts taking place thereunder.

COLONEL KIMBERLING: Well, I still believe that the Assistant Attorney General is sufficient reason for me to state that I am without power to comply with the request.

CHAIRMAN YOUNG: For the purposes of the record, and you will excuse me, and also for the purpose of our curious friends here, who, I suppose have not been supplied with copies of this answer, may I read it, Colonel?

COLONEL KIMBERLING: Surely.

CHAIRMAN YOUNG: This is on the letterhead of the State of New Jersey, Office of the Attorney General, Trenton, dated February 1st, 1938. Addressed to Colonel Mark O. Kimberling, Superintendent, New

Jersey State Police, Trenton, New Jersey.

"Dear Sir:

"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, is at hand. That part of the resolution that refers to the State Police is as follows:

> "'Be it further resolved that for the purpose of obtaining the said records, the said Sergeant-at-arms of the House of Assembly be and he is by this resolution authorized and directed to call upon the Superintendent of the State Police of the State of New Jersey for assistance which he may deem necessary in the execution of the provisions of this resolution.'

"The resolution further sets forth that in the case of the refusal or neglect of Alice Fila, otherwise known as Alice Seglie, to open said vaults and to produce before the said Committee the signature copy registers for all the districts of the First Ward of Jersey City and all the poll books used in all the election districts of all the wards and municipalities of Hudson County at the General

Election held on the 2nd day of November, 1937, that the Sergeant-at-arms is authorized and directed to employ such assistants as in his judgment he may deem proper, to repair to the office of the Commissioner of Registrations of Hudson County and to take in his possession, oh behalf of the House of Assembly, all the aforesaid books.

"The duties of the State Police, in accordance with the Revised Statutes, Title 53: 2-1, set forth that the State Police shall be subject to the call of the Governor; that they shall be peace officers and shall be employed in furnishing adequate police protection to the inhabitants of rural sections, shall give first aid to the injured and succor the helpless, and also have in general the same powers as are conferred by law upon police officers and constables. They have power to prevent crime, to pursue and apprehend offenders, and to obtain evidence necessary to secure the conviction of such offenders in the courts. They also have power to execute any lawful warrant or order of arrest issued against any person, and to make arrests without warrants for violations of the law committed in their presence. They may cooperate with other State Depart-

ments or any state or local authority in detecting crime, apprehending criminals and preserving law and order, but the State Police shall not be used as a posse in any municipality, except upon order of the Governor when requested by the governing body of such municipality.

"The members of the State Police, upon the request of the issuing body, shall serve and execute, or assist in serving and executing, any summons, subpoena, warrant, commitment, attachment, order of arrest or other process of any kind that may be issued by or by order of the Senate, the General Assembly, or by the Senate and General Assembly concurrently, jointly or in joint session, or by any committee of the Senate or of the General Assembly, or any joint committee of the Senate and General Assembly.

"The powers of the State Police are clearly expressed in the statute, and beyond the exercise of the powers thus 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, a copy of which you have furnished me.

"Yours very truly,
(s) ROBERT PEACOCK
Assistant Attorney General
Counsel for the State Police."

And I do not intend here to argue the validity of the opinion, Colonel.

COLONEL KIMBERLING: No, I think the only thing to say is I will have to be guided by that.

MR. WIENER: Either that or what an attachment may be.

MR. YOUNG: That is pretty strong language I emphasized here. And you base your refusal on the opinion of the Attorney General?

COLONEL KIMBERLING: Yes, sir.

CHAIRMAN YOUNG: All right, that is all we want to know. And thank you for so quick a refusal. We do not want to be further delayed.

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Assembly Investigation of :

Alleged Fraudulent and Illegal :

Conduct at the General Election :

on November 2, 1937, etc. :

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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 Thursday, February 3, 1938.

Present:

Assembly Committee
Henry Young, Jr., Chairman,
Mrs. Olive C. Sanford,
Frank C. Osmers, Jr.

- - - - -

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

G E O R G E S C H E E T Z, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. GIULIANO:

Q Mr. Scheetz, what is your full name?

A George Scheetz.

Q You are a member of the Hudson County Board of Elections?

A Yes.

Q What official officer are you of that Board?

A Chairman, last year.

Q In the November election you were chairman?

A Yes, sir.

Q Are you still the chairman of that Board? A. Yes, sir.

Q Is Mr. Corcoran an officer of the Board? A. He is the secretary of the Board.

Q Has Mr. Corcoran ever been designated by resolution as Acting Chairman? A. Not as I know of. I request him to act for me.

Q You request him to act for you? A. On account of heart trouble.

Q Now, Mr. Scheetz, did you at any time tell Mr. Corcoran to direct the Hudson County police to guard the vault?

A I don't know of anything like that. I did not direct anybody.

Q You did not direct Mr. Corcoran? A. No.

Q Did you, yourself, as a member of the Board of

Elections of Hudson County, and as Chairman of that Board, ever order Mr. O'Neill, the County Supervisor, or Mr. Dolan, Chief of Police of the Hudson County Police Department, to guard the vault? A. No.

Q Did you ever ask Chief Clossey to place a guard at the vault? A. No.

Q Did you ever ask Inspector Neary or Lieutenant Antonacci to guard this vault? A. No, sir.

Q To whom does this vault belong, Mr. Scheetz?

A It belongs to the Hudson County Board of Elections.

Q Now, Mr. Scheetz, is Miss Seglie an employee of yours?

A She is our stenographer on the Board.

Q Mr. Scheetz, I ask you, as Chairman of the Election Board of Hudson County, will you now direct Miss Seglie, who is now your employee, to open that vault?

A I don't know whether I would have power. I don't know the law on that. I would have to consult the County Counsel. I would have to call a meeting.

Q Mr. Scheetz, you say that you must call a meeting in order to give instructions to Miss Seglie to open the vault?

A I would have to get advice from County Counsel and also the members of the Board. I would have to call a meeting and let them voice their opinions.

Q Mr. Scheetz, did you have to call the County Board of Elections together every time that safe was opened during the

recount? A. We had no session in the morning before the vault is opened.

Q You opened that as a matter of course?

A As a matter of course.

Q Supposing that you are in this Board Room this afternoon as a member of the Hudson County Board of Elections, will you as an individual and as a Board member direct that this vault be opened? A. When the vault was opened there is always a member of the Board present, before the recount started.

Q Mr. Scheetz, you know what is in this vault?

A There is ballot boxes in there and the poll books, and these members--

Q What is your property, Mr. Scheetz, in that vault?

A At the present time the ballot boxes.

Q And the only thing that belongs to the Board of Elections there is the ballot boxes? A. That is all that I see. After they discontinued the recount the poll books went back to the Commissioner of Registration.

Q Isn't it a fact, Mr. Scheetz, that in the past when a recount terminated the ballot boxes have been immediately sent to the clerks of the different municipalities?

A Well, probably the following day or two days after, something like that.

Q When did the recount terminate? A. Friday noon.

Q Last Friday? A. Yes.

Q Are you sure it wasn't a week ago Friday? A. Last Friday.

Q Did your Board order these ballot boxes returned to the different municipalities? A. Well, as far as I know they wasn't authorized to return them immediately. We were talking about sending them back, putting the disputed ballots in sealed envelopes, back in the ballot boxes. I don't know whether it was done. I didn't get back there on Saturday.

Q When, in your judgment, will these ballot boxes be returned? A. According to the law I suppose we have got to return them. I don't know how soon.

Q Do you know the combination of this vault, Mr. Scheetz?

A I don't, no, sir.

Q Did you, as Chairman of the Board, order Miss Seglie to open the vault when the recount was on?

A Some mornings I did it and some mornings some of the other Commissioners did it.

Q Then you did order Miss Seglie in the past, to open the vault, did you not? A. According to law. It was the Commissioners that were present, the majority at all times, and it was the Commissioners that always said, "Go ahead and open the vault."

Q Now, I ask you again, Mr. Scheetz, as a member of the Hudson County Board of Elections, if you will not direct Miss

Seglie to open the vault; not to take anything that belongs to the Hudson County Board of Elections but to take those records which belong to this Committee under the subpoena? Will you now direct Miss Seglie to open that vault?

A I couldn't very well do that as a lone member of the Board, I would have to call a meeting of the Board, Counsellor.

Q Then you say that Mr. Corcoran, who has ordered the police guard, and has taken it upon himself to see that the vault is not opened, is acting illegally?

A I don't know whether he is acting illegally. That is a matter of law that I am not acquainted with.

Q He never called a meeting, did he? A. On Friday I called a meeting. Since last Friday afternoon I was trying to call a meeting but I couldn't get him.

Q Last Friday afternoon, Mr. Scheetz? A. Last Friday afternoon when the Board was here.

Q Did you at that time pass a resolution directing any of these men to guard the vault? A. No, sir.

Q Does your Board receive any rent from Mr. Stoebling for this vault? A. Not as I know of, no, sir.

Q Mr. Scheetz, are you willing, as Chairman of the Board, because of the public interest in this question, to now call a meeting of your members in order that you and the other members can direct Miss Seglie to open that vault?

A I shall call a meeting and do everything I can to help you.

Q When will you be willing to call that meeting?

A Probably tomorrow or Saturday.

Q Are you willing to call that meeting here? You have three members here of your Board. Are you willing to call the meeting here in this room or in any adjacent room?

A It seems to me that we ought to call it over in our own office.

Q So that you can be properly protected? A. No, we would be properly protected here.

Q Mr. Scheetz, I ask you this question: Are you willing to call a meeting today in Hudson County or any other county?

A I will give orders to call it this afternoon.

Q Mr. Scheetz, has Mr. Doherty acted as your legal advisor in this matter? A. He is the legal advisor, yes. He is the assistant to Mr. Walscheid, counsel of Hudson County.

Q When was he appointed? A. That I couldn't tell you.

Q Mr. Scheetz, did you ever receive a legal opinion, in the last week, or so in reference to this question about the vault? A. No, sir.

Q Did you ever see the legal opinion with respect to this question, which was given in the last week?

A The only subpoena I got was to come here this morning.

Q Did you ever see a legal opinion from him in this matter?

A No, sir.

Q Did you, as Chairman of the Board, request that legal opinion? A. No, I wasn't asked to do it.

Q Did you authorize the secretary of your Board to request a legal opinion? A. I did not.

Q Did you ever request or did any member of your Board request a legal opinion at the Friday meeting?

A I never knew that.

Q You were there? You ought to know that?

A Yes, but I didn't know it. Nobody asked me.

Q And if Mr. Corcoran or anybody else got a legal opinion from the Hudson County Law Department, it was done by his or her own will and not by your own consent and not by resolution of the Board of Elections? Is that so?

A Yes, sir.

Q Is there any other legal advisor to your Board, Mr. Scheetz? A. No, sir.

MR. YOUNG: I didn't hear that answer. Mr. Stenographer, will you read the question and answer?

(The last question and answer were read by the stenographer.)

THE WITNESS: Mr. Walscheid is our chief counsel, County Counsel.

MR. GIULIANO: That is all.

BY MR. YOUNG:

Q Miss Alice Seglie is an employee of the County Board of Elections? A. She is our stenographer.

Q She is a stenographer employed by your Board?

A By our Board.

Q Under your direction? A. The Commissioner of Registration, too.

Q And paid by-- A. Paid by the County Board of Elections.

Q I suppose she is paid by the county on your certificate that she is your employee, is that correct?

A Yes.

Q You are aware that the signature copy registers are public records? A. Well, as far as I know. I would certainly say to Clee he could have them.

Q And do you know that paragraph 388, Section 10 of the Election Laws-- I haven't got the reference to it in the Revised Statutes-- provides that the signature copy registers shall at all times, except during the times provided, and subject to certain rules and regulations, be open to public inspection? A. No. After we get through with the recount it goes back to the Commissioner of Registration. We had no control of it. It is out of our hands.

Q But they are always, by the statute, open to public inspection? A. As far as I can, as I said, I will give you

all the help I can.

Q What is that vault used for, Mr. Scheetz?

A It is practically used for poll books and ballot boxes, and we have a great many ballot boxes that go in there, sometimes six hundred.

Q When are they stored there? A. They are stored there, as a rule, before an election, and then when they come back, and for a recount they are stored in there. Generally, before the election that vault has got five or six hundred ballot boxes.

Q After an election is concluded the ballot boxes are returned to the clerk of the municipality in which the election was held, by two members of the district board?

A They are returned to the clerks of the municipalities.

Q Are they ever brought to your office and to your vault? A. Only when there is a recount or when they are emptied out; the contents of the boxes are emptied and we send them from place to place.

Q As a matter of fact, each ballot box is labeled with the name of the ward, district and municipality in which it is used? Is that right?

A Yes.

Q And it maintains that assignment throughout its existence? A. Yes, sir.

Q Now, the recount having been terminated these ballot

boxes that are now in the vault should be returned to the clerks of the various municipalities, should they not?

A Yes.

Q Why have they not been returned? A. They did not have a meeting.

Q Were there any instructions issued that those ballot boxes should be returned to the various municipalities last Saturday morning? A. No instructions. I said they were supposed to go back. Some of the ballots that did not agree were put in an envelope. They were supposed to put them back in the ballot boxes and deliver the ballot boxes.

Q We understood from Miss Seglie's testimony that they had been inspected and that these boxes would be returned on Saturday morning, and the vault was to be opened for that purpose and would have been opened for that purpose had she not received contrary directions from Mr. Stoebling?

A That is what I understood, too. They were supposed to be returned.

Q On that day? A. On Saturday.

Q It was done by resolution of the Board or how?

A No, it wasn't done by resolution of the Board; just by the members of the Board present when we adjourned.

Q In other words, it was the understanding, without formal resolution? A. It was the understanding, without formal resolution.

MR. YOUNG: That is all.

BY MR. GIULIANO:

Q Mr. Scheetz, let us suppose that you were served with a subpoena to produce the records before a committee or a court, you would not hesitate to produce those records, would you, Mr. Scheetz? A. Not if they were in my possession.

BY MR. YOUNG:

Q You understand that the guard that is now over the vault is placed there for the protection of the ballot boxes?

A Well, I wouldn't say that exactly. I think they are placed there for the protection of the poll books as well as what is in the vault.

Q You have no interest in the poll books?

A No.

Q They are not in your custody? A. No, sir. I said to Senator Clee when he was over, "Do you want the poll books?" And he said, "Yes."

Q So that the only interest that you have in the property in the vault is the ballot boxes, is that correct?

A Yes.

BY MR. GIULIANO:

Q You have no personal objection to having this safe opened, have you? A. No, sir.

MR. GIULIANO: That is all.

THE WITNESS: Thank you, and good day.

A N D R E W O. W I T T R E I C H, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION BY MR. GIULIANO:

Q What is your full name? A. Andrew O. Wittreich.

Q Are you a member of the Hudson County Board of Elections? A. I am, sir.

Q Mr. Wittreich, when was it that you had a meeting of the Board the last time? A. Well, the conclusion of the meeting on the recount was last Friday, when the recount terminated. We had it-- from thevery beginning of the recount the meeting was adjourned from day to day in order to permit us to carry on the recount, and it was last Friday when counsel for both sides appeared on the recount, that the recount was terminated, and our meeting was at an end.

Q Mr. Scheetz, who was just on the stand, is the Chairman of your Board? A. Yes, sir.

Q He calls all meetings, as I understand it?

A He does.

Q At your Friday meeting was there a resolution passed asking the Supervisor of the County of Hudson, the Boulevard Chief of Police and the Hudson County Chief of Police to place a guard at a certain vault on the seventh floor of the Spingarn Building? A. On Friday?

Q Yes. A. No, sir.

Q Was there ever a resolution passed asking these

men to place guards at the vault? A. None, to my knowledge. At the beginning of the recount, about a week before, I remember there was discussion before the members of the Board as to how to conduct the recount so that it could be done expeditiously and efficiently. We all agreed at that time on the elimination of seats for everybody; that only counsel and members of the Board and tallyers would be permitted behind the rail; that a certain room was to be preserved for the newspaper reporters, the press, and at the same time it was informally discussed, as we had done at a meeting before during the Ziegener - Stoebling recount, that it would be facilitated very much but there was no formal resolution that I know of. An officer was there to preserve order. That is about all.

Q Then in your opinion, Mr. Wittreich, the service of this policeman terminated when the recount terminated?

A As far as I was concerned, yes.

Q And as far as the County Board of Elections was concerned, too? A. Their necessity, as far as we were concerned, I say was at an end.

Q Mr. Wittreich, Miss Seglie is an employee of your Board?

A She is.

Q As a member of the Board of Elections, are you willing now to order your employee, Miss Seglie, to open the vault on the seventh floor of the Spingarn Building?

A Absolutely. I think it is a ridiculous situation that is being created by keeping it closed.

Q You say that it is a ridiculous situation because the Board has nothing in there that we want?

A The only thing I know which is probably, technically, our property are the ballot boxes, which belong to Union City, and which should be sent back to the municipality for the next election.

Q Was it your understanding, and agreed by your Board and counsel, that these ballot boxes were supposed to be returned to the various municipalities on last Saturday?

A That was my understanding.

Q Do you know if those ballot boxes have been returned?

A I have not been able to find out but I understand they have not, from all the commotion and what I have heard.

Q Have those instructions been given to Miss Seglie?

A What instructions?

Q To deliver the ballot boxes or see that they were delivered? A. That was more or less the understanding among all the members of the Board last Friday. The instructions were to deliver the ballot boxes, and particularly Union City was to get them back.

Q Did you ever carry any of these ballot boxes to the municipalities? A. Personally?

Q Yes. A. No.

Q I mean your clerks. Did you hear Miss Seglie say that the

ballot boxes were sent, and that some of the men in the office would see that they got out?

A Yes, that was the usual custom. The trucking companies were hired and paid. The bills were passed upon by the Board and paid for as they took them back.

Q Mr. Wittreich, when there was a recount or a probe proceeding in Hudson County, did you ever deliver the ballot boxes personally, yourself, or any ballots?

A No.

Q And I presume you were subpoenaed to deliver some records at these probes? A. You mean at this?

Q The Ziegener recount or any other recount in the past, while you have been on the Board.

A I have never done it personally. It has been usually some employee, either our own or one of the employees on the payroll of the Commissioner of Registration, who assisted, and the usual procedure was that a truckman would be hired to go to the municipal clerks' office and bring the ballot boxes to the Spingarn Arcade Building, and then they would be delivered into our custody.

Q In other words, you never went personally to deliver and keep watch over the books? Did you ever ride the truck which had contained those books and records?

A No.

Q Mr. Wittreich, are you ready, now, as a member of that

Board, to have a meeting in this county or in any other county, and from there order that Miss Seglie, who is your employee, open this vault in order that this Committee can get the records that have been subpoenaed?

A Absolutely.

Q I presume that you will be ready at Mr. Scheetz's call? He said that he would hold a meeting this afternoon, and you are free to go to that meeting?

A As soon as he calls it I will go. I go just as one of the members.

Q Did Mr, Corcoran call you on Friday or Saturday and tell you what he had done with respect to police guards on this vault? A. No, sir.

Q Do you know where Mr. Corcoran is? A. Just from what I read in the press. I endeavored to get him on the telephone the other day and I was told he was too ill to speak to anybody.

Q Did you learn that he was under a sedative, too?

A There probably will be a lot of them, in Hudson County. There will be many more sedatives.

BY MR. YOUNG:

Q Supposing that your Board does meet,and supposing that it does direct Miss Seglie to open the vault, and she refuses on the ground that Mr. Stoebling has directed her not to open it, what can your Board do, under the circumstances?

A To be perfectly frank, Mr. Young, I would rather not cross that bridge before we come to it. I would rather see her refuse first and then take such action as might be permitted by the law to allow us to proceed to open the vault.

As I said before, it is a ridiculous situation. I have been following it very closely, and the Commissioner of Registration, when he would have the vault closed, I know he would permit the old Board of Elections to get those records. They were running the place and I imagine we should have access to our own property and, particularly, an employee of our own should not tell us whether or not we should or should not open the vault.

Q Supposing Miss Seglie to be in Florida on a vacation and Mr. Stoebling was ill, and an election impended, how could you get in the vault?

A If necessary, to do the same as this Committee wanted to do, get an acetylene torch and blow it open. I am perfectly frank to say that this situation is dangerous.

After all, the poll books are public property and I think this Committee should have access to them, immediately. I am willing to do all I can to cooperate so that you get public property.

Q So that you feel that what we want are public records?

A Absolutely. The poll books should be open to a Committee of the governing body of the state. It is a

ridiculous situation to presume otherwise.

Q And you feel that the Committee that has been created by the act of the House of Assembly is legal and proper? A. No question about it.

Q And you, as a member of the Hudson County Board of Election, would gladly come here under subpoena and testify here, if we sent for any of your records? You, as a member of that Board, would be willing to produce any records that we asked you for?

A I want to do everything to cooperate with you.

Q Did you ever ask Mr. Doherty for a legal opinion in this matter? A. No, I didn't.

MR. DOHERTY: I would like him to ask me now.

MR. GIULIANO: Just a minute.

Q Did you see that legal opinion? A. No, I haven't.

Q Do you know whether or not a legal opinion was given by Mr. Doherty? A. No, I don't.

Q Did your Board, ask for a legal opinion?

A Not to my knowledge.

Q Did your Board instruct the secretary to ask Mr. Doherty for a legal opinion? A. Not to my knowledge, no, sir.

Q If a legal opinion was requested to whom would that legal opinion be directed?

A Well, you are dealing on an assumption. Let me

answer the question by saying, from my experience on the Board, which has only been since May, and, as you know, Mr. Giuliano, I have been in considerable difficulty myself for some time in trying to function as a member of the Board, and it has been my experience during that short sitting that whenever we desire anything in the way of a legal opinion, which has only been a few times, it has been communicated to Mr. Walscheid, the County Counsel for a legal opinion, but I know of none, except where we asked his aid after the Ziegener-Stoebling recount, to help get the thing concluded.

Q When you asked for a legal opinion, would that legal opinion be delivered to some clerk or left at some basket or delivered direct to the Board members?

A It would be directed to the Board members and be read at the meeting.

Q Has anybody in your office the right to open any letter that comes from the Corporation Counsel of Hudson County, other than the Board members?

A Well, I assume anything which would be directed to us Miss Seglie, as a matter of course, in the performance of her duties as clerk-stenographer, under the Act, to our Board, she could open up that letter. Yes, that has been done.

Q And those records are to be kept in the office, I presume, when you get such a letter?

A Yes. Miss Seglie keeps it altogether and then

presents it to us when we meet, and they are inspected.

Q There is no right and no one else has a right to take such a letter and put it in his pocket or in her pocketbook and carry it around through the state?

A I shouldn't think so. It would be our property and would be just held in custody until we had an opportunity to inspect it.

Q Would she have a right, Mr. Wittreich, to take such a legal opinion and carry it in her bag and present it to a Committee such as this one?

A I shouldn't think so.

MR. GIULIANO: That is all.

Q I would like to ask one more question. Did you ever hear that that was done while you have been a member of the Board? A. I have not.

P A T R I C K H. S U L L I V A N, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION BY MR. MURRAY:

Q Mr. Sullivan, are you a member of the Board of Elections of the County of Hudson? A. Yes.

Q When was the last time that you attended a meeting of that Board? A. A meeting?

Q A maeting. A. Possibly two or three weeks ago.

Q Then you were not at any meeting of that Board on last Friday or last Saturday, were you? A. Last Friday we ended the recount.

Q I didn't ask you that.

MR. MURRAY: Mr. Stenographer, will you please repeat the question?

(The last question was read by the stenographer.)

THE WITNESS: Yes, sir.

Q I thought you just told me you had not attended any meeting in three weeks? A. I said we had a meeting two or three weeks ago, Mr. Murray. When the recount terminated we had a short meeting.

Q Which is true; that you did attend the meeting last Friday? A. Yes, sir.

Q Or that you had not attended any for two or three weeks?

A Yes, sir, yes.

Q Yes, sir, what? A. We had a short meeting after our recount finished.

Q Last Friday? A. Yes.

Q At that meeting, Mr. Sullivan, was there any resolution passed by your Board of Elections of Hudson County, authorizing anyone to request anyone to have an armed police guard put at the vaults in that room on the seventh floor of the Spingarn Arcade Building at the Five Corners in Jersey City, Hudson County? A. Yes, sir, there was.

Q There was a resolution? A. Yes, sir.

Q And at that meeting, Mr. Sullivan, who attended?

A The four commissioners.

Q The four commissioners? A. Yes, sir.

Q At what time was that? A. After the recount finished.

Q About what time on Friday? A. I would say about one o'clock.

Q One o'clock? A. About that.

Q Who were the commissioners that were there?

A There is only four commissioners.

Q I understand that there are only four commissioners. I didn't ask you that. Who were the four commissioners who were present at that meeting?

A There could not be any more.

Q I am not asking you that. You said that there was a

meeting on last Fridayabout one o'clock, at which the four commissioners met and a resolution was passed. Did you not?

A I believe yes.

Q Don't you know?

THE WITNESS: Do I have to answer that, Mr. Young?

MR. YOUNG: Yes, sir.

Q First you said yes, you knew. Now you said you believe. Were you there? A. I was there.

Q You are sure? A. Yes, positive.

Q Then, don't you know whether or not there was a meeting? A. There was a meeting. I said that before.

Q Then you know? A. Yes.

Q You don't think? A. No.

Q You don't suppose? A. No.

Q Suppose you answer the question. Who were the four commissioners that were at that meeting? Please name them.

A Corcoran, Scheetz, Wittreich, and myself.

Q You are sure? A. Yes.

Q You say that there was a resolution?

A Yes, sir.

Q Did you see that resolution? A. I did not.

Q Did you have it read to you? A. I don't think so, no.

Q Did you vote to pass the resolution? A. We all did.

Q You voted on a resolution that you didn't see, that you didnt' read and that you didn't hear?

A Yes, sir.

Q You did? A. Yes.

Q How could you vote on a resolution that you didn't see, didn't hear, and didn't read? A. I didn't see it but I heard it.

Q You are after saying that you didn't hear it, just a moment ago. Now, which is true? Did you hear it or didn't you hear it? A. I did. hear it.

Q Who read it to you? A. I think it was Mr. Corcoran.

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

Q You don't know who read it? A. No.

Q Have you got any idea? A. He is our secretary. He is the only one would read it.

Q Suppose that you had a meeting now, Mr.Corcoran being sick; would he still read it also? A. Not very well. He couldn't.

Q What you say is not true? A. He wasn't sick at that time.

Q Are you sure he was there? A. Certainly.

Q Are you sure he read it? A. Yes.

Q You know that? A. Yes.

Q What was the substance of that resolution?

A That that vault would be guarded until Mr. Stoebling gave orders to open it.

Q Anything else? A. I am here to answer your questions.

Q I said, was there anything else in that resolution? Is that as far as they were to go?

A That was the sum and substance, practically.

Q Was there anything in the resolution directing this armed guard not to permit the Superintendent of Elections, Mr. Ferguson, to break the seal on that door?

A No, there wasn't. We gave orders, Mr. Corcoran did, gave orders for the guard to stay there until Mr. Stoebling was well enough to get out and open that safe.

Q When did you give those orders? A. Last Friday.

Q By what authority did you give those orders?

A The County Board of Elections.

Q Are you two the County Board of Elections?

A We were two members of it.

Q Are you two the County Board of Elections of Hudson County? A. The two Democratic members.

Q Are you two the majority of the Board? A. We are not.

Q So that you do not need a majority in the Board? All you need is the two Democratic members? A. Any one of

the four.

Q Any one of the four, for what?

A To give orders.

Q By whose authority and by what authority?

A By all the commissioners' authority.

Q Then you do have to get the permission of at least a majority? A. No. I said any one of the commissioners can give orders.

Q Was there anything in that resolution that gave you and Mr. Corcoran, the two Democratic members, the authority to give any orders? A. No.

Q What was there in that resolution to give anybody any authority to direct an armed guard to be put at that vault? A. For Mr. Stoebling's protection and the commissioners.

Q Maybe you don't understand. I said, what was in that resolution that authorized you or anyone else to have an armed guard placed at that vault?

A You mean to say that the commissioners could not give--

Q I am asking the question. If you will please answer we can facilitate this. Let me put it this way to you. Was there anybody named in that resolution, any member of the Board named? A. No.

Q As being authorized to request any police authorities

to place an armed guard at that vault? A. No, nobody named.

Q There was nobody named in the resolution?

A There was nobody named in the resolution.

Q After the resolution was passed what was done, if anything, in reference to getting an armed guard there, if you know? A. What was done?

Q Did anybody give any orders for an armed guard?

A Yes.

Q Who did? A. Mr. Corcoran.

Q Mr. Corcoran? A. Yes.

Q Were you with him? A. Yes.

Q Who did he request to put an armed guard there?

A The County Police, because it is a county office.

Q Who in the County Police? A. Inspector Neary is in charge.

Q He is in charge of the County Department?

A Of the policemen up there.

Q Up at the recount? A. Yes.

Q You just requested Neary? A. No, requested the County Police.

Q Did you go to the whole police department or go to the head of the police department? A. That is the only one we could go to.

Q Who is the only one you could go to? A. The Chief

of Police. He gave orders, I believe.

Q I am not talking about what he did. I am trying to get whom you and Mr. Corcoran made a request to, to put an armed guard there?

A The County Police.

Q Who in the County Police? A. The Chief of Police.

Q All right. Why didn't you say so. I have been trying to get you to say the Chief of Police for two or three minutes. A. You finally got me to say it.

Q Yes, thanks. Where was the Chief of Police when you requested it? A. At the County Police, Turnpike.

Q The Turnpike? A. Yes.

Q Did you go there? A. Mr. Corcoran did. I didn't.

Q You didn't go with him? A. No.

Q You didn't go there? A. No. I understand Mr. Corcoran did.

Q You don't know whether he did or not? A. No, I don't know. I am not positive.

Q So that you don't know whether or not any orders were given at all, do you? A. Yes, I do know.

Q How do you know? A. Mr. Corcoran told me.

Q Did he tell you he was going to do it? A. Yes.

Q Or did he tell you he did do it? A. He done it; no question about it.

Q I am asking you, did he tell you he did it? A. Yes.

Q When did he tell you that? A. That I don't know. I can't tell you exactly.

Q Was it Friday or Saturday? A. When the recount was on.

Q Did he tell you at any time after this meeting that you said you had, in which you said that a resolution was passed, on last Friday? Did he tell you any time after that that he requested--

A (Interrupting) Yes, he said he was going to order them tostay over there until we were finished.

Q But there was nothing in that resolution?

A What is that?

Q There was nothing in that resolution authorizing Mr. Corcoran to put or request a guard to be put on there, is that right? A. There was, to continue the guard, yes.

Q I understood you to say there wasn't anybody named in there specifically to go and make that request?

A Mr. Corcoran is the secretary and he was acting chairman at the recount. Mr. Scheetz was not well enough.

Q The recount finished when? A. Friday around noon-time.

Q And these things that I am talking to you about happened after the discontinuance of the recount?

A That is right.

Q So that the recount orders had nothing to do with the

orders given after the so-called resolution was passed? Right? A. I didn't get that.

Q I say, any orders that were given during the recount had nothing to do with after Friday, after this alleged meeting that you claim? A. What?

Q I say that any orders that were given to be carried out during the recount, terminated at the termination of the recount? A. Not orders, no. Mr. Corcoran continued as Acting Chairman and any orders he gave were O.K.

Q Is he Acting Chairman now? A. It was up to Mr. Scheetz.

Q Was it up to Mr. Scheetz, the orders? Mr. Corcoran was Acting Chairman on Friday. A. I believe so.

Q And on Saturday? A. I believe so.

Q You don't know whether he was Acting Chairman on Saturday? A. No, I don't. I answered that I don't know.

Q Mr. Sullivan, is it your understanding that anyone member of this Board of Elections of Hudson County of which you are a member, has the right to give orders binding the whole Board? A. I wouldn't say so, no.

Q What do you think is necessary in order to have one member do that? A. I don't know.

Q I mean, would you think they should have a meeting and have a resolution passed and then name or designate a certain one? A. Yes.

Q Do you know what is in that vault? A. I imagine I do.

Q What do you think is in there? A. Poll books and a few ballot boxes. I don't know what else Mr. Stoebling has in there. I believe he has something of importance.

Q Is any of that property, in your estimation, the property of your Board? A. I don't know.

Q What do you think? A. Mr. Stoebling would have to answer that.

Q Mr. Stoebling is not here. I am asking you the question, about your Board, not about Mr. Stoebling.

A I don't know.

Q Do you figure that what is in there are public records and public property? A. They are, to a certain extent.

Q Do you understand or do you know that your custody and right of possession of those poll books terminated at the termination of the recount on last Friday, as far as your Board is concerned? A. Yes.

Q Is it your understanding that those poll books are now under the custody and possession of the Department, the Commissioner of Registration of the County of Hudson?

A Yes.

Q And that you would have no authority, either individually, or as a member of your Board, to presume to

take custody or possession of those records?

A No, sir.

Q It is your understanding that you would not?

A Absolutely no.

MR. MURRAY: That is all.

MR. PASCOE (Speaker of the House of Assembly): Just one question, for my information. If that was his understanding why did he vote for a resolution that took the custody of those records by arms and put somebody there to protect them?

MR. MURRAY: That is the reason we asked the question.

MR. PASCOE: If I understand that question correctly and the answer, he said that he knew that he had no right to assume custody of what was in that vault, and yet, as I understand, before I came here he answered a question to the effect that he had voted for a resolution, which, in reality, did take the custody of those records into the Board of Elections.

MR. MURRAY: That is so.

MR. PASCOE: If that is so, how does he reconcile his last answer with the fact that he assumed responsibility which he knew he didn't have the right to assume.

THE WITNESS: I believe the question was would

I or Mr. Stoebling--

MR. PASCOE: You just said that you knew you didn't have the right to assume the custody of what was in that vault. Previously, before my coming here, I am informed by a member of the Committee that you admitted that you voted for a resolution by which you did take the custody, and you ordered somebody to guard them and stop the Legislative Committee from getting them. If you knew you didn't have the right to do it why did you do it?

THE WITNESS: I didn't answer that question the way you put it, Counsellor. I said I would not order. At least I mean to say I would not order Mr. Stoebling to open the vault, as a member of the Board.

BY MR. MURRAY:

Q Why not? A. Because I wouldn't.

Q Why not? A. Because I wouldn't.

Q Why not? A. Because I wouldn't; that is all.

MR. OSMERS: I think that the witness has misunderstood the question that Mr. Pascoe put. You answered that you did not believe, at the termination of the recount, that your Board had any further testimony, is that right?

THE WITNESS: Of the vault?

MR. OSMERS: Of the vault.

THE WITNESS: Yes.

MR. OSMERS: In the previous testimony I recall that you said that you and Mr. Corcoran had asked for police protection?

THE WITNESS: That is right.

MR. OSMERS: Of the vault, after the termination of the recount?

THE WITNESS: That is right.

MR. OSMERS: Well, it seems to me that you owe this Committee an explanation of the fact that you ordered police protection when I say to you, and I mean specifically you and the other Democratic member, not the entire Board of Elections, that you ordered custody over records that you admit you had no control of. Is that correct?

THE WITNESS: That is right.

MR. OSMERS: You have asked police protection for things that are not in your possession, not in your custody.

MR. PASCOE: I would like to know, by virtue of the fact that you did take that authority, if you are now the custodian of the records? Are you assuming to take the responsibility for what is in there? I say to you that you have already said,

"We are now the custodian of the records," and I want to know whether you personally feel that you are?

THE WITNESS: I say no. I mean Mr. Stoebling is.

MR. OSMERS: Why did you ask for police protection if you didn't have custody over those records?

THE WITNESS: That I would not care to answer.

MR. OSMERS: It has to be answered. I don't go asking for police protection of goods of yours or somebody else's.

THE WITNESS: That is right.

MR. OSMERS: I can't order a policeman to stand at your door and keep you out of your house?

THE WITNESS: Not very well.

MR. OSMERS: I wouldn't think of doing such a thing.

THE WITNESS: No.

MR. OSMERS: Because you would have a perfect right to go in there. Why did you order a policeman to stand at the door and guard the property over which you had absolutely no control, as you say so yourself?

THE WITNESS: I thought it should have been done.

MR. OSMERS: Is this a reform movement or are you

acting solely for the public?

THE WITNESS: I try to.

MR. OSMERS: You are not, in this case. Did you know that when you ordered the police to guard property that is not under your control, that you are in contempt of the Assembly of New Jersey?

THE WITNESS: I imagine I would be.

BY MR. MURRAY:

Q Do you still understand, Mr. Sullivan, if you persist in having that police guard over that vault, that you would be in contempt of the House of Assembly of the State of New Jersey? A. The gentleman just said I would be, and I imagine that is true.

Q Then, with that knowledge, being that you have said, as the Speaker of the House, Mr. Pascoe, has told you, that you took custody and placed an armed guard there, knowing that by so doing you are in contempt of the House of Assembly of the State of New Jersey, I now ask you, are you willing now to give orders to discontinue and take off that armed police guard? A. No, sir, I am not.

MR. OSMERS: Did anyone ask you to place that armed guard at these vaults?

THE WITNESS: No, sir.

MR. OSMERS: Anyone off the Board of Elections?

THE WITNESS: No, sir.

MR. OSMERS: Why did you do it, if these records are not in your possession or custody?

THE WITNESS: It is to safeguard our--

MR. OSMERS: It is to safeguard your what?

THE WITNESS: The Commission.

MR. OSMERS: Is your commission locked in this vault?

THE WITNESS: No.

MR. OSMERS: To safeguard those ballot boxes which I understand are the property of Union City, and should have been returned there Saturday morning?

THE WITNESS: Yes.

MR. OSMERS: Why were men, on Monday, guarding those ballot boxes?

THE WITNESS: Because we told them to.

MR. OSMERS: They are Union City property. They are not yours.

THE WITNESS: They are ours, as far as that goes. We return them to Union City.

MR. OSMERS: Why don't you order that they be returned to Union City?

THE WITNESS: We will.

MR. OSMERS: Why don't you?

THE WITNESS: We are going to.

MR. OSMERS: When?

THE WITNESS: Today.

MR. OSMERS: Today?

THE WITNESS: Yes.

MR. OSMERS: Who is going to open the vault to get them back?

THE WITNESS: Miss Seglie, if Mr. Stoebling tells her.

MR. YOUNG: Mr. Sullivan, you admitted several times that the presence of the police guard is illegal, and you persist in your refusal to remove that guard, and persist in illegal action. Is that so?

THE WITNESS: Yes.

BY MR. GIULIANO:

Q In other words, Mr. Sullivan, you are doing Mr. Stoebling a favor by having a guard there? A. I imagine we are.

Q In other words, you are cooperating with the Republican office over there? A. Yes.

G E O R G E S C H E E T Z, was recalled and testified as follows:

BY MR. GIULIANO:

Q I want to get something clear in my mind. If I remember your testimony correctly, you met Friday of last week, and, if I understand your direct testimony correctly, you testified that no resolution was passed at Friday's meeting asking that the vault be guarded. Is that so?

A None that I know.

Q As Chairman of the Board of the Hudson County Board of Elections, you would have the only authority to put such a resolution to vote, wouldn't you?

A Yes, sir.

Q Now, I ask you whether or not such a resolution was passed at Friday's meeting? A. None that I know of, No resolution was passed.

Q Do you know, yes or no, Mr. Scheetz, whether or not a resolution was passed authorizing Mr. Corcoran or Mr. Sullivan to place police guards at this vault?

A No, sir.

Q No, sir? A. No, sir.

MR.GIULIANO: That is all.

MRS. SANFORD: Are there any minutes kept of your meetings of the Board of Elections?

THE WITNESS: Yes, mam.

MRS. SANFORD: Could they not be produced in regard to the question of the resolution?

THE WITNESS: Mr. Corcoran, the secretary, has got them. He can produce them. He is a sick man, as I understand.

BY MR. MURRAY:

Q Is Mr. Corcorah the person who takes down the minutes or have you got a clerk-stenographer that you call in at these meetings? A. We have a clerk-stenographer.

Q Who is that clerk-stenographer?

A Miss Alice Seglie.

Q Was she there at the meeting last Friday at which this alleged resolution was passed?

A She was present until we were told to discontinue the recount.

Q Was she there at the supposed meeting? A. Right after we adjourned things. She was there. I seen her there.

Q I mean during the time of the meeting.

A We adjourned right after we got through with the last ballot box.

Q Is it customary to have Miss Seglie or Mrs. Fila appear and take the minutes and proceedings of your meetings?

A At times, yes, sir.

Q It is customary, isn't it?

A Yes.

Q Don't you almost always have her there?

A Pretty much always.

Q You would, at an important meeting of this kind, wouldn't you? A. Yes, sure.

Q As a matter of fact, was she there to take the minutes? A. She was present in the building, yes.

Q In the room at this so-called meeting? Was she there? A. She was present there.

Q Did she take the minutes? A. There were no minutes to be taken.

BY MR. GIULIANO:

Q In other words, Mr. Scheetz, there was no discussion about the records in this vault or about guarding the vault, isn't that so? A. That is right.

Q And Miss Seglie did not take any such notes?

A Not that I know of.

A N D R E W O. W I T T R E I C H, was recalled and testified as follows:

BY MR. GIULIANO:

Q Mr. Wittreich, were you present at this meeting held on Friday of last week? A. Now, let me explain--

Q Do it your way.

A In so far as I am concerned, last Friday was the end of the recount. We came in Friday morning to sit as we had been doing for ten weeks previously. When it was announced that the recount was over, when I saw Harry Lane and Mr. Hershenstein there, and the suddenness of the termination of the recount was such that we were all very happy, after ten weeks' work, that it was over with, and we all said goodbye to one another, with the understanding that the ballot boxes were to be moved out and the suite cleaned, and everybody said goodbye and I think I got back in my office at about 12:30 that day, and if there was any meeting that you are talking about, at one o'clock, it is news to me, and I am finding out about that meeting like I have about a lot of other meetings that I was never asked to, for the first time today.

Q I presume you were in court when Mr. Sullivan was on the stand? A. I was in the back.

Q Did you hear Mr. Sullivan testify that last Friday four members of the County Board of Elections were present, and that at that meeting a resolution was read by Mr.

Corcoran that police guards be put at this vault? Do you recall ever hearing such a resolution put at any of your meetings?

A No, sir, I have never heard of it. This is the first I have heard of it.

Q Was there any discussion with respect to guarding these records in the vault?

A No. We were through, as I say, with our duties on Friday, when they said that the recount was over, and Chief Justice Brogan signed the order and we were presented with it. I believe Mr. Wiener was over there with us and he said, "That is the end of it," and I said to Mr. Scheetz, "Well, our next meeting is subject to your call, George. Get in touch with me." That is the last I knew of it, and George and I walked out.

Q Would you, as a member of the Board, ever take it upon yourself as one member to give any orders which would bind the whole Board? A. Absolutely not. I would not have any legal right to do so.

Q Then it is your legal opinion that any act which this Board does must be in open meeting and must be passed by resolution? A. Absolutely. I think it is the intention of the Legislature, in the creation of the Board.

Q You really think that the Legislature intended something?

A When you live in Hudson County you sometimes wonder a great deal.

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W I L L I A M C. M O N T E L L I, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. MURRAY:

Q Mr. Montelli, by whom are you employed?

A The Commissioner of Registration.

Q The Commissioner of Registration? A. Yes, sir.

Q Will you kindly tell the Committee what your duties are in that office? A. A department clerk.

Q A what? A. A department clerk.

Q What are your duties as a department clerk?

A I am assigned to about 202 districts, and I see that them records are kept in good shape, make transfers, pull out forms, and take the records as necessary.

Q Did you say about 202 districts? A. That is right.

Q Where are those districts located?

A From the Ninth Ward, Twenty-seventh district, Jersey City, Ten Ward, Jersey City, Eleventh Ward, Jersey City, Twelfth Ward, Jersey City, Hoboken up to 37, and the entire Bayonne.

Q What do you mean "up to 37?" A. Well, it is split up. I have from Hoboken 1.

Q One what? A. One; one all the way up to 37, the Third Ward.

Q Anything in Bayonne? A. The entire Bayonne.

Q You have nothing to do, then, with the ten districts of the First Ward of Jersey City, have you? A. No, sir.

Q When you say that you have charge of those 202 districts, just what do you mean? A. I mean that the voting records are equally divided up by men, so many districts to a man, and when we have transfers to make he makes transfers and pulls out forms and sends them to whichever district they are transferred to.

Q Who pulls the forms out of what? A. Out of the binder copy of the registration.

Q The signature copy registers? A. Yes.

Q Is that the official name that is given to them?

A Yes.

Q Signature copy registers? A. That is right.

Q What is the signature copy register? A. The buff sheet and affidavit. Is that what you want to know?

Q No. I am not trying to confuse you. I would just like you to give a picture, if you can, to all of us, for the benefit of the Committee, in some of the counties that some of these members come from, they haven't got the same set-up as we have in Hudson County and Essex County.

A There are two sheets, one a white sheet known as the original and a buff sheet known as the duplicate, and the duplicate, which we have in our department, that is the sheet we are in charge of; what we call a buff sheet, and that buff

sheet we put in the district. When somebody comes up to register we take the buff sheet and if it is in my district, which I have that number of votes in the district, we put it in the binders where they belong.

Q Are they all loose-leaf binders? A. They are all loose-leaf binders.

Q Are the binders locked? A. We have a temporary key that we open and lock with.

Q How many keys are there to each binder?

A It is a temporary key. There might be a million of those. They don't mean nothing. You are talking about locking. We lock up all binders in order to send them out to the local boards, if that is what you are referring to?

Q At any time? A. That is the lock we put on and send them to the local boards, a key and lock.

Q You put the lock on when they go out of your offices?

A Yes, when they go out to the local boards.

Q Are there any locks on those when they are in your office? A. There is no locks.

Q Then, if you are in charge of these particular binders for these particular 202 districts, it would be possible for sheets to be taken out and put back by somebody else, in those binders? A. No, sir.

Q Why wouldn't it be possible? A. Because we have a man assigned to everyone of those districts. We have them

divided equally.

Q What did you say? You said you are the man--

A I am the department head. I am supposed to see it is done.

Q Is someone assigned to each one or so many of these districts in your office? Is that right?

A That is right.

Q Do you supervise these 202 in your office?

A That is right.

Q Where are these binders kept? A. In the safe cabinets.

Q Are the cabinets locked? A. No, sir.

Q When you go home at night do you see that these 202 are put in their respective cabinets? A. Yes.

Q You don't put a lock on the cabinet? A. There is a lever on the cabinet. We just put the lever on.

Q There is no lock on the cabinet? A. No, sir.

Q No lock on the binder? A. No lock, no.

Q How long have you been employed in this office?

A About eight years.

Q Were you there during the municipal election of 1929?

A Yes, sir-- no, no.

Q No? A. No.

Q Did you have charge of these districts during the municipal election of 1933?

A No, I wasn't assigned to them.

Q What were you doing in 1933? A. Investigating.

Q Outside or inside? A. Outside.

Q Did you have charge of these 202 districts in the municipal election in Jersey City in 1937?

A Yes, sir.

Q That is the figure, the 202-- A. Not all of them. Part of them were Jersey City.

Q I say-- yes, that is true. These here that you included in the 202 you are in charge of?

A That is right.

Q During those days were there any locks on the cabinets at night when you went out? A. Just the same thing, pull a lever out. In the morning we open the lever.

Q Were you served with a subpoena duces tecum to bring the records here today? A. Yes, sir.

Q What records were asked? A. I believe the first ten districts of the First Ward of Jersey City.

Q And you have nothing to do with those? A. No, sir.

Q Who placed you in charge of those 202 districts and the binders? A. The Commissioner of Registration.

Q Mr. Stoebling? A. Yes, sir.

Q When was the last that you spoke to Mr. Stoebling?

A A week ago tonight.

Q A week ago Thursday? A. A week ago.

Q A week ago, Thursday? A. Thursday.

Q Have you stopped working on those binders since that time? A. Stopped working? No, working continually.

Q You go on with your work just the same?

A That is right.

Q What is done with those binders? Do you issue the original and duplicate sheets, the buff sheets?

A No. Our department is just the buff sheet.

Q It is the buff sheet binder that you send out to the respective districts on the day of election? A. That is right.

Q And the originals never go out, is that right?

A That is right.

Q So that you always have a duplicate or an original in your office, even though the duplicate is out?

A That is right.

Q Do you get specific orders from your superior, the Commissioner of Registration, Mr. Stoebling? Do you get specific orders as to what to do every day?

A Not every day, but when I was assigned to those 202 books he told us just how to go to her. "Here are the transfers." He gave the routine work. That is what we do every day.

Q When he is not there in the office whom do you look to for orders or instructions?

A It is continuous work, whether he is there or not, unless there is an election, and then he tells us what we--

MR. MURRAY: Mr. Stenographer, will you repeat the question.

(The last question was read by the stenographer.)

THE WITNESS: Nobody. Just the routine work.

Q Nobody? A. No.

Q If something came up that you were in doubt of, what would you do? A. I would consult the other department heads and get together.

Q What other department heads? A. The men who have a department, too, the same as I have.

Q Will you name those people? A. Mr. Gumaer, Mr. Toohey and Mr. Rotherham.

Q What departments do they have charge of?

A Toohey has the First Ward of Jersey City up to the Ninth Ward, the Twenty-sixth district of Jersey City, and Rotherham has the balance of the county, such as Kearny, Harrison, Union City, West New York, North Bergen. I guess that is it.

Q Are they your superiors? A. No, we are all acting in the same capacity.

Q Why did you consult them? A. To have their opinion on something that don't look right to me.

Q Then you would act after that? A. We would go

over it, and if it was like a registration form, in reference to comparison of signature, if it is a transfer we have to pull out, and the signature don't look right to me-- of course, I am not a signature expert, and I go to another department head and he takes a look. If it looks like it should be a transfer we pull it out and transfer it wherever it is supposed to go.

Q You say that you are not an expert, is that right?

A A signature expert.

Q Are these others that you have mentioned experts?

A No. I figure two heads are better than one.

Q They are no more expert than you are?

A That is true.

Q Is that so? A. That is right.

Q Is there a man working in that office by the name of Max Miller? A. Max Miller, yes, sir.

Q Do you have to consult him? A. No, sir.

Q He hasn't got charge of any of those binders at all?

A No, sir.

Q Suppose you go to these other three and you sit down, the four of you, and you can't fathom out your difficulty. What would you do then? A. Then I use the best of my ability.

Q You would not consult anybody else there? A. No, sir.

Q Do you get paid by check? A. Yes.

Q Whose check is it? Do you recollect? A. The County Board, the Treasurer.

Q Is it the Treasurer of Hudson County that pays you?

A That is right.

Q Who makes up the payroll in your office?

A I believe Mrs. Seglie.

Q Mrs. Fila? A. I believe so.

Q Do you know whether or not she does? A. I don't know.

Q Does Mrs. Fila ever give you any orders when Mr. Stoebling is not there? A. When Mr. Stoebling is there I know she gives us orders. She comes out and tells us to do--

Q When he is there? A. When he is there.

Q And when he is not there doesn't she also give you orders? A. No.

Q Don't you go in and consult her when you are in difficulty? A. I go in sometimes and then she asks me to see Mr. Gumaer, who has had more experience than I have. He has been in the department a number of years more than I have. He is more familiar with the work than I am.

Q Why would you consult Mrs. Fila before you would consult Mr. Gumaer? He was there, you previously testified, and you would consult her? A. I go in there as a rule;if I don't see anybody else I ask her what her opinion is.

Q You would go to her before you would go to Mr. Gumaer?

A No. If I saw Mr. Gumaer coming across there first I stop him and ask him first, "What do you think of this?" If I saw Mr. Toohey I asked him.

Q What would you consult Mrs. Fila on, then? Pertaining to the duties and things of the office?

A A matter of form, whatever it was.

Q I said what would you consult her on?

A Whatever it may be; whatever the occasion. If I happened to walk along and look for another man to give me advice, for comparison, if I run across her I asked her.

EXAMINATION BY MR. GIULIANO:

Q When you are sick and not in the office or when you are on your vacation, who has charge of the books?

A We have another clerk, Mr. Garagano. We just pick out one fellow out of our own will to put away the forms and to see that they are properly taken care of.

Q In other words, somebody can do your work?

A Positively. There is always somebody to do somebody else's work.

Q You were connected with the Commissioner of Registration on December 28, 1937? A. Yes.

Q You were in the Supreme Court on that day?

A On that day, yes.

Q You saw certain records in the courtroom on that date,

did you not, Mr. Montelli? A. Yes, sir.

Q Did you carry those records into the room?

A No, sir.

Q Who did? A. Some of the employees of our office carried them.

Q Did Mr. Stoebling carry them? A. No, sir.

Q Where was Mr. Stoebling? A. In the office.

Q Are you sure about that, that he was in the office?

A I don't remember but I imagine he was.

Q Are you sure that he was in the office?

A Wait a minute. On the 28th? No, he was sick.

Q He was sick and he was under a sedative, too?

A He was sick.

Q Pretty sick? A. You are darned tooting he was pretty sick.

Q And you didn't talk to him? A. Positively not.

Q You just took the books down there under subpoena, didn't you? A. That is right.

Q If I asked you for a book from Hoboken, would you bring the books over here? A. No, sir.

Q Why not? A. Not unless I get orders from Mr. Stoebling and I have notice of that, otherwise.

Q You didn't get orders from Mr. Stoebling on December 28? A. No, but he assigned somebody for that.

Q He was pretty sick, you say? A. That is all right.

Somebody was assigned to take these books down.

Q Who was assigned? A. Mr. Gumaer was in charge. We went along that day.

Q Do you remember that we subpoenaed certain books in Hoboken? Do you remember that? A. Yes.

Q And they were under your jurisdiction? A. That is right.

Q You took them out of the cabinet? A. Yes.

Q And they were in the Supreme Court? A. That is right.

MR. GIULIANO: That is all.

BY MR. OSMERS:

Q Mr. Montelli, if you wanted a day off, what would you do? A. I would get it from Mr. Stoebling.

Q If Mr. Stoebling was ill, what would you do?

A I would try to get in touch with Miss Seglie to tell one of the department heads I would not be in.

Q In other words, if Miss Seglie told you it was all right to take tomorrow off you would stay off?

A Certainly.

Q And you would receive your pay? A. Yes.

Q In other words, in the absence of Mr. Stoebling Miss Seglie runs the office, is that right? A. To a certain extent.

BY MR. PASCOE:

Q What is the use of quibbling? Isn't it a matter of fact that when you want to get off you can't get off by asking a man? If Stoebling is not in you have to ask the little lady? A. That is what I said.

Q Doesn't that show that she is second in charge of that office? A. Yes.

Q That is all they wanted you to say for the last half hour.

BY MR. YOUNG:

Q Mr. Montelli, you say that Rotherham had certain districts, Toohey had certain districts and you had certain districts, and those were all districts throughout the county? A. Yes.

Q Who is Gumaer? A. He is in charge of the arrearages.

BY MR. OSMERS:

Q You have made a statement to the Committee that whenever there was a signature in question you would consult with these other department heads. Could you tell the Committee approximately how many signatures were questioned in the course of a year's work down there? Do you have a list of them? A. No. I didn't mention we had a list.

Q You might have one a day? A. Maybe one, two, three, four a day.

Q So that if you worked 300 days a year at the job you

might have six or eight hundred signatures?

A Lots of them people don't know how to sign and somebody signs for them.

BY MR. GIULIANO:

Q Mr. Montelli, isn't it your duty, after an election, to take the poll books and compare them with the registry binders and signatures? A. Yes.

Q Have you done that? A. No, I didn't have a chance to do it this year.

MR. YOUNG: He said that when the question of signatures came up it might be that somebody did not know how to sign the name and somebody signed for them.

THE WITNESS: When we send them transfers back and I see that the signatures do not compare, we find out that the people do not know how to write.

MR. YOUNG: When somebody other than the voter tries to register, is that the idea?

THE WITNESS: That is why we send them back.

MRS. SANFORD: Is there any indication on the record that somebody else signs for them?

THE WITNESS: There is an affidavit.

BY MR. YOUNG:

Q These signatures are taken in your office, aren't they?

A These signatures here? No, the transfers; they mail

them in.

Q When they first register the signatures are taken in the office? A. Yes.

Q Of course, you have to see the person? A. Yes.

Q You were talking about transfers. A. I mean transfers when they do not compare.

BY MR. GIULIANO:

Q Do you know when the recount started?

A About nine weeks ago.

Q When did it start, the end of November? A. About that time.

Q Let us assume that it started about the 21st or 22nd of November. The books were in your possession on the evening of November 2. In your districts did you have charge of it? Did you compare the register binders with the poll books? A. No, they were no in my possession.

Q Do you remember about the 18th of November when Mr. Freeman and myself came to your office? A. I don't remember.

Q You don't remember seeing me in your office?

A I remember seeing you in my office but I don't remember seeing Mr. Freeman. In fact, I don't know the gentleman.

Q You saw me? A. Yes.

Q Wasn't it a fact that on that day, before the recount started, your office was comparing the signatures and

places in the register binders, the number of the ballots with the individual voted? Isn't that a fact?

A Not my department.

Q Was any department doing that? A. That I don't know.

Q Did your department do it at all? A. No, sir.

Q You have not done it up to the present time?

A No, sir. We don't get a chance to get the books.

Q You have charge of Hoboken? A. Yes.

Q Do you remember my asking you for the Seventh District of the First Ward in Hoboken? A. No, I don't remember.

Q You said, "We didn't get that book." A. I don't remember.

MR. GIULIANO: That is all.

J O H N R O T H E R H A M, was duly sworn according to law, on his oath, testified as follows:

EXAMINATION BY MR. MURRAY:

Q Where are you now employed? A. The Hudson County Board of Registration.

Q About how long have you been there? A. I think three years.

Q What did you do previous to that? A. Postmaster of Jersey City.

Q For how many years? A. Nine.

Q Nine years? A. Yes.

Q What are you duties in the office of the Commissioner of Registration of Hudson County? A. I have charge of one of the zones.

Q What is that zone? A. The county is divided into three zones and 653 districts. I have 235 and Mr. Montelli has 202, and I believe Mr. Toohey has the rest. No, there are three zones of the county that are not in permanent registrations. They haven't got 15,000. Anyhow, 653 districts divided up among the three of us.

Q Including those municipalities that are not under permanent registration? A. No, we haven't got anything to do with them.

Q I may be mistaken, Mr. Rotherham. I understood the

previous witness to say that there were four in charge of the 653 districts. A. No. There is three, and Mr. Gumaer has charge of the entire original registration. When you come there and register you register two forms. One is for the form that goes to the local election board, what we call the buff sheet, and you also register on a white form, and Mr. Gumaer has charge of the entire 653 districts.

Q When a person comes to register, do they sign both of those sheets? A. They sign them.

Q They sign them at the same time and in the same place?

A Yes.

Q Is Mr. Gumaer there with the original or white sheet and are some of your three men there, or somebody under you, with the buff sheet? A. No. I wouldn't say this is sure but I am pretty sure this is so, but Mr. Rubianni, I think, has charge of the registration. He is right in the front office as you go in, and I think Mr. Grim. I think those two men are in charge of registration. When it comes on election time and we get very busy they go to the different men who have charge of the departments and ask to give them help to register. I might give two and Gumaer three or four out of his department, Montelli three or four out of his, and sometimes we have as many as twenty people registering at different times, particularly around Governor election or presidential election.

Q Those people would be immediately under Mr. Grim?

A No. They take the registration and divide it up and after the registry is over they separate--

Q Who divides them up? Mr. Grim or Gumaer?

A The other man, Rubianni. I think he and Grim separate the registrations and give me mine and Montelli his and Mr. Toohey his, and all the whites to Gumaer.

Q Who directs those men to give directions to you different men? A. Who directs us?

Q Yes; and Grim? A. I don't know what you mean.

Q Who is superior to them? A. Mr. Stoebling.

Q Isn't there anybody between them and Mr. Stoebling?

A I never heard of a deputy in the office.

Q I am not talking of a deputy. I am talking about a person. He may be a representative, whatever the title of the deputy is. A. I never heard of anybody else to be in charge there for Mr. Stoebling.

Q I thought you just testified that Mr. Gumaer was the man in charge of the white sheets in the binders?

A Yes. The original is kept in the office all the time.

Q. Now you testify, if I recollect correctly, that Mr. Grim and Rubianni or whatever his name is-- I thought you testified that they do this work outside, when you start to get busy? Did you not say that? A. No. I said I wasn't

sure but I think Rubianni has charge of the registration in the front office. That is, at times like these when people come in they don't need any more than one or two to take registrations. Either Mr. Rubianni or Grim take care of that. When they get busy they come to us for help.

Q Previous to that, didn't you say that you three men, Mr. Montelli, Mr. Toohey and yourself had the 653 districts in the County of Hudson divided up between you?

A Yes.

Q If I recollect, I asked you, didn't Mr. Gumaer have one of those districts, because I understood Mr. Montelli to say that there were four districts. I may be wrong, but Mr. Gumaer had one of those districts.

A No.

Q Now I understand that you testified that Mr. Gumaer has charge of the original binders? A. Yes. He has charge of the original binders and also charge of the investigators.

Q Then he is superior there in rank, is he not, to Mr. Grim? A. No; I don't know; I don't think so.

Q I understand that is what you said. A. I didn't say it. I couldn't say it. I am not superior to Montelli and Montelli is not superior to me or Toohey, nor Grim nor Gumaer. We happen to look on Mr. Stoebling, Charlie Stoebling, as our boss.

Q When he is not there, whom do you look to as your boss?

A I don't know. I don't know of anybody there.

Q So that you walk around and do as you like when Mr. Stoebling is not there? A. Please don't say that. We don't walk around and do as we like. We are employed to do certain things. I take care of my books and I suppose the other men take care of theirs. We go along in that way. Mr. Stoebling is never out of there very long.

Q He is not? A. No.

Q Do you know whether or not Mr. Stoebling has been sick for the past year? A. I believe he is sick.

Q At any other times during the past year do you know that he has been sick? A. He might be sick during the week, two or three days.

Q Are you generally there every day?

A Every day.

Q During the past few years, have you seen Mr. Stoebling pretty near generally every day? A. Yes.

Q Was he there every day or pretty near every day during December? A. I don't know how many days he was there but I think he was there.

Q How many days did you see him there in December?

A I would not say. I would not attempt to say.

Q How about January? A. I wouldn't say.

Q Have you been talking to Mr. Stoebling in the past two or three weeks? A. No.

Q Have you seen Mr. Stoebling in the past two or three weeks? A. No, I don't believe I have seen Mr. Stoebling for a month. He will be in the office a month at a time and I wouldn't see him.

Q I thought you said that you saw him pretty generally every day and he is not out of there? A. No.

Q Do you get orders from Mr. Stoebling directly when he is there? A. Yes, if there is anything to give me orders about.

Q If he is there, do you have occasion to consult him very often? A. No.

Q Do you know of anybody else in the office that does?

A No. All I know is my own--

Q How much salary do you get? A. $3600 a year less twenty-four cents.

Q Approximately $3600 a year? A. Yes.

Q Do you know who makes up the payroll? A. No.

Q Would you say that Mrs. Fila is in charge of that office when Mr. Stoebling is not around? A. Miss Seglie?

Q I mean Mrs. Fila. I understand that her maiden name was Miss Seglie. A. No, I wouldn't say she is in charge. She is in that office. She is in that office and she is supposed to be Stoebling's secretary or does some of Stoebling's work in there. She is in there and there is three other ladies in there. There is Miss Edge and two

others, but Miss Seglie seems to do Mr. Stoebling's private work. If somebody wants to see Mr. Stoebling they go to the window and ask the girl at the switchboard, and she generally asks Miss Seglie if Mr. Stoebling is engaged. That is, asfar as I know she is in charge.

Q Does that procedure relate there to the employees of his office? When you come out of that room where you have the binders and you go outside there to the window, and behind it the switchboard operator is located?

A Yes.

Q Isn't it necessary, for instance, for you to ask the switchboard operator, and she will consult Mrs. Fila?

A I have never seen Mr. Stoebling at the office when I didn't first inquire of the girl at the switchboard, and most always she asks Alice if Mr. Stoebling is engaged.

Q So that you would have to get the word from Mrs. Fila even when Mr. Stoebling is there? A. Right.

Q You would follow the same procedure when Mr. Stoebling is not there and you wanted to find out something about which you would consult Mr. Stoebling when he was there?

A No. I don't consider that Miss Seglie knows any more about the office than I do.

BY MR. GIULIANO:

Q You were present at the recount, Mr. Rotherham?

A No. We were forbidden.

Q You were forbidden? A. We were told nobody could go in the recount. Of course, I took a look in passing by.

Q A little peek? A. A little peek.

Q Did you ever see Mr. Stoebling at the recount?

A No, I didn't. He could have been there but I didn't see him.

Q Do you know who did his work at the recount?

A I think Miss Segle. Didn't she?

Q I am asking you. A. I wasn't there. You was.

Q I know she did but I don't want to testify.

A I know I saw her going in and out of the door where we were not permitted to go.

Q Do you remember December 28 at the Supreme Court?

A I know what was there. I don't know whether it was around the 27th, 28th or 29th. I wasn't there.

Q Were any of the books that you had control of there at that hearing? A. I don't know. Maybe you know. I have books in Hoboken from the Third Ward, Eighth District, and the Fifth Ward, Eleventh District. I have all of Union City, Weehawken, North Bergen, West New York, Kearny, Harrison. That is the books I have. I don't know whether any of those books were there or not.

Q You don't know whether they were under subpoena?

A No.

BY MR. YOUNG:

Q Is this a civil service position? A. No.

Q By whom were you appointed? A. By Mr. Stoebling.

Q You were appointed by Mr. Stoebling? A. Yes.

Q Do you know on whose recommendation? A. No. I don't know just who was chairman of our county committee at that time. Maybe it was Jim McCarthy. Maybe it was on his recommendation. I don't think I would need any. All I think, I would have to ask Mr. Stoebling himself.

BY MR. OSMERS:

Q I would like to ask Mr. Rotherham the same question I asked of Mr. Montelli. If you wanted a day off, who would you go to, in the event of Mr. Stoebling's sickness?

A If Mr. Stoebling was there and I found that I could get away for an hour or wanted to get away for tomorrow, I would get hold of one of my fellows in the department and tell them to take charge and I would go away. There is no use trying to cover that up. I guess that is what they do in most departments.

Q In the event that you wanted to be away at a certain time and you wanted it to be O.K. and proper, and Mr. Stoebling was not there, who would you ask? A. I really don't know. If you mean, would I ask Miss Seglie, I would say no, positively no.

Q You would not ask her? A. No.

Q In other words, Mr. Montelli would ask Miss Seglie and you would not ask anyone. A.Of course, maybe those gentlemen think she is in charge or think she is the person to see, but I don't.

Q In other words, you just take the day off? A. Yes. Yesterday I got no subpoena to come here. Yesterday afternoon at half-past two I had something to do, and one of the men in my department had to take charge and I went out for an hour, and during that time the subpoena was served. I heard you wanted me and I came out here. In the meantime, I got the two dollars.

BY MR. GIULIANO:

Q If Miss Seglie gave an order to you would you carry it out? A. If Miss Seglie came to me and said, "Mr. Stoebling wants you to do something, so and so and such and such," I would do it because I would believe it.

Q In other words, she was in authority?

A But, if Miss Seglie came in and said, "You do and so and so in your department," changing my method of work, I would suit myself about it.

BY MR. MURRAY:

Q Mr. Rotherham, if you got a subpoena to produce the signature copy registers under your control, to this Committee, would you do so? A. I didn't get one yet.

Q I didn't ask you that. A. Of course, you can't

tell what you do. It all depends. If I did do it and the law would require me to do it, I would do it.

Q Would you consult anyone before you would do it?

A No, sir.

MR. PASCOE: Not even Miss Seglie?

THE WITNESS: No.

Q Not even Mr. Stoebling? A. Yes.

Q Then you would consult him? A. I would tell him.

Q You would tell him? A. Yes.

Q Then you would do as you felt like doing?

A If I thought he had the right to forbid me doing it I would not do it. If I thought I had the right to do it I would do it.

Q Do you know that in the court proceedings in the Circuit Court on the Ziegener-Stoebling contest, and on the application before Chief Justice Brogan, are you aware that at both or one of those proceedings the signature copy registers were subpoenaed and brought down to court?

A No, I don't know anything about it. I wasn't there.

Q Do you know whether or not any of them went out of your department? A. No.

Q No what? A. No, sir.

Q I want to know if you know whether any went our of your department or whether they did not?

A I don't know.

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Q Would you consult anyone before you would do it?

A No, sir.

MR. PASCOE: Not even Miss Seglie?

THE WITNESS: No.

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Q You would tell him? A. Yes.

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A No, I don't know anything about it. I wasn't there.

Q Do you know whether or not any of them went out of your department? A. No.

Q No what? A. No, sir.

Q I want to know if you know whether any went our of your department or whether they did not?

A I don't know.

Q You don't know whether they went out or not?

A No. I don't think so. Maybe they did. You know if they did go out of my department, the way everything was going down there. There was books went down, weren't there?

Q I am asking you. A. If they did, maybe some went out of my department. I don't know.

Q You don't know? A. No. The orders went out.

BY MR. YOUNG:

Q Who told you to stay away from the recount? A. Nobody.

Q Nobody? A. You mean the recount? I didn't intend to be mixed up with this court affair. I don't know; we were forbidden to go to the recount room. The recount room was right next to me.

Q Who gave you the message? A. I don't know. It was talked about over the office. There was a rumor that Mr. Stoebling said not to do it.

BY MR. PASCOE:

Q You said that Mr. Stoebling told you not to go?

A No. That was the rumor in the office, that Mr. Stoebling told us.

BY MR. YOUNG:

Q That was the rumor, that you should not go in there, just the same as there is a rumor that you should not produce the books? A. I don't know.

BY MRS. SANFORD:

Q May I ask who started the rumor? Someone must have given some instructions to someone? Who started the rumor?

A There are seventy or eighty people and I don't see Stoebling once a month, sometimes not once in two months, and if all the other departments were told not to go in that room, of course I had no inclination to go in, anyhow.

BY MR. YOUNG:

Q The department is run by rumors? A. Well, you know how things are.

W I L L I A M F. C L O S S E Y, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. WIENER:

Q I understand that you, Mr. Clossey, are the chief of the Hudson County Boulevard police? A. Yes.

Q Chief, were you informed that the recount in the gubernatorial contest was over Friday? A. I read it in the newspapers.

Q When? A. I think it was Friday night.

Q Were any of your men assigned to the recount?

A There were four.

Q Four of them? A. Yes.

Q When were they assigned? A. Just before they started the recount, about ten weeks ago.

Q Do you remember their names? A. Yes. Sweetin, Sullivan-- I can get the other two in a second. It just went out of my memory.

Q Who ordered them assigned to the recount? A. I had been out to lunch. When I came back there was an order on my desk to the effect that the Boulevard Commissioners, they had notified me to assign four men over to the recount.

Q The Boulevard Commissioners? A. Yes.

Q Who sent that note? A. The note came over the wire to the lieutenant at the desk.

Q And who dispatched the note? A. From the office?

Q Yes. A. I think it was the president of the Board.

Q Who is the president of the Board? A. Commissioner Vanderbach.

Q Did you have any conversation with him concerning these men? A. About leaving the men he always told me to get in touch with Supervisor O'Neill.

Q He told you to get in touch with Supervisor O'Neill?

A Yes.

Q Is it your practise to dispatch your men to assignments of this type? A. I would assign them to different places all over the county.

Q At whose request? A. Different requests, Republican and Democrat, anybody else, to help them;when they have a prominent person coming around we generally give them an assignment.

Q Are you familiar with the statute creating your Commission and your Police Department? A. Yes.

Q Have you read the functions of your Police Department?

A Yes. We have got police powers throughout the whole county.

Q To do what? A. To go places, wherever we are told by the superior officer.

Q Who is your superior officer? A. Commissioner Vanderbach.

Q And you said O'Neill? A. No, I said Commissioner

Vanderbach.

Q On other occasions when Supervisor O'Neill had requested assistance, you had to furnish them assistance?

A No. O'Neill never called me. Different people around town called me.

Q Did you ever ask for a legal opinion as to whether or not you should assign your men to this recount?

A I didn't ask for a legal opinion.

Q Or is it the practise in Hudson County to ask for legal opinions on what not to do? A. They are assigned to keep order, and there was a terrible crowd, and they were there not all at one time. They were there in different shifts.

Q Now, as a matter of fact, your Commission has no right to do anything but to maintain the Boulevard?

A You will have to take that up with them.

Q Don't you know the law under which you work?

A No, I don't suppose-- I know that work.

Q Don't you ever bother reading the statute to find out what your duties are? A. Yes. I know the duties I have to perform.

Q As a matter of fact, you know that you have no right to take your men off the Boulevard? You know that theyhave no power anywhere else but the Boulevard? A. You are wrong altogether. You had better read the law. We have got power

all over the county.

Q Not according to the statute under which you are created. A. We got power all over the county.

Q Did you ever ask anybody whether or not you had the right to assign the men to the recount? A. I suppose we have. There are two lawyers out of the three Commissioners.

Q Did you ask them? A. Yes.

Q You had a definite conversation with them? A. Yes. Mr. Vanderbach told me. He is a lawyer and Commissioner Taft is a lawyer.

Q Were you ever present when a resolution was passed calling for you to do this? A. He told me over the wire.

Q When the recount was over, did you inquire whether or not your men were to continue on guard? A. Yes. I am talking about Commissioner Vanderbach.

Q How about the conversation you had with John Corcoran?

A I didn't have any conversation with John Corcoran.

Q You never talked with him? A. No. I don't know the man.

Q You never talked with him? A. No.

Q What did Vanderbach say to you about continuing your men? A. They was to stay on there for a short time longer.

Q What was the short time supposed to be? A. Two or three days. I don't know.

Q And have you had any further conversation?

A Not yet.

Q Did you talk to Lieutenant Delaney downtown, last Friday night? A.No, sir.

Q You didn't have a conversation with Delaney?

A No, sir. I don't know where Delaney lives.

Q You don't have to know where he lived. You know where Headquarters are? A. I know where the Headquarters are. You said"last night."

Q You, as a statutory officer, and a person whose office has been created by both branches of the Legislature, of which this group represents one part, are now faced with the proposition of determining whether or not this group, which, in part, permits you to exist in office as an official--

A They put me out once, yes, sir, for no reason whatsoever, no reason. I went back to the court--

MR. WIENER: Mr. Stenographer, will you please read the question to him?

(The last question was read by the stenographer.)

Q (Continuing)-- And this group is now about to make a demand upon you to remove your officers from this vault, instructing you that you have no authority to place your officers at this vault because the property is public property and the records there are now demanded by this Committee. Are you willing to carry out the wishes of this particular

Committee, which represents the House of Assembly?

A If Commissioner Vanderbach orders me to do so, I will do so.

Q Commissioner Vanderbach? A. Yes.

Q Is he the chairman? A. He is president of the Board.

Q Do you usually get written orders from him?

A Yes.

Q All written orders? A. Sometimes not, sometimes yes.

Q And have you consulted him concerning your testimony here? A. No, sir, I have not.

Q If the Board of Elections, by proper resolution, instructed you that your men are no longer wanted to guard their property, he could remove your men? A. If you notify Commissioner Vanderbach and not me. Why should they notify me?

Q You, as a police officer, don't you know what you are supposed to do and not to do? A. I got superior officers.

Q In any jurisdiction? A. To carry out the police powers of this Commissioner's office. If they call up they would call up Commissioner Vanderbach.

Q You really mean it is the wish of certain individuals?

A What do you mean?

Q You know what I mean; that you are being contacted by individuals telling you what to do, regardless of what your

duties as a police officer are?

A Nobody else has got any power over me, only Commissioner Vanderbach, who is president of the Board.

Q You know, as a matter of fact-- you know that you had an argument with the Board about keeping your men out, and Delaney called you from downtown and instructed you to keep your men on? A. Nothing of the kind.

Q Chief, as a police authority, you are interested in carrying out the law and seeing that the law is carried out?

A Certainly, I am.

Q And also as such authority you would be interested in ascertaining to whom property belongs when there was some type of turmoil? A. Very likely, I would.

Q Correct? A. Yes.

Q Do you know who the owner or possessor of this vault is? A. No, I don't.

Q Do you know what is in the vault? A. Supposed to beballot boxes there, from what I understand here today.

Q What control does your department have over these ballot boxes in this vault? A. I couldn't tell you.

Q What control does your superior have over this vault?

A I don't know. You would have to ask him.

Q In other words, you are just in a position where you go out and do whatever you are told to do?

A By the Commissioner, yes.

Q Whether there is a resolution or not?

A Right.

Q Whether it is a phone call or a note pinned on your desk?

A Right.

Q You just take your orders from somebody else?

A Yes.

Q And whether it is legal or not you go out and do your duty? A. I think he is a lawyer and I think he knows his business.

Q You mean to tell me that you would take any order from Vanderbach that he would issue? A. Not to jump overboard.

Q Any order to go down and tear down a building? Would you do it? A. Do you mean to say that he would ask me to do such a thing?

Q You said that you take orders. A. But he wouldn't do that.

Q You, as police chief, knowing something was not right, would take orders? A. He would not tell me, if anything is wrong.

Q He would not? A. No. Why should he? He is a lawyer.

Q A Lawyer cannot be wrong? A. And you think you are not wrong.

Q Do you think that Mr. Young is wrong? He is a lawyer.

A Mr. Young? I hope he is.

BY MR. PASCOE:

Q Chief, didn't you take some kind of an oath when you took the position as policeman, and then later when you became Police Chief? A. Yes, certainly. We are sworn in.

Q To obey the Constitution and so forth?

A Yes.

Q Did you take such an oath? A. I am not a lawyer.

Q Did you take such an oath? A. Yes, sir, certainly. I was sworn in twenty-nine years ago.

Q Do you think that you are obeying the Constitution when you are defying the House of Assembly? A. I am not defying the House of Assembly. Do you want me to take the men out of there that the Commissioner assigned there? He is the man over me.

Q In reality you have violated the wishes of the House of Assembly. If you don't think so, we would be glad to have you read the resolution creating this Committee, and also the resolution adopted last Monday. A. You wouldn't want me to go ahead of my Commissioner? I don't know whether you have got a head--

Q At that, I have got a head; as a matter of fact, Chief, if you haven't read this resolution here it might be a good idea to read it to you so that you would know whether or not what the Commissioner is telling you was right or wrong.

A Would a lawyer tell you to do anything wrong?

Q I don't know what a lawyer would tell you or what I would tell you. A. Would he tell me to do anything wrong?

Q I don't know whether he would or not. I am trying to find out whether you know right or wrong.

MR. PASCOE: Do you have the resolution here, Mr. Wiener, that was adopted the other night? Just read it to him. If you haven't got it I have got it in my pocket.

Q Just read the resolution that was adopted the other night, relative to this very thing that was violated. I don't like to be laughed at. I am not here for laughing purposes. A. I am not laughing.

Q You are going to get a lession in legislation. Just listen to that. A. You talked to me--

Q Yes, and you are trying to have a little fun with me.

A No, I don't.

Q All right, listen. What I want to bring out, in the face of all the resolutions, just because someone else told him to violate it he violates it. He knows he did it, and to take somebody else's word, to my mind, is all wrong. The Legislature, in its serious moments on Monday night, passed a resolution, and it directs the people of Hudson County to do certain things, and here is a man who has no authority to be in that room and he is there to violate the

intent of that resolution.

(At this point Mr. Wiener read to the witness the resolution adopted by the House of Assembly on Monday night, January 31, 1938.)

Q Now, then, this is the question I want to ask you. Did you prevent my Sergeant-at-arms from carrying out that request? A. I don't think so.

Q What were you there for? A. The men was up there, as I said before-- they were there to preserve order. The recount was on, and they have been up there since. What the duties are I don't know. They were sent there by Commissioner Vanderbach's office.

Q Isn't it a matter of fact that your officers prevented the Sergeant-at-arms of the House of Assembly from carrying out that request? A. I don't know whether he did or not.

Q These people were there also, were they not? Now, in the face of that resolution are you still insistent that you are going to interfere with its execution?

A I am not going to interfere with them. The men were assigned by me. I sent them there at the request of Commissioner Vanderbach.

Q In the face of that legislation, I am asking you now, in the face of that legislation, and you know it is there, are you going to continue to prevent them from doing their duties as outlined in that resolution?

A I won't go over the head of my superior.

Q Then you say to me that you will prevent my Sergeant-at-arms from carrying out that order?

A I don't say anything of the kind. The men were sent there. I have not been there. I was no where near when the recount was on. They were there working. They reported to our headquarters, when they went on duty and when they went off. After that I had nothing to do with it.

Q You answer is that you will not comply, so far as possible, and you are able to do, with the resolution?

A Why not get in touch with my superior? I respect my boss's orders.

BY MR. OSMERS:

Q As I understand it, you regard yourself as being under the Commissioners, under their orders? A. That is right.

Q Then, in the normal, orderly procedure, the men in your department are under you? Is that correct?

A Yes.

Q The orders are given to you and then you give them to the men under you? A. Yes.

Q These men that you sent to the Spingarn Building throughout the recount, I understand, are still there?

A Yes.

Q I would like to ask you whether you would order your men to prevent the Sergeant-at-arms of the House of Assembly

of the State of New Jersey from entering that vault?

A Would I order?

Q Would you order them to prevent the Sergeant-at-arms from going into the vault? A. I have not ordered them to do anything. That is about ten weeks that they have been there.

Q You have not answered my question. I want to know simply and plainly, whether you would order your men to keep our Sergeant-at-arms from entering the vault, or not interfere with him in any way? A. Why not take it up with Commissioner Vanderbach?

Q I don't want Commissioner Vanderbach. You are the Chief of Police. I want to know yes or no. You told me that your men were under your jurisdiction, and that you are under Commissioner Vanderbach.

A Yes.

Q These men that are under your jurisdiction, are you going to order them to keep our Sergeant-at-arms, out of the vault? A. I am not going to order them to do anything.

Q Who is in charge? A. I don't know who is in charge.

Q And you don't know who has charge of these men?

A I don't know who is in charge; I don't.

BY MR. YOUNG:

Q If the Commissioner orders you to disregard this resolution you will obey those orders? A. I have to do so.

BY MR. GIULIANO:

Q Are you under Civil Service? A. Yes.

Q You are a Police Chief? A. Yes.

Q You don't think that what you are doing is right?

A I do what my Commissioner orders me, especially if he is a lawyer, a man who knows the law.

Q Do you mean to tell me that every time a crime is committed on your highway you must go and ask --

A No, not necessarily.

Q You do know that a crime has been committed?

A I don't know.

Q If Vanderbach asked you to resign, would you resign?

A No, I positively would not.

(At this point a recess was declared until two o'clock.)

AFTERNOON SESSION

P A T R I C K J A M E S D O L A N, being duly sworn according to law, testified as follows:

BY MR. MURRAY:

Q What is your full name? A. Patrick James Dolan, D-o-l-a-n.

Q What department in Hudson County are you Chief of?

A The Hudson County Police.

Q As chief of that department, could you tell us what your jurisdiction or the juriadiction of that department is?

A In what respect?

Q I mean, what has it got command over? What part of the county do you think it has got authority to go into with its police?

A Under the Act of 1923 we have got county-wide power.

Q Would you have power to go in on the Boulevard Police?

A Yes, sir.

Q On the territory of the Boulevard Police? A. I suppose any part of Hudson County.

Q Then it is your understanding that the authority of your department is greater or higher than the authority of the Boulevard Police? A. No, sir. I think they come under the same Act.

Q You think that they have equal power with you?

A I think so, but I am not sure, but I know the county police have got county-wide power. I don't know whether the Boulevard Police comes under that or not.

Q As a matter of fact, have you sent any of your men in on the Boulevard to do any police duty at any time?

A No, sir, only if it is a request, a big parade or something.

Q You wait for a request? A. Yes.

Q From whom would you require that request to come, in connection with anyone connected with the Boulevard Police?

A Well, if one of the lieutenants rang up and said they had a bad accident or fire and he requested a man up there we would send a man up. We would not pick up a man and shoot him over there.

Q Supposing they called one of your policemen to go and do police duty on the Boulevard, not in an emergency, from whom would you demand that request?

A We never go in on the Boulevard.

Q I am supposing, and it may be a supposition contrary to fact, but let us suppose that such an occasion arose and they wanted from you some of the County Police to go in and do police duty on the Boulevard. I am assuming now that the Boulevard Police Department would want some of your men. From whom in the Boulevard Police in Hudson County would you

require that request to come from? A. If it came from the desk we would shoot the man right over. If anybody on the desk told us to shoot a little help over, and vice versa, if it was a request for help on the Pulaski Skyway; you know?

Q In other words, if you got a request from Headquarters you would assume that the man on duty had authority to ask you without your asking him anything further? Right?

A Yes.

Q If the Boulevard Police wanted help from you on their territory, or if the Jersey City police wanted some of your men to go in on city territory, from whom would you require that request in the Boulevard Police Department and in the Department of Public Safety in Jersey City?

A Lots of times I would be out on the road, and maybe an inspector would be on an accident or something. It would come in to the man on the desk, to give all the help they can give. We cooperate but we don't go into any town without somebody asking us for help.

Q Chief, would you require that the head of the particular department request you to send the men in?

A No, sir.

Q You take the request from anybody at the desk?

A Yes.

Q For instance, if the Jersey City police called some

of your men to go in and do police duty in Jersey City territory,and somebody from the Seventh Precinct in Jersey City called up, would you send them in? A. It is according to what it would be. I wouldn't go in there and interfere with them.

Q I didn't ask you that. I am asking, if they called up, somebody from the Seventh Precinct in Jersey City called you up, and they said, "This is Lieutenant so and so of the Seventh Precinct. We would like you to send two men or four men in here to do police duty,"county police, what would you tell them? A. You mean if the Seventh Precinct asked me?

Q Yes. A. Sure.

Q You wouldn't say, for instance, "Does the Chief of the Jersey City Police, Chief Walsh, does he want them or Commissioner Casey, the Commissioner of Public Safety?" Would you ask this question? A. No, because it might be a holdup, and before you got him they would get away. It might be a fast one, like a head-off.

Q A head off and you would try to put it on again?

A I don't know what you mean. What I am trying to explain, if they give us a fast one over the phone we locate our men and try to head off the alarm, and we get-- is that the answer you want?

Q That is not a very good answer but that will do.A.That

is the way we work.

Q So that if the Fourth Precinct called up you would do the same for the Fourth? In other words, you would not say, "Well, have your Police Headquarters call up, have the one in charge of Police Headquarters or the Commissioner of Public Safety call up and request it"? A. No, because you would be too late. As I say, in an accident and things, they give us a ring-- you are familiar with Jersey City.

Q I ought to be. A. I know. If it is what you call a hit-in, a bad accident, around the stadium, on the back road--

Q Let us assume-- you don't know whether it is a bad accident or any accident at all-- they ask you for four men. Would you give it to them? A. No, I wouldn't give it to them.

Q Why not? A. I wouldn't go in and do police duty in any other town.

Q Wouldn't you go in at all and do police duty in another town? A. What I call a hit, that is the police slang.

Q Let us assume that it is not a hit? A. All right, it is a foul ball.

Q And it is not caught. Let us assume it is a foul ball and it is not caught, and it is not a hit; would you send men in if they requested you, from any particular precinct in the

City of Jersey City, without consulting the superiors? You know the superiors in the Jersey City Police Department, don't you? A. Yes, sir.

Q Who are they? A. Well, now, you know I know them and you are trying to save time. You know well enough I know them, and so do you know.

Q I know, but the record does not know that.

A All right; the Director of Public Safety.

Q I want you to put yourself on record personally as to who is the department chief? A. All right; Commissioner Casey, Director of Public Safety.

Q And who is under him? A. Who is under him?

Q Yes, in the Police Department. A. Chief Walsh.

Q Wouldn't you require some word or request from those men or either of those men, or perhaps, Deputy Chief Wilson or Inspector Underwood, or some of those superior officers of the whole police department, Jersey City, if you sent men in to do police duty? A. As I said before, if it was coming fast--

Q Outside of it if it was a hit? Even a sacrifice hit.

A I don't know what you are driving at.

Q I am driving at whether or not you would require a request for men to go in on territory in Jersey City and do police duty. Would you require a requestto come from some

superior officer of the whole department; and not from someone at the desk in a part of that department? In other words, would you let the part control the whole or would the head of the whole control the part? You can answer that question. A. The only instance I know, if you require that answered, the only instance I know--

Q I don't want the instance that you know. I want to know whetheror not you, as Chief of Police of the Hudson County Police Department, would send men in to do police duty without a request from anyone except the superior?

A I would, on a hit.

Q But it is not a hit. A. We would not bother with Jersey City. We have an agreement that we don't go in for anything unless there is a request from the head.

Q Is the territory at the corner of Newark Avenue and Summit Avenue, Jersey City, at which place the Spingarn-Arcade is located, Jersey City territory for police purposes, or isn't it? A. I guess it is, for police purposes.

Q Did you detail any men from your department, the Hudson County Police Department, to do duty on the seventh floor in the Spingarn-Arcade Building, at Summit Avenue and Newark Avenue, Jersey City? A. No, sir.

Q Do you know that Inspector Joseph Neary and Lieutenant Alfred Antonacci were detailed, or, if they were not detailed, were working there as police guards in uniform and

arms, at the vault on the seventh floor of the Spingarn-Arcade Building? A. Did I know they were there?

Q Yes. A. Yes, sir.

Q Did you detail them? A. No, sir. I was out when Supervisor O'Neill rang for me. I was out to Newark. Inspector Neary was there and he gave the detail to Neary.

Q Where was the inspector? A. In Headquarters.

Q When? A. That day.

Q What day? A. I don't know the day.

Q The day that Supervisor O'Neill of Hudson County telephoned to Headquarters? A. Yes.

Q About what day? What month was that? A. I don't know. I paid no attention to it.

Q You paid no attention to it and you are the Chief of Police of the Hudson County Police Department?

A Yes.

Q Don't you keep a record of those things? A. No. He is on a detail.

Q What do you mean by "on a detail"? A. The Supervisor supersedes me, you know.

Q He does? A. Yes.

Q He is your superior? A. Yes.

Q Is there anybody else between you and him, that is, superior to you and superior to him, in rank?

A Under our Police Manual the Supervisor has got control of the police when the Board of Freeholders are not in session. When the Freeholders are in session the Freeholders supersede the Supervisor, when the Board of Freeholders are in session. When they are not in session the Supervisor is our boss, according to our Manual, and we take all orders off him.

Q How long were these men detailed to that particular place? A. How long have they been there?

Q On the detail? A. I really don't know. I was laid up sick.

Q Approximately how long? A. I don't really know. The Supervisor sent the inspector over, and when I heard that he was sent up there I called up the Supervisor, who is my boss and he said, "Get Neary over there," and I ran the police department from Headquarters. Inspector Neary, he reports to the Supervisor.

Q Inspector Neary reports directly to the Supervisor? They ignore the Police Department entirely in reference to that particular detail? A. No, no. He is detailed by the Supervisor. I am running the Police Department and he is running the detail at the recount.

Q Who is? A. Inspector Neary.

Q Under whose orders? A. Under the Supervisor's orders; not me at all.

Q Who else is on that detail, of your department, under the direction of the Supervisor and not under your direction?

A Antonacci, Acting Lieutenant, and Acting Lieutenant Cogan, Acting Lieutenant Nash, Inspector Neary.

Q Those four? A. Yes.

Q And those, too, have been on that detail? A. They have all been on that detail since the recount started.

Q That is since the latter part of November? Right?

A I don't know.

Q I mean approximately. A. I guess so. I know the recount was on. I never went near there.

Q Haven't you ever been over there? A. No, sir.

Q Weren't you over at the recount headquarters last Saturday? A. Saturday morning there was no recount.

Q I said, were you at the recount headquarters? I will make it more specific for you. You said that you never went over there? A. No, there was no recount.

Q The recount headquarters were in the Arcade Building on the seventh floor? A. Yes.

Q You knew that your men were detailed there, even though you didn't have supervision? You knew that?

A Yes.

Q Then you were over at the recount headquarters?

A Saturday?

Q Yes. A. Yes.

Q Did you pass any remark to anybody at all?

A No, sir. I was looking for Inspector Neary, and he wasn't there.

Q You didn't even hear the question and your answer is no. You are as good as the Attorney General in Jersey City. They give you opinions before you ask them.

A Maybe I am wrong.

Q Did you pass any remark to anybody last Saturday?

A Antonacci I spoke to. I said, "Where is the Inspector?"

Q I didn't finish the question. A. Maybe I am a little too fast.

Q In reference to this fact-- A. Then what?

Q In reference to this, that this Assembly Investigating Committee would never get the poll books that were inside the vault? A. I said that?

Q I am asking you. A. No, I never said that.

Q What did you say along that line? I thought you had nothing to do with it. A. I just told you I came looking for him. I was only there about three minutes. He wasn't there.

Q And you had to look a lot in that three minutes?

A No, sir.

Q You didn't say anything like that? A. No.

Q Have you got control and supervision now over the four

men who had been detailed there for duty at the time of the recount? A. Will you repeat that?

Q Have you now got supervision, as Chief of the Hudson County Police, of the four men who had been detailed by the Supervisor to do police duty? A. Yes, sir. They come under the County Police.

Q Have you got control over them? A. Not now. The Supervisor supersedes me.

Q Why did you go up there Saturday? A. Looking for Neary.

Q What did you want with Neary? A. I wanted to talk to him.

Q What about? A. Antonacci.

Q What did you want to talk to him about Antonacci for?

A I heard that Antonacci was not in uniform, and I found Antonacci in no uniform and I bawled him out.

Q Why did you have to bawl him out if he wasn't under your supervision? A. I went up to talk to Neary. I couldn't find him.

Q Was he supposed to be there? A. Antonacci told me he went to get a tooth pulled.

Q Why did you bother about whether they were there or not there, if they were under the direct orders of your superior, John O'Neill, Supervisor of Hudson County? A. (There was no answer.)

Q Didn't you go up there with four men that day?

A No.

Q Weren't you in uniform? A. No.

Q Did you take command of them when you went up?

A No, sir.

Q Did you deliver any orders to them? A. No.

Q Did you tell them that you had been talking to anyone in reference to special orders, and that they were not to let anybody go near that vault? Did you tell them not to let anybody break the seal on that vault?

A No.

Q Whom did you talk to when you were up there?

A I talked to Antonacci.

Q Was he the only one there? A. I didn't see them.

Q I mean, police under your department? A. I was only in the hall.

Q You didn't go inside? A. No.

Q I thought you were looking for Neary? A. Yes.

Q That is not the way you usually look for criminals?

A This is no criminal case.

Q It may be a very serious case before you are finished, and I think the sooner you get that in your mind the better it is. You say you didn't make any reference to that?

A No.

Q Am I to understand, then, that these men who are detailed

there are still detailed under the direct supervision of the Supervisor of the County, John O'Neill?

A Yes.

Q And they are taking orders from him only? A. Yes, sir.

Q And you didn't, or did you, order anyone not to go near the vault, not to open the vault? A. No, sir. I talked to nobody, never seen them.

Q If they are put back under your supervision and authority, will you order them to step aside and let the Sergeant-at-arms of the House of Assembly of the State of New Jersey, who has been authorized to go and get records which are in that vault, authorized by the House of Assembly? Will you order those men to step aside and let the orders of the House be fulfilled and carried out?

A I will go according to the Manual.

MR. MURRAY: Mr. Stenographer, will you please read that question to him?

(The last question was read by the stenographer.)

THE WITNESS: I will, if the Supervisor gives me orders.

Q And if he gives you orders not to, then you will defy the orders of the House of Assembly? A. I am not going to violate the manual.

Q If the Supervisor of Hudson County, John O'Neill, tells

you not to take these men away then you defy the orders of the State of New Jersey and keep them there? Right?

A Yes, sir.

Q O.K. Do you figure that the Police Manual is superior to an order from the House of Assembly of the State of New Jersey? A. I don't know how to answer that.

Q You don't know? A. No.

Q Did John O'Neill tell you that he got orders from anybody else, or did he tell you that he was told to tell you to detail those men under your supervision?

A He never told me a thing.

Q Did you ever get any calls from anybody in the City Hall of Jersey City? A. (There was no answer.)

Q You can answer that, Chief. A. What was the last question?

(The last question was read by the stenographer.)

THE WITNESS: No, sir.

MR. MURRAY: That is all for the present.

We will recall you, if you don't mind, Chief.

H A R R Y W. V A N D E R B A C H, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. WIENER:

Q What is your full name, Commissioner?

A Harry W. Vanderbach.

Q What is your official position in Hudson County?

A Boulevard Commissioner.

Q You are a Boulevard Commissioner? A. President of the Board.

Q You are the president of the Board? A. Yes.

Q Do you have what is known as a Boulevard Police Committee? A. Police Committee? No.

Q Are you the man directly responsible for the conduct and duty of the Police Department, under your Commission?

A Under the Commission, yes.

Q Are you the man who supervises their conduct?

A Supervises the conduct? That is supervised under the Chief, who is responsible to the Commission.

Q Is he responsible to the whole Commission?

A To the whole Commission.

Q What is the practise of your Commission concerning issuing of orders to your police? A. The orders are usually issued through the president of the Board; myself.

Q Directly? A Yes.

Q That is, without consultation with the other two members of the Board? A. Of course, you consult with the other two members of the Board but the orders are issued directly by the president.

Q You don't have formal meetings? A. Not on matters of that nature.

Q When a matter concerning the detail of some men to some duties which are ordinarily outside of the regular function of your department, come up, do you hold a meeting?

A No.

Q Then you are directly the man who enters all orders and decides all questions? A. Well, to an extent, yes.

MR. YOUNG: He is the law of the Boulevard Commission.

Q In other words, your Police Department is used to or accustomed to carrying out your orders without a formal resolution or ordinance of your Commission?

A I would say yes.

Q Did you, at the beginning of the court recount, instruct your chief to detail men at the Spingarn-Arcade Building?

A I did.

Q Who requested that detail? A. Supervisor O'Neill.

Q Supervisor O'Neill? A. That is right.

Q In what capacity? A. As County Supervisor, and also as he told me at the time, that he hadhad a request for

men to maintain law and order at the recount, and that the County Police did not have sufficient men to warrant taking the men from the regular detail and putting them at the recount, so he requested that we detail four men, which was done.

Q Did you know that the detail was to be stationed in Jersey City? A. In Jersey City, in a county office, yes.

Q What do you mean by "in Jersey City in a county office"?

A It was my impression that the recount was to take place in the Hudson County Board of Elections, which is a county office.

Q Did you realize that the Jersey City Police were not consulted or didn't have a detail? A. I didn't know anything about that, and don't know yet.

Q Did Supervisor O'Neill tell you who requested the detail from him? A. To the best of my knowledge, the County Board of Elections. I don't recollect the actual conversation but I think that is it.

Q You don't know whether a resolution was passed by the County Board of Elections, requesting the detail?

A I don't.

Q Do you know whether or not you, as Chairman of this Commission, had the right to take your men from the regular details and assign them in the Spingarn-Arcade Building?

A I believe we have the right.

Q Will you explain to us why you believe you have the right? A. Well, the County Boulevard police, the same as the County Police, have jurisdiction through the entire county, under the Act creating the Commission. When a request comes from a county authority which the county are not able to handle, I feel we had authority to go ahead and assign the men.

Q Are you familiar with the Act creating your Commission?

A Slightly. It is a good forty years old. I don't know the entire wording. I know the contents fairly well.

Q Does that Act specify as to the duties of the police department? A. Not specifically, no.

Q What kind of a Commission is it that you are the head of? A. If I am not mistaken our Boulevard Commission came down under the old Freeholders Road Act, and because of the fact that the Freeholders were not-- possibly didn't have the time, or for some other reason, they maintained the Boulevard Commission whose duty it was to take care of the Hudson County Boulevard, at the same time giving them authority to appoint and carry on a police department.

Q What does it say about the police department, if anything? A. Merely that the police shall be county officers, having jurisdiction--

Q Commissioner, as a matter of fact, you know that your

Commission, under the statute, was created for the purpose of maintaining and conducting a highway going through the county? A. Yes, that is right.

Q And the Act is limited to that basis, that you shall have the right to hire and acquire such assistance as may be necessary for the conduct of maintaining that highway?

A That is also right.

Q Can you tell me where in the Act your police have the right to do anything but maintain that highway?

A The only thing in the Act that I see is the fact that the police have county jurisdiction, making them county police, and as county police they are subject to and can make arrests in any part of the county.

Q As a matter of fact, the Act does not mention police, is that so? A. The earlier act does not but there are some supplements, if I recall, that do give power to create and maintain a police department.

Q As to the maintenance of that highway, and nothing else? A. No, it doesn't say that.

Q As a lawyer you know that the other county police are created specifically under a special statute, and are permitted and authorized to conduct their police duties throughout the county? A. I wouldn't say that.

Q I know it because I read it before I came here today, and I say that you had no authorization to send these men as

you did. A. That is your opinion against mine.

Q Did you ask for a legal opinion before you sent these men out? A. I did not.

Q Isn't it customary to ask for a legal opinion?

A No, not in all cases.

Q When the recount ended, were you informed of that?

A The recount has only been ended two or three days, to my knowledge.

Q Did you know that? A. I read the newspapers.

Q When? A. I assume they ended last Thursday or Friday, if I am not mistaken.

Q Did your policemen report to you that it was ended?

A They did not.

Q What were they to do? A. They were merely to stay there and maintain law and order at the recount.

Q If the recount ended what was the sense of keeping them on? A. I don't know why they were kept on. All I know they were detailed for certain specific purposes.

Q You ordered them there. Weren't you interested to find out why they don't go back to their regular positions?

A No, not particularly.

Q Why not? Because it is the taxpayers' money and not yours? A. I suppose I didn't think of it.

Q Did you instruct your men to prevent or stop the

Assembly Sergeant-at-arms in his effort to open the vault at the Spingarn-Arcade Building? A. I did not.

Q When they did so, they did so without your authority?

A Undoubtedly they had some good reason for that. I don't know, but if they in any way interfered with the Assembly in its legal right it is without my authority.

Q Do you think that the Assembly has the right to get the poll books? A. Frankly, I would say no.

Q For what reason? A. For the reason that I think any Committee--

Q For the reason that they are public records?

A No, not that.

Q If this Committee wanted to come to your Boulevard Commission to find out how you were spending the money, and to look at your records, you would not give them the books?

A Our records are open.

Q Why shouldn't the others be open? Because somebody downtown told you they are not to be opened? A. Nobody spoke to me. I haven't heard from anybody at any time, any action I have taken has been my own.

Q If I assured you that the law said that these books were the property of the Commissioner of Registrations, who did not authorize you to detail your men and protect that property, would you remove your men? A. I suppose if they

are interfering in any way with the legal possession of the books I would.

Q If this Committee instructs you to withdraw your men, due to the fact that they are interfering with the Legislative function, would you withdraw your men?

A First I would want to go into the fact whether or not the Committee had the legal right to get the books.

Q Don't you think it has the right to get them?

A The first time the request was made to me is now. I received a subpoena at a quarter of two, and at two-thirty I responded.

Q You didn't know, until you had received our subpoena, that your men were interfering with a duly adopted resolution passed by the whole Assembly of the State of New Jersey last Monday night? A. After all, most men are liable to any law. If they thought they were upholding the law that is--

Q If they are in a room where they have no right to be are they upholding the law? A. No request was ever made to the Boulevard Commission to put the men in any room whatsoever.

Q I am going to ask the Chairman to make a formal request of you,as the man who admittedly, dictates the conduct of those police officers, to remove your men from those premises, due to the fact that they are distinctly interfering with the Assembly order.

MR. YOUNG: Mr. Commissioner, on behalf of the Committee, I will now request you to remove your men in so far as they interfere with this Committee in obtaining the poll books that are stored in that vault.

THE WITNESS: Mr. Chairman, I will have to request that the Committee make that request to the Boulevard Commission in writing to give me a chance to submit that to the County Counsel for an opinion as to the legal rights of the Committee to obtain them.

Q Did you demand an order in writing when the police were requested to stay there? A. No, sir, I did not.

Q Do you think that the Legislature has a less important function or not equal function with Supervisor O'Neill as an individual? A. Acting as one section of the House, I think it has.

BY MR. YOUNG:

Q Did you require a request to the whole Commission for the placing of those police there? A. I merely said the whole Commission, because of the fact that in a request of this nature I would unquestionably pass on it on advice of counsel.

Q Did you ask the advice from the County Counsel when you placed those people there? A. I did not. I thought it was the duty of the police and a county function.

Q Your Board is a board of limited jurisdiction, is that

so? A. To a degree, yes.

Q Yet you claim that your police department has a jurisdiction that transcends the jurisdiction of your Board, is that so? A. The police, by reason of the fact that they are sworn as police officers, under the county police department, they have jurisdiction throughout the entire county.

Q Then you don't really need the County Police and the Boulevard Police? A. I think you do, yes, because of the fact that the county road functions are different than the Boulevard functions.

Q What is the difference? A. Because of the fact that the county roads are highways, more or less rural. They have their own police department, which takes care of that. We have a heavily trafficked highway which, I would say, is one of the heaviest trafficked highways in the state.

Q Does your heavily trafficked highway need its police to police that highway? A. Yes.

Q What reason is there for your police to guard a vault which is at least a quarter of a mile from the highway?

A Merely complimentary to the County Police who made the request, because of the fact that they were shorthanded, and Supervisor O'Neill requested us to assign the men.

Q In other words, you were extending to the County Police a courtesy? A. To an extent, yes.

Q You have not considered whether that courtesy transcended your power? A. In my opinion, the courtesy does not transcend my powers.

BY MR. WIENER:

Q I wondered, Commissioner, by what doctrine of legal analogy or research you seem to feel that the County Supervisor supersedes or is superior to your particular Commission? A. After all, my theory is based on the fact that the Boulevard Commission is merely an offshoot of the Board of Freeholders over which he has veto power and complete jurisdiction. Therefore, I am of the opinion that a request coming from him comes with suffieient weight to be considered by the Boulevard Commissioners.

Q When was the last time that you read the Boulevard Commission Act? A. Possibly seven or eight years ago.

Q You have been a commissioner during all that time?

A I have been there now going on my seventh year.

Q As a matter of fact, doesn't that law say that your Commission supersedes the Board of Freeholders as to these county roads, as to the Boulevards? A. As to the Boulevards, yes.

Q And the funds under which your particular Commission functions are absolutely free and apart from the Board of Freeholders, and set aside in a specific fund?

A Once they have been allocated, yes.

Q So that you are entirely an independent function, is that right? A. I would say yes.

MR. YOUNG: Appointed by the Board of Freeholders?

THE WITNESS: Elected.

Q As a matter of fact, your budget is made up by a direction of the act. It is mandatory, and it requires the Board of Freeholders to assess a certain amount of taxation for the purpose of raising your funds? A. Our budget is not mandatory.

Q It is mandatory on the part of the Board of Freeholders?

A No.

BY MR. YOUNG:

Q Can they veto your budget? A. Yes. They fix our budget. We submit a budget to the Board of Freeholders and they give us what they think we need. It is not enough. I wish it were.

Q If we were to present this written request here formally, which you suggested we should, and the Commissioners were to agree that the police should be removed, would you still think you ought to go to Supervisor O'Neill, before removing those police? A. I would not.

Q You would honor his request? A. Yes, I would, as County Supervisor.

Q In other words, Supervisor O'Neill had no authority to make the request to you, and you said that you complied with it as a courtesy? A. I don't know what his motive was.

Q Did he have any authority or not, to call on you for assistance? A. I believe he did have, as County Supervisor.

Q Then he can call your men off also, as County Supervisor, can he not? A. If the request comes to us.

Q If the request comes to him? A. To him, from whoever requests it of him, which, I assume, is the County Board of Elections.

Q If the request comes to him directly from us he can call off your men? Is that what you are saying? A. Yes.

BY MR. WIENER:

Q Now, we are going to read from the Revised Statutes. It is very unfortunate that we have to familiarize the commissioner with his own Commission. A. I am glad to learn it.

Q I am now going to read from the new Revised Statutes. They are as recent as 1937, I believe, under the title of, "Counties and Municipalities," Chapter 17. There is a specific chapter which creates county boulevards and boulevard commissioners.

First of all, as to the function of your particular Commission, Title 27, Chapter 17, Section 1, "County Boulevards

authorized; construction and maintenance; connecting roads. 'An act to authorize the Board of Chosen Freeholders of any of the several counties of this state, to lay out, open, construct, improve and maintain a public road therein,' approved April seventh, one thousand eight hundred and eighty-eight, saved from repeal together with supplements and amendments and supplements to supplements thereto;. . . ."

"This act as supplemented provides for the construction, in counties adopting the act by referendum, of a public road extending through the county in any direction. It further provides for the condemnation of land for, and the maintenance and widening of such public road and authorizes the construction and maintenance of branch roads connecting therewith. Supplemental acts regulate the laying of pipes of various kinds beneath the surface of the road, the construction of sidewalks along such road and assessments for benefits therefor."

Section 2 provides for the election of Boulevard commissioners and Section 3 provides for the nomination and election; Section 4 for the oath and bond and filing. Section 5, "Commissioners supersede freeholders in certain matters."

You have admitted that you supersede them as to the maintenance of roads.

Section 7 provides for the annual requisition for funds; control of funds. "On or before July first in each year, the commissioners shall make a requisition in writing on the Board of Chosen Freeholders of the county, for the moneys necessary to enable the commissioners to carry out the purpose of this chapter.

"The Board of Chosen Freeholders shall cause the amount to be raised and collected in the same manner as money for other county purposes and the moneys thus raised shall remain a fund in the hands of the county treasurer to be used for such purposes only, and to be drawn, on warrants signed by the president and secretary of the commission, and the Board of Chosen Freeholders shall have no control over the fund."

Section 8 provides for Commissioners; use of county property; employees. "The commissioners shall be entitled to the use and possession of all property and plant of the county used for maintaining, lighting and repairing such road and may employ such agents, servants and employees as they may deem necessary for the proper performance of the work to be done under this chapter, and may fix their compensation which shall be paid out of the fund appropriated for the use of the commission as hereinbefore provided."

Now, I would like to see where you can show me, Commissioner, where your Commission has the right to do anything but maintain the Boulevard Commission and hire men to patrol or keep in condition or pave the Boulevard, or do anything other than work of that nature. You show me in that law where you have the right to send men away from your Boulevard.

A (There was no answer.)

Q There is the law (indicating). You are a lawyer, sir. Answer it, if you don't know. A. Supposing I say I don't know. That is the simplest way.

Q Somebody knows and we are trying to find out who the people or the person is who is using taxpayers' money for doing what they are not statutorily directed to do.

BY MR. OSMERS:

Q You just stated, Commissioner, that you do not know what the powers of your employment are. I believe you answered Mr. Wiener's question, after he read the law, that you didn't know what the powers were from that, is that correct? A. I knew the powers of the Commission, and my assumption was that our department was a county police department, and that the jurisdiction was countywide.

Q I mean, that was your own opinion. Apparently, when we asked you the direct question as to what your powers are you don't know, but when Supervisor O'Neill made the

request on you to place men on the seventh floor of the Spingarn Building, men who are statutorily supposed to be patrolling a certain highway, at that time you apparently did know. A. At that time I felt the same as I do right now; in my opinion, my officers have jurisdiction throughout the entire county.

Q By virtue of what? A. By virtue of the authority that is vested in the patrolmen.

Q How can they patrol the county if the Boulevard Commission employs them? This act does not seem to be very complicated. You fellows set up highways and hire such people as you need to maintain them.

A It is merely an assumption, I suppose, on my part.

Q You mean that it is a power that they do not possess in law, that you personally assumed they had? Is that correct? A. I suppose it is.

Q Then, under the circumstances, when it has been demonstrated here before the Committee, that you are acting without authority, and contrary to the law of the State of New Jersey, why aren't those men immediately withdrawn?

A My opinion of a police officer is that he is a police officer no matter where you place him. After all, any person--

Q We realize, Commissioner, that each citizen has police authority. I am not a lawyer. If I see a murder committed

I realize that I should grab the man, but I don't go to the seventh floor of some building in the course of my duty, to enforce the law. A. The only question is, there has been a request by the County Supervisor.

Q There has been an illegal request for you to exceed your power, is that correct? A. Not necessarily. At the time I didn't think I was exceeding my power, and I still don't think I did.

Q You think that the Boulevard Police of Hudson County should be, as a matter of fact, even on the seventh floor of a building? A. As county officers, and if the request comes from people in authority.

Q Other than county offices?? A. They are still county officers.

Q Under this statute by which you receive the money to operate your Commission, you are there to maintain only the highway. They are not county officers. Let us have it understood correctly, now. They are not county officers, are they? A. I still believe they are. After all--

Q By virtue of what? A. By virtue of their authority as police officers.

Q But they are employed as police officers only in so far as the Boulevard is concerned, not in so far as Hudson County is concerned. The law book was around here. Maybe there

is a place that says so. The point I want to make is this; I understand that ten weeks ago you may have been under the impression, and it may have been the practise to send these men anywhere in the county for any police purposes whatsoever, but now, in view of what has been read here to you by a member of the Committee, and you, particularly should understand the law, don't you think that they are acting absolutely without authority and contrary to the statute if they in any way deviate from Boulevard work?

A Of course, I have not had a chance to completely check the law as presented but if that is the law, then, all right.

Q But if you find that to be the law as read here, we have no reason to believe that those men would be withdrawn, is that correct? A. Yes.

Q In spite of the fact that Supervisor O'Neill might order them? A. That is the reason I requested the Committee to submit their request in writing so that I could find out from the County Counsel just what the jurisdiction of the police was. If they advise me that the police have no jurisdiction there I will get them out.

Q In other words, you want the Committee to write you and ask them whether they are going to obey the laws of Supervisor O'Neill or obey the laws of the State of New Jersey?

A Requesting the removal of the men.

Q These men are there contrary to law. A. The law as presented, yes, but I still want the opinion of the County Counsel.

Q You still want the opinion of the County Counsel as to whether you should obey the law or not? A. As to whether I am obeying the law or infringing it. If I am infringing the law then I will have the men removed.

BY MR. GIULIANO:

Q You are a former member of the House of Assembly?

A Yes.

Q An ex, like a good many of us? A. Yes.

Q How many years were you there? A. Three.

Q You have voted on a resolution empowering a Committee?

A I did not.

Q Are you positive about that? A. Positive.

Q You say that this Committee has no power to look at the poll books? A. That would be my opinion, even if I were in the Assembly.

Q Do you remember, last year, when the Hudson County delegation fought fearlessly on the floor to investigate Wildwood? Was your opinion the same then as it is now?

A Two wrongs never make a right, Mr. Giuliano.

Q Do you remember that your Democratic leader, Mr. Walker, who is now a member of the Court of Errors and Appeals,

sponsored that resolution? A. It is a matter of record. I should know it.

Q You know it, don't you? A. Certainly, I know it.

Q What years were you in the Legislature? A. I was in the Legislature in 1929, 1930 and 1931, in the era of Morgan-Larson.

Q You know something about this recount, I presume?

A I don't know a thing about it.

Q You know that an order was signed? A. Oh, yes.

Q Did Supervisor O'Neill sign the order giving us the right to go in and count the ballots? A. I did not assume so, no.

Q You know it was Chief Justice Brogan? A. Certainly, I know.

Q And I presume that O'Neill does not supersede Chief Justice Brogan, does he? A. No.

Q Chief Justice Brogan did not call on you to send police there, did he? A. No.

Q The Board of Elections did not call on you to send police there, did they? A. No, not directly.

Q Then, tell me what control has Mr. O'Neill over election matters? A. Other than in his position as County Supervisor? I would say none, but as County Supervisor he still is the ranking officer of the county.

Q The ranking officer in what respect? A. The

highest executive office, I would say, in the county.

Q Isn't he the director who sits in the meetings of the Board of Freeholders? A. No.

Q I thought I understood you to say that Mr. O'Neill's powers are veto powers, and that is all? A. As Supervisor, but there is a director in the Board of Freeholders.

Q Can Mr. O'Neill direct the department of Old Age Pensions, we will say? A. No, I wouldn't say so.

Q If he can't direct that department that comes under the Board of Freeholders, he certainly cannot direct your department? A. He don't direct us.

Q I thought you took the request from him?

A A request and a direction are two different things, Mr. Giuliano.

Q You call it a request, just to send police, or a direction? A. They requested me to send police, which I did. I don't say I had to send them. He just said that the County Police were very shorthanded and could not assign men and he asked me if I could detail some men.

BY MR. YOUNG:

Q You also told me that if the County Supervisor asked you to remove the police you would have them removed?

A That was not the question. If he requested that I would remove them?

Q I said, if this Committee directed Supervisor O'Neill

to remove the men and he directed you to remove the men, would you consider that competent authority on his part, and you said yes. A. Directed the Board to do something?

Q Direct is the word we used. A. I didn't understand it that way. If the request came one way the request can come in another.

BY MR. GIULIANO:

Q Commissioner, what jurisdiction has Mr. O'Neill over the office of the Commissioner of Registration, Mr. Stoebling?

A None, to my knowledge.

Q He has none? A. He has none, no.

Q You, as Boulevard Commissioner, will send in the police of the Boulevard Commission to watch their records, and that is a department that neither you nor Mr. O'Neill has any jurisdiction over? A. Other than that it is a county department, and the request was made for the protection of the law at the time of the recount.

Q The Commissioner of Registration never requested you?

A If a request was made to Supervisor O'Neill, I don't know.

Q Are the records of your department public records?

A Oh, yes.

Q You really believe that the poll books are not public records? You really honestly believe that?

A That they are not public records?

Q Yes. A. No. They would have to be public records.

Q They are public records? A. No question about that.

Q If I wanted to look at a record in your department or I wanted to look at a poll book-- A. Under the proper person chargeable with those books, yes.

Q If I wanted to look at a poll book, and we were perfectly satisfied to let Mr. Stoebling be there when we looked at them, you think we could look at them?

A If he is chargeable with the keeping of the books, yes.

Q You think we could look at them? A. Yes, if the man is chargeable with the custody of the books; if in the presence of the man chargeable with the custody of the books, I would say yes.

Q And any other citizen has a right to look at them?

A Yes.

Q Now, you still say that this Committee hasn't got the right to look at these books, if a citizen has?

A I suppose you have, with the exception, however, that they should be looked at under the man who is chargeable with their custody.

Q But they have the right to look at the poll books?

A Yes.

MR. PASCOE: If I may make an observation; I have been listening very carefully this afternoon. I

do not want to usurp the prerogatives and conclusions of your Committee, but I have come to the conclusion in these last couple of minutes that there is a lot of duplication, particularly in the Boulevard Police, and I am convinced that these two forces could be, without injury to the life and limb or practises of safety, combined, and one of you done away with, because you are only doing eath other's job and keeping each other in a job, and I, for one, am ready to start in next Wednesday to see whether any of the members of the House are ready to join me in eliminating your job.

BY MR. YOUNG:

Q As a matter of fact, your Commission is simply supervising a glorified road? A. I wouldn't say that.

P A T R I C K J A M E S D O L A N, recalled and testified as follows:

EXAMINATION BY MR. MURRAY:

Q Did you ever get any legal advice before you let this detail of men go under the supervision of Supervisor O'Neil?

A No, sir.

Q Were you told by anybody from the City Hall in Jersey City, by personal contact or over the wire, by a note or through any other intermediary at all, to keep this fight up; that they have the whole legal staff of the state trying to find a loophole, and that it is all a bluff, but keep it up until you get further word? A. Shall I answer?

Q Yes. A. No.

Q Were you told by anybody, directly or indirectly, from Deputy Mayor Malone in the City Hall in Jersey City, not to interfere with this detail of men but to leave it under Supervisor O'Neil? A. No.

Q Do you know what perjury is? A. Plenty.

Q You do? A. Yes.

Q Do you know the penalty for perjury? A. I don't, no.

Q Your answer is the same, no? Right? A. To that question, no.

Q What is the question? Do you understand the question?

A Yes. He asked me if I know about perjury.

Q Do you know what perjury is? A. No.

Q You don't know what perjury is? A. Yes. You are too fast. I answered the first one and then you came back to the second one. I said no.

Q Do you want the second question?

MR. MURRAY: Mr. Stenographer, please repeat the question about the penalty for perjury.

(The stenographer read the question as follows: Question: Do you know the penalty for perjury? Answer: No.)

Q Then your answer "no" means that you don't know what the penalty for perjury might be or is? You don't know?

A No.

Q Do you know that you can go to jail for committing perjury? A. Yes, I know that.

Q Then you do know what the penalty for perjury is?

A I answered that before. No, I don't know.

Q But you said that you know that you could go to jail for committing perjury? A. Yes.

Q Knowing all that, is your answer still the same, that you did not get any word, directly or indirectly from Deputy Mayor Malone in Jersey City, in reference to this detail of men, that you are not to interfere but to leave them there under the supervision of Supervisor O'Neil?

A I never got no orders.

Q You did not? A. No.

Q Did you ever get any orders from anybody else?

A No, sir.

CHAIRMAN YOUNG: We cannot hear your answer.

THE WITNESS: No.

Q Did Supervisor O'Neil tell you to keep your hands off and let him handle the ordering of this detail?

A No, sir.

Q If you were satisfied that you were violating an order of the House of Assembly of the State of New Jersey by having these men there, would you order them away and permit the Sergeant-at-arms of this Committee to go and get the books in that vault or would you not?

A I take orders from the Supervisor in carrying out my Manual, as to police power.

MR. MURRAY: If I may suggest to the Chairman of the Committee, I would like Chief Dolan to be asked the same question or a question similar to that which you asked of Chief Clossey on behalf of the Committee; does he refuse to give orders to those men who are detailed there?

CHAIRMAN YOUNG: Chief, will you, at the request of this Committee, remove your detail of men that are guarding that vault, in so far as they are protecting the election records which have been subpoenaed by this

Committee?

THE WITNESS: I will, if the Supervisor tells me.

CHAIRMAN YOUNG: But without that you will not?

THE WITNESS: No, sir.

J O S E P H E. N E A R Y, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. MURRAY:

Q Inspector, will you tell us your full name, please?

A Joseph E. Neary.

Q Do I understand that you are the Inspector in the Hudson County Boulevard Police Department? A. Yes, sir.

Q You have been detailed for some time in the past on the seventh floor of the Spingarn Building? A. Yes, sir.

Q Just when were you first detailed there? Approximately?

A -I think it was the twenty-second of November, the twenty-first or twenty-second, around that time. I am not positive.

Q At that time were you sent there alone, detailed there alone, or were some other members of the Hudson County Police sent there with you? A. I was there alone first, not as a detail.

Q Not as a detail? A. No.

Q As what were you sent? A. To get instructions as to what was to be done.

Q To whom were you sent? A. I was sent to the Commissioners of Registration.

Q By whom? A. By Supervisor O'Neil.

Q Were you down to the Supervisor's office, or where did you get word from him to go up to the Board of Elections?

A I was at police headquarters and Supervisor O'Neil called headquarters and instructed me to go to his office.

Q In the Court House? A. Yes.

Q Jersey City? A. Yes, sir.

Q And you went there? A. Yes, sir.

Q When was that? A. I say I don't know whether it was the twenty-first.

Q Was it the day the recount started or the day before?

A It was the day before.

Q Didn't the recount start on Monday or Tuesday?

A Yes, it started on Monday and I was at his office on Saturday.

Q The Saturday before you went to his office? A. Yes.

Q What time of day? Do you recollect? A. Eleven o'clock, around that time.

Q Eleven o'clock Saturday morning? A. Between eleven and twelve o'clock.

Q Do you remember what the conversation was between you and the Supervisor at that time? A. Yes, sir.

Q Will you let us have it? A. The Supervisor told me he had a request from the Commissioner of Registration. They were going to have a recount, and he requested a police detail there to preserve order, and he asked me to get a detail of men and to report to the Commissioners on Monday morning, or the day of the recount, so I told him at that

time we were pretty shorthanded, and I wanted to know how many men he wanted. He said, "Well, they want men there to protect the boxes because there are boxes coming from the different municipalities into that building," and he wanted men there at eight hour shifts for the twenty-four hours a day, so I said, "One man on a shift?" He said, "There is no use having one man; you should have two men," so he said, "All right, make arrangements for two men."

Q Did you do that? A. I did, sir.

Q How many men did you have? Did you have six men besides yourself, eight hours each? A. I had seven men.

Q Seven men besides yourself, from your own police department? A. No, not from my own police department.

Q How many did you have from your own police department?

A I had four.

Q Where were the other policemen from? A. The Boulevard.

Q How did you arrange for these men to come?

A Supervisor O'Neil told me he would try to get in communication with the Boulevard Commissioners to have men sent from the Boulevard to help us out.

Q Were those men sent? A. They were sent the day of the recount.

Q How many men did you get from the Hudson County Boulevard Police? A. Four.

Q And you had four, did you say? A. I had four and I

sent one back to our headquarters.

Q You had seven altogether, three from the Hudson County Police and four from the Boulevard Police? A. Yes.

Q Were they all under your command, Inspector?

A Yes.

Q You had full control there? A. Yes.

Q And the only one that you were accountable to was whom? A. Well, I am accountable to my chief.

Q Who is he? A. Chief Dolan.

Q You say that you were accountable to the chief?

A That is my immediate superior.

Q Did you report to the chief while you were there?

A No, sir, not after I went there.

Q After you went there to the recount to whom did you report? A. I reported to the Commissioners of Registration, the Board of Registration.

Q Which commissioner? A. The Election Commissioners, the Board of Registration.

Q Mr. Stoebling? A. No, sir.

Q Isn't he the commissioner of Registration? A. I said "commissioners."

Q The Board of Elections? A. Yes, the Board of Elections.

Q Not the Commissioner of Registration? A. No, not the Commissioner of Registration.

Q So, there are four commissioners on the Board of Elections, aren't there? A. Yes.

Q Did you say commissioner or commissioners that you reported to? A. I was instructed to report to the commissioners.

Q Did you report to the four commissioners? A. I didn't know the four commissioners. I went up there and I inquired who they were, and they told me Mr. Corcoran was the man to give me instructions.

Q Who told you that? A. Mr. Sullivan.

Q He is the other Democratic member of the Board?

A I didn't know at that time he was the commissioner.

Q You didn't know? A. No.

Q Didn't you ever have any other occasion to come in contact with the members of the Board of Elections of Hudson County? A. No, sir.

Q Are you sure of that? A. Positive.

Q You didn't know until you got there-- A. The only one I knew was Sullivan, personally.

Q You didn't know he was a member of the Board?

A I did know Sullivan was.

Q But you didn't know Mr. Corcoran was? A. I didn't know Mr. Corcoran or the other two Commissioners.

Q When you got there did you find out who the commissioners were, which two were the Democratic members and which two were

the Republican members? A. I mean after a day or two-- I mean the first day.

Q After the first day, when you found that out, whom did you report to, when you knew the Commissioners of the Board of Elections? A. I went to the Board of Elections that day and inquired of Mr. Sullivan who was in charge, and he told me Mr. Corcoran. I went to Mr. Corcoran and I told him I got instructions from Supervisor O'Neil to report there, that they sent them a detail of police, so he said, "All right." I said, "What do you want done around here?"

He said, well, he wants to preserve order and he wants the ballot boxes--

Q After that did you take your orders just from Mr. Corcoran? A. I didn't take any orders after that.

Q You just gave orders after that? A. I gave orders.

Q Did you give all the orders that were executed over there? A. All that was executed? No. There was a lot of other people gave orders.

Q You were in command? A. I was in command of the police.

Q You were in command of the police? A. That is all.

Q You said that the one you reported to was the Commissioner of the Board of Elections? A. I was instructed to report to the commissioners, yes.

Q I want to get from you which commissioners you reported to, which members of the Hudson County Board of Elections? There are four. A. I understand that, yes. The first day I was there I understood it.

Q Which of those did you report to? A. The first time I went there I met Mr. Sullivan. I asked him. He told me to see Mr. Corcoran. Then I went and I was introduced to Mr. Corcoran and he told me what he wanted done there.

Q And then thereafter am I to understand that it was to Mr. Corcoran that you went, and you wanted to find out what the Board wanted to do? A. He told me I was there to preserve peace and to watch those ballot boxes coming in and out, and if it required the removal of ballot boxes from different municipalities, if I would detail a policeman to go with them and bring them back and forth.

Q After that you looked to Mr. Corcoran, the Democratic member, to whom you were referred by Mr. Sullivan, the other Democratic member, to get your orders and make your reports as to things that were going on in the Board of Election rooms? A. I made no report to Mr. Corcoran or anybody else while I was there.

Q How long were you there? A. About ten weeks.

Q Did you make any reports to anyone? A. No.

Q Did you make any reports to Supervisor O'Neil?

A No.

Q Did you consider Supervisor O'Neil your superior while you were there? A. Yes, sir.

Q If anything happened that you needed advice on or to make a report on, to whom would you make that report?

A Supervisor O'Neil.

Q Directly? A. Yes.

Q When did the recount end? A. Last Friday, eleven o'clock, twelve o'clock; around that time.

Q A little while ago you testified that you were under the supervision of your chief, Chief Dolan?

A I said that is my immediate superior.

Q You were not under his supervision at all, while you were there? A. No.

Q Did Chief Dolan of your own department order you at any time to prevent anyone from getting into that vault and getting the poll books from within that vault?

A The first time I went there, the day after I went there I had not spoke to Chief Dolan until today.

Q Then he couldn't tell you, is that so? A. Yesterday I spoke to him over the phone. This is the first I have seen Chief Dolan from the time I went there.

Q You said that the recount was discontinued on Friday?

A Right.

Q Wasn't there an occasion for you, as commanding police officer, to look for instructions as to what you were to do

from then on? A. I did, sir.

Q You did look for instructions? A. Yes.

Q From whom? A. They quit around eleven o'clock on Friday and I ordered the men Friday afternoon to go back to their headquarters. On Saturday morning I went up to tell my men who were on midnights watching the boxes, to report back to their headquarters. When I went up Saturday morning Mr. Corcoran told me, asked me, requested me to keep the detail there because there were ballot boxes in the vault and to keep them in there until such time as they bring the ballot boxes out of there.

Q Did you report that to your superior, Supervisor O'Neil? A. No, sir, I did not.

Q I thought you said that the occasion was important enough to look for further orders, and that you did?

A I did look for further orders.

Q Am I to understand that the one you went to for those orders was Mr. Corcoran? A. No, sir.

Q Whom did you go to? A. To myself. I took it upon myself that the orders were that the thing was finished and I was to send my men back to headquarters.

Q And you did that? A. I did, and Mr. Corcoran requested me again to keep them in there on account of the ballot boxes.

Q Am I to understand that instead of reporting to your superior on this detail, Supervisor O'Neil, you went to Mr.

Corcoran, who is not a police officer, and took police orders from him? A. I didn't go to Mr. Corcoran. I went there, and Mr. Corcoran came to me in the building that Saturday morning.

Q What time? A. Between nine and nine-thirty, maybe a little earlier than that.

Q Were you in uniform? A. No, sir.

Q Were you on duty? A. I figured I was all finished and I was going to report back to my own headquarters Saturday morning.

Q Back to your chief? A. Right.

Q But you didn't? A. No, sir.

Q Instead of that you went to Mr. Corcoran, the Democratic member of the Board of Elections, and asked him for police orders? A. No, sir, I didn't.

Q What did you go to him for? A. I didn't go to him.

Q He came to you and he gave you police orders? Right?

A I wouldn't call it police orders.

Q If Jim Murray went to you there and told you to do something, and gave you police orders, would you do it?

A It would all depend on what Jim Murray asked me to do. If he asked me to do something in violation of the law I might do it.

Q You might do it? A. Yes.

Q I don't think you would, but Mr. Sullivan asked you to

do something in violation of the law and you did it?

A Mr. Who?

Q Mr. Corcoran. I withdraw the name Sullivan. He has got enough already. I mean Mr. Corcoran. Inspector, didn't you just admit that you sent that detail back and you went up there Saturday morning and Mr. Corcoran came to you and gave you police orders, notwithstanding the fact that Supervisor O'Neil was your immediate superior on that occasion, and notwithstanding the fact that there is a chief of police in your department? Isn't it a fact that you took police orders from John Corcoran, a member of the Board of Elections of Hudson County, who has no right to give any?

A I didn't take any police orders, Mr. Murray, from Mr. Corcoran.

Q What did you take? A. Mr. Corcoran expressed to me to keep the detail while the boxes were there. He said that they would be removed that afternoon, I think, and he asked me if I would keep them in there to protect them boxes until such time as they were removed.

Q Would you say that that is police duty they are doing?

A If that was police duty?

Q Yes. A. That I was doing?

Q You and these other policemen? A. Yes, sir.

Q They are doing what Mr. Corcoran requested you have them do? A. Yes, sir.

Q Then they are doing police duty on orders of John Corcoran? Right? A. I wouldn't call it orders. It is not police orders.

Q Aren't you doing police duty? A. I was sent there in the first place to find out what they wanted done.

Q I understand that you testified that at the time you went up there John Corcoran asked you to do such and such?

A That is right.

Q You did it, and you told me that it is police duty, and you and the other men are doing it. Now I asked you and I again ask you, on whose say so, and you said John Corcoran. A. Right.

Q Then I ask you this: Didn't you take police orders or orders from John Corcoran, which mean police orders, and you are doing police duty up there under the orders of John Corcoran, a member of the Board of Elections of Hudson County?

A I wouldn't say it was an order. It might be a request from Mr. Corcoran to stay there.

Q Request, order, or whatever synonym you want to use; are you doing police duty? A. Yes.

Q And the other detail? A. Yes.

Q And you are doing it there because Mr. Corcoran had a conversation with you and requested or ordered it, or whatever you want to call it? Is that so? A. Yes.

Q And you are not there because the Chief of Police

ordered you there? A. No, sir.

Q You are just doing what he ordered because the Supervisor detailed you there, is that right? A. Yes, sir.

Q Being there, doing a certain police duty under the circumstances you testified to, were you there last Saturday morning on the seventh floor of the Spingarn-Arcade Building, in front of this vault which contains the poll books?

A Last Saturday morning, in front of the vault?

Q Yes. A. No, sir.

Q Were you there at all? A. Yes, sir.

Q Where were you? A. I was in the room. I was in the hall.

Q Were you there in that same room in front of that vault when the Sergeant-at-arms of the House of Assembly of the State of New Jersey went over with the resolution, which directed him to open that vault and take the records?

A When the Sergeant-at-arms?

Q Of the House of Assembly of the State of New Jersey.

A Was I in front of the vault?

Q Yes. Were you in that room where the vault is?

A I was out in the hall Tuesday.

Q I didn't say Tuesday or Saturday in this question. Were you there when the Sergeant was there? A. Yes, sir.

Q What day was that? A. Tuesday.

Q About what time of day? A. Between ten and eleven.

Q Last Tuesday morning? A. Yes, sir.

Q Who else was with the Sergeant-at-arms, that you recognized? Was Mr. Ferguson, the Superintendent of Elections, there? A. Yes, sir.

Q Had Mr. Ferguson placed on the door of that vault any kind of seal? A. No, sir.

Q Had any of his deputies? A. Any of his deputies?

Q Yes. You knew there was a seal there?

A Yes, sir.

Q And you saw a seal on there unbroken? A. Yes, sir.

Q Did Mr. Ferguson, as Superintendent of Elections of Hudson County, on that same Tuesday morning, endeavor to break the seal under the direction of the Sergeant-at-arms of the House of Assembly, while you were present?

A He wanted to break the seal. I don't know on whose request. I don't know the Sergeant-at-arms.

Q You were there when Mr. Ferguson endeavored to break that seal, were you not? Who else was there with you, Inspector; what other officer? A. Lieutenant Antonacci. I was out in the hall first when I met Mr. Ferguson.

Q I am not asking you when you first met him. When he wanted to break the seal on that door where were you?

A Out in the hall.

Q How do you know, if you were out in the hall, when he was trying to break the seal inside? A. How do I know he

was trying to break the seal inside?

Q Yes. A. He wasn't trying to break the seal.

Q He wasn't? A. No, sir.

Q Were you at the door of that vault at any time Tuesday, when the Superintendent of Elections, John Ferguson, endeavored to break the seal of that door? A. Yes, sir.

Q When was it? A. Between ten and eleven o'clock.

Q That is what I am trying to get you to answer.

A You asked me where I was when Mr. Ferguson asked me first about this seal.

Q I am asking when he endeavored to break the seal?

A He endeavored to break the seal that was inside.

Q What other officer, if any, was with you at that time?

A Lieutenant Antonacci.

Q Where did both of you stand? A. In front of the vault.

Q In front of the door of the vault on which the seal was? Right? A. Yes, sir.

Q Do you recall what Mr. Ferguson endeavored to do or how he endeavored to break the seal, or the action he took?

A Somebody instructed him to break the seal. I told him we were not going to allow him to break the seal.

Q After that, what happened, if anything? Did he go over even though you said you would not allow him?

A Yes, he walked over to the vault.

Q And he made an attempt to get at the seal?

A All right, he made an attempt.

Q Did you and the other officer do anything to prevent him from doing that? A. No, we didn't prevent him. We didn't use any force.

Q Did you allow him? A. No. I just told Mr. Ferguson we would not allow him to do it.

Q Did you put up your arms? A. No, sir.

Q Did you say, "Get out of the way?" A. No.

Q I thought you were standing in front of the seal?

A I was standing in front of the vault.

Q Where is the seal? A. On the door.

Q Where is the door? A. On the vault.

Q Where were you? A. In front of the door.

Q Who was there with you? A. Lieutenant Antonacci.

Q And both of you together prevented Mr. Ferguson from breaking the seal? A. I told Mr. Ferguson he couldn't break it. I didn't use any force to prevent him from breaking it.

Q Why did you tell him? A. Because I was there to protect county property.

Q You thought that they had no authority to break in?

A In my opinion, I didn't think they had.

Q After that, wasn't a resolution of the House of Assembly

of the State of New Jersey, authorizing and directing the Sergeant-at-arms of that House to open the vault, read to you and to the other police officer?

A By Mr. Young? I believe it was.

Q It was read to you? A. Yes.

Q You understood the contents? A. Yes, sir.

Q And you understood and you understand now that the contents of that resolution directed the Sergeant-at-arms to open the vault and get in and take the poll books?

A There was a resolution read, I believe, requesting either this young lady in the office or Mr. Stoebling to open the safe.

Q Then you do remember what was in that resolution?

A Yes, sir.

Q I see you do. Then, when the Sergeant-at-arms endeavored to follow out the order of the State of New Jersey, and proceeded to walk to that door, what did you and the other officer do, if anything? A. I told the Committee there I didn't think the resolution should be read to me, that it should be read to the one it was directed to, either the commissioners or this young lady.

Q Or who else? A. Sir?
Q Or who else?
A Either the Commissioners or the young lady that was in charge there, and if they said that they wanted the safe opened or requested it to be opened, I told the committee that

I would go in myself or I would direct the men to let them go in there and let them open the safe.

Q What else did the Sergeant-at-arms and his assistant endeavor to do then, after the resolution had been read, and after you told them what you are just after reciting?

A The Sergeant-at-arms, I think, was Mr. Hogan.

Q And Mr. Giuliano was the assistant? A. Mr. Giuliano was the assistant, I believe. Mr. Hogan requested me to let him open the safe. I told him that I would not let him. Then he instructed Mr. Giuliano to open the safe. He made a football rush at me. He said, "O.K., you won't let me open it?" And Mr. Young said, "That is enough."

Q Who did you say rushed at you? A. Mr. Giuliano.

Q Did you see the Sergeant-at-arms also endeavor to get to that door? A. No, sir.

Q Did you see your brother officer, Lieutenant Antonacci, do anything? A. No, sir.

Q Did he offer any physical resistance to their endeavors to open the vault? A. No, sir.

Q I mean, did you see him? A. No, sir. He was standing right alongside.of me.

Q But you saw? A. No, sir, I didn't. Any physical force that was used was used against us.

Q What did you do? A. I stayed there.

Q Where was your hand? A. At my side.

Q You didn't raise your hand? A. No, sir, I didn't.

Q I believe you said that Mr. Joseph Giuliano rushed at you? A. Yes, sir.

Q What did you do then? A. I protected myself from falling, by hitting the safe.

Q Falling? A. Yes.

Q Where did you fall? A. Up against the safe door.

Q Backwards? A. Yes, sir.

Q What did he do then? A. He said, "All right, that is all."

Q Did you raise your hands at all? A. No. You were there.

Q Yes, I was there. I am not trying to get you for assault. A. That is all right. I was going to have him arrested for assault.

Q Now, Inspector, if this Board or this Committee of the Legislature were to ask you now to take that detail of police away from there, and permit their order, which you heard read to you in that resolution-- to take your detail away and let the Sergeant-at-arms go in and take those records, would you do so? A. I will, if my superior officer orders me away from there; I will quit.

Q Who do you mean by your superior officer?

A Supervisor O'Neil, or if Chief Dolan orders me.

Q So, unless Chief Dolan or Supervisor O'Neil orders you

away from there and permits this Committee to go in, or permits the Sergeant-at-arms of the House of Assembly to go in, you intend to persist in resisting their endeavors to do so? A. I am not resisting their endeavors to do anything. I am only there to protect property; that is all, to see that it won't be destroyed or harmed in any way.

Q Didn't you testify that you resisted their endeavors to open it up? A. I did not resist them very much.

Q Do we understand that you will step aside and permit them to open that? A. I won't permit them to open the vault.

MR. MURRAY: I request, Mr. Chairman, that you ask this witness the same question or a question similiar to that which you asked this other witness.

CHAIRMAN YOUNG: I don't see any point in it, Mr. Murray. I was there myself. I directed him myself to stand aside. I directed the Sergeant-at-arms to ask him, and he refused to step aside.

For the purpose of the record, Inspector, if the Committee and the Sergeant-at-arms came there and requested you to allow them to get subpoenaed records, to open that vault door, what would your answer be?

THE WITNESS: It would be no.

EXAMINATION BY MR. GIULIANO:

Q You had guns on you, officer? A. Yes.

Q They were showing on the side of your belt, the holster?

A Yes.

Q They were open? A. They were not open.

Q All ready to be opened? A. (There was no answer.)

Q Nobody touched you? A. Nobody touched me? If the guns were ready to be opened? Nobody touched me.

Q If they were needed? A. For what reason?

Q I don't know. I am asking you. A. I really didn't need a gun there. That is only part of my equipment.

Q What were your instructions from your supervisor, if this Sergeant-at-arms had attempted to open the safe?

A The only thing, I didn't know who the Sergeant-at-arms was. I didn't know him. Anybody could come in and do what the Sergeant-at-arms done. I think I would have arrested him for destroying property.

Q All they tried to do was to take the seal off?

A I really don't know what they tried to do.

BY MR. YOUNG:

Q You know very well. A. I know what was requested of me.

BY MR. OSMERS:

Q Do you know Mr. Ferguson? A. Yes, I know Mr. Ferguson.

Q But you would not allow Mr. Ferguson, who has an official capacity in that county, to break his seal which was on the door? A. I told him, in the presence of the gentlemen there, if anybody was going to open the vault Mr. Ferguson would be available to do so, to take the seal off, but if he wasn't available his deputies were there at all times.

Q Didn't Mr. Ferguson try to break the seal?

A He walked over to the safe. I don't know whether he wanted to break that or not.

Q Did you stand in his way? A. No, I didn't stand in his way. I was in front of the safe.

Q First you did and then you didn't.

BY MRS. SANFORD:

Q Had this resolution been read to you before you refused to acknowledge that Mr. Hogan had the right?

A Yes, mam.

Q You heard the resolution read and you clearly understood that it said if Miss Seglie and Mr. Stoebling did not agree to give them these records then the Sergeant-at-arms had the right to get hold of those documents?

A Yes.

Q That had been read to you before Mr. Hogan came forward?

A Yes.

Q You still did not recognize that he had any power?

A Yes, I do recognize he has the power.

BY MR. OSMERS:

Q Who issued the specific orders that no one was to have access to that vault? As I understand it, during the recount it was your duty there to preserve law and order, while the recount was being conducted. You didn't handle any records or papers or anything else?

A No, sir, I didn't touch anything. The only thing we done was to protect the boxes coming in and out of the building.

Q When the recount was over who issued specific instructions that no one was to go in that vault?

A There was no specific orders issued that no one was to go into the vault. There was a request from one of the commissioners if I would keep the detail of men there until such time as the boxes would be removed, and I said, "How long will that be?" He said, "Probably this afternoon."

Q Nobody, at any time, told you not to allow the vault to be opened? A. No, sir.

BY MR. YOUNG:

Q Then, Inspector, didn't you exceed the authority that Mr. Corcoran had given you? A. No.

Q If the vault had been open and you had been allowed to protect the ballot boxes, you would have been doing all that the commissioner requested you to do?

A But the ballot boxes were in that vault.

BY MR. OSMERS:

Q But the gentlemen who appeared there with proper papers did not want to get the ballot boxes.

A I don't know what the gentlemen wanted to do.

Q Your job was to protect the ballot boxes?

A My job was to protect county property.

Q These are public records that they want?

BY MR. YOUNG:

Q You understand English, and you knew that all of the signature copy registers of the first ten districts of the First Ward and all of the poll books of all the election districts of all the wards in Hudson County do not include anything about ballot boxes? A. No, sir.

Q You were there to guard the ballot boxes? A. We were there to guard the ballot boxes and the safe.

Q Why didn't you open the door and sit on the ballot boxes? A. I couldn't open the door of the safe.

Q Why did you not permit us to open the door?

A I wasn't going to let anybody open the safe. They told me that you were going to blow it open with acetylene torches.

BY MR. OSMERS:

Q Who told you that? A. We hear a rumor.

Q Who told you that? A. I don't know.

Q If you heard a rumor that I was a murderer, would you

arrest me for murder? A. I don't know. That all depends.

BY MR. GIULIANO:

Q When I said that your guns were open, I mean that they were visible to us who came over there. We could see them.

A A policeman's gun is visible to everybody.

BY MR. YOUNG:

Q Where is yours today? A. I haven't got it with me.

BY MR. GIULIANO:

Q You didn't see the acetylene torches or anything else. We were quite peaceful. A. There was so much stuff in the hall. You know just as well as I do, , and I didn't know whether they were cameras or torches.

Q I mean as far as counsel and the Sergeant-at-arms, at the moment? A. They came there at a rush.

A At a rush? A. Let me say something about that, too. They came in there. I am not saying that the Committee made a rush but spectators and reporters and cameramen, which you and Mr. Wiener knows, that we had an awful job trying to get you in there. When you requested to go in the room Mr. Wiener asked if we would allow you and Mr. Ferguson in the room, and I said, "Certainly, I will." I didn't know who was who.

Q You know very well that this was a legitimate resolution that had been passed in the Assembly the night before? You had public notice. A. At that time I didn't, no.

Q At ten o'clock in the morning you had not read a

newspaper? You saw over a hundred newpaper and cameramen in the hall, and you didn't expect us to come there.

BY MR. OSMERS:

Q How did you know that they were going to blow up the vault? A. I didn't know they were going to blow up the vault. There was common rumor that they were going to blow up the place and open the safe.

BY MR. MURRAY:

Q You knew very well the contents of that resolution after it had been read to you, didn't you?

A Yes, sir.

Q And it directed the Sergeant-at-arms to go into that vault for the poll books? A. As I understand it.

Q That is why I know you know what was in it. You just testified that it did not direct you to open it but it directed Mrs. Fila or Mr. Stoebling, so I know you have a good memory, and you recollect very well what was in it, so you must have recollected what was in it. You know that it directed in case they didn't do it that the Sergeant-at-arms, then, of the House of Assembly was to open the door and take the records? You understand that? Didn't you understand that, Inspector?

A No, I didn't understand that.

Q Didn't Mr. Young, the Chairman of this Committee, make it perfectly clear to you? A. He read that resolution to me.

Q You just remember one part? A. No, I remember quite a lot of it.

Q Don't you remember that it said that the Sergeant-at-arms was empowered to direct you to take those books?

A It may have said that in it. I wouldn't say for sure.

Q You stopped him from doing it? Right? A. Yes.

Q While you stopped them your gun was visible on the outside of your person and on the outside of your clothes?

A A policeman--

Q Is that so or isn't it? A. Yes, that is so.

MR. YOUNG: And he wasn't wearing a gun and I wasn't wearing a gun.

THE WITNESS: No.

BY MR. OSMERS:

Q Do you know who has custody of the records that were sought in that resolution? A. Do I know who has custody?

Q Yes. A. Only what I heard up there.

Q Who was it? A. Mr. Stoebling.

Q Did he at any time order you to do anything, watch anything or do anything? A. I never seen him.

Q He is the man who is charged, as you understand it, with the custody of those records? A. From the conversation I had.

Q And Mr. Stoebling never ordered you to do anything?

A No, sir.

Assembly Investigation of

Alleged Fraudulent and Illegal

Conduct at the General Election

on November 2, 1937, etc.

Transcript of stenographer's notes of hearing held in the above matter at Room 301, Essex County Court House, Newark, New Jersey, on Thursday, February 3, 1938.

Present:

Assembly Committee
Henry Young, Jr., Chairman
Mrs. Olive C. Sanford,
Frank C. Osmers, Jr.

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

A L I C E S E G L I E, having previously been sworn, was recalled and testified as follows:

EXAMINATION BY MR. WIENER:

Q Miss Seglie, you have been in this court room all day today, I assume, under subpoena? A. Yes, I have.

Q You heard the testimony of the three members of the County Board of Elections of Hudson County, your direct superiors? A. Yes, I have.

Q And they are the Commissioners under whom you are employed as clerk-stenographer? A. Yes, sir.

Q And from the testimony we understand that you are the person who usually acts as secretary and takes minutes of their formal meetings? A. Yes, sir.

Q Now, can you refresh your recollection as to last Friday morning-- I believe it was about a quarter of twelve-- when I served an order of discontinuance of the recount, on the County Board of Elections in the Spingarn Arcade?

A Yes, sir.

Q At that time do you know whether or not the County Board of Elections of Hudson County went into a meeting?

A The only thing I remember is after the recount stopped the four Commissioners and myself went into the Commissioners' room on the other side of the hall there, and at that time, I don't remember which Commissioner, made the suggestion that the ballot boxes should be returned.

Q When were they to be returned? A. The following day.

Q The following morning? A. That is right.

Q What were their preparations to be?

A Well, there was no resolution or any motion or anything made, but I think it was.

Q Wait a minute. Did you say that there was no resolution or no motion-- A. (Interrupting) There was no record made of anything.

EXAMINATION BY MR. MURRAY:

Q Mrs. Fila, you heard the three Commissioners of the Board of Elections of Hudson County testify here today, didn't you? A. Yes, sir.

Q You usually take minutes at their meetings, do you?

A Yes, sir.

Q Were you called by any of them to take any minutes of a meeting on last Friday afternoon or Saturday morning?

A No, sir.

Q Then, you were not present at any meeting of these four Commissioners, the members of the Board of Elections of Hudson County, at which any resolution was passed?

A In reference to what?

Q In reference to placing a guard at the vault there on the seventh floor of the Spingarn Arcade Building?

A Nothing was given to me.

Q And you testified to these facts with the full knowledge and remembrance of the testimony given by Commissioner Sullivan earlier today? A. Yes, sir.

Q And the testimony given by Commissioner Wittreich today? A. Yes, sir.

Q And the testimony given by Commissioner Scheetz?

A Yes, sir.

Q In reference to this same subject? A. Yes, sir, nothing was given to me.

J O H N F. O ' N E I L, being duly sworn according to law, testified as follows:

EXAMINATION BY MR. MURRAY:

Q Supervisor, give us your full name, please?

A John F. O'Neil.

Q What office do you hold in the County of Hudson, if any? A. County Supervisor, among others.

Q I mean official offices. What other official offices do you hold? A. I am president of the Margaret Hague Maternity Hospital, president of the Tuberculosis Hospital, all no salaried; president of the two pension commissions, and I am president of the Sinking Fund Commission.

Q Of the County of Hudson? A. Of the County of Hudson.

Q What are your official duties, Supervisor, as you understand them to be, as Supervisor of the County of Hudson?

A To exercise the general supervision over the affairs of Hudson County, its boards, its institutions, its employees.

Q Does that include the Board of Freeholders?

A Yes.

Q Does it include the police? A. Yes.

Q Does it include the Boulevard Police? A. I would say yes.

Q Why would you say, as the chief executive officer of the County of Hudson, that one of your duties is to take full

executive control of the Hudson County Police and the Boulevard Police of Hudson County?

A I try to take control of any branch of the government of Hudson County if I thought it was to the best interests of the county.

Q By what authority would you assume to take such control? A. By the law. If it wasn't the law then by the consent of those whose authority I was taking.

Q Supervisor, if it wasn't the law, then by the consent of those whose authority you were assuming?

A Yes.

Q Do you or do you not concede that the Boulevard Commission in Hudson County has exclusive authority to exercise police duties over the Boulevard Police of Hudson County? A. They will confer with me, and they have, Mr. Murray.

Q I didn't ask you that

A I am a former Boulevard Commissioner.

Q I didn't ask you that.

MR. MURRAY: Mr. Stenographer, will you read the question?

(The last question was read by the stenographer.)

THE WITNESS: Of course, I do, but if they can in any way help the county by going outside of their constituted authority I think they should do so. I

think it is the duty of a public official.

Q You say that you should be the judge of when the police of Hudson County Boulevard shall go beyond their constituted duty? A. Certainly, under certain circumstances.

Q What circumstances? A. Circumstances like this, if you wish.

Q Like what? A. I will tell you, if you wish. When the secretary of the Hudson County Board of Elections comes to my office and says, "We only have a small place to meet," and we know the excitement about this recount that was then there, "and I think we are going to be in a whole, and I wonder could you help us?" I would say, "What do you want?"

"We would like to have your County Police there."

He said, "Can I get some officers over around the office to keep order, in uniform?"

I said, "All right, I will get the county police on this." I then called up the County Police station, and Inspector Neary came in and I said, "Come right in."

Q You said, "Come right in?" Just like that?

A Just like that.

Q You didn't consult the chief? A. Of course not. I didn't have to.

Q O.K. A. If you want me to explain that statement--

Q Yes, go ahead. A. As supervisor, I am in charge of the Hudson County Police Department, I think, but in 1934,

to make sure of that, the Hudson County Board of Freeholders passed a resolution. A manual goes to every member of the police force. They set forth that the executive head and controlling power of the Hudson County Police Department shall be the County Supervisor and the Board of Freeholders when the Board was in session. When the Board is not in session the County Supervisor shall be the executive head and controlling power of the Hudson County Police force.

Q Does that same provision relate to the Boulevard Police of Hudson County? A. Oh, no, no.

Q Not at all? A. No.

Q But you were here during the testimony of the previous witnesses here, the Chief of Police of Hudson County and the Chief of Police of the Boulevard Commission of Hudson County? You heard them testify, did you not, that the Boulevard Police were there? A. In case they were there I sent them there.

Q Under your detail? A. I sent them there.

Q Do I understand that you just testified that you did not have the authority? A. No, I didn't testify to that.

Q What did you say? A. I testified that I thought the County Boards and all county offices should cooperate when a thing was to the interests of the county. You mean, in strict accordance with law?

Q Of course, I mean in strict accordance with law. That

is the trouble. That is what we are trying to get at. Only certain people have to obey the law. A. There are many times when we would not strictly obey the law and do the public a lot of good.

Q Then you, as the chief executive officer of the County of Hudson, have the effrontery to come here and tell us that it is your belief that you, as such officer, should go over and beyond the law when you think so?

A Absolutely, when it is for the best interests of the people of my own county.

Q Then you are usurping the position assumed by another gentleman, who thinks he is the law? Is that so? Mr. Hague I am referring to. A. No. Pardon me one moment. Let me answer the question.

Q Answer the question yes or no. A. Mr. Hague can protect himself. Mr. Hague beat you in running for commissioner of Jersey City by the largest majority I think ever given to --

Q If Mr. Hague can defend himself, will you tell us why he ran out on this? A. Mr. Hague never ran out on a fight. Should I answer the question, Mr. Young?

Mr. Hague never ran out on a fight. In fact, he takes it on the chin for me and for every other fellow who makes mistakes in Hudson County.

THE WITNESS(Addressing the Committee): He won't

let me answer.

Q Is that why you seem to be justified in going beyond the law, as the chief executive officer of the County of Hudson? Yes or no? A. No. I won't answer the question yes or no.

Q You won't? A. No, I won't.

Q Go ahead and answer. A. Mr. Murray, I have got tubercular clinics in Hudson County-- you are going to take the answer-- it is against the law, and I am for it any time, but they save the lives of kids.

Q We don't want political speeches. We want answers to the questions.

A You will get the answers I see fit to give them. You have given some speeches already.

Q Now, Supervisor, you assume to be the law, from your own testimony? A. I don't assume to be the law.

BY MR. YOUNG:

Q You assume to go beyond the law? A. Absolutely, that is true. I believe that.

BY MR. MURRAY:

Q You, as the chief executive officer of the County of Hudson-- A. (Interrupting) I will say--

Q Let me ask you this question. I will recall that. Do you realize that the Boulevard Commissioners of Hudson County were elected by the people of Hudson County? A. I

certainly do.

Q And they were elected, and under the law they are given specific authority to do certain things? Right?

A Absolutely.

Q And notwithstanding that fact you order and assume control over a detail of their policemen, in conjunction with the detail of policemen from the Hudson County Police, and you ordered them to go to the seventh floor in the Spingarn-Arcade Building in Jersey City, did you not?

A Yes.

Q For what specific purpose did you detail them there?

A To preserve law and order, not thinking that eleven weeks would elapse before it would be questioned.

Q Did you give them specific orders for anything else?

A My orders were as follows: "Come to my office over there," and when they came there I said, "Now, Corcoran tells me there is only a little space up there. There will be a lot of trouble. I want you to go up there. Be kind, courteous to everyone, but be firm. Preserve law and order."

He said, "Well, you know how we are."

I said, "I know better than you." I know we are twenty-five employees short. Twenty-five have died or retired or went out of the office. With twenty-five short, despite the fact that we have the Skyway, Tonnele Avenue, the road over towards the stadium. I said, "I know you are very short."

I said, "I will see what I can do."

Q Who did you say it to? A. To Neary. "I will get you the Boulevard Police on this," so I called Commissioner Vanderbach.

I said, "Commissioner, you know how we are fixed. We have got to keep law and order and if we don't people will say we are hostile and accuse us of trying to make trouble on the recount, and we want law and order. I want more cops."

He said, "When do you want them?"

I said, "Just as soon as I can get them." He said, "I will call somebody to get in touch with you."

A short time elapsed and then Chief Clossey called me, and said, "Mr. Vanderbach called me to get in touch with you."

I said, "Yes, I want four policemen. You will have to have twenty-five appointed, but we have to keep law and order, and they are uniformed." He said, "They will be over."

I said, "Have them report to Inspector Neary in the Spingarn Building." He said, "That will be done."

Q You are very much concerned about law and order?

A Always, and you know that.

Q When you think it is beneficial for you to do so then you believe, as chief executive, that you can go beyond the law? A. Of course I do not.

Q When it is beneficial? A. To me?

Q To you? Beneficial to the ones that you represent.

A I represent you. You live in Hudson County.

Q Thank you. A. Yes, if it is beneficial to the people of my county I don't believe in standing on a line here and a line there.

Q Do you know when the recount terminated?

A Friday, I believe.

Q Did you give any specific orders or any new orders at any time Friday to the police, after the termination of the recount? A. Positively not.

Q You did not? A. No.

Q Did you know that the same detail of police were there from the Hudson County Police and the Boulevard force, Friday and Saturday? A. I assume that they should be there, unless Mr. Corcoran, who is acting president of the Board-- I assume they should be there, and I would have censured them if they were not there until after Corcoran had told them to go away.

Q Did you hear Inspector Neary testify that he had gone up there and sent the men home sometime Friday? Did you know anything about that? A. No, I didn't.

Q So your first knowledge is what you are obtaining here today? A. In justice to him, if he had told me I would have told him to stay there.

Q In other words they were still and are still there at your direction, and with your consent? A. Put it another

way. They are still there at the direction of the Board of Elections who asked me to send them there and who have not asked me to take them away.

Q You say that the Board of Elections asked you to send them there? A. Yes.

Q Who on the Board of Elections were you speaking of?

A I assume the entire board.

Q I am not asking you that, Mr. O'Neil. You told me of those great institutions and committees and boards.

A I didn't tell you.

Q That you preside over. A. I didn't tell you.

Q You may not understand. I will again ask the question.

A I didn't tell you anything about great institutions, but if you and the Committee will give me a chance I will tell you about great institutions, the greatest in the world.

MR. YOUNG: These proceedings are supposed to be by question and answer, and, perhaps, the witness will remember that.

Q Supervisor, you said that the Board of Elections requested you, and I am asking you to whom on the Board of Elections did you speak? A. John Corcoran. He came to my office.

Q Then do I understand that in your estimation John Corcoran is the Board of Elections of Hudson County?

A No, you don't.

Q Then your answer was not correct, was it, when you said that you spoke to the Board of Elections or the Board of Elections of Hudson County spoke to you and requested you?

A All right, I spoke to John Corcoran, who was acting president of the Board of Elections, and the police went to the Board of Elections' office. They consisted of four men, and for nearly eleven weeks they were there without a single protest from Mr. Corcoran, Mr. Scheetz, Andrew Wittreich or Mr. Sullivan, so I assume that the Board of Elections wanted them. They did not put them out or complain to me.

Q Then your answer is that you were not consulted by the Board but you were consulted by one member of the Board? Is that correct? A. I will have to sort of add to that. I often go places and say things when I am talking for the entire members of the Board of Freeholders. Sometimes some others in the county government--- I assume if people find out I am not in that day they say, "O'Neil said that," but here is four members, eleven weeks and not a protest. They welcomed the officers there.

Q You did not talk to any other member, is that so, Supervisor, except John Corcoran? A. That is true.

Q I mean in reference to this. A.No. I might have said, "Hello, how are you?"

Q Did you see any resolution of the Board of Elections of Hudson County? A. You know I didn't.

Q I don't know. A. Of course you do.

Q So that you do know that you said that John Corcoran requested it, if we put it that way?

A Good enough for me.

Q And it wasn't the Board of Elections? It was John Corcoran? A. Good enough for me.

Q One of the four members of the Board of Elections, is that right? A. Good enough for me.

Q I am not asking you whether it is good enough. I am just asking you simple questions. All right, Mr. O'Neil, don't be so nervous. You can answer the questions.

A I don't believe I am so nervous, Jim. Maybe you call it nervous. I even heard people say that about you.

Q Maybe you eat candy like I do. A. Maybe I do.

Q Here is what I want to get, John. On Saturday last did you give orders or did you condone orders given by Mr. Corcoran of the Board of Elections of Hudson County, when policemen were placed at the vault on the seventh floor of the Spingarn-Arcade building in Jersey City, to prevent people, anybody, from opening that vault or getting records contained within that vault? A. No. In order to get clear of anything I would have given those orders had I been consulted.

Q But you did not? A. I wasn't consulted. I was busy elsewhere.

Q I know you are a busy man but I only want to get whether

or not you gave orders. I mean that when I say that I know you are busy. I just want to get whether or not you gave orders for the police to go there?

A No, but I would have given orders.

Q All right. A. All right, I will say yes.

Q You are changing-- A. Please-- I gave Lieutenant Neary orders to go there and remain there until sent back by Commissioner Corcoran representing the Board of Elections. Now, if you ask me Saturday morning or Saturday afternoon or Tuesday I will have to say no, but, as a general thing, I said yes. I wanted him to stay there until the Board wanted him to get away.

Q Are you aware of the fact that the House of Assembly of the State of New Jersey passed a resolution authorizing and directing the Commissioner of Registration, Charles F. Stoebling, to open that vault, and if he didn't it is then directed to Mrs. Fila, his clerk-stenographer, to open that vault, and in case she refused or neglected, then the Sergeant-at-arms of the House of Assembly of the State of New Jersey should proceed to open the door of that vault and take from therein the poll books for the 653 districts of the County of Hudson of the State of New Jersey?

A Did I know that that resolution was passed?

Q Yes. A. Sure.

Q Did you know and do you know that that resolution was

read to these policemen detailed at that vault, on last Tuesday? A. No, I didn't. It would not have made any difference if I did.

Q You heard the testimony today, and you know now that such a resolution was read to them? A. Yes.

Q I assume that you heard the testimony also of the endeavor made by the Sergeant-at-arms and his assistant to carry out the orders of the House of Assembly?

A Yes.

Q Are you aware, Supervisor, that Inspector Neary and Lieutenant Antonacci, detailed at the door of that vault, prevented the carrying out of the order of the House of Assembly, through its Sergeant-at-arms and his assistant, in their endeavor to get those records?

A I don't know how you stopped getting them, if you know who stopped them that day--

Q You are glad that they also went beyond the law?

A I don't believe they went beyond the law.

Q Will you answer the question, please?

A No. They are under the provisions of the law. You are a lawyer. I am not.

MR. MURRAY: Will you read the last question to him?

(The last question was read by the stenographer.)

Q You have heard the testimony here today? A. I hav-

heard the testimony here today, yes.

Q You also are aware of the fact that John Ferguson, Superintendent of Elections of Hudson County, endeavored to break the seal which was placed on that vault door by himself or a deputy of his, under the law?

A I heard the testimony today but I think if John had come to me and I broke the seal-- we always got along together.

Q If he goes with you, John and yourself, will you permit him to break the seal on that door?

A If John and I go to the County Counsel and get the --

Q I am asking the question. A. I know Mr. Ferguson would not want to do anything illegal.

Q Never mind answering for Mr. Ferguson. I think you have got more than a job to answer for yourself. Go ahead and answer the question.

A What is the question?

MR. MURRAY: Mr. Stenographer, will you read the question to him?

(The last question was read by the stenographer.)

THE WITNESS: I still answer it by saying I would consult the county counsel. If the county counsel will say, "All right, go ahead and break it--"

Q But you didn't get it? A. No.

Q You don't mean what you said, that if John goes with you the two Johns would go over there and break that seal?

A We might get together. You can't tell.

Q You won't consent to do it this afternoon?

A You can't tell.

Q You won't say now, will you? A. No, I won't say what now?

Q You won't say now if John goes with you that you will permit him to break the seal and that you will order the police away? A. No, no, I won't.

CHAIRMAN YOUNG: The Committee will adjourn.

THE WITNESS: May I ask a question before you adjourn? It is not offensive in any way.

CHAIRMAN YOUNG: Go right ahead.

THE WITNESS: Like every other citizen of this state, interested in the proper investigation-- I am a veteran of the Case Committee, threatened by it at times, and I really think the best interests of this Committee would be served by meeting in Hudson County, within one block of Mr. Stoebling's office, where we have one of the finest Court Houses in the world. We have a fine library, only two folding doors having access to it, a vault on one side, two doors that would be absolute privacy, and this Committee would

be given the same kindly courtesy of the Hudson County Police, perhaps more than the Boulevard Police.

CHAIRMAN YOUNG: Thank you, no. We will meet tomorrow morning at ten o'clock.

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5039

be given the same kindly courtesy of the Hudson County Police, perhaps more than the Boulevard Police.

CHAIRMAN YOUNG: Thank you, no. We will meet tomorrow morning at ten o'clock.

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