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Public Hearing on Westchester County Contracting and Personnel Practices

New York State Commission on Government Integrity

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PUBLIC HEARING ON WESTCHESTER COUNTY CONTRACTING AND PERSONNEL PRACTICES
[NOVEMBER 28, 29, 1989]

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Note: We received 1 incomplete copy of transcript of hearing dated November 28, 1989. The transcript is missing page 1. Two copies of the transcript dated November 29, 1989 are included.
THE CHAIRPERSON: Good morning.

This public hearing is now in session.

I have a brief statement that I would like to read for the record.

"The Executive Order establishing the Commission on Government Integrity directs us to investigate weaknesses in laws and procedures pertaining to ethical conduct at all levels of government in New York State, including county government.

Among the subjects we have been directed to investigate by the Executive Order are three which are relevant to the public hearings we begin today concerning Westchester County government:

The solicitation and granting of government contracts; the receipt of campaign contributions, particularly from those doing business with the County; and the use of political party position to affect government decisions.

These hearings are one facet of an investigation into the operations of government, particularly in the areas of contracting and personnel.

We will be exploring, among other things,
how certain County contracting and personnel
decisions were made, and what input the prevailing
political party had in those decisions. The
hearing will focus primarily, but not exclusively,
on contracts and personnel practices involving
Playland Amusement Park, particularly in the last six years.

While we recognize that Playland represents a small percentage of total county activity, it is a case study of what can occur elsewhere in the county, and in other counties throughout the State.

The two-and-a-half-year history of this commission is one of comprehensive investigations in many locations around the state. We have held 23 days of public hearings throughout the state on a variety of subjects, including campaign finance reform, political patronage, contracting practices, and municipal ethics reform.

We have issued fifteen carefully considered reports, recommending realistic proposals for changes in laws, regulations, or practices to prevent recurrence of questionable practices.

We will be issuing several more reports
before we conclude our work in the next few weeks.

This is our first public hearing in
Westchester County. We will hear today and
tomorrow from former and present County officials,
political party officials, and former and present
County contractors.

Some of the matters we will explore in the
next two days have also been the subject of
criminal investigations or prosecutions. It is
important, therefore, to distinguish our concerns
from those of prosecutors.

It is not our job to investigate, expose,
or prosecute criminal conduct. Rather, our focus
is conduct which is not criminal in nature, and
may not violate any laws, but which, in our
judgment, may call out for regulation because of
its impact on public confidence in government.

As has become our practice, all witnesses
appearing today and tomorrow have been served with
subpoenas, with the exception of the Chief
Executive, County Executive Andrew O'Rourke, who
will be testifying tomorrow.

All of the witnesses who testify, and all
persons who are mentioned during the testimony of
any witness, have certain rights under New York
Civil Rights Law, Section 73.

For example, a witness has the right, at
the conclusion of his or her testimony, to file a
brief sworn statement with us for incorporation
into the record of this hearing.

Any person whose name is mentioned, or who
is specifically identified during the testimony of
another, and who believes that he or she has been
adversely affected by the testimony, has the
right, likewise, to submit a sworn, written
statement for the record.

Witnesses may be accompanied by counsel,
and counsel may advise the witness of his or her
rights, as long as there is no interference with
the orderly conduct of these hearings.

Counsel may submit proposed questions to be
asked of a witness, and the Commissioners shall
ask any such questions they deem appropriate."

One final comment for the record.

Richard Keeler will not be testifying in
these hearings today and tomorrow, because of his
invocation of his constitutional rights.

The Commission now calls as its first
witness Anthony Carpiniello.

ANTHONY CARPINI E L L O, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: Please be seated.

I recognize Commission staff counsel Thomas McShane, please.

MR. McSHANE: May I inquire?

THE CHAIRPERSON: Yes.

EXAMINATION

BY MR. McSHANE:

Q What is your current position?

A Deputy Chief Investigator for the New York State Commission on Government Integrity.

Q How long have you held that position?

A Two-and-a-half years.

Q Prior to that position, where did you work?

A The United States Treasury Department, Special Agent with the Criminal Investigation Service.

Q How long did you hold that position?

A Approximately 25 years.

Q What is the last position you held with the Internal Revenue Service, Mr. Carpiniello?
Carpiniello

A I was a group manager.

Q Were you the Chief Investigator on a Commission investigation in Westchester County?

A I was.

Q What was the focus of that investigation, Mr. Carpiniello?

A The Commission focused on personnel and contractual matters of Westchester County government, and the influence that the Westchester Republican Party had in these areas.

Q How did you proceed with the investigation, sir?

A We analyzed public files of disclosure forms and housekeeping records of the Westchester County Republican Committee, covering the years 1984 through '88. We deposed vendors at the Playland Amusement Park. We deposed elected and appointed County officials. We deposed political leaders. We analyzed County records relating to contractual and personnel matters. And finally, we investigated the County's response to an allegation that Morgan Hughes, Inc. used political influence to obtain a County contract.

Q Mr. Carpiniello, briefly, what did the Commission investigation reveal?
Our investigation disclosed that the Westchester County political leader, Mr. Anthony Colavita, has the capability to wield considerable influence in the affairs of County government.

Q Did the investigation reveal whether or not Mr. Colavita uses that influence?

A It did.

Q What did it find?

A Mr. Colavita, himself, has acknowledged that he receives and forwards to the County Executive requests for assistance from persons seeking employment in the County.

The Commission received testimony from a former Westchester County Clerk that Mr. Colavita bargained for a commitment to fill a number of appointed positions in the County Clerk's office, in exchange for his political support.

Further, the current County Clerk testified that he sought and received Mr. Colavita's support in restoring personnel budget cuts to his department.

Finally, the Commission determined that Morgan Hughes sought political assistance in obtaining County approval to place a number of rides at the Playland Amusement Park.
Carpiniello

Q Mr. Carpiniello, will the Commission be hearing testimony from witnesses supportive of the statements you just made?
A Yes.

Q Did the Commission investigation come to focus on any single entity in County government?
A We looked closely, but not exclusively, at the Playland Amusement Park.

Q Were you able to determine what the annual budget of Playland Amusement Park is, Mr. Carpiniello?
A Yes, County records indicate during the years 1984 through '88 Westchester County appropriated between 5.5 million dollars and 6.8 million dollars to the Playland Amusement Park, annually.

Q Did you investigate specifically contributions made by businesses and individuals doing business at Playland Amusement Park?
A Yes, we did.

Q What did you find?
A Almost all persons contracting to operate the rides, and run games at the Playland Amusement Park, contributed to the Republican Party during the years '84 through '88.

Q Mr. Carpiniello, you indicated "almost all";
what do you mean by that?

A There were small concessionaires and a number of service providers who we did not disclose that they made a contribution.

Q Did you prepare a chart reflective of your findings in preparation for today's hearing, Mr. Carpiniello?

A Yes.

Q Is that chart a Commission exhibit here today?

A Yes, it is.

Q Will you please point it out?

A The chart on my right.

Q Is that Commission Exhibit 39?

A Yes.

Q Would you please start by briefly explaining, in general terms, what is listed on the chart.

A Well, Mr. McShane, the chart reflects a listing of corporate entities, and their contributions to various Westchester County Republican committees during the years 1984 through 1988.

Q Are all Playland vendors during that period listed on the chart?
Carpiniello

A No, only those for whom we found contributions.

Q And how many vendors did you find did not contribute, Mr. Carpiniello?

A As stated, there were two small concessionaires, and some service providers that did not contribute.

Q How did you determine that those were the Playland vendors during that period?

A The identities were obtained through an analysis of County records furnished to us.

Q Now, you have listed the vendors by their corporate names, Mr. Carpiniello.

Were all contributions that are indicated on the chart made by the corporate entities?

A No, the contributions reflected on the chart comprise contributions made in both corporate names or by the responsible corporate officers of each of those entities.

Q How were you able to determine who the -- how were you able to determine who the principals of the corporation were?

A Again, through an analysis of records furnished by the County, specifically an analysis of the
contracts.

Q I would like to direct your attention to the second column on the chart, labeled "Contract," where various designations are made next to the corporate entities. Explain to me what that column reflects.

A Those are the types of contracts that the corporate entities held. We have ride concessionaires, we have concessionaires that run games at the park, and then there is this other type of concessionaire that had things such as a souvenir stand, a boat ride concession.

In addition to that, there are two service concessionaires at the park, in the middle of the chart, NAC Communications, who provides public relation services for the park, and Zambelli Fire Works, the last business entity. That is, obviously, the fire work display.

Q I would like to direct your attention now to the column entitled "Housekeeping Accounts." Could you tell me what that column refers to?

A Yes. Housekeeping Accounts represents portions of revenue and expenditures of a political party, which, prior to May of 1988, were exempt from public disclosure requirements.

Q You have a time period indicated at the top of that column of 1984 through August of 1987. Is that
reflective of the fact that the Westchester Republican Committee began to disclose contributions to, and expenditures from, the housekeeping accounts prior to the time when they were required to by law?

A Yes, specifically August of 1987.

Q And you have indicated that those contributions to those accounts were not publicly disclosed. How were you able to calculate them?

A Well, the way I arrived at those figures is by analysis of the housekeeping records of the Republican Party, as well as records we subpoenaed through the banks.

Q The records you obtained from the Westchester Republican Party were obtained through subpoena; is that right?

A Yes.

Q And were you able to determine what the total amount of contributions from Playland vendors to the Housekeeping Accounts of the Westchester County Republican Committee was during the period 1984 through 1988?

A Yes, as reflected, $42,405.

Q And do you have canceled checks supportive of all the contributions that are listed in that account?
Carpiniello

A Yes, with the exception of one vendor, who testified that his contributions were made in currency, all other contributions reflected in that column are supported with canceled checks.

Q Now, you have testified to the fact that the Housekeeping Accounts reflected in that column are Housekeeping Accounts of the Westchester County Republican Committee. Where is that committee headquartered, Mr. Carpiniello?

A 214 Mamaroneck Avenue, White Plains, New York.

Q And moving across the top of the chart, are any of the other committees that are indicated on the chart also administered out of that building, at that location?

A Yes, a People for O'Rourke account, the Westchester County Majority Committee, the Chairman's Club, and the Special Account.

Q The accounts that you have not mentioned are the Eastchester Town Committee and the Greenburgh Town Committee, as well as the Journals Account.

With regard to the -- I'm sorry, and the Westchester PAC.

Can you tell me why you focused on those...
particular committees?

A Yes.

In connection with our inquiries, we discovered that some Playland vendors had contributed to those accounts. We then obtained those disclosure files from the Board of Elections.

Q And are the figures that are reflected in the columns to the right of the Journal Account figures that you obtained through public files made with the Board of Elections?

A Yes.

Q You have referred to 214 Mamaroneck Avenue. What is that address?

A Republican headquarters.

Q I would like to address your attention for a moment to the Journal Account, which is at the top of the third column -- the second column with figures. Can you tell me what the Journal Account is?

A Yes, that is a County committee bank account, which is used to fund an annual dinner, as well as the Republican journals.

Q And do you have copies of canceled checks reflective of contributions to that account?

A Yes, all of those figures are substantiated
with canceled checks.

Q Now moving to the far right of the chart, Mr. Carpiniello, are two columns, one labeled "Chairman's Club," and the other labeled "Special Account." Can you tell us what those columns refer to?

A Yes. The Chairman's Club is the -- during the years '84 through August of '87 was the only reporting account of the Westchester County Republican Committee.

Q And the Special Account?

A That represents a merger of the Chairman's Club and the Housekeeping Account. As of August 11, 1987, all contributions and expenditures are now being disclosed.

Q Were you able to disclose the total amount of contributions by Playland vendors to the Westchester County Republican committees that are listed during the period 1984 through 1988?

A Yes, as reflected on the chart, the total contributions amounted to $81,963.

Q And of that figure, of that amount, how much was not disclosed?

A A figure of $45,630, which represents a total of the Housekeeping Account and the Journal NATIONAL REPORTING INC. (212) 732-3120
Account, both of which are underlined in red.

THE CHAIRPERSON: Can I ask a question at this point?

You said that that amount was not disclosed. I take it that it was not required to be disclosed under the law as it existed at that time?

THE WITNESS: That is correct.

Q Before we move away from the chart, I would like to direct your attention, once again, to the column labeled "Journal Account."

Who is in charge of the Journal Account?

A He. Richard Keeler.

Q And how do you know that?

A I know that from an analysis of bank records, as well as an examination of checks issued from the account, and testimony from party officials.

Q During the period between 1984 and 1988, did Mr. Keeler hold a position in the County government?

A Yes, he did.

Q What position did he hold?

A Director of the Playland Amusement Park.

Q In that position were you able to determine whether he played a role in contracting matters with the
vendors who are listed on the chart?

A  Yes, he did.

Q  What role did you find that he played?

A  Mr. Keeler played a significant role in negotiating contracts. He negotiated the financial aspects of the contracts, the duration of the contracts, the amount of money to be paid to the County.

In addition to the contracts Mr. McShane, he was also, on occasion, responsible for the location of rides or games at the park.

Q  Were you able to determine whether or not Mr. Keeler's association with the Republican Party was known among vendors at the park?

A  Yes, I was. From vendor interviews it was clearly established that Keeler's association with the Republican Party was well-known.

Q  Were you able to determine whether Mr. Keeler's association with the Republican Party was known among Playland employees?

A  Yes, it was.

Q  Do you know a person by the name of Ellen Kenny?

A  Yes.

Q  Who was she?
A Mr. Keeler's secretary for a period of time at the Playland Park.

Q Was she deposed by the Commission?
A Yes.

Q What did she say under oath about his connection with the Republican Party?
A She testified that Anthony Colavita placed frequent calls to the Playland Amusement Park, and that she was directed by Mr. Keeler to place those calls through immediately.

Q Was she so directed by Mr. Keeler with regard to calls from any County officials?
A She said that she wasn't.

Q When did Mr. Keeler become General Manager of Playland?

Q By whom was he appointed to that position?
A County Executive Andrew O'Rourke.

Q Do you know who he replaced?
A I do. He replaced Mr. Edward Kilcullen.

Q Who was Mr. Keeler's supervisor while he was the Director of Playland Park?
A Mr. Joseph Caverly, the then Commissioner of Parks, Recreation and Conservation.
Q Do you know whether Mr. Caverly played any role in Mr. Keeler's selection?

A Mr. Caverly testified that he had not been consulted on this decision.

Q Turning back to the contributions you have summarized on the chart, Mr. Carpiniello, did the Commission speak to Playland vendors specifically about the contributions that they made?

A We did, Mr. McShane, we interviewed 22 of the 23 vendors listed on that chart.

Q And what did the vendors say about the contributions that they had made to the Republican committees?

A In a general sense, Mr. McShane, five of the vendors testified that they were long-time supporters of the Republican Party, and that they considered their contributions to be strictly political in nature.

Nine vendors testified that they considered their contributions to be clearly a business decision.

Eight testified to the effect that making contributions was something that they just did with a sense of, it surely couldn't help -- it couldn't hurt, rather.

Q Did any of the vendors indicate that they
Carpiniello had been solicited for contributions by Mr. Keeler?

A Some said they did.

Q And did any indicate that they made contributions to him?

A Some stated that as a matter of convenience they occasionally dropped their contributions to Mr. Keeler, or with his secretary.

Q Turning back to the chart for a few minutes, Mr. Carpiniello, were you able to determine who was the biggest contributor of the Playland vendors during the period given?

A Yes, Morgan Hughes, Inc.

Q And in what amount were you able to determine that he made contributions?

A As reflected on the chart, $15,150 over the period of 1984 through 1988.

Q Do you know where Mr. Morgan Hughes' business is located?

A Yes, in New Jersey.

Q Do you know where he lives?

A Yes, in Pennsylvania.

Q When did he start contributing to the Westchester Republican committees?

A Our records indicate that his contributions
Carpiniello

began in 1985.

Q Had he ever made contributions before that?
A He testified that he hadn't.

Q And when did he first start doing business
in Westchester County?
A 1984; although he did have previous business
at Playland during the 1960's.

Q During the period from the sixties up until
1984, he did no business in Playland?
A That is correct.

Q Did you have occasion, Mr. Carpiniello, as
part of your investigation, to inquire into the manner in
which the Morgan Hughes contracts were negotiated with
the County?
A Yes, I did.

Q And did you have prepared a chart that
reflects your findings in this area?
A Yes, I did. It is the chart behind you, Mr.
McShane.

Q And is that Commission Exhibit 40?
A It is.

Q Mr. Carpiniello, as I ask you the next set
of questions, I would ask you to refer to the chart, if
at any point it becomes helpful in explaining your
testimony.

A Yes.

Q Mr. Carpiniello, in 1981 and 1982 who operated Playland Amusement Park?

A As reflected on the chart, the Marriott Corporation operated the park under a two-year trial basis management contract with Westchester County.

Q Did that end in 1983?

A Yes, Marriott Corporation and Westchester County agreed to terminate the contract.

Q What happened then?

A The County took it over.

Q Was there also a change in government in Westchester County at that time?

A Yes, there was. County Executive Alfred Del Bello, a Democrat, was elected Lieutenant Governor in New York State. Andrew O'Rourke, a Republican, was then appointed County Executive by a vote of the Board of Legislators.

Q And in 1983, when the County took over Playland Park, who was placed in charge of the park?

A Mr. Edward Kilcullen was appointed Director, on a consulting basis.

Q Had he been associated with the park before?
A Yes, prior to Marriott, Mr. Kilcullen had run the park for a period of about 25 years. Also, he acted as a consultant to Marriott during the years 1981 and 1982.

Q Now turning back to Morgan Hughes, were you able to determine when the Morgan Hughes Company first indicated an interest in securing a contract for rides at Playland in the 1980's?

A Yes, we had been informed that in November of 1982 Mr. Hughes asked his attorney, Horace Borchardt, to contact either Mr. O'Rourke, or a Mr. Dolan, concerning his interest in returning to Playland.

Q Do you know whether Mr. Borchardt or Mr. Hughes subsequently met with County officials at that time?

A Our investigation did not disclose that such a meeting occurred.

Q Did the investigation disclose whether Mr. Borchardt or Mr. Hughes met with anybody else in Westchester County at that time?

A Yes, during late 1982, or early 1983, Morgan Hughes met with party officials at Republican headquarters in White Plains, New York, to discuss Playland business.
Q How do you know that, Mr. Carpiniello?
A We obtained documents referencing this meeting. We also received testimony from persons who attended the meeting.
Q You have referred to documents, Mr. Carpiniello. What documents are you referring to?
A I'm referring to a letter dated January 24, 1983, from Hughes' attorney, Mr. Borchardt, to Frederick Gioffre.
And I'm referring to a second letter, dated February 2, 1983, from Mr. Borchardt to Anthony Colavita.
Q And are those letters Commission exhibits here today, Mr. Carpiniello?
A Yes, they are.
Q And is the letter you referred to from Mr. Borchardt to Mr. Gioffre Commission Exhibit 2?
A Yes, it is.
Q And is the letter you referred to from Mr. Borchardt to Mr. Colavita Commission Exhibit 1?
A It is.
Q Can you tell the members of the Commission, Mr. Carpiniello, how you came to possess those two letters?
A Yes. As part of our investigative efforts

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we contacted Mr. Borchardt's former law firm and received copies of the letters from them.

Q Now directing your attention to Commission Exhibit 2, is reference made in that letter to the meeting that you just recently referred to?

A Yes, in the first sentence. A reference is made to a conference a couple of weeks ago which was attended by Mr. Hughes, Mr. Colavita, Mr. Borchardt and Mr. Gioffre.

Q And is there any reference in that letter to the matters that were discussed at that meeting?

A Yes, there is reference to a discussion concerning Playland business.

Q I would like to direct your attention to Commission Exhibit 1. Again, that is the letter from Mr. Borchardt to Mr. Colavita, dated February 3, 1983.

A February 2nd.

Q I'm sorry, February 2, 1983.

Is there any reference in that letter to the Hughes proposals?

A Yes, Mr. McShane, the third paragraph, second sentence, "I am sure that Fred Gioffre turned over the detailed plan to you, as he promised, so that with the help of your good offices, Mickey's proposal will be
taken up shortly with Ed Kilcullen."

Q And directing your attention to Commission Exhibit 2, Mr. Carpiniello, the letter is written to Frederick Gioffre. Who is Mr. Frederick Gioffre?

A He was Executive Director of the Westchester County Republican Party at the time of the writing of this letter.

Q In that position did he work for Mr. Colavita?

A Yes, he did.

Q Did the proposals that are referred to in the two letters which are Commission Exhibits 1 and 2 ever find their way to Playland?

A Yes, they did.

Q How do you know that?

A Mr. Kilcullen testified that Frederick Gioffre delivered the proposals to him some time during March of 1983.

Q And in March of 1983, do you know what position Mr. Gioffre held?

A Yes, during March of 1983 he was Director of Program Development, Office of Public Information, Westchester County.

Q In which County department is that office?
A It's in the County Executive's office.

Q In that position, Mr. Carpiniello, did Mr. Gioffre have any responsibility for contract matters at Playland?

A No.

Q Did Mr. Kilcullen act upon these proposals?

A Mr. Kilcullen testified that he discarded them.

Q Did Morgan Hughes submit new proposals later in 1983?

A Yes, he did.

Q And who received those new proposals?

A County records indicate that the proposals were received by Nicholas Vece, then Playland Comptroller.

Q Was Mr. Keeler then at Playland?

A Yes, he had been assigned to Playland during July of 1983 by County Executive O'Rourke, to assist Mr. Kilcullen.

Q And who in the County reviewed the proposals that were submitted by Mr. Hughes in late 1983?

A County records indicate that the proposals were reviewed by both Mr. Vece and Mr. Keeler.

Q And were revenue projections prepared at
that time with regard to the proposals submitted?

A Yes, they were.

Q Who prepared those?

A County records indicate that the revenue proposals were prepared by Mr. Vece.

Q Mr. Kilcullen was still Director of the park during that period; was he not?

A Yes.

Q And when did Mr. Kilcullen leave the park, Mr. Carpiniello?

A Mr. Kilcullen left the park in January of 1984, at which time Mr. Keeler was appointed as the Director.

Q Did Mr. Kilcullen remain on for a short period of time as a consultant, after January of 1984?

A Yes, he did.

Q Now, the contracts that you referred to that were presented at the end of 1983, were there negotiations between County officials and Mr. Hughes regarding certain terms of those contracts?

A Yes, there was.

Q And who handled those negotiations, such as they were, for the County?

A It appears that the negotiations were
conducted by Mr. Vece and Mr. Keeler, with Mr. Hughes.

Q And were the proposals submitted by Mr. Hughes in late 1983 subsequently approved by the County's Board of Acquisition and Contract?

A Yes, during February of 1984.

Q And was Mr. Andrew O'Rourke, the County Executive, a member of the Board at that time?

A Yes, he was, along with the Chairman of the Board of Legislators, and the Commissioner of Public Works. That is the Board that comprises the Board of Acquisition and Contract.

Q Briefly, Mr. Carpiniello, can you explain for the Commission what the terms of the contracts with Mr. Hughes were?

A Yes. The contracts consisted of four amusement rides, which were leased to the County at an initial annual fee of $470,000 for the 1984 year. Over the life of the contract, over the three-year life of all four contracts, the total lease expenses amount to approximately 1.3 million dollars.

The contracts called for the County to absorb all costs of operation, as well as a portion of site and transportation costs.

The exception is with one contract wherein
the County was obligated for the entire cost of site preparation and transportation.

Q By the way, Mr. Carpiniello, did other ride vendors at the park have similar lease agreements with the County?

A No, this agreement was unique at Playland.

Q What is the most significant difference between the contracts had by other vendors, and the contract negotiated by Mr. Hughes?

A Well, ride vendors conduct business based on a percentage of the revenue derived. Game concessionaires are charged a fixed fee for a particular game.

The comparison between the Morgan Hughes lease and those is obviously in the area of risk. In effect, Morgan Hughes was guaranteed a stipulated annual income, whereas all other vendors were operating at risk.

Q And the other vendors actually operate the rides in the park themselves; is that correct?

A Yes.

Q Now, you have referred to one ride provided by Mr. Hughes for which there was no cap on the amount that the County was required to pay for transportation and installation. What ride was that?
The Whirlwind.

And were you able to determine how much the County did pay for the transportation and installation of that particular ride?

Yes, I was. It was approximately $470,000.

And how much of that cost was devoted solely to site preparation?

Approximately $362,000.

Were you able to determine who actually took responsibility for the site preparation; that is, what vendor?

Morgan Hughes.

And did he contract with anybody, or engage the services of anybody, to do the work?

He did, he subcontracted the site work to GNP Contracting Company, a company owned by Peter and Gary Nigro.

And did that company do all the site work itself, or did it subcontract out some of the work?

GNP, in turn, subbed a portion of the work out to other vendors.

Was the contract between Mr. Hughes and GNP a contract that was competitively bid?

No.
Q Were the contracts with the subcontractors competitively bid?

A No, it wasn't. As a matter of fact, the checks, the County checks, were issued to Morgan Hughes, or Morgan Hughes' companies, and Morgan Hughes, in turn, issued company checks to the subcontractors.

Q So, the County had no contact at all with the subcontractors; is that correct?

A In some instances they didn't even know who they were.

Q Had the County of Westchester estimated the cost of the site preparation for that Whirlwind ride prior to its installation?

A Yes.

Q And what had the County estimated?

A The County records indicate that the projected site work for the Whirlwind ride was $45,000.

Q Now Mr. Carpiniello, earlier you referred to revenue estimates that had been prepared by Mr. Vece and were put forward by Mr. Vece and Mr. Keeler in late, 1983.

Did you have occasion to analyze those revenue figures as estimated, and compare them to the actual revenue figures for the four rides during the
period, the first three-year period of the rides' operations?

A I did.

Q What did you find?

A For the three-year contractual period for the four Morgan Hughes rides, the estimated revenue was 4.3 million dollars. The actual revenue was 1.2 million dollars, a difference of 3.1 million dollars in revenue. In addition, there were estimates of the ridership figures. The estimates were that there would be 3.2 million riders on the four rides over the three-year period. The actual ridership was 1.5 million riders, a difference of approximately 1.7 million.

THE CHAIRPERSON: Can I have the time period, please?

THE WITNESS: Yes, this is during the years 1984 to 1986, the three years of the contracts for all four rides.

Q Mr. Carpiniello, did you ever have occasion to analyze the revenue figures as compared to expenditures in connection with those four rides?

A Yes, I did.

Q And what were you able to determine?

A As stated, the actual revenue for the four
Carpiniello

rides over the three years was approximately 1.2 million dollars.

The three-year expense summary for the four rides amount to 2.1 million dollars, or a net loss to the County of approximately $900,000.

Q Did there come a time, Mr. Carpiniello, when the Morgan Hughes contracts were renewed by the County for the four rides?

MR. SCHWARZ: Excuse me, can I clarify something?

MR. MCSHANE: Yes.

MR. SCHWARZ: You said the estimated revenues were 4.3 million and the estimated riders were 3.2 million, and the actual revenues were 1.2 million, and the actual riders were 1.5 million.

Can you account for the difference in proportion between those numbers?

In other words, the 1.2 is less than a third of the 4.3, and yet the 1.5 is only roughly half of the 3.2.

THE WITNESS: I don't know, Mr. Schwarz, if a relationship does exist between the two. I think it is based on how much they charged per ride, whether it is one ticket or two tickets.
These rides are all based on tickets being purchased, and given. The County had the authority to set how many tickets were to be charged for each ride. I don't know the answer to that.

MR. SCHWARZ: I guess my question is, if you estimate 3.2 million riders, and you end up 1.5, which is only one hundred thousand short of half, one would expect that you would end up with almost half of 4.3, which would be roughly 2.1. So, can you account for the missing 900,000?

THE WITNESS: No, I don't know.

Q The figures that you have referred to, Mr. Carpiniello, are specifically addressing, first, the figures, estimated figures, are figures that you received from the County of Westchester; is that correct?

A Yes.

Q And the analysis that you did of actual revenue and actual expenditure are also based on figures that you obtained from the County of Westchester; is that correct?

A Yes.

Q Now Mr. Carpiniello, did there come a time
when the Morgan Hughes contracts were renewed?
   A Yes.
Q When did that happen?
   A In 1986.
Q And at the time that the County elected to
renew those contracts, were the figures you just cited
available to the County?
   A Yes, they were.
Q Can you tell me for how long a period the
contracts were renewed?
   A The contracts were renewed for five years,
rather than the two-year option that was written into the
original contracts.
Q And are these contracts currently in effect?
   A Yes, they are.
Q Mr. Carpiniello, did there come a time when
the Hughes contracts came under scrutiny by the County of
Westchester government?
   A Yes, Mr. McShane, on March 30, 1988, County
Executive Andrew O'Rourke appointed an ad hoc committee
to investigate the Morgan Hughes contracts.
Q And can you tell me who served on that ad
hoc committee?
   A Yes. Mr. Henry Logan, County Attorney; Mr.
Carpiniello

Joseph Gulia, Commissioner of Finance; Mr. Joseph Caverly, Commissioner of Parks and Recreation, and Mr. Robert Uher, Budget Director.

Q Did the Commission depose members of that committee?

A Yes, we did.

Q Were you able to determine what the assignment given to that ad hoc committee was?

A The committee members expressed some confusion regarding the specific purpose of the ad hoc committee, and what their assignment was. They ended up confining themselves to what they referred to as an analysis of the four corners of the leases.

Q Did that ad hoc committee release a final report?

A Yes, during the week of April 18, 1988.

Q Do you know, Mr. Carpiniello, whether that committee came into possession of the letter of January 24, 1983, that is Commission Exhibit 2?

A Yes, they did.

Q Do you know where that letter was located?

A Yes, committee members testified that the letter was found in Playland files.

Q And was that letter made public in the final
committee report?

A No, although it was included in an original version, it was deleted before the final report was submitted.

Q How do you know that?

A We obtained copies of draft reports issued by the ad hoc committee, and determined that the letter was, in fact, excised from the report.

Q Do you know when that letter was excised from the report?

A The best we could determine, Mr. McShane, it was excised at some point prior to April 8, 1988. We arrived at that date through an analysis. Some of the draft reports were dated.

Our best determination is some point prior to April 8, 1988 the letter was excised.

Q Did you also have occasion to speak with the draftsmen of the report?

A Yes, we did.

Q Were you able to determine who directed that the reference to that letter, and its inclusion as an exhibit, be excised from the report?

A Not precisely, but Mr. Peter Holmes, an Assistant County Attorney, and the report draftsman,
Carpiniello stated that he probably took it out at the direction of the committee.

Q    Do you know what the committee did with the letter?

A    Yes, I do. The letter was given to County Executive O'Rourke, and it was forwarded to District Attorney Vergari before the final report was released.

Q    Mr. Carpiniello, did the committee ever come into possession of Commission Exhibit 1, which is the February, 1983 letter from Mr. Borchardt to Mr. Colavita?

A    No.

MR. McSHANE: Mr. Chairman, I have no further questions of this witness.

THE CHAIRPERSON: Thank you.

Mr. Schwarz, please.

MR. SCHWARZ: Just to go over the last thing you said.

Did the committee ever come into possession of Exhibit 1? What did you mean by that? You mean the original of it?

THE WITNESS: Yes. We determined, from the testimony of the members of the Commission, that they had, in fact, had the letter from Playland. Whether it was an original or a copy I'm not sure.
They did have the letter, and we determined that the letter was made part of the draft report. It was included as an exhibit.

THE CHAIRPERSON: Can I just --

MR. SCHWARZ: I want to --

MR. McSHANE: I think the witness was referring, in his answer, to Commission Exhibit 1, which is the letter to Mr. Colavita. And I believe your question was with regard to -- I'm sorry, he answered concerning Commission Exhibit 2, which is the Gioffre letter. You asked about the Colavita letter.

MR. SCHWARZ: With respect to Exhibit 1, you said they never came into possession of the letter; is that correct?


MR. SCHWARZ: What do you mean by that; since, obviously, we have a copy of it?

THE WITNESS: I'm referring to the ad hoc committee. That was appointed by Mr. O'Rourke, as against our commission.

MR. SCHWARZ: The committee did not have the letter, the Colavita letter?

THE WITNESS: Yes.
MR. SCHWARZ: You said that the projected site was $45,000 versus $362,000. Did you do an analysis of the projected site work versus what was done, to know whether we are talking about apples and apples?

THE WITNESS: Did I do an analysis of the site work that was done?

MR. SCHWARZ: The site work that was projected to be $45,000, as compared to what ultimately cost $362,000, to determine you were talking about the same site.

THE WITNESS: The records did not disclose that. The records available to me disclosed only the figure, not the actual work to be done.

MR. SCHWARZ: And you said that, I believe you made some distinction between games and rides?

THE WITNESS: Yes.

MR. SCHWARZ: You said rides. Usually there is some sort of joint venture type operation where the operator is at risk, the same as the amusement park owner, in this case the County; and in the game area it is more of a lease.

THE WITNESS: Yes. If I could explain.

In the area of games, let me start with
that. There is a fixed fee charged for the games. These would be your skill type games, whether it's throwing darts at balloons, water games, whatever. There is a fixed fee that is negotiated for that, a fixed amount; that is it.

As for the rides, that is arrived at by a percentage of the gross.

The average percentage for the ride vendors at Playland is about 43 to 45% of the revenue is paid to the County; the vendor keeps the balance.

MR. SCHWARZ: Did you do any analysis of, or any study, of the game business, as to what the actual percentages of revenues are the County gets by payment of a permit or fee payment; how that actually works out?

THE WITNESS: The amounts of monies earned by the game vendors are not known.

MR. SCHWARZ: Not public?

THE WITNESS: No.

COMMISSIONER VANCE: Mr. Carpiniello, you said, as I recall it, that the letter, Exhibit No. 2, was not included in the final proposal, that it was in a draft proposal. You asked Mr. Holmes,
who was the draftsman, about it, he said it was probably taken out at the direction of the ad hoc committee.

Now, was any member of the ad hoc committee deposed with respect to this matter, and if so, what did they say?

THE WITNESS: There was --

COMMISSIONER VANCE: As to the excision.

THE WITNESS: They claim that there was a decision made that the letter, itself, was not germane to what they understood their charge to be, and as such, there was an agreement that the letter should not be included as part of the report. It was this general agreement as to that.

That was evidenced by a memorandum that was written, evidencing that.

COMMISSIONER VANCE: And do we have a copy of that memorandum as one of the exhibits?

THE WITNESS: We do.

COMMISSIONER VANCE: Will this be introduced later on?

MR. BIENSTOCK: Through a witness who will be testifying as to its preparation.

COMMISSIONER VANCE: Thank you.
THE CHAIRPERSON: Commissioner Emery.

COMMISSIONER EMERY: I want to go over the Morgan Hughes arrangement.

Could you go through those numbers again with me and show me again, because I didn't quite follow it, the loss to the County, how that occurred in that particular arrangement over the three-year period.

THE WITNESS: Over the three-year period?

COMMISSIONER EMERY: Yes.

THE WITNESS: Okay.

Let's start with the actual revenue figures which I obtained from the County. Those rides generated approximately 1.2 million dollars.

Now, an analysis of the County records disclosed the following -- I will read some of the numbers I have here -- the lease payments were 1.3 million. The transportation and site prep costs were over $400,000. Repairs, $47,000.

These are all expenses incurred by the County.

Operating costs, $146,000, which would include the cost of the employees to run the rides.
There were maintenance costs of $15,000, and utilities of $60,000.

So, we have total expenses of approximately 2.1 million. When matched with the actual revenue of 1.2 million, it results in a loss of about $900,000.

COMMISSIONER EMERY: What about the payment to the County? Morgan Hughes was making a payment to the County; wasn't it?

There was no payment?

MR. SCHWARZ: No.

THE WITNESS: No.

COMMISSIONER EMERY: That is what I wanted to understand.

Thank you.

THE CHAIRPERSON: Thank you very much, Mr. Carpiniello.

(Witness excused.)

THE CHAIRPERSON: The Commission calls as its next witness George Morrow.

G E O R G E M O R R O W, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: I recognize Commission
counsel Thomas McShane.

MR. McSHANE: Thank you, Mr. Chairman.

EXAMINATION

BY MR. McSHANE:

Q Good morning, Mr. Morrow.
A Good morning.

Q Mr. Morrow, what is your current occupation?
A I'm a construction manager for a real estate development firm in Dutchess County, New York.

Q If you could just pull the microphone a little bit closer to you, it may be helpful.
A Yes.

Q For how long have you been involved in the construction management business?
A For the past three years.

Q Was there a time, Mr. Morrow, when you were the County Clerk at the County of Westchester?
A Yes, I was.

Q During what period did you hold that position?

Q And prior to holding that position, did you hold any other public office?
A Yes, I was the supervisor of the Town of
As the supervisor of the Town of Mount Pleasant, did you play any role in County government?

My first term as supervisor I sat on the Westchester County Board of Supervisors. It was the last term of that board prior to it becoming the Board of County Legislators.

The Board of Supervisors was during that period the legislative ruling body of Westchester?

Yes, it was.

What period did you serve on that board?

That would have been 1967 to 1968, I believe.

Now, have you held any positions in political parties in Westchester County?

I was a County Republican district leader in Mount Pleasant for about six or eight years in the early 1980's.

Do you currently hold any position in a political party in Westchester County?

No, I do not.

Now, was the position of County Clerk, which you held, an elected position?

Yes, it was.
And did you run for that office with the Republican endorsement when you first ran?

Yes, I did. In each succeeding election that you ran in, did you also run with Republican endorsement?

Yes. In 1982, Mr. Morrow, did you lose your bid for reelection to the County Clerk's position?

Yes, I did. To whom did you lose?

Andrew Spano, the present County Clerk. As County Clerk, Mr. Morrow, how many employees did you have in your employ?

I believe it was in the neighborhood of 150 to 200 employees at that time. And can you briefly describe what the responsibilities and duties of the County Clerk's office were?

Well, at that time the County Clerk was also the Clerk of the County and Supreme Courts. The County Clerk ran the Division of Land Records, the Immigration Service within the County, a record center. Also ran the Motor Vehicle office.

Was that referred to as the Automobile
Bureau?

A Yes, it was.

Q And during that period when you were County Clerk, did the County Clerk's office function as an agent of the State of New York in operating the Department of Motor Vehicles?

A Yes.

Q Now, when you took office in 1974, Mr. Morrow, who was the County Chairman of the Westchester Republican Committee?

A Dr. James O'Rourke.

Q And when you left office in 1982, who was the chairman?

A Anthony Colavita.

Q And do you recall when Mr. Colavita took over?

A I believe it was in the late 1970's. Either 1979, 1980, in that period of time, I believe.

Q Now, during your time as County Clerk, Mr. Morrow, did you have an employee in your charge by the name of Richard Keeler?

A Yes, Mr. Keeler was an employee of the County Clerk's office when I took office.

Q During your tenure as County Clerk, did you
have occasion to promote Mr. Keeler to higher positions in the County Clerk's office?

A Yes, I did.

Q On how many occasions, if you can recall?

A I believe it was two occasions.

Q Were you encouraged to award those appointments by anyone outside the County government?

A Yes, I was, very strongly.

Q By who?

A Anthony Colavita.

Q Was it your belief, on those occasions, that Mr. Keeler had warranted promotion by his performance on the job?

A The first time he was promoted I did not know Mr. Keeler. We opened an Automobile Bureau office in Peekskill; and I had been told by Mr. Colavita, and by my predecessor, the County Clerk's office, that the deputy in charge of that office had been committed to Richard Keeler prior to my election. Therefore, I went along with the commitment, and promoted him.

The second time, this was after a year, eighteen months later, we opened a third office in Yonkers, and at that time the Budget Director, the County Legislature, actually, gave us another position of Deputy
County Clerk and Chief Clerk. That individual was supposed to be in charge of the three offices.

At that time Mr. Colavita insisted that Mr. Keeler fill that position. I objected to it. I felt that there were better people within the department that could better fill that position. However, Mr. Colavita insisted that it be Mr. Keeler, and I appointed Mr. Keeler.

Q Did you have conversations with Mr. Colavita about why he wanted Mr. Keeler promoted?

A Yes, I had conversations with Mr. Colavita for probably the entire time I was County Clerk about Mr. Keeler, and in each case Mr. Colavita simply told me that Mr. Keeler was a very loyal Republican, and he was loyal to the Republican Party, and he deserved it, and, therefore, he should get it.

Q Did you indicate to Mr. Colavita, during your conversations with him, that you were dissatisfied with Mr. Keeler's performance on the job?

A Very much so.

Q And what did Mr. Colavita respond on those occasions?

A Each time he simply brushed them aside. They were of absolutely no consequence to him.
Q Were you able to determine whether or not Mr. Keeler's advancement in the County Clerk's office had any effect on the morale of the other employees in the office?

A Yes, sir, it was demoralizing to the morale of all the employees in the County Clerk's office.

Q How do you know that?

A Firsthand, I knew it from individuals and groups telling me so. They derided Mr. Keeler, they made jokes about it, they complained to me about it, that he was a political appointee, and that he owed his allegiance to, in their words, 2134 Mamaroneck Avenue, rather than to the County Clerk or the County of Westchester.

Q Did you ever hear that Mr. Keeler solicited contributions from employees that were in his charge while he was in the County Clerk's office?

A Yes, I did.

Q And who did you hear that from?

A Again, from employees, namely employees of the Automobile Bureau, although I must say it was employees on a management level throughout the County Clerk's office.

Q Did any employees ever indicate to you that
Mr. Keeler had suggested that their contributions could affect their careers in County government?

A I was quite often told that by employees, yes.

Q What did they say about what they had been told?

A They were told that if they made contributions, why it was known by Tony, and that Tony would look favorably upon them for promotions and advancement.

Q Now, did there come a time when you were County Clerk, Mr. Morrow, when it came to your attention that Mr. Keeler was driving Mr. Colavita to appointments on County time?

A Yes, it did.

Q Did this interfere with the functioning of the County Clerk's office in any way?

A Yes, in a number of ways. One was it was, again, demoralizing to the employees. Mr. Keeler took time off from his regular duties without very much, if any, advance notice, to drive Mr. Colavita throughout New York State.

The employees -- he made no hiding of that, he did not hide it in any sense, what he was doing, where
he was going. In fact, he was rather proud of it.

The employees knew that he was out with the Republican County Chairman, and later the State Chairman, for, as they used to put it, a ride in the country.

His duties, of course, were not handled by anyone else in the Motor Vehicle office.

His office was locked. There were times when we had to get into his office, and because he was away on Republican Party business, rather than County business, employees, who had to have access to his office, could not gain that access.

Q Did you have occasion to speak to Mr. Colavita about this matter?

A I spoke to Mr. Colavita about this matter at least three times, possibly more.

Q And can you tell me what you said to him, and what he said to you on those occasions?

A Mr. Colavita brought it up to me that Mr. Keeler was being charged either vacation time or personal days, or some such days, compensatory days. He was being charged for the time he was driving Mr. Colavita to political functions throughout the state.

He objected to this. He said that Mr. Keeler should not be charged for this time, that he was
very valuable to them, that he wanted him to drive him,
and, therefore, he should drive him.

Q What did you do?
A I continued to charge him. I directed my
employees to continue to charge him either a vacation
day, a personal day, whatever, for any time that he was
absent on business that was not County business.

Again, Mr. Colavita objected to it. At one
time he, very harshly, at a dinner said to me, "I
understand you are still charging Keeler for the time; I
want it to stop." We had serious words about it.

Q Did you ever have conversations with Mr.
Colavita about the person on the staff who was actually
responsible for charging the time to Mr. Keeler?
A Yes, that person was actually -- Mr.
Colavita thought that person was responsible for charging
Richard Keeler for the time, and in effect, that person
was simply recording the time. That person -- one of the
duties of that person was to keep track of vacation time,
personal days, sick days, of employees; and she was doing
it at my direction.

Q And it was Mr. Colavita's impression that
she was doing it on her own; is that correct?
A Yes, it was his impression, and I cleared it
up the first time I discussed it with him, I said it was at my direction, not hers.

Q  Did he ever indicate at any time that he wanted you to take any action with regard to that employee?
A  Yes, he wanted me to remove her from that office, find another place for her, get rid of her.

Q  Did you do that?
A  No, I did not.

Q  Did she subsequently leave that office?
A  Yes, she did; her job was eliminated in the 1983 budget.

Q  How was her job eliminated?
A  That would be by an act of the Board of Legislators. It was a line item, as each job is in County government. The line item was just eliminated. The position was eliminated.

Q  Turning now, Mr. Morrow, to another topic. Are you familiar with a person named Barbara Price?
A  Yes, I am.

Q  How do you know her?
A  Barbara Price was the wife of Wilson Price, the late Wilson Price, I believe, who was the Conservative leader of the County of Westchester.
Q And did there come a time when Mrs. Price was hired by you to be a Deputy Clerk in the Clerk's office?
A Yes, she was.
Q Can you tell me how that happened?
A Yes. Mr. Colavita had invited me to, I believe at least two lunches, with Wilson Price. The Conservative Party was, at that time, very unhappy with me; they had not endorsed me in the previous election, because they did not think I was receptive to their job overtures. They were very unhappy with me.

Mr. Colavita, not at my suggestion, but for his own reasons, invited me to a lunch with Mr. Price. He did this twice, I believe, at least twice.

At those luncheons the prospect of my getting the Conservative nomination, at a future election, was discussed.

The Conservative's dissatisfaction with me was discussed. Jobs for Conservatives, members of the Conservative Party, was discussed, in the sense that Mr. Price put in a pitch for the good people who were members of the Conservative Party. They were not looking for clerical or secretarial jobs, they were looking for jobs of managerial stature.
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Q Subsequently, did there come a time when
Mrs. Price specifically was referred to you for a
position?

A Yes. After the second of these meetings, I
believe, a few days after that, Tony Colavita called me
and said that he wanted me to fill a position of, I
believe the position was Deputy County Clerk - Legal
Division, that would be the Clerk in charge of filing of
legal papers, that he had Mrs. Price on her way over to
my office, and that she was to get the position.

We had an argument on it over the phone. I
said it was not only bad government, but bad politics;
she was the wife of a County leader.

I had no idea of what her capabilities were
at all; I did not have a resume from her. Mr. Colavita
was very adamant, as he can be, and said she was to get
the position.

I consequently signed the necessary papers.

Q Mr. Morrow, did you meet with Mr. Colavita
at Republican headquarters in early June of 1982 to
discuss the Republican endorsement of your candidacy of
County Clerk?

A Yes, I did.

Q Do you recall the conversation that took
place at that time?

A Yes.

Mr. Colavita called me and asked me to come to Republican headquarters. He had, I believe it was regular Thursday afternoon hours, at the time he met with individuals. He asked me to come over.

I went over to Republican headquarters. In his private office he told me that the Executive Committee decided that I should get the nomination for County Clerk; this would have been my fourth nomination. However, there was a lot of talk, talk by Colavita, himself, that people were objecting to me within the Party.

He told me, however, that there had to be some loose ends tied up before he could assure me the nomination.

Those loose ends were primarily, number one, that my deputies -- and he felt they took the lead from me -- did not contribute properly to the Republican Party. Very few, if any of them, were members of the Chairman's Club. Most of them bought a single or maybe two tickets to the, at most, two tickets to the annual Republican dinner, fundraising dinner.

He said, in the first place, they should
contribute more to the party. They all had well-paying jobs, and they should be grateful for it.

Secondly, that he was going to, if I was successful in my bid for reelection, that he was going to name my deputies. He was very dissatisfied with them, partly for the money, the lack of contributions to the party. And the other reasons he didn't tell me, he just said he was dissatisfied, that he was going to name my deputies if I was successful.

At that time he called into the office Mr. Guy Parisi, and said to Mr. Parisi, "George has just agreed to allow me to name his deputies when he is reelected," I believe it was.

I didn't answer him at that time.

He said, "I want you to be a witness to it."

He said to Guy Parisi, "I want you to be a witness to this."

After Guy Parisi left, I said, "Tony, you know that isn't true, I didn't agree to anything."

With Tony there was no -- Mr. Colavita, there was no agreeing or disagreeing, it was simply there was a fact, he was going to name my deputies.

COMMISSIONER VANCE: Who is Mr. Parisi?

THE WITNESS: Mr. Parisi at that time --
I'm sorry, sir, I don't know whether he held any office, but he was always at Republican headquarters any time I went there.

He was an attorney.

Q Do you know whether Mr. Parisi was at that time counsel to the Westchester County Republican Committee?

A I'm not sure.

Q By the way, Mr. Morrow, did you ever challenge with Mr. Colavita his position that he should have authority to name employees in your office?

A Yes, I did quite often. Our philosophies on politics and government seemed to be at complete odds.

I had served with, and worked with a lot of political leaders, of course, in almost twenty years, up to that time, of public service, and most of them, most of them, were very easy to get along with.

Mr. Colavita demanded -- one, he demanded the contributions to the party.

Two, he demanded not only at that time to name individuals to managerial positions, but a short time prior to that, he had told me, in no uncertain terms, in fact, he chewed me out royally one day, and we had another very disagreeable confrontation, in which he
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wanted approval of everyone I appointed to office, whether it be a clerical position, whether it be a secretary, whoever it may be.

He did not say that he wanted to name those people, but he wanted approval. He wanted me to submit their names to him prior to appointment. I simply refused to do it.

I carried on the way I had always done it.

I would appoint them, and I figured I would fight it out with him on a later date.

Q After you lost the election in 1982, Mr. Morrow, did you seek to remain in County government?

A At first I didn't. And I'm a civil engineer by profession, and was anxious, actually, to get back into the engineering construction field. However, in checking of my pension benefits, I had put in nineteen years, and I believe it was nineteen years and three or four or five months service under New York State Retirement System.

So, I really needed another seven to nine months to make the twenty-year plateau, which made a considerable difference in pension benefits. Therefore, I thought it was foolish, and it wouldn't be fair to my family, not to get this.
So, I decided if I could, I would stay in public service, at least for one more year, to round out twenty years of public service.

Q Did there come a time when you approached Andrew O'Rourke concerning this matter?

A Yes, I had a casual conversation in the parking lot of the County Office Building with Andy O'Rourke prior to his time -- prior to him taking over. He had been appointed, I believe, or he had been designated for the appointment. It was known that he was going to be appointed, but I don't believe he was appointed; this was still 1982.

I told him I had intended to stay in public service, at least for another year. He said to me that jobs of that status, jobs of that, I believe he put it -- I can't recall exactly how he put it, but it was words to the effect, jobs of that status had to be cleared through Tony.

Q And you took that to mean Tony Colavita?

A It was meant to be Tony Colavita, yes.

Q And what did you do after that?

A I then called Tony, made an appointment, went to his office and told him what my decision was, told him that I would like to stay in government for
another year.

He then told me to give my resume to Fred Gioffre, that Fred Gioffre was going to be handling all the, as he called it, patronage positions, for County government, to give my resume to Fred Gioffre, and that Fred would see what he could do about it.

Q Did you ever hear from Mr. -- I'm sorry, did you, in fact, give your resume to Mr. Gioffre?

A Yes, I did.

Q And did you ever hear from Mr. Gioffre about a position?

A I heard once in, I believe, March of 1983. I received a call at home from Mr. Gioffre, saying that he had a position for me, and that he would -- I would be hearing from him.

I never did hear again, from him, and I answered an ad in the newspaper, went to work for the village of Rye Brook.

Q And while you were working for the Village of Rye Brook, Mr. Morrow, did there come a time when you encountered Mr. Keeler once again?

A Yes, I had an occasion -- one of my duties at Rye Brook -- we were setting up a new government, or a government for the new Village of Rye Brook at that time.

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It it was a brand-new village.

One of my responsibilities was to find village offices. I had contacted Fred R. Broege, who I believe was the Director of General Services for the County at that time.

There was a County building in Rye Brook. I went to that building. Fred directed me to that building.

I went into the building, to the area that we possibly could rent from the County of Westchester. In one corner of the building -- the office was used for stocking equipment, really as a warehouse use.

In one corner there was a desk. Near that desk was Richard Keeler. He told me he was assigned to that area at that time.

Q Did you ever have any conversation with anybody else about Mr. Keeler's assignment to that office?

A Yes, I had to talk to Mr. Broege, again, because we had to get the office cleared out. I asked him about Mr. Keeler, when he would be getting out. He said he could move out at any time.

Mr. Broege told me that he had been directed just to keep Mr. Keeler away from the County Office.
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Building in White Plains.

Q Did Mr. Broege indicate who directed him to do so?

A He told me that Andrew O'Rourke had told him to do so.

Q Two final questions, Mr. Morrow.

Is there any specific reason, during the time when you were County Clerk, why Mr. Colavita had an interest specifically in the County Clerk's office?

A Yes, there was one very good reason. Alfred Del Bello -- at the same time I was elected County Clerk in 1973, Alfred Del Bello was elected County Executive. I was a member of the Republican Party, Mr. Del Bello a member of the Democratic Party.

The County Executive's office, and 95, 98, 99-percent of the County government was off limits, as far as seeking positions for Mr. Colavita. I was the one office in County government that Mr. Colavita had a Republican office holder and could obtain some patronage.

Q Lastly, Mr. Morrow, since you have left public office, have you had occasion to give consideration to the extent to which political influence affected the way in which you were able to run your office?
A  Yes. Both before I left office, and after office, I have thought about that, and it boils down to a very simple fact. When political leaders get into the day-to-day operations of government, they retard the process of government, they slow down the process of government, they hinder the process of government.

It is not good in any sense of the word to have political leaders dictating appointees for government. They have a different priority list, their specifications for jobs are different, and they know people in a different vein. They know people in a political process, and not in the governmental or work process.

The office of County Clerk is an administrative position. The people, when I was the County Clerk, and under Andy Spano, are overworked, they have a tremendous amount of work to do, and they are not really interested in politics, they are interested in getting their job done, and the daily mounds of papers in front of them, getting those papers processed for the various attorneys and constituents.

Once the political process interferes with that, or gets involved in it, it interferes with it, and it slows it down.
A county leader, a state leader, national leader, anybody who wishes to have someone elected by the people, put people into office in managerial positions, purely on the basis of their political affiliation, or of their political contributions, it really impedes and slows down dramatically the process of government.

MR. McSHANE: Thank you, Mr. Morrow.

I have no further questions of this witness, Mr. Chairman.

THE CHAIRPERSON: Thank you.

I would just like to thank you for your candid testimony.

Now I would like to acknowledge Commissioner Vance.

COMMISSIONER VANCE: Mr. Morrow, I just have one basic question.

It seems to me, listening to your testimony, the personnel actions which were involved in your discussions with Mr. Colavita, that he was urging you to take actions with respect to these matters which you believed to be contrary to the best interests of the County. Is that correct?

THE WITNESS: In some instances, yes, sir.
COMMISSIONER VANCE: And it is your view that that is damaging, as you have just said?

THE WITNESS: Yes.

COMMISSIONER VANCE: To not only the morale, but the effective operations of the organizations?

THE WITNESS: Yes.

COMMISSIONER VANCE: That you are, in addition, saying to that that the effective operations of County government should be what controls, and not patronage?

THE WITNESS: Yes.

COMMISSIONER VANCE: Thank you.

THE CHAIRPERSON: Commissioner Magavern

COMMISSIONER MAGAVERN: When Mr. Colavita would urge you to promote Mr. Keeler, to make other decisions affecting your personnel, you used the phrase that he said, that is the way it would be.

Was that expressed to you as an order, as distinguished from a request?

THE WITNESS: Yes. I don't ever recall Mr. Colavita making a request, it was an order, sir.

COMMISSIONER MAGAVERN: What was the
authority he had to give orders? What did he have
to back up those orders, what power did he have to
back them up?

THE WITNESS: He had the political process
on his side. He was Chairman of the Westchester
County Republican Committee. That committee is
the committee that gives nominations, votes on
nominations to those Republicans wishing to run
for public office.

The committee as a whole votes on
nominations. However, nominations are decided by
the Executive Committee, of which Mr. Colavita, of
course, is the head. So, he, in effect has, had
and has, the power to grant, or not grant
nominations for public office.

COMMISSIONER MAGAVERN: Did he ever, in
effect, evoke that power in these conversations
with you?

THE WITNESS: Yes, he did.

COMMISSIONER MAGAVERN: Can you be a little
more specific on how he did that?

THE WITNESS: In my conversations with him
in 1982, primarily, prior to the nominations in
1982, there were statements in the newspapers by
other people that were desirous, or were thinking about running for the office of County Clerk.

Mr. Colavita talked to me about it, and said that these other people were running, that they were unhappy with me, that I didn't give enough jobs to Republican office holders, that I was too much of a maverick, that I was my own person in the sense -- one of the things he said to me, very bluntly, was that I didn't hang out at Republican headquarters.

I didn't have time, quite frankly, and I didn't care about it. It is not one of my favorite hangouts; it has never been.

COMMISSIONER MAGAVERN: Did he indicate to you that if you did not accept his directions, you would not get the endorsement for the next election?

THE WITNESS: He made it very clear to me, sir, when we were in his office, when he told me the Executive Committee had decided to endorse me, that these were conditions, more money for my Deputies, more money for me, because he thought I was very tight-fisted when it came to contributing to the Republican Party. The condition of naming
my deputies, if I was elected.

COMMISSIONER MAGAVERN: Those were expressed conditions of your endorsement?

THE WITNESS: Implied. They were expressed. He did not say to me, unless you give me those, you are not getting the endorsement.

He said to me, "The endorsement is yours. However, there are a few loose ends we have to clean up, prior to you actually getting it."

COMMISSIONER MAGAVERN: Which election was that?

THE WITNESS: That would have been the election of 1982.

COMMISSIONER MAGAVERN: You referred to the removal in the '83 budget of the line item for the salary of the woman who had been recording Mr. Keeler's absences.

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Do you know if that line item was contained in the executive budget as it was proposed to the County Legislature?

THE WITNESS: I tried to remember that, and I honestly do not know, sir, I do not recall.

COMMISSIONER MAGAVERN: You don't know
whether it was the initiative of the County Executive or the Board of Legislators?

THE WITNESS: I don't know how that came about, sir.

COMMISSIONER MAGAVERN: Okay.

When Mr. Colavita demanded approval of every one of your appointments at every level, did he indicate that as a condition of approving those appointments he would want to talk to the appointee?

THE WITNESS: What he said to me, in that instance, sir, was that it came up -- I had appointed someone, I can't recall who it was now. It was a clerical type job of which there are many in the County Clerk's office, that I had appointed someone.

His exact words to me were, "Keeler tells me you appointed so and so to a position in Land Records," or some such office. He said, "We have got to have better communication on this. I want to know if you think that person should be appointed. You have a reason for it, fine, but let me know you're going to appoint that person."

Yes, in many instances he wanted to talk to
them prior to the appointment.

He wanted the individual to know that the appointment came through 214 Mamaroneck Avenue, rather than through the County Office Building.

COMMISSIONER MAGAVERN: Do you have any knowledge of what he would say to these perspective appointees in the conversation he would have with them before approval?

THE WITNESS: Not really, sir, no.

COMMISSIONER MAGAVERN: When he described Mr. Keeler to you as a loyal Republican, and a person deserving of promotion, did he indicate to you what the value of Mr. Keeler was to the Republican Party?

THE WITNESS: At one time he told me that Mr. Keeler was one of the very few members of the Chairman's Club for ten consecutive years, or a certain number of consecutive years.

COMMISSIONER MAGAVERN: Did he ever refer to Mr. Keeler as a fundraiser for the political party?

THE WITNESS: Yes, he did.

COMMISSIONER MAGAVERN: I think you promoted him twice, at Mr. Colavita's direction?
THE WITNESS: Yes.

COMMISSIONER MAGAVERN: In both cases were those promotions -- let's take them one at a time. Let's take the second promotion; and I think that was to what job?

THE WITNESS: That would have been to the Chief Clerk, Deputy County Clerk, Chief Clerk in charge of the three Motor Vehicle offices.

COMMISSIONER MAGAVERN: Was that a position in which Mr. Keeler would have an enhanced ability to collect political contributions?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Did Mr. Colavita give you any indication that that was the reason to put him into that position?

THE WITNESS: No, sir, he didn't.

COMMISSIONER MAGAVERN: Mr. Morrow, you have been very active both in politics and government for twenty years now. I take it you believe in the value of citizen participation in politics?

THE WITNESS: Very much so.

COMMISSIONER MAGAVERN: And in government?

COMMISSIONER MAGAVERN: I take it you believe in the two-party system?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Do you believe in maintaining the strength of the parties?

THE WITNESS: I think it is essential, yes.

COMMISSIONER MAGAVERN: It has been suggested, on other occasions, that political patronage has a role in maintaining the strength of the parties.

As a person very experienced in politics and government, I would like to have your opinion on the effect of the kind of interference in personnel appointments that you experienced, that is, interference by Mr. Colavita, on the strength of the two-party system.

THE WITNESS: I don't think, in my opinion certainly, patronage doesn't truly strengthen the two-party system. It may strengthen a political party for a length of time, for a certain period of time, for an election period of time.

However, in a county such as Westchester, which is a sophisticated government, which is a government that is very expensive today, I think a
two-party system is vital, and I don't think that patronage enhances the two-party system.

    I think good government, if you put people in there, men and women who produce, whether they are Republicans or Democrats, I think that is what enhances the two-party system as much as anything else.

    COMMISSIONER MAGAVERN: Do you think, on balance, that Mr. Colavita's interference in County government in Westchester County has strengthened or weakened the Republican Party in this county?

    THE WITNESS: It has been harmful to the Republican Party, absolutely.

    COMMISSIONER MAGAVERN: Can you explain that a bit? In what respects?

    THE WITNESS: Yes. For instance Mr. Keeler, or Barbara Price, or anybody that is appointed as a political appointee, where there are other employees, the other managers and employees of the office realize and know that that person is a political appointee, they, one, they begin to lose respect for the elected official, because the elected official no longer has charge
of the office.

The elected official was elected by the people to run that office, yet you have interference, or you have people from outside, making the decision on who should and who should not be the employees of that office. Therefore, you lose the respect of the people that work in that office. You lose the respect of the people, also, that you serve when you allow something like this to happen.

COMMISSIONER MAGAVERN: Meaning the citizens?

THE WITNESS: Meaning the citizens, those people who ultimately pay the bills, yes.

COMMISSIONER MAGAVERN: Mr. Morrow, thank you very much.

COMMISSIONER EMERY: Just very briefly. What party was Mr. Spano?

THE WITNESS: The present County Clerk?

COMMISSIONER EMERY: Yes.

THE WITNESS: A Democrat.

COMMISSIONER EMERY: He was the one who defeated you?

THE WITNESS: Yes.
COMMISSIONER EMERY: You ultimately did get the Republican nomination?

THE WITNESS: Yes, that year I got both the Republican and Conservative nomination, yes, and I still lost.

COMMISSIONER EMERY: Was there anything about the way that Mr. Colavita had influenced that nomination, or affected the election, itself?

Is there anything that you can trace to your loss?

THE WITNESS: No, I think Mr. Spano was a better candidate that year than I was; that is all.

COMMISSIONER EMERY: Just to follow up for a moment on Commissioner Magavern's questions.

When you said that the authority that Mr. Colavita exercised implicitly was the threat of the loss of nomination. Was that it, was there anything else?

As a party official, was it just the ultimate threat of loss of nomination?

THE WITNESS: I think so. That is it, as far as I was concerned.

As far as most people, someone running for office, or desirous of running for office, or
someone in office, that endorsement by the political party, that nomination, is the price that you must have before you can go before the people again. Otherwise you have to run in the primary, of course.

COMMISSIONER EMERY: It's in your mind, essentially, from the day you take office, until the next election?

THE WITNESS: Absolutely it is. Yes, it is.

When you are at odds with the party, as I was so often, it is in your mind even more.

At that time I had two daughters in college, and I had to pay some bills. So, it was in my mind, as it is in anybody's mind that is running for public office.

COMMISSIONER EMERY: That is all.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: To follow up on that for one minute. Do you have any view whether that is also the case for elected judges?

THE WITNESS: No, sir, I don't know.

MR. SCHWARZ: If there had been in place a system in the County of Westchester for Civil
Service at some level, and then above Civil
Service some sort of merit selection board, would
that have protected you and your position with
respect to Mr. Colavita and his requests?

THE WITNESS: I believe it would. If there
was some system whereby, by a merit system,
whereby these people are qualified, and you took
from a qualified pool, something like that?

MR. SCHWARZ: Yes.

THE WITNESS: Yes. Actually the Civil
Service system, of course, protects you from that.
The problem is, in the County Clerk's
office at that time I believe there were -- I
don't recall how many -- eight to ten jobs of a
high managerial position that were not subject to
Civil Service, they were exempt. That is where
the trouble came, yes.

MR. SCHWARZ: If there was some merit
selection, a panel set up, you could, in effect,
have deflected Mr. Colavita to that panel?

THE WITNESS: Yes.

MR. SCHWARZ: With respect to your pension,
you said that you were, I think, nine months short
of twenty years?
THE WITNESS: Yes.

MR. SCHWARZ: Did that have to be twenty years consecutive service?

THE WITNESS: No.

MR. SCHWARZ: You are still technically eligible?

THE WITNESS: No. What happened is I answered an ad in the newspaper, and went to work for the Village of Rye Brook, and I was to stay there for one year. I ended up staying there for over three years. Then I ultimately retired from the system.

MR. SCHWARZ: You can no longer go back in?

THE WITNESS: No, I cannot.

MR. SCHWARZ: I just want to thank you for your testimony, to say to you if public officials carry themselves out the way you did, we wouldn't have any need for us to have a commission.

THE WITNESS: Thank you, sir, that is very kind of you.

THE CHAIRPERSON: What Mr. Schwarz said does reflect, I know, from earlier discussions, the views of all the Commissioners, both parties and independent, as well. Thank you.
THE WITNESS: Thank you, Mr. Chairman.

THE CHAIRPERSON: We will take a five-minute recess.

(Recess had.)

THE CHAIRPERSON: The Commission calls as its next witness, Andrew Spano.

Andrew Spano, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: Please be seated.

Mr. Spano, for the record I would like to ask the gentlemen next to you to identify themselves, please.

MR. GOODSTEIN: Robert Goodstein. I'm from the law firm of Goodstein and West, New Rochelle, New York. I'm co-counsel with Mr. Mark Oxman, for Mr. Spano.

THE CHAIRPERSON: Thank you.

MR. POWERS: Brian Powers, Deputy County Attorney, appearing on behalf of Mr. Spano, and representing his County interest in this matter.

THE CHAIRPERSON: Thank you.

I recognize Timothy Brosnan, Commission Staff Counsel, for questioning.
MR. BROSNAN: Thank you, Mr. Chairman.

EXAMINATION

BY MR. BROSNAN:

Q Good morning, Mr. Spano.

A Good morning.

Q Can you tell us how you are currently employed?

A I'm the Westchester County Clerk.

Q And how long have you been the Westchester County Clerk?

A Almost seven years.

Q When were you first elected to that position?

A I was elected in November of 1982.

Q Mr. Spano, as County Clerk, can you briefly describe for us your duties and responsibilities?

A I have functions within three areas, federal, state, county. I serve as a state official for the Courts, Supreme Courts by virtue of the Constitution of the State of New York, and handle all records functions.

I serve by virtue of the Charter of the County of Westchester for any land transactions, or anything else that the Board wishes to put into the
County Clerk's office.

I serve as federal agent for nationalization and passports.

Q Mr. Spano, approximately how many employees do you supervise within the County Clerk's office?
A Approximately 74.

Q Do you know what the approximate annual budget is for the County Clerk's office?
A 3.2 million.

Q Focusing on November, 1982, and shortly thereafter, in your transition period leading up to taking office, did you meet with Mr. Colavita and Mr. Brady, to discuss the transition?
A I didn't meet with Mr. Colavita and Mr. Brady, I met with Mr. Colavita, and another time I met with Mr. Brady.

Q Who was Mr. Brady at that time?
A The majority leader of the Board of Legislators.

Q And do you recall the reasons you met with Mr. Brady?
A I met with Mr. Brady at the request of the minority leader from my own party, to sit and have a chat, get to know each other, and to discuss the
transition.

Q You met with him because the minority leader thought it would be a good idea; is that correct?
A That is correct.
Q Did you also meet with him to discuss the appointed positions in your office?
A We discussed them at that -- we had lunch, not a meeting. We discussed these things at lunch. That was the last discussion we had.
Q And who was Mr. Colavita at that time?
A He was the leader of the Republican party.
Q And why did you meet with him?
A I have to go back in order to fill you in. I met with Mr. Del Bello soon after I had taken office. I was informed, prior to the public submission of the budget, that they were moving the Motor Vehicle Bureaus from the County Clerk's office, that he was recommending moving of the Motor Vehicle Bureaus.

I had run a campaign which focused on the Motor Vehicle Bureaus. I felt that it was one area where public officials could demonstrate service to the public, and it threw me for a loop. It involved 105 jobs, and it involved the focus of my campaign.

Al was -- Al Del Bello was preoccupied with
his transition with Mario Cuomo. Andy O'Rourke and the Republican party, were involved with the transition from the Legislature to the County Executive's office. And I was touching every base that I could, to make sure that my transition, and my people, stayed on their lines.

Q So, you were reaching out for Mr. Colavita's help in those areas?

A Yes.

Q Did you also consult Mr. Colavita on appointed positions in your office?

A That is correct.

THE CHAIRPERSON: Can we just have a time of these meetings, during transition, after?

MR. BROSnan: In the transition period, November of 1982 through January --

THE WITNESS: Through January 1st.

THE CHAIRPERSON: Thank you.

A Let's talk about frequency. There was one meeting with Brady, and probably one with Colavita.

Q You are certain that it was only one meeting with Mr. Colavita, and not several?

A It was several meetings bridging that period and through January, and into March.

Q With Mr. Colavita?
A Yes.

Q Do you --

A It's very hard to recollect; we didn't keep records.

Q Did anyone regularly attend those meetings with Mr. Colavita?

A The only one that I remember who was frequently there was Guy Parisi.

Q Do you know who Guy Parisi was at that time?

A I thought he was counsel to the Board of Legislators.

Q Would you explain for us how it was you thought -- in what way Mr. Colavita could assist you.

A Well, first of all, we had had two months of a selection of the County Executive, which was in the newspapers. With Mr. Colavita playing the central role in the whole process.

In fact, if I remember correctly, he was offered the County Executorship, turned it down, and that is when the selection went into contest for a number of other people.

So, I felt he had some direct impact on what went on in government.

Q And in this same transition period, Mr.
Spano, did you have any conversations with Mr. O'Rourke regarding staffing requirements, or budgetary matters?

A No. I don't think we were talking.

Q Shifting our focus a bit, Mr. Spano, up until 1983 the Department of Motor Vehicles was under the County Clerk's jurisdiction; is that correct?

A Yes.

Q Do you recall how many offices there were in the Department of Motor Vehicles?

A There were three offices, one in Peekskill, White Plains and Yonkers.

Q I think you testified earlier that there were approximately 105 employees?

A That is my recollection, yes.

Q Do you recall what constituted the majority of those jobs? That is, were the majority of those jobs competitive positions, or provisional appointments?

A Well, there were competitive positions, but most of the competitive positions were provisional appointments, or temporary appointments, either one.

Q Did that fact cause you to feel that you had a certain amount of extra leeway in appointing those positions?

A Correct.
Mr. Spano, there came a time when the County was going to lose the Department of Motor Vehicles; is that correct?

Yes, that is correct.

And can you briefly explain for us why the County was going to lose the Department of Motor Vehicles, and the steps you took to try to hold onto it for the County.

THE CHAIRPERSON: Can we get a time on this?

MR. BROSAN: They were anticipating losing the Department of Motor Vehicles as of March, 1983, at the end of March, 1983. But, the plan was known to the County government earlier on in 1982.

THE WITNESS: By the submission of the budget.

Right.

Would you ask the question again. I just lost the question.

I just asked you if you could, briefly, explain to us why the County was going to lose the Department of Motor Vehicles, and the steps you took to try to save it, to keep it under the County's
jurisdiction.

A Well, as far as I could ascertain, they were going to lose it every year. It was put into the budget in order to give it to the State, and it was put back into the budget -- it was put into the budget by the executives, back into the budget by the Legislature.

What happened in this case is, I won the office, and it was put into the budget by the Executive, and, of course, it was accepted by the Legislature, I thought to get it away from me.

Q Just so that the record is clear, the prior County Clerk was a Republican, and you took office as a Democrat?

A Yes.

Q When you became aware that the Department of Motor Vehicles was going to be taken out of the budget, what actions did you take to try to preserve it?

A First, I consulted my attorney, who happens to be the same attorney who is sitting here today.

MR. SCHWARZ: Which one are you indicating?

THE WITNESS: Robert Goodstein.

A And a number of other attorneys that did some work for me pro bono on this situation.

We researched the law to find out what our
options were.

It became very clear to us that the only way it could be given away is if the State took it back and agreed to take it. It can't just be given away; the law had to be changed to include Westchester County as an exemption.

So, our approach was two-fold. It was to convince the powers that be in Westchester County not to give it away, and to go to Albany and convince the powers in Albany not to take it.

We designed a plan on those two fronts, to have either one of those things happen, or both.

Q Did your efforts include consulting Mr. Colavita, in an attempt to save it?

A Yes, it did.

Q Again, why were you consulting Mr. Colavita on this matter?

A Well, the reality in Westchester seemed to be that he had input into the entire process. The reality in Albany seemed to be that he had input into the entire process, because the process would have to include the Assembly and the Senate. The Assembly was Democratic. I felt I had enough horses there to possibly get this stymied, but I would also need the Senate to do
Q In fact, Mr. Spano, didn't you believe that Mr. Colavita was the one -- he was the only one that could really do anything about it in Westchester County?

A I thought so at the time, yes.

Q Mr. Spano, why did you go to such great lengths to try to preserve the Department of Motor Vehicles?

A It was key to the functioning of the office. I had a legal bureau where we had approximately -- I could never figure out how many, 21 to 30 workers, who were State workers. I was responsible for that office, but I had no control over the workers in the office. The State did by an accident that occurred in 1977, when the State accidentally took over those positions.

The County Executive and the Budget Director at the time allowed them to go. Subsequently, we have gotten those positions back from the State.

The Land Records Division was staffed -- when it had a skeleton staff; it couldn't handle its work. It was staffed by temporary employees on the Motor Vehicle payroll. They were sent over to help out in the Land Records office.

The Motor Vehicle office had 105 workers,
and was a window to the public. One of the reasons I ran was to prove something to the public. I thought that I had background and experience, after 25 years in education, to demonstrate good service to the public in a place that most people hated.

It was a real problem to me when I was told that we weren't going to have the Motor Vehicle Bureau. Then, when I got into the office, I found out not only wasn't I going to have the Motor Vehicle Bureau, but the employees who helped us take up the slack in Land Records, in other parts of the office, came from Motor Vehicles when we were in difficulty. That became another reason.

Q Didn't you also want to keep the Department of Motor Vehicles under your jurisdiction, because you felt it was a good source of patronage?

A Yes.

Q Turning now to once the decision was made that the Department of Motor Vehicles would not be under your jurisdiction, and That is, the end of March, 1983, actually the beginning of March, 1983, were arrangements made within County government to try to place all DMV employees in other County positions?

A That was an agreement between the State and
the County. I had nothing to do with that.

In fact, the State and the County kept me out of most of the negotiations going on. So, I can't even blame one party. I was kept out of any of the negotiations going on.

The staff, within the bureaus, were offered a job at the State level over the County level, with the exception of the managerial workers.

Q Mr. Spano, were you aware at that time of any special arrangements that were made in the 1983 budget, focusing on a particular Department of Motor Vehicle employee?

A Not initially. There was an amount of money that we discovered in the legal budget that equalled the salary of Richard Keeler from March until the end of 1983.

Q Just so the record is clear, the budget anticipated all Department of Motor Vehicle employees being gone after March, 1983?

A Correct.

Q That is, their salaries were not provided for beyond that period?

A Yes.

Q Yet Mr. Keeler's was?
There was a salary equivalent to his salary from March to the end of the year.

Did someone specifically identify that amount of money as Mr. Keeler's salary?

Yes.

Do you recall who?

Not yet. We have asked this question many times. I think it was the Budget Director.

And once again, were there any other DMV salaries anticipated in the County Clerk's budget in the fashion that Keeler's was?

No, just that one salary.

Mr. Keeler did leave the Department of Motor Vehicles in March, 1983, didn't he?

Sort of.

That is my next question?

Sort of.

What was the arrangement under which Mr. Keeler worked?

I was asked if I would keep him on my payroll from March until the end of the year, while I functioned at a number of different capacities. One was to clean up everything that had to do with the Motor Vehicle Bureaus. There was a lot of financial clean-up,
transfers of equipment, et cetera, that had to go between
the State and the County.

Two, to keep him on the payroll, in order to
have him -- until they could find a place for him to be
within government.

Q Did your office issue him paychecks for the
remainder of the year?

A Yes, every two weeks.

Q Did your office monitor his attendance and
powers?

A Absolutely not. That was one of the things
I discussed when they told me they were going to leave
him on the payroll. It was a request, by the way, that
he be left on the payroll.

One of the things that did happen was that
there was an anticipation that most of the State
Workers -- most of the County workers that were in the
bureaus would go over to the State. What happened is
just the opposite, I think 95% of them chose to come with
the County.

So, there were placements all over the
place. I was asked to keep him on my payroll.

I did say to them, if I keep him on my
payroll, I would like to know that that line stays in my
payroll at the end of the year.

Q To you --

A By giving away the line, by giving away the money at that particular point, I would not have it.

COMMISSIONER VANCE: Who did you say it to?

THE WITNESS: I'm not trying to be coy; I just don't remember. I think it was to the Budget Director.

Q Turning to the 1984 budget, Mr. Spano, that was the first in which you actively participated; is that correct?

A Yes.

Q Can you describe for us, generally, the process that your office undertakes in preparing the budget, and once it's prepared by your office, where it goes from there?

A Each one of my deputies in charge of a particular area discusses with his or her staff the need for the coming year. These needs, those reports, are then discussed with the First Deputy at various meetings. Then, when they have it together, we all meet together, and we discuss the budget.

After we are sure of what we want, we meet with a number of different people. We meet with the Data
Processing Department, because those needs have to be discussed with people who have expertise; and we meet with the Budget Committee. I should say the Budget Department.

After we meet with the Budget Department, we usually meet with representatives of the County Executive's office.

After that, if there are any complaints, we meet with the Budget Committee of the Board of Legislators.

Periodically, if there are requests that you want to make, in between the time that it is being considered, you can meet with the Budget Committee of the County Legislature.

Q At a point in time, though, your requests go to the County Executive's office, and then come down from the County Executive's office as the County Executive's proposed budget?

A That is correct.

Q Do you recall what happened to your requested staffing levels under the proposed County Executive's -- under the proposed budget for 1984?

A I had eleven positions cut.

Q And when did you become aware of those cuts?
A When the budget came down in written form.
Q Once you did become aware of those cuts, what actions did you take to try to restore those positions to the budget?
A Tried to call Andy O'Rourke. I think we still weren't talking at that point.
I discussed it with some members of the Legislature. This is a procedure I would follow, anyway. I discussed it with the Deputy County Executive at the time, Vinny Castaldo, and I discussed it with Tony Colavita.
Q What was the nature of your discussions with Mr. Colavita on this matter?
A Well, I had felt that -- in all the discussions I had the prior year, I felt that any of the understandings that we had had in terms of how the Department would be handled had been followed through, that we hadn't fought with each other, I hadn't knocked off any previous people that were on the payroll, whatever it was, that this was totally inappropriate. You have to understand, as I explained before, I ran the Democratic organization to try to unseat the Legislature that year. They were slightly angry.
At that time Mr. Colavita was still the Republican Party Chairman?

Yes, he was.

And you were a Democrat?

Yes.

Did you contact the Democratic Party leader in this instance?

I may have, I may not have. I don't remember.

Do you --

As I told you the last time, I think I did, and I think he may have made a phone call to Tony Colavita, but I'm not sure.

You contacted him to intervene with Mr. Colavita?

I don't know. It is something that I might have done.

And in the final analysis, Mr. Spano, were your efforts successful that year?

Not entirely. I lost three positions; I got eight back.

I did a number of other things besides contacting them. I sent a letter to the entire user community of the County Clerk's office, telling them what
services I was going to curtail, what services I could not perform with eleven staff people out of my budget. I was committed to do those things. There was a great deal of furor with the budget people and the County Executive's office over that from the legal community.

Q Mr. Spano, based on your experience in Westchester County government, who do you believe was most responsible for the restoration of those jobs that year?

A I think it was a combination of probably some members of the Legislature and Tony Colavita.

Q Mr. Spano, focusing your attention, now, on 1985, anticipating the 1986 budget. You had similar budgetary problems with regard to staffing levels; is that correct?

A Yes.

Q Could you just briefly explain?

A Those 21 to 30 positions -- the reason I don't know what the number is, is they had previously been lumped into a court budget in 1977, and there were somewhere over 80 positions in that court budget. It involved not only the Records Division, but also the entire court system, itself, which was, at that time, under the County Clerk, and those were County Clerk
employees.

In 1977, when they formed the Office of Court Administration, they were supposed to go into each county and take the court workers onto the State payroll. For some reason in Westchester County there were all the -- all the workers were lumped into one court category; they didn't have a separate records category. So, all 85 were taken over.

I don't know how many were in the records area. It is hard to determine, because the titles are very different, the State and County titles are very different.

We didn't have those employees, but I had an ongoing, continuing problem in that division, because when there was a problem people were told, go see the County Clerk, he runs this office, when there was a problem with the public.

When there was an internal problem, in order to get the work done, I was told they weren't my workers; they were in a different union; they worked for the State; I had no control over them; I had to go to a third party to have them supervised.

I complained about it for a number of years. I complained about it to the State, because it really
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wasn't a County problem at that time. The County was very happy to have them someplace else and not be paying the salaries.

For some reason in 1985, whether it was because I had made so much noise over the years, or whether they just figured they found money somewhere, in April of 1985 the State Senate recommended that these positions, I think twenty some-odd positions, be cut from the State OCA budget, and it left me with no workers in that division. So, I had to ask the County for workers.

Now we were faced with a campaign for County Clerk in 1985 with twenty to thirty new workers to be appointed by the County Clerk.

Q And in submitting your budget, anticipating the State cutting those employees, and your office having to assume responsibility for that office's duties, your budget determined that you needed approximately thirty employees to carry out those duties; is that correct?

A That is correct.

Q Were there negotiations conducted over whether those thirty persons would be included in your budget or not?

A Initially, there was a discussion within the process I described before, budget, County Executive,
personnel, et cetera.

In a meeting -- and I can't pinpoint it -- but it had to be somewhere around September, somewhere around there, there was an arrangement made, within the Government process, because we were talking about getting workers up front in order to be trained, because we had all these people leaving January 1st, getting eleven workers initially to be trained, and then another ten workers in November to be trained.

I didn't get the eleven workers until after I won the election. I got eleven workers. That was it, I got eleven workers, and I was going to have eleven workers.

Q So, of the thirty that you thought you would need to staff that office, you got eleven that were included in the budget?

A That is correct.

Q Did you take any actions to restore additional employees to the budget for those purposes?

A I had my discussions; I talked to Tony Colavita, I talked to Andy O'Rourke; we were talking at that time. I talked to everybody I had to talk to,

Brady, et cetera, et cetera.

Q In fact, you also talked to the Republican
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Party officials at that time, Mr. Vetrano, and Mr. Gioffre; is that right?

A I don't think I talked to Tony, personally. I may have talked to him on the phone, something like that. Any kind of discussions about this situation I had with Ed Vetrano.

MR. BROSナン: I should clarify the record.

Mr. Gioffre was a County employee.

A We had one sit-down discussion, and he was there.

Q You also spoke to him because you perceived him to be the go-between between County government and the Republican Party?

A He was the go-between; I didn't perceive it.

MR. SCHWARZ: Before you leave that subject, what do you mean by "go-between"?

THE WITNESS: He would take messages back and forth.

MR. SCHWARZ: Between whom and whom?

THE WITNESS: The government and the party.

MR. SCHWARZ: Between yourself in government, and the Republican Party?

THE WITNESS: That is correct.

Q And just briefly, who was Mr. Vetrano at
that time?

A I think he was acting Chairman of the Republican Party.

Q And where was Mr. Colavita at that time?

A I think he was state Chairman.

Q Mr. Spano, were the positions restored to the budget?

A Ten positions were restored.

THE CHAIRPERSON: I'm confused. Ten positions restored; are those the eleven?

THE WITNESS: No, ten extras, the original ten that we thought we were going to get in the beginning.

MR. BROSANAN: There were thirty positions requested, and ultimately there were 21 positions included in the budget.

Q The additional ten positions that had been restored, were they restored as the result of an arrangement?

A Yes.

Q Can you explain for us what that arrangement was.

A That five of the positions would go to people recommended by the Republican Party.
Q Five of the ten positions were reserved for candidates from the Republican Party?
A People recommended by the Republican Party. My option to choose.
Q Were those positions eventually filled by candidates from the Republican Party?
A Yes.
Q Mr. Spano, do you recall what types of jobs those were?
A Those were Clerks, Level 5.
You have to understand, since it was a new division, there was no test at that particular point.
Q Do you recall who you got those candidates from?
A I thought I got them from telephone calls, or from a list, or something. I don't have the list. I don't remember, but they came from the party.

MR. BROSnan: Mr. Chairman, I have no further questions.

THE CHAIRPERSON: Thank you.

With respect to the five people that I gather were chosen by you, as recommended by the Republican Party, I take it that you were satisfied they had the qualifications for the job?
THE WITNESS: Yes.

First of all, I didn't get the positions right away. What I really got was -- I had to put people on as temporaries until the positions came in, which I think was two or three months after we started.

I had to run a major division, and I really didn't care -- I had a very tough time getting bodies, by the way, for these jobs. They don't pay that well. There wasn't enough time to canvas to do the kind of thing we normally do. I was actually happy -- in fact, I think I had to call once and say, where the hell are the names, because I needed the positions.

THE CHAIRPERSON: It was clear that you felt limited by the arrangement to select five people who were members of a political party; correct?

THE WITNESS: Five qualified people.

THE CHAIRPERSON: You also testified back in '84 with respect to seeking eleven positions, and being able to get eight of them back. Do you recall that testimony?

THE WITNESS: Yes, sir.
THE CHAIRPERSON: Would the positions involved be of people who were already employed in government?

THE WITNESS: Yes. I had to let three go.

THE CHAIRPERSON: Do you --

THE WITNESS: Again, at my option. I had to choose three.

Actually, I think what I got was a dollar amount, if I remember correctly. I had to make that choice myself.

THE CHAIRPERSON: I take it that it has been your experience, in terms of dealing with staffing and budgetary kind of matters, that it is essential to communicate with the leadership of the Republican Party; is that so?

THE WITNESS: Only in those two instances, in the seven years I have been in office. Both of them involved the Motor Vehicle Bureau, this entire taking over of the Legal Department, the only two times.

THE CHAIRPERSON: Thank you.

Commissioner Emery.

COMMISSIONER EMERY: In your discussions in 1982, during transition, and I guess early in
1983, January, February, March, where you had several discussions with Mr. Colavita, I believe you testified that you discussed appointments?

THE WITNESS: Yes, I did.

COMMISSIONER EMERY: What were those discussions?

THE WITNESS: Well, not only with him, but I mean, when you get into office there are a number of appointments that you have, mainly at the Deputy level.

You start to get calls. I got calls from friends of people who worked there. I got calls from people who knew people who were very good on the staff. We discussed which ones to keep, which ones to let go.

COMMISSIONER EMERY: Directing your attention, specifically, to your discussions with Mr. Colavita, do you remember those?

THE WITNESS: I remember having them.

COMMISSIONER EMERY: What was the nature of those discussions?

I take it you were a new Democratic office holder, and he was an established Republican leader in what was now, again, seemingly a
Republican county, or Republican-dominated county?

THE WITNESS: Yes.

COMMISSIONER EMERY: Did you have discussions about how you were going to operate your office in that environment?

THE WITNESS: No.

COMMISSIONER EMERY: Did you have discussions about specific people that he wanted appointed?

THE WITNESS: No.

COMMISSIONER EMERY: How about specific people that he wanted retained in the office?

THE WITNESS: Yes.

COMMISSIONER EMERY: How did those discussions occur?

THE WITNESS: He asked me if we could keep a number of the different people that were on the staff already. That is the way it was.

COMMISSIONER EMERY: What was your response to that?

THE WITNESS: I had people I wanted to bring in. There was no way I could do that.

COMMISSIONER EMERY: Did you let those people go?
THE WITNESS: No, I told them that I would get back to them, and I would let him know.

I went back to my office, I had absolutely no workers, only my own on the staff at the time. I was concerned about the fact that we were losing the Motor Vehicle Bureau; I was wrapped up in that.

So, I made an arrangement with him, and I said, what I would need would be an additional number of positions to take care of the office and run the office. If that came through, then it wouldn't be a problem for me to keep the other people on staff.

COMMISSIONER EMERY: In other words, you made an arrangement with him that you would keep the people he was recommending if you could get more people --

THE WITNESS: I would keep some of the people he was recommending if I could get some of the people I needed onto the staff, yes.

COMMISSIONER EMERY: Were there any other arrangements?

THE WITNESS: No.

COMMISSIONER EMERY: That is the only one?
THE WITNESS: The only one I recall right now.

If you refresh my memory and it's true, I'll tell you.

COMMISSIONER EMERY: I don't know of any; I'm just asking you.

On page 13 of your deposition you refer to, and what I don't understand, in the questions and answers, as the "cookie jar."

What are you referring to there?

THE WITNESS: I think when the Republicans took over the County, what they got was a free hand at all the jobs in the county; that is all. That is what I referred to as the "cookie jar." A tempting place to go and get things that you want.

COMMISSIONER EMERY: That was in 1982?

THE WITNESS: That is correct.

COMMISSIONER EMERY: I have nothing else.

THE CHAIRPERSON: Commissioner Magavern.

COMMISSIONER MAGAVERN: You refer to an arrangement made in March of 1983 to keep Mr. Keeler on to the end of the year?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: I think you said
you were asked to keep him on until the end of the year.

THE WITNESS: I was under the impression, I don't know whether it was one, two or three months, that when I got rid of him I would keep that amount of money in my budget; I would use it for something.

I must have gone prior to March, because I had to have some discussion with at least Budget on that. That is when I was told that it was for Keeler.

COMMISSIONER MAGAVERN: And who asked you to keep him on?

THE WITNESS: I think it was the Budget Director, but it is not unlikely that it didn't come up in part of the conversations I had with Tony Colavita. I just don't remember.

COMMISSIONER MAGAVERN: Did you understand that the Budget Director was reflecting Mr. Colavita's wishes?

THE WITNESS: No.

I think that he genuinely felt that this was just a pain -- Keeler was a pain, he was difficult to place at that particular moment, and
this was an easy place to keep him until -- on the payroll situation, until we got to the end of the year.

COMMISSIONER MAGAVERN: Did he give you any governmental reason to keep Mr. Keeler on the payroll?

THE WITNESS: They didn't know where they were going to put him, they were going to move him along.

COMMISSIONER MAGAVERN: Did they give you any good reasons to keep him in County government?

THE WITNESS: No.

COMMISSIONER MAGAVERN: You understood this was a personal accommodation to Mr. Keeler?

THE WITNESS: I was new. Let's all focus on this. I was really confused at the time.

A lot of these things are things that I don't think I would do today, I would get into today.

All I knew was I had to run an office, I had to do something in order to make this office run.

They wanted to take all their people, deputies that were being released from the Auto
Bureau, and put them somewhere else in the County.

These were people who worked for the County for X number of years. My assumption, they were relatively competent. I, at that point, didn't see anything wrong with that.

COMMISSIONER MAGAVERN: In reflection, having gone through this experience, do you think it would be a good idea if these appointments could be taken out of the arena of political conflict and bargaining?

THE WITNESS: Out of the arena of political conflict and bargaining, yes. But not out of the selection of the County Clerk.

I don't know how you divorce them.

I have just as much trouble with the Civil Service system as I do with the appointment system.

We have some bizarre things that go on in our Civil Service system that prevents you from doing your job properly.

COMMISSIONER MAGAVERN: Do you have any idea on how you might change the system?

THE WITNESS: I think one of the things that might be helpful would be to eliminate the
one, two, three choice and allow it for a pass-fail situation, or as they do in the police test, blocking of people. So at least your choices would be in a wider range.

I think using the federal system might be helpful in certain categories where they -- where there is not a tremendous amount of expertise that is needed, such as an in engineering.

Where you take an entry level situation, then the administrator is left, supervisors are left to make those choices within that scope.

COMMISSIONER MAGAVERN: If you have a wider range of choice by using a block system, for example, wouldn't that mean that there is more positions up for political grabs? You are subject to more pressure when your budget is being determined by the other party and you have a political leader that is anxious to preserve some jobs, gain some jobs?

Wouldn't you be making your position worse?

THE WITNESS: Not the political situation, itself, but wherever you go in life you meet these kinds of difficulties.

The way you handle them, in terms of what
you're supposed to be doing, is really what should be looked at.

If you -- I have some cards I can play myself. If they make it miserable for me, I can make it miserable for them.

Where it breaks down severely is when you're not an elected official, where there is control over your job. I have a certain amount of independence, in a way.

COMMISSIONER MAGAVERN: Did you ever find out about the person who had been recording Mr. Keeler's absences, who was dropped in the 1983 County budget; did you ever learn about that?

THE WITNESS: She was in the budget, and then out of it.

COMMISSIONER MAGAVERN: Was she dropped from the executive budget?

THE WITNESS: She was placed in the hospital. She didn't lose her job. I lost that position. That was another position I lost.

COMMISSIONER MAGAVERN: One of the things I want to ask you is whether she was in the executive budget before it went to the Legislature, and then was dropped by the
Legislature?

THE WITNESS: I think so. That is my recollection, I think so.

COMMISSIONER MAGAVERN: You have referred to having cards to play, making life miserable for other people.

My question to you is, do you think it's fair to employees, like this woman, who was doing her job, recording absences, to have them subject to this game in which conflicting political forces are playing their cards against one another?

THE WITNESS: I don't agree that that should happen to an individual, I don't agree.

In this particular case I don't think that is what happened.

I think this was just a way to get her out of the department, move her someplace else, because she was a highly politicized person.

I certainly didn't want her next to me in my office, working in that capacity.

This was not an appointed position. There was an Assistant Deputy who was running the Department at the time, by the way, who was running the County Clerk's office.
COMMISSIONER MAGAVERN: How did she get politicized? I'm curious about that.

THE WITNESS: She wasn't connected to the party, as far as I know. She was very politicized within the scope of that office. There was a lot of hostility towards her by other members of the office.

She did get a job at the hospital.

COMMISSIONER MAGAVERN: Did that hostility come from the fact that she wouldn't play ball politically?

THE WITNESS: No, I think it came from the fact that there were First Deputies, Second Deputies, and she was an Assistant Deputy, running the office. I think that is where this hostility came from.

That may have been George's only alternative, given the discussion that you had with him just before. I don't know.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: You said that you chose from a list of five people. Do you remember how many names were on the list?
THE WITNESS: No.

MR. SCHWARZ: You said you didn't have a chance to do the thing you normally do, in terms of hiring. What did you mean by that?

THE WITNESS: I don't recollect the context.

MR. SCHWARZ: You said that you took from this list; you had to fill these people quickly.

THE WITNESS: Yes. What we normally do is, if it's a regular list, we have a job opening, we post, we canvas, we take our time with the interviews, we have a whole interview process, we have it in place. That goes for everyone hired in the office. Whether it's recommended by a party person, you, or anyone else.

MR. SCHWARZ: Is that a public process?

THE WITNESS: Yes.

MR. SCHWARZ: If I'm not in government, and I want a job, would I see this opening somewhere?

THE WITNESS: Absolutely. By law, by the way.

MR. SCHWARZ: You follow that?

THE WITNESS: Of course.

MR. SCHWARZ: I was curious about
something. You have two attorneys here today.

THE WITNESS: Yes.

MR. SCHWARZ: And I take it Mr. Goodstein is your personal attorney?

THE WITNESS: Yes.

MR. SCHWARZ: Then you have a County attorney?

THE WITNESS: Yes.

MR. SCHWARZ: Did you request the County attorney be here with you?

THE WITNESS: Yes.

MR. SCHWARZ: Is that a separate request from your request of Mr. Goodstein?

THE WITNESS: Yes.

MR. SCHWARZ: Or was it the County attorney, or someone in the County, requested that you have a County attorney with you?

THE WITNESS: No, it's standard procedure to request a County attorney.

In fact, even when I did the Motor Vehicle activity, where we got all the way up to the Court of Appeals, I had requested a County attorney. They refused to represent me. I hired my own attorney.
I have also made the request of the Attorney General's office, because all the things that I'm talking about in the Legal Division are really under my State function.

MR. SCHWARZ: Thank you.

THE CHAIRPERSON: I just would have one final question.

I would like to have your view as to the appropriateness of party membership as a condition of getting a job.

THE WITNESS: No way. I don't think -- as a condition?

THE CHAIRPERSON: Yes.

THE WITNESS: No.

As a deterrent, no, also. I don't think people should be deterred from having a job if they are recommended by the party.

THE CHAIRPERSON: Thank you very much.

(Witness excused.)

THE CHAIRPERSON: The Commission calls as its next witness Edward Kilcullen.

EDWARD KILCULLEN, called as a witness, having been first duly sworn by the Chairperson,

was examined and testified as follows:
THE CHAIRPERSON: I would like to recognize Executive Director for questioning, Peter Bienstock.

MR. BIENSTOCK: Thank you.

EXAMINATION

BY MR. BIENSTOCK:

Q Good morning, Mr. Kilcullen.
A Good morning.

Q By whom are you employed?
A Now?
Q Yes.
A I'm retired.
Q And focusing on the period 1955 to 1980, how were you employed then?
A I was employed by the Westchester County Playland Commission, a public benefit corporation, that operated Playland Park. I served as a Director of Playland.

Q Mr. Kilcullen, I think that you're going to have the bring the microphone closer.

Just for the record, you served with the Playland Commission until 1980?
A Yes, I did.
Q What happened the next year?
The Playland Act, which is a New York State piece of legislation, that created the Playland Commission, expired, the statute expired, and the Playland Commission went out of existence. Subsequent to that, the County of Westchester engaged the Marriott Corporation to manage Playland Park. I was retained as a consultant by the County at that time, January 1, 1981, until the end of the year. As a consultant by the County? Right. And you continued to work at the park as a consultant? That is true. Employed by the County, advising Marriott? Well, to put it very bluntly, the Marriott Corporation had no interest in my recommendations, and I made no part in policy or operations of the park. I was maintained in a position to use my knowledge and historical background of the park operation. Did there come a time at the end of 1982 when you expressed interest in returning to the park? My services ended the end of December, 1981.
And yes, to answer your question, yes.

Q And how did you express interest to returning at the end of 1982?

A I had written a letter to the Editorial Board of the Westchester, Rockland newspapers in response to their editorials, in which they suggested that the park be operated by the Marriott Corporation for another year.

I took issue with that. I felt that there was an alternative way of operating it through the County of Westchester, and that the Parks and Recreation Department should operate it.

I sought out people that I thought could present my qualifications to the County, as I had been Director of the park for 27 years under the Playland Commission.

Q Did there come a time, at the end of 1982, that you became aware that Marriott would not continue, that the County would, in effect, take it over?

A Yes.

Q Did you communicate -- I think you just began to say that you communicated your interest of returning to the park to people who could present your qualifications to the County?
Kilcullen

A  Yes.

Q  Who did you speak to?

A  I spoke to Tony Colavita, who was the supervisor of the town where I had lived, and who I had known casually over a number of years. Also to a legislator from our district, Andy Albanese, who was a member of the County Board of Legislators.

Q  Why did you communicate with Mr. Colavita, rather than with County government officials?

A  Well, I thought his knowledge of the County would enable my qualifications to be presented to a number of people.

Q  And did he ask that you give him a resume?

A  Yes.

Q  Did you do so?

A  I did.

Q  Thereafter, did you speak to other people about returning to the park?

A  Yes, I spoke to Andy O'Rourke on his inauguration date, in February of 1983. I didn't speak to him of my interest in the job, but he said to me, "I would like to sit with you. Will you make an appointment with my office?"

Q  Did you do that?
Kilcullen

A  Yes.

Q  What happened?

A  I met with Mr. O'Rourke, and his Executive Assistant, Vincent Castaldo, and expressed my interest in going back to the park, because I felt I had the qualifications to operate and manage the park.

Q  Now, at or about that time did there come an issue about how you would, if you went back to the park, how you would be compensated, whether as an employee, or as a consultant?

A  Well, since I was retired, I couldn't go back as an employee. I was retired under the New York State Retirement System. So, it would have to go back as a contractor or a consultant.

Q  Did you discuss that issue with Mr. Colavita?

A  No.

Q  When did you start your post-Marriott tour of duty at the park?

A  On or about the 29th of January of 1983.

Q  And who did you report to?

A  I was reporting to Mr. Caverly, the Commissioner of Parks and Recreation.

Q  Was that because Playland now came under the
jurisdiction of the Commission of Parks and Recreation?
A    That is true.
Q    Now, did there come a time, later in 1983, when Richard Keeler was sent over to help you with the park?
A    Yes, that was about the end of June of 1983.
Q    At or before that time, had you requested that an assistant be sent over, or be employed?
A    No.
Q    Had you interviewed Mr. Keeler?
A    No, I did not.
Q    Did you request that Mr. Keeler be hired?
A    No.
Q    Were you first informed that Mr. Keeler would be coming over by Mr. Caverly?
A    No.
Q    Were you first informed that he would be coming over by Mr. Caverly's Deputy, Mr. Arles?
A    No, I did not.
Q    Were you first informed about that by Mr. O'Rourke?
A    No.
Q    How were you first informed that Mr. Keeler would be coming over?
I was told by Fred Gioffre, who was, I believe at that time, an employee of the County Personnel Department, that Dick Keeler was coming over to the park to help out, that he was a very nice guy, that he would be used as I saw fit.

Q Did you form a belief at that time as to who was responsible for sending Mr. Keeler over to the park?

A I believed at that time, and do now, that he was sent over by Tony Colavita.

Q Why was that?

A Because he was an assistant to Tony Colavita.

Q Mr. Gioffre was?

A Yes, Fred Gioffre.

Q I'm sorry, did I interrupt you?

A No.

Q Did you have reason to believe that at least Mr. Arles did not even know that Mr. Keeler was coming over to the park?

A As a matter of fact, he was very surprised that he was there, as well as Joe Caverly, the Commissioner of Parks.

Q Now, you said that Mr. Keeler was sent over in late June, I believe you said. Could you tell us what

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the first assignment was that he gave Mr. Keeler?

A Well, I really didn't know what to do with him. I sent him out in the parking lot on the Fourth of July, to assist the parking lot manager, subsequently advised him to walk around the park, and familiarize himself with the operation, as I really didn't know what to do with him.

Q Let me just pick up a thread. You said that Mr. Arles and Mr. Caverly were surprised about him coming to the park. How do you know that?

A Well, apparently they found out from other people that Dick Keeler was over there and was not on our payroll. They asked me what he was doing there. I said he was sent over.

Q Did they ask you by whom he was sent over?

A I told them Fred Gioffre.

Q Did you, after he first came over, did you seek to assign him certain duties with respect to purchasing?

A As I said before, I didn't know really what to do with him. He was an addition to the staff, and I know our Controller, Nick Vece, at that time had a wide ramification of responsibilities.

I thought that Dick Keeler could help out
with requisitioning, purchasing, inventory. I gave him an assignment to sign off on requisitions and purchasing orders that we had to submit to the County for materials and supplies.

Q Did you put that assignment in the form of a writing to Mr. Vece?

A Yes, I did. It was a memorandum that I wrote to Nick Vece, the Controller.

Q I want to refer you to the book in front of you at the table, the exhibit book, and ask you to look at Exhibit 13.

A I have it.

Q Focusing on on the typed part, and the initialed or signature part, is that the memorandum that you sent to Mr. Vece?

A Yes.

Q Now, did there also come a time, after you sent that to Mr. Vece, that you became aware of Exhibit 13, including the handwritten portion?

A Yes.

Q How did you come to see the document with the handwriting?

A Well, Mr. O'Rourke, the County Executive, was at the park one night, was attending a picnic, some
kind of a function, a picnic. Apparently, he met Mr. Keeler, who showed him this memorandum. The next day, when I came into work, Mr. Keeler handed this to me and said that Andy O'Rourke had seen this and left a note on here for you.

Q Okay.

Could you read the note, just for the record?

A It reads, "Ed, I saw this, it's a great idea. Rich will do a fine job as purchasing officer. Keep up the good work. Regards, Andy O'Rourke."

Q You learned about the contact between Mr. Keeler and Mr. O'Rourke the next day, from Mr. Keeler?

A Yes.

Q Was their request ultimately approved, the request that he be given the responsibilities of purchasing?

A I don't recall whether it was officially approved, but I considered this an approval of the assignment.

Q Then let me show you Exhibit 14, which is the next exhibit, and I ask you whether that refreshes your recollection about whether this request was eventually approved.
A There is a matter of chronology here. This memorandum, which was just referenced, which I sent to Nick Vece, the Controller, has a handwritten note from Vince Castaldo to me. This was received prior to my receiving this handwritten note from Andy O'Rourke.

Q I see.

So, when you had the handwritten note --

when you saw the handwritten note from Mr. O'Rourke, you knew that Mr. Castaldo had already expressed his opposition to the request?

A Yes.

Q For the record, can you read the handwritten Castaldo note on Exhibit 14?

A Yes. It says, "Ed, no way, Keeler on County Clerk payroll, can't have" -- I can't read the next word.

Q "Super"?

A "Super signing power on this question. Caverly, the only one that can assign the above power, and only then with Budget and Finance acknowledgment."

It is signed Castaldo, with copies to Caverly, Vece and Dave Schulman, Commissioner of Finance at the time.

Q Does that refresh your recollection as to whether or not a request to have Mr. Keeler have those
powers was ultimately approved or not?

A Well, I had to assume that the County Executive, I think it's logical, as the top official of the County, and if he approved it, it would have to be approved.

Q Is it your testimony that Mr. Keeler took on the duties that you were requesting?

A Yes, he did.

Q I see.

Now, during the time that Keeler was working with you at the park, did there come a time when Mr. O'Rourke questioned you about Mr. Keeler's abilities?

A Yes. I had a meeting with Mr. O'Rourke some time in the late fall of 1983, in his office at the County Office Building. He asked me how Dick Keeler was doing. I told him that I found him to be a hard worker. That was about it.

Q Did he also question you at that time, or at another time during that period, about Mr. Keeler's honesty?

A Yes, he did. He said to me, "Ed, is he honest?" I said, I found it difficult to answer that question because I really didn't know the ramifications of his activities.
He didn't ask me anything further following that.

COMMISSIONER VANCE: When did that conversation take place?

THE WITNESS: I believe, Mr. Vance, that it took place probably in November or December of 1983.

COMMISSIONER VANCE: Do you know what the occasion was for him asking that question?

THE WITNESS: No, I really don't. It came to me as quite a surprise.

Q Did there come a time, shortly thereafter, after November of 1983, that Mr. Keeler was named General Manager of the park?

A Yes.

Q And when was that?


Q And do you remember how you first learned that that was going to happen?

A Well, I had heard from Mr. Keeler, himself, that he was going to be General Manager, and it was almost common knowledge that he was to be General Manager.
Q. You say you heard first from Mr. Keeler?
A. Yes.

Q. Did you have occasion to have a conversation with Mr. Keeler which was confirmed for you by a telephone call?
A. Yes.

Q. Could you describe that?
A. This was in early December. And Mr. Keeler came to my office and said that Tony Colavita was on the phone, and he wanted to know whether I knew that the line item in the 1984 budget contained a position of General Manager, and that he was to fill that position.

I said, yes, I had to assume I was told by so many people that he was going to be General Manager.

He said to me, "Tony Colavita wants to talk to you." I went to his office, to Keeler's office, and he put me on the phone.

Q. Mr. Keeler put you on the phone with Mr. Colavita?
A. Right.

Q. What did Mr. Colavita say to you, and what did you say to him?
A. He said, "Ed, do you know that this position in the '84 budget for General Manager at Playland is a
1 line item that's going to be filled by Dick Keeler?" I said, yes.

2 Q Did you find it unusual to have a conversation with that subject with someone who is not in County government?

3 A Yes.

4 Q Did you have other conversations like that with Mr. Colavita?

5 A No.

6 I know that Dick Keeler had a number of conversations with him, but I didn't.

7 Q Now I want to direct your attention to early 1983, going back a little bit.

8 Do you recall how you first learned -- let me ask it this way.

9 Did there come a time that you learned that Morgan Hughes was making proposals to return to the park?

10 A Yes, in, I think it was around March of 1983 that I received a letter from Mr. Hughes' attorney that he had a proposal to bring in rides to Playland for the '83 season. It came to me, through Fred Gioffre, who dropped the correspondence off at my office at Playland.

11 Q Did he drop off proposals and a cover letter?
A It was a cover letter, and there were ride proposals, amusement proposals.

Q I want to direct your attention to the letter to the left, which is Commission Exhibit No. 2, I believe.

I ask you whether that is the letter which was the cover letter for the proposals.

A Yes.

Q Now, did you have a reaction to those proposals?

A Yes, I had a very negative reaction. We had had a prior experience, when I was Director of Playland, with Mr. Hughes. He had a concession operating a go cart ride in the park.

Q When was this?

A That was in the summer of 1968.

His operation was most unsatisfactory. As a matter of fact, we were going to cancel out on him, but it was getting so near to the end of the season that we wanted to avoid the legal problems and ramifications of going through putting him out. We just let his contract expire.

Q In what way was it unsatisfactory?

A It was a total lack of management, a great
amount of irresponsibility; there were safety problems. The ride would open up two or three hours late. We had a number of complaints from patrons of the park that the employees were rude to them. It was sort of a rag tag operation. I was most dissatisfied with it.

Q Now, having had that experience, and being given proposals by Mr. Gioffre in 1983, what did you do with those proposals?

A I just read them and filed them. I had no interest whatsoever in recommending Mr. Hughes for any ride operation at Playland.

This was based, excuse me, on my own prior experience in the amusement industry for almost thirty years. I just had no confidence in him.

Q Now later in 1983, or early the following year, 1984, did you learn that Mr. Hughes had submitted new proposals?

A Yes, I did.

Q Do you recall how you learned that?

A I don't recall the exact date. I was home sick, with a virus, at that time, and I received a telephone call from Jim Arles, the Deputy Commissioner of Parks and Recreation, and he said, "Ed, we are going into a meeting with the County
Executive and other officials, and there is a proposal here for Morgan Hughes to lease rides to the County. We don't know whether you have reviewed this, or have any knowledge of it."

I said, "Well, I don't even know about it, I didn't know that any proposals were prepared, or had been submitted, and certainly was never consulted about it."

Q You said you read the exact date. Was it December 15th of 1983?

A I believe it was the 14th.

Q The 14th?

A Yes.

Q And who was in charge of the park on December 14th of 1983?

A As a consultant, I was in a sense the General Manager, to a degree.

I had no line authority or responsibility, other than a commitment from the County Executive to run the park.

I hope I have answered your question.

Q Yes, you have.

Did Mr. Arles and others meet with the County Executive in your absence, to discuss those proposals, if you know?
Yes, they did.

As a matter of fact, Jim Arles said that he would tell me -- incidentally, Jim Arles gave me a breakdown of the anticipated revenues and expenditures for leasing these rides, and the operation of the rides.

Just hearing them over the phone, I knew that they could not possibly be met. It was too rosy a presentation.

So, when I got back to work on or about -- I believe it was the 20th of December -- I had a memorandum from Nick Vece, the Controller of the park, in which he set forth all the statistics and figures which would show that the park would make a substantial profit out of these rides.

I was appalled at the figures. I knew they were not the least bit realistic, and could not be attained.

So, I sat down, because of the magnitude of this operation, the County acting on such a major proposal, without having a thorough evaluation of what the figures were, and how they would turn out -- so I sat down and wrote a letter to Commissioner Caverly, I believe it was. I sent copies of that to Mr. O'Rourke and Vince Castaldo, the Executive Officer.
I think -- I can't recall who else got a copy of it.

Q Let me show you Exhibit 11, in particular the last two pages of Exhibit 11.

(Witness reviewing document.)

A Yes, this is the letter.

Q Is it fair to say that the last two pages of Exhibit 11 constitutes the letter that you sent to Mr. Caverly?

A Would you repeat that question, please?

Q Do the last two pages of Exhibit 11 comprise the letter that you sent to Mr. Caverly on December 20, 1983?

A Yes.

Q After that, did you attend a meeting at which these proposals were discussed?

A Yes, there was a meeting in the conference room of the County Department of Parks and Recreation, in which this matter was discussed.

Q Who was present?

A Commissioner Caverly, myself, Nick Vece, our Controller, Dick Keeler. Mr. Castaldo was there for awhile, and Mr. O'Rourke was also there for part of the meeting.
Q Is it fair to say at that meeting there were certain people who were in favor entering into an agreement with Mr. Hughes, pursuant to the proposals, and certain people opposed?
A Yes. I was the major proponent of it, and the proponents were Nick Vece, the Controller, and Dick Keeler, whatever title he had.
Q That is my next question. At that time who was in charge of the park?
A I was.
Q And was your opposition at that meeting based on the analysis that you had done?
A Excuse me, I would like to interrupt for a moment.
Actually, I was reporting to Joe Caverly, the Commissioner of Parks. He was relying on my judgment with respect to these matters.
Q All right.
Was your opposition voiced at that meeting based on the analysis of the projections that you had done?
A It was based on two things, the projections of revenues, expenditures and other parts of the proposed lease were certainly not in the best interests of the
County; and I opposed them vigorously.

Q What did Mr. Keeler and Mr. Vece say in favor?

A They both argued in favor of it, particularly Mr. Keeler.

Q What did he say?

A I beg your pardon?

Q What did he say?

A He said that it was -- as I recall now, that it was a very good thing for the park, we needed new rides, and new revenue.

I agreed that we needed new rides, and additional revenue, but I felt that the proposed arrangement was totally unfavorable as far as revenue to the County, and the operation of the park was definitely not in the best interests of the County.

Q How about Mr. O'Rourke? You said he was present for part of the meeting. Did he stay through the discussion of the Hughes proposals?

A He heard the pros and cons of this, and finally -- I guess he had other things very important to do. He said, "where are we going with this? I'll leave it up to you people," and he left.

Q Did he express a point of view before he
left?

A No, he just listened.

Q Was a decision made at that meeting whether or not to go forward with the Hughes proposals?

A No, a decision was made at a later date.

I made my point, and I appeared to be an obstructionist. They revised the figures, the revenue estimates down, the expenses up. There were a lot of other aspects to this lease proposal that I felt was just not right.

Q Now, you testified that Mr. Keeler was appointed General Manager, effective January 1, 1984; is that right?

A Yes, that is right.

Q A few months after that, did your responsibilities at the park come to an end?

A Yes.

Q And how did that come about?

A Well, I had an extension of my contract as consultant at a reduced fee for the three months of 1984, and at the termination, at the end of March, I left.

Q And after the end of March, did you once again, seek to return to the park?

A Yes, I saw -- I made an appointment to
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see -- when I had seen what was going on at the park, after my departure, I felt that I could be of some service to the County of Westchester, because of my experience and knowledge of the park.

I made an appointment to see Andy O'Rourke. I think it was in February of 1985.

Q Did you have a conversation with him about your return to the park?
A Yes, I met him in his office, the County Office Building, and we had a very pleasant conversation. I said that based on my experience, and my knowledge, and ability, I felt I could be of assistance to him. If at any time he wanted to call on me, I would be glad to help out.

Q Did he say to you at that time, "Ed, do you want to return to the park?"
A Yes, he did.

Q And what did you say?
A I said, yes, I would.

Q And what did he say?
A He said, "Fine, Ed, it is all set, I'll have Dick Keeler get in touch with you."

Q Did he say anything about Mr. Colavita?
A Yes, he said, let Tony know that you're
coming back.

Q What happened next?
A Nothing. I never heard from Mr. O'Rourke or his office, although I called several times.

Q Did you hear from Mr. Keeler?
A No, never heard from Mr. Keeler.

Q Did there come a time when you raised the question again, with both Mr. O'Rourke and Mr. Colavita, at a Republican dinner?
A Yes. I had called Mr. O'Rourke's office several times and got the answer that they would get back to me. I never heard from them.

I also called Tony Colavita, I never heard from him.

So, I knew that they would both be at the Republican dinner. I went there some time in March, whenever the dinner was, and sought them out, to find out what happened to Mr. O'Rourke's invitation for me to return.

Q And what did they say?
A Well, I met Tony Colavita, and we had a very brief conversation. I told him that I had been asked to come back to the park. He said, "Ed, I don't know what I can do for you." That was it. He just shrugged his
hands and walked away.

Later on, I met Mr. O'Rourke, who was making rounds to the various tables. He said to me, "Hi, Ed, your name came up recently. I'll have to speak to you some time."

Q Did he ever speak to you again?
A No, I never heard from him.

I also wrote a letter to his home, inquiring about this, and I never heard from him.

MR. BIENSTOCK: Mr. Chairman, I have no further subjects.

I want to clear up one matter with Mr. Kilcullen.

Q About your testimony concerning your conversations about your initial consultancy, back in January of 1983, do you recall, I asked you if you had had conversations with Mr. Colavita about whether you would go on a consultant contract, or on a salary basis?

Let me try to refresh your recollection by directing you to page 9 of your deposition, just so that the record is clear, particularly beginning at line 4.

Let me read it for the record.

"Question: Did you speak with anybody about your concerns with regard to that provision?"
I think in context we are talking about the liability insurance, whether or not you would be a consultant, an employee, how the insurance would be handled.

"Answer: Yes.

"Question: To whom did you speak?

"Answer: I spoke to my attorney, and I spoke to Anthony Colavita, the gentlemen I first met before I had the job.

"Question: And what did you discuss with Mr. Colavita about this problem?

"Answer: Well, I expressed the view, based on my inquiries about the cost of the insurance, that it would be very, very expensive to me, and would change my whole view of accepting the contract."

Do you recall being asked those questions and giving those answers?

A Yes. I think I must have misunderstood the context of your question before.

There is no question that I did have a meeting with Mr. Colavita, and I raised this issue.

Q I understood that there had been a miscommunication between us?

A Yes.
MR. BIENSTOCK: Thank you.

Mr. Chairman, I have no further questions.

THE CHAIRPERSON: I just have two questions.

Your testimony may be clear, but I didn't hear it. You made reference to a meeting with County Executive O'Rourke in late '83, where the subject of Mr. Keeler came up. And according to your testimony, you made reference to him being a good worker.

Then, as I recall your testimony, you were asked by the County Executive whether he is honest.

Do you recall that testimony?

THE WITNESS: Yes, I do.

THE CHAIRPERSON: It is not clear to me what your response was to that question.

You were asked by the County Executive, is he honest. Did you have a response to him?

THE WITNESS: I answered him specifically that I found it rather difficult to answer that question, because I did not know of any overt acts of dishonesty.

Furthermore, I felt that I didn't want to...
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damage his reputation or character, without any
real evidence.

THE CHAIRPERSON: I just want the record to
be clear as to what your answer was, and you have
indicated that.

I'm also not clear as to the meeting at the
County Board, where the contract was discussed,
the pros and cons were exchanged, whether Mr.
Caverly was present at that meeting.

THE WITNESS: No, he was not.

THE CHAIRPERSON: Was that unusual for him
not to be present at a meeting where that subject
was going to be discussed, particularly since he
was the person to whom you reported?

THE WITNESS: Yes. I think in a sense it
probably was. But, Mr. Castaldo was actually
handling the terms of the negotiations for my
services as consultant, and that is why I made an
appointment with my attorney to see him in his
office.

THE CHAIRPERSON: You understand that I'm
referring to the meeting concerning the contract,
giving a contract to Morgan Hughes; I'm not
referring to the meeting in terms of your
contract?

THE WITNESS: I see.

THE CHAIRPERSON: You testified at a meeting, I think in late 1983 -- I may have the time wrong -- there was -- you expressed a lot of opposition to the Morgan Hughes contract. Others expressed support for the contract.

Do you recall that meeting?

THE WITNESS: I do.

THE CHAIRPERSON: My question is, was Mr. Caverly present at that meeting?

THE WITNESS: Yes, the entire meeting.

THE CHAIRPERSON: Commissioner?

COMMISSIONER VANCE: At that meeting, which the Chairman just referred to, aside from comments that were made on the equities of the proposal, the contracts involved in the proposal, did anyone at the meeting which you described ever solicit from you your opinion with regard to Mr. Hughes' reputation in the industry?

THE WITNESS: No.

COMMISSIONER VANCE: Did you ever raise that with any of those individuals subsequently?

THE WITNESS: Not at that meeting, but I
think they had a clear view of my appraisal of Mr. Hughes and his operation.

I think I had mentioned that to them prior to the meeting, at some time or another. Perhaps it was when I first got that letter, which had to do with another matter, but it was the same people.

THE CHAIRPERSON: Referring to the letter of January 24, 1983?

THE WITNESS: That is right, yes.

COMMISSIONER VANCE: I'm still not clear. Do you think that they had a clear idea that you had a very negative view with respect to his abilities to carry out the contract?

THE WITNESS: I'm not so sure at that meeting that I made that point.

COMMISSIONER VANCE: At that meeting, or subsequent?

THE WITNESS: Yes. I can't recall frankly at this moment.

I know they knew my attitude, my feelings, my appraisal of his operation from prior experience, because I spoke to them about it. I had a very negative view on that.
COMMISSIONER VANCE: Thank you.

THE CHAIRPERSON: Commissioner Magavern.

COMMISSIONER MAGAVERN: In your response to Mr. Feerick's question, you said that you did not want to damage, in your conversation with Mr. O'Rourke, you did not want to damage Mr. Keeler's reputation, without any real evidence.

Had you heard things that might lead people to question Mr. Keeler's honesty, or did you have any information that although you didn't consider it real evidence it would raise a question?

THE WITNESS: I have had a lot of experience, and I think I'm a fairly good judge of people, at least in my own view.

I didn't like Mr. Keeler's mode of operation. He was a totally politically-motivated individual. He had -- and I hope I'm responding to your question.

COMMISSIONER MAGAVERN: You are.

THE WITNESS: He had almost a euphoric air of political power, that nothing could ever happen to him. It was evidenced by many things that happened around the park during the period when he was there.
He was intensely disliked by a great number of employees.

I guess you could say that I thought Mr. O'Rourke must have known what kind of a person he was like.

I couldn't give him a whole-hearted endorsement, based on what I knew of him, yet I couldn't say he was dishonest.

COMMISSIONER MAGAVERN: Was his political attitude or activity that you referred to related to political fundraising?

THE WITNESS: I suspected it was. I didn't see him actually, soliciting funds.

COMMISSIONER MAGAVERN: Did you ever hear complaints by employees, vendors, or anyone else, about his fundraising?

THE WITNESS: No.

COMMISSIONER MAGAVERN: Did you ever receive any explanation, or any information as to why the County proceeded to enter into a lease with Morgan Hughes, despite your objections?

THE WITNESS: No. It was surprising to me.

I never did.

COMMISSIONER MAGAVERN: Thank you.
THE CHAIRPERSON: Commissioner Emery.

COMMISSIONER EMERY: Did you have any beliefs or feelings, given your view of Mr. Keeler, as to why he was recommending the Morgan Hughes contract, notwithstanding the clear problems with it that you had expressed?

Did you have any information, beliefs, reasons, to believe why that was occurring?

THE WITNESS: I have a definite belief that there was a lot of political interest in this contract.

First of all, it involves a substantial amount of money, quite a bit for the County to be paying to lease rides.

First of all, it is not an accepted practice in the amusement park industry, unless there is some kind of emergency, where you need rides immediately and you have to get them in.

COMMISSIONER EMERY: What is not an accepted practice?

THE WITNESS: The practice of leasing rides. You either buy them, or you have them concession-operated.

That is the accepted practice in the
COMMISSIONER EMERY: Any other reasons that you can think of why you thought this was a political contract?

THE WITNESS: Yes, because it flew directly in the face of logic, of business experience, of the knowledge and reputation of a person, I think like myself, who would take exception to this kind of a contract.

When you battle it, and you don't win, you have done your best to prevent it from taking place.

Subsequent to that, the estimates of the revenue for the County of Westchester were never met. In spite of that, in spite of a big losing proposition, someone recommended, and the County approved, an extension of this contract, which made it even worse. That was subsequent to the time that I left.

There were also other alternative ways of getting rides in there by approaching other people who would have been very interested, under the terms that were granted for the Morgan Hughes operation.
For instance, most ride operators pay the entire cost of bringing in their rides, including site preparation and other ancillary costs.

In this particular instance, the County was leasing four rides. They were paying for all the costs of the site preparation, which was extensive. They were paying for the transportation and shipping costs for one ride from the Netherlands to the United States, including the duty, the electric power supply, which was substantial for one new ride. They also were picking up the cost of staffing the ride, insuring it.

It was just an unbelievable contract.

COMMISSIONER EMERY: Thank you.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: CAN you tell me, at Playland during the period that we have been talking about, is there an admission fee?

THE WITNESS: Admission fee?

MR. SCHWARZ: Or a per-ride fee?

THE WITNESS: There was a combination. You could buy a combination book of tickets which allowed you to enter, to take ten or more rides
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for a certain amount of money. You could buy
individual tickets for the individual rides.

MR. SCHWARZ: Where do you buy those
tickets?

THE WITNESS: You buy them from a ticket
booth that is staffed by the employees of the
County of Westchester, or through a marketing
department which sells large numbers of tickets to
outing groups, and so on.

MR. SCHWARZ: Now, at each individual ride
is there a ticket collector?

THE WITNESS: Yes.

MR. SCHWARZ: And each individual ride
doesn't sell a ticket?

THE WITNESS: No.

MR. SCHWARZ: Who hires the people who
collect the money and give out the tickets?

THE WITNESS: Who collects the tickets?

MR. SCHWARZ: Collect the money, and sell
the tickets.

THE WITNESS: I thought I mentioned that.
The cashiers at the ticket booths are staffed by
the employees of the County of Westchester.

MR. SCHWARZ: Are those employees hired by
people at the park?

THE WITNESS: Yes, by the park, right.

MR. SCHWARZ: So, the manager of the park would be in charge of hiring the people who sell the tickets?

THE WITNESS: In essence, there would be some staff people in between, who would interview them, put them on the payroll.

MR. SCHWARZ: Who would, in turn, be hired by the person who runs the park?

THE WITNESS: Yes.

MR. SCHWARZ: And how are the funds at the park audited to insure that the tickets that are sold for money, that the money is reported properly?

THE WITNESS: Well, the tickets are issued from a separate office to the ticket sellers. They are given a bank of money to operate the ticket booth.

At the end of the day, they return their inventory to the ticket office. The cash is brought to the cash cage, where it is counted and verified, either that day or the next day.

The concessionaires receive the tickets at...
the various rides, those who are private
concessionaires that operate rides. They receive
their tickets at the rides.

There is a turnstile, which counts the
number of people who enter the ride. The
concessionaire brings the tickets to the office,
where they are counted. He is paid on a
percentage, whatever his contract reads.

MR. SCHWARZ: If the ride is a leased ride,
rather than a concession ride, where the operator
gets paid on the basis of how many rides, is there
a turnstile, also?

THE WITNESS: Yes, there is a turnstile,
for control purposes.

It doesn't matter as far as the leasor is
concerned, because he gets paid a half million
dollars a year, whether they make money or not.

MR. SCHWARZ: All these people you
mentioned, the people in the ticket office, the
cashiers, the operator of the particular ride, if
it's not -- in a situation where it is a leased
ride, the Morgan Hughes situation, are all hired,
are they not, by the manager of Playland?

THE WITNESS: Did you ask me whether the
employees of the concessionaire are hired?

MR. SCHWARZ: Of a leased ride.

THE WITNESS: That was part of the terms of the agreement with Hughes.

MR. SCHWARZ: All those people who handle the money, in effect, are hired, are they not, by the manager of Playland?

THE WITNESS: That is correct.

MR. SCHWARZ: I have no further questions.

THE CHAIRPERSON: Thank you very much.

THE WITNESS: I would like to make a brief statement.

THE CHAIRPERSON: You may.

THE WITNESS: Prior to the time of my return to Playland as consultant in 1983, the park was managed by the Marriott Corporation, Amusement Park Division. It was a policy decision that was made by the County of Westchester.

It turned out to be a tremendous misadventure, which did substantial damage to the physical condition of the park, and cost the taxpayers of Westchester eight or nine million dollars over a period of two years.

When I returned, the place was in sort of a
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semi-shambles. My interest in coming back was because of my experience with the Playland Commission.

There were a lot of dedicated people, men and women of the county, who served on the Commission, and made a tremendous effort to maintain the reputation of the park. I felt that it was something that I should do.

Subsequent to that, when I did speak to Mr. O'Rourke, I had the same motivation. It was to serve two purposes. I had something to offer, and I felt I could do something, some good for the County. That was the entire sum of my motivation for that.

Now, since we have gone through this period where we have had Marriott, and we have had a politically-motivated type of operation within the park, I think it's about time that the County should consider going back to a semi-autonomous Playland Commission, in which the members would be chosen partly by the County Executive of Westchester, with the approval of the Board of Legislators, and also by some public-spirited panel of citizens, that would restore some
integrity to the park.

I strongly would recommend that that be considered.

THE CHAIRPERSON: Thank you very much.

(Witness excused.)

THE CHAIRPERSON: We will have a one
half-hour luncheon recess. We will resume at 25
to two.

(Luncheon recess had.)

THE CHAIRPERSON: The Commission calls as
its next witness Frank Gorham, G-o-r-h-a-m.

FRANK GORHAM, called as a witness, having
been first duly sworn by the Chairperson, was
examined and testified as follows:

THE CHAIRPERSON: I'm going to request that
broadcasting media, for the next several
witnesses, suspend on their coverage, because the
witnesses have exercised their rights under the
New York Civil Rights Law.

MS. CUSHMAN: Only the broadcast media.

THE CHAIRPERSON: Thank you.

I would like to recognize Commission's
Deputy Counsel, Constance Cushman, for
questioning.
MS. CUSHMAN: Before we start, Mr. Levy, I wonder if you can keep an eye out, if any of the broadcast media could return, if you would be so good to remind them of the Chairman's request that the broadcast media suspend their broadcasting for the next three witnesses.

Thank you.

EXAMINATION

BY MS. CUSHMAN:

Q Good afternoon.
A Good afternoon.

Q You and I have talked before; is that right?
A Yes.

Q You have described to me, in our conversation, some fears or apprehensions that you have in connection with your appearance before the Commission here today; is that right?
A Yes, that is correct.

Q If I can just summarize them briefly, you can elaborate if you desire.

What I gather is you are apprehensive that there will be some form of adverse business consequence to you, perhaps even some kind of retaliation, as a result of your testifying here today?
At a minimum, it can't be helpful. And we have discussed the fact that you are not appearing at this hearing voluntarily, you are appearing pursuant to a subpoena at which your testimony is being compelled; is that right?

Yes.

With that as background, I would like to assure you that the Commission is concerned about the fears that you express, and I'm sure that the Commissioners will reiterate that they would view it very adversely if those fears became reality in any way.

Thank you.

What is your occupation, Mr. Gorman?

I'm a computer portraits operator, a company that does that.

What's your company?

Compu-Pix.

Can you tell us what you do?

Using television cameras and computers to capture and freeze images, which are subsequently printed out and transferred onto posters, tee shirts, calendars, or in a different version, made into buttons or framed pictures.

So, it's almost souvenir items, personalized
souvenir items?

A Yes.

Q Where do you operate this business of yours?

A The primary location is at Playland.

Q And how long have you been with Playland?

A Through six seasons.

Q How did you first go about -- that means in 1984 you began?

A Yes.

Q How did you first go about setting up your business there?

A You mean how did I obtain the contract to do business there?

Q Yes.

A For several years I had had civic contacts with a number of the County Commissioners and other people on getting our local railroad improved, and working for the model airplane club that I belong to. I had spent two or three years almost walking over almost every acre with Commissioner Arles, looking for a flying site for our radio-controlled airplane club.

When I decided to go into this business, I called up Jim and said, "Can I do this at Playland?"

Q What did he say?
A "I'll check."

A day or two later he called me back and said, yes, it is feasible; there is no one doing that now, but you have to talk to the Director, the General Manager at the park. And he gave me Dick Keeler's phone number and name.

Q What did you do next?

A I called Keeler and discussed it briefly. He said, "Well, we can't determine anything over the phone, you will have to come in, make a proposal, which we will discuss at that time."

Q Then what happened?

A An appointment was made, and kept.

Q You went to have a meeting with Mr. Keeler?

A Yes.

Q Was there anyone else present?

A There were.

Q Tell us who was there.

A Mr. Vece, who I had met earlier in my civil activities, who has since died, was there. Steve Broege, who was Controller for the park, may have been there at that meeting. A lawyer for the County, who I think is retired. I have not seen him in several years, and I
don't recall his name.

Q Now, how did that discussion go? Can you describe what kinds of arrangements were made, proposals were made by yourself, and what the County's response was, how you eventually arrived at an agreement?

A I was proposing to do my activity, to make pictures of the visitors to the park, at a profit, within the park. They suggested that yes, that is possible.

In fact, we have a building which was used for that purpose earlier, several years earlier. Then it was simply a matter of the terms. County contracts are -- I guess historical in nature, they are rather thick, long, and there are not very many options that the vendor has. He is presented with the package, and if he wants to do business he accepts the terms.

The only item left open, that wasn't clear at that moment, was the price of doing the business.

Q Did you agree upon the price?

A Yes, we did.

Q Now, what were you obligated to do besides provide the service or the product that you were providing, the pictures? Other than pay that price, did you have any other obligations?

A My obligation was to hire and train the
staff, including myself, to do the business, to be open
every hour that the park was open, and to conform to the
general rules of decorum and operation for the park.

Q And what was the County obligated to do?
A To provide the building, the electricity,
and to deliver the customers to me, really.

Q And did they handle the advertising, as
well?
A Contractors, vendors, are prohibited from
doing any advertising at all. That is the County's
prerogative only.

Q You ride along on the general park
advertising?
A We have no choice; we do what they do.

Q Now, how long a term was that first
contract?
A Two years, as I recall.

Q And did things go smoothly under that
contract?
A Smoothly in what way?

Q Were there general -- no real bumps, in
terms of execution of the contracts, as far as you
understood?
A I performed the functions smoothly, we did
that smoothly. There were some glitches along the way between ourselves and the then Director of park. He was a difficult gentlemen to get along with.

Q  Mr. Keeler?
A  Yes.

Q  What happened when time came to renew the contract?
A  I had been asking, from the end of my first year, on through my whole second year, to negotiate a renewed contract for a longer period of time. Since that business is my livelihood, and almost my sole livelihood, I felt very exposed at running up against the end of the two-year contract and not having a contract to follow that.

I was told, no, that will be handled at the end of the contract period.

Q  And that would have been 1986; is that right?
A  Yes.

Q  Did you --
A  In the summer of '85, really.

Q  Going into the '86 season?
A  Yes.

The season ends Labor Day, basically,
another week or two after that.

Late in the year, November perhaps, a package of proposals was received in which basically every concessionaire's operation within the park was listed, was categorized; and I was invited to make proposals on any operation that I would like to do.

Q And yours was included in that package?
A Yes.

Q And were other vendors of the park similarly invited to bid on your concession?
A I assume so. I assume that it was a standard package that everyone got.

Q Once you got that package, what did you do in response?
A I wrote a proposal back.

Q You wrote a proposal back?
A A brief and to-the-point proposal back, to continue doing the same business for a period of time, at the same fees which I had been charged.

Q And what happened after you submitted that proposal?
A I heard no answer back for a time, and then I was told that that was not a satisfactory proposal.

Q So, what did you do?
A  I asked for a meeting with Keeler.

Q  And what happened?

COMMISSIONER EMERY: When was this?

Q  Do you recall, approximately, when it was?

A  The meeting did not take place until -- well, it was in February, I think. And the date you can pin down exactly; it was the same day that the Challenger blew up. When I walked back in my house after the meeting, that was the instant that that mishap happened.

Q  So, can you describe that meeting?

A  It was a very uncomfortable meeting for me.

Q  Who was present?

A  Dick Keeler, Steve Broege, George Voetch.

COMMISSIONER VANCE: Will you indicate who each of these people are.

THE WITNESS: Yes.

COMMISSIONER VANCE: Whether they are employees of Playland.

THE WITNESS: Dick Keeler is the former Director of the park. Mr. Broege is the accountant for the park, basically, head of their accounting section.

George Voetch is the Director of
Gorham

Advertising. I'm not sure of his exact title.

There may have been someone else there. I know those were the people who were there.

Q Tell us what you said, and what they said in response.

A The meeting opened with Dick Keeler chewing me up one side and down the other, in a very obnoxious way, telling me that the proposal that I had offered was no proposal whatsoever; that was not a suitable way to do business with the County. Who the hell did I think I was to make an offer of this sort. That I was going to be out of the park. That was it, done and finished.

I assumed that most of that was puffery on his part; the gentleman was lying through his teeth for a negotiating stance, but it's not a good position to be in. I had to give some credence to it.

Q What did you do or say?

A I tried to open some lines of negotiation. Eventually, through the meeting, determined that it was, in fact, negotiable, that there was a price at which we could do business.

The meeting ended with my understanding that, yes, I would be remaining in the park, perhaps with another operator -- I didn't know -- and at an
exceedingly high cost.

Q Was that cost exclusively in terms of the money that you would have to pay Playland to operate, or was there an additional term?

A There were two factors. One was the basic rent that I had been paying was up almost 100-percent for a three-year term, contract.

There was an additional override given for any patrons over and above a certain number. I would have to pay a certain amount in additional rent at the end of the season to the park.

Q Did you also have an obligation to construct a building?

A Yes, I was told that the building I had been in was no longer available to me, that I would have to move and build from scratch, with all of the utilities, a brand-new building.

Q Did you agree to do business and to enter into a contract, a three-year contract on those terms?

A That was my only business. Yes, I did.

Q So, what did you do?

A Excuse me, that was my primary business. I had other small operations.

Q What did you then set about doing to fulfill
your side of the agreement?

A I was asked to submit plans for the new building. I was told the site at which it was to be built.

I was asked to submit plans for Keeler's approval. It took a while to measure, sketch and make an improved functional duplicate of the prior building I was in, to have the plans professionally drawn, and then to submit them to him.

Q Did you have a conversation with those present at the meeting whether those plans needed any particular approval in the County before you would be allowed to build the building?

A I asked Keeler what kind of plans is it that you're asking me for, what kind of approvals do you need. And the essence of the answer was that he was the only approving authority that I needed. When he was satisfied, then I could build.

Q Did you have another conversation with Mr. Keeler on the occasion of your meeting, to negotiate the terms of the contracts at that same time, at the same day, but with Mr. Keeler, alone?

A I did.

Q Can you tell the Commission about that
At the end of the meeting, when the other participants had left, or were out of earshot, Keeler walked over towards his desk, and I was still hanging in there with him because there were lots of things that I needed to know and understand about the circumstance that I was in, the building, the plans, was there going to be another vendor, those sorts of things.

He turned and asked me if I knew that the County Republican -- the annual Republican dinner was coming up soon. I said, no. I don't know what I said. I may have known that.

He said, "It might be a nice thing for you to go to."

Q Did you respond to him?

A I said, "How much is that?" He mentioned a number, which was several hundred per ticket. He might have said, "It would be a nice thing for you and your wife to go to."

I said, "That is very expensive at this time of the year."

Q What did he say?

A He said, "Well, you might want to think
about it."

I have to be very clear, too, that he prefaced this and said it again, in a conversation, "Listen, there is no pressure whatsoever," he says, "But you might be interested], you might want to go."

Q Did you think about it?
A Yes.
Q Did you have a conversation with your wife about it?
A I certainly did.
Q What did you decide to do?
A I decided it was in my best interest to go, very much so.
Q Can you tell us about the circumstances of your attending that dinner?
A The dinner occurred several days thereafter, less than a week. I had made telephone arrangements with Keeler to go, had asked him who I would pay; and he said, him, I guess. I had my checkbook in my pocket at the dinner. I said, "Do I pay you now?" He said, "No, no, later."

So, the check for the dinner never got written at that time.

Q Now, you described that you went about
having the plans drawn up, and that it took some time to
have the plans drawn up.

Did there come a time when you had the plans
and you submitted them, and you were waiting for approval
from Mr. Keeler?

A Yes.

Q What occurred at that point in time?

A Well, the plans were drawn. This took a
number of weeks to get the plans into his hands.

Q When was it, if you can fix it in time, just
in terms of the season?

A Some time in March, maybe.

Now we are getting into April, and I had no
approval back. I get no return of my calls to his
office. He is listed in the phone book. I call him at
home and he gets rather stuffy that he doesn't do that
kind of business at home.

I have a couple of appointments set to see
him at the park, to go over the final details, and he is
either not there, or begs off from the meeting.

The timing is now we are getting into April.
It takes a certain amount of time to get the building
built and get into business by the first or second week
of May when the park opens.
He is now telling me, well, we have electrical problems on the building, those had been solved weeks earlier, there were none on the delivery.

He says, I'm waiting on, I think it was planning Commission approval, something like that.

I knew from the previous conversation that that wasn't required. So, I said, -- I'm asking myself what is required to get this thing going.

I said I haven't paid him the money yet for the dinner. So, I wrote the check, put it in an envelope, took it to the park, went upstairs, gave the envelope to his secretary. I told her in rather emphatic terms, "Give this to Dick Keeler, and let him know that I'm here, that I'm damn upset because I have got the spring vacation coming up with the kids. We are committed to go up to where it is for the weekend. I have to order the materials, it takes four days to get those, we have to build the building."

I went downstairs. Within two minutes, five minutes, at the most, one of the maintenance supervisors came down and told me that it was fine, it was okay, I could go ahead with the building.

Q Did you build the building and continue the operation of the concession?
A Yes.

Q Was there any competitor, also, on the premises at Playland?

A No.

Q So, you were the sole person?

A That turned out to be as much of a ruse as I had hoped that it was.

Q I would like to ask you to turn, in the black book of exhibits in front of you, to Exhibit 17.

A The witness table?

Q The book marked "Witness Table"; that is right. There is a tab index for number 17.

A Yes.

Q This is a photocopy of the front and back of the check. It's the best photocopy that we could make. Could you please identify that document for us?

A That is the check which I wrote to cover my obligation for the Republican dinner that I went to, and which I put in the envelope and gave to Keeler's secretary.

Q Its payable to the Westchester County Republican Committee?

A Yes, that is correct.
Gorham

1. Q Can you decipher the date?
   2. A It looks like April 21st of '86.
   3. Q That would be the date on which you wrote
   4. the check, and made this payment to Mr. Keeler; is that
   5. right?
   6. A Unless I had written the check a day or two
   7. earlier and had it in my pocket in anticipation of this
   8. action.
   9. Q Is that your signature?
   10. A Yes.
   11. Q It's drawn on your business account,
   12. Compu-Pix?
   13. A Yes.
   14. Q Did there ever come a time when you had a
   15. conversation with Tony Colavita about Mr. Keeler?
   16. A There did.
   17. Q When was that, approximately?
   18. A It was prior to this contract renewal. It
   19. was, in fact, in the first season that I was in business.
   20. It would have been '84.
   21. Q Can you please describe the substance of
   22. that conversation, or relate the substance of that
   23. conversation to us?
   24. A The reason for it, what was said, or the or
the specifics?

Q A little bit of the background, and then what was said?

A At that time, in the civil area, after spending two or three years looking for a suitable flying site for the flying club, we were in the final throes of nailing that down. We had the general approval to use a particular site, but for some reason, it just was not progressing beyond that point.

Two of our club members, who had reason to know Mr. Colavita, suggested that he might even be helpful in getting that done. One of them arranged a meeting with him.

Q What took place at that meeting?

A We discussed several things, just in passing the time of day.

Can you tell me specifically which area you're looking for?

Q As I recall, you testified that you had discussed potential problems that you feared that you might have with Mr. Keeler.

A Okay.

Q And Mr. Colavita gave you some reassurance on that score, and in the course of doing so, described
his own role in things in the County, in general, and Mr. Keeler's appointment, in particular.

A I'll address the last point, first.

At the opening, opening part of the meeting, Mr. Colavita asked me if I knew what it was that he did. That was by way of why are you here talking to me, that sort of thing.

I said, I think it has to do with political patronage. I had been reading the papers, the columns and things, how that side of their business was going. He said, "Yes, that is what I do."

Q Patronage is my job?

A Basically. Or specifically that is what he said.

Outside of the model airplane issue, which got handled very, very quickly, when we described the problem, he said, "Fine, I'll be talking to Andy O'Rourke tomorrow; I'll bring it up to him."

I was concerned in the process of getting the approval to use this particular flying field that one of the least cooperative officials in that activity was the County Commissioner of Parks and Recreation. It took a great deal of persuasion to get that gentleman to give us essentially sole use of a piece of County property,
that the meetings had gotten heated at times.

I didn't know it at the time, but now Caverly was Keeler's boss' boss, the County Commissioner was, and that there might be some reflection upon my business activities from having kind of beat up on him politically on the civic side.

Q Did you address that with Mr. Colavita?
A Yes, I did.

Q What was his response?
A I told him that concern specifically, and I said, "I think we are all -- I just hope that we are all big boys here, that we can separate the issues, and treat one separate from the other."

He said, "Aren't you naive."

I had heard some rumors concerning the Director of the park's activities prior to coming into the park, things which have since be made public, which I would rather not go into here. I was trying to learn more about this gentleman who I was dealing with and would be working with.

I started to ask general questions about Keeler. He cut me off, kind of, by saying, "Don't worry about Dick, his only problem is that he likes his ice cream."
I persisted because there were things that I heard that caused me more concern than that.

He said, "Listen, I got Dick Keeler his job. Don't worry about him, if he gives you any trouble, give me a call."

MS. CUSHMAN: Thank you.

Mr. Chairman, I have no further questions.

THE CHAIRPERSON: Thank you.

Mr. Schwarz.

MR. SCHWARZ: Did you do your own site preparation for the new building?

THE WITNESS: Yes, but it was very simple, it only took about five or ten minutes to clean the area and lay down the base.

MR. SCHWARZ: That is all that was involved?

THE WITNESS: Yes.

MR. SCHWARZ: You paid for the building yourself?

THE WITNESS: 100-percent.

MR. SCHWARZ: Nothing further.

THE CHAIRPERSON: Commissioner Magavern.

COMMISSIONER MAGAVERN: When Mr. Colavita said about Mr. Keeler, "His only problem is he
Gorham

likes his ice cream, "what was he referring to?

THE WITNESS: What was he referring to?

COMMISSIONER MAGAVERN: Yes.

THE WITNESS: Mr. Keeler did enjoy his ice cream, was rather obviously overweight.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRPERSON: Thank you very much.

(Witness excused.)

THE CHAIRPERSON: The Commission calls as its next witness Helen Gillespie Plaia.

HELEN GILLESPIE PLAIA, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: We would like to state again, for the record, the New York State Civil Rights Law, Article 5, Section 52, witnesses who are testifying at this time have invoked their rights, so that there should not be any televising, broadcasting or motion pictures being taken during the course of their testimony, as is there right to testify without those actions taking place.

So, I would request anyone who might be
Plaia

engaged in any of those activities, including recording for later use, to respect the rights of the witnesses.

EXAMINATION

BY MS. CUSHMAN:

Q Good afternoon. What is your occupation at this time?

A At this time?

Q Yes.

A At this time I'm a concessionaire at Playland.

Q And what concession do you operate at Playland now?

A We operate four Kiddyland rides.

Q How long have you been running Kiddyland rides at Playland?

A We purchased our first rides in 1985.

Q And could you --

COMMISSIONER VANCE: Could you move that a little closer to you, please.

THE WITNESS: Yes.

Q Had you been involved in Playland prior to 1985?

A Yes, I was hired in 1981 by the Marriott

NATIONAL REPORTING INC. (212) 732-3120
And how long did you work there at that time?

Well, I worked until the end of the Marriott contract, and then I stayed on with the County for eleven months.

What were you doing?

I was in the sales department. I did corporate sales, school sales, and I was responsible for all the major outings at and catering at the park.

By the way, you are testifying here today pursuant to a subpoena that was served on you; is that right?

Yes.

Now, how did it come about that you became a concessionaire at Playland in 1985; what prompted you to get into that activity?

Well, while I was working at the park, I, of course, knew all the concessionaires. And one of my daughter's had worked for Bill Burke, who had the pony rides for some years. Bill was aware that I was looking for another business. I'm a realtor with one hat, as well.

He came to me with the knowledge that two of
the Kiddyland rides were being offered for sale. So, we pursued that, and decided to form a corporation, and start a partnership and purchase those rides.

Q And what was the name of that corporation?
A The name of the corporation is Waldo Kitty, Ltd.

Q And you and he are the principal shareholders in that venture?
A Yes.

Q Did you purchase those rides?
A Yes, the rides were purchased in 1985 from Fragola, Joe and Frank. They each owned one ride.

Q You paid them a sum of money in order to purchase those rides?
A Correct.

Q Can you tell us what that was?
A The total was $105,000 for the two rides. I forget how it was broken out per ride.

Q In addition to paying them that sum of money, were you obligated to pay Playland a sum of money in order to operate the rides?
A That is not really the way they work the rides.

Q Can you describe for us what it is?
Playland sells the tickets; they set the price for the ride tickets. They sell them. We, as concessionaire, collect them. We turn them back to the County. They are tabulated. The County then deducts their percentage that you have agreed upon, and cuts the concessionaire a check for the balance.

Q Some of the income from the rides went to the County, some went to yourselves?

A Yes.

Q Did you enter into a contract with Playland to operate the rides in that first season?

A The first season we operated under the Fragola contract until the contract was finalized. I don't think it was finalized until August. It was given the same percentages that the Fragolas were paid.

Q By "finalized," that means getting the Board of Acquisition and Contracts' stamp of approval on you operating as a concessionaire?

A And having the contract come out of the Legal Department.

Q That is August of 1985?

A Yes.

Q After the 1985 season, were you then at a point where you needed to renew your contract for the
1986 season?

A Yes.

Q And can you, in general terms, describe the negotiations that occurred when you needed to renew your contract?

A Well, I think "negotiation" is kind of the wrong term.

You put in a proposal, stating what percentage you are prepared to pay, and generally, you get told what percentage you will pay. Then you have a choice of removing your rides, or paying the percentage. In general, it isn't a ridiculous percentage that is usually asked, it is usually within a point or two of what you have proposed originally.

Q Is that what occurred in this case, 1986?

A Yes.

Q Did you then agree, and continue on as a concessionaire?

A Yes.

Q Did you, at any point, expand your operation, and add rides?

A Yes, in 1986 we added two rides. One was a large ride, called Mini Bumper Cars. The other one was a ride called the Roller Racers.
We obtained three-year contracts for all four rides.

Q Now, what kind of approval is required for you to obtain these contracts?

A Well, first, we had to submit a proposal to the park Director, who at that time was Mr. Keeler. Then it has to go on to the Board of Acquisition and Contract.

Q Is it your understanding that if the park Director has signed off on the contract, that it is satisfactory to the Director, that the Board of Acquisition and Contract will, generally speaking, ratify that contract?

A Yes.

Q On a slightly different subject, was it your experience, ever, that Mr. Keeler solicited from you, or from Mr. Burke, or both of you, political contributions, campaign contributions?

A Well, he never solicited me directly, but he did solicit Bill.

Q Can you tell us a little bit about that?

A Well, you know, Bill --

Q What were the occasions, what did Bill say to you?

A It was usually twice a season, and it was
usually for the County Republican dinner in the spring,
and then usually a golf outing at the end of the summer.

Q And you were invited to attend, and to buy
tickets to these events?

A Yes.

Q Did you decide to do that?

A Yes.

Q How much did you contribute, on an average,
annually?

A I would say it became about a thousand
dollars a year.

Q And were these contributions drawn on the
business account?

A Yes.

Q Did you attend the functions?

A Some.

Q Did you find yourself in the company of
other Playland vendors?

A Yes.

Q Was it your impression, with respect to
yourself and Mr. Burke, that Mr. Keeler was using his
position as Director of the park to encourage you to make
these contributions?

A Yes, with a qualification. Dick Keeler
Plaia

was -- I have to say I didn't like him very much, personally, and he did not like me.

He was very overly enthusiastic about whatever he did. I have a feeling that he was very -- I think he was overzealous, but I have a very strong feeling that it came from himself, because that is the kind of person he is.

COMMISSIONER VANCE: I couldn't hear the last part of your answer.

THE WITNESS: He was overzealous. I think it was mostly brought about by himself.

I picture him going back to Republican headquarters, looking for a pat on the head, like look how much money I collected.

I don't picture Republican headquarters telling him to go out and hit people over the head.

COMMISSIONER VANCE: Did you think you would be punished if you didn't go along?

THE WITNESS: I don't think he would have thrown us out of the park. He would have made our lives miserable there.

Not that he would withhold the ability to do business, but he could be very vindictive, you
Plaia

If you closed a minute too early, or a minute too late, that kind of thing, or get on your kids. We hire our own employees. He could harass very easily.

If he liked your operation, it was really self-protection within the park. I don't think he would not have renewed the contract. Sometimes we didn't, there were occasions when we were solicited, and Bill and I decided, enough is enough, we just can't afford anymore. So, we did say no sometimes.

Q Was it your perception that it was in your best business interest, however, to make these contributions, in order to keep him satisfied?

A Yes, just to get along with him personally.

Q I believe the word you used in your deposition was "mollify"?

A That is more of what I'm talking about. It was to mollify him.

Q Now, you were present at the park in an administrative capacity back, I gather, at the time that the Morgan Hughes contracts were first submitted, or first proposed. Do you recall that?

A I recall seeing the proposal. I had no
Plaia

jurisdiction over it. How I saw it, I don't know, but I remember reading it.

Q The proposal, itself?
A Yes.

Q Taking into full account the fact that you are not an accountant, or a financial expert, other than an ordinary business person, did you have a reaction to the proposal that you saw described?

A I was really more amazed. I was more amazed when it was accepted. It was just blatantly favorable to Mr. Hughes.

Q In what way?
A Well, if you knew the price that the particular ride cost, and then you saw the amount that the County was going to have to pay in the way of leasing fees, the County was more than paying for the rides over a short term, like a three-year lease, if I recall.

Q So, it would have been less expensive to purchase --
A If the ride cost one million dollars, the County was paying them, if I recall correctly, it is really searching back, $285,000 a year with an option for another three years. That in round figures --

Q You in a quick way, reviewing those
proposals, decided that even to you, as a lay business person, it simply didn't make financial sense for the County?

A For the County, yes.

MS. CUSHMAN: I have no further questions.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: Yes.

Would you turn to Exhibit 39 in the Exhibit book.

THE WITNESS: Yes.

MR. SCHWARZ: If you look at the second to the bottom, you see Waldo Kitty, Ltd. Do you see that?

THE WITNESS: Yes.

MR. SCHWARZ: And the chart indicates that there were different contributions given to different accounts, Housekeeping Account, Journal Account, Eastchester Town Committee, and the Special Account.

Do you recall under what circumstances these individual contributions were given, separate accounts?

THE WITNESS: This isn't all one year; right?
MR. SCHWARZ: No.

THE WITNESS: The Journal Account, I believe, was an ad.

I don't recall the Eastchester account at all.

I'm not saying we didn't give it, I just don't recall it.

MR. SCHWARZ: Yes.

THE WITNESS: To the best of my recollection, the others would have to be divided up between those two dinners. I don't recall giving to anything else.

MR. SCHWARZ: You don't recall the circumstances under which 260 was given to the Eastchester account?

THE WITNESS: I don't recall it.

MR. SCHWARZ: Does that refresh your recollection that it might have something to do with Mr. Colavita?

THE WITNESS: I don't recall being solicited for that. On the other hand --

MR. SCHWARZ: Thank you.

THE CHAIRPERSON: Commissioner Magavern.

COMMISSIONER MAGAVERN: I take it you were
uneasy about being solicited by Mr. Keeler for political contributions, when he had official authority over your business?

THE WITNESS: Not uneasy. I'm a Republican, so it is not a problem for me to give. It was more a question of deciding which was the best way not to rock the boat with him.

COMMISSIONER MAGAVERN: Okay.

You were in a position where the boat might be rocked?

THE WITNESS: I think he could, as I say, I don't think he would have been able to discontinue a contract, or not renew a contract. I feel that Bill and I run a very profitable, safe ride for the County. Our records are very good down there, we have had no accidents.

I think he may have had difficulty getting -- not renewing our contracts. But, he could have made life unpleasant.

COMMISSIONER MAGAVERN: Did you ever hear any complaints by other vendors about being solicited?

THE WITNESS: Maybe some grousing, complaining, but not a lot.
COMMISSIONER MAGAVERN: That is all. Thank you.

THE CHAIRPERSON: Thank you very much.

(Witness excused.)

THE CHAIRPERSON: The Commission calls as its next witness Eileen Barry.

EILEEN BARRY, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: Thank you.

I recognize Constance Cushman for questioning.

EXAMINATION

BY MS. CUSHMAN:

Q Good afternoon, Mrs. Barry.

A We have talked before; is that right?

Q And you have expressed to me and to other members of the Commission staff the degree to which you are apprehensive about testifying here today; isn't that right?

A Yes, particularly with that man taking pictures, I'm very apprehensive.

THE CHAIRPERSON: Well, I would like to
just state again, for the record, that the witness is entitled to give her testimony without the presence of television, broadcast, motion pictures, or such other instruments that might distribute the testimony.

I would ask those who might possess any of those means of distribution to respect the witness' rights.

Now, this does not extend to cameras.

MS. CUSHMAN: That is correct. Under the law it does not extend to the camera.

THE CHAIRPERSON: I would, maybe as a private citizen, chairing this Commission, ask if the picture taker could extend a courtesy to the witness to testify without pictures being taken.

It's a courtesy that I'm requesting; it is not a matter of the Civil Rights Law which would extend to the other areas that I identified.

A VOICE: Would it be all right from the rear? Just to show her back?

THE CHAIRPERSON: Yes.

Thank you.

THE WITNESS: Thank you very much.

Q And also to clarify matters for the record,
you are here today only because you were served with a
subpoena to testify this afternoon; is that right?

A Yes, that is correct.

Q What is your major occupation, Mrs. Barry?

A I'm a sculptor.

Q Do you get involved in other business
ventures from time to time?

A Yes, I do.

Q And has one of those involved concessions at
the Playland Amusement Park?

A Yes, it has.

Q Are you presently a concessionaire at the
park?

A No, I'm not.

Q During what period of time have you been a
concessionaire at Playland?

A From 1983, until 198 -- actually, the end of

Q And what kind of concessions did you operate
during that period of time?

A A miniature golf course, games, and a ride
called the Tilt-a-Whirl.

Q Did you start with all of these ventures, or
did you start on a more limited scale?
A limited scale.

What was the initial operation that you had?
The miniature golf course and three games.

Can you tell the Commission, please, how it came about that you started out.

I'm sorry.

THE CHAIRPERSON: Maybe you want to take some water?

THE WITNESS: I would like to get rid of the man.

I'm sorry. Go ahead, please.

Can you briefly describe how it came about that you began as a concessionaire at Playland; how you went into business there?

Yes.

I met a gentleman by the name of Spinowitz, who was an owner and an operator of an amusement company.

He had heard, through his business associates, that Marriott was leaving the park, and they were seeking new concessionaires to come up to the park, to Rye Playland.

He asked me if I would care to financially be involved in backing him in this venture.

What was the name of the partnership or the company that you formed with him?
A His company was known as Paradise Amusements, and I became part of it.

Q Did you have in mind a fairly broad-ranging, wide-ranging involvement in Playland at that time?

A Yes, we had a large scope, plan, of a great amount of involvement.

Q Was there at the time that Marriott was pulling out, and there were a number of opportunities for new vendors to come into the park?

A Yes. We were told that the park was totally open to new ideas.

Q Can you tell us a little bit about how the negotiations went, and what you ultimately were able to arrange?

A The construction of a miniature golf course, and construction of a new game, and a total of three games and a golf course.

Q So, you proposed your broad plan, and you were turned down for the broad plan, but were given a limited plan, the miniature golf and the games?

A Yes, that is correct.

Q I gather from your answer that you were required to actually, build those facilities at your own expense; is that right?
Barry

A Yes, we were.

Q So, you put a certain amount of capital into the different concessions, at the outset?

A A large sum, yes.

Q In addition to that, were you obligated to pay the County during the season some particular sum of money?

A Yes, the rent was considerable.

Q Was the financial arrangement the same for the golf course as it was for the games?

A No. Actually, in the first contract -- yes, it was a separate package, a separate contract, the golf course and then the three games.

Q Did you play on a per user basis, or did you pay a flat fee for each of those?

A A flat fee.

Q For the miniature golf, as well as the games?

A Yes.

Q How long was the term of your first contract?

A One year.

Q Did you have any assurance that the contract would be renewed at the expiration of that year?
Barry

A Only by the park Director at the time, Mr. Kulcullen, that unless something were extraordinarily improper, we would not have difficulty in renewing the contracts.

Q Now, as time went on I gather you expanded your operation?

A Yes.

Q Can you tell us, if you remember, the approximate dates that you added the additional ride and games to your portfolio?

A The games would probably have been around 1984, and the Tilt-a-Whirl would be around 1985.

Q Now, under Mr. Kulcullen did you have an amicable working relationship at Playland?

A Yes, we did.

Q Did things continue -- I gather there came a time when Mr. Keeler came in as Director and replaced Mr. Kulcullen, and you were there at that time; is that right?

A Yes.

Q Did things continue to go as smoothly?

A No, it did not.

Q You described, in your deposition, an incident that occurred in which Mr. Keeler made certain
Barry 211

statements about your attorney. Can you please describe
that to the Commission?

A Mr. Keeler instructed me to either drop Mr. Geist as my attorney, or to make sure that he never entered into conversation with Mr. Keeler again, or I would have to leave the park.

Q Was there a particular dispute, that you recall, that precipitated that comment? Was it a personality disagreement?

A I think it was a personality conflict between Mr. Keeler and Mr. Geist. And also Mr. Geist was trying to be very specific about our legal rights. Mr. Keeler was not receptive to that statement.

Q Were there particular legal rights you were trying to exercise at that time?

A Yes, but I would be remiss in trying to recall them all.

MR. SCHWARZ: Was the witness present at some conversation with Mr. Geist, or was this repeated to her?

Q Did Mr. Keeler have a conversation with you in which he told you to get rid of Mr. Geist?

A Yes, he directed me, personally.

MR. SCHWARZ: My question is, was the
Barry

witness present at a conversation between her attorney and Mr. Keeler, where she observed this dispute or disagreement?

THE WITNESS: Yes, I was.

MR. SCHWARZ: Maybe you can elaborate on that, rather than doing it by hearsay.

Q Do you have a particular present recollection of that conversation, and what was said by Mr. Keeler to Mr. Geist, what Mr. Geist said to Mr. Keeler?

A Not specifically, no.

Q Did you agree to drop Mr. Geist?

A I agreed to prevent him from contacting him directly.

Q Did there come a time when you needed to renew your miniature golf concession with Mr. Keeler?

A Yes.

Q When was that; do you recall?

A Until '84 we had been on a one-year contract. Each season was renewed, and discussions began usually around October.

Q Thereafter, were you renewing on an annual basis?

A No, Mr. Keeler initiated two-year contracts,
and then eventually three-year contracts.

Q Did the tenor of the negotiation for renewal remain the same in each of the renewal conversations that you had with Mr. Keeler?

I gather that you negotiated these yourself; is that right?

A Yes, I did.

Q And was the discussion, in substance, the same each time you tried to renegotiate the contract?

A I'm not clear on that question.

Q Did Mr. Keeler impose, for example, the terms of the contract in terms of how much you were going to pay; did he make that demand?

A The way it took place was each concessionaire received a proposal package which you could clearly identify had your games in it, that you had established and developed, and spent money, and the golf course specifically, which was costly.

When you identified them, then you had to bid and place a value that you're willing to pay the County to be able to continue the operation.

That was supposed to -- and you were supposed to be able to bid on anyone else's that you wanted to.
In other words, the park was totally open. Food was open, supposedly, all the concessions were open for bids, and you could place a value on it, a dollar value on each one.

Q When you placed a dollar value on your concessions, did you receive a response from Mr. Keeler that that was satisfactory, or not satisfactory?

A Mr. Keeler informed me that someone else had bid against me on the proposal, and that my original calculations were not sufficient; he wasn't going to accept them.

Q What was your response?

A I was very concerned and upset because the money had already been spent, the investment was there. It had been a marginal operation, and the hope of making it a big financial success was really in the future. So, I was very concerned about it. He and Mr. Broege explained to me that I would have to increase my proposal, or I would lose the contract.

Q Did you increase the proposal, and retain the contract?

A Yes, I did.

Q Did there come a time when Playland began the practice of charging overrides in addition to the
flat fee that you were paying for the miniature golf?

A Yes, it did.

Q Do you recall when that was?

A That was when Mr. Keeler took over the park; we now had what we called an override.

Q What is the override?

A An override says that the park counts the number of people that attend. We have no way of justifying or counting it, ourselves, we take their word for it. Everybody who comes in, whether they use the beach or the park, itself, is counted. Then you pay X amount of cents per person over and above the normal rent that you had agreed to.

Q Did you have a conversation with Mr. Keeler about this new practice of charging overrides?

A Yes, several times.

Q And what did you say to him, and what did he say to you in those conversations?

A I simply explained to him that I felt it was taking the only possibility of profits away, because once you had agreed to the rent, now you had to agree to an override, really was very unacceptable.

He explained that the park -- the County wanted to enjoy the benefits if it was a successful year.
If I didn't like it, I could leave the park; somebody else would take my operation.

Q Was he charging you one override for your entire operation, or was he charging you more than that?

A That was one of our strongest disputes. He wanted to charge me two overrides, one for the golf course, which was considered one contract, and one for the games, which was considered another contract.

I explained that the people could only be counted once, whether they went to the golf or the games. But he did persist, and he eventually did get me to agree a year or so later, after I had again, at his request, redone the entire golf course, put a whole new golf course in. So, I did pay it, yes, twice.

Q Did you ever have occasion to talk with Mr. Colavita about these differences of opinion that you were having with Mr. Keeler?

A Yes, I did.

Q Do you remember when that was?

A It was some time in 1984, approximately.

Q And what was the substance of your conversation with Mr. Keeler? Where did it take place, and what did he say to you, and what did you say to him?
Mr. Keeler?

Mr. Colavita; I'm sorry.

I explained to Mr. Colavita that I felt things were unfair and improper the way the proposals were being handled, I felt it was in a very unbusinesslike fashion.

I also explained some other difficulties we were having.

This took place in White Plains, Mr. Colavita's office. Most of the conversation took place in the parking lot.

He explained to me -- I asked him if he could represent me as an attorney, since Mr. Geist was not acceptable. He said, no, it wouldn't be proper.

He did explain that if I would go back, and pay the override to Mr. Keeler, that he would see that things ran smoother, and would probably work out better for me.

As you testified, you did pay that override?

Yes.

Can you describe the circumstances under which you paid that override to Mr. Keeler?

Yes, I went to his office, it was around January of 1984 or '85; I'm not sure. And I had -- there
Barry wasn't any money in the normal account, so I had to give him a personal check.

Q Did you pay the full amount of the override that was requested by Mr. Keeler in that personal check?
A Yes, I did.

Q Did you stay in one office for the conversation in which you paid the override amount to Mr. Keeler?
A No, we did quite a bit of moving around that day.

Q Did this strike you as unusual?
A Yes, it did.

Q Did Mr. Keeler mention that Mr. Colavita had spoken to him about your situation, and about your desire for things to go more smoothly?
A Yes. Mr. Keeler explained to me that he was very active in the Republican Party, he had a particular position, which I can't recall what it was, and he had spoken to Tony Colavita, and that Mr. Colavita had told him that he should, you know, make sort of a better agreement with me as far as the terms and situation at Rye Playland.

Q And for a period of time did things go more smoothly?
Yes, they did.

Q Did Mr. Keeler, from time to time, ask for political contributions from you, or from your partner?

A Mr. Keeler suggested that I join the Republican Chairmen's committee, also to participate more fully in many activities that the Republican Party had, fundraisings, things of that nature.

Q Fundraising dinners, events, that type of thing?

A Yes.

Q Do you recall when that was?


MR. SCHWARZ: After the meeting with Mr. Colavita?

THE WITNESS: Yes.

Q And --

COMMISSIONER EMERY: After the meeting with who?

MS. CUSHMAN: Mr. Colavita.

Q Did you join the Chairman's Club?

A Yes, I did.

Q Did you pay --

MS. CUSHMAN: Withdrawn.

Q What was the fee that was required to become
Barry

Are you a member of the Chairmen's Club?

A Either $1,500, or $1,000; I'm not sure.

Q Did you pay that fee?

A Yes, I did.

Q All at one time?

A No, I paid it in installments.

Q Did you have any conversation with Mr. Keeler, or anyone on his behalf, about the fact that you were paying the fee in installments?

A I just explained that it was -- it had been a bad season, times were not good, that I chose to pay it off in installments, rather than at one time.

Q Did they find that acceptable?

A They more or less had to, because I couldn't afford it.

Q I believe you testified earlier that they were not pleased, and made statements to you that it was not desirable that you should pay it in installments?

A That is true. They felt it was dragging out.

THE CHAIRPERSON: Will you identify who?

Q I recall from your testimony that this was people who were at your -- at Mr. Keeler's office, rather than Mr. Keeler himself; is that right?
Barry

No, they were people at Mr. Colavita's office.

Seeking payments?

Yes.

Did you attend the functions that were hosted by the Republican Party?

Probably two, possibly three over the years.

Did you see other Playland vendors at those functions?

Yes.

By the way, had you ever made political contributions in Westchester County prior to starting to do business at Playland?

No.

In your eyes, were these business expenses?

Well, they were explained to me by Mr. Keeler that if I was going to operate in Westchester County, that it would be a good idea to get to know other business people, and they were all very actively involved in the Chairman's Club.

Now, you have discussed with us previously several specific areas in which you believed that vendors were treated unequally at the park, and certain vendors who were more politically active received advantages, or...
benefits which you did not.

What I would like to do at this point is, in a very general way, review those, and ask you to describe them.

One that you mentioned to us involved your efforts to obtain a concession on the boardwalk. Can you talk about that for a moment?

A The boardwalk had in the past not been considered a game area, and the season before I made this proposal, it was some time around 1985, 1986, I'm not clear -- I'll have to look back at my own contracts -- there were games operated on the boardwalk, and they were operated by Mr. Nigro.

Mr. Keeler explained to me that these games were going to be open for people who were interested in operating them. If I wanted to, I could speak with Mr. Nigro about possibly taking over those games.

I was questioning it, because no one was allowed to consider their games as theirs, that you could sell it, or that you could own it. I was a little surprised that Mr. Keeler said that I would have to speak with Mr. Nigro, personally, on this.

Q Did you discuss with Mr. Nigro an amount of money that you would have to pay in order to obtain those
Barry

1. games?

2. A Yes, he did, he told me $15,000.

3. Q Did you find that amount excessive?

4. A Yes, it didn't look to me that it would be a worthwhile investment.

5. Q Did you choose not to take on that opportunity?

6. A Yes, I declined it.

7. Q Did there come a point that you discovered later that another vendor had acquired that game, without making that kind of a payment to Mr. Nigro?

8. A Yes, I did.

9. Q When was that?

10. A Later on during the season. The gentleman who received it was Mr. Davis. And Mr. Davis explained to me that he was going to operate them, along with his other operations.

11. I asked him had he agreed to the full amount of $15,000. He said, "No, I did not, I did not have to pay it."

12. Q I gather from your earlier testimony that it was your impression at that time that he had not paid any amount of money?

13. A Not to my knowledge.
Q On another subject --

MR. SCHWARZ: Who was the $15,000 supposed to be paid to?

THE WITNESS: Mr. Nigro.

Q You made improvements to the park, but they belong to the County, not to you.

A If I made an improvement, such as the golf course, I had no right to sell it to someone else. I was questioning why Mr. Nigro could do that, and I couldn't. That was a serious conflict between myself and Mr. Keeler.

MR. SCHWARZ: Did you ever get a response as to why Mr. Nigro could do that?

THE WITNESS: No.

Q You also talked about a problem at the park in that various locations would be put out to bid, and described as to the use of the site, and then that might change during the course of the negotiation.

Can you talk about that for a little bit?

A Each location in the park was given an identity as to what it was going to be, either a straight sale or a game. Then the person would propose a certain amount of rent, according to what you thought was a reasonable investment and a financial possibility of
There was one specific game -- pardon me, location, that was put out in writing as a straight sales, as it is called. I made a bid on that, and I did not receive the location.

I later found out that Glenn Davis said, "I'm surprised you bid so low on it." It was a good location, it was, it was right next to my other games. I said, "It's going to be sales." He said, "No, it's going to be a game." He opened it up as a game.

Q	Did you talk to Mr. Keeler about that at some point?

A	Yes, I asked him why he didn't inform me that he had changed his mind. He said that he felt that I was -- I should concentrate on my own operations, not be concerned about other things.

Q	Did you have another area of disagreement concerning the food, and bidding on food concessions?

A	Yes. When I first approached Rye Playland one of the things I was very concerned in, and interested in operating, was the cotton candy, concessions of that nature, Coca Cola. It seemed to be a good possibility for revenue.

I was told, by Mr. Keeler, that all of those
things had to be operated under one very large concession, such as Ogden goods.

I found out that was not true, Mr. Trahanas was given the cotton candy, Glenn Davis was given the Coca Cola.

Q Anything else?
A No.
Q Now, did there come a time when you had a dispute, which revolved around the fact that you were made a promise at the beginning of the season that certain rides near your games would remain open throughout the season, and that did not take place?

THE CHAIRPERSON: Could we have a date?
Q First of all, did that happen?
A Yes, it did.
Q Do you remember when that was?
A It was the season of -- I believe it was 198 -- I think it was 1988.

You have to understand I was never at the park, only during times of negotiations.
Q So, you are unclear about precise dates; is that correct?
A Yes.
Q And can you relate to us the substance of
the dispute that took place, and what was your position, what was their position, what you ended up doing?

A It was clearly understood that the main reason people come to the parks is number one, to ride the rides; two to eat; and three, to play the games.

What the problem was, is that there were a number of rides down, not operating. Some of them were operating very intermittently.

One location was called an Old Mill. It was directly opposite the four games of the five that I operated. That particular ride was closed the entire season; and I was very concerned about it from the beginning, prior to going into the season.

Around April I discussed it with Mr. Arles, who was the acting Director. He assured me that it would be open for the season.

The ride remained closed for the entire season. Those particular games definitely fell off; the revenue was not as good.

The games in the other area of the park did substantially better.

I felt that some sort of justification should be made.

Q Did you request a reduction in the amount
that you were obligated to pay because you received less revenue?

A Yes, I did.

Q And who did you speak to?

A Well, I spoke to Mr. Arles, and I spoke with Mr. Broege, who was acting Director, in the interim. And I tried to speak with Mr. Caverly, and a few of the people in -- I wrote several letters, and made a lot of telephone calls, and was available for any appointment during the time from the end of the season until late in the winter.

Q Did you pay your rent or the full amount of fee you were obligated to at that time?

A I paid all the rent on the golf course, which was a separate contract; and I paid a greater portion of the rent for the games.

No, I did not finish paying the entire sum.

Q Subsequent to that time, did you try to renew your various contracts in the park?

A Yes, I did.

Q And were you successful?

A No.

Q Who did you speak with in trying to renew your contracts?
Barry

A I spoke with Mr. Broege. I tried to speak with, as I said, people -- there was a gentleman at the County who I spoke with, his name escapes me right now.

Q Was Mr. Keeler one of the people you spoke with?

A I spoke with him briefly on it, but he was really not -- he had already left the park, and he was not the acting person.

Q Did Mr. Broege make any statements to you concerning your side of the dispute, and the things that you had not done that were making it very difficult to renew the contract?

A He told me he felt that I was argumentative and difficult. He told me that there would not be any concessions concerning the rent payment.

I asked the same courtesy that was given to another concessionaire the season before. What that was, this particular concessionaire ran into some financial problems, did not pay his rent.

At the beginning of the season he was allowed to negotiate his contract, and then he was given an interest-free loan, so that he paid the rent over the course of that season for the previous season.

I asked if that could also been applied to
me, as it had been to him.

He said, no, the courtesy would not be extended.

Q Did he also make some comment about the level of your political involvement?

A He explained to me that the other gentleman was very involved in the County, very aware of activities, was very participating, and I was not. I owed my Chairman's money too.

Q You had not at that time paid your Chairman's money?

A No.

MR. SCHWARZ: Is that what he said, or is that what you are now saying?

THE WITNESS: That was told to me.

Q Did you ever pay your Chairman's money?

A I believe it is up to date, but I'm not sure.

Q Do you have a view as to what would be necessary for the park to run in a professional way and make a profit?

A It would be -- it should be a money-making situation, obviously. I'm involved in other businesses, all of which are successful. This was a total disaster.
I feel if they would hire a professional person, that is not politically-involved, doesn't have any allegiances, I think the park would be very successful. It has to be. It is a very advantageous location.

Q And is it your view that the political involvement of people who have run the park in recent years has detracted from that?

A Yes. The last season that I was there on the cross axis, which is the main area, three of the rides were down or gone.

A large portion of the historical area had been taken up improperly, I thought, by concessions, which, when Mr. Kilcullen was there, it was never allowed to happen. It lowered the standard of the park from a historical point, from a cleanliness point, and from an attendance area.

By the way, I did offer to pay all of the rents that were due with the presence of my attorney, Mr. Singer. I offered to pay all of the rent that was due by taking a loan out, at my own cost and interest.

Mr. Broege turned me down flat and said, no. He asked Mr. Singer and myself to leave the office.

Q So, despite your expressed willingness to
come up to date on all your obligations with the park, your contract was not renewed; is that right?

A That is right.

MS. CUSHMAN: I have no further questions.

THE CHAIRPERSON: Commissioner?

COMMISSIONER VANCE: I would like to come back, very briefly, to your testimony relating to your conversation with Mr. Keeler about your attorney, Mr. Geist.

Would you review that for me. I didn't quite understand what you were saying.

THE WITNESS: Mr. Geist had -- up until this point Mr. Geist did the negotiating for me, because he was really the person who did the speaking for Paradise Amusements. That was acceptable and worked when Mr. Kilcullen was there.

When Mr. Keeler came in, I just assumed the same procedure would be followed.

When I went up to Mr. -- with Mr. Geist, to Mr. Keeler's office, what would take place, on several occasions, is Mr. Keeler felt that Mr. Geist was --

COMMISSIONER VANCE: What did he say to
THE WITNESS: Mr. Keeler?

COMMISSIONER VANCE: Yes. What did Mr. Keeler say to you about Mr. Geist?

THE WITNESS: He said that he found him annoying, and he wanted him not to come back to the park to represent me.

COMMISSIONER VANCE: Did he threaten you as to what would happen if he did come back?

THE WITNESS: Yes, he told me that I would not be in the park, I would not -- my contracts would not be renewed.

COMMISSIONER VANCE: Thank you.

THE CHAIRPERSON: Commissioner Emery.

COMMISSIONER EMERY: Just following up on that.

Do you have any explanation for that with respect to Mr. Geist; anything other than the fact that Mr. Keeler said Mr. Geist was annoying?

THE WITNESS: I am not privy to all the conversations that they had.

COMMISSIONER EMERY: You don't know what might have been behind it, other than what Mr. Keeler said?
THE WITNESS: No, I don't.

COMMISSIONER EMERY: Now, you testified, I believe, that during one meeting with Mr. Keeler, after you spoke with Mr. Colavita, you were moving from office to office.

What was that about?

THE WITNESS: I don't really know. I think Mr. Keeler was very nervous, very upset, and I don't know exactly why. It was just an unusual situation.

COMMISSIONER EMERY: And that was after you spoke with Mr. Colavita?

THE WITNESS: Yes, that is correct.

COMMISSIONER EMERY: What was the occasion for you speaking to Mr. Keeler on that occasion, when you moved from office to office?

What was the subject?

THE WITNESS: To bring him the check for the override, and for whatever was late and delinquent.

COMMISSIONER EMERY: At that time you had already joined the Chairman's Club, the Republican Chairman's club?

THE WITNESS: I'm not positive; I would
have to check my records. I don't know.

COMMISSIONER EMERY: Now, you have testified about numerous examples of disparate treatment, where people you observed who had concessions there were treated differently from one another, and you were treated differently from other people who had concessions at Playland.

Do you have any explanations for the disparate treatment which you suffered, which you observed?

THE WITNESS: Only for the fact that I did not know -- it is a very political park, it is run specifically for that intent, it appears to me. Nowhere else in the United States could it go on. That is what I think is the problem.

I think if you don't know the right people, and you cannot speak with the right people, you do not get a good, fair shake at Rye Playland.

COMMISSIONER EMERY: You don't think that you had done enough politics to get a fair shake there?

THE WITNESS: That is correct.

COMMISSIONER EMERY: That is all I have.

THE CHAIRPERSON: Commissioner Magavern.
COMMISSIONER MAGAVERN: In your discussion with Mr. Broege, and you were seeking renewal of your contract, and referred to another person who had been given an interest-free loan, you said that Mr. Broege explained that that other person had been involved in and participated in County activities.

Can you tell us what you understood him to be referring to?

THE WITNESS: What I believe he was referring to is the fact that Mr. Davis was a very available and politically-involved person, as he, himself, would tell me. He knew, and went to all the functions which I did not do. He spoke with all the people, he was friendlier, and more actively involved.

COMMISSIONER MAGAVERN: Do you mean the fundraising dinners, and the like?

THE WITNESS: There were a variety of that type of functions. Then there was a place that they got together at a regular time and meeting, which I was not privy to.

COMMISSIONER MAGAVERN: Did you understand
this to refer to basically social activities, or political fundraising activities, or both?

THE WITNESS: To me, it was both.

COMMISSIONER MAGAVERN: I see.

Do you know other business people in Westchester County? Have you had occasion to talk to them about doing business with the County?

THE WITNESS: Only the ones with Rye Playland.

COMMISSIONER MAGAVERN: Did you find -- did you hear other complaints about any of them about the problems of dealing with the County government?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Did they complain about the politics of the matter?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Did they complain about fundraising solicitation?

THE WITNESS: Yes, they thought it was excessive.

COMMISSIONER MAGAVERN: As a business person, yourself, do you have an opinion as to the effect of this activity on the business climate in
Westchester County?

THE WITNESS: Well, I can only -- again, I can only be very specific with Rye Playland, that is my only business in Westchester County.

The park is not run as a business entity, as it should be, it is run very much on the whim of whoever is in control, rather than as a business judgment.

They don't have the proper background, for example. A man who is operating that park should understand the amusement business, and have an understanding of, you know, what does work, what doesn't work, and the good of the overall concessionaires.

We were told any number of times that it was not their job, meaning Mr. Keeler would say that, to see that the concessionaires made money, it was his job to make money, which obviously it was, for the County.

COMMISSIONER MAGAVERN: Do you have an opinion as to whether other potential concessionaires were discouraged from ever even attempting to do business with the County at Playland, because of this reputation that you
referred to, as a political park?

THE WITNESS: Now that I am somewhat aware
of the amusement business, yes, it is common
conversation at amusement business conventions
that there are problems at Rye Playland, of the
nature that we just talked about.

COMMISSIONER MAGAVERN: At these
conventions, do you run into people who have
indicated to you that if the park were run in a
nonpolitical way, they might be interested in
coming in and bidding?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: In short, good
operators are being discouraged from coming in
because of this reputation?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: Do you have other interests
in amusements?

THE WITNESS: No.

MR. SCHWARZ: You attend these conventions
of amusements?

THE WITNESS: Yes, I have over the past

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couple of years.

Once I made a sizable investment in the park, and continued to buy a very expensive ride, I found it necessary to go to probably one -- there are one a year.

MR. SCHWARZ: You say buying an expensive ride, is that a ride that you own now?

THE WITNESS: Yes. It is called the Tilt-a-Whirl.

MR. SCHWARZ: Is that at Playland?

THE WITNESS: No, it has been sold.

MR. SCHWARZ: To your knowledge, was Mr. Geist active in politics in Westchester County?

THE WITNESS: Yes.

MR. SCHWARZ: In what party?

THE WITNESS: I believe it was the Democratic Party.

MR. SCHWARZ: No further questions.

THE CHAIRPERSON: Thank you very much.

(Witness excused.)

THE CHAIRPERSON: We will take a five-minute recess.

(Recess had.)

THE CHAIRPERSON: The Commission calls as
Hughes

its final witness today, Morgan Hughes.

Morgan Hughes, called as a witness, having
been first duly sworn by the Chairperson, was
examined and testified as follows:

THE CHAIRPERSON: Please be seated.

MR. BROSnan: May I inquire, Mr. Chairman?

THE CHAIRPERSON: Yes, you may.

I would like to ask counsel to identify
himself, please.

MR. KOSTER: Eric Koster, the firm of
Hoffman, Wachtel and Koster, 399 Knollwood Road,
White Plains, New York, representing Morgan
Hughes, Incorporated.

THE CHAIRPERSON: Thank you very much.

EXAMINATION

BY MR. McSHANE:

Q Good afternoon, Mr. Hughes?
A Good afternoon.

Q What type of business are you in?
A I am in the leisure and recreation business,
automobile racing, amusement parks.

Q Do you operate under a particular name?
A This particular case it is Morgan, Inc.

Q Where is that business located?
Hughes

At the moment it's 140 Sylvan Avenue, in New Jersey. It has been inactive for several years now.

Q Where do you live?

A Most of the time, in Pennsylvania. I do have a home in Fort Lee, New Jersey.

Q Mr. Hughes, do you currently lease rides to the County of Westchester for use at Rye Playland?

A Yes, I do.

Q Mr. Hughes, in December of 1982 did you attend a meeting at Republican headquarters in White Plains?

A December, 1982, I went to Republican headquarters, as you call it, but it wasn't a meeting.

Q Republican headquarters at 214 Mamaroneck Avenue, White Plains?

A Yes, I went there, but I wouldn't call it a meeting.

Q We will get to what you call it in a minute, Mr. Hughes.

Who was with you?

A Horace Borchardt. He is dead now.

Q Was Mr. Borchardt handling all of your legal matters, or all of the legal matters of Morgan Hughes, Inc., at that time?
A No, Horace lived in White Plains. My office is over in New Jersey.

Q And how did you know Mr. Borchardt?

A Just after World War II he came back to the United States. He got out from Hitler before the war. He came back from the United States to Germany. I was still in the army of occupation, and through a friend, a German friend, I met him then.

Q You had known him for many years?

A Known him since 1940-something, the middle forties.

Q And when you came to Westchester County in December of 1982, where did you come from; did you come from New Jersey?

A That's a hard one, I don't know. I might have come from Pennsylvania.

Q Was it a long trip?

A I wouldn't know, it's a long time ago. I make that trip so often, I travel a lot. It could have been. Yes, I would say it is a long trip. I think at that time I came up from Pennsylvania.

Q Did you speak with Mr. Borchardt before you made the trip up about the purpose for your trip?

A Yes.
Q And what is it that you understood you were coming to Westchester County for?
A To have a meeting with the people connected with Playland rides.
Q In fact, when you arrived in Westchester County, Mr. Borchardt took you to Republican headquarters; is that correct?
A He took me to an old, broken-down building, if that is Republican headquarters. Later I found out what it was, yes.
Q Who did you meet at that building?
A You mean when I arrived?
Q Yes?
A I didn't meet anybody.
Q Did you subsequently meet somebody after you arrived?
A When we arrived we went into -- there was right rooms, left rooms. I guess the big shots went in on the left room.
They opened the door to a room. There was a lot of wicker furniture. It was dusty. I was their with my briefcase, my son, Borchardt. I said, "Where is the meeting?" Then he introduced me to -- his name is there, Gioffre, he came in.
Who introduced you to Mr. Gioffre?
Borchardt, I guess.
And did Mr. Borchardt tell you who Mr. Gioffre was?
No. He said "Mr. Gioffre." He didn't tell me what his position was.
Now, you understood that you were coming to Westchester County to discuss your bringing rides into Rye Playland; is that right?
Well, that was my business, that has always been my business. When I go to a park, I want to bring rides in. Yes, that is right.
Did you ask Mr. Borchardt, when you arrived at Republican headquarters, why it was you were going to Republican headquarters to talk about such an arrangement?
I didn't know it was Republican headquarters until I got there.
When you got there, did you ask Mr. Borchardt?
No, it didn't concern me, I didn't know what it was; I didn't know who was there.
Did Mr. Borchardt tell you what position Mr. Gioffre held?
A No.

Q Did you ask?

A No. Why should I?

Q Now, did there come a time when you sat down with Mr. Borchardt in the room that you described?

A No, I don't think we sat down, there wasn't a proper place to sit down at this point.

Q Did a conversation take place?

A Very little conversation. Borchardt -- I have to be careful, because I'm not educated, so I have to use words that you will understand, rather than swear words.

Q That will be helpful, Mr. Hughes.

A Wait a minute.

I was mad, I was mad at Borchardt, you know, for bringing me all the way up there, you know, putting me into this room, and the guys were there, and I didn't know what it was all about.

Q Is it fair to say you expected a little more?

A This place is run down, this Playland ride needs help, I'm a guy coming to help them out. I expected the red carpet.

Q Now, you have testified that there was some
Hughes

1

conversaon. Can you tell us what that conversaon was?

2

A Very little conversaon with me and anybody there.

3

Borchardt -- I got mad at Borchardt. He was talking to Gioffre. Then Gioffre said something to me, you have a ride or something. Then I laid into Gioffre and he told him I didn't have a ride, I had been running Palisades Amusement Park; I have done every World's Fair, I was the continent's leader for 35, 40 years. I told him who I was.

4

I don't think he still got the picture.

5

Just about then I said, "Let's get out of here."

6

Q Now, did you give Mr. Gioffre some brochures that would explain your business?

7

A I'm not sure I gave him. I probably left brochures, like I do everywhere I go. I leave them in the toilet sometimes.

8

Q Did you tell Mr. Gioffre a little bit about your business, give yourself a build-up?

9

A I gave him a terrific build-up. I told him everything. He thinks I'm going in there, and here I'm coming in to give him millions of dollars worth of rides.
Q In your mind, was it clear to Mr. Gioffre that you were there to discuss Playland rides and your business?

A I don't think he knew what it was all about.

Q You don't?

A What would lead you to believe that he didn't understand it?

A When he started telling me, you're a ride operator, then it was my opinion that he didn't know -- he might have talked to Borchardt about a ride, coming up for the ride, but I don't think he knew the magnitude of what I was able to do for Playland.

Q I'm not addressing what you might or might not be able to provide to Playland. My question was whether it was your understanding that Mr. Gioffre understood, on some level, that you were interested in Rye Playland, and that is why you were in Westchester County.

A I wouldn't know what he understood.

Q Did the term "Rye Playland" come up during the conversation?

A Certainly it came up; that is why I was there.

Q How did it come up?
Hughes

A I guess it came up when Borchardt talked to him about it. He laid on this meeting. I'm coming to a meeting for Playland rides; don't you think he talked to the guys I'm coming to sit down with?

Q Now, did Mr. Gioffre ever suggest to you, while you were at this meeting, that you should go to the County Office Building to talk about this matter?

A No.

Q Now, did you have occasion to meet Anthony Colavita that day?

A Yes. If you call it a meeting. The guy opens the door, sticks his head in, says about two words -- I can't remember if I shook his hand -- and then he is gone. Then I really got mad at Borchardt and I took off.

Q When you took off, you left Mr. Borchardt behind; is that right?

A Yes, he was well into conversation with Gioffre.

Q You weren't present for the conversation that they had, then?

A I just told you, I left.

Q I want to make sure I understand what you're saying.
Hughes

A I left, and they were still talking. I took off.

Q How long would you estimate that the meeting had lasted, Mr. Hughes?

A A period of ten, fifteen minutes.

Q Did you have any conversation with Mr. Borchardt after the meeting about submitting proposals to Mr. Gioffre?

A I had a conversation with Borchardt, yes, to tell him what I thought of him.

Q I didn't ask you that. I asked you whether or not you had a conversation in which you talked about forwarding proposals to Mr. Gioffre.

A Immediately after?

Q I mean any time after, Mr. Hughes.

A I talked back and forth with Borchardt, yes, I did. You're asking me did I say to him, you make a proposal to Gioffre, no, definitely not.

Q Did Mr. Borchardt indicate to you that he was going to make a proposal to Mr. Gioffre?

A No. Quite honestly, I didn't think Gioffre had any clout. Why would he have me in this rinky dink back room, if he had any clout?

Q Now Mr. Hughes, I would like to address your

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Hughes

attention for a moment, if you would, to Commission
Exhibit 2, which is blown up, and it's also in the book
in front of you, for your review.

For the record, Mr. Hughes, that is a
letter, dated January 24, 1983, from Mr. Horace Borchardt
to Mr. Frederick Gioffre.

A Yes, I can read it.

Q I would specifically address your attention
to the second paragraph of that letter, which I'm going
to read to you now.

" My client requested me to point out the fact
if any or all of these proposals should be accepted in
one form or another, by the County, my client would like
to reserve the option to operate these rides for a
further period of four years."

My question to you, Mr. Hughes, is, did you
request Mr. Borchardt to point that out?

A If he put that in there, I must have talked
to him about the thing in the sense that listen, Horace,
you're not going to put all this stuff in for one year,
and then somebody sees it's a good deal and they are
going to put somebody else in. That is possible.

If you ask me do I remember it, I don't
remember that far back.
Q I would like to address your attention to the third paragraph of that letter, Mr. Hughes, which reads. "Further, Mickey Hughes requested me to advise you that it is his intention to make a further proposal later this year for the operation of the total park, or any part thereof."

A That is possible, because I done that before we even got to the stage where we were almost getting the park back in 1968. So, it's possible. Borchardt knew my intentions were always to try to get Playland Rye operated.

Q In that same third paragraph it indicates that "he," referring to you, would appreciate receiving, as early as possible, the ground plan of the park, layout, and a complete ride layout on a separate plan.

A We asked that all the time. In fact, I think I got it five times in the last six or seven years from Playland myself.

Q Now, did you, yourself, speak to Mr. Colavita at all about these proposals?
Hughes

A I never discussed business at any time, anywhere, with Mr. Colavita, never.

Q Did Mr. --

A Never, never, never.

Q Did Mr. Borchardt indicate to you that he was going to speak to Mr. Colavita, or communicate with Mr. Colavita, on your behalf after the meeting?

A No.

Q I would like to address your attention now, Mr. Hughes, to Commission Exhibit 1, which is blown up, on the right of Commission Exhibit 2. And which is, for the record, a February 2nd -- I'm sorry, February 3rd -- no, February 2, 1983, letter from Mr. Borchardt to Mr. Anthony Colavita.

And in that exhibit I would address your attention to the third paragraph, and the second sentence, which reads as follows. "I am sure that Fred Gioffre turned over the detailed plan to you, as he promised, so that with the help of your good offices, Mickey's proposals will be taken up shortly with Ed Kilcullen."

My question to you, Mr. Hughes, is in your presence did Mr. Gioffre promise to turn over proposals to Mr. Colavita?
Hughes

Not in my presence, he didn't.

Did Mr. Borchardt ever indicate to you that Mr. Gioffre had made such a commitment?

Mr. Gioffre making a commitment for the turnover of what to who?

Proposals to Mr. Colavita.

I didn't even know Mr. Colavita then.

I'm not asking you that, I'm asking you whether or not Mr. Borchardt indicated to you at any time that Mr. Gioffre had made a commitment to him to turn over proposals to Mr. Colavita.

No, and I never even seen these letters until the County attorney gave them to me.

Now, reference is made in that letter, which is Commission Exhibit 1, to Mr. Edward Kilcullen, Mr. Hughes. Do you know him?

Yes.

How do you know him?

He was in the park, he took over after the other guy left some time in the early fifties.

Would you say that you had a good working relationship with Mr. Kilcullen?

No, no, a very bad one.

Now, in February of 1984, Mr. Hughes, you...
did, in fact, contract with the County of Westchester to
lease four rides at Playland Amusement Park; did you not?

A Yes, that is right.

Q And by the terms of the contracts that you
entered into, Mr. Hughes, who absorbed the cost of
transportation and installation of those rides?

A It's all in the contract.

Q Do you recall, as you sit here now?

A It is in the contract, they lease equipment,
they pay the transportation. You lease a car, you don't
get a driver.

Q I'm asking you about the specific four rides
that you brought into Westchester County, and the
agreement that you had with Westchester County.

My question is, again, by the terms of the
agreements for those four rides, who bore responsibility
for transportation and installation?

A The County; it is in the contract.

Q Thank you, Mr. Hughes.

And who selected the firms to transport and
install those rides?

A You mean who selected?

I was the one who did the transportation,
arranged the transportation, did part of the supervising.
Hughes

I got the people from the factory to put the rides together.

Q  Was the Whirlwind ride one of those rides?
A  Yes.

Q  You selected the contractor who did the site work for the ride; is that right?
A  I think there was different ones. There was one in Jersey, but there was a time element there. Then coming over the George Washington Bridge, and all that kind of thing.

The only thing I needed for the ride was the concrete blocks; I didn't need anything else.

The place was decrepit, running down, falling apart, going into the ocean. They wanted it fixed up; they knew what they wanted.

Q  In fact, you engaged the services of GNP contractors; did you not?
A  Yes.

Q  And GNP, in turn, engaged the services of subcontractors to do the work?
A  I'm not aware of that; I know nothing about that.

Q  Did you supervise the work that GNP did at the site of the Whirlwind ride?
A I don't think I am in a position to supervise that kind of work. I don't know anything about construction of that kind.

Q When you testified privately before the Commission, you indicated that you didn't take an active role in supervising the site preparation work.

A Yes, I didn't take an active role.

Q Rather, County officials were out on a daily basis, keeping track of what was going on?

A The people in the park were there, yes, they came out every day.

Q Do you remember testifying that, similar to as you have testified here today, that more than just the work necessary to install that ride was actually done around the ride?

A Yes.

Q Did you authorize that extra work to be done, or did somebody from the County authorize that?

A How could I authorize work for the building, the people and all that?

The only thing I was authorizing -- not authorizing -- the only thing I was concerned with is getting in the concrete blocks and to put the ride in the air. I had the guys from Holland, Germany, to do that.
Q Do you recall how it is that you came to deal with GNP Contracting Company?

A I think they were one of about four different companies. Two of them were local. I think one guy couldn't do it down in Yonkers. I think the guy over in Jersey didn't like coming over the George Washington Bridge.

The only thing I was concerned with is getting the concrete blocks in.

Q Now, did Mr. Keeler recommend GNP, among other contracting companies, to you?

A No. I don't think Keeler recommended it. He may have. I think there was four companies. I think they recommended two, and I had two in New Jersey.

I was out hustling to get people to get it done in time. Time was an important factor right then.

Q Now, you indicated that the Whirlwind ride was a ride that had to come from Holland; is that right?

A From Europe, yes.

Q And at the time, when you were talking to the County about bringing that ride with the other three rides into the park, did you make the people you were dealing with at the County aware of the fact that one of the rides was going to be coming from Europe, and
involved a costly transportation fee?

A I wouldn't say it was costly transportation.

Costly transportation, the transportation is only about $100,000.

Q My question is, did you make that --

A You said costly. It was not costly.

Q If you have indicated it is $100,000, and that is not costly, that is fine, Mr. Hughes.

A Yes.

Q I will go with your $100,000 figure and ask you, did you make anyone at the County aware of the fact that the transportation of that ride from Europe was going to cost that amount of money?

A Something like that, yes.

Q You did make them aware of that?

A Yes.

Q Do you remember who it was you were dealing with at the County at that time that you made aware of that?

A Nick Vece.

Q Did you have any conversations with Mr. Keeler about that?

A I don't think Keeler knew what it was about.

I don't think he was smart enough to understand the
numbers. Vece was the one with the numbers, he was the one I was talking to.

Who made the decision, I don't know.

Q Did you have any conversations about your bringing these rides into the County at that time with Mr. Kilcullen?

A Conversation with Kilcullen? He wasn't working there anymore; he was on his way out.

Q I will represent to you, Mr. Hughes, that in December of 1983, County records, and Mr. Kilcullen's own testimony, indicated that he was working at Rye Playland, in fact, was still the titular head of Rye Playland.

A Why was I talking to Keeler and Vece?

Q That is my next question.

A I don't know. I don't know.

If they wanted to -- I'm not responsible for what goes on.

You tell me the guy is in charge, and I have to talk to two other guys.

Q Now, are you familiar with, Mr. Hughes, with a company called Hughes International?

A Yes, Hughes International is my company.

Q Is that your company?

A Yes.
The records that have been provided to us by the County indicate that between 1984 and 1988 Hughes International provided parts to Playland Park for your rides in the park at a cost of some $30,000.

That is possible.

My question to you is, did you suggest that the County deal with your company to obtain those parts?

Where else would they get them from?

Why don't you explain that for me.

Well, I was representing the company at the time; I had the parts.

Were there other companies -- you want to buy Mercedes Benz parts, do you go to Ford?

Is your company the only company that had parts that would be suitable for the rides that you had at Playland?

For that particular ride, we are talking about the big coaster; I was the only one to get the parts from.

Thank you, Mr. Hughes.

Now, in 1987 the contracts you had with the County for the four rides that were brought in in 1984 were extended; were they not?

'84, '85, '86, yes. '86, yes. '86, '87.
Q The '86, the issue first came up?

A Yes. They were supposed to extend it two years by February, 1986.

Q Now, in fact, the County elected to extend your contracts for a five-year period; isn't that so?

A Yes.

Q Did you suggest that to the County, or did the County suggest it to you?

A I don't think I suggested it. I don't think so.

Q You think --

A I think the County wanted to nail me in there for another five years, to try to get some more money out of the deal.

Q Do you recall who from the County suggested that to you?

A Everything that came then came through, I guess, through Keeler. Yes, it came through Keeler.

Q Now one last question, and then we will move away from the rides, Mr. Hughes.

The rides that you have at Playland are leased to Playland?

A Right.

Q Do you have such a lease arrangement with
regard to any of your other rides in other parks right now?

A We don't have too many now, we have all the rides in our own park in Pennsylvania, and we have a couple or three pieces down in Seaside Heights, and they are not leased, no.

Q Thank you.

Now I would like to turn for a few minutes, Mr. Hughes, to the topic of political contributions.

I will represent to you that records that have been provided to us by you, by the Westchester County Republican Committee, and by the Board of Elections, indicate that in the period between 1984, and 1988, you contributed approximately $15,000 to a number of different Republican committees in Westchester County.

My question to you, Mr. Hughes, is, did you ever make political contributions in Westchester County before you began doing business in Westchester?

A No, because I wasn't involved up here, I wasn't here.

Q And can you tell me how it is that you first started to make contributions in Westchester County to political committees?

A I think all the guys there were members of
the Chairman's Committee, or something.

Q When you say "all the guys there," what do you mean?
A All the operators, all the concessionaires, they were all members of that.

Q Did you discuss with them the membership in the Chairman's Club?
A Yes. Someone sent me a card, and it was for a thousand dollars, or something, and I sent them a thousand dollars.

Q That is the first contact you remember as a solicitation?
A That was done after I had my contracts, though.

Q And then, did you begin, also, to attend political fundraisers in Westchester County?
A No, I didn't go to political fundraisers. I'll tell you what I did, I went to the dinner twice. One was to meet George Bush, and the time before that, I went in one door, we looked around, and we took off.

Q So, you attended two functions?
A Yes.

Q And, in addition, you joined -- the records
Hughes indicated that you joined the Chairman's Club of the Westchester County Republican Committee?

A I sent a thousand dollars.

Q That is for the Chairman's Club?

A Yes.

Q That is not for an event, then; is that correct, a fundraising event?

A You should know better than me, because I'm not too smart on these things.

If I send a thousand dollars, is it a fundraising event? If it is, yes. If it is not, then it is not.

Q Let me discuss this with you for a few minutes, Mr. Hughes, and maybe we can straighten this out.

The Republican Committee has represented to us that contributions to the Housekeeping Accounts, which are reflected on the chart, are contributions that are made in connection with special events, such as dinners. The records we have obtained indicated that during the period between '84 and '88 you contributed over $7,000 to those Housekeeping Accounts.

A What is housekeeping, what is that?

Q I just explained to you that those are the
accounts to which contributions used to be made by --
into which the Republican Committee used to place
contributions that were made in connection with dinners
or events, special events.

Now, the Chairman's Club is a separate
entity, which the Republican Committee has indicated
represents contributions that are made, not for a special
event at all, but just straight contributions.

Okay? Are you with me?

A No. I know I wrote a straight check. It
didn't bounce. That is all I know.

Q And between '84 and '88 you wrote checks to
the Chairman's Club which totaled $2,000?

A Yes.

Q Can you --

A When I say yes, I don't know. You got all
that stuff, I gave it to you and the County; you have all
the checks.

Q That is correct.

Now my question to you is, did you discuss
with the other concessionaires at the park membership in
the Chairman's Club?

A I didn't discuss too much with the
concessionaires, they were all, in my mind, rinky dink
guys that were in there for a long time, a lot of garbage
rides that you wouldn't have in any decent park. They
are always bitching. I didn't have much conversation
with them.

Q You didn't discuss your membership in the
Chairman's Club with them?

A When I talked to the concessionaires over
the last six years, maybe I did. You're asking me to
pinpoint some word I said to some guy, no. It was never
a big deal.

Q Now, you testified that you received
solicitations in the mail, and you responded to those; is
that correct?

A Yes.

No, I responded to some of them. Most of
them I threw in the garbage.

Q Why is it that you decided to make these
contributions, these political contributions?

A I'm a Republican, I send contributions to
different places. I send contributions to Washington.

I'm a member of the inner circle of
Republican senators. I make contributions to the
Republican Party. I'm a Republican.

Q Now, the records that the Commission has put
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together indicate that between 1984 and 1988 you made a $400 contribution to the Greenburgh Town Committee. Can you tell me the circumstances surrounding that?

A I haven't the faintest idea. That one got away from me. The girl probably made a check in the office, and I signed it.

Q Do you know anybody in the Greenburgh Town Committee?

A Not a soul, I swear.

Q The records also indicated that in the period between '84 and '88 you made $1,300 in contributions to the Eastchester Town Committee. Do you know anybody in that committee?

A No. I can't remember anybody in Eastchester.

They got a lot. Did they get $3,000 of my money? Is that it there, Eastchester Town Committee?

Q Eastchester Council Town Committee, as is indicated on the chart, received $1,300 of your money.

A Over a period of what, five years?

Q I will represent to you that those contributions, according to records provided by you, were made in two separate instances, each in the amount of $650.
A Oh.

Q My question to you, Mr. Hughes, is do you know anyone in the Eastchester Town Committee?

A I don't think so.

Q Now, while you were at the park, Mr. Hughes, that is Playland Park, and Mr. Keeler was the Director of the park, did Mr. Keeler ever ask you to make contributions?

A No.

Q He never asked you for contributions?

A He never came to me and said, "You have to give me a contribution." We were never in that category.

Q Did you ever discuss contributions with him?

A No.

Q Did you ever drop off a contribution with him or his secretary?

A I don't think so.

Q I said the last time that I dropped a check off for something to the secretary, but not to Keeler. I don't know what it was. It was something.

Q Were you aware that Mr. Keeler was active in
the Republican Party?

A Sure. How did he get his job?

Q How did you know that?

A What.

Q How did you know that?

A What do you mean how did I know.

Q I'm asking you a question. If you can answer it, I would ask you to answer it. If you can't, I would ask you to indicate that.

A Everyone knows that Keeler came from the motor pool, he worked for Westchester County, he is Republican. You read the newspapers.

Q At the time before recent events began to be reported in the newspapers, were you aware of his association with the Republican Party?

A There were lots of things in the newspaper about Keeler when he got the job, and everything else.

Q You were aware of his association?

A Yes.

Q I have one last question for you.

A Yes, sir.

Q Do you view the contributions you made between 1984 and 1988 to the various Westchester County Republican committees that are listed on that chart to be
related in any way to your business?

A I don't think so. I send more money than
that to the children's home in Israel.

MR. McSHANE: Thank you, Mr. Hughes. I
have no further questions.

THE CHAIRPERSON: Thank you.

MR. SCHWARZ: Mr. Hughes, you knew Mr.
Borchardt since the forties?

THE WITNESS: Yes.

MR. SCHWARZ: You knew he lived in White
Plains, and he was in practice here; is that
correct?

THE WITNESS: Yes. He used to practice
down at 55 Liberty. I guess the rent got too high
and he moved out.

MR. SCHWARZ: At some point prior to your
meeting you had some discussion with him, did you
not, about setting up the meeting, the meeting
that you testified to in the Republican
headquarters building?

THE WITNESS: Yes.

MR. SCHWARZ: You knew that you were coming
to a meeting, did you not?

THE WITNESS: Yes.
MR. SCHWARZ: You knew that the purpose of the was to try to help you get into Playland?

THE WITNESS: Yes, I was looking for a deal to put rides in Playland.

MR. SCHWARZ: You knew that Mr. Borchardt knew the people in White Plains, and the County, and would set up the meeting with the right people; isn't that so?

THE WITNESS: The terminology, the "right people" --

MR. SCHWARZ: The people who could get you into Playland.

THE WITNESS: He was bringing me in -- I don't think he was capable of getting me in. If he could make the contact with the people who do these things -- and I wasn't sure, because Borchardt took me to a meeting before, some time before, with Del Bello.

MR. SCHWARZ: I would appreciate it if you would answer my question.

Did you understand that Mr. Borchardt was bringing you to a meeting with people who could help you get into Playland?

THE WITNESS: I don't think the "help"
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thing.

MR. SCHWARZ: Assist you.

THE WITNESS: He was bringing me with

people to discuss a business for Playland rides.

MR. SCHWARZ: And you left it to Mr.

Borchardt as to what people he would introduce you
to; did you not?

THE WITNESS: Sure. If I knew the people,

I wouldn't need him.

MR. SCHWARZ: That is right.

And you don't know anyone in these towns of

Greenburgh and Eastchester; isn't that so?

THE WITNESS: I don't know any of those
guys.

Listen, wait a minute --

MR. SCHWARZ: You don't know if you have

been to those towns?

THE WITNESS: I don't even know where they

are.

MR. SCHWARZ: Somebody told you, did they

not, to make contributions to these towns?

THE WITNESS: No.

MR. SCHWARZ: You just got it in the mail?

THE WITNESS: Yes.
MR. SCHWARZ: Do you respond to all contributions that you get in the mail?

THE WITNESS: If I was to respond to all contributions, I get about a thousand every month. I pick out my own once. I don't, know.

MR. SCHWARZ: What was there about these contributions that you responded to?

THE WITNESS: I don't know, maybe somebody I liked, I don't know.

MR. SCHWARZ: Maybe somebody told you that you should respond to them?

THE WITNESS: Nobody ever tells me what to do.

MR. SCHWARZ: Did someone suggest it to you?

THE WITNESS: No one suggested to me. I'm a very strong individual. No one advises me, either. I gave up getting advice when I got long pants.

MR. SCHWARZ: You don't seek advice from your lawyer, either; is that correct?

THE WITNESS: No, he suggests things to me.

MR. SCHWARZ: So, when you went to Mr. Borchardt, were you seeking legal advice from him?
THE WITNESS: No.

MR. SCHWARZ: Now sir, we have asked you for a file with respect to correspondence between yourself and Mr. Borchardt; do you recall that, sir?

THE WITNESS: You have been asking me for a file.

MR. SCHWARZ: Are you aware of that?

THE WITNESS: Yes, that is right.

MR. SCHWARZ: And there is a letter, dated November, 1982, do you recall that, sir?

THE WITNESS: Yes.

MR. SCHWARZ: And your counsel has advised our staff that he has possession of that letter?

THE WITNESS: Who has it?

MR. SCHWARZ: Your counsel.

THE WITNESS: I haven't seen it.

MR. SCHWARZ: We would request, and our staff has requested that letter, and any similar correspondence be turned over to us.

Your counsel has indicated that you have asserted, or have not determined whether to assert some attorney-client privilege.

Are you aware of that, sir?
THE WITNESS: I don't like to give up --

attorney-client privilege, you know, there are not many things that we have left. You guys have already been up there, you have been sneaking around Borchardt's, you know.

MR. SCHWARZ: You testified that you were not seeking advice from your attorney, so I'm going to ask you to consult with your counsel, and we would request that you turn over that November, 1982 letter, and any similar correspondence, because I believe your counsel will advise you that since you are not seeking advice from your counsel, that it is not subject to any attorney-client privilege.

THE WITNESS: This is not the attorney we are talking about.

MR. SCHWARZ: I understand.

THE WITNESS: We are talking about Borchardt, who is dead. How can I talk to him?

MR. SCHWARZ: That you may be able to do in a way that I don't understand.

I was just suggesting that you consult your present counsel.

THE WITNESS: You know, you're not much of
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a comedian. You're a pretty straight guy. Go ahead.

MR. SCHWARZ: The Commission would like a response as to whether you're going to turn that over.

THE WITNESS: I'll tell you what I'll do, I'll leave it entirely up to him, and if he doesn't do it now, I'll tell you what we will do, I'll discuss it with him afterwards and let him convince me

MR. SCHWARZ: As far as you are concerned, we can have it?

THE WITNESS: I'm not saying that, no. That commitment I don't want to say.

If I'm going to do that, -- I will ask him now if he wants to turn it over.

Okay, all right.

He wants to assert the attorney-client privilege.

MR. SCHWARZ: He wants to, or you want to, sir?

THE WITNESS: If he wants to, now I want to.

MR. SCHWARZ: The Commission will reserve
its rights, in view of your testimony, with respect to the document.

THE WITNESS: Okay.

MR. SCHWARZ: Now, you testified before with respect to the two letters that were up there that you never saw them until the County Attorney gave them to you. Do you recall that, sir?

THE WITNESS: Yes, the guy was just here that gave them to me. He is writing right over there.

MR. SCHWARZ: In connection with what did he give them to you?

THE WITNESS: This is the seventh time I have been through this, seven times now.

MR. SCHWARZ: I'm sorry.

THE WITNESS: I am the one who is here. The day after tomorrow is my birthday.

MR. SCHWARZ: By that time you will be finished.

THE WITNESS: I hope so.

When we went up there the third time, he gave me a copy of the letter.

MR. SCHWARZ: Do you mean a Commission attorney, or a County Attorney?
THE WITNESS: County Investigator.

MR. SCHWARZ: Can you identify who that person is?

THE WITNESS: He is right here.

MR. SCHWARZ: Would you identify yourself.

THE WITNESS: He gave it to me.

THE CHAIRPERSON: I would ask the gentleman who raised his hand if he would identify himself for the record, please.

MR. COSTALDI: Jack Costaldi.

MR. SCHWARZ: Can you tell me, sir, did you have a meeting with Mr. Costaldi?

THE WITNESS: Did I have a meeting?

They were having the same thing as you are having now.

MR. SCHWARZ: They asked you questions?

THE WITNESS: There was five of them, and I was alone in a little room. No water, either.

COMMISSIONER EMERY: Before you came up here and did some proposals, did you do an analysis of Rye, why it was a good idea for you to take over?

THE WITNESS: Rye Playland is the finest amusement park, not only in the United States, but
in the whole world. The location is absolutely beautiful. The best park in the whole world.

You got thirty, forty million people within spitting distance of the place. You have beautiful roads coming into it. You couldn't get a better place.

COMMISSIONER EMERY: Did you do any particular analysis for your proposals that were offered by Mr. Borchardt around the time that you came up here?

THE WITNESS: No. I can tell you, you know, Borchardt living up here, I have been talking to him time and time again. We did a complete proposal in 1967, I believe it was, after we finished the World's Fair up in Montreal. Made a lot of money.

We came down and we worked. I think Del Bello was there at the time. And we wanted to take over the park then and run it, gave them $250,000 up front, and I think it was ten-percent on an escalating scale.

COMMISSIONER EMERY: Did you ever make a proposal in conjunction with your 1980, whatever it was, '82, '83 proposal -- '83 it began; is that
correct?

THE WITNESS: No, '82 or '83. There was a
guy named Dolan; he knocked me right out of the
pot. He was talking to me gung ho. All of a
sudden the guys that cost the County the six
million dollars, Marriott.

COMMISSIONER EMERY: In 1983 did you ever
do a financial analysis of the prospects of
earning money on the rides that you were proposing
on putting into Playland?

THE WITNESS: I had the lady sitting here,
she was talking about percentages and things like
that. I do all that in my head.

COMMISSIONER EMERY: You did no financial
analysis?

THE WITNESS: Did I do it myself, yes. I
know what I can gross, I know what I can net, yes.

COMMISSIONER EMERY: When you went and --
how did you negotiate your deal with the County
people who ultimately you signed contracts with?

THE WITNESS: Okay. We are at the
convention in Atlanta.

COMMISSIONER EMERY: When is this?

THE WITNESS: About that time, just before
the meeting.

When was the meeting, '83?

COMMISSIONER EMERY: Yes.

THE WITNESS: The convention takes place in November, it finishes a couple of days before Thanksgiving. I am representing a big company in Holland. I'm talking a walk. On the far aisle comes Kilcullen. Behind him comes this fat guy, Keeler, and Nick Vece. I didn't know them at the time.

Kilcullen came along and I said hello. He said, "Oh, these guys are taking over the park; they need some rides."

COMMISSIONER EMERY: What happened?

THE WITNESS: And, then, when I went back, I had about a dozen different people to send stuff to, and I think I sent some stuff up to the County.

COMMISSIONER EMERY: You say you went back from Atlanta after that?

THE WITNESS: Yes.

COMMISSIONER EMERY: Was that the whole sum and substance of your conversation with these three people in Atlanta?
THE WITNESS: It didn't take more than five minutes. We were walking as we were talking.

COMMISSIONER EMERY: When did you negotiate the financial relationship that led to the contract when you ultimately installed the rides?

THE WITNESS: It's a story. I have to tell you how it came about.

I sent the papers. I was in the steam room in the New York Athletic Club.

COMMISSIONER EMERY: Give me some times and dates; make it specific.

THE WITNESS: We came back from the show, then came Thanksgiving, around this time, maybe early into December.

COMMISSIONER EMERY: Before the meeting?

THE WITNESS: Before the meeting, early into December. They had nothing from me, then.

COMMISSIONER EMERY: All right.

THE WITNESS: They called me out, and Nick Vece was on the phone.

COMMISSIONER EMERY: From the steam room?

THE WITNESS: Yes.

He said, those rides that I had sent him up, I think I must have sent him a dozen rides, he
Hughes picked out the ones he wanted.

He said, "Can you give us a ball park figure?" I said, "Give me a break; I'm in the steam room." I said, "I'll be back in the office tomorrow morning; I'll either bring them to you or give it to you over the phone."

He said, would he have a meeting tomorrow morning. He went on and on. He said give me ball park figures. I gave him the ball park figures over the phone. That is how it started.

COMMISSIONER EMERY: At this time did you have any information about Republican politics in Westchester County whatsoever?

THE WITNESS: Nothing, nothing whatsoever.

I wasn't looking for a deal too hard. I was ready the next week to get my Social Security, which I stopped and decided to go for when I'm seventy.

COMMISSIONER EMERY: Didn't you say Rye was the best place in the world?

THE WITNESS: Yes.

COMMISSIONER EMERY: You were looking for a place in Rye Playland?

THE WITNESS: When you're 35, 40, you look
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hard. When you're 65, when this thing is taking
place, you don't look too hard. I was going to
take it if it came easy.

COMMISSIONER EMERY: When you met Mr.
Keeler and Mr. Vece, did you have any knowledge as
to their experience in the amusement park
business?

THE WITNESS: I knew Kilcullen tried to run
the park for years and knew nothing. Vece and
Keeler knew nothing about it.

COMMISSIONER EMERY: When you were dealing
with them, you knew that they knew nothing about
the business?

THE WITNESS: That's for sure.

COMMISSIONER EMERY: What happened after
you had your negotiation from the steam room?

THE WITNESS: I didn't have negotiations.
I came out of the steam room and gave them the
numbers over the telephone. Now they have the
numbers.

Then they got back to me and they said that
they wanted to set up a meeting at County
Building, where the Parks Commission keeps his
office.

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COMMISSIONER EMERY: They called you and said they wanted to have a meeting?

THE WITNESS: Yes. They already got the numbers off me.

COMMISSIONER EMERY: In these numbers, did you predict how many people would ride the rides?

THE WITNESS: That has nothing to could with it. No, they didn't have the amount of people that would ride the rides, they had the numbers of the capacity of each ride.

We can't tell, you know -- riding depends on an operator. It depends on management, it depends on opening and closing, it depends on maintenance. That is are where the numbers come in at the end of the day.

All we can do, when you're selling a ride, is tell them the ride has a capacity of 40.

COMMISSIONER EMERY: So, did you go to a meeting at the County?

THE WITNESS: Yes.

COMMISSIONER EMERY: When was the meeting at the County Building?

THE WITNESS: I think it was either the
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14th or the 15th of December.

COMMISSIONER EMERY: Before the meeting at
the Republican office?

THE WITNESS: That is long before, that is
a year before that.

You're getting mixed up.

COMMISSIONER EMERY: I'm asking you for
'83.

THE WITNESS: No, this is the end of '83.

You're talking about -- you're talking
about the meeting on the letter; it is a year
before, 13 months before. There is a whole year
in between. Borchardt might have been dead in the
mean time. I didn't hear from him.

COMMISSIONER EMERY: Nothing happened after
your meeting at the Republican club?

THE WITNESS: Nothing.

COMMISSIONER EMERY: Before you negotiated
this deal the end of 1983, did you make any
analysis whatsoever of what the political
environment would be in Westchester County?

THE WITNESS: No.

COMMISSIONER EMERY: None whatsoever?

THE WITNESS: No.
COMMISSIONER EMERY: Did you discuss the Chairman's Club with Borchardt?

THE WITNESS: No. Borchardt is a Democrat, was a Democrat.

COMMISSIONER EMERY: When you made a proposal to take over the whole park, when was that?

THE WITNESS: We made that the first time, in '67 or '68.

COMMISSIONER EMERY: I'm talking about the early '80s.

THE WITNESS: We only had conversation on that with Dolan. Borchardt wasn't involved in that.

COMMISSIONER EMERY: You never discussed that with Keeler, Vece or Colavita, or any of those people?

THE WITNESS: I don't think they were in the picture, then.

COMMISSIONER EMERY: I'm talking about the proposal to take over the whole park.

THE WITNESS: They weren't in the picture, then. I was talking to Dolan.

This thing came about, I believe, there
was -- the law states they have to advertise it,
and I think it was in the Amusement Business and
the New York times. I saw it in the Amusement
Business. I called up, and I think Dolan sent us
some stuff.

COMMISSIONER EMERY: That is all.

THE CHAIRPERSON: Commissioner Magavern.

COMMISSIONER MAGAVERN: You said you
thought you left something with Mr. Keeler's
secretary; do you recall that?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Was that a
political contribution that you left with his
secretary; is that what you were referring to?

THE WITNESS: I don't remember. I left
something there.

COMMISSIONER MAGAVERN: You think it might
have been a political contribution?

THE WITNESS: I wouldn't like to say it
was. It may have been even something for the
kids, have a Christmas Party there, the employees.
I can't remember.

COMMISSIONER MAGAVERN: You think it was
some kind of money?
THE WITNESS: A check.

COMMISSIONER MAGAVERN: It was a check?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: You don't recall --

THE WITNESS: I don't recall what check it was.

COMMISSIONER MAGAVERN: Tell me what the check could have been for. One would have been a political contribution, another would have been a children's Party. Anything else?

THE WITNESS: No, not a children's Christmas Party, an employee's Christmas Party.

All the concessionaires put a little in the pot and they had a Party for Christmas.

COMMISSIONER MAGAVERN: It might have been a political contribution?

THE WITNESS: It's possible.

COMMISSIONER MAGAVERN: If it was a political contribution, would that indicate to you that Mr. Keeler had solicited a political contribution from you?

THE WITNESS: He wasn't in that class with me, I was doing him a favor. The other way around, I should ask him for favors. He never
Hughes asked me for a political contribution.

COMMISSIONER MAGAVERN: You say that every solicitation of a contribution you got was by mail, and only by mail?

THE WITNESS: Yes, to the best of my knowledge, only by mail.

COMMISSIONER MAGAVERN: If you got one by mail, did you get any by mail from Mr. Keeler?

THE WITNESS: I never got anything direct from Mr. Keeler, never.

COMMISSIONER MAGAVERN: If you got a solicitation by mail, it wasn't from Mr. Keeler; why do you think you might have taken the contribution to Mr. Keeler's secretary?

THE WITNESS: I don't know. It was way before the party, a dinner or something. Maybe it had to be in by a certain time. I don't remember.

COMMISSIONER MAGAVERN: Why give it to his secretary to deliver it, regardless of when it was due?

THE WITNESS: I think I was there, and I was going to deliver it, I was going to mail it, and I gave it to her and she was going over there.

COMMISSIONER MAGAVERN: To where?
THE WITNESS: I don't know where.

COMMISSIONER MAGAVERN: Did you think she was going over to Republican headquarters?

THE WITNESS: No.

COMMISSIONER MAGAVERN: What do you mean, she was going over there?

THE WITNESS: Wherever the money was to go.

COMMISSIONER MAGAVERN: You had conversations with people as to where they were going, and it might have included Republican headquarters?

THE WITNESS: It might have.

COMMISSIONER MAGAVERN: Good enough.

THE WITNESS: A very gray area.

COMMISSIONER MAGAVERN: Gray is right.

THE WITNESS: I'm trying to be fair. To be honest.

COMMISSIONER MAGAVERN: Yes, sir.

Now, you have testified that, in your view, Playland is the best location in the world.

THE WITNESS: The very best.

COMMISSIONER MAGAVERN: In your opinion, if properly managed, could that site be highly profitable to Westchester County?
THE WITNESS: I would say conservatively --
they say they get a million something people, with
the rides you get in there -- if you take my rides
out, there is nothing in there; they have junk.
You can go over there and see it.

Some of the rides that are in there I threw
out twenty years ago. The lady was talking about
the Tilt-a-Whirl --

COMMISSIONER MAGAVERN: Do you recall the
question?

THE WITNESS: No.

COMMISSIONER MAGAVERN: Let me give it to
you again.

In your opinion, under proper management,
could it be very profitable?

THE WITNESS: Absolutely.

COMMISSIONER MAGAVERN: Do you have an
opinion as to how much money a year it could make
for Westchester County?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: How much.

THE WITNESS: With the equipment in there
now, well run; I would put a gate up, I would
charge to park. The park deserves a fifteen,
sixteen-dollar admission. Taking the other parks into consideration, that is not too high.

You have sixteen million dollars. The food has to be two-and-a-half, three, another three million. You have 18 million.

The games, two, two-and-a-half, two-and-a-half million. 20 million-plus.

Then you got the rest of the stuff in the park. Then you have the parking, which is very good. I think that place in there should bring the County a gross 20 to 25 million dollars.

COMMISSIONER MAGAVERN: How much net?

THE WITNESS: Net, you have to get fifteen, twenty-percent out of it.

COMMISSIONER MAGAVERN: Thank you very much.

THE CHAIRPERSON: There won't be any additional questions, but I would like to ask you to reconsider -- you don't have to give us an answer now -- your decision with respect to that November, 1982, letter.

Let me just, just by way of background, explain again, that our commission is a Commission consisting of seven Commissioners. We are private
citizens of the State. We were appointed by the Governor in 1987 to examine issues involving government in New York State.

One of those subjects, of course, is the subject of Playland. There has been a lot of issues. You have expressed your own views on the potential and importance of Playland.

I would just suggest that it would be very helpful to the completion of our work, which eventually results in a report to the Governor, and is communicated to the citizens of the County, and beyond the County, it would be helpful to our work, having the ability to examine that communication.

So, it's in that spirit that I would like to ask you to reconsider your decision with respect to releasing the document.

Now, if, on reconsideration, you insist on the position that you have expressed here; and we wish to challenge that position; we then must go to court.

I don't know that it's in anybody's interest, either our interest or your interest, or the interest of the citizens, to protract all of
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these issues that have swirled around Playland. I hope that you will reconsider favorably my request that you make available that letter to us.

THE WITNESS: I will do that.

THE CHAIRPERSON: Thank you very much.

THE WITNESS: Cyrus Vance didn't ask me anything.

COMMISSIONER VANCE: Your unwillingness to make this letter available to this commission, in its inquiry, creates a great mystery about this letter.

You have already said that you are not seeking advice of your counsel, and yet you are unwilling now to produce the letter.

There is a grave question as to whether there is any attorney-client privilege.

I just hope that you would think about not making a great mystery out of something which creates suspicions as to what is really in the letter.

THE WITNESS: I appreciate that, and I think you're right.

I think that the whole question is that if
it had been done in a proper way, without the
innuendoes and the threats from the senior
counsel -- I can't remember his name, the first
guy that comes up there -- and then he went into
Borchardt's office, and they went through the
files in there, or they got some information,
there has always been these innuendoes of
something being wrong.

In my case, I have nothing to worry about,
but I don't want to give anything away easy
because the Commission is beautiful when you're
all there.

When you get those two or three
investigators in the room, and this guy on the
first time he came up here -- I don't know what
his name is -- what is his name -- Carpiniello. I
don't even know the attorney -- I had to use his
office, and I had to pay him to use the office, so
your investigators could come up here. I had to
be with the County a half an hour before that.

He came in, I was talking to him, and he
said to me -- and I'm paying the rent for the
room -- he said, "Would you mind going outside."

Then he tells the attorney, "I don't
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believe this fellow, and I'm going to subpoena him."

The animosity was created then. And I don't think you will have any trouble with the letter.

When Cyrus Vance asks for it, you have to give it.

COMMISSIONER VANCE: I hope you will.

THE CHAIRPERSON: Let me just say that Mr. Carpiniello, and the other members of our staff, as well as the entire Commission, have a difficult mandate.

Our activity is not very popular in certain quarters.

THE WITNESS: I'm having fun; there is nothing wrong with you.

THE CHAIRPERSON: And we do encounter difficulties in the course of the investigation.

And I really don't want the record to end without the Chairman noting that Mr. Carpiniello has had a most distinguished career in law enforcement, and he has performed a distinguished public service for our Commission over the past two-and-a-half years. The work he has done here
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has been very much consistent with everything he
has done for us.

I do hope, as you indicated, that you will
reconsider our request.

THE WITNESS: Very much so.

THE CHAIRPERSON: If you do decide to
produce it, certainly you can send it to me,
Commissioner Vance, any of the Commissioners.

THE WITNESS: I'll send you all a copy.

COMMISSIONER VANCE: I hope you would
consider it promptly, so we can have it.

We have another day of hearings. It would
be very helpful to have it at that time.

THE CHAIRPERSON: Thank you.

You are excused.

(Witness excused.)

THE CHAIRPERSON: We are recessed until

9:30 tomorrow morning.

(Time noted: 4:20 p.m.)
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CERTIFICATE

STATE OF NEW YORK
COUNTY OF NEW YORK

I, STEVEN KLEIN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That the within is a true and accurate transcript of the proceedings of this matter.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of __________, 1989.

[Signature]

STEVEN KLEIN
STATE OF NEW YORK
COMMISSION ON GOVERNMENT INTEGRITY
-----------------------------------------x
PUBLIC HEARING
:
on
WESTCHESTER COUNTY CONTRACTING
AND PERSONNEL PRACTICES :
-----------------------------------------x

Pace University
One Martine Avenue
White Plains, New York

November 29, 1989
10:00 o'clock a.m.

BEFORE:

JOHN D. FEERICK, Chairman
RICHARD D. EMERY
JAMES MAGAVERN
CYRUS R. VANCE
Commissioners

THOMAS SCHWARZ, ESQ.
Special Counsel to the Commission

APPEARANCES:

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Executive Director

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DEPUTY CHIEF COUNSEL

TIMOTHY J. BROSNAH, ESQ.
Staff Counsel

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* * *

NATIONAL REPORTING INC.  (212) 732-3120
THE CHAIRPERSON: Good morning.

This is the second of two days of hearings concerning Westchester County government, focusing on three subjects, the solicitation and granting of government contracts, the receipt of campaign contributions from those who do business with government, and the use of political party position to effect governmental decisions.

The major focus of the hearings with respect to these subjects has been, and continues to be, practices at Playland Amusement Park.

The first witness this morning is Fred Gioffre; and I would request Mr. Gioffre to come to the witness stand.

F R E D G I O F F R E, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: Please be seated.

Would counsel identify himself for the record.

MR. PISCIONERE: Anthony P-i-s-c-i-o-n-e-r-e, Piscionere and Nemarow, 985 Central Park Avenue, Yonkers.

THE CHAIRPERSON: Thank you.
I ask Peter Bienstock, Executive Director of our Commission, to commence the questioning.

MR. BIENSTOCK: Thank you, Mr. Chairman.

EXAMINATION

BY MR. BIENSTOCK:

Q Good morning.
A Good morning.

Q Prior to 1983, how were you employed?
A As I mentioned in prior testimony, I had worked in Gioffre's Liquor Stores for a number of years, which was a family owned business. That was prior to my coming to the County as a Vice-President and assistant to my dad.

Q For how long did you do that?
A From approximately the age of eighteen. I didn't hold that title, but I was working there from college on.

Q And prior to 1983, did you also hold political office?
A Yes, I did.

Q What office was that?
A I was a Councilman in the town of Rye.

Q Now, in 1983 did you begin to work for Tony Colavita?
I believe it was in 1982.

And where physically did you work?

At 214 Mamaroneck Avenue.

And what is that?

That is the Republican headquarters, Westchester County.

Do you recall when in 1982 it was?

I was reminded in my last deposition that at a prior interview or hearing it was some time in October, November of '82. I don't recall the exact date.

Describe your duties in that job.

My duties, as I saw them, as I testified before, were basically returning phone calls, doing spillover work from the Chairman.

That is Mr. Colavita?

Mr. Colavita.

I would speak at different places that he could not make. I served on a -- not an inter-governmental -- it was a local officials' conference. I spoke at Mercy College.

So, I basically stood in where the Chairman didn't have time to.

Am I right that November of 1982 was about the time when it became apparent that the party, the
Republican Party, would be taking over the County Executive's position?

A   Apparent to who?

Q   To you.

A   That the Republican Party would be taking over what?

Q   The County Executive seat.

A   You mean that a Republican would serve in that seat?

Q   Yes.

A   Yes.

Q   And did you --

A   Yes.

Q   How long did you work for Mr. Colavita?

A   I believe it was a few months, three to four months, two to three months, somewhere around there.

Q   And was that during a transition period in the County Executive's office?

A   I don't recall when I actually, started there, but during the period I was there, there was a transition period in the County Executive's office.

Q   And during the period you worked for Mr. Colavita, did you receive resumes for people who were seeking jobs with County government?
Gioffre

1 A I believe I already testified to that, yes.
2 Q This public hearing --
3 A Did you read this?
4 Q This public hearing is for the purpose of having you testify to the Commissioners.
5 A Okay.
6 Q So, a lot of what I ask you you will have heard before, and you will have answered before.
7 A Okay.
8 Q Do you --
9 A Do you want to repeat the question?
10 Q I think you testified that you did receive resumes from people seeking County employment.
11 A Yes.
12 Q And did you interview people?
13 A Yes.
14 Q And did you refer their resumes to people in County government, including the County Executive, the person who became the County Executive, Andrew O'Rourke?
15 A To the best of my recollection, I referred them to the County Executive.
16 Q And did you observe that Mr. Colavita received resumes?
17 A Yes.
And did you observe that Mr. Colavita interviewed applicants for jobs?

I couldn't testify to that, whether he, himself, actually interviewed people, but I'm sure that he talked to different people.

Mr. Colavita has always been a very busy man, and people come to him for many reasons.

Did you observe Mr. Colavita refer applicants to Mr. O'Rourke?

I would have to say that Mr. Colavita did work with the County Executive in that area.

Now, do you know who George Morrow is?

Yes, I do.

During this time, did you make an effort to find a County job for George Morrow?

You mean after he lost election?

Correct.

Yes, I believe I did.

And what did you do?

Actually, I spoke with him a number of times in reference to him wanting to continue public service, and securing a job in the O'Rourke administration, a position in the O'Rourke administration.

You spoke to him several times?
A To the best of my recollection, I spoke to him a number of times. Whether it was one, two, three, several, I couldn't recall the exact number.

Q And did you speak to people in the O'Rourke administration about a job for Mr. Morrow?

A That I don't recall.

Q Did you do what you could to help him?

A That is a very difficult question. I think it is important that we know that at that point in time, in George Morrow's life, he was a beaten man; he was very desperate; he needed another year in public service, for whatever, and I think he was a very bitter man.

Now, within the Republican Party, county-wide, there was a feeling that Mr. Morrow lost a very important position in government, and that he didn't work hard enough during that campaign.

Q Mr. Gioffre, my question was, did you do what you could to help him.

MR. PISCIONERE: Counsel, I believe he is trying to answer your question. Let him finish his answer, please.

A So, there were leaders, especially leaders in his hometown, that felt that he did not deserve reward for losing the County Clerk's office with as many
positions that were involved in that office.

Now, did I, myself? Yes, I tried. I felt sorry for him. There was actually one time where he came and talked with me and was crying, as we interfaced, I mean literally, physically, emotionally, crying as I interfaced with him. There was another time when he brought his wife.

Why shouldn't I try to help a man that is in that kind of desperate situation.

Q I want to move to another subject.

MR. SCHWARZ: He didn't answer the question.

THE WITNESS: I believe I said I did try to help him.

Q What did you do?

A What did I do?

Q Yes.

A I was trying to -- to the best of my recollection, I was trying to find positions available inside and outside of government.

Q Well, with respect to inside government, what did you do to find positions available?

A With a man of his background, and management experience, administrative experience, I just looked around to see if there was anything available at the
Q Did you talk to people in County government?
A I probably talked to the County Executive about it.

I believe that the County Executive was, you know -- he basically would like to help people out, too.

Q Let me move to another subject.

You are aware of who Morgan Hughes is; is that right?

Q And while you worked for Mr. Colavita, did you meet with Morgan Hughes and his attorney, Mr. Borchardt?

A Yes.

Q Where?

A In the Republican headquarters.

I would like to mention for the record, that is the only time that I met with them, or talked to them.

Q Did you understand --
A I believe.

Q Did you understand what Mr. Hughes and Mr. Borchardt were doing at that meeting, what their purpose was?
A Can I preface my answer with a little
background?

I had been elected as a Councilman in the
Town of Rye. I believe it was in 1981 I took office. I
was very impressed with that, and I was gung ho, and I
wanted to be a public servant. I ran very hard, and I
worked very hard at being a Councilman.

I also was a political leader, as a Chairman
in the Town of Rye, which was my entree into politics and
government. I started making phone calls and working
hard. I became the Chairman of the Town of Rye.

We won, and beat a 26-year, entrenched
political machine; and I did that by building an
organization brick by brick, and worked my tail off to
get elected, against a twenty-year incumbent.

That was brought to the attention of Mr.
Colavita, who felt that I was a good leader, and elected
official.

I came to the County with a very naive
approach to government. To me they are intertwined,
government and politics are intertwined. In every aspect
of our life, politics plays a part.

When I came to Westchester County, with that
naive approach, I was there approximately two weeks, and
in my opinion, handling phone calls for a County
Chairman, who I thought was one of the best political leaders in the state.

There came a point when Mr. Colavita came out into the hall, as I testified previously --

Q Now we are talking about the Borchardt-Hughes meeting?

A Yes.

He said to me, "Fred, get rid of these guys for me."

Now, I stood in that hallway, and I said to myself, what do I talk to these guys about. I don't know who they are, what they're there for, or what they want.

I go into a tiny room off the side, because Mr. Colavita was holding a couple of other meetings.

Generally he would hold two, three meetings, and float around.

I went into the room and met Morgan Hughes, who is a consummate carny type. I was impressed with him right off the bat.

In other words, I testified that I had run two carnivals for handicapped kids prior to coming to the County, and I figured I would pick his brain while I was in that meeting.

We got into a discussion about how he got
into the carny business, what type of investments it
takes, small talk, basically impersonal talk.

Mr. Borchardt, to the best of my
recollecction -- and all of this is to the best of my
recollecction, because you're talking about seven years
ago -- to the best of my recollection, Borchardt kept
wanting to talk about rides at Playland.

I was given, if I remember correctly, some
kind of brochures or something from Morgan Hughes. He
was telling me how he ran the Wonder Wheel down in Coney
Island; he was at the World's Fair. I was really
impressed with this guy.

Now, there came a time when you run out of
words, you run out of questions to ask, and I did not
know the full intent of what he wanted in that meeting.

At one point -- that's it?

At one point Mr. Colavita peeked his head in
and said, "Is everything going all right in here?"
Everybody said, "Fine, fine."

When he left, these guys -- I think Morgan
Hughes was kind of like annoyed.

Q Did you --

MR. SCHWARZ: Could you go back, please,

Mr. Reporter, and read the question that that
answer was in response to.

(Record read as requested.)

THE WITNESS: You don't think I answered it.

MR. SCHWARZ: I think you could have answered it in a lot fewer words, "Yes, I understood; no, I didn't understand." Then he would have asked you, if you said yes, what was your understanding.

We will be here until 4:00 in the afternoon if you are going to answer questions like that.

MR. PISCIONERE: Mr. Schwarz, I think my client's desire here is to give you as full and complete an answer as possible.

THE CHAIRPERSON: Let me just make a suggestion; I think it will facilitate everyone's purpose.

The witness did answer the last question. I think there is an answer in the testimony he gave to the last question.

Since the witness is represented by counsel, I think counsel can be helpful in having the question answered as quickly as it can be answered.
At the conclusion of your testimony, if you feel there is additional information we should have, we would be more than happy to receive a written statement from you, which is your right to do under the Civil Rights Law.

I think it's important for the orderly conduct of this proceeding that witnesses, while having some latitude in response to the question, really need to respond to the question asked without a lot of, maybe helpful, maybe important background information. Otherwise, as Mr. Schwarz indicated, we will be here a long time.

THE WITNESS: Mr. Chairman, I understand that, and I thought it was pertinent for these Commission members to understand what I walked into in that meeting.

Could I also ask this Commission that I can comment, at the end of these proceedings?

THE CHAIRPERSON: I'll tell you what we will do. If you can answer the questions to the best of your ability, and if at any time you want to consult with your counsel, that is your right to do, and we will certainly give you the right to do that.
At the conclusion of your testimony, we will be happy to receive a short statement from you, and then, when you leave us, if you want to submit an additional written statement, we would be happy to receive that.

MR. PISCIONERE: That will be fine.

Thank you, Mr. Chairman.

THE WITNESS: Thank you.

Q Mr. Gioffre, let me refer you to the letter which is on the board up there, to the left, which has been marked Commission Exhibit 2.

Did there come a time after your meeting with Morgan Hughes that you received that letter?

A Mr. Bienstock, I do not recall receiving that letter.

Q Did you testify privately that you must have received it, even though you don't presently recall?

A The first testimony I made on that letter was an interview with the District Attorney's office, and when they questioned me on this matter. And then they showed me the letter, I was surprised that that letter existed.

COMMISSIONER VANCE: Why; why were you surprised?
THE WITNESS: I don't ever recall getting it.

Q Did you say publicly to the press that you got the letter and tore it up?

A I don't know if I said that to the press. I said, when the District Attorney -- Assistant District Attorney -- had questioned me, "Well, if you got this letter what did you do with it?"

My answer to that was, "If I received that letter, and I had no input into the decision-making process, I probably threw it away."

THE CHAIRPERSON: In any event, it is your present testimony that you don't recall receiving that letter?

THE WITNESS: I don't recall receiving that letter.

Q Do you recall seeing the proposals which are indicated were an attachment to that letter?

A The Assistant District Attorney asked me the same question, and I told him I don't recall ever seeing the proposals, let alone receiving them, or vice versa.

Q How about the other letter, the one on the right, which is Exhibit 1? Do you recall ever seeing that letter?
A  No.

Q  Are you more certain of that than you were of the other one?

A  To me, you know, both letters are the same. I don't recall receiving either one of them.

Q  Could you tell us what the address is on Exhibit 2, the one on the left?

A  That is Post Office Box 883. That is my Town Republican Committee box.

Q  Did you give Mr. Borchardt and Mr. Hughes your card on the day you met them?

A  Now, I testified that I possibly gave them a card, because, like I said earlier, as a Councilman, you know, I was -- from the day I got into public service and politics -- all right, I have always saw that as, you know, helping people wherever I can.

So, I probably gave them a card. That is an assumption. Otherwise, how would he have gotten the address?

Q  With respect to the letter on the right, Exhibit 1 --

THE CHAIRPERSON: What is the question?

MR. BIENSTOCK: Give me a moment, Mr. Chairman.
Q The letter indicates, "I'm sure that Fred Gioffre turned over the detailed plan to you, as he promised."

During the meeting with Mr. Borchardt and Mr. Hughes, did you promise to turn over anything to Mr. Colavita?

A I don't recall promising him anything.

Q Did you tell Mr. Borchardt, and Mr. Hughes, in words or substance, that you would do what you could to help them?

A Now, when I gave that testimony, I said that my normal MO, or normal procedure, when I meet people who ask me things, is that I would help them the best I can. That is the way I do things.

Q Whether or not you intended to help them; right?

A I tried to clarify that in my deposition. When someone asks you to help them, in my heart I would like to help them, but it is not always -- it is not always the case. If you don't have the authority, or the power to help someone, how can you? On the other hand, I can't find it within my heart to tell someone, no, I can't help you.

Q Is that because politics is a game of smoke
and mirrors?

A I mentioned that in the deposition, politics is a game of smoke and mirrors.

Q Did you mean by that you would tell people you could help them, even if you couldn't?

A I have done that a number of times in my career.

My testimony was I probably might have done that. I don't know if I did.

My MO is that I generally would end a conversation with, sure I'll help you if I can, or something to that effect.

Q Did you do anything to help them?

A To help who?

Q Borchardt and Hughes.

A I don't recall doing anything to help them.

Q Didn't you, in fact, deliver their proposals to Ed Kilcullen?

A I testified that I don't recall delivering proposals to Ed Kilcullen.

Q Do you --

A Is it possible? It could have happened. I don't recall.

Q Let me refer you, again, to the letter on
the left, Exhibit 2, and move forward in time to 1988. Do you recall that there was a time when an ad hoc committee was set up to investigate the Morgan Hughes contracts; do you recall that?

A Which letter are you talking about?

Q I'm going to ask you about the letter on the left. My first question is, do you recall a time when an ad hoc committee was set up to investigate the Morgan Hughes contracts?

A I vaguely recall the County Executive putting together some type of a committee.

Q Now, in 1988 did the County Attorney, Mr. Logan, call you, or speak to you in his office, and question you about the letter on the left?

A Yes. I believe that is so, yes.

Q And what did he say, and what did you say?

A He said, "Fred, I have this letter here, which states that you were at a meeting with Morgan Hughes."

I said, "Henry, I have already been interviewed by the District Attorney in reference to this letter, and my statement to them was, 'I don't recall receiving the letter.'"
I believe that was -- I don't know, word for word, and it was a brief discussion in his office.

Q Did he ask you anything else?
A He could have.

Q "He" being Mr. Logan?
A Yes.

I explained to him the same thing I explained to this commission a few minutes ago. I was surprised at this letter.

Q Did he ask you how a letter like this could end up in Playland's files?
A Yes, I believe he did.

Q What did you say?
A I don't know.

Q Did he ask you whether you discussed these proposals, referred to in the letter, with anyone in County government?
A I don't recall if he asked me that question.

Q Did he ask you whether you had any other letters like this?
A I don't recall if he asked me that, either.

Q Do you recall him using the term "depth charges"?
A Deft?
Q  "Are there any more depth charges around?"
A  D-e-f-t?
Q  D-e-p-t-h.
A  I don't recall him saying that.
Q  At or about the time you talked to Mr. Logan, did you also have a conversation with Mr. Colavita about this letter?
A  At or about the time that I talked to Mr. Logan I believe, within maybe even that day, that letter hit the media, or the next day.
Q  And could you answer my question?
A  Yes, I did.
Q  What did you say, and what did he say?
A  Who and who?
Q  Mr. Colavita and you.
A  When that letter hit the media, we had a discussion. He asked me about the letter. I said, "Tony, I don't recall ever getting the letter."
I believe his response, as well, was, the media is going to play this thing up in a big way, or whatever.
I'm not using exact words, this is to the best of my recollection.
We discussed, you know, how to handle the
At that time you were in County government; right?

I believe I was.

What position did you occupy?

When Henry Logan questioned me on the letter?

You just said at that time --

1988, Mr. Chairman.

Assistant to the County Executive.

Thank you.

Let's get to that.

You worked for Mr. Colavita, and then there came a time when you got a position in County government; right?

Yes.

When was that?

At the first interview I wasn't sure on the exact date, but it was some time in February.

February of 1983?

Yes.
You produced -- not you, somebody else, produced some kind of document.

Q You wouldn't quarrel with February 28, 1983; right?

A I don't know, because those things were moving so fast at that time that I just -- I started government.

Q How did it come about that you got a job in government?

A I have testified that the County Executive asked me to join his administration. We had a discussion about his administration.

Q Did Mr. Colavita recommend you for that job?

A I believe he, at some point, recommended me, when or where, I don't know.

Q And when you went to work for the administration, where did you physically work?

A I worked in a little office, on the first floor, in the Information Center.

Q The first floor of what?

A The County Office Building.

Q And what were your duties?

A I was a director of the Information Center.

Q And could you expand on that? What does
that mean?

A  It is an office that has varied duties, primary being a referral agency for the County of any inquiries into County government.

We receive somewhere around 23,000 or so calls a year, asking all sorts of questions, from all over the United States.

We also house and contain in that office the spay-neuter clinic, the animal locating service.

At one point there was a health -- someone from Mental Health there.

We have the senior cards, senior passes, senior cards and park passes. We also have a little portion where County ID cards -- identification cards, photographs were taken at one point, in that office.

Q  You are speaking of the present tense. Do you still hold that job?

A  I still hold that job, under a different title.

Q  What is that?

A  My official title is Assistant to the County Executive.

Q  Have your duties changed materially since then?
A They have been added to. My responsibilities have increased.

Q Isn't it fair to say, Mr. Gioffre, that you serve as a go-between between the County Republican Party and the Government?

A I don't know if that is fair, but there is a perception of that.

Q Is that smoke and mirrors, too?

A Excuse me?

Q Is that a good thing, that there is a perception of that?

A Is that a good thing? It depends on who I'm talking to, and the time I'm talking to them.

Q And there are situations in which it is important that you be perceived as a go-between between government and the party; isn't that correct?

A Important to who?

Q To the people you are talking with.

MR. PISCIONERE: Counsel, are you asking him for other people's impressions of what his position is?

MR. BIENSTOCK: No.

A I am --

MR. PISCIONERE: I don't understand the
question. Perhaps you can rephrase the question.

Q Is it important to you that you be seen in certain circumstances as a go-between between Mr. Colavita and County government?

A Well, then I would have to get into one of these long definitions of what I -- of how I feel about power and authority.

So, in order to answer that question, I don't --

THE CHAIRPERSON: I gather you can't answer it yes or no?

THE WITNESS: It is not so important to me.

THE CHAIRPERSON: He answered the question.

Next question.

Q You said that the perception has been created that you are a go-between; is that right? Did I hear you correctly?

A I said that the perception exists. Are those my exact words?

Q Do you know what has caused that perception to exist?

A The only way I can answer that question is, the perception exists because before I came to County government, I served as an assistant to the County
Chairman.

Q And you are still close to Mr. Colavita; correct?

A Yes.

Q Now, when you first came into County government, you were the Director of the Information Center. Is that a position for which you have to take a Civil Service test?

A No, it's an appointed position.

Q And could you tell us what your salary was at the time you first began in County government?

A Somewhere in the vicinity of $30,000.

Q And have you ever taken a Civil Service test?

A No.

Q So, you still hold an appointed position?

A An appointed position.

Q Can you tell us what your salary is now?

A I believe in my last deposition statement was made, $42,000 or so. It is somewhat higher than that. I'm a Group 15, Step 5.

Q Do you know what your salary is today?

A I think it is in the vicinity of the high fifties, early sixties, maybe. I'm taking an educated
guess at that.

Q Now, as the Director of the Information Center, aside from whatever employees you have immediately reporting to you, is personnel part of your job?

A The personnel office is physically located across the hall from me.

Q Is personnel part of your job?

A Not directly.

Q Well, how; indirectly?

A I have, over the years, worked closely with the County Executive in relation to some personnel.

Q Any particular category?

A No particular category.

Q Just on an ad hoc basis?

A You mean as counsel to the County Executive? I don't understand your question.

Q You said you have worked with the County Executive on certain personnel matters. My question is, what types of personnel matters?

A In discussions with him.

Q Do you know who Ed Kilcullen is?

A Yes.

Q In the summer of 1983 did you inform Ed...
Kilcullen that Mr. Keeler -- I take it you know who Mr. Keeler is?
A Yes, I know who Mr. Keeler is.
Q Did you inform him that Mr. Keeler was going to be sent to the park to help him?
A It is hard for me to understand this, because in the last deposition that question was asked of me, and how I got that information I don't recall. It's possible that I did pass on information. To the best of my knowledge, I testified that that information could have been gotten in the rumor mill of the County Office Building, or it could have been gotten right from the County Executive.
Q Do you recall, as you sit here today, informing Mr. Kilcullen that Mr. Keeler was coming out to the park?
A No, I don't recall that.
Q Do you know who David Warager is?
A Yes, I do.
Q In 1985 did you talk to David Warager about a potential job in the County Attorney's office?
A I believe that that process started way before that.
Q Did you talk to David Warager about a
potential job in the County Attorney's office?

MR. PISCIONERE: What time frame are we talking about?

MR. BIENSTOCK: Any time.

A I don't recall talking about any specific job with him, but David was a law student, and he wanted to get into either the District Attorney's office, the County Attorney's office. He needed to graduate law school and pass the bar. So, that process started before he graduated law school and passed the bar.

Q After that, did you talk to him about a job in the County Attorney's office?

A I might have.

Q Now we had some testimony yesterday about a conversation between you and Mr. Vetrano, and Andrew Spano.

Are you familiar with the testimony we had yesterday?

THE CHAIRPERSON: Can you be a little bit more specific, Counsel?

MR. BIENSTOCK: Yes.

Q Did you have a conversation at which you were present, Mr. Vetrano was present, Andrew Spano was present, concerning jobs in the County Clerk's office?
MR. PISCIONERE: What time frame are we talking about?


A I don't recall having a conversation.

Q I only really have one more subject that I want to ask you about, and it relates to your testimony about Mr. Morrow, and your description of him back at the time when he lost the election.

Did you become aware of Mr. Morrow's testimony yesterday?

A Yes.

Q And how did you become aware of that?

A I have -- I had two students that are friends of mine come here and take notes yesterday.

Q Did you review those notes?

A Yes.

Q Did you have a conversation yesterday, after that testimony, with Mr. Colavita?

A Did I have a conversation with Mr. Colavita?

Q Yes.

A I discussed that matter with my attorney and staff.

Q I don't understand the answer to that.

A Excuse me one second.
MR. PISCIONERE: Counselor, if you're asking him what he did yesterday in preparation for today's hearings, my client is going to assert the attorney-client privilege.

MR. BIENSTOCK: I didn't ask him anything to do with his attorney, I asked him about conversations with Mr. Colavita.

MR. PISCIONERE: Counselor, my client had discussions yesterday with his attorney and others regarding today's hearings; okay? He is asserting the privilege as regards to those discussions.

MR. SCHWARZ: What others were present, sir?

MR. PISCIONERE: That is part of the privilege, sir.

MR. SCHWARZ: You need to define who was present, in order to determine whether or not you have any privilege.

THE WITNESS: Mr. Colavita was present.

Q And who else?

A Mr. Parisi.

COMMISSIONER VANCE: Who is Mr. Parisi?

THE WITNESS: Counsel to the Westchester County Republican Committee.
COMMISSIONER VANCE: Thank you.

THE WITNESS: Mr. Vetrano.

COMMISSIONER VANCE: Who is he?

THE WITNESS: The Director of the County Republican Committee.

What else?

Q Is that all of the people who were there?

A Carol Sunderland.

Q And who is that?

A And Mr. Keeler.

Q Who is Miss Sunderland?

A Miss Sunderland is the Vice-Chairperson of the Westchester County Republican Committee.

I believe that is it.

Q Could you tell us the substance of that conversation.

MR. PISCIONERE: Counsel, with regard to the substance of what was discussed, the people who were in the room last evening were two attorneys with respect to clients. Based upon that, Mr. Gioffre is asserting the privilege at this time.

MR. SCHWARZ: Are you taking the position, then, as I understand it, that Mr. Keeler is
within the attorney-client privilege that you are asserting?

MR. PISCIONERE: He is part of the staff at the Republican headquarters, yes.

MR. SCHWARZ: This is a privilege that you are asserting on behalf of the staff of the Republican County committee; is that it?

MR. PISCIONERE: That is correct.

MR. BIENSTOCK: Also, Mr. Gioffre is a member of the staff.

THE WITNESS: I am a volunteer.

COMMISSIONER VANCE: Have they authorized you to assert that privilege on their behalf?

MR. PISCIONERE: They are the only ones authorized to waive that privilege.

THE WITNESS: I am basically a volunteer. I don't hold any official title in the Republican Committee.

Q Who is Carol Sunderland?

A The Vice-Chairperson of that party.

THE CHAIRPERSON: Any other questions?

MR. BIENSTOCK: I have no further questions at this time.

THE CHAIRPERSON: Mr. Vance.
COMMISSIONER VANCE: I would like to ask you a few other questions about the letter which was written to you by Mr. Borchardt, what I believe is Exhibit No. 2 in the book that you have in front of you.

You said --

MR. PISCIONERE: What are you referring to?

COMMISSIONER VANCE: The same thing up there.

You said you didn't recall receiving that letter, and then you were asked about the conversation with Mr. Hughes in 1988.

MR. PISCIONERE: There was no conversation with Mr. Hughes.

COMMISSIONER VANCE: Mr. Logan.

And in connection with your testimony, you said that, at that time you talked to Mr. Colavita about that letter.

Would you, please, describe who called whom, how that conversation came about, and give me, in more detail, what was said between you.

THE WITNESS: You mean Mr. Colavita's conversation, sir?

COMMISSIONER VANCE: Yes.
Did he call you, or did you call him about it?

THE WITNESS: I believe I went to see him about it, because it was either pending, or it was -- it was either about to be released in the paper, or it had been released the next day, or that day. I don't recall that.

COMMISSIONER VANCE: And what did he say to you, or you to him?

THE WITNESS: He asked me about the letter, and I refreshed -- I explained to him that I don't recall receiving that letter.

COMMISSIONER VANCE: And what did he say?

THE WITNESS: I don't remember exactly what his answer was.

I would just be -- I believe we then got into a discussion about the meeting that that letter was referring to. I believe that.

COMMISSIONER VANCE: Do you recall anything further about that conversation?

THE WITNESS: I described to him, to the best of my recollection, what transpired the day that Mickey Hughes came to the headquarters.

COMMISSIONER VANCE: And was that the same
as what you have told us this morning, early on?

THE WITNESS: Yes, I believe so.

COMMISSIONER VANCE: Why did you go to see Mr. Colavita? You were working at that time as assistant to the County Executive?

THE WITNESS: I have gone to Mr. Colavita from time to time for counsel; and I knew that this letter was going to cause some problems once the press got ahold of it, whatever.

COMMISSIONER VANCE: Did you talk to Mr. O'Rourke, for whom you were working?

THE WITNESS: I believe I had a conversation with Mr. O'Rourke, first.

COMMISSIONER VANCE: What was that conversation?

THE WITNESS: This letter turned up, and I explained to him, almost in the same way I explained to this commission, what preceded the meeting with Mickey Hughes, that my position on it was that I never saw the guy again; I don't recall doing anything as a follow-up; and that I'm basically an honest and sincere person.

He was -- I was working for him.

COMMISSIONER VANCE: What did he say?
THE WITNESS: He said I'm one of the most honest and sincere persons that work for him in government.

COMMISSIONER VANCE: What else did he say?

THE WITNESS: I don't recall anything else.

COMMISSIONER VANCE: Did you discuss strategy as to how to handle the letter?

THE WITNESS: He told me that he sent it over to the District Attorney's office.

I was a little surprised that he didn't tell me about the letter before he did that.

COMMISSIONER VANCE: Why were you surprised?

THE WITNESS: Because I felt I needed a chance to defend myself.

COMMISSIONER VANCE: Anything else about that conversation?

THE WITNESS: That is about it.

COMMISSIONER VANCE: Did you discuss strategy with respect to that letter? You haven't answered that question.

THE WITNESS: I was not involved with the strategy sessions of Mr. O'Rourke.

COMMISSIONER VANCE: And it was not
discussed in that conversation you had with him?

    THE WITNESS: He told me that if there were any wrongdoing, the District Attorney would, you know --

    COMMISSIONER VANCE: That is all.

    THE CHAIRPERSON: Two follow-up questions.

    Did Mr. O'Rourke suggest that you get in touch with Mr. Colavita after that conversation?

    THE WITNESS: I don't recall him telling me that.

    THE CHAIRPERSON: Earlier in your testimony you made reference -- you said that you were surprised when you saw that letter for the first time, whenever that was.

    Will you explain what you meant by that statement, that you were surprised.

    THE WITNESS: Well, when the District Attorney was -- first of all, the District Attorney came over to my office and slowly moved into the office. I was sitting there with a broken leg. I think it was a broken leg. I think I had a fractured ankle.

    Two people jump into my office. They identify themselves as working for the District
Attorney. They said, "We would like to talk to you."

I said, "Fine." I pulled out my schedule. They said, "No, right now." I said, "Sure."

I went over to the District Attorney's office, sat down for an hour-and-a-half, or two hours, at the time; I don't recall; and discussed this letter.

That wasn't the only thing we discussed.

At one point in that interview one of the Assistant District Attorneys says, "Do you recognize this letter?" and drops it on the desk.

I looked at the letter, and I said, the way I'm telling you right now, here, "I don't recall ever receiving this letter."

That is it.

THE CHAIRPERSON: Commissioner Magavern.

COMMISSIONER MAGAVERN: When you discussed with Mr. Colavita how to handle the letter in response to media inquiries, what suggestions did Mr. Colavita give you?

THE WITNESS: He said, to the best of my recollection, "Fred, just be as honest as you can be."
COMMISSIONER MAGAVERN: You referred in your testimony a while ago to the possibility that you called Mr. Kilcullen, to tell him that Mr. Keeler would be coming over to help out at Playland, and you said that you could have received that information either from the rumor mill, or from the County Executive, himself.

Do you recall that testimony?

THE WITNESS: Yes.

You mean the testimony with Tom McShane?

COMMISSIONER MAGAVERN: No, I think it was with Mr. Bienstock.

THE WITNESS: You mean a few minutes ago?

COMMISSIONER MAGAVERN: Yes?

THE WITNESS: Okay.

COMMISSIONER MAGAVERN: If you had just learned through the rumor mill that Mr. Keeler would be going over to Playland, would you then have called Mr. Kilcullen, to tell him what you had heard in the rumor mill?

THE WITNESS: I don't recall calling Mr. Kilcullen.

COMMISSIONER MAGAVERN: I'm asking in terms of your practice. Would it be your practice, if
you learned something from the rumor mill at that
time, to call Mr. Kilcullen?

THE WITNESS: Not him specifically. We
must have been in some kind of conversation.

I don't know if it was by telephone, or in
person, because I don't recall the conversation.

It first was asked of me in this
deposition -- and that surprised me, you know,
that I told Mr. Kilcullen.

Then, in Mr. Kilcullen's testimony
yesterday I believe he testified that he learned
it from me.

Now, that would be very -- to me that is
very surprising, because he works for the County
Executive.

Now, why would he take it as gospel that
Dick Keeler is coming over there, if I told him
that?

COMMISSIONER MAGAVERN: You were assistant
to the County Executive at that time; were you?

THE WITNESS: No, I wasn't, I was just
basically -- I just knew Kilcullen for a number of
years.

COMMISSIONER MAGAVERN: Were you assistant
to Mr. Colavita at that time?

THE WITNESS: I don't recall the conversation with him.

COMMISSIONER MAGAVERN: At the time.

MR. PISCIONERE: What time are we talking about?

COMMISSIONER MAGAVERN: I'm talking about shortly before Mr. Keeler went over to Playland. You have referred to a conversation you heard about from Mr. Kilcullen's testimony yesterday.

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Now, in about that time, the time of the conversation, you testified you learned it from Mr. Kilcullen's testimony.

MR. BIENTHOCK: June of 1983, Mr. Magavern.

THE WITNESS: I was Director of the Information Center.

COMMISSIONER MAGAVERN: At that time you were working for the County Executive; right?


COMMISSIONER MAGAVERN: Now, if you did tell Mr. Kilcullen, I recognize you said you possibly did, you possibly didn't, you don't
recall; but I'm asking in terms of your practices at that time, if you did call him, or if you did inform him that Mr. Keeler would be coming over to help out at Playland, does that indicate to you that you must have gotten a direction from Mr. O'Rourke to tell him that?

THE WITNESS: If you want to know what my belief is.

COMMISSIONER MAGAVERN: Yes.

THE WITNESS: I believe that Mr. O'Rourke had notified Mr. Kilcullen, and that he should really review, in his mind, how he was notified. That is my belief.

COMMISSIONER MAGAVERN: Okay.

If you happen to be the one to inform Mr. Kilcullen, would you have been acting at Mr. O'Rourke's direction, Mr. Colavita's direction, or your own initiative, based on the rumor mill?

MR. PISCIONERE: If he doesn't remember doing it, how can he remember whose direction it was at?

COMMISSIONER MAGAVERN: He knows what his practices were, and he knows what his job was and what his relationships were with those people.
MR. PISCIONERE: You're asking about a specific instance.

COMMISSIONER MAGAVERN: I'm asking if it would be consistent with his practice.

THE WITNESS: I would like to answer that.

COMMISSIONER MAGAVERN: Answer it.

THE WITNESS: If the conversation took place -- and I tell you here honestly, look you in the eye and tell you, I don't remember that conversation -- I would be acting on my own, passing on information.

I have no authority. That is what surprises me about Mr. Kilcullen's testimony yesterday.

COMMISSIONER MAGAVERN: Was it your practice to act on your own --

THE WITNESS: Passing information?

COMMISSIONER MAGAVERN: About prospective appointments in County government.

THE WITNESS: We are all men here; information is what makes this world go around.

If I pass information on, it is something that I heard, regardless of where I heard it from.

Information is important.
COMMISSIONER MAGAVERN: And if the information comes to you because of your position as an assistant to the County Executive --

THE WITNESS: Which I wasn't, I was Director, anyway.

COMMISSIONER MAGAVERN: Were you acting informally as an advisor to Mr. O'Rourke at that time, when you were Director of the Information Center?

THE WITNESS: If the conversation took place, I don't believe that I was acting informally for the County Executive.

I have to believe the County Executive notified him, himself.

COMMISSIONER MAGAVERN: In general, not referring to this conversation, when you served as Director of the Information Center, were you serving, also, as an advisor and assistant to the County Executive?

THE WITNESS: Maybe I can answer that question for you. I am not in the habit of dropping names. In other words, Mr. O'Rourke, who I was close with, and Mr. Colavita, who I was close with, one was a governmental leader, the
other was a political leader. But I do not go
around bragging, or dropping their names.

I believe that power and authority are a
very personal thing. I don't need to drop their
names.

When I look at someone, like yourself, I
look you right in the eye. I don't look up at
you, I don't look down at you, I look you right in
the eye. That is how I operate.

COMMISSIONER MAGAVERN: Let me ask this:
Was your practice at that time, if you got some
information from Mr. O'Rourke, or Mr. Colavita,
without a direction to communicate it to a third
person such as Mr. Kilcullen, would you have
informed Mr. Kilcullen of that information,
anyway?

THE WITNESS: I would probably say, hey,
Ed, you know, there is rumor, or there is
discussion going on about, say, Dick Keeler, or
anybody else, or whatever the situation is, that
this is going to happen. Government offices are
absolutely full of rumors, and information.

COMMISSIONER MAGAVERN: By passing on that
information, would that enhance the impression of
your authority and power in politics and
government, by passing on that information?

    THE WITNESS: I did not need to impress Mr.
    Kilcullen.

    COMMISSIONER MAGAVERN: Do you remember
testifying that politics is a game of smoke and
mirrors, one of the important things is to impress
people with your power in politics?

    Is that a fair summary of your testimony in
deposition?

    THE WITNESS: I don't know if that is fair.
    I said politics is a game of smoke and mirrors,
and it is mostly about information.

    A lot of people go around talking like they
have, you know, the inside information.

    Now, do I practice that; is that your
question, do I practice that, is that my way of
life?

    COMMISSIONER MAGAVERN: I'm asking do you
recall testifying in your deposition that you
would give people the impression that you had the
power to help them, even if you did not have that
power.

    MR. PISCIONERE: Counsel, if you're
referring to some specific area of his transcript, perhaps you can refer him to the pages; that might be a little more helpful.

COMMISSIONER MAGAVERN: Let me ask him if he remembers generally, and, then, if we have to, we can get the pages.

THE WITNESS: You mean smoke and mirrors, what it means to me?

COMMISSIONER MAGAVERN: Yes.

THE WITNESS: The whole smoke and mirror thing is perception.

MR. BIENSTOCK: Page 73, 74.

THE WITNESS: What is the page?

THE CHAIRPERSON: 73 and 74.

COMMISSIONER MAGAVERN: If you have that page, why don't we read it into the record, please.

THE WITNESS: Who should read it?

COMMISSIONER MAGAVERN: I will give you the question, and I'll ask you to read your answer.

Page 73 line 22, were you asked this question? "How can you help him if you have no input whatsoever into these decisions?"

Now, can you read your answer.
THE WITNESS: I have something different.
You gave me the wrong page.

MR. PISCIONERE: This is testimony referring to the Borchardt letter; is that correct?

COMMISSIONER MAGAVERN: It refers to Mr. Hughes.

I'm talking about his attitude and his practice in government, which he got into by telling us about his beliefs, and the like.

To make this a little clearer, let's go back to line 19. Let me go back to line 19.

THE WITNESS: All right.

COMMISSIONER MAGAVERN: Line 19, "But yet you told Mr. Hughes that you would see what you could do for him" -- I will go back a little further.

I don't want to delay this.

Is it fair to say, in your prior answer, at line 16 --

MR. PISCIONERE: Where are you?

COMMISSIONER MAGAVERN: Line 16, referring to the letter, which is Exhibit 2 in this hearing, you said, "I probably did what I do with all junk
mail, I threw it in the garbage, because I don't have any input into those decisions."

That was a reference to Exhibit 2; isn't it?

THE WITNESS: That was my recollection of the -- of my interview with the District Attorney's office, which is the same answer I gave now.

COMMISSIONER MAGAVERN: Now, at line 19, using that as a reference point, you were asked this question; and I'll read it to you.

"But yet you told Mr. Hughes that you would see what you could do for him and try and help him out; isn't that correct?"

Will you tell us what your answer is.

THE WITNESS: I said I would help him, if I can.

COMMISSIONER MAGAVERN: You were asked how you can help him, if you have no input into these decisions.

What was your answer?

THE WITNESS: Politics is a game of smoke and mirrors, and people think you have power. Am I going to say no, I can't do anything for you?
So, I have always been of the mind to say
to anyone who asks me for help, "Sure, if I can
help you, I will."

COMMISSIONER MAGAVERN: Thank you.
I'm going to drop the subject at that
point, Mr. Gioffre, and go on to another subject.
You just indicated if you did receive that
letter, which you don't recall, you probably threw
it away.

Now, do you think there would have been
anything inappropriate in taking that letter to an
appropriate person in County government with
authority to do something about that letter?

THE WITNESS: Sir, at the beginning of my
testimony I told you that when I came over to the
County Republican Committee I had a very naive
approach to politics in government.
I had just overcome a great adversity in my
life, and got -- excuse me.
I got involved in politics, and I felt that
I could use that adversity to be an example for
other young people to get involved in government,
in politics.

I don't know if that answers your question.
COMMISSIONER MAGAVERN: My question is, if you received that letter, and you were trying to help someone, why wouldn't you have taken it to someone in County government with authority to respond to that letter, the County Executive, the Director of Playland, the Commissioner of Parks and Recreation, some other County official? Why didn't you do that?

THE WITNESS: I don't know that I didn't. I just testified that I don't recall receiving the letter.

COMMISSIONER MAGAVERN: You did testify, though, that if you got it, you probably threw it away.

THE WITNESS: That was my answer to the Assistant District Attorney at the time.

He said, "What would you have done with a letter like that?" I said, off the top of my head, "I probably threw it away."

COMMISSIONER MAGAVERN: Now, with the benefit of further opportunity to reflect, do you think that you probably would have done something else with it, other than throw it away?

THE WITNESS: I don't recall receiving the
letter, sir.

COMMISSIONER MAGAVERN: I'm asking --

MR. PISCIONERE: Commissioner, are you

asking him to speculate as to what he might have
done with this letter? Is that what we are
getting into, that type of speculation?

COMMISSIONER MAGAVERN: I think my question

is clear enough. I think it stands on it's own.

I asked what he would have done.

By that I mean what was consistent with his

practices at that time.

THE WITNESS: I really can't answer that

question.

COMMISSIONER MAGAVERN: Specifically, let

me ask you this: Would you have thrown it away

because you would have thought it would have been

inappropriate, maybe even improper, for you to

receive a letter in your capacity as a party

official, and then take it to someone in County

government?

THE WITNESS: Sir, in hindsight I wouldn't

even have sat in on that meeting.

For fifteen minutes of my life, seven years

ago, I end up with my name all over this place. I
end up with the media tomorrow, or the next day, is going to take me apart.

My reputation and my integrity, and my career are standing on the line here. My family is standing on the line here, because of a fifteen-minute meeting that I recall very vaguely, and a letter that I don't recall ever receiving.

How do I feel about that?

COMMISSIONER MAGAVERN: Mr. Gioffre, I think you have made an important point. I'm glad to have had that testimony, I think it's helpful to the Commission. It leads me to ask you a further question or two.

Now, with the benefit of this experience, in hindsight, which is always great for all of us, looking back on it, recognizing that you have been a person who thinks -- who believes in being active in politics and government, considers that important for citizens to do --

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: You are doing it because, at least in part, out of interest in the public good.

THE WITNESS: All.
COMMISSIONER MAGAVERN: Entirely. You have played by the rules of the game, as you understand them.

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Given this experience that you have been through, and looking back on it, do you see a need for a change in the rules of the game in order to avoid in the future people in politics and government getting into the kind of situation you found yourself in?

THE WITNESS: Your question is preceding a statement which I feel I would like to make, because everyone else was asked a similar question about patronage and government.

COMMISSIONER MAGAVERN: I welcome your statement at the conclusion of your testimony. For right now, please, I would like to have my question read back,

Because it is an important question to me, and I think to the Commission, it gets at the whole point of these hearings, which is to look for ways -- first to determine whether it's necessary to change the rules of the game; secondly, to identify what those changes ought to
THE WITNESS: Great.

COMMISSIONER MAGAVERN: I would like you to focus on that, and I'll ask the question be read again, please.

(Record read as requested.)

COMMISSIONER MAGAVERN: I'll rephrase the question.

Let me preface it this way, Mr. Gioffre.

If, having heard the question, you believe that it is directly and clearly answered in your closing statement, and you want to hold your answer until your closing statement, that would be acceptable.

I would like you to be sure that it will be covered in your closing statement, because I don't want to miss the opportunity to get the benefit of your own reflections and your own experience.

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Rephrasing my question, it is whether -- it's in two parts -- whether, given the benefit of hindsight, now you believe that the rules of the game governing politics and government ought to be changed in a
way that would help avoid putting people like
yourself into the kind of treacherous position you
found yourself in?

THE WITNESS: I'm not sure I understand it
now.

COMMISSIONER MAGAVERN: You have testified
that you never would have -- looking back at it
now, you realize you never should have had that
meeting with Mr. Hughes; right?

THE WITNESS: I wish I didn't. I should
have put the proposals into the County Executive's
hands.

Is that an answer to it?

COMMISSIONER MAGAVERN: Do you think you
probably should have avoided having a meeting with
Mr. Hughes at party headquarters?

THE WITNESS: I think I already testified
to that, that that meeting turned out to be a very
disturbing meeting in my life, in my career,
because for the last two years this sword has been
held over my head.

COMMISSIONER MAGAVERN: Was it disturbing?

THE WITNESS: I would still like to do my
closing statement.
COMMISSIONER MAGAVERN: Was it disturbing to you at the time? Did you feel uneasy about it at that time?

THE WITNESS: I functioned. In other words, Fred, get rid of these guys.

THE CHAIRPERSON: The witness' hand went like an accordian.

THE WITNESS: I functioned at the time.

I was doing a lot of things, was asked to go into this meeting, stepped into the meeting.

COMMISSIONER MAGAVERN: Do you think a rule that potential vendors to government should be required to submit all proposals on the record to the government, and that all meetings with government officials should be logged in the government's offices, do you think a rule of that kind might help to avoid situations like this in the future?

THE WITNESS: I have a feeling that you're an idealist, like I am.

COMMISSIONER MAGAVERN: Maybe we agree, maybe you will say yes.

THE WITNESS: In the business world, as well as in government, people lobby people for...
positions.

Maybe there should be some rules of who they saw, or who they talked to. I don't know if that is practical.

COMMISSIONER MAGAVERN: Do you think it's appropriate for the lobbying, in the first instance, to be to the party officials, rather than the government officials?

THE WITNESS: I believe I testified that I didn't know if they had gone to the County Executive, Hughes and company, or to the Chairman of the Board of Legislators, or even to the Democratic Party.

I don't know what they did up to that point, or what they did after that point.

COMMISSIONER MAGAVERN: Ignoring this particular incident, whatever the case may have been, do you think it's appropriate for a prospective vendor to go, in the first instance, even hypothetically, to go in the first instance to party officials, rather than government officials?

THE WITNESS: No, I think they should go to the proper authorities, the government officials.
COMMISSIONER MAGAVERN: Do you think that the process --

THE WITNESS: That is from my government side.

From my political side, I stand with my first statement.

COMMISSIONER MAGAVERN: Do you see a need for a clearer and tighter set of rules governing the contracting process in government?

THE WITNESS: Probably, but I wouldn't know how to go about that.

COMMISSIONER MAGAVERN: That is all I have.

Thank you, Mr. Chairman.

THE WITNESS: Thank you.

THE CHAIRPERSON: Commissioner Emery.

COMMISSIONER EMERY: Referring to the meeting that you had last night for a moment, did you speak with Mr. O'Rourke about the testimony that your students took here yesterday?

THE WITNESS: Last night?

COMMISSIONER EMERY: Yes.

THE WITNESS: I didn't speak to him last night.

COMMISSIONER EMERY: Did you speak to him...
about the testimony, on the notes, concerning the
notes that your students took, about yesterday's
testimony, at this hearing?

THE WITNESS: No, I didn't.

COMMISSIONER EMERY: Do you have any
knowledge of any of the people at your meeting
last night speaking to him about the testimony?

THE WITNESS: I have no knowledge about
that.

COMMISSIONER EMERY: Jumping back, was
there ever a time, in the area of 1982, I think it
must have been -- correct me if I'm wrong -- where
you had conversations with Mr. Colavita about Mr.
Morrow, and problems that Mr. Colavita may have
felt he was having with Mr. Morrow in the County
Clerk's office?

THE WITNESS: Mr. Morrow's problems spilled
over into the political process, because at one
point Mr. Colavita had to call an emergency
meeting of the leaders, and I believe that meeting
took place in New York City. There was a big
debate over --

COMMISSIONER EMERY: Can you set the time
for this, approximately?
THE WITNESS: It preceded, to the best of my recollection, it preceded his nomination.

COMMISSIONER EMERY: Okay.

THE WITNESS: At this meeting the leaders were in total disarray whether this man should be a candidate, but for a lot of other reasons, which I'm going to refer to.

COMMISSIONER EMERY: Were you present at that meeting?

THE WITNESS: I was present at the leaders' meeting, yes.

COMMISSIONER EMERY: Now, did Mr. Colavita talk at that meeting, or at any other time, about his problems with Mr. Morrow with respect to Mr. Keeler?

THE WITNESS: I don't believe Mr. Keeler.

COMMISSIONER EMERY: Do you remember any information that Mr. Colavita spoke about with respect to his dissatisfaction with Morrow's dealing with Mr. Keeler, when Mr. Keeler was Mr. Colavita's driver, but on the payroll of the Motor Vehicles Department?

THE WITNESS: I don't recall any conversation in that area.
COMMISSIONER EMERY: You don't have any recollection of that?

THE WITNESS: I don't recall any.

COMMISSIONER EMERY: What about problems about time sheets for Mr. Keeler that Mr. Colavita may have mentioned?

THE WITNESS: That whole thing with Morrow and Keeler, I'm really not familiar with at all.

COMMISSIONER EMERY: What about placing people in general in jobs in Motor Vehicles? Did you have any conversations with Mr. Colavita about difficulties in that respect, placing party people in jobs at the Motor Vehicle Bureau?

THE WITNESS: I don't have any conversations with him about Motor Vehicles.

COMMISSIONER EMERY: Now, I take it that there was discussion of whether he should be nominated, and ultimately it was resolved in favor of nominating him; is that correct?

THE WITNESS: I voted against it.

COMMISSIONER EMERY: Ultimately there was a nomination that was placed with Mr. Morrow?

THE WITNESS: Yes.

COMMISSIONER EMERY: And what were the
concerns, if you could briefly describe them, concerning Mr. Morrow's nomination?

THE WITNESS: I just want these other Commissioners to listen.

COMMISSIONER EMERY: Go ahead. If they have to talk --

THE WITNESS: I think they should hear this.

COMMISSIONER EMERY: Mr. Chairman, he is concerned about other Commissioners talking.

THE WITNESS: No, he asked me a question, and I want --

THE CHAIRPERSON: It's a fair comment.

THE WITNESS: I want you guys to hear it.

THE CHAIRPERSON: I apologize, and I think it's a fair request.

Would you read back the question, please.

(Record read as requested.)

COMMISSIONER EMERY: Please try to be brief.

THE WITNESS: I'll try to be as brief as I can.

COMMISSIONER EMERY: All right.

THE WITNESS: Mr. Morrow was having a lot
of trouble with the Conservative Party, number one.

Number two, many of the leaders felt he was an incompetent Clerk.

Number 3, there were many charges floating around. And I'm not making a judgment here, I'm making an observation, about Mr. Morrow's moral conduct in that office.

COMMISSIONER EMERY: Okay.

Now, when you had your meeting with Mr. Hughes at Republican headquarters, what were you told in advance of that meeting, and who told you?

THE WITNESS: Mr. Colavita said, "Freddie, get rid of these guys." That was it.

COMMISSIONER EMERY: That is the only information you had about that meeting prior to the meeting?

THE WITNESS: That is it.

COMMISSIONER EMERY: Your testimony is that you never met Mr. Hughes prior to that, or subsequent to that?

THE WITNESS: Wait. Somewhere in the District Attorney's discussions I said I might have run into him at the park. That is a
possibility, because I had young children. Mr. Hughes' personality is the type of personality you don't forget. He is just a very -- he is like a consummate carny type.

COMMISSIONER EMERY: We are aware of that.

Now, did you perhaps run into Mr. Hughes at Republican fundraising events?

THE WITNESS: I don't recall running into him at Republican fundraising events.

COMMISSIONER EMERY: It could have happened, however?

THE WITNESS: I probably would have known that. I don't know if he attended them. He might have bought tickets, but not go.

COMMISSIONER EMERY: Now, were you aware that he was a contributor to the Republican Party in Westchester?

THE WITNESS: I was aware to the degree that when I -- these.

COMMISSIONER EMERY: You're referring to our charts?

THE WITNESS: Yes. These here.

COMMISSIONER EMERY: Now, were you aware of his contributions to various Republican
committees, and various fundraising events in the mid-1980's?

THE WITNESS: No, I wasn't aware of it.

COMMISSIONER EMERY: Did you ever have a conversation with Mr. Colavita about Mr. Hughes being a contributor?

THE WITNESS: No, I don't recall ever having a conversation with him about that.

COMMISSIONER EMERY: Just one more thing.

THE WITNESS: He never contributed to my committee, I don't believe.

COMMISSIONER EMERY: Now, is --

THE CHAIRPERSON: Is your committee on that chart?

THE WITNESS: No.

COMMISSIONER EMERY: Now, did you have any discussion with Mr. Keeler, or Mr. Vece, in the fall of 1983 about the Morgan Hughes negotiations coming in to set up rides at Playland?

THE WITNESS: Did I --

COMMISSIONER EMERY: Mr. Vece or Mr. Keeler.

THE WITNESS: I don't recall ever
discussing with them Hughes.

COMMISSIONER EMERY: And you --

THE WITNESS: I don't know if I know Mr. Vece.

COMMISSIONER EMERY: You know Mr. Keeler?

THE WITNESS: I know Mr. Keeler.

COMMISSIONER EMERY: He was at your meeting last night?

THE WITNESS: Yes.

COMMISSIONER EMERY: Your testimony is that you had no discussions with Mr. Keeler, who was at that point about to -- who at that point was running Playland; isn't that correct?

THE WITNESS: Where, in '83?

COMMISSIONER EMERY: The fall of 1983.

THE WITNESS: I don't know if he was running Playland in the fall of 1983.

COMMISSIONER EMERY: Mr. Keeler was Mr. Colavita's driver, previously?

THE WITNESS: He has been accused of that, yes.

COMMISSIONER EMERY: Did you know him to be Mr. Colavita's driver?

THE WITNESS: I don't know if he was Mr.
Keeler's driver.

COMMISSIONER EMERY: Mr. Colavita's driver.

THE WITNESS: He was Mr. Colavita's friend.

If I drive him back now, am I considered his driver?

COMMISSIONER EMERY: I'm not asking you that question.

THE WITNESS: I'm just saying.

COMMISSIONER EMERY: Did you observe him driving Mr. Colavita on numerous occasions?

THE WITNESS: I believe that Mr. Morrow --

I didn't --

COMMISSIONER EMERY: We are talking about Mr. Keeler.

THE WITNESS: Those accusations came from Mr. Morrow.

I wasn't involved in County politics in those days.

COMMISSIONER EMERY: What I'm asking you is --

THE WITNESS: At that level.

COMMISSIONER EMERY: You knew Mr. Keeler to be Mr. Colavita's friend; is that correct?

THE WITNESS: Yes.
COMMISSIONER EMERY: You knew him to be involved in Republican politics?

THE WITNESS: Yes.

COMMISSIONER EMERY: You also knew he held a position out in Playland in the fall of 1983. You had previously met with Mr. Hughes about these proposals, although it was a short meeting, and you have testified you don't remember the letter that Borchardt sent to you.

THE WITNESS: I don't believe that I ever discussed Hughes with Keeler. I don't believe that. I don't recall doing it.

COMMISSIONER EMERY: Or Vece?

THE WITNESS: I don't know him.

COMMISSIONER EMERY: Your testimony is you have no recall of any negotiations between Morgan Hughes and the County, or Morgan Hughes and the Republican Party, about the placement of rides at Playland?

THE WITNESS: Right.

COMMISSIONER EMERY: That's all.

THE CHAIRPERSON: Before we conclude the questioning, I think Mr. Schwarz has a few questions. And then we will be happy to receive a
brief statement from you, and as I mentioned
before, any additional written statement you want
to submit to us.

We just made -- and that was part of the
reason for the interruption on my part -- several
changes in the schedule today, which I would like
to announce at this point.

There won't be any lunch period. And
County Executive Andrew O'Rourke will be here to
testify at 12:30, and Anthony Colavita will be
here to testify at 2:00.

So, with those changes, we can go to Mr. Schwarz now.

MR. SCHWARZ: Just following up on Mr!'s
Magavern's question, I must say, as I listened to
it, I was trying to decide what was inherently
wrong with someone going to a political leader and
asking for help.

Do you think that perhaps it might be an
easier approach to this problem if we had a
situation where government contractors, those who
contract with government, are not permitted to
make contributions to the government?

I point out to you that the hearings that
we have held in connection with our Albany
investigation indicated that government
contractors seemed to contribute overwhelmingly to
the present Governor's campaign.

THE WITNESS: Just in analyzing that
question, if you did that, it would further hinder
the two-party process.

I'm a very strong believer in the two-party
system. I think it's one of the finest systems on
the face of the earth.

You want to try to keep any type of
corruption or crime out of the process.

You know, I have an inherent belief that
men are good -- it's a naive approach to life, but
that they're basically good.

So, if you have honest businessmen that
want to further, say, a Mario Cuomo's political
career -- I say him, because you mentioned the
Governor -- by contributing to him -- and they're
like-minded in philosophy -- I'm naive about it.

MR. SCHWARZ: If you took it a step
further, and determined that people who give
contributions they will give to the Democrats in
power, the Republicans when they are in power,
this is not because they are like-minded.

THE WITNESS: They give to both, too.

MR. SCHWARZ: They give to both, too, in order to play at the table.

If you then were able to remove this chart from the evidence, so that nobody could say, well, Morgan Hughes gave fifteen thousand and so on, and they ended up with a lousy contract, and I wonder why the renewal of the contract had something to do with the contributions, do you think --

THE WITNESS: It would be a good idea for government, but not the political parties.

MR. SCHWARZ: You think it would be a good idea for government?

THE WITNESS: Yes.

MR. SCHWARZ: Two other questions.

In the beginning, with respect to Mr. Morrow, you said that some people didn't think he deserved a reward. Do you remember that?

THE WITNESS: Yes.

MR. SCHWARZ: You used the word "reward."

Did you mean by that a job?

THE WITNESS: Yes. There were people, political leaders in his own town, that felt that
he didn't --

MR. SCHWARZ: I'm asking a simple question, what did you mean by reward.

THE WITNESS: Be rewarded with a job.

MR. SCHWARZ: When the Department of Motor Vehicles was changed, the structure of it was changed, it was taken outside the County government, do you remember an effort being made to find jobs for the people in the department in the County government?

THE WITNESS: I recall when I first came into County government that all those jobs were going to be absorbed by County government.

MR. SCHWARZ: And there are roughly nine thousand people who work for the County?

THE WITNESS: I don't know the number.

MR. SCHWARZ: If I told you that Mr. O'Rourke testified to that, would you accept that?

THE WITNESS: I thought it was more like seven to eight thousand.

MR. SCHWARZ: Is it your testimony that there wasn't one job available in County government for Mr. Morrow?

THE WITNESS: I think you would have to ask
Mr. O'Rourke that.

MR. SCHWARZ: What is your understanding, sir?

THE WITNESS: If I had an understanding --

MR. SCHWARZ: Do you have an understanding?

THE WITNESS: I would think there would be, yes.

MR. SCHWARZ: Do you think that maybe -- do you have any understanding as to whether he didn't get a job had anything to do with whether or not he played ball with the party?

THE WITNESS: No. the leaders from his town, the political leaders -- and this is my recollection of it, my honest opinion -- they felt that he should not be rewarded with a position, because he did not -- he didn't work on that campaign.

MR. SCHWARZ: So that Mr. Morrow, who applied for a job, with the government, in effect, was denied a job because of the intervention of the political leaders; is that your testimony?

THE WITNESS: I am telling you the way the political leaders felt.

I believe -- I don't know how government
people felt.

He was just in a very bad time of his life.

The breaks weren't going with him at all.

MR. SCHWARZ: That is all I have.

THE CHAIRPERSON: Thank you.

We would be happy to receive the statement from you.

THE WITNESS: First of all, gentlemen, I am here for a lot of reasons that you are here for, which are good government.

And, you know, this Commission has brought up more questions for me than answers.

Now, Mr. Carpiniello, and please, no one take this personal, any of this, this is just my input into your process, really played a one-sided role here.

I have learned, through experience in life, that there are three sides to a situation. There is my side, my opponent or adversary's side, and there is the truth, the middle ground.

I would like to state for the record that my name hasn't turned up with any other vendor, I believe, at the park, or other contractors that do business with the County.
I testified that I had one meeting before working for the County. Mr. Hughes testified that I had no clout, his testimony, and that he never met Mr. Colavita.

I don't recall receiving a letter, or any proposals. Could it be that Mr. Borchardt was trying to earn his salary?

That is a possibility here.

Hughes, obviously, was angry with Borchardt for bringing him to Westchester County, from New Jersey, in a small headquarters.

Did Hughes, or Borchardt, ever mention any follow-up meetings that I have had with him or them, or any follow-up phone calls?

Now, I don't recall Kilcullen stating that I informed him about Dick Keeler, nor do I recall delivering any proposals to Mr. Kilcullen.

Did he testify that -- he testified that I did, I know that, but did he say that I made any statements, or lobbied him on behalf of Mr. Hughes, if, in fact, I dropped those proposals off, mailed them to him, whatever the case is?

I also don't recall -- did Mr. Kilcullen mention in any way that I was the authority.
notifying him about Dick Keeler?

How would the Director of the park take my authority that Keeler was coming over there, and then employ him? That is a question I have.

Has my name appeared, or has any other testimony been given that I had anything else to do with contracts?

Let's talk about George Morrow. Has anyone mentioned that he had a reputation of incompetence as the County Clerk, or that the political leaders were concerned about the morality of that office, his personnel?

I make no judgments here, I'm only making my assessments.

That this information spilled out onto the street, that the political leaders in both parties were so concerned that an emergency meeting in New York City had to take place over an elected official. Not only that, but the only elected official, Republican, in the history of this County, that lost an election.

These are my observations, not my judgments.

Has anyone mentioned that he was the first
incumbent in the history of this County to lose an election, that he was a beaten, bitter man?

Let's talk about Kilcullen.

I don't recall those things with him. He claims I informed him of Keeler.

Could I have passed information to him that I heard, wherever I had heard it?

In reference to contracts, did he testify that I pushed, lobbied, cajoled or misrepresented myself in any way?

Could it be if I delivered the proposals, I was acting as a Councilman, could that be?

These are questions that come up in my mind.

Kilcullen was at the apex of his career, a tired, ready to retire, leave public service man. He mentioned he was given a one-year consulting contract. He also mentioned that he asked for another year.

Could it be because he was put off by the political and governmental leaders of this County that he felt this way about things?

Perhaps he was bitter.

Patronage. I have learned a long time ago
that patronage comes -- my experience in County
government has been that I have been faced with
bureaucrats, Republicans, and Democrats.

I have had a very difficult time in my
experience in County government, because the
bureaucrats, in my opinion, are the worst
offenders of the patronage system. They are
constantly promoting their own relatives, friends,
and my experience was there was a lot of
resentment.

I believe in my heart that Republicans are
entitled to those jobs in Westchester County
government, as well as anyone else, and there was
a great deal of resistance in Westchester County
when I came to this county, especially on the part
of the bureaucrats.

The Democrats don't want Republicans
around, anyway.

Patronage is good when it is not abused.

When you fit a round peg into a round hole, that
is important.

I got my entree into a public career by
working on telephones, working up through the
political system. Otherwise, I would never have
gotten into public service, or contributed anything to good government, or good people.

There is probably no Republicans in the Governor's Office, or in Congressman Loew's office, or in Senator Oppenheimer's office.

I am, and have been, as honest and sincere as I possibly could be in my years in County government.

I worked my way up, and was brought to the attention of Mr. Colavita.

Let me talk about Mr. Colavita. I have never met a more honest and sincere man. I have never seen him do, or break a law, or any corrupt act in my presence. The same holds for Mr. O'Rourke.

So, I have been honored to have served with two of the best leaders, political and government leaders, in the history of this county. This is what I feel from my heart.

When I leave here, I may be damaged by this testimony, and by other people's testimony, and by my name being on that chart in four places. But, I intend to stay in government.

I think we should lift our leaders up, not
tear them down.

We are in an era where the media distorts information so that they can create news, and in the process they destroy careers and human beings.

You served with President Carter. I have always felt that power and authority are something given by God; that is my feeling. So, when you serve public service, you are serving your God, also. When he was President, although a Democrat, I supported that man, and I prayed for him.

So, I would just like to end by saying that we have the same goals, good government, and a great America.

That's it.

THE CHAIRPERSON: Thank you.

We will take a two-minute recess, and that is a real two minutes.

I would like to ask the staff if they would join the Commissioners for a second.

(Recess had.)

THE CHAIRPERSON: The Commission calls as its next witness David Warager.

DAVID WARAGER, called as a witness, having been first duly sworn by the Chairperson, was
Warager

examined and testified as follows:

THE CHAIRPERSON: Please be seated.

I ask counsel to identify himself, again, for the record.

MR. PISCIONERE: Anthony Piscionere, the same address.

THE CHAIRPERSON: I will open the initial questioning to Timothy Brosnan.

MR. BROSnan: Thank you, Mr. Chairman.

EXAMINATION

BY MR. BROSnan:

Q  Good morning.
A  Good morning.

Q  Can you tell us how you are currently employed.
A  Self-employed, private practice as an attorney.

Q  Were you formerly with the County Attorney's office?
A  Yes, I was.

Q  When did you join the County Attorney's office?
A  November of 1985.

Q  Mr. Warager, after you graduated from law
school in 1984, did you begin work as an attorney?

A No, I did not.

Q What did you do?

A I worked as a political consultant.

Q You worked on political campaigns?

A Yes, I did.

Q Were they all Republican campaigns?

A Yes, they were.

Q Now, at what time did you first seek employment with the Westchester County Attorney's office?

A I filed an application in the spring of 1985, late winter, early spring.

Q Did you make it known to people in political circles in the fall of 1984 that you were interested in a job with the County Attorney's office?

A I discussed my career and businesses with many people in many different areas. Included among them were political people and government people.

Q Mr. Warager, to whom in the County Attorney's office did you first make known your interest of working there?

A It would probably be Terry Ruderman.

Q Who is Terry Ruderman?

A She at the time was a Deputy County
Warager

Attorney. She might have been first Deputy County Attorney. I'm not really sure of her exact title.

Q Did she offer you advice when you spoke to her about that?

MR. PISCIONERE: Excuse me, Commissioner, we asked no pictures be taken.

THE CHAIRPERSON: He doesn't fall within the scope of the Civil Rights Law. There is no television, broadcasting, motion picture cameras in operation at this time. He is here on behalf of the still media. It is not covered by the Civil Rights Law.

Q When you spoke to Miss Ruderman, Mr. Warager, what was her advice to you?

A When I spoke to her when?

Q To let her know that you were interested in a County Attorney's position.

A I saw her a number of times, and I spoke to her a number of times.

I was discussing with her, as I was with other people, various career options, the County Attorney's office being one of them, for which I inquired with her in a little more depth, because she worked there, so she certainly knew what opportunities were
available in that office, and what opportunities I might have if I was to gain an appointment.

At some point she recommended that I file an application and submit a resume.

Q In fact, you testified in private that she advised you to file an application in the fall of 1984?

A It probably was the fall of 1984.

Q And you waited until the spring of 1985 to file an application?

A I waited until after I finished my -- I was working non-stop campaigns. As soon as I finished that, I did file an application, that is true.

Q Mr. Warager, you also testified that among those people who you consulted for advice were Mr. Parisi, Mr. Perrone, Mr. Gioffre and Mr. Vitigliano. Do you remember testifying to that?

A Yes, I do.

Q Did you discuss a County Attorney's position with those persons?

A I discussed many different options, the County Attorney's position being one of them, yes.

Q Did any of these gentlemen work in the County Attorney's office?
Warager

A No, they did not.

Q Were they responsible in any way for personnel in Westchester County government?

A Not to my knowledge.

Q Are these gentlemen all involved in Republican Party politics in Westchester County?

A Read me the gentlemen.

Q Mr. Gioffre, Mr. Parisi, Vetrone and Vitigliano**?

A They have been involved in Republican politics, yes.

Q One of the campaigns you worked on, Mr. Warager, was the Mount Vernon mayoral campaign; is it not?

A Yes.

Q That ended in February of 1985; is that correct?

A Yes, that is correct. It might have gone into a little bit of March, clean-up work and things.

Q What did you do for employment between March, April and May of 1985?

A I was unemployed for part of the time; I was helping my brother-in-law for part of the time.

Q What were you helping your brother-in-law
with?

A He had a business.

Q Was it -- what business was that?

A He sold, installed satellite antenna systems, and audio and video equipment.

Q During that time, were you seeking legal employment?

A I was thinking of -- I was going through a difficult personal time in my life with my marriage, and I was going through, as I said, a difficult time. I was contemplating exactly what I wanted to do, legal employment being one of the things.

I was also thinking whether I wanted to continue in political consulting, campaign work, or whether I wanted to go into a related type of field, not the actual practice of law, but something that my legal background would be helpful in.

Q I'm sorry, were you seeking legal employment at that time?

A I was considering all sorts of career choices.

Q Were you seeking legal employment, not considering; were you going out on interviews?

A I did not go out on any interviews.
Toward the end of April, early May, you joined the Parisi for County Clerk steering committee; is that correct?

Yes, it is.

And at the end of May, this is May, 1985, you were requested to become the campaign coordinator for the Parisi for County Clerk campaign; is that correct?

Yes, it was around that time.

At that same time, you were hired by a political consulting entity in Westchester County by the name of Number Crunchers; is that correct?

Yes.

Was there a correlation between you accepting the employment at the Parisi campaign and getting the job at Number Crunchers?

Directly.

What was that?

Well, I was hired by Number Crunchers to work on the Parisi account. Number Crunchers had an account, and was hired by the Parisi campaign. I was hired by Number Crunchers to work on that account.

And the man who ran Number Crunchers was also working on the Parisi account; is that correct?

His firm was hired to work on the Parisi

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Where were you physically located when you were doing your work for Number Crunchers?

At 214 Mamaroneck Avenue, and at my home.

214 Mamaroneck Avenue --

White Plains.

Could you identify that for me?

Republican headquarters.

And at the time you took the job with Number Crunchers, did you discuss a salary with them?

Yes, I did.

What was it?

About three hundred a week, I believe. I really don't recollect exactly what it was.

Was that for full or part-time work?

Part-time work.

Now, at the same time you got your part-time job at Number Crunchers, did you continue to work for your brother-in-law?

No, I did not.

Did you make arrangements for another job, to supplement your income?

Yes, I did.

What job was that?
Warager

A I was hired at Playland.

Q Is it true, Mr. Warager, that prior to agreeing to become the campaign coordinator for the Parisi campaign you insisted upon having other work?

A I don't know if -- I discussed with the people I was talking to about coming onto the Parisi campaign, that I understood that there was only part-time campaign work over the course of the summer. But I would need other work in order to complement that part-time job, I would need another part-time job through the summer.

Q You were essentially looking to put together a package that would enable you to continue to work on the Parisi campaign; is that correct?

A That is correct.

Q And was Playland essentially part of that package?

A Well, it was recommended the me that I could contact Mr. Keeler out at Playland. Mr. Parisi told me that Mr. Keeler had many jobs available, or quite often had jobs available, that he had made it known to Mr. Parisi that he was looking for people. He recommended that I contact Mr. Keeler. I gave Mr. Keeler a phone call and arranged for an interview.
Q I'm sorry, though, was the Playland job considered part of a package that would enable you to work on the Parisi campaign?

A I wouldn't say it was part of a package. I needed to be able to find something to supplement my income over the course of the summer. That was able to be worked out when the opportunity arose at Playland.

Had the opportunity at Playland not developed, I would have had to find something else. If I was unable to find something else, I wouldn't have been able to do it, or some other arrangement would have to be made.

Q Were you pursuing anything else at the time?

A I really don't recall.

Q Mr. Warager, how soon after Mr. Parisi told you about the possibility of employment at Playland did you contact Mr. Keeler?

A Very shortly. I don't remember exactly. It might have been the next day, that day, a day after; it was a short period of time.

Q Did you meet with Mr. Keeler?

A Yes.

Q What did you discuss with Mr. Keeler?

A The opportunity of a part-time job.
Q Did he have an opportunity for you?
A Yes, he said he had something that he felt I would be good at.

Q What was that?
A To work as -- I guess you can call it a quality control job, to be his eyes and ears at the park, someone who can walk around and act as a patron, and likewise, be treated as a patron.

I would be able to report back to him how the various park employees were functioning, the quality of the park, how the rides were running, and report to him any observations that I had.

Q You described it for us as an undercover job; is that correct?
A I don't know undercover. Yes, I was undercover in that no one else knew what I was doing.

I think quality control is a more accurate type of -- I wasn't investigating something, I was just acting as a patron, going around and then trying to be treated as a regular patron, to get a feeling of how the concessionaires and the park employees treated an average park patron.

Q Do you remember describing it for us as an undercover job?
A  I might have made that statement.
Q  Did you have any competition for that job?
A  I have no knowledge.
Q  Were there any guidelines set out for that job, or did you ever see a job description describing that job?
A  I never saw a job description, no.
Q  Do you know if you had a predecessor in that job?
A  I have no knowledge.
Q  How much did you get paid for that job?
A  It was about two-and-a-quarter a week.
Q  And what were your hours?
A  I had no specific hours, I -- well, I had so many hours I was supposed to work a week, like 20, 25 hours a week. I was specifically directed not to work specific hours. I was told to vary my hours, to get a flavor of the whole park operation, as the park is open, you know, many hours a day.
Q  Mr. Keeler directed you to set your own hours?
A  Yes, he did.
Q  How soon after your meeting with Mr. Keeler did you begin work at that job?
Shortly thereafter. I really don't remember; it was a long time ago.

Was it within a day?

It was within a couple of days. It was very short. I really don't remember.

Shorter than a week?

Probably.

So, the process, from the time that Mr. Parisi suggested that there might be opportunities, until the time you started work, was shorter than a week?

I believe so. The park was already open at that time.

How often were you in the park?

It would depend on the week. Sometimes --

On an average week?

There really were no average weeks. Sometimes I would be there a lot on the weekends, long hours. Other weeks I would split it up. Sometimes I went to the park, left and came back. It really --

For how long would you go?

It would depend on the day; it would depend on my schedule.

Mr. Warager, do you recall what hours the park was open?
A The beach, I believe, opened first. It was like nine, 9:30, something like that. Then the pool opened around ten, I believe. The amusements opened after that.

Q What time did the amusements open?

A It is difficult for me to remember; it was a long time ago. Somewhere around noon, eleven, somewhere around there.

Q Do you know what days the park was open?

A To the best of my recollection, it was open every day.

Q Mr. Warager, did anyone on Playland staff know whether you were in the park on a given day or not?

A No.

Q Were you required to report to anyone?

A Just Mr. Keeler, weekly.

Q But not every time you appeared at the park?

A No. Occasionally I would see him in the park as I was walking around, but I would not acknowledge him, nor would he acknowledge me.

Q How often did you get paid, Mr. Warager?

A Bi-weekly.

Q Was there a special place for you to pick up your paycheck?
Yes, there was.

Where was that?

It was outside the administration building.

Did you pick it up with all the other employees?

I picked it up there.

Was that where all the other employees were supposed to pick up their paychecks?

I'm not sure where they were to pick up their paychecks. I was directed to pick it up there.

Do you remember testifying to this commission that every employee picked up their paychecks at the same window?

I saw other employees pick up their paychecks there. I don't know if every employee picked up their paycheck there.

They saw you picking your paycheck up there?

I would suspect they might have.

When you reported to work, you parked in the employee parking lot; is that correct?

Yes.

And in order to park there, you displayed what you described as an ugly fluorescent decal in the windshield of your car; is that correct?
1  Warager

2     A  Yes.

3     Q  That identified you as an employee?

4     A  Yes, that is correct.

5     Q  Did you make reports to Mr. Keeler on your work?

6     A  Yes, I did.

7     Q  Was there any action that you can point us to that was ever taken on those reports?

8     A  I really don't recall.

9     Q  Mr. Warager, when did you stop working for Playland?


11    Q  When did you commence working full-time on the Parisi campaign?

12    A  Shortly thereafter.

13    Q  Was it the next day?

14    A  It might have been, I really don't remember. It was very quickly thereafter. It might have been the day after.

15    Q  One last question about your Playland job, Mr. Warager.

16    A  You had several meetings with the District Attorneys; do you remember those?

17    A  I remember having several meetings with
them, yes, I do.

Q  Do you remember having one on March 11, 1988?

A  I don't remember the exact dates of the meetings.

Q  Do you remember making this statement. "If you're asking me is this cronyism in the old-fashioned sense, that this job," meaning Playland, "paid me so that the Republican Party could pay me less for doing their work, I'm not going to deny that."

Do you remember making that statement?

A  I believe that that statement was made in response to a question, "Would this appear to look like cronyism?"

My statement was basically what you said there, yes, it could appear to look. I wasn't characterizing it that, I was saying is it fair to say that this would look to someone on the outside, observing these set of facts.

Q  Do you remember making that same statement at the Keeler trial, when you were giving testimony?

Excuse me, do you remember testifying to the fact that you made that statement?

A  Yes, I did testify to that.
Q Did you qualify it at that time?
A I don't believe I was given an opportunity to qualify it.
Q When you stopped working for Playland, did you also stop working for Number Crunchers?
A They were about the same time.
Q Mr. Warager, there came a time when you discussed your desire to work at the County Attorney's office with Mr. Colavita; correct?
A Yes.
Q What events led up to that discussion?
A Could you place a time?
I may have discussed my interests with Mr. Colavita on a number of occasions.
Q I think you are aware of the discussion I'm talking about, but I'll tell you it's the one that took place in Mr. Colavita's office, in Republican Party headquarters.
A Okay.
Q Tell me what prompted that discussion.
THE CHAIRPERSON: Can we get an approximate time?
MR. BROSNAN: Certainly, Mr. Chairman, it was late May or early June, 1985.
Q Could you tell us what led, what events led up to your wanting to have that discussion with Mr. Colavita?

A I had come to a decision in my mind, from talking to various attorneys, friends, family, colleagues, that I wanted to pursue, really begin my career as an attorney at law, that many of the other opportunities and career options that I had been discussing with various peoples, in and out of government, I did not wish to follow up on it, including continuing to work as a political consultant, or working in government at some position, other than as an attorney at law.

I wanted to speak to Mr. Colavita about giving me a recommendation, so that I would be able to pursue that. I wanted to set up an appointment to be able to speak to him.

Q Isn't it true that your employment was prompted by the fact that you had an application in the County Attorney's office since February, 1985, and that you found out that some other candidate had been hired in an entry level position? Wasn't that one of the events that prompted your meeting with Mr. Colavita?
Warager

Q Did that prompt your meeting with Mr. Colavita?

A It wasn't the only reason.

Q Was it a reason?

A Yes, I think it was a reason.

Q Didn't you believe that your hiring was possibly being blocked by the Westchester County Republican Party?

A As I stated earlier, I was going through a difficult personal time. I think I was a little paranoid, because of the time that I was going through. I wasn't sure; I was looking at what was happening, and I wanted to make known, and to clear up any misunderstandings of what type of career options I desired to pursue.

I felt by going and talking to Mr. Colavita that I could make those known to him.

I felt that since he knew who I was, I had, in essence, worked for him in working on the campaigns, and he was aware of the quality of my work, and I knew that he also knew Mr. Logan, the County Attorney, that he could speak to him, to put in a recommendation to Mr. Logan on me, and speak as someone who knew me as a known
quantity.

Although I had not worked as an attorney, and he did not know me as an attorney, he knew me as a hard worker, a dedicated worker, someone who could get a job done.

The position I was seeking in the County Attorney's office was an entry level position, where I would learn to be an attorney.

I felt that a recommendation from him would be to my best interests.

Q Mr. Warager, we are pressed for time. If you could just answer my question, did you believe that your hiring was being blocked by the Westchester County Republican Party at that time?

MR. PISCIONERE: I believe he already answered that.

MR. BROSnan: I didn't hear a response to that question.

MR. PISCIONERE: Perhaps the Reporter can read it back, if you wish.

THE CHAIRPERSON: If you can respond to the question. It may be somewhat repetitious, but I will allow the question to be asked again, and I would ask the witness to respond.
A As I said, I was aware of the facts that you related, that someone had been hired. I was aware that there was a desire -- there had been discussions with me and with some other people about other options of government or political work. I thought that it was possible that that was the case.

Q That your appointment was being blocked by the Westchester County Republican Party?

A Yes.

Let me qualify that by saying that I had no -- I had nothing that told me that, other than looking at the fact that I had an application in, by the fact that I felt that I was a qualified candidate for the position. The fact that, as I looked back at my career, any opportunity, any time I ever had an opportunity at an interview for a position -- I had applied to a number of positions over my lifetime -- but any time I had an opportunity for an interview in a position, I had gotten the position, which I'm very fortunate to have done.

As I was looking at the scenario that was there, that was something that popped into my mind, and I think there was a little paranoia surrounding that, in that I really didn't have a lot of close family or friends who were attorneys, or were people who were
connected to attorneys, or were in government. My only connections, so to speak, and opportunity for networking, were those people that I met through my work as a political consultant, or through my involvement in politics, where I had been able to meet a number of attorneys and a number of people in government.

Q To arrange the meeting with Mr. Colavita, who did you first seek out?

A I don't know who I first sought out. I probably sought out Mr. Parisi, or probably sought out Miss Sunderland, who is the Director of the office, to try and get an appointment on Mr. Colavita's schedule.

Q Tell us what happened at that meeting with Mr. Colavita.

A I spoke to Mr. Colavita about my desire to seek an appointment in the County Attorney's office, that I wanted a recommendation from him, that I wanted an opportunity for an interview, that I did not wish to consider the other non-legal, or non-attorney options that had been discussed in the past.

Q What specifically did you ask him for?

A A recommendation. It's difficult for me to remember exactly the words that I used, and I don't remember the words that I used in that meeting. I
remember that I wanted to speak to him, that that is the
topic that I wanted to speak to him about.

You're talking about a meeting that occurred
four-and-a-half, almost five years ago, that I had been
questioned on over the last eighteen months, going on two
years.

At the time I did not consider it was all
that important a meeting. It was certainly a meeting
that I wanted to make my point in. It has come under a
microscope since then. I have done my best to recall the
events that occurred in that meeting. At the same time,
I did not think that that meeting was going to be such an
important meeting that I should recall everything that
was said.

THE CHAIRPERSON: What's your best
recollection of what he said to you when you made
your presentation at the meeting?

THE WITNESS: I really don't remember
exactly.

I remember coming away from that meeting
with a positive feeling.

I don't remember if he actually said
anything. There were a number of other people
involved in that meeting, and there were other
people who were talking. He may have just nodded his head.

I really don't remember what he said at that meeting.

THE CHAIRPERSON: You came away, as you say, with a positive feeling?

THE WITNESS: I came away with a positive feeling that I would get a good recommendation. I felt with that, if I could get my foot in the door, I could do the rest on my own.

Q Mr. Warager, I think you testified that you were seeking this job as early as the fall of 1984; is that correct?

A Well, I was discussing -- you use the term "seeking," and I'm really not sure what you mean.

I was discussing with the people that you named, and with anyone else that I came in contact with.

Q Did you seek a recommendation from Mr. Colavita at that time?

A I really don't recall.

The County Attorney's position was not the -- I had not at that point made up my mind that the County Attorney's position was the position that I really wanted. I was still thinking about continuing as a
political consultant for a period of time. I was still thinking about other opportunities in government in a non-legal sense. I really had not focused.

It was a very busy time, because I was really working non-stop many, many hours a week, many, many hours a day, and I really didn't have the time to think all that through.

Q You eventually got the position; is that correct?

A Yes, I did.

Q When were you informed that you would get the position?

A Some time before Election Day. I really don't recall exactly when I received it. I vaguely remember getting a phone call.

THE CHAIRPERSON: Who called you?

THE WITNESS: I honestly don't remember. It might have even been a phone message, a message to call, which I followed up on.

I remember finding out at the time that I was scheduled to start at a certain date, the date I actually, did start at, which was around the middle of November. I don't remember the exact date.
I do remember asking if that day could be delayed for a week or two, because I wanted to have an opportunity to unwind, in essence take a vacation, relax, before I changed gears, and then went into the County Attorney's office.

I was told, that this is your opportunity, the job is open, and if you want to take it, you will be here on this day, and you will start to work on that day, otherwise we will have to look to someone else, and consider you at a further opportunity if it comes up.

THE CHAIRPERSON: When you made the request to delay the starting date, to whom did you make that request?

THE WITNESS: I'm really not sure, thinking back. It might have been Terry Ruderman, because she was my point of contact. I am trying to think who I would have made that request to. It was probably her.

It was a very hectic time, right before Election Day. The conversation might have gone after Election Day, and we were in a recount. Things were kind of hectic; we were working around the clock.
Q It's possible that it was Miss Ruderman who informed you that you got the job?

A It's possible; I really don't remember.

Q It certainly wasn't the County Attorney?

A He sent me a letter, but it was -- as I said, I really don't recall who did it, who informed me. I don't remember, and I think I probably would have remembered if Mr. Logan called, although he may have made the call and left a message.

Q Could it have been that Miss Ruderman offered you the job in August of 1985, anticipating the end of the campaign, and, in fact, they had to hold the job open for you extra time because the campaign went into a run-off?

A I don't recall that, no. Could it have happened? It might have. I really don't recall that being the case.

Q Mr. Warager, I would like you to turn, if you could, to Exhibit No. 38. Do you recognize that exhibit?

A Yes, I do.

Q Tell us what it is.

A It's a letter in my handwriting that I prepared on the date indicated.
Q And why did you prepare it?

A I prepared it to give to a reporter from the Gannett newspaper, who had called me and asked me to respond to some questions.

Q Did you write this letter with anybody's assistance?

A Since I was -- with anybody's assistance?

Q Yes.

A I did speak to some people before I wrote the letter, yes.

Q Who did you speak to?

A I spoke to the County Attorney -- pursuant to the County press policy, I informed the County Attorney that I had been contacted by the press. The County Attorney and I went up to the Public Affairs Office, and I spoke to, I believe it was Claire Palermo, from the Public Affairs Office.

Q Now, in the letter, Mr. Warager, it says, "After that meeting, I met with County Chairman, to ask his assistance in my obtaining an interview for an entry-level position as an Assistant County Attorney."

Mr. Warager, you had already had that interview; is that correct?

A I had had an interview, yes.
Q Did you have any other interviews?
A I don't recall.
Q You did not get the interview you were talking about in this letter; is that correct?
A As I said, I don't recall whether I had another interview.
Q But you got the job?
A Yes, I did.
MR. BROSANAN: No further questions.
THE CHAIRPERSON: You made reference to making reports to Mr. Keeler from time to time when you were engaged at Playland.
THE WITNESS: Yes.
THE CHAIRPERSON: Were those reports in writing?
THE WITNESS: The first couple were in writing, yes, sir.
THE CHAIRPERSON: Have those reports been sent to the Commission?
MR. BROSANAN: We requested them, and Mr. Warager has testified that he has attempted to, but has been unable to locate them.
THE WITNESS: I don't know if I kept any copies of those reports. I turned them in to Mr.
Warager

Keeler, and I usually amplified on them orally when I turned them in. Eventually, since I was doing so much amplification, Mr. Keeler wasn't requiring written reports, I just gave him oral reports.

THE CHAIRPERSON: It's your testimony that you don't have copies of those reports in your possession?

THE WITNESS: No, sir.

THE CHAIRPERSON: Any further questions?

There are no further questions. Thank you.

(Witness excused.)

THE CHAIRPERSON: The Commission calls the next witness, Henry Logan.

HENRY LOGAN, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: Please be seated.

Will counsel identify himself for the record, please.

MR. SHEA: James P.Shea, S-h-e-a, Cross County Office Building, Cross County center, Yonkers, New York.

THE CHAIRPERSON: Thank you.
County Attorney?

A   In what respect, sir?

Q   Was it a significant fact that you were a Republican in the minds of those who were responsible for seeking your appointment as County Attorney?

MR. SHEA: Objection. That calls for the operation of someone else's mind.

Q   If you know.

MR. SHEA: I'll object. He can't answer a question like that.

THE CHAIRPERSON: Can you answer the question? Are you able to answer the question?

THE WITNESS: Obviously, I couldn't answer what is in other people's minds.

I think in the nature of this inquiry, it would be naive of me not to say that in being estimated for a position such as Mr. Bienstock is inquiring about, that was not a factor in the consideration, along with many others.

What part that played, that is for him or someone else to decide.

Q   When you were being considered for the position of County Attorney, did you seek the support of Mr. Colavita?
Logan

say that.

Q I want to move to the subject of David Warager. Do you know who he is?
A Yes.

Q Did there come a time when you hired David Warager to work in the County Attorney's office?
A Yes, I appointed him to the position of Assistant County Attorney some time in the fall of 1985.

Q Did you interview him for that job?
A I believe I did. And the reason I say that is that our procedures were that when someone came in, seeking a position, pursuant to an application or otherwise, because sometimes someone would call up, he was being interviewed by Terry Ruderman.

I would stop in, near what I would determine to be the end of the interview, because I know approximately when it started, and say, for example, "How are you, Mr. Bienstock?"

I did the same, I believe, with Warager, some time in the late winter, early spring of 1985.

Q Now, prior to the time that you hired him, were you aware that he was working on the campaign to elect Guy Parisi County Clerk?
A I became aware of that over the summer of
1985.

Q And prior to the time you hired him, did Mr. Parisi try to pressure you to hire him?

A Pressure, no. If he thought it was, pressure, I didn't, but he would talk to me from time to time.

Q On more than one occasion?

A Yes.

Q About Mr. Warager?

A Yes.

Q Isn't it true that he was so insistent about you hiring Mr. Warager that you got a little annoyed and told him to back off?

A Well, I can do that even with you here today. Yes, I could get annoyed very easily.

Q Who is Terry Ruderman?

A As Mr. Warager already mentioned, she was a Deputy County Attorney in the County Attorney's office, who I appointed some time in 1984, and I also had her function in the nature of managing attorney.

Q Did you know that her husband was active in Republican County politics?

A Yes.
You knew he was the Scarsdale Town Chairman?
Yes.
She was hired, was she not, shortly after you were appointed, or at the time you were appointed?
That is correct.
Did you make known to those whose support you were seeking for appointment, that if you were appointed you would hire her as a managing attorney?
It was my intention to hire her before I was appointed, if I were appointed.
Did you make that known to people?
If I had an opportunity to mention it, yes.
How about Mr. Colavita?
He was one of the people I was talking to at the time, and I have no reason to believe that I would not have mentioned it to her.
Did you make that known to him because you knew it would help your chances of appointment?
I knew her husband was a Republican town leader, and I would expect if I indicated that, because she was otherwise qualified; I didn't think it would hurt.
Now Mr. Logan, the rest of the questions I'm going to ask you relate to the ad hoc committee to
investigate the Morgan Hughes contract.

MR. SHEA: Mr. Chairman, before my client answers any questions on that, there is, of course, a question of attorney-client privilege, because the questions involve Mr. Logan's employment as a County Attorney, representing the County at that time.

I would like to introduce at this time, in that respect, a copy of a letter that I received from the County Attorney, that is the County Attorney subsequent to Mr. Logan, Marilyn J. Slaatten, indicating that, as a result of my inquiry as to whether or not the County was prepared to waive any attorney-client privilege they might be able to assert, she informed me that the County Executive, Mr. O'Rourke, indicated that the County will consent to a waiver of any attorney-client privilege, as far as the Morgan Hughes situation. That was limited to Morgan Hughes, because that is the material in question.

I would like to introduce at this time a copy of the letter, so that there is no misunderstanding that Mr. Logan is testifying only after the client has waived the privilege.
THE CHAIRPERSON: We will be happy to receive the letter, and we certainly appreciate the cooperation that is reflected by the waiver.

MR. SHEA: Thank you.

MR. BIENSTOCK: Let the record reflect that we are marking that as Exhibit 43.

(Above referred to document was received in evidence as Commission Exhibit 43, as of this date.)

Q Mr. Logan, did there come a time when you were appointed to an ad hoc committee to investigate the Morgan Hughes contracts?

A Yes.

Q When was that, sir?

A It was some time in late March of 1988.

Q And who else was appointed to that ad hoc committee?

A The Budget Director, Robert Uher, the Finance Commissioner, Joseph Gulia, and the Commissioner of Parks and Recreation, Caverly, Joseph Caverly.

Q How did you learn that you were appointed to that committee?

A The Sunday -- it was probably the last Sunday in March, I picked up the Reporter Dispatch, which
is a Gannett Press newspaper, and there was an article by
Mike Gallagher -- I think it was him -- covering the
matter that was going on at that time.

I read an article in there by him, whereby
County Executive O'Rourke had appointed a committee, and
I found out that I was included among those appointed.

Q  Who appointed you?
A  As far as I know, it was Mr. O'Rourke.

Q  Were you ever asked by him whether you
wanted to serve on such a committee?
A  No.

Q  Were you ever told, was the committee ever
told what they were supposed to do by Mr. O'Rourke?
A  I believe so.

The reason I say that is -- some of that is
a bit hazy, as I testified to before, as to how that came
about in the last week of March.

I believe we were told by him what he
expected from us.

Q  What did he tell you?
A  What he told the committee was that he
wanted us to look into the Morgan Hughes contracts, which
had been the subject of some interest by many people
since January of 1988, and to come back with a report
reflecting our views, or our study of the documents, the contracts.

Specifically, word for word, a direction, I don't believe I saw a written direction.

We were to look into the way the contracts came about.

Q The way the contracts came about?
A The contracts, themselves.

I believe it was with respect only to the four corners of the documents.

Q Let's focus on the four corners of the documents.

Were you told that by Mr. O'Rourke at the outset?

A I don't know if it was at the outset, or before we got into. Some time during the initial stage.

COMMISSIONER VANCE: Did Mr. O'Rourke tell you that?

THE WITNESS: I think that might have been a conclusion that we reached after we tried to get direction as to the nature of our inquiry.

Q Now let's start at the beginning.

Were you aware of the criticism concerning the composition of the committee?
A Yes.

Q What was the nature of that criticism?

A I couldn't disagree with it.

The four of us, each of our departments, at one point, had something to do with the contracts that you are inquiring about.

In 1983 or '4 Morgan Hughes' contracts had been, I guess, the subject of that negotiation, and that was that point.

I had realized that the County Attorney's office -- I came in after that, but I was there at the time the inquiry came up -- had been involved in approving the contracts as to form.

I realized that the County Budget Office had to do with funding, and I realized that the Finance Commissioner probably did the audits. I realized that Joseph Caverly, who was the Commissioner of Parks and Recreation, his people, were involved in it.

You know it seemed -- the criticism -- I didn't like it. I thought we were going to do a good job. I couldn't understand it.

Q Didn't you tell us that the mission was tainted from the outset?

A I suppose I might have jumped to that
Logan

conclusion because of the make-up of the committee.

Q Was the committee given subpoena power?
A No.

Q Did you express the view that the committee should have had subpoena power?
A I would have liked it to have, yes.

Q Is it your understanding that the County Executive had subpoena power, which he could confer on the committee?
A I don't know if he could confer it. Under the charter he had it. Whether he did it for us, or whether we did it pursuant to a delegation, I don't know.

Q Did you or someone else on the committee, request subpoena power from the County Executive?
A I did not. Others might have talked to him about it.

Q Might have?
A It's possible; I don't know.

Q Are you aware that there was a request?
A No, I'm not.

Q Let me direct your attention to page 135 of your transcript of your private session.
A Yes.

Q Line 18. Were you asked this question, and
did you give this answer:

"Question: And is it your recollection now that it was the County Executive that so restricted you?"

"Answer: Things are not that definitive. He probably never restricted us, but if he were asked -- and I forget whether I asked him, or whether another one of the Commissioners who may have been closer to him did -- the answer did not come back in the positive."

"In other words, we were not given the powers to subpoena. We were told -- and if you ask me who, how, I can't tell you -- but our direction, the way we went after it, was to look at the documents, try to do the best we could to put a report together, as we did."

Do you recall being asked that question, and giving that answer?

A Yes.

Q Did the lack of subpoena power affect your inquiry, Mr. Logan?

A Not in an administrative nature. If we were going to do what you were charged to do, it would have.

The District Attorney at that time, as you are aware, was conducting an inquiry.

Our inquiry was directed towards an
Logan 433

administrative nature. The lack of the subpoena power, in that respect, may or may not have affected us. As I indicated, I would have liked to have had it.

Q Didn't you testify that the lack of subpoena power rendered your inquiry impotent?

A Yes, I do believe I said that, yes. Yes, that is correct.

Q Now, is it fair to say that Richard Keeler, and Morgan Hughes, each played an important role in negotiating the contracts that you were investigating? Is it fair to say?

A I was distracted by the movement in the back.

THE CHAIRPERSON: Can we have the question restated, please?

Q Is it fair to say that Mr. Keeler, Mr. Hughes, played an important role in the contracts that you were investigating?

A I couldn't say important, but I know that they played a role, especially Hughes, because of his name on it. What role Keeler played, I had no idea.

Q You didn't know that Keeler signed on behalf of Playland?

A I learned later, but I didn't know at the
Q Was it your view that interviewing Hughes and Keeler would be helpful to the inquiry?

A Yes, I would presume that would be helpful.

Q To your knowledge, was Hughes interviewed?

A No.

Q By you or any member of the committee?

A As far as I know, he was not.

Q Why not?

A He wasn't.

Q Was there a discussion about interviewing him?

A I don't recall any discussion about interviewing him.

Q His name never came up before the committee?

A When you ask me, I don't recall. I testified before Mr. McShane and the other people before. Is there something in there that would indicate that there was that type of discussion?

Q No. It's clear from the record, privately, that he wasn't questioned. My question is, why not?

A I don't know.

Q How about Mr. Keeler, was he questioned by you or any other member of the committee?
Logan

I didn't question him. As far as I know, I'm not aware that any other Commission member did, committee member.

Q Do you know why not?
A No.

Q But there were others who were questioned; isn't that true, Mr. Gioffre, Mr. Arles?
A Mr. Arles, yes, Mr. Gioffre, yes.

Q Let's focus on Mr. Gioffre, first. If I could have the letter, Exhibit 2. Mr. Logan, did there come a time during your work with the ad hoc committee that the letter, which is Exhibit 2, the one on the left, was brought to your attention?
A Yes.

Q When was that? Let me frame it in time for you.
A Some time in April, I guess. Before the report was -- it was after the appointment of us, and prior to the conclusion of the report.

Q And how did it come to your attention?
A In connection with the preparation of the report, and the committee's work, I had asked one of the Senior Assistant County Attorneys to work with other
people, to put together the report.

Q      That is Mr. Holmes?

A      Mr. Holmes.

He had done a similar job with respect to

the Charter Revision Committee. I thought it would be

appropriate for him to do that.

He came to me one day, it was in the

afternoon, with either the letter or a copy, I forget

which, and showed it to me.

That was the first time that I became aware

of that.

So, it was some time, I would think, after

the 1st of April, and probably before the 10th.

Q      Now, when you saw that letter, did you

believe it was germane to the inquiry of your committee?

A      Yes and no.

Q      When you were asked briefly, did you testify

yes and no in response to the question?

A      I don't recall. If you have it there,

whatever I said.

THE CHAIRPERSON: Can you refer the witness

to the pages.

Q      179.

THE WITNESS: What line?
"Question: When Mr. Holmes showed you the letter, what instructions, if any, did you give him in regard to the letter?

"Answer: That we would put it in the report, as an exhibit.

"Question: You, obviously, felt at that juncture that it was germane to the inquiry that the committee was involved in; is that correct?

"Answer: I did."

Do you recall that testimony?

A Yes.

Q And, in fact, the letter was included as an exhibit in an early draft of that report; isn't that right?

A That is correct.

Q So, is it fair to say, after receiving it, you shared the letter with other members of the committee?

A Yes.

Q And you also had a conversation with Mr. Gioffre about the letter?

A Well, I called him to the office one day to ask about it, yes.
Q Did you have committee authorization to have that conversation?

A No.

Q Did you feel that you had to have committee authorization to have that conversation?

A No.

Q What did he say and what did you say, in your office?

A I can't possibly remember.

Q Do you remember what the substance of his reaction to your presenting him with the letter was?

A Yes. I asked him about it, and he recalled for me that some time in 1982 or '83, December or January of those years, he was at Republican headquarters and bumped into the attorney, Mr. Borchardt, and Mr. Hughes, as he put it, in the corridors. I think I characterized the way he told me about it, that is, Gioffre, that he minimized the event.

Q You testified that he attempted to minimize the significance of that meeting?

A Whatever.

Q Did you ask him what he did with the proposals that were referred to in that letter?

A No.
Q Did you ask Mr. Gioffre whether he discussed these proposals with anyone in County government?
A I don't believe I did. I don't recall.
Q Did you ask him how a letter like this could wind up in Playland's files?
A I probably did, because that was of great curiosity.
Q What did he say?
A I believe he said he didn't know.
Q Did you ask him if he received any other correspondence similar to this?
A No, I don't think so.
Q Why not?
A Why not?
I don't know why not. I didn't.
Q Were you conducting an inquiry into Mr. Gioffre's potential involvement with the setting up of the Morgan Hughes contracts?
A No. We were more interested in the flavor of what happened, and the contracts, themselves.
Q Did you report back to the other members of the committee about your conversation with Gioffre?
A I don't recall. I may have.
You see -- it's possible that I discussed
with one, not another.

Q  Did any member of the committee, to your knowledge, discuss this letter with Mr. Colavita?

A  I don't know that anyone else did. It's possible that I ran into him someplace and mentioned it to him.

It was about this time, also, that Mr. Gioffre testified, that the letter became public in the newspapers.

Q  Do you know when the letter became public in the newspapers, sir?

A  It was some time before the issuance of the report by the County Executive, but it might have been after the date that the report was completed.

Q  So, it was not yet public when you were talking to Mr. Colavita, after receiving this letter; is that right?

A  It was probably the most non-public secret that has come down from the Westchester pike in a heck of a long time.

MR. SHEA: We have a copy. The Commissioner doesn't.

MR. BIENSTOCK: The article, dated April 17th?
MR. SHEA: Yes, that is the article I have.

MR. BIENSTOCK: Exhibit 19.

Q Let me ask you about that article. April 17th is after the time the report was issued; isn't that correct?

A I don't believe so.

You have the records. If you say so I won't dispute you.

I think that the report was issued some time after that; it was finalized before.

Q Do you know the date on the report?

A No. I don't have a copy of the report.

THE CHAIRPERSON: Is there a date when the report was issued?

COMMISSIONER VANCE: April 14th, I think.

It is, dated April 14, 1988.

MR. BIENSTOCK: Exhibit 35, which is the text of the report, indicates that the report is dated April 14, 1988?

A What was the question?

Q The report indicates that the report was issued on April 14, 1988.

A Is that the date it was signed or issued?

Q The date on the cover of the report, bearing
Logan

your name?

A I think the report might have been issued somewhat later.

THE CHAIRPERSON: What is the exhibit, 35?

MR. BIENSTOCK: 35.

THE CHAIRPERSON: There is a book in front of you.

THE WITNESS: I think we have another newspaper clipping.

When I was reviewing it in the library, it appeared that the County Executive issued the report some time next week.

There is a newspaper article here.

Q Was the report finalized in the week preceding Sunday, April 17th?

A I believe so, because it was evidently signed by us on or before the 14th.

Q Did you talk to Tony Colavita about whether there were any other depth charges that you should know about?

A No. You have asked me that, and that is not a term that I would use. That seems more like a Navy term than an Air Force term.

Q Would you have liked to be able to question...
Mr. Colavita about the letter?

A Well, if I had the ability to question everybody whose name came up, yes. To single him out, I don't think that would be fair.

If we had the opportunity and the power, as you do, or the District Attorney did, or the report that the IRS was looking into it, the Board of Legislators was looking into it, yes, I would have asked him and probably a lot of other people.

Q You know that the letter was not made an exhibit to the report?

A That is right. Mr. McShane reminded me of that before.

Q Let me direct your attention to the book in front of you, Exhibit 4.

A This is the one, dated April 13th?

Q Yes.

Did you prepare that memorandum?

A It has my initials on it, and I believe I participated in its preparation.

Q Let me direct your attention to the second page of that memorandum, the second full paragraph.

A Right.

Q It reads, "From our conference this morning
in Commissioner Gulia's conference room" -- "This morning" must refer to April 13th. "I believe that each of us has agreed that the letter does not form a proper part of our report."

Do you see that language?

A Yes.

Q I'm reading now from Exhibit 4, the last clause of the second full paragraph on the second page. "I believe that each of us has agreed that the letter does not form a proper part of our report."

Is that an accurate statement of your view at the time?

A If you read the next paragraph, which says, "However, in order to avoid any later suspicions, or allegations that we did not turn over or cause all relevant or contingent material to be brought to the attention of the proper party, I suggest that in addition to seeing that the letter is given to the investigative bodies by separate memo, we should provide County Executive O'Rourke with a copy of it, so he will be aware of the additional background information."

With that, sure, that was my belief, yes.

Q It was your belief that it was not a proper part of the report?
A That was mine, along with the committee. As you will read above, each of them had decided, along with me, that that letter was not going to be included.

Q So, initially, you thought it was germane, and then there came a time when you agreed with the others that it wasn't germane; is that fair?

A That is correct.

Q Who on the committee argued that it wasn't germane?

A I wish I could tell you. If I could I would. I really don't remember at this point, and I don't think -- I didn't recall when I was asked that earlier.

Q What was done with the letter?

A Physically, I don't know.

Q Was it given to the County Executive prior to the issuance of the report?

A I believe so.

He may even have had a copy before that.

Q Was it given to the SIU and to the District Attorney?

A I asked that that be done. Whether it happened, I can't say.
Logan

Q Now looking at the letter on the right, Exhibit 1, the letter from Mr. Borchardt to Mr. Colavita, did the committee ever uncover that letter?

A I don't believe so, because the first time I saw that was this morning, when I came into this room.

Q And would this letter have been germane to your inquiry?

A I don't know, I haven't read it.

THE CHAIRPERSON: Why don't we just take a moment. It's in the binder.

MR. SHEA: What exhibit?

THE CHAIRPERSON: Exhibit 1.

I would ask if the witness can examine the letter and see if he can respond to the question as a result of that.

(Witness complying.)

THE CHAIRPERSON: Are you ready to respond?

THE WITNESS: I have a question for Mr. Bienstock, if I might.

THE CHAIRPERSON: Yes.

THE WITNESS: I will answer your question, but I'm just curious, on this letter, the addressee, there seems to be something typed over it. What is that?
An old-fashioned carbon copy?

It looks like there is something under that writing.

He is called Mr. Anthony Colavita, and then it is typed over, Anthony J. Colavita.

Will you represent that is the way you found it?

Yes.

Now, your question was what?

Would that letter have been germane to your inquiry?

Not from the position we took at the end, before we signed it. Had I seen that initially, I probably would have been curious about it. I don't think it would have been as significant in my mind as the earlier letter, the other letter.

I have only one other subject.

Did you form an opinion as to the importance, the effectiveness of the ad hoc committee's work?

Yes.

And what was that?

I didn't think that it was as meaningful an
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effort. In certain less polite language that one might
have crafted had he or she been the one doing the
crafting.

Q Mr. Logan, your language was a little more
explicit with us in private session.

A We were in private, sir.

Q Didn't you refer to it as a smoke screen?

A I did, sir.

Q Didn't you refer to the members of the
committee as scapegoats?

A Well, there was that thought that crossed my
mind. I might have been erroneous or harsh in my
conclusions.

Q Didn't you also refer to the effort as a
whitewash, to give the County Executive's office an
opportunity to say they had done something; it was an
exercise in futility?

A If I said that, I might have been piqued.
If you have it there, I said it.

Q My question is, did you communicate that
view to Mr. O'Rourke?

A I did not.

Q Did the committee submit a copy of the
report to Mr. O'Rourke before it was finalized?
A I believe so.

MR. BIENSTOCK: I have no further questions.

THE CHAIRPERSON: I'm not sure there are many questions, but there are one or two.

Commissioner Vance.

COMMISSIONER VANCE: I have one question, to clarify this issue of the charge of the County Executive.

I call your attention to page 5 of Exhibit 35. It's the full paragraph in the center of the page, the last line. And it reads, "Facts outside the four corners of the leases which might enable" --

THE WITNESS: We haven't found it yet.

MR. SHEA: What exhibit is it?

COMMISSIONER VANCE: Exhibit 35.

THE CHAIRPERSON: Can counsel assist the witness?

THE WITNESS: I have it.

COMMISSIONER VANCE: It reads, "Facts outside the four corners of the leases which might enable the County to declare the leases null and void are beyond the scope of this memorandum, as
the charge of the County Executive confined the
committee to the four corners of the leases."

I assume that you agree with that
statement; that reflects what the charge said?

THE WITNESS: Yes.

COMMISSIONER VANCE: Thank you.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: Mr. Logan, you were County
Attorney for four years and a little bit?

THE WITNESS: Yes, sir.

MR. SCHWARZ: Could you, reflect back now
on these events, and specifically, I would like to
focus on Mr. Warager's testimony.

MR. SHEA: I can't hear you.

MR. SCHWARZ: Can you here me?

THE WITNESS: You're very soft-spoken.

MR. SCHWARZ: I'm trying to be.

If you could go back through the experience
you have been through here, and focusing on Mr.
Warager's testimony, the events surrounding his
appointment, and so forth, can you comment or
opine for us on what you view -- what your view
would be with respect to a merit selection panel
for County Attorneys, or for government attorneys,
and what, if anything, their relationship to politics ought to be?

THE WITNESS: All right.

MR. SCHWARZ: I exclude from that the appointment of the County Attorney. I'm talking about their deputies, assistants.

THE WITNESS: I thought about that, not only from this, but from the time I was Town Attorney of Mount Pleasant. I feel we should be responsive to the people.

I believe there should be something in the nature of a permanent party, a group of people who carry on the tradition of the unit of government, or the business, and that in order to protect them against uncertainties as to their future, that might not be a bad idea.

As you are probably aware, it's very difficult today, after the Supreme Court decision in Rockland County, to dismiss people for political purposes.

That is not the panacea, because you can have abuses there, too.

You have to try to do the best you can under the circumstances you find yourself.
If you're asking me would it be better to have some with tests, I'm not --

MR. SCHWARZ: I'm not asking about a Civil Service system, a merit selection, a panel through whom these people would be hired, and some rules similar to the Hatch Act in the federal area, which basically say, just like the District Attorney, one should not be involved in politics, and his assistants should not be involved in politics, the County Attorneys and staff should not be involved in politics.

THE WITNESS: The question is, who appoints the selectors, who appoints the committee that does the selecting?

That seems to be -- if we can't do it, let's get a committee.

So, that might be one way. The way they do it now -- you see the County Attorney's office, by a ruling of the State Bar Association, an ethics ruling, have been put under the same blanket as the District Attorneys. The Hatch Act, actually, is a little more flexible.

The County Attorneys made a treaty with the Bar Association to have the State Hatch Act apply.
MR. SCHWARZ: Thank you.

THE CHAIRPERSON: Thank you very much, Mr. Logan.

MR. SHEA: For the record, could we order a copy of the transcript? I see that the rules provide for it.

THE CHAIRPERSON: Let me ask our Executive Director what our practice is.

THE CHAIRPERSON: He wants to order a transcript.

MR. BIENSTOCK: We will provide you with one.

THE CHAIRPERSON: Thank you.

(Witness excused.)

THE CHAIRPERSON: A few moments ago, when I arbitrarily canceled the lunch period, I had failed to consult with the higher authority, and the higher authority being the Reporter, who said that it was essential that he have at least fifteen minutes, but he agreed to a twelve-minute recess.

So, we will take a ten to fifteen-minute recess, and resume with Andrew O'Rourke's testimony.
(Recess had.)

THE CHAIRPERSON: The Commission calls as its next witness, Andrew O'Rourke.

ANDREW P. O'ROURKE, called as a witness, having been first duly sworn by the Chairperson, was examined and testified as follows:

THE CHAIRPERSON: Please be seated.

I would like to ask Timothy Brosnan, on behalf of the Commission, to commence with the initial questioning.

MR. BROSnan: Thank you, Mr. Chairman.

MS. SLAATTEN: Can I identify myself for the record? Marilyn Slaatten, Westchester County Attorney representing Mr. O'Rourke.

MR. POWERS: Brian Powers, Deputy County Attorney.

EXAMINATION

BY MR. BROSnan:

Q Good afternoon.
A Good afternoon.

Q Mr. O'Rourke, could you tell us how you are currently employed?
A I'm the County Executive of Westchester County.
Q How long have you held that position?
A Since January 1, 1983.
Q Were you initially elected to that position in January, 1983?
A I was appointed in, I think, late December of 1982 by a majority of the County Board of Legislators, at a time when the then incumbent, Mr. Alfred Del Bello, had been elected to the office of Lieutenant Governor in the State of New York.
Q As County Executive, how many employees are you responsible for, approximately?
A Approximately nine thousand, several hundred.
Q Approximately what is the amount of the annual County budget?
A The 1990 budget that I have submitted is $1,045,000,000, and the budget for 1989 was approximately $950,000,000.
Q As County Executive, can you describe for us your role in the County contracting process.
A I'm responsible for anything that happens in the County of Westchester, including the contracts made by this County.

We have a procedure that County contracts
come up through the departments. Each department is responsible for letting those contracts that are individual to that department, except those that deal with construction and similar projects, and then that would be the Department of Public Works.

So, the contracts go forward, they are looked on, they are reviewed by the department heads, they are submitted to the the Board of Acquisition and Contract, on which I sit as one of three members, with the Chairman of the County Board and the Commissioner of Public Works.

Q Do you recall testifying in private that when you first see the contracts, they're generally on the agenda of the Board of Acquisition and Contracts?

A Yes, I stated what happens normally is the project is conceived as an idea, and that idea could be used -- to use an example of a jail, that we are presently building now, that the County handled in Valhalla. I go through the aspect of the drawings, the renderings. Then it goes into the capital budget and becomes projects. And then the next time I would see it is after it has been through the mill, been out to bid, and at that time it comes to me as a part of Acquisition and Contract.
That is the normal rule. There could be exceptions to that, of course.

Q Mr. O'Rourke, you have mentioned several times the Board of Acquisition and Contract. Could you just tell us what that is.

A It is established under our County charter, and it is the Board that is charged with the letting, or the authorization of contracts for the County.

Q And it is my understanding that that Board consists of three persons, three officers; is that correct?

A Yes.

Q Can you identify those officers?

A Well, the Board of Acquisition and Contract is composed, under the County Charter, of three individuals, the County Executive or his designee, the Chairman of the Board, or his designee, and the Commissioner of Public Works sits as a third member.

I might add that we do not physically see the contracts. What comes to us is an authorization, allowing usually some department head, or the County Attorney, to enter into the specific contract.

Q In your answer you said the Chairman of the Board. Is that the Chairman of the Board of County
Legislators?

A Yes, that is correct.

Q Did you hold that position prior to becoming County Executive?

A I did.

Q For how long did you hold that position?

A Approximately five years before I became County Executive, I was Chairman of the Westchester County Board of Legislators.

Q Mr. O'Rourke, can you describe for us the typical preparation you receive in anticipation of voting on a given contract, as a member of the Board of Acquisition and Contract?

A Well, there is or was during all the times we will be talking, something called pre-board, which was a meeting conducted by my executive officer, or as the job is now titled, Deputy County Executive, who would meet with the department heads and go over the fine points of the contract.

I would get the agenda the day before, and go over it. If I had any specific questions, I could call somebody.

In general, I'm familiar with these contracts as they go forward, and know what their import
is. So, other than something that I might call for, or something that would be brought to my attention, I just go into Acquisition and Contract and take up the agenda and go through it.

Q Generally you don't go through, I think you refer to them as, the fine points of the contract?

A What I mean is, and I think this committee has seen, the document that appears before Acquisition and Contract is a letter form from the Commissioner, asking for permission to enter into a contract with the ABC Corporation, to do such and such, and requesting authorization to do that.

That is what we generally see.

I'm trying to think of a time when specifically the contract language was before us, and I cannot.

MR. SCHWARZ: Summary resolution?

THE WITNESS: That is correct.

Q Is the Board aware, at the time they vote on the contract, whether the appropriate procedures and bidding processes have been followed for a particular contract?

A Well, as to a contract that has been out on bid, there would be attached to the resolution a list of
all of the companies that receive bids, which one of them responded, and how much their bid was, so that we could see the lowest bidder, and that that person, the lowest responsible bidder, was chosen.

As to those contracts for special services, that would not be attached to it, and I believe that my assumption is that no contract, or no resolution establishing the contract gets on there, unless it goes through the Board of Acquisition and Contract, the administerial end of it, which is on a different floor than mine, where they have check lists, make sure everything is taken care of.

Q Mr. O'Rourke, you are familiar with Mr. Colavita; is that correct?
A Yes, that is correct.
Q Does Mr. Colavita play a role in County personnel matters?
A He has no direct role in County personnel matters.
Q Does he recommend people to you for jobs?
A He has often done that.
I might add that the leaders of the Democratic party and the leaders of the Conservative Party have done that. The Liberal Party has abstained
over all these years.

Q Mr. O'Rourke, during your time as the County Executive, or as the Chairman of the Board of Legislators, have you known Mr. Colavita to play any role in the County's budgetary matters?

A Well, I don't know what you mean by any role.

I commented to you, and others, when I testified, I recall him talking to me at least once about the number of people that were at the Board of Elections, which is a rather political organization. Half of them are Democrats, half are Republicans.

Like everyone else, they don't feel they have enough staff. I remember him bringing that problem to my attention. I can't think of any other ones.

Q Have you, yourself, ever discussed an annual budget with him, other than the matter you just related to us?

A I could have, but I don't recall.

Q Has it ever been brought to your attention that Mr. Colavita has exercised, or attempted to exercise any influence over a County budget?

A To my personal attention?

Q Yes.
A By someone other than the newspapers, of
late, or something?
Q Yes.
A No, not that I can recall.
Q Mr. O'Rourke, when the County assumed
control of Playland in 1983, there was a decision made
that kept direct control over Playland within the County
Executive's office; is that correct?
A That is correct.
Q And prior to that time, could you briefly
describe for us how Playland was operated, and who had
control over it?
A Well, very quickly, for a number of years, I
think it could have been 20 or 25, Playland was run by an
organization called the Playland Park Commission, and the
County had very little to say about what happened.
The Playland Park Commission went out of
existence, and the then administration brought in
Marriott to run Playland on, I think, a two-year
contract.
That did not turn out to be good for the
County. We lost about five million dollars in the
process.
When I became County Executive, I determined
to take it back and run it as an integral part of the park system.

Q In January, 1983, when the County took back control of Playland, did you undertake a search to find a Director for Playland that year?

A No.

Q Why not?

A Well, in 1983, early 1983, I appointed as a consultant Mr. Kilcullen, who had been working -- I think his title was Director under the Commission, and then I think he was a consultant under Marriott. He had, I thought at the time, the accumulated knowledge of the ages, because he had been out there so long. So, I kept him out there as a consultant and the operating officer of Playland.

I also sent Mr. Keeler, Richard Keeler, out there to be his assistant, first. Later on, to be Acting Director, and then Director.

Q I'm focusing now simply on January, 1983. Is it your testimony that you selected Mr. Kilcullen?

A That is correct.

Q Did you --

A That is my best recollection. We are
dealing with things that happened five and six years ago.

Q Did Mr. Kilcullen come recommended to you by any particular persons?

A I read that he was recommended. That could have happened. He was the most logical person to go out there; he was out there the longest; I felt he had the experience to do the job.

Q Do you recall whether Mr. Colavita recommended him to you?

A No, I can't recall that, but it's certainly a possibility.

Q Mr. O'Rourke, you just mentioned when you sent Mr. Keeler out to Playland, that was in July, 1983; is that correct?

A I don't know the date; I will accept your date.

Q And could you tell us what led to your sending Mr. Keeler to Playland?

A Well, again, very quickly, what had happened was that the Motor Vehicle Department in Westchester had been turned over to the State of New York, and we had a great number of people that did not want to go to the State. I had promised every person, regardless of their rank or position, that if they wanted to stay with the
County, they could. This went from the lowest grades up to positions like Mr. Keeler, who was, I believe, at the time, the First Deputy Clerk.

So, I began to look for places for these people. Eventually, I think there were over a hundred of them who eventually came with the County, as opposed to the State. We eventually found places for all of those people.

The impression I had at the time, of Richard Keeler, was that he was an excellent administrator. Everything I heard about him over the years bore that out.

Eventually, I decided that Playland needed an administrator, or several of them, perhaps. I sent him out to Playland.

Q In fact, one of the other reasons you mentioned to us for sending him to Playland was that you had come to be dissatisfied with Mr. Kilcullen as an administrator; is that correct?

A I think that was later on. I think I said that Mr. Kilcullen -- I was distressed in late 1983 to find out that there had not been enough movement to get rides into Playland.

What had happened was when Marriott left,
they pulled out their rides. So, there were big gaps out in the runway. I think that is what it is called, out at Playland.

I was very, very annoyed that this had taken so long. I tended to blame Mr. Kilcullen for that, rightly or wrongly. I decided around that time that he would not serve.

I believe that the main reason I sent Keeler out there was, one, I needed a job for him of that grade; and two, that he had a good reputation for being an administrator.

Q What was it that Mr. Keeler administered prior to him being sent to Playland?

A My best recollection is that he ran the three Motor Vehicle Bureaus, one in Yonkers, one in White Plains, and the other in Peekskill.

Q You had heard about his administrative abilities from persons connected with that department?

A Yes.

What happened was when we had these people, and had to move them, I did my best to go around and ask people various questions about the people that we had to find jobs for to see what they thought of them.

The general opinion that I got of Richard
Keeler was that he was a good administrator.

Q Mr. O'Rourke, when Mr. Keeler was --

MR. BROSnan: Withdrawn.

Q Do you recall who you got that information from, Mr. O'Rourke?

A I can't now.

I asked people I thought that would know him, and asked their opinion.

Q Mr. O'Rourke, when Keeler was sent to Playland, was there a job description for the position he was sent to work in?

A I don't recall if there was a written job description.

What had happened was over a great number of years, under the Playland Park Commission, we had nothing to do with the administration out there. Then, under Marriott, we had nothing to do with the administration. Administration seemed to be the biggest single problem out there.

My feeling was that we could overcome the lack of expertise on the part of Keeler in running an amusement park. Nobody starts out knowing how to run an amusement park. That the necessity for an administrator was important. That is the reason I sent him out.
Q Did you draw up, or advise anyone to draw up, a job description for Keeler in July, 1983?

A I can't remember. I do remember saying to Keeler, whoever gave him my instructions to go out there, "Get out there, get a look at what is going on out there, and get a grip on the administrative end of this thing."

Q At the time that you sent Mr. Keeler out to Playland, was there an outstanding request for an administrator to be sent there?

A I couldn't answer that.

Q Prior to sending Mr. Keeler out there, had you spoken to Mr. Caverly, Mr. Arles, or Mr. Kilcullen, about sending Keeler out to Playland?

A Well, I could have, and indeed, I could have gotten whatever reaction they had. In the final analysis, it was, indeed, my determination to send Richard Keeler out there, because I thought he was a good administrator and we needed him there.

Q So the record is clear, Mr. Caverly was the Director of Parks?

A The Parks Commissioner.

Q Mr. Arles was one of his deputies?

A Yes.

Q They were charged with overseeing Playland
at that time?

A You have to understand this. Playland --
and I recall in the private testimony mentioning this --
was sort of an orphan. In fact, our charter specifically
excluded Playland from the parks covered by the Parks
Board. It had been independent for all those years,
because it had the Playland Parks Commission running it.

I remember I had to have a conversation with
the people in the Parks Department, explaining to them
that they were in charge of Playland, they had to take it
over.

During the time Marriott was out there, the
Playland, it seemed to me, was almost under the direct
control of the County Executive.

What I was doing, as I saw it, was loosening
up the ties between the County Executive and Playland,
and moving it back into a line item of the Parks
Department.

Q You mentioned two parks entities, the Parks
Board and the Parks Department. So the record is clear,
the Commissioners understand, those are two separate
entities?

A Yes. There is a lay board that has
far-reaching powers, that runs our park system, and has
been doing a great job for fifty or so years, I think. That is called the Parks Board.

Q And it was the Park Department that you placed in charge of overseeing Playland?

A That is correct.

Eventually I think we had the charter changed, to take out the offending section that precluded the Parks Department from having anything to do with Playland.

Q And the gentlemen we spoke of, Mr. Caverly, and Mr. Arles, were at the Parks Department?

A That is correct.

Q And I'm sorry, I missed your answer; but did you speak to them prior to sending Mr. Keeler out there?

A I said I could have. I would have solicited as many opinions as I could, but I listen to everyone, and then do what I think is right.

Especially, in the case where we had almost a de novo situation with the Playland. It had not really been an integral part of the Parks Department up until that time, and it was my view it had to be moved back in and become a line unit within the Parks Department. That is the way I was moving it.

Q I'm sorry, you said you could have. Did you
speak to them?

A I told you, I don't remember, but it is not out of character that I would have spoken to them.

Q Mr. O'Rourke, do you know whether any written notification was sent to inform Playland, or park officials, that Keeler was being sent there, and the purpose for which he was being sent?

A Eventually --

Q I want to focus on July, 1983.

A I don't remember that.

I remember eventually I sent a notification that he was appointed Director.

MR. BROSnan: Mr. Chairman, if I may at this time state for the record, a formal request was made to the Westchester County Attorney's office by the Commission for records prepared by Mr. O'Rourke, concerning a job description for the position Keeler was filling in July, 1983, or any written notification sent to personnel, Mr. Caverly, Mr. Arles, or Mr. Kilcullen, concerning Mr. Keeler's appointment in July, 1983. The County's attorney office response to that request was there are no other records which are known to exist which have not already been provided to the
The Commission has reviewed the documentation provided it, and did not find any job description or any written notification sent to the Personnel Department, Mr. Arles, Caverly or Kilcullen concerning Mr. Keeler's position in January, 1983, in the documentation previously supplied to us by the County Attorney.

And at this time, I would just renew a request if that documentation does become known to the County Attorney's office, that they make it available to us.

MR. POWERS: No problem.

MS. SLAATTEN: We are aware, and have stated to you our continuing obligation to find any documents.

We find Mr. Brosnan's response in terms of what we have found and have not found to be correct. If we find anything, we will supply it to the Commission through the attorneys.

THE WITNESS: Mr. Chairman, let me say one of the reasons that perhaps that doesn't exist is that we paid Keeler out of a line in the County Clerk's office. I think it was for that whole
year.

So, that is maybe why there was no actual paper transferring him out there. He was sort of temporary duty for the front out there, and in the meantime he was holding a line in the County Clerk's office. That is probably why there is no piece of paper sending him out there.

THE CHAIRPERSON: I'm not clear on this.

As I understand the facts, he was appointed Director at Playland in either late 1983, or the beginning of 1984.

Earlier in '83 he was assigned to assist at Playland.

THE WITNESS: That is right.

THE CHAIRPERSON: Your testimony as to the decision that you made, and the process that you went through, is that in connection with the initial assignment to Playland, or the appointment as Director?

THE WITNESS: I think, Mr. Chairman, that I would have done that on a continuing basis as I was making the decision whether to make him the Director out there.

Some of the operative facts were that I
determined that Mr. Kilcullen would not continue out there, and that it seemed to me that the reports I was getting back, and from personal reviews of mine going out to the park, that Keeler was doing a good job out there.

Every time I went out there, he was running around, he was doing things, people gave me basically good reports on what he was doing out there.

THE CHAIRPERSON: It seems from your testimony, at least the way I interpret the testimony, that when he initially went out, it was not known at that time that he would be subsequently appointed as Director.

THE WITNESS: I can't think back that far. I don't believe there was any commitment from him by me that he would become Director.

However, as time went on, and as I faced the fact that Mr. Kilcullen would not continue, he became a much more likely candidate.

As I mentioned, I thought there was a time when I either denominated him, or gave him the title of acting Director. I can't be sure of that now, because it has been such a while ago.
O'Rourke

It seems to me he first went out there to assist Kilcullen, and then I made him acting Director, and then I made him Director out there through that time period.

COMMISSIONER VANCE: Let me ask a follow-up question.

Mr. O'Rourke, who did you talk to after Keeler got there, who indicated to you that he was doing a splendid job, was a good administrator? Did you talk to Mr. Kilcullen about it?

THE WITNESS: I'm sure I would have.

COMMISSIONER VANCE: Did he say that?

THE WITNESS: I can't recall now, Mr. Vance.

I do recall that I talked to people out there. And you have to understand, Playland was at its nadir. There were a lot of people that wanted it closed down, and just torn up. It had had fences put around it by Marriott that had crippled the attendance out there.

We took down the fences. I believe we restored it to the people of this county. I was very concerned about Playland.

I made, not many, but several trips out
there, personally, and I would talk to people, and
ask them what they thought about Keeler.

That, I think, went from people who worked
out there, through anyone that I thought might
have a grasp on how he was doing.

Whether I specifically talked to Mr.
Kilcullen, it sounds like something that I would
do, have a conversation with him somewhere along
the line.

COMMISSIONER VANCE: Mr. Kilcullen said he
had a very negative view of Mr. Keeler. I
wondered who these other people were who thought
he was such a great manager.

THE WITNESS: Mr. Vance, history is written
by those of us who remember what occurred. My
recollection apparently isn't as good as Mr.
Kilcullen's is about specific conversations.

Whenever I was out in Playland -- I'll tell
you this, I mentioned this to the committee -- the
only negative comment I heard about Richard Keeler
was that he couldn't go past the custard machine
without stopping. Other than that, there was not
any negative comment that I heard.

If Mr. Kilcullen says that he said it, I
won't disagree with him; I just don't recall.

COMMISSIONER VANCE: You don't recall ever talking to Mr. Caverly about it, Mr. Arles?

THE WITNESS: I'm sure I talked to them about it.

But, you know, I get blamed for everything wrong that goes on in this county, and I also take credit for everything good that happens in the county, and I'm responsible for it.

Somewhere along the line I made the determination, based on everything I could, and with the understanding that I thought Keeler was doing a good job out there, to keep him there.

If you look at the parameters, by the way, of attendance and money earned by the County, every year that Keeler was out there, those went up. So, those were parameters that I used to judge Keeler's performance, and the lack of basically negative comments until much, much later in his tenure out there.

THE CHAIRPERSON: I would just note for the record -- and I'm just looking at my notes of Kilcullen's testimony yesterday -- he related a conversation that he had with you in late '83, in
which you asked him about how Mr. Keeler was
doing. As my notes reflect, in response to your
inquiry he said that he was a good worker, his
testimony on the issue of his character, his
honesty, which Kilcullen said you had asked him
about; you had raised the issue of his character.
And I really have to let the record reflect what
his response to that was, because my notes aren't
complete enough.

I did ask Mr. Kilcullen about that
communication from you to him, and what his
response was to you. My recollection of his
testimony yesterday was that his response to you
on the issue of character was somewhat qualified.
The record has to speak for itself on that.

THE WITNESS: Well, I don't recall.

As I said, it would not be out of character
for me to ask Mr. Kilcullen his opinion.

In the final determination, I would have
gotten a lot of opinions and made up my own mind

MR. SCHWARZ: Just to finish this, where
did the idea, if you recall, first come from, for
you to send Mr. Keeler out to the park, in the
first place?
THE WITNESS: My best recollection, Mr. Schwarz, is that I was looking for a place to send him because he had -- I forget what grade he was at, but he was a fairly high grade, and I needed to find some place for him.

Eventually he would go off the line in the County Clerk's office, and then I knew there was a need out in Playland.

MR. SCHWARZ: Did it just occur to you, is my question, or did someone suggest it to you?

THE WITNESS: As I said, it's possible that it could have been recommended to me. People recommend things to me all the time.

MR. SCHWARZ: Is it possible that Mr. Colavita could have recommended him to you?

THE WITNESS: I don't recall that.

Mr. Colavita and Mr. Keeler were friends, so it is a possibility.

The determination, and the decision, and the consequences of that decision, were mine.

MR. SCHWARZ: Thank you.

Q Mr. O'Rourke, did you consult your deputy, Mr. Vincent Castaldo, about your decision to send Mr. Keeler out to Playland?
Again, I can't recall.

And it's Castaldo?

Yes. Vinnie had a lot of opinions. I'm sure if he had an opinion, he would have told me.

Did you know at the time you sent Keeler that Mr. Castaldo, your deputy, had already sent a Mr. Markowitz, from the Department of General Services, to oversee administrative matters in the park, and that is in addition to Mr. Kilcullen?

When we discussed that before, I said that I wasn't sure why Mr. Markowitz had been sent out there, but I knew there was a continuing administrative problem.

So, when I sent Keeler out there, if I knew Markowitz was out there, it was because I thought they needed more help than they obviously had.

Mr. O'Rourke, if you can take a look at Exhibit No. 30.

(Witness complies.)

I have seen it.

Had you seen this memo before you sent Mr. Keeler out to Playland?

I think you showed this to me before, and I said I don't recall seeing it all. I could have. It was some time ago.
O'Rourke

So, whether I saw it or not, I don't know, but I did see it when you and I talked last.

Q Does the first sentence of the second paragraph refresh your recollection as to why Mr. Markowitz was sent out to Playland?

A Well, it doesn't refresh my recollection of what Mr. Markowitz was doing. I recall after that I was convinced that there was a serious administrative lack out there, and that I felt a man that had run three Motor Vehicle Bureaus probably would be in a position to help them with that.

Whether Markowitz was out there or not -- and I guess I must have known it at that time -- I still made a determination to send Keeler out there.

Q That is my next question.

Mr. O'Rourke, in making the observations that led you to send Keeler out to Playland, specifically that you believe that there were management problems, did you become aware that Mr. Markowitz had been made part of the management structure at Playland?

A Well, I think I tried to answer that. I said that I don't presently recall what I knew then. I assume I knew the contents of this memo, and that Mr. Markowitz had been sent out there.
I still felt there was a management problem, they needed more help out there.

You have to understand that for two years they had operated under the aegis of Marriott, and Marriott had a lot of people out there. Then they pulled all their people out of there.

We were playing with the staffing of what would ultimately become a full-fledged, County-run organization.

So, I don't think the fact that Markowitz was out there in any way deterred me from sending one or more people out there.

Q Mr. O'Rourke, after Mr. Keeler was sent to Playland, actually, a short time after, an attempt was made to give Keeler the authority to sign purchase requisitions. Do you recall that?

A I recall the two memos you showed me. I believe they were from Mr. Kilcullen. One I said I thought it was a good idea, the other, Mr. Castaldo raised some technical problems. I assume now the technical problem was Keeler was still on the payroll of the County Clerk's office, how could he have purchasing power at Playland.

Q If I could direct your attention to Exhibit
13, it is one of the memos that you just referred to.

A Right. I have it.

Q Is that your handwriting on the copy of Exhibit 13?

A It certainly is.

Q Now, you described their attempt to give Keeler the authority to sign purchase requisitions a good idea, and my question is, why did you think it was a good idea?

A Well, this was in July of 1983. I had sent -- as you know I had said Ed Kilcullen was out there, he was the consultant/overseer of Playland.

He is suggesting that -- not suggesting, he says, I'm assigning the duties of the purchasing operation to Keeler. So, obviously at that time he thought that Keeler was doing a good job, enough to entrust him with additional duties.

What I said at the bottom -- I guess I got this from Kilcullen -- I said, "Ed, this is a good idea, Rich will do a fine job as purchasing officer, keep up the good work. Regards Andy O'Rourke."

As is my usual feeling that patting people on the back, and sending them notes back is a good way to keep up morale.
Q Is it your testimony that the reasons you thought it was a good idea was based on the recommendation of Mr. Kilcullen, an employee who you thought was doing a poor job as an administrator at that point?

A Let's get the time sequence of this. I said I became concerned about what Mr. Kilcullen was doing later on in the year, when I realized we hadn't put together the rides that we needed for the next season.

Exactly when a period of disenchantment set in, I can't guarantee whether it was before or after. I think it would be after this when I became aware about the rides.

Ed Kilcullen, in this memo, obviously has a fair amount of trust in Richard Keeler, enough to give him purchasing power over an operation I think that is fairly important to Westchester County.

I just went along with it. He is the guy who went out there.

So, it would have been backed up by my experience of having been out there a couple of times and talked to people; it would have been backed up by whoever I had talked to at Playland, which could have included...
O'Rourke

Kilcullen at this time. And I could only assume that his remarks to me would not have been too detrimental to Mr. Keeler, if he was suggesting that he have additional duties. And my personal experience in life, I guess, that I thought this was a reasonable idea.

THE CHAIRPERSON: Do you have any independent recollection as to how this document reached you, and the circumstances under which you appended the note that you did?

THE WITNESS: No.

I can just say that, Mr. Chairman, it is the kind of thing that I would do. Over the years I have found too often in public, and in private life, maybe even academic life, we don't thank people, or say something to them about their doing a good job. I probably used this as a way of getting back to Kilcullen to keep up the good work out there.

Q Mr. O'Rourke, after Mr. Keeler was in Playland for a short time, do you recall receiving complaints about his presence in the park?

A No.

Q Do you recall saying to anyone at that time, something to the effect that if anyone had problems with
Keeler, they were to see you personally, because you appointed him?

A No. Could have, but I don't recall saying it.

MR. SCHWARZ: Before he leaves this process, can you just explain for me what you mean when you say you were trying to put Playland, I think you said, more of a line item, more of a line responsibility?

THE WITNESS: Yes. Playland had been sort of, as I described it --

MR. SCHWARZ: I understood what you said it was, not as to what you mean by making it a line.

THE WITNESS: Make it a line company. Try to put it in the table of organization of the Parks Department. It hadn't been in there. There was a feeling of a lot of independence of the people who worked out at Playland. They didn't see themselves as part of the big picture of Westchester County. They hadn't worked for us for years. They had their own administrative procedures out there, some which we are still in the process of correcting.

MR. SCHWARZ: Your testimony is that they
O'Rourke didn't see themselves as sort of responsible in
the line of command of the Parks Department?

THE WITNESS: They had never been before,
at least within my tenure in Westchester County.

THE CHAIRPERSON: Can I just ask you this:
When you originally testified here today on this
subject, I made a note of it, because it wasn't
clear to me, you said in terms of moving it to a
line relationship with other parks, you were
interested in getting it out of the relationship
of the County Executive.

Maybe I misunderstood your testimony, but
that is what I made a note of. I wasn't clear
what you meant by that.

THE WITNESS: The County Executive had a
great deal of a authority and control over it
while it was under Marriott. Prior to that time,
it had been run by this board, this Playland Park
Commission.

What I was trying to do was disentangle,
eventually, myself, from it, and put it as a
working and integral part of the Parks Department.

However, I was very concerned about this.
There were movements to close down Playland. I
didn't want that to happen. So, this was a continuing effort on my part, and was a pet project of mine for several years, until I felt it got melded in correctly into the Parks Department.

MR. SCHWARZ: When it was melded in, could you tell me what the chain of command then would have been?

THE WITNESS: The chain of command --

MR. SCHWARZ: Manager of Playland, and he would have reported to somebody, who would have reported to somebody, who would have reported to you.

THE WITNESS: If you take the situation when Keeler was there, he would have reported to Arles, who reported to Gioffre, who reported to me.

We had problems with that while Keeler was there. There was a feeling, on the part of the Parks Department, sort of, that this wasn't their total responsibility, and there was a feeling sometimes by Keeler that he would go out of the chain of command when he got nervous, couldn't get a rapid answer. He was a very driven guy.

I remember I had two or three meetings in
O'Rourke

my office, where I said, hey, you work for him, you work for him, you work for him, he works for me.

Now, that is the chain of command, let's try to keep it that way.

Even with that, I still had problems with it.

MR. SCHWARZ: I guess my question is, if you wanted to make it a line item responsibility, why didn't you say to the man who works for you, we need some help out there, tell the man who works for you to go out and get it, so that the line item responsibility would be established?

Why did you, in effect, go outside and appoint a man, yourself?

THE WITNESS: Well, the chain of command never covers the guy on top. I have a right to go into any point of the chain of command and do whatever I think is right.

MR. SCHWARZ: I'm asking you why you did it.

THE WITNESS: I can't say now what position I took back then.

I do remember I'm the responsible official
that sent Keeler out there. But, I know I had several conversations with people in the Parks Department, where I used to say to them, Playland is under your jurisdiction, take control over it, do what has to be done out there. I have recounted meetings where I have tried to set that up.

MR. SCHWARZ: Thank you.

MR. BROSnan: Just two more questions about the appointment.

Q Before Mr. Keeler was sent to Playland, or before he was appointed Director of Playland, Mr. O'Rourke, did you, or persons on your staff, ever make inquiries of his supervisors at the Department of Motor Vehicles regarding his performance there?

A Well, I think he only had one supervisor; that would have been Mr. Morrow. I can't tell you whether I discussed it with him or not. I probably did.

THE CHAIRPERSON: Did?

THE WITNESS: I probably did. I don't recall.

Q Do you know if any background checks were done by the County Attorney, the County police, before Mr. Keeler's appointment.
A No, I don't believe it would have been done. As to people who work for the County already, it is not standard to procedure to do that.
Q Prior to you making him the Director, were you aware of any complaints about Mr. Keeler's performance in his prior employment at the Department of Motor Vehicles?
A None that I can recall.
Q Mr. O'Rourke, when did you first notify Mr. Keeler that he would become Director of the park?
A I don't know. Some time prior to whatever the memo is that I sent out concerning the appointment.

THE CHAIRPERSON: Do we have a date of that memo, for the record?
MR. POWERS: If it will help, Mr. Brosnan, it is a memorandum, dated December 21, 1983.
THE CHAIRPERSON: Thank you.
MR. BROSnan: It is not part of this record, but it was provided by the County Attorney's office.
THE CHAIRPERSON: Is there a reason why it is not part of these proceedings?
MR. BROSnan: No particular reason.
THE CHAIRPERSON: I would suggest that it
be made a part of the record of the proceedings.

MR. BROSAN: I would move to put it in as Exhibit 44 in these proceedings.

THE CHAIRPERSON: It will be received.

(Above referred to document was received in evidence as Commission Exhibit 44, as of this date.)

THE WITNESS: So, it would have been some time prior to that memo that I would have told him.

To give you another date, it would have been some time after whenever that memo was from Kilcullen, saying that he was going to give him purchasing power. That is the best parameters I can give you.

THE CHAIRPERSON: My recollection is that bears a date of July 28th. I stand corrected by the document, itself.

MR. BROSAN: Which memorandum is that?

THE CHAIRPERSON: The one where the note is appended to.

MR. BROSAN: July 28th?

THE WITNESS: Some time in there I would have made a determination, probably closer to the
end of the year, that Keeler would take over.

I know I put it into the 1984 budget for a Director out there, so we would have the money to pay him.

Q Mr. O'Rourke, I believe you testified by the fall of 1983 you had determined that Kilcullen would be leaving the park; is that correct?

A Around that time, yes.

Q At the time you reached that judgment, did you undertake a search or cause a search to be undertaken to replace the Director of the park?

A No.

Q Why not?

A I didn't think it was necessary.

I think if you have somebody that you can promote up through the ranks, you ought to do it. If you have to search, you should go out and search.

I think where people like Keeler, who was a twenty-year civil servant, or public servant, there was no reason to believe that he couldn't rise up through the ranks.

Certainly, I think, unless for specialized jobs, it tends to prove that you haven't developed any leadership community among your million-dollar management
O'Rourke

people, so that they can take higher jobs if they become open.

That doesn't preclude me from going out on searches. I later did it, as a matter of fact, in the Playland situation.

Q Mr. O'Rourke, it was your judgment at that time that Mr. Keeler was qualified to become Director of the park?

A It was.

Q Did you consult Mr. Caverly about that, about Mr. Keeler's qualifications to take over the park?

A I can't recall.

Q Did you consult Mr. Arles about that?

A I have no recollection.

Q Mr. O'Rourke, if you could take a look at Exhibit 31.

(Witness complying.)

A Yes.

Q Have you had a chance to review that exhibit, Mr. O'Rourke?

A Yes, I saw it when we got together last time.

Q Now, Exhibit 31 shows that in 1988 you underwent an extensive search to find a new Director for
Playland; is that correct?

A That is correct.

Q Could you tell us what prompted such an extensive search in 1988?

A Some time in 1987, I think, I received an unsigned letter concerning Mr. Keeler, which caused me to initiate a very complete investigation by our own police department. As a result of that investigation, it was forwarded to the District Attorney.

There were a series of stories that I felt were harmful to Playland, and I thought it was very important to go out and assure the people of this county that I would try to get the best person I could to be the next Director.

I had said at some point during that time that Mr. Keeler would not be returning, and I felt that a search was the right way to go at that time.

Q In Exhibit 31 you point to a number of things that had been done pursuant to the search. My only question is, were any of these things undertaken when you appointed Mr. Kilcullen in 1983 for the 1983 season, or Mr. Keeler in 1983 for the seasons thereafter?

A No.

Q And when you appointed Mr. Kilcullen and
Keeler at those times, were you confident that they were
the best persons available for the position?

A I made the determination that they were the
best available, I appointed them, and that was my
responsibility, it is my responsibility today for having
appointed them.

When I later saw what happened, I felt that
the right way to go, and perhaps in retrospect the right
way then would have been to go for a search. That is
what I did then, and later on I decided to go for a
search.

Q Mr. O'Rourke, you are familiar with what I
will refer to as the Hughes contracts; is that correct?

A I have never seen -- I don't think I have
ever seen the Hughes contracts, but I'm familiar with
them, yes.

Q Do you know when Mr. Hughes first became
desirous of placing rides in the park?

A No.

Q When did you become aware of Mr. Hughes'
desires?

A Some time in the fall of 1983 I became aware
that sufficient steps had not been taken to assure us we
would have rides for the 1984 season. I thought that
would be drastic, if we opened the first season under County control and did not have rides in there. I was very annoyed with the people that I felt were responsible for that, us drifting along, without rides being looked into. There was at least one meeting that I had where I said, "Get out there, get some rides, and get back to me."

Later on we had a meeting, towards the end for the year, where I am led to believe now we talked in general about some rides that were available. Those, I assume, were the Hughes rides.

Q Did anyone ever contact you in late, 1982, or early 1983, in an attempt to arrange a meeting between you and Hughes to discuss placing his rides in Playland?

A No.

COMMISSIONER EMERY: Mr. Brosnan, can we establish who was at the meetings Mr. O'Rourke testified to, where he said, "Get rides, and get back to me."

MR. BROSnan: I'm about to ask Mr. O'Rourke to review some exhibits, and we will place the meetings and participants, hopefully.

COMMISSIONER EMERY: Thank you.
Mr. O'Rourke, can you look at Exhibits 10 and eleven, please.

(Witness complying.)

Okay, I have looked at them.

Commission Exhibit 10 indicates, Mr. O'Rourke, that you were present at a meeting on December 15, 1983 concerning the analysis of subject rides, and I should say subject rides referred to at the top, "Renew Rides Lease Proposal, Morgan C. Hughes"; is that correct?

That is what it says.

Do you recall being present at such a meeting?

I recall a meeting; I really don't recall whether it was the 15th, or whatever. I'm willing to accept whatever this memo says is probably accurate.

Now, turning to Commission Exhibit 11, the second page of Exhibit 11 states that last Thursday, December 15th, Dick Keeler and Nick Vece made a presentation to you and the County Executive. And I should identify the "you" as Joseph M. Caverly, the person to whom this letter is addressed to.

It says the meeting concerning a lease proposal by Morgan C. Hughes.
A Yes, I see it.

Q Aside from the persons mentioned in this letter as having attended the meeting, do you recall any others attending the meeting?

A No, I don't.

There probably were other people there.

Q And this December 15th meeting concerned a presentation about the Hughes rides.

Now, I think you testified a short time ago that there was a meeting prior, where you found out that there was a gap, and you instructed the persons at the park to go out and get rides; a different meeting than this December 15th meeting?

A My recollection is that there was a meeting, and there was myself and one other person, or myself and several people, at which the problem was brought to my attention that we had just let this thing drift, that we were in a situation where most rides get booked up for the future, and that we were going to have a hard time getting rides.

I directed whoever was at that meeting -- and I can't tell you now who it was -- to go out there and get some rides and get back to me.

I assume now, looking back across
six-and-a-half years, that the December 15th meeting was
a follow-up to my irritation, as evinced by the first
meeting.

Q Mr. O'Rourke, if you can just turn now you
to Exhibit 15.

(Witness complying.)

A I have it in front of me.

Q Have you had a chance to review it?

A Yes.

Q Now, Exhibit 15 refers to a Playland meeting
January 10, 1984, and it lists as attending Joseph
Caverly, James Arles, Richard Keeler, Nick Vece, George
Voetch and Ed Kilcullen.

It also states in the second paragraph of
the section headed, "Amusement Rides to Hughes Proposal,"
that the matter of ride pricing and correspondent ticket
pricing needs further study. "County Executive O'Rourke
attended the meeting briefly at this point," and part of
the discussion about the new ride proposal.

There seems to be an error in the context.

Do you recall attending a separate meeting
on January 10th in which the ticket pricing and ride
pricing on the Hughes proposals, was discussed?

A I don't recall. It would not have been out
of character for me to go out to Playland. As I said, this was a continuing concern of mine.

If I knew they were having a meeting out there, I might have made it a point to drop in and talk to them about what was going on about the rides. I like to touch base out there whenever I could, because of my concern about the park.

MS. SLAATTEN: So the record is clear, I would like to point out where you quoted from in Section 2, Amusement Rides, Hughes proposals, it talks about a meeting on Sunday January 8, 1984, Sunday.

MR. BROSnan: Yes, it does, and it talks that there was an on-site inspection on that date, to determine feasibility for installing the whirlwind ride.

MS. SLAATTEN: The reference to the County Executive attending briefly, presumably, refers back to that date, so the record is clear.

MR. BROSnan: We will let the document speak for itself.

Q Both these meetings, the December 15th meeting and the January 10th meeting, occurred prior to your voting to approve the Hughes contracts as a member
O'Rourke of the Board of Acquisition and Contract; is that correct?

A Yes, that is correct.

Q Do you recall whether at either of these meetings you were presented with a detailed analysis of the Hughes proposals?

A I don't recall that. It would have been something that I would have gotten somewhere along the line, or I would certainly have asked for it.

Q Do you recall Mr. Kilcullen, the park consultant, his opposition to these contracts?

A I really don't. However, there is always give and take about these things.

In reading this memo I take it that there were some points that he had concerns about.

Q You're referring to Exhibit 11, his letter?

A Maybe. I'll take a look at it.

Yes.

Q Do you know if you spoke to Mr. Kilcullen about his concerns that he raised in this letter?

A Well, let's see. He wasn't at the meeting on the 15th. He wrote this on the 20th. Apparently that was a subject that was discussed at the meeting of January 10th, because it says there is still concern
about the viability of the proposal with the high ride
cost, as expressed by Ed Kilcullen; and I was present
during some of that period. I don't know if I was there
during that particular part of it.

That apparently was discussed at the January
10th meeting.

Q Do you know if you discussed with Mr. Kilcullen about his concerns?

A I don't remember.

Q Mr. O'Rourke, at the time you voted on the
Hughes contracts, did you know that Hughes had met with
Fred Gioffre at Republican Party headquarters for
purposes of gaining access for his rides at Playland?

A No, I didn't.

Q And at the time that you voted on the Hughes
contracts, did you know whether there had been any other
bids solicited for rides at Playland that year?

MS. SLAATTEN: This is not a bid situation,
Mr. Brosnan.

MR. SCHWARZ: That is not the question.

Q Were any other proposals sought?

A I later saw, I think, another proposal that
you gave to me.

I do not recall what I knew at the time.
Q You don't recall if you knew whether there were any other proposals at the time you voted on the contracts?

A That is correct. The only thing I ever saw was a copy that purported to be another proposal that you showed me, or someone showed me.

Q That proposal is Exhibit 9, if we could briefly look at that.

(Witness complying.)

Q Where mention is made of that proposal, so that the record is correct.

THE CHAIRPERSON: What is the date of the vote on this contract?

MR. BROSnan: February 4, 1984, Mr. Chairman.

THE CHAIRPERSON: Thank you.

A I think that is what was shown to me before.

Q That is the document I showed you before.

A I have no independent recollection of it. I have seen something that purports to be another proposal.

Q In the second paragraph of that document, Mr. Keeler offers several reasons for rejecting that proposal; is that correct?

A That is correct.
Q And the first objection is the requirement that the County absorb site preparation and maintenance costs of the two rides proposed; is that correct?
A That is what it says.
Q And the final reason for rejection is that your lease proposal for each ride cannot be considered; is that correct?
A Yes. To make the record complete, there is a second reason for rejection that says, "Secondly, we do not feel the rental percentage represents an equitable fee for Playland for either of these Hughes rides."

Apparently, there were three reasons for the rejection.

Q Mr. O'Rourke, if you can turn to Commission Exhibit 32.

(Witness complying.)

MR. BROSnan: Mr. Chairman, if I might correct the record, Commission Exhibit 32 is a compilation of the resolutions on the Hughes rides, and they are stamped approved by the Board of Acquisition and Contract on February 9, 1984.

A I have seen these.

Q If you can turn to the second page?
A Yes.
Q This is the resolution for one of the Hughes rides; is that correct?

A That is what it appears to be.

MR. SCHWARZ: Excuse me. Is this the document you were referring to before, when I asked you if there was a summary resolution?

THE WITNESS: Yes, that is correct.

Q And focusing on the bottom of this resolution, it states that, "The lessor," the lessor is identified as Morgan Hughes, Inc., "to pay all transportation costs to Playland and installation costs at Playland, the County to reimburse lessor $20,000 of these costs." Is that correct?

A That is what it says.

Q And if you could just review the resolution for the next two rides, the Wild Cat and the Music Express, it appears that there is also a cap placed with regard to the transportation and installation costs for those rides on behalf of the County, twenty-five and twenty thousand dollars, respectively; is that correct?

A That is as it appears from the document.

Q Now, turning to the last resolution. Unlike the other three, the last resolution reads, "The County to pay the transportation costs from Vlodrop, Holland,
and installation costs at Playland with no cap."

Is that correct?

A That is as it says on the paper.

Q Mr. O'Rourke, did you write this resolution before you voted on it as a member of the Board of Acquisition and Contract?

A I certainly did.

Q Do you recall whether at any time anyone in the County Attorney's office, the Department of Budget, the Department of Finance, objected to this type of open-ended clause being in the contract?

A I don't recall that. I do recall that it was signed by both the Commissioner of the Parks Department, Mr. Caverly, as recommending it, and by Mr. Keeler, who at that point was the General Manager of Playland.

It was held out to me to be the best deal that Westchester County could get under the circumstances of us needing rides for the 1984 season, and this contract being entered into in February of 1984.

Q Mr. O'Rourke, in your tenure on the Board of Acquisition and Contract as both County Executive, or as Chairman of the Board of Legislators, do you recall ever voting in favor of any other contract that left the
County open to such unlimited exposure?

A You know, I can't, but I have served now seven and five years, twelve years as a member of Acquisition and Contract. And we approve about 60, sometimes more, sometimes less, a week. I couldn't tell you what has been in those contracts all those years.

Q Mr. O'Rourke, the initial term of the four Hughes contracts we are discussing ended with the 1986 Playland season, and they originally contained a two-year renewal option, exercisable by the County. However, they were renewed for five years.

Did you vote to approve their renewal?

A Well, you asked me that before, and I told you that in 1986 I was running for Governor. The fact that I wasn't successful is proved by the fact that I am here to day.

I was gone a lot. So, I do not have the minutes before me. But it was either myself, or the executive officer, Mr. Gibbs, who would have voted on the contract, and I well could have been the person who voted on it.

Q Do you recall whether anyone expressed opposition to renewing those contracts for five years?

A I recall that there was discussion about it,
and that it was felt -- again, what has happened is since we talked, first, I have read things, and talked to other people. I can't tell you now whether there is refreshed recollection or induced by media exposure.

I think now that there was a question of extending it in order to get a better pay-back for the ride. I think that was the reason that it went to five years. That is my best estimate, as of today.

THE CHAIRPERSON: You don't have any independent recollection of what was in your mind at that time?

THE WITNESS: No, Mr. Chairman, except that if I were on the Board that day and voted for it, I had been assured, in my own mind, that this was a good deal for Westchester County, and I am responsible for my vote on it.

Q Mr. O'Rourke, do you recall whether any bids were sought to replace the Hughes rides prior to the vote approving the five-year renewal?

A I don't know.

I might add, these aren't bids, these are contracts that go out on request for proposals. So, they are not bids, in the general term.

MR. SCHWARZ: Excuse me a second. Was
there a request for proposal put out with respect
to these rides at any time?

THE WITNESS: I can't answer that, because
that would have been back in the beginning.

MR. SCHWARZ: What about on the extension?

THE WITNESS: What often happens is, when
you are dealing with something so sui generis as
rides, there aren't an awful lot of companies that
have those.

You can just call them, without going
through an expensive procedure of doing an RFP.
I'm sure that would have been done. As a matter
of fact, it should have been done earlier than it
was done, but it was done some time between the
time I had a meeting and realized that we had been
dilatory in doing this, and the December 15th
meeting, when we first talked about the Hughes
contracts.

MR. SCHWARZ: I'm sorry; rather than have
the Court Reporter read it back, are you saying
that at some point you had RFP's put out?

THE WITNESS: No, I said I don't think they
would have been put out in a situation like this,
because --
MR. SCHWARZ: I'm not talking about the extension.

THE WITNESS: I don't think they would have been done. You were dealing with such an unusual area that --

MR. SCHWARZ: A small group of potential suppliers?

THE WITNESS: Yes. It probably wouldn't have been worth the money to put out RFP's. You probably could have picked up the phone and talked to the three or four people around the United States that have rides like this, that are brokers for rides like this.

MR. SCHWARZ: To save time, I'll ask our counsel and your counsel at the same time, as to whether or not any documents have been supplied to the Commission which indicate in any way that there was an inquiry, request, contact made with anyone else to supply rides.

MS. SLAATTEN: There is nothing that indicates, Mr. Schwarz, written inquiries.

MR. SCHWARZ: Is there anything that indicates any oral requests?

THE WITNESS: Mr. Schwarz, I was supplied
by counsel with a copy of a bid that was rejected
from a Mr. Gasparrini. Obviously they looked at
some other rides.

MR. SCHWARZ: With respect -- aside from
that document, is there anything in the file,
anywhere, that has been supplied, that suggests
either an oral inquiry, or written inquiry, some
inquiry by ouija board, or anything else?

THE WITNESS: We will check on the ouija
board.

MR. SCHWARZ: I take it the answer from
both of you is no?

MR. BROSNAN: In all the documentation that
the Commission staff has reviewed, we have been
unable to locate any.

THE CHAIRPERSON: I find that hard to
accept, because, if I understand the facts,
throughout the entire 1983 season there was an
absence of rides. If I understood the testimony
correctly.

THE WITNESS: Mr. Chairman, I believe they
were pulled out at the end, after the season was
over.

MR. SCHWARZ: Now they are looking at the
1 '84 season coming.

2 My question is, after Marriott left, before

3 the agreements with Morgan Hughes were signed, was

4 there any inquiry made of any third parties.

5 The answer is, if there was, there is no

6 documentation.

7 MS. SLAATTEN: Other than your Exhibit 9.

8 MR. SCHWARZ: Which does not, as I

9 understand it, refer to rides that are not already

10 there, but rides that are there.

11 Is that correct?

12 MS. SLAATTEN: I don't believe so, Mr.

13 Schwarz.

14 MR. BROSnan: No.

15 THE WITNESS: I think the Gasparrini letter

16 dealt with some used rides that they were going to

17 bring in, and the Hughes rides were new rides.

18 So, there was a difference between those two.

19 THE CHAIRPERSON: I take it that in the

20 fall of 1983, from your earlier testimony, that

21 you became frustrated about the issue of there not

22 being adequate rides, looking ahead to the next

23 season.

24 Did I understand your testimony correctly?
THE WITNESS: Yes.

THE CHAIRPERSON: You began to push people to deal with that absence?

THE WITNESS: Yes.

THE CHAIRPERSON: That suggests to me that when the Chief Executive makes such a request of subordinates, that steps would have been taken to deal with the issue. It appears, at least from the paperwork, that we essentially end up with two proposals, the Hughes and the Gasparrini proposal.

MR. BROSNAN: Mr. Chairman, there is no indication in the files that we have. And the Playland files have been scattered about, and subject to inquiry by several different parties, so I don't think we can guarantee that we have reviewed all of them. However, we have no documentation beyond the Gasparrini proposal, and the indication that Hughes made proposals.

THE CHAIRPERSON: I understand that counsel will provide us with any additional information that comes to her attention concerning proposals, or solicitations for proposals that might not be reflected in documents.

MS. SLAATTEN: That is correct, Mr.
Chairman.

Just as Mr. Brosnan was unable to look at some of the documentation, because other governmental agencies have it, we don't have that control over the originals that other governmental agencies have, either.

To the extent that we have documents, we will continue our review.

THE CHAIRPERSON: Thank you.

Q Mr. O'Rourke, to go back to the time when the Hughes leases were renewed for five years, before you voted on -- before they were voted on by the Board of Acquisition and Contract, did anyone indicate to you whether any attempt was made to negotiate any contract, other than a lease agreement with Mr. Hughes?

A I do not have any recollection of a conversation, one way or the other, on that, in that area.

Q Mr. O'Rourke, at the time the renewals were voted on and approved, were you aware that Mr. Hughes was a contributor to your campaign, and to the Westchester County Republican Committee?

A No.

Q In 1988, Mr. O'Rourke, you formed an ad hoc
committee to look into the matter of the Hughes contracts; correct?

A  That is correct.

Q  Mr. O'Rourke, when you formed that committee, what was your charge to its members?

A  I don't have it before me, but I believe that, to sum it up, I asked the committee to look at the contracts, themselves, and to answer the question, did Westchester County get a good deal or a bad deal in the contracts.

Q  Mr. O'Rourke, wasn't one of the main issues that you asked them to address for you, and for the people of the County of Westchester, was to look into whether this was some kind of a special deal for the Hughes people?

A  I guess that's sort of what I said, yes.

Q  When you charged that committee, did you limit the parameters of their inquiry?

A  I think the wording was that I limited it to the contract documents, themselves. There were other documents that appeared. For example, the letter to Mr. Gioffre appeared as a result of that investigation, and I sent it to the District Attorney's office.

Q  Independent of what the document says, do...
you have any recollection as to whether you limited the
parameters of the inquiry of that committee?

A I think I did limit it, and it was a very
short span committee, the time of it, the life of it was
very short.

I really wanted them to look at these
documents; this is my best recollection now, and
determine whether the contracts were provident or
improvident to the people of this county.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: Excuse me, before you leave
the Gioffre letter, why did you send it to the
District Attorney?

THE WITNESS: Well, I had received it, my
recollection is, Mr. Schwarz, with a memo from the
County Attorney, saying that he thought it was
outside the purview of this investigation, this ad
hoc committee.

I felt, since it dealt with a contract, and
it dealt with party people; at that time Mr.
Gioffre worked for the Republican Party, that I
would send it to the District Attorney, for
whatever they wanted to do with it.

I felt it was incumbent on me to take that
step, and I did it.

MR. SCHWARZ: I understand the latter part of your statement. What I don't understand is why you thought it might be within the jurisdiction of the District Attorney because it involved a Morgan Hughes contract, and party people.

THE WITNESS: There had been a great deal of discussion in the media.

MR. SCHWARZ: In other words, your doing so was as that result of that, not an independent judgment that you had made?

THE WITNESS: No, it was my independent judgment.

My recollection is that the County Attorney's memo could have said that he was also sending it to the District Attorney.

I know I sent it over there so I would be on record sending this to them for whatever they wanted to do with it.

THE CHAIRPERSON: Can I ask counsel to clarify a recollection that I have, which may or may not be accurate, of Mr. Logan's testimony.

I take it that he was the County Attorney at the time?
O'Rourke

THE WITNESS: He was, Mr. Chairman.

THE CHAIRPERSON: The recollection I have, which may or may not be accurate, is that when he forwarded the document in question, this Exhibit 2, January 24, 1983, I thought he testified that the County Executive already had the document at that point.

MR. BIENSTOCK: I think he said he didn't know whether or not he did.

THE CHAIRPERSON: I see.

MR. BIENSTOCK: I think he said he might have had it, but he didn't know.

THE WITNESS: My best recollection, Mr. Chairman, is that is the first time I saw it.

THE CHAIRPERSON: That was really my question.

Q Mr. O'Rourke, can you turn to Commission Exhibit 33, please.

(Witness complying.)

A Yes, I have it?

Q Can you tell us what that is?

A This was a letter that I had sent, and I don't remember whether I signed it myself or not, but I had it sent to all the concessionaires at Playland,
telling them that we would be examining their contractual agreements, and that we wanted to give them an opportunity to come forward, if any of them had been subject to any special consideration, given or received, in order to obtain their contract, and pointed out to them if they didn't come forward, and we found out information that they had received, or given special consideration, we would terminate them.

Q And the ad hoc committee, for the record, was formed some two weeks after this letter was sent; is that correct?

A I will accept your dates on it, Counsel.

MR. BROSnan: The date on the letter that we have just identified as Exhibit 33 is March 16, 1988.

We have testimony that the ad hoc committee was formed some time in or around March 30, 1988.

THE WITNESS: I'm informed Mr. Arles signed this, but I directed it be sent out.

Q When you formed the committee, had you given them the same instructions that you gave Mr. Arles, and that is to look into whether any concessionaires had special treatment?

A I can't answer that. I believe that the
special committee only looked at the Morgan Hughes contract.

Q And were they looking to see whether Morgan Hughes received special treatment?

A I think they were looking to see if, by the terms of the contract, it was a good deal or a bad deal for the County. That was a while ago.

Q I'm sorry, I don't understand the answer to my question. Had you charged the committee with examining whether Mr. Hughes had received special treatment in receiving the contract?

A I think that my charge to them was to find out whether this was a provident or improvident arrangement for Westchester County, and that we might be able to ferret out from that whether or not there had been, at least an appearance, that special favors had been given to Morgan Hughes.

Q Did you meet with the committee during the period during which they were drafting the report?

A I believe I met with them at least once.

Q Can you recall the circumstances surrounding that meeting?

A It was either in the beginning, when I told...
them to get going, or somewhere in the middle, when I
told them to hurry up and finish up, something like that.

Q Were any other matters discussed relevant to
the report?

A I can't even recall the meeting, I can't
recall what was discussed.

Q During the time leading up to the formation
of the committee, during its tenure, do you recall
whether any member of the committee discussed the idea
with you that the committee should have subpoena power so
that it could effectively complete the charge you had
given them?

A I don't recall any conversation of that
sort. There were, as I recall, many investigations going
on about this at the time.

Q Mr. Schwarz just referred you to the Gioffre
letter, and that is Exhibit 4, Commission Exhibit 4, as
well as up here to your left?

A Yes.

Q Is it your testimony that you independently
sent this letter to the District Attorney?

A That is my recollection.

MS. SLAATTEN: It doesn't appear to be
number 4 in our book.
MR. BROS NAN: It is an attachment to Exhibit 4.

MS. SLAATTEN: Thank you.

COMMISSIONER VANCE: I have a question. Do you have a pending question that has not been answered?

MR. BROS NAN: Go ahead, Commissioner Vance.

COMMISSIONER VANCE: I have a problem. As I recall the testimony this morning -- and correct me, Mr. Bienstock, if I'm wrong -- we heard testimony this morning from the County Attorney to the effect that there were inquiries made with respect to the question of subpoena power. There was discussion with you about that, and the indication was that they got a negative coming back out of your office.

THE WITNESS: I said I don't recall it, but that is possible.

COMMISSIONER VANCE: Why would you be negative on that?

THE WITNESS: To my view, Commissioner, the ad hoc committee was a short-term committee to look into the economics, I think -- that is my best recollection now -- of the Morgan Hughes
contract.

We had a District Attorney's investigation going on, we had all kinds of investigations going on.

What I wanted to find out, for the people of this county, is whether these contracts were from -- were, within themselves, a good deal or a bad deal for the County.

COMMISSIONER VANCE: You were also concerned whether there was some special sweetheart deal made here.

THE WITNESS: True. Whenever we saw a document, and it came to my attention, like the Gioffre letter, I sent it there.

COMMISSIONER VANCE: Why wasn't that an appropriate subject for a commission that you had set up?

THE WITNESS: Perhaps if I knew that you were going to ask me this question, I would have had them go further.

My recollection that I only gave them, like, three weeks to come up with an answer, and were they to start subpoenaing people -- and this is my best recollection -- I don't even remember...
having that conversation, but my rationale for it, if I did tell them, or someone, that they didn't have subpoena power, was to move them along with what I saw was the objective of that committee, which was to look at the numbers and see whether these contracts were provident or improvident for the County.

COMMISSIONER VANCE: Well, can I stick with this just a second?

MR. BROSnan: Yes.

COMMISSIONER VANCE: I was quite stunned to read in the report, which was returned to you, Exhibit 35, on page 7, under "Observations," A most significant observation might be the County's records do not reflect actual substantive negotiations with Morgan Hughes, Inc., for either the original leases, or the renewal lease. Even now, we do not find any information to judge whether the rents paid to Morgan Hughes, Inc. are fair or exorbitant.

Further down, suffice it to say, the leases created a net relationship which would guarantee payments to Morgan Hughes Inc., regardless of attendance and/or ridership, while placing all

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cost risks upon the County.

It seems to me these are rather damning comments as to what was done in preparation for and in acting upon the leases.

That is exactly the kind of thing that this committee should be looking into.

By "this committee," I mean the committee that was set up.

I can't understand why, then, you didn't give them subpoena power, and why you constricted them to the four corners of the documents.

THE WITNESS: I think what they found -- and I'm just going on the basis of the report, Mr. Vance, not personal recollection at the time -- is that they found they couldn't answer the question, because they found the documentation wasn't there.

I think, during this period, though, that much of the documentation had been taken by governmental agencies.

For example, there was a question -- so, I believe, Commissioner, that one of the reasons that you see this in the report was that some of the background information -- and this is my view...
of this -- had been taken by other organizations
at this time, for their own review of this matter.

If you see the report, one of the
recommendations is that there be an ongoing
evaluation.

We could never get that done because, as
far as I know -- do we have the records back?

We do not yet have the records back dealing
with this time period.

COMMISSIONER VANCE: Again, I must say that
I find it puzzling and troubling that the charge
was so limited. I'm reading from their report,
the ad hoc committee's report.

"The facts outside the four corners of the
lease which may enable the County to declare the
leases null and void are beyond the scope of, as
the charge of the County Executive confined the
committee to the four corners of the leases."

You were looking to see if you had a
sweetheart contract, whether it was good for the
County or not. I cannot understand why it was so
limited.

THE WITNESS: Well, Mr. Vance, I believe if
we had had all the documents that had been taken
away, and still are not in our possession, we
might have been better able to answer those
questions.

This was an attempt on my part, in good
faith, to answer the question of whether these
were good contracts or bad contracts for us.

I was not satisfied with the answer of this
ad hoc committee, but I realized that they were
under restrictions, because they didn't have the
documents.

I believe if they had the subpoena power,
they wouldn't have done any better, we just would
have had another bunch of people running around
with subpoenas.

These people, I don't think, were trained
investigators, by any means.

I would much prefer to leave investigations
to the District Attorney's office, the United
States Attorney, who are properly staffed to do
investigations, rather than these four
Commissioners.

These four Commissioners were the people
who had been involved in the contracts.

I thought by putting them all on there I
could balance them off and get a reasonable answer for the people of Westchester whether these contracts were good or bad. It didn't work.

COMMISSIONER VANCE: One final question.

It would seem to me as Chief Executive of the County at this time, with all the attention that was being directed to it, that you would really want to get to the bottom of this situation, find out what was happening, so that you could assure yourself, and the people of the County, that this was all on the up and up, that the contracts were fair and square, and were going to be the best possible thing for Playland and for Westchester County.

THE WITNESS: Commissioner, during this time there was a full-blown -- my recollection is -- a full-blown District Attorney's investigation that was covering, I thought, substantially that ground.

COMMISSIONER VANCE: Okay.

THE CHAIRPERSON: Can I just go back to something you said?

You indicated why you chose the four people you did. I think what was reflected in your
testimony was a question of balance.

Mr. Logan testified here this morning -- this may not be his exact words -- but the substance of his testimony, as I recall it, was that it was not a good group to appoint to this committee, because they had interests that ran along the lines of supporting what had been done because of at least the appearance, if not the reality, of their earlier involvement with the Hughes contract.

If you have any comment on that.

THE WITNESS: I just looked, Mr. Chairman, at the best people I had to look into this, and I put them to work on it.

MR. BROSnan: Just a couple more questions, Mr. Chairman.

Q Mr. O'Rourke, did you ever have discussions with any of the members of the committee, where any one of them indicated that at some point during the drafting process this letter had been included as part of the ad hoc committee report?

A No.

Q Mr. O'Rourke, did you ever discuss with any members of the committee whether Mr. Hughes had been
spoken to as part of the factfinding?

A I don't recall that, one way or the other.

I don't think so.

Q Mr. Keeler?

A Again, I don't recall it, and I don't think so.

Q Mr. Gioffre?

A The same answer.

Q Mr. Colavita?

A The same answer.

Q Did you charge the committee to prohibit them from interviewing these people?

A Well, I don't recall anyone saying to me they wanted to interview them. As I said, I don't even recall having a conversation about it.

This was a very short time duration committee. They met, they got the documents they could get together. Their report was not very satisfactory, because they said they didn't have the back-up documents, and they submitted their report; and that was the end of it.

Q Was a limit placed on the committee as to what persons they could or could not interview?

A I don't recall; but I don't recall them
coming to me and saying they wanted to interview anyone.

Q Mr. O'Rourke, staying with Commission Exhibit 35, and at the same page that we are at now, page 7, right in the section that Commissioner Vance just read to you, the report states, "It is expected that an appraisal of the rides will be available within the next few weeks." And that is footnoted.

Footnote 8 says such an appraisal will be conducted by J. P. Hind Enterprises, of Stuart, Florida, on April 18, 1988, and the final report of appraisal is expected by May 6, 1988.

Mr. O'Rourke, no such appraisal was done; is that correct?

A That is correct, because the records had been taken by some governmental entity, I think the District Attorney's office, and they prevented it from going forward.

Q Mr. O'Rourke, isn't it the fact that no such appraisal was done because the appraiser who was solicited by Playland officials came to the park and informed them that he couldn't do such an appraisal?

A I am telling you what I was informed.

Q I missed your answer. There wasn't documentation available?
That is the reason I was told.

MR. SCHWARZ: By whom?

THE WITNESS: By the County Attorney's office.

Q To appraise the rental value of the rides?

A That is my best recollection.

Q Do you know what documentation they said was unavailable that they needed to make such an appraisal?

A I don't know, Counselor.

I asked at one point why this wasn't done.

I was told that documentation was not available.

Q In the next sentence the report states, "We would expect to make these findings and any other information coming to our attention the subject of a supplemental report."

No such supplemental report was, in fact, issued, was it, Mr. O'Rourke?

A That is correct, and I was informed for the same reason, we didn't have the documents.

Q I'm turning to the recommendation section on page 8 of that report. Recommendation number 2, at the top of page 9, now says, "The Department of Parks, Recreation and Conservation be directed to gather all information and advice necessary to completely reevaluate
the present leases."

Has the Department of Parks, Recreation and Conservation ever reported that information to you, Mr. O'Rourke?

A I do not recall seeing such a report.

MR. BROSAN: I would like to make the request now, if such a report has been provided, and the County is in possession of it, that they turn that over to the Commission.

MS. SLAATTEN: So noted.

THE CHAIRPERSON: That should be deemed a request from the full Commission.

Q Recommendation number 3, Mr. O'Rourke, says that, "Simultaneous with the evaluation of the Morgan Hughes leases, the County should explore the availability and financial feasibility of other replacement attractions."

Has that been done, Mr. O'Rourke?

A My belief is that has been going on.

Q And what leads you to that belief, Mr. O'Rourke?

A Well, my recollection is that we are looking into the possibility of other rides at Playland.

Q Do you recall whether any request for
The budget that I sent to the Board of Legislators, I think for next year, includes money to buy new rides for Playland.

Finally, Mr. O'Rourke, recommendation number 4 says, "If so indicated upon completion of items 2 and 3 above, the County should contact Mr. Morgan Hughes to explore each of the negotiation possibilities listed on page 7 for the years 1989 through 1991.

If I might paraphrase, page A says negotiation possibilities include changing the terms of the lease agreements.

Has that been discussed with Mr. Hughes?

I don't know whether it has or has not.

B says, changing the form of the relationship with Morgan Hughes, Inc.

Do you know if that has been discussed with Mr. Hughes?

Nor as C or D, Counsel, do I know.

C being, purchasing the rides from Mr. Hughes; and D, being terminating the relationship between the County and Mr. Hughes?

Yes.

It just occurs to me somewhere along the
line the County Attorney was asked, either in writing or
orally, by me, if I thought we could do these, and I
think I was told that there seemed limited success in
getting Mr. Hughes to reform his contracts.

MR. BROSANAN: Mr. Chairman, at this time I
have no further questions.

THE CHAIRPERSON: I recognize Commissioner
Magavern.

COMMISSIONER MAGAVERN: Mr. O'Rourke, we
had testimony yesterday about a woman in the
County Clerk's office who was recording absences
of Mr. Keeler from that office at times he was
out, driving Mr. Colavita. That woman was then
dropped from the 1983 County budget.

Do you know who that woman was?

THE WITNESS: No. That budget would have
been prepared by Mr. Del Bello, not by me.

COMMISSIONER MAGAVERN: You were in the
Legislature at that time, were you not?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Do you know whether
that line item for that woman was dropped by the
Legislature?

THE WITNESS: I haven't any idea about
COMMISSIONER MAGAVERN: Okay.

Mr. O'Rourke, I'm going to have a fairly lengthy question, and I apologize for the length of it, and I ask you to bear with me.

We have talked about the resolution by the Board of Acquisition and Contract approving the lease of the Morgan Hughes equipment, specifically the whirlwind equipment, which called for transportation and installation costs to be borne by the County, without any limitation.

We have had testimony from other vendors that a lease of that kind -- a lease at all -- was contrary to the practice in the business. That the clause calling for the County to bear the transportation and installation costs was contrary to practice in the business. That the estimate for the site work to be done under that contract was $45,000; that the actual cost was $362,000. That the contract was opposed by the Director of Playland, or the General Manager, in effect, Mr. Kilcullen. That other vendors looked upon that contract as extremely unfair to the County.

Indeed, one vendor estimated that under
that lease the vendor, Mr. Hughes, would be able to recover his purchase price in just three years, and that everything he received after that would be gravy.

Finally, that there was a loss, in the years '84 to '86, of the Hughes rides of $900,000. Then the Hughes lease was renewed for five years.

Now, assuming that this was a very bad deal for the County, I'm wondering if you can explain this bad result in terms of deficiencies in County procedures, the kinds of deficiency that perhaps we, as a Commission, should be looking at with a view to reform state-wide.

THE WITNESS: I wish I could sit here and tell you that I have the answer. I'm assuming, for my answer, that the parts of your question are accurate. Many of them are certainly in doubt. But, I can't answer them that way.

COMMISSIONER MAGAVERN: There is at least support for each one of those propositions in the evidence we have had.

THE WITNESS: Testimony?

COMMISSIONER MAGAVERN: And documents.

You would say that the Hughes contracts did
not work out well?

THE WITNESS: I believe Mr. Hughes does a good job of defending his company himself.

The situation that occurred at the time could have been handled much better.

COMMISSIONER MAGAVERN: That is what I would like to focus on.

THE WITNESS: One of the things was that we had -- Playland coming back into the County for the first time, there was a new County Executive -- that is another thing you have to take into account. There was also a rift.

I feel in the early part of 1983 we had started working towards a better contractual basis to get rides in there for the '84 season, the County would have done much better.

One of the reasons I was irritated, in the latter part of 1983, was to find out nothing much had been done during that time.

While I may, in retrospect, hold Mr. Kilcullen somewhat responsible for that, I was, in fact, the County Executive, and I'm responsible for it.

So, if the County could have gotten a
better deal, I think part of that deal would have been to start earlier than when we did.

That is what we are trying to do for the future out there.

We have professional management out there, and as you have heard I am not looking to buy, lease or rent, we are looking to -- I'm looking to buy rides for a long-term basis.

When we were stuck with a situation where there wasn't a lot of time, I don't think we got the best deal for the County.

Q Do you think that more formal contracting procedures, with various public recording of some of the steps in the process as you go along, might have helped?

A I don't know that that didn't occur, Commissioner.

As Commissioner Vance mentioned before about the part in the report, I believe that report refers to documents that we don't have in our possession now, because they are in other governmental entities' possession.

Could we do things better? Yes.

I'm going to look very closely at what we are doing, and I'm looking at very closely what we are
doing in this and other regards.

I hope that we never have another situation
where even the perception, not even talking about the
result, where the perception is that we didn't get a good
deal on a contract.

COMMISSIONER MAGAVERN: I would like to go
on to another subject and ask you a similar
question. Again, it will be somewhat lengthy, and
I apologize for that.

We have had testimony that Playland
vendors, at least two of them, felt that the way
for them to do business with the County was to
talk to Mr. Colavita, or to other Republican
officials.

We have had testimony that high-level
prospective County employees, several of them,
felt that the way to get appointed to a position
in County government was to approach Mr. Colavita,
or other Republican officials, other party
officials. I don't want to make this a partisan
matter.

We have had testimony that the County
Clerk, in resolving budget problems, including
even problems of what's going to happen in the
budget as prepared by the County Executive -- I
don't mean just at the legislative level -- felt
that it would be helpful to talk to the Republican
County Chairman.

We have, in summary, vendors, potential
employees at a high level, and other public
officials, all of whom seem to have a perception
that the way to get something done in County
Government was to go to the Republican County
Chairman, in some cases, even before going to the
County Executive, or to an elected official.

That indicates a perception of the way
County government was working. Do you think that
that is a healthy perception of County government?

THE WITNESS: Well, it is a distressing
perception if people believe that they get jobs
through a political entity.

I do not think there is anything wrong with
a recommendation coming from a party leader. The
first job I ever had was in the City of New York.
I was a welfare worker. I was recommended by the
Democratic Reform Club, on 23rd Street. And I
didn't think there was anything wrong with that,
necessarily.
I would like to think that people, when they go to the party, realize that they are not going to get a job, whether it's the Republican Party or Democratic party -- and I have solicited names from the parties in Westchester for office holders. We can't always get people to serve in government. This is not a bed of roses, necessarily, public service.

I think that everybody is entitled to try and get recommendations, but nobody should believe they can get a job, or can get a contract by going through some system, other than the one everybody has to go through.

To sum it up, I would like to say I believe everyone is entitled to a position at the starting line, and they could get that via a recommendation, or whatever. But nobody is entitled to a position at the finish line, because of knowing party people, or giving contributions, or anything of that sort.

COMMISSIONER MAGAVERN: Do you believe that all citizens ought to have an equal spot at the starting line, regardless of where their recommendation comes from?
THE WITNESS: I believe they do.

COMMISSIONER MAGAVERN: In order to -- if, assuming at least for a moment, that such perceptions of government exist, and obviously, it is not just in Westchester County, it has existed in the history of this country, all the way back. But recognizing now that it may be a problem, and you may have a particular reason, because of unfortunate experiences recently to reflect on it, do you think we need a tighter and clearer set of rules to deal with that kind of perception?

THE WITNESS: I have read the reports of this commission with a great deal of interest over your tenure, and I have even, from time to time, gone out of my way to talk to members of this Commission and give you my views, for whatever they were worth, about laws.

I think, in order for a law to be effective, it has to be something that people can live with, that doesn't foreclose everybody from the political arena.

The area of politics has been basically good for this country. Is it misused from time to
time? Yes, unfortunately.

Should this Commission come up with a law that is helpful to government to dissuade people from the belief that they can get a job -- I'm not talking about recommendation -- a job through party connections, that would be helpful. I don't know how to do that. If I did, I would certainly recommend it.

The best way I think is hearings like this.

I can tell you this, I almost lost the Republican nomination in 1989, because the party didn't think they got patronage from me.

Yet I was able to pull that out because the basic strength of the party supported me, and I think the things we were trying to do in Westchester.

So, I applaud the attempt on the part of this commission to find some way, within the parameters of a system that generally has been good for this country, to disabuse people of what I think is a misconception. Just knowing a party leader entitles them to something.

People come up to me on the street and give me resumes. I always get them interviewed. I
think I owe that to a person who tries to reach me with a resume. I would do that for anyone. I certainly do that for party officials of all three parties.

COMMISSIONER MAGAVERN: thank you.

THE CHAIRPERSON: Commissioner Emery.

COMMISSIONER EMERY: Yes.

Mr. O'Rourke, I have a question that is similar in some ways to Mr. Magavern's, but emphasizes a third point, other than the two that he asked. In some sense it is duplicative, but please bear with me.

What we have here as testimony -- I'm looking at this a little bit more, I think, less abstractly than Mr. Magavern did.

What we have here in this record is testimony that there was a sole source, no bid contract let, with no evidence of negotiation, though that evidence may exist, according to your testimony, that was money-losing for the County, and it was unique in that it had a guaranteed income for the contractor, that the contractor had it let at the recommendation of a new administrator at the site, at Playland, Mr.
Keeler, against the recommendation of the experienced administrator there, the person who had been there for many years, Mr. Kilcullen. That Keeler, himself, was a very close friend of Anthony Colavita, the Republican Party Chairman, and may have even been his driver, according to some allegations. That he had gotten his jobs, according to some allegations in the record here, by virtue of recommendations from the Republican Party, and from Mr. Colavita, that the contractor had first made contact with -- access to this contract through the Republican Party.

Finally, that the contractor had made -- and this is the new point that I think that I'm trying to get your opinion about, your recommendations about -- that the contractor had made substantial contributions to the Republican Party, over $15,000 over a period of time, that after losing money for a couple of years he got a five-year extension, notwithstanding losing money. And in light of at least it can be inferred these contributions.

What I'm asking you is, how does this Commission deal with, and how does your government
deal with what I consider to be extremely deleterious perception of the undermining of government, and the fairness of government in letting contracts? How do we deal with that? How do we look forward, rather than backward, with a record like that in front of us?

THE WITNESS: Commissioner Emery, you certainly put the proposition well. There is a matter of public trust and confidence in government that each of us that is privileged to serve the people has to do our best to make sure is upheld.

The perception, if you take each one of those things -- and I guarantee you there is an answer, or there could be an answer to each and every one of them.

COMMISSIONER EMERY: They pile up; that is my problem.

THE WITNESS: I understand that.

My view is a possible way of public funding of elections, starting out in 1990 with this level, and starting out -- I think you might do it better the other way, because the longer you stay away from Albany the better chance you have in
success.

You can take County raises and say that money will come from X number of cents per registered voter in that County, period, that you can't spend anymore money than that.

If there is a perception of a problem, it would seem to me that would be it.

I don't think that would go anywhere, personally, but that would be a way that we could reach the problem of tying money, political influence, et cetera, together.

I favor, by the way, public financing of campaigns, and I have for a long time.

One of the things I think all of us have to do, in reaching conclusions, is to try and reaffirm the basic faith, I think, Americans have in government.

They don't like government. Our whole history has been one of not trusting it. That is why we have done so well over this period of time.

I think it's a very difficult job for you. The only thing I can suggest is public financing of campaigns.

COMMISSIONER EMERY: What about proposals
to either limit, or disqualify contributors from
entering into contracts with the entities, or the
people who have discretion over the contracts that
the contributors are effecting through their
contributions? Is there any hope for that kind of
linkage?

THE WITNESS: I guess that is a
possibility.

I think if you don't link that with public
funding of campaigns, you better give out a Civil
Service exam for elected offices, because I think
it would be impossible to run.

As was indicated, I think by Governor
Cuomo's fundraiser, one of his appearances before
this committee, or something I read in the New
York Times, he said that people that donated to
the Governor's campaign are usually the people who
deal with the State, that he doesn't believe that
they think they are going to get anything special
out of it, but they think it's a good thing to do.

That same testimony I read in relationship
to the vendors at Playland.

I am not confident that you can change
that.
O'Rourke

I remember once I said to the Chairman, you've got to remember you write laws for honest people. If you are dishonest, it doesn't matter what the law was, you're going to do something different, anyway.

I think that our country has been well served with the political system. I believe in political parties.

I do not believe that we should allow anything that gives a perception to the people that they can get a leg up, or get to a final dissemination by knowing someone in politics.

COMMISSIONER EMERY: One final matter that I think is important to clear up for the record, because there was testimony here yesterday about it, and I think it is important that you be given the opportunity to respond to it.

There was testimony here yesterday, from someone who may or may not have known -- and I don't know the answer to that -- that Mr. Colavita was offered the County Executive's position before you were in the contest of the 1982 election.

I think it's important that you be given an opportunity to respond to that, if you have a
THE WITNESS: When I decided that I would like to try to be County Executive of Westchester County, there were at least three or four candidates, one of which was George Morrow, another of which was Mr. Colavita.

Certainly having the apparatus of the party structure, if he decided he wanted to be County Executive, I think he could have been County Executive, could have got himself appointed. That is my view.

He at some point took himself out --

MR. SCHWARZ: I'm going to interrupt you. I don't think the question calls for you to go into the internal discussions at that level; I don't think that is what Mr. Emerey wants.

THE CHAIRPERSON: I really think that is beyond the scope of this inquiry, the internal discussions.

COMMISSIONER EMERY: I have no problem with eliminating the internal discussions.

I want to know what your position is with respect to that.

THE WITNESS: He had been a candidate at
some point, and took himself out of the race.

COMMISSIONER EMERY: That is all I have.

THE CHAIRPERSON: Mr. Schwarz.

MR. SCHWARZ: I would like to get your
reaction to the same question I have asked two or
three witnesses, and that is, do you think it
would be positive development for you, as a County
Executive, with appointment power that you have,
to be able to say to the forces out there in the
community, in the world, whatever they might be,
whether they might be political, cousins, friends,
et cetera, sure, send in the resume, but, you
know, the law requires that all these resumes go
through this merit selection panel that we have
set up? Would that permit not only to insure that
people who are appointed were merit appointments,
but to take some of the pressure off of you?

THE WITNESS: Mr. Schwarz, I believe at
every level executives are entitled to choose the
people that are going to help them run the
government. I would not want to do anything, as I
said, to make a Civil Service test out of a
cabinet appointment.

If I appoint someone that does something
wrong, it's my appointment. Today I take the responsibility for the people I have appointed over the years. I wouldn't want to do that.

Short of that, anything that would be helpful, again, to making people understand that while the party might recommend them, they don't get a job, whatever party it is, whether it's the Democrats in New York City, or the Republicans here, I certainly would be in favor of that.

THE CHAIRPERSON: I'm just not going to protract the hearing. I think you have answered the questions. Most of the questions I had planned to ask you had already been asked. There are two areas that I could draw out your comment on.

We have heard in these hearings, and other hearings -- and we will be making a statement in a final report to the Governor and the legislative leaders on some subjects that are very troubling to this Commission.

For example, we have heard testimony in these hearings, as well as other hearings, of public employees being solicited by other public employees for campaign contributions, from those
who are in a superior to subordinate kind of relationship.

Hasn't the time come for us to have a rule that says that a public employee should not be soliciting other public employees for contributions for political purposes?

THE WITNESS: Mr. Chairman, we have a rule in Westchester that says during duty time you are not to practice the art of politics, and I believe that would encompass this.

We do have serving with the County government now, and we had under Democratic administration, people as high as Vice-Chairmen of the Democratic party, Vice-Chairmen of the Republican Party. I don't think there is anything wrong with them serving in government, if we can divide the line between government and their party activities.

We try to do that, and I think we are generally successful.

I know you have looked all over the state -- and you may think that Westchester County is an example, I understand in the beginning of the hearings someone said of a state-wide problem.
But, I would say the overwhelming number of people that are involved in the political process, from my vantage point of having the honor of serving the people for over a quarter of a century, are good, honest people, and do a yeoman's job for the system.

The only thing I would say is that we should preclude them during duty hours from practicing politics, but I would not want to see a restriction against them being involved in political parties, because I don't think it would be good for the government.

THE CHAIRPERSON: I'm talking about an example of, say, a Deputy County Clerk, or someone who directs the Motor Vehicle office, all your offices, or one of the offices, soliciting people who work in that office for political contributions, whether it be during the workday, or in the evening, or on weekends.

THE WITNESS: It shouldn't be done. If what is happening is a superior is talking to his or her subordinates, and saying, you know, fess up and buy tickets, because that is in the same category as sexual harassment, or any other kind
of harassment; it is political harassment.

THE CHAIRPERSON: You would favor a rule, if it's not presently clear, in terms of law, that would disassociate from solicitation sort of a superior soliciting other employees that work for the superior?

THE WITNESS: I think that would be a good rule.

THE CHAIRPERSON: What about the area of the vendor who does business, say in Playland, making contributions at the time of a negotiation of a contract, or renewal of a contract?

Does that suggest, to get rid of perceptions, if not reality of corruption, that there should be some rule that says that somebody doing business with a government office should not be allowed to contribute during that period?

THE WITNESS: If you match that with some type of public funding, then you've got something that can go.

If you are going to go say that people aren't allowed to contribute, then you are limiting it to the incumbent. I read your report, but, as an incumbent, I disagree.
I have been in both positions, and certainly, many things that you are saying is right.

THE CHAIRPERSON: If the political process does not produce that kind of result, would it be relevant to you, sitting on a contract review process, to know what the political activity in the form of contributions might be from a particular applicant?

It might suggest a further inquiry, because it might suggest that something else is working its way into the process.

THE WITNESS: I have never -- I never look at my files, and it's very hard for me to know now who contributed, and who didn't.

When we went through an informal hearing about this, that was the first time I knew, as far as I could recall, that the Hughes people had ever contributed to a campaign of mine.

So, I think -- I think that is the position taken by many of us in government, that we don't look at those lists, we try not to be influenced by it.

Again, I think, you know, you need money,
unless you're going to limit politics to those who
are very rich or very fortunate, or backed by
forces that we would rather not see in politics.

THE CHAIRPERSON: I have no further
questions.

I would just like the record to also
reflect that, in other inquiries that we have had
on other subjects that we reported to the Governor
on, you have been very helpful, and cooperative,
and I want to use this opportunity to thank you
for that.

THE WITNESS: Thank you, Mr. Chairman.

If I could make a very short statement? I
guarantee you it will be short.

THE CHAIRPERSON: Yes.

THE WITNESS: First of all, I have said
several times in my testimony, and I reiterate,
I'm responsible for the things that occur in
Westchester County, and that I take that
responsibility, whether it was the appointment of
Keeler, or the Mickey Hughes contracts.

Westchester County, is, however, a
billion-dollar corporation. We are larger than
six states; we are bigger than twenty countries.
We deal with everything, from the homeless population -- and we have a larger homeless population per capita than the City of New York -- to AIDS, public safety and with our bulging prison population, drug abuse, and on and on and on.

The work of this Commission on Government Integrity I think is an important work, and to be most effective, government must enjoy the people's trust.

I hope this commission continues its work beyond your present expiration date in April. I think you should be re-funded. That is without reading your report. Maybe if I read it, I might feel different.

Let me go on the record in saying that, although I don't agree necessarily with the things that you are doing, you are bringing up items that do need to be talked about, whether it is the power of the incumbency, or the very tricky situation between politics and government. I do appreciate the very thorough job the Commission has done. Let me compliment your investigators and attorneys.

In examining this relationship between
political parties and government in Westchester, I have not been privy to all the private testimony, nor the public testimony, but I must tell you that I am very disturbed by what I have read, and the reports that I have heard.

It appears to me that otherwise competent officials have somehow blurred the line between party business and the people's business, and I will do my best to correct that in the forthcoming months.

To me that line is very clear. Party politics is good, but it has no place in the business of government.

While it is natural -- and I have stated that I would bring like-minded individuals into County government, and have done so -- it is not permissible to substitute loyalty for ability. We try not to do that. Nor is it tolerable, from my view to turn government agencies into fundraising arms for any party. We are going to try not to do that.

The people of Westchester County hold me accountable for the operation of this great and wonderful County government that I often refer to
as the Athens of counties in New York State.

I hold those that I appoint accountable to me, and I will look at your commission's report very carefully, and if I see any violation of the law, or ethics as I feel they pertain to this administration, I guarantee you that I will take appropriate action.

I look forward to the Commission's specific recommendations, and I think that hearings like this, while they may be painful to look back over past acts, and think what you might have done, in retrospect to history I think they are good for the people of this state.

Thank you very much.

THE CHAIRPERSON: I appreciate the statement.

Thank you very much.

(Witness excused.)

THE CHAIRPERSON: We will take a five minute recess.

(Recess had.)

THE CHAIRPERSON: Anthony Colavita.

ANTHONY COLAVITA, called as a witness, having been first duly sworn by the Chairperson,
Colavita

was examined and testified as follows:

THE CHAIRPERSON: Please be seated.

I would ask counsel to identify himself for the record.

MR. PARISI: Guy T. Parisi.

THE CHAIRPERSON: I would now like to turn to Thomas McShane for the initial questioning.

MR. McSHANE: Thank you, Mr. Chairman.

EXAMINATION

BY MR. McSHANE:

Q Good afternoon, Mr. Colavita.

A Good afternoon.

Q Mr. Colavita, what is your current position with the Westchester Republican County Committee?

A Chairman.

Q For how long have you held that position?

A Since 1979.

Q At a time were you also Chairman of the New York State Republican Committee?

A Yes, I was.

Q During what period of time were you the Chairman of that committee?

A Approximately September of 1985, through June of 1989.
Mr. Colavita, I would like to start by asking you some general questions about the functioning of the Westchester County Republican Committee.

First of all, as Chairman of the Westchester County Republican Committee, are you also Chairman of the Executive Committee?

A Yes.

Is the Executive Committee comprised of Republican leaders from the towns, villages and cities of the County of Westchester?

A By my practice, mostly.

If I may clarify that. The rules provide that the Chairman, me, has the right to appoint members of the Executive Committee, and I, as a practical matter, made it always a policy to appoint those people who have been elected chairmen of their local cities and towns, Republican committees. I also have some at-large appointments that I make.

Is it the function of the Executive Committee to recommend candidates to the full County committee for Republican dissemination for candidacies?

A The function of the Executive Committee is to carry on the day-to-day business of the party in between meetings of the full complement of 1,550,
approximately, County committees.

Q Does it, in fact, also recommend candidates for dissemination by the full committee?

A As one of its duties, among others, yes.

Q Has it been your experience as County Chairman that people seeking the Republican nomination for county-wide office seek your support in their quest for nominations?

A Absolutely.

Q And on occasion have you met with candidates for county-wide office to discuss their interest in obtaining the Republican endorsement?

A Yes.

Q Now, Mr. Colavita, are you familiar with Mr. George Morrow, former County Clerk?

A I am.

Q Mr. Morrow testified before the Commission yesterday, as I'm sure you are aware; and I would like to discuss with you now some of the matters that he testified to yesterday.

Mr. Morrow testified that in 1982, after he had lost the election, he sought the help of the Republican Party in attempting to secure a position with the County of Westchester.
Do you recall that?

A Yes.

Q And did you, yourself, speak to him about such a position?

A To the best of my recollection, he asked me if I would help him, yes.

Q Did you, yourself, do anything on his behalf?

A My recollection at this point is that we tried, but it was very difficult to help him. Ultimately we didn't, we weren't able to help him.

Q Are you familiar with Mr. Fred Gioffre?

A Yes.

MR. SCHWARZ: Why was it difficult to help him?

THE WITNESS: He did not enjoy the best reputation in the County of Westchester. In my opinion, he lost the election because he was not a good County Clerk, not a good candidate.

MR. SCHWARZ: You mean there wasn't one job anywhere in the County government that you thought that he would may have be capable of performing for a year, so that he would have gotten twenty years' pension?
THE WITNESS: It is not my duty or job to fit square pegs into round holes, or vice versa. My recollection at the time is that Mr. Morrow also spoke to Mr. O'Rourke, and Mr. O'Rourke was not able to help him.

Q Mr. Colavita, did you, in November of 1982, hire Mr. Gioffre to assist you at Republican headquarters?

A What year did you mention; I'm sorry?

Q 1982.

A My recollection is that -- I don't have the exact time frame, but there was a time when we hired Mr. Gioffre, yes.

Q The Commission has received testimony that it was in November of 1982.

A We hired him, yes.

Q Can you tell us what he was specifically hired to do?

A Yes. He was hired to act as my -- the closest term I can think of, to be my executive officer, to handle the day-to-day business.

I mentioned earlier, in my other testimony, that I came into the Republican headquarters two afternoons a week, and then he was there the rest of the
Q  Do you recall telling Mr. Morrow, in 1982, when he was in search of a job in County offices, to see Mr. Gioffre?
A  I have no specific recollection of that, but I may have. I just don't recall it.
Q  Now, in 1982 Alfred Del Bello, the Westchester County Executive at the time, was elected to State government?
A  Yes.
Q  The Board of Legislators voted Mr. O'Rourke to be County Supervisor in 1983; is that correct?
A  Yes.
Q  When it became evident that Mr. Del Bello would not be the County Executive as of January, 1983, did you, at County headquarters, receive inquiries from other people, aside from Mr. Morrow, seeking positions in the County government?
A  What is the time frame now?
Q  The time frame after it became apparent that Mr. Del Bello would be leaving the County of Westchester, and that Mr. O'Rourke would be on January 1, 1983 --
MR. PARISI:  Excuse me, did you --
MR. McSHANE:  Let me finish my question.
Q When it became apparent that Mr. O'Rourke would take office January 1, 1983 --

MR. PARISI: Became apparent to who?

MR. BIENSTOCK: Everyone.

MR. PARISI: I don't know if he can testify when it became apparent to another person. When it became apparent to himself, you can testify. Otherwise you are going into someone else's experience, and he can't testify to that.

Q After Election Day, November of 1982, did you receive inquiries from others, aside from Mr. Morrow, at County headquarters in Westchester, concerning positions in County government?

MR. PARISI: I really don't understand the question.

I can't advise my client as to it.

Will you please repeat the question.

THE CHAIRPERSON: Essentially what he is asking is, apparently in November of 1982, Del Bello was elected Lieutenant Governor, so it was clear that he would be leaving as of January 1st to become Lieutenant Governor of the state.

So, in November of 1982, December of 1982, when it was known that there would have to be a
new County Executive, I think the thrust of the question is, did people come to you in November and December, seeking jobs for County positions.

Am I correct, is that your inquiry?

MR. McSHANE: That is my question, Mr. Chairman.

A Commissioner, I can answer that. I have no specific recollection of any one person, but it seems to me that, yes, people would start coming when they knew that there is going to be a Republican appointed.

It is apparent, or it was apparent at the time, that there would be a Republican, because the law provided that the Board of Legislators would fill that vacancy by appointment until the next election.

The Board was controlled by one vote, I believe, by the Republicans.

It was what everyone assumed.

It's possible that there could not have been an appointment, but that is what everyone assumed.

THE CHAIRPERSON: Your best recollection is that people would have been coming to you after the election of '82, seeking your assistance in connection with getting jobs for the County?

THE WITNESS: While I have no specific
recollection -- and, of course, whenever I say
that, if you have something to refresh my
recollection, please let me know.

But, I would assume that back in the
atmosphere of those days people would start
looking for jobs, for positions, et cetera.

THE CHAIRPERSON: Are you focusing on a
specific issue?

MR. McSHANE: I will go on to another
question, Mr. Chairman.

In answer to your question, I don't have a
specific document that would refresh Mr.
Colavita's recollection.

Q Mr. Colavita, you testified previously
before the Commission that when Mr. Gioffre was hired as
your assistant, he would, among other things, find out
what County jobs were posted, tell you about them, and
discuss possible candidates with you.

MR. PARISI: What page is that?

Q I refer you to pages 105 and page 106 in
your private hearing deposition.

THE CHAIRPERSON: Counsel, when was Mr.
Gioffre appointed to be his executive assistant?

MR. McSHANE: Mr. Chairman, the witness has
testified that it was some time during the fall of 1982, after November, and Mr. Gioffre has confirmed that in his testimony.

THE CHAIRPERSON: Thank you.

THE WITNESS: Will you repeat the question.

MR. McSHANE: Mr. Reporter, please read back the question.

(Record read as requested.)

Q Is that correct; is that one of his functions?

A That is generally correct. That was one of his functions, yes.

Q Did you ever tell Mr. Morrow, in 1982, that you had assigned Mr. Gioffre to handle patronage for you?

MR. PARISI: When in 1982?

Q Let's start with 1982.

MR. PARISI: When?

MR. McSHANE: If he cannot answer the question, I will rephrase it, and then he can answer the question.

A Are you referring to my testimony?

Q Mr. Morrow's testimony.

I'm telling you that he testified before the Commission that in 1982, after the election, you
indicated to him that you had appointed Mr. Gioffre to handle patronage.

My question is, did you tell Mr. Morrow that?

A I have no independent recollection of any specific language.

I spoke to Mr. Morrow very often, as we approached Election Day, perhaps on a daily basis. What I might have said, I don't recall. It's possible that I might have said that.

Q Did you assign Mr. Gioffre to that position?

A Hold it one second.

I'm reminded by counsel that I testified, and I repeat, that I have no specific recollection of saying that to Mr. Gioffre. Perhaps I did. We did speak often about jobs. That was part of his job, among his duties as an employee of the County.

Q Such a statement --

A County Republican Committee; excuse me.

Q Such a statement to Mr. Morrow would not have been inconsistent with Mr. Gioffre's position at the time?

A By him; by who?

I said earlier that I have no recollection
that I made the statement.

Q Now I understand you have no recollection of the statement. I'm saying to you now that the statement, regardless of your recollection, is not inconsistent with the duties that Mr. Gioffre had at the time; is that right?

MR. PARISI: How could a statement that he has no recollection of having made be consistent or inconsistent with his practice?

MR. McSHANE: The witness says he doesn't recall making the statement.

MR. PARISI: Precisely the point.

MR. McSHANE: In not suggesting that the statement was made or not made, I'm merely trying to clarify exactly what Mr. Gioffre's role is. In fact, I think I have my answer, so I'm going to move on now.

MR. PARISI: All right.

Q Mr. Morrow has testified that earlier in 1982 he met with you, Mr. Colavita, to discuss his interest in securing the Republican endorsement in the 1982 County Clerk's race.

Do you recall having conversations with Mr. Morrow in that year about his endorsement by the
Republican Party?

A In general, any particular day?

Q In general, did you have conversations with him?

A I don't have a specific recollection of having a conversation. Obviously, I spoke to him about his pending endorsement.

Incidentally, we don't nominate, we only endorse and designate.

Q I understand.

A We covered this once, already.

Q That is right.

Mr. Morrow has also testified, Mr. Colavita, that when he met with you to discuss his endorsement, or his nomination by the Republican Party, you indicated to him that in exchange for your support, he wanted -- you wanted to be able to name deputies in his office, that is, the County Clerk's office. Did you ever tell him that?

A Repeat that, please. I was listening to Mr. Parisi.

Q When you met with Mr. Morrow in 1982, to discuss his endorsement by the Republican Party in the upcoming race for County Clerk, Mr. Morrow has testified
that you indicated to him, while, as he described it, tying up loose ends, that you were interested in naming his deputies in the County Clerk's office, should he succeed in the election.

My question to you is, did you ever tell Mr. Morrow that?

A I have no independent recollection of that. I have been made aware that he testified yesterday that there was also some talk about contributions. I have no recollection of ever making contributions, or jobs a condition to a recommendation by me, or an endorsement by me. That is my recollection at this time.

If you have something that can refresh my memory to the opposite, differently, let me know.

MR. SCHWARZ: How about a suggestion, rather than a condition?

THE WITNESS: Pardon me?

MR. SCHWARZ: How about a suggestion, rather than a condition?

THE WITNESS: I'm told -- and this was told by my staff who was here yesterday -- that Mr. Morrow, when he was questioned by someone, stated that he had made an error, that I never said it was a condition.
MR. SCHWARZ: My question is, is it possible that you made, do you have any recollection of suggesting that?

THE WITNESS: I'm sorry, I didn't mean to interrupt you.

MR. SCHWARZ: That is my question.

THE WITNESS: What is the question?

MR. SCHWARZ: Do you have any recollection of suggesting, rather than conditioning, that you would be more inclined to go along with his request for the designation if you had some input into his deputies?

THE WITNESS: I have no recollection of that. But let me say this: Do I speak about jobs and talk to people about jobs and contributions, hundreds of people over the years, yes.

COMMISSIONER EMERY: It could have happened?

THE WITNESS: I don't have any specific recollection of speaking to him at that time, and I also don't recall ever making a condition to an endorsement that we -- excuse me a second -- as I said, making jobs or contributions a condition.

My feeling is if I don't recall it, it
probably never happened.

COMMISSIONER EMERY: Are you saying that it's likely that you did not speak to Mr. Morrow about these matters?

Could it have happened, that you spoke to him?

THE WITNESS: Yes.

COMMISSIONER EMERY: You speak to people in government about jobs, officials in government about jobs, and about contributions?

THE WITNESS: Yes.

COMMISSIONER EMERY: Okay.


Q Mr. Colavita, has it been your experience, as County Chairman, that the Republicans running for county-wide office in Westchester County seek the Conservative Party endorsement?

A We had a philosophical discussion on this already. It depends. In a very general sense, Republicans, running for county-wide office in Westchester County, seek the Conservative endorsement, the Conservative line.

I feel compelled to mention to you, as I
have before, that there are instances, in more localized races, where individuals running on our line may consider it an advantage to have the Conservative line, or a disadvantage, and, therefore, not seek it.

It all depends upon the make-up of the district, or the political subdivision.

By way of illustration, we have seventeen legislative districts. I can see a situation where a candidate might not want the Conservative line.

Q As a general basis, you would say that candidates seeking county-wide office, as Republicans, would seek the Conservative endorsement?

A Generally.

Q Would you, as County Chairman, advise them to do that?

A On a county-wide basis?

Q Yes.

A Yes, I would.

I can't -- let me rephrase my answer.

I can't think of a situation now where I would not.

Q Do you ever assist them in obtaining the Conservative endorsement by reaching out to, and speaking with the Conservative Party leaders, yourself, on behalf...
of the county-wide office seekers?

A  Yes.

THE CHAIRPERSON: Can I ask counsel, are we going to continue the inquiry into intra-party activity?

MR. SCHWARZ: Intra.

Only several more questions, Mr. Chairman.

THE CHAIRPERSON: All right.

MR. SCHWARZ: I think we are saying don't get into the internal discussions of the political party, the Republican Party.

MR. McSHANE: If that is your concern, I don't think we will have a problem.

THE CHAIRPERSON: That is our concern. The reason for the concern is that it becomes an area which gets beyond our inquiry. We have enough to do with what is within our jurisdiction.

THE WITNESS: You're the boss.

THE CHAIRPERSON: With limitations.

Tom.

Q  Mr. Colavita, are you familiar with Mr. Wilson Price?

A  I was.
Q He is now deceased; is that correct?
A Yes.
Q And did he hold a position in the Westchester County Conservative Party?
A Yes, he was the Chairman for awhile. I know he was not reelected one year. I'm not sure what year that was.
Q In 1982, Mr. Colavita, did you speak with Mr. Price about the Conservative Party endorsement in Westchester County for Mr. Morrow in his 1982 campaign?
A Excuse me a second, I was just looking at something else.
Q Certainly.
A Will you repeat that?
MR. McSHANE: Mr. Reporter, please repeat the question.
(Record read as requested.)
A To the best of my recollection, Mr. Morrow was having a very -- had very stormy relationship with the Conservative Party. My recollection now is in 1979, when Mr. Morrow ran last, he did not have the Conservative endorsement.
He came to me, Mr. Morrow, and asked me if I would help, and I tried to help.
To the best of my recollection, I set up a luncheon and tried to be mediator, tried to get them together.

Q Did that luncheon take place at Alex and Henry's, in Eastchester?

A It probably did. It is not obvious, but I have a weight problem.

Q And did you suggest to Mr. Morrow, at that meeting, that he make positions available in the County Clerk's office to the Conservative party, in conjunction with his attempt to secure the endorsement of the Conservative Party?

A I have a very unclear, a very hazy recollection. I think my job was more to try to get them together. And there had been, to the best of my recollection, a lot of problems: between, first, the conservatives and Mr. Morrow, and then -- personally.

Then there was also, to the best of my recollection, again, a philosophical problem that people who had Conservative beliefs weren't in Mr. Morrow's administration.

I tried to work to get them together. To the best of my recollection, Mr. Price had requested that Mr. Morrow hire some conservatives.
Again, we are talking about thousands of meetings ago.

Q But you do have a recollection --
A Not thousands of lunches, thousands of meetings.

Q You do have a recollection at that meeting positions in the County Clerk's office were discussed?

MR. PARISI: I don't think that was his testimony.

MR. McSHANE: We will let the testimony stand as it was, Mr. Parisi.

THE WITNESS: Maybe I can correct it.
Can I have the answer read back?

MR. McSHANE: Will you read back the answer.

THE CHAIRPERSON: Also read back the question and the answer.

(Record read as requested.)

A If I may, I didn't think I said it, and I certainly wanted to clear it up; I don't recall that there were conditions, jobs for nomination, things like that, at that time.

Q And my question, specifically, wasn't couched in terms of conditions. My question was, is it
your recollection that jobs, positions in the County Clerk's office, were part of the discussion?

A To the best of my recollection, we had discussed it, yes.

Q Now, did you ever suggest to Mr. Morrow, in 1982, that you had made a commitment to Mr. Wilson Price that his wife, Barbara, would be hired by the County Clerk's office?

A I have no recollection of that. Again, it is hard for me to say. There might have been some discussion, but I have no independent recollection of it.

You're not refreshing my recollection.

Q You don't recall speaking to Mr. Price about a position for his wife in the County Clerk's office?

A I might have. I don't recollect it now.

Q And you don't recall telling Mr. Morrow that you had had such a conversation, that you wanted him to, in fact, appoint her to a position in the County Clerk's office?

A I don't have a recollection of that. There could have been discussion, it could have happened, but I just don't recall it.

Q Mr. Colavita, you have testified privately
before the Commission that you are often lobbied by
people to help their cause on the Board of Legislators.
Do you recall that?

COMMISSIONER EMERY: Mr. McShane, are you
getting off Mr. Morrow now?

I want to ask a question about Mr. Morrow,
if I may, before we leave the subject.

MR. McSHANE: I anticipate having some
further questions about Mr. Morrow, Mr. Emery, but
if you wanted to ask a question, go ahead.

COMMISSIONER EMERY: Let me do it quickly
now, and we will get it over with.

MR. McSHANE: Yes.

COMMISSIONER EMERY: Was there a time when
a friend of yours, a person who, I guess, worked
at Republican headquarters for a time, Mr. Keeler,
worked in the County Clerk's office?

THE WITNESS: Was there a time when he
worked in the County Clerk's office?

COMMISSIONER EMERY: Yes.

THE WITNESS: Yes.

COMMISSIONER EMERY: Did you have anything
to do with getting him a job there?

THE WITNESS: No. To the best of my
recolletion, I had nothing to do with that, even
when he originally started with the County Clerk?

COMMISSIONER EMERY: With Mr. Morrow.

THE WITNESS: I'm trying to be as accurate
as I can.

COMMISSIONER EMERY: Yes.

THE WITNESS: My recollection is -- and I
did not know Mr. Keeler well when he started, but
I believe he started in the County Clerk's office
long before I was Chairman.

COMMISSIONER EMERY: Did you have anything
to do with asking, recommending, or requesting
promotions for Mr. Keeler during the period he was
in the County Clerk's office?

THE WITNESS: I have no recollection of
asking for Mr. Keeler's promotions while I was
Chairman of the party.

In fact, I have been made aware that there
was testimony here by Mr. Morrow that I had
something to do with two of Mr. Keeler's
promotions. Not only do I have no recollection of
that, but, in fact, those promotions, I'm told,
happened long before I was County Chairman.

COMMISSIONER EMERY: Before 1979?
THE WITNESS: Before 1979. I was told that.

COMMISSIONER EMERY: All right.

Now with respect to the period when Mr. Morrow was working in the County Clerk's office, and when he was administering Yonkers DMV, or had jurisdiction over three offices, do you remember when he held that post?

THE WITNESS: Mr. Morrow?

COMMISSIONER EMERY: Excuse me, Mr. Keeler, under Mr. Morrow.

THE WITNESS: I have a recollection that Mr. Keeler was the head of the Motor Vehicle Division of the County Clerk's office.

COMMISSIONER EMERY: During that time, was there a period when he took off work to drive you places around the state, and certainly around the county?

THE WITNESS: Yes.

I have a recollection that he was a volunteer. And I want to clear up, there has been testimony, and rumor, and a lot of discussion about Mr. Keeler being a driver.

He was not a driver, he was a volunteer, on
his own time, helping at Republican headquarters.

I might add, long before I became County Chairman.

COMMISSIONER EMERY: Isn't it a fact that he was doing a good deal of that work on hours that were County Clerk's hours, when he was on the job?

THE WITNESS: I have no recollection of that.

COMMISSIONER EMERY: It was during the day; wasn't it?

THE WITNESS: Generally -- let me say in most instances that I recall it was after work, weekends, things like that. Were there occasions during the business day that he would come over there? Yes, he did come.

Again, I don't know, and I really can't recollect, whether he was on his time, County time, or somebody else's time; I don't know.

COMMISSIONER EMERY: He was volunteering for you, in particular?

THE WITNESS: To the best of my recollection, he was never paid by the County committee, he was a volunteer.

COMMISSIONER EMERY: Did there come a time
when you and Mr. Morrow discussed those activities, and Mr. Morrow complained that those activities took too much of his time, complained to you about that?

THE WITNESS: I understand that was Mr. Morrow's testimony, but I have no independent recollection that he complained to me.

Again, I had many discussions with Mr. Morrow. He might have. I just can't recall any specifics on it.

COMMISSIONER EMERY: He might have?

THE WITNESS: Yes.

COMMISSIONER EMERY: Mr. McShane.

Q The question I asked before, which wasn't answered, I'll ask it again -- it wasn't answered not because of anything you did, Mr. Colavita, because Mr. Emery was interested in asking some questions.

You testified before the Commission privately that you were often lobbied by people to help their cause on the Board of Legislators.

MR. PARISI: What page?

MR. McSHANE: The reference is page 43.

Q My question to you, Mr. Colavita is, is that correct; do you often get lobbied by people who ask you
Colavita

to act with members of the Board of Legislators on their behalf?

A My recollection is that I'm lobbied by many people to help on the Board of Legislators, and other boards, committees, public officials, colleges, law schools.

No offense, Dean.

THE CHAIRPERSON: Not Fordham?

THE WITNESS: Fordham, also.

Q On occasion do you act on those requests?

A I try to do my best to help, whenever I can.

Q Mr. Colavita, I would like you to take a look at Commission Exhibit 3, which is in the book in front of you.

I will identify it as an internal memorandum from the files of the County Clerk's office, which has been made available to the Commission by County officials.

The memo appears to be from Bob Stanley, first Deputy County Clerk to George Morrow, County Clerk. Reference is made in that memo to the fact that you, Tony Colavita, took certain steps to have money restored in the County Clerk's office budget for the Land Records Bureau in that year.
Do you see the reference to that at the bottom of Exhibit number 3?

A The last paragraph?

Q Yes, that is correct?

A What was your question in reference to this exhibit?

Q My first question, and the only question I have asked is, did you see the reference at the bottom of the memo which indicates that, "Land Records funds are restored, and were it not for the efforts of Tony Colavita, ERK and MH, we might have had a more difficult time"?

A Yes, I see that.

Q My question to you, Mr. Colavita, is, did you contact County officials in 1981 to urge restoration of funds in the County Clerk's budget for the Land Records Bureau?

A As I said earlier, I have no recollection of it. This doesn't refresh my recollection. It's possible that I might have. If someone wrote a memo, perhaps I did try to help.

To this day, I'm trying to figure out who MH is.

Q You know who ERK is?
Colavita

A Yes.

Q Is that a reference to Mr. Keeler?

A It appears. Unless there are other people working in that office with the same initials.

Q Mr. Colavita, I would like to now address with you certain matters that were testified to yesterday by present County Clerk Mr. Spano.

A Can we put this away?

Q For now, yes.

Mr. Spano testified that in 1983 he sought your assistance when the proposed budget for the 1984 year was released, and twelve positions in the County Clerk's office had been eliminated.

Do you recall Mr. Spano speaking with you with regard to that matter?

A Yes.

Let me clear something up, if I may.

In my prior testimony, at the private hearing, I believe I said that I had no recollection of it. I was made aware of Mr. Spano's testimony yesterday, and I have to say that, in fact, it did refresh my recollection; my somewhat unclear recollection is that he did -- let me correct that.

 Apparently Mr. Thomas Carty, who was the
then Democratic Chairman, and I believe Mr. Spano, or perhaps both of them, had asked me if I would meet with them and help. It's my further recollection that we did, in fact, have a drink one evening, I believe, with myself being present, Mr. Spano, I think Mr. Carty, and I believe two members of the Board of Legislators. I believe that we had the majority leader, and the minority leaders at the time, Mr. Brady and Mr. DeRario.

Q Did you --
A I wanted to clear that up, I do recall it. If I may also state that there was another reference in the testimony about another meeting in 1985, and I want to clear that up, if I can, also.
Q We will get to that in a minute, Mr. Colavita.
A Before I lose my train of thought, let me get this in, please.
Q Mr. Colavita, could I just finish my train of thought here on this particular matter?
A It's better that mine is lost?
Q We will get back to the later meeting.

MR. PARISI: You asked the question, let the witness finish the answer.

THE WITNESS: May I get this on the record,
please?

THE CHAIRPERSON: Why don't we complete the answer to the question.

Go ahead.

THE WITNESS: I don't mean to be difficult, I just want to get it in, so I don't forget it.

There was another question, I believe you asked me, at the preliminary hearing, which was did I meet with, or did I have Mr. Gioffre or Mr. Vetrano meet with County Clerk Spano -- I believe it was 1985 -- about some positions that were cut out of the budget by some State cutting of funds, or something like that.

I said I had no recollection of it. I still don't. Mr. Vetrano refreshed my recollection last night and said that I did ask him, as my executive officer, to meet with -- and I believe it was Mr. Spano -- to see any way we could help.

THE CHAIRPERSON: I know Mr. McShane will come back to this subject in the order in which you plan to cover it.

Q Mr. Colavita, you have referred to a meeting last night with Mr. Vetrano, in which this specific
matter was discussed.

Can you tell us who else was present at that meeting?

MR. PARISI: I believe that the witness will claim privilege on the contents of that meeting.

MR. McSHANE: I'm sorry; is the witness claiming it?

MR. PARISI: Yes.

MR. McSHANE: What privilege?

MR. McSHANE: Attorney-client privilege.

We had testimony earlier about a meeting that was attended by attorneys and not attorneys, as well.

I would ask that the witness be directed to discuss the meeting that took place, on the ground that the attorney-client privilege is misplaced in this instance.

MR. PARISI: Mr. Chairman, may I be heard on the legal issue of the privilege?

THE CHAIRPERSON: Yes.

MR. PARISI: Other than the attorney and the clients, there was no one present.

I am the attorney for the Westchester
County Republican Committee and its officers. The only individuals present at the meeting were the officers and employees of the committee, and attorneys.

So, based upon that, there is an attorney-client privilege.

It is my position, and I'm advising my client, that there is a privilege involved.

THE CHAIRPERSON: Commissioner Emery is refreshing my recollection. I think earlier today there was some testimony, and maybe you can confirm it, that Mr. Gioffre was present at that meeting; and he currently is a County employee; is that correct?

MR. PARISI: He is also Chairman of the Rye Town Republican Committee, member of the Westchester County Republican Committee. He was there as a member of the Executive Committee and my client.

THE CHAIRPERSON: Obviously, our Commission has no power to direct a witness who claims the privilege to testify.

If we want to challenge the issue of privilege, we must go to court.
So, all I can do, on behalf of the Commission, at a hearing like this, is to invite your full participation in the question and answer.

If you found it, obviously, as the Chairman of the party, I do have the ability, I believe, maybe in consultation with others, to waive the privilege. It is not the attorney's privilege, it's the client's privilege, and the representatives of the party would be the client in this context.

MR. PARISI: Insofar as all the clients are not here, I don't know that one client can waive the privilege of a client who is not here.

Insofar as I am the attorney, and I am the one who is responsible for enforcing the canons of ethics, I'm the one on the line, I'm going to request that my client not waive it as to the clients that are not here.

MR. McSHANE: Mr. Chairman, if I may, it would seem that the witness, in his answer, making reference to the meeting that took place, and the manner in which his recollection was refreshed during that meeting, has, in fact, waived any
privilege that might be claimed.

I would suggest that counsel for the witness is attempting to have his cake, and eat it, too, to relate the benefit of that meeting through a refreshed recollection, yet he doesn't want any testimony with respect to other matters that took place at that meeting.

THE CHAIRPERSON: Let me cut through this.

If the witness, through counsel, asserts the privilege, and the Commission wants to press the issue in terms of its applicability, we must go to court.

I would hope that we could get the complete cooperation of the witness. On the other hand, if counsel is stating that his position is that the witness is not waiving the privilege, there is not much we can do about it at this point.

MR. PARISI: It is also my point that he cannot waive it as to those clients that are not here.

THE CHAIRPERSON: Commissioner Magavern has pointed out that the party is the client, and as I understand it -- and of course, we have the Chairman of the party at the witness table.
MR. PARISI: The Chairman cannot act unilaterally. The power is vested in the committee, not the individual.

Furthermore, I was here this morning when the privilege was invoked, and I believe the Commission upheld the privilege.

THE CHAIRPERSON: Don't accept what happened this morning as an agreement that the privilege is available, because I know, from speaking to several Commissioners after, they had a different view of the applicability of privilege.

There is not much we can do in a hearing where a party at the witness table asserts the privilege, and declines to answer on that basis.

The only option that is open to us is to get a ruling in court.

MR. PARISI: Mr. Chairman, perhaps we can have the question read back, and Mr. Colavita can clarify what he exactly said.

It is also -- all right, read the question back.

THE CHAIRPERSON: Fine.

Can we have the last question, and whatever
the response has been, not the dialogue between counsel and the Chair.

    (Record read as requested.)

    MR. PARISI: Based upon the reading back of my client's testimony, it is my client's position that he never referred to the contents of a meeting, all he referred to was a discussion he had with somebody, never referring to a meeting.

    Furthermore, it is my position that Mr. Bienstock and Mr. McShane are taking the position that there is a waiver. It is my position, if that is their position, that is not reviewable by this Commission; that is a legal question to be decided by the Court.

    We are taking the position that there is no waiver.

    THE CHAIRPERSON: I think all of these questions, to the extent to which there is the position you expressed, needs to be resolved, if the Commission chooses, through a court process.

    I would like to ask counsel to identify, for the record, those who were present at the meeting last night, which is not covered by the privilege.
MR. PARISI: To the extent that it is not covered by the privilege, I was there, as the attorney, and there were four members of the Executive Committee, and a co-counsel of mine.

THE CHAIRPERSON: Next question.

Q Was Mr. Keeler present at that meeting?
MR. PARISI: I claim privilege.

Q Was Mr. Gioffre present at the meeting?
MR. PARISI: I claim privilege.

Q Was Mr. Vetrano present at the meeting?
MR. PARISI: I'm taking the position that anything further is privileged.

Q Was Mr. Piscionere present at the meeting?
MR. PARISI: I'm taking the position that anything further is privileged.

Q Was Miss Sunderland present at the meeting?
MR. PARISI: I'm taking the position that anything else is privileged.

THE CHAIRPERSON: Next question.

Q Mr. Colavita, is Mr. Keeler a member of the Executive Committee?
A I believe he is. He is a holdover. I just haven't appointed new people. He is a member.

Q Now, in your answer, Mr. Colavita --
A I believe, subject to my checking my own files.

Q In your answer to the question which addressed the 1984 budget, and the twelve positions in the County Clerk's office, you testified that a meeting took place with you and Mr. Brady, Mr. Carty, and Mr. Spano. And if I'm leaving anyone else, please add; it has been a while ago.

A To the best of my recollection, John DeRario was also there, who was the minority leader of the Board of Legislators. I believe -- and again, you're talking about a long time ago, many, many meetings ago.

Q Do you recall who set that meeting up?

A My recollection, and again, being very hazy and unclear, was that someone requested that I go to this meeting, to try to help.

It might have been Tom Carty; I'm not sure. It might have been Andy Spano. I just don't know. I don't recall at this time.

Q Mr. Spano has testified, Mr. Colavita, that he believes you were helpful in having eight of the positions restored in the budget for 1984 as passed by the Board of Legislators.

My question to you, Mr. Colavita, is, as
County Chairman, do you have the ability to influence the budget process in that fashion?

A First, if Mr. Spano said that, he appears to be an honorable man. I say "appears." He is an honorable man. If he says that, that is his recollection. I don't see any reason why I should doubt it.

Your next question is, do I have -- will you repeat your question?

Q I was just referring you to a statement that Mr. Spano made, and then I asked you a question after. I'll repeat the question now.

As County Chairman, do you have the ability to influence the budget process in that fashion?

A It's difficult to answer that.

Can I lobby, can I ask people to, or try to help people who come to me and ask me for help? Yes. I do what any citizen can do, ask a legislator if he would consider a request that was made, in this instance by Mr. Spano, who, interestingly, is not of our party, and had just beaten us in an election.

I would try to help, if I could.

COMMISSIONER EMERY: Let me jump in here on that point, if I may, very quickly.
That is, isn't it the case, Mr. Colavita, being very clear and frank about this, you have more power than an ordinary citizen to influence legislators; don't you?

THE WITNESS: Reading your newspaper accounts, I didn't know the power I had.

COMMISSIONER EMERY: Let me ask you this particularly.

You have the power of Republican endorsements, or you participate substantially in the power of Republican endorsements.

THE WITNESS: I'm the Chairman of a party that has been, in my opinion, successful.

COMMISSIONER EMERY: Right.

THE WITNESS: I would have to agree that if I ask someone to consider a request, that there would be some attention given to it.

COMMISSIONER EMERY: And you have power --

THE WITNESS: It has been my procedure to try to help wherever I can.

I get many, many requests, day in and day out.

COMMISSIONER EMERY: I'm asking you a question about your influence.
You have the power to have some substantial say in the way monies are dispensed for campaigns among legislators in the County, Republican legislators in the County?

THE WITNESS: My answer would have to be a qualified yes, but it's not as you would think, I believe.

Let me say, nowadays if I can get into a whole speech on public funding --

COMMISSIONER EMERY: You answered the question.

THE WITNESS: I want to make it as clear as I can, there are individuals -- nowadays almost each candidate has his own individual fundraising apparatus, committee to elect Smith or Jones -- you have heard of these things -- which are separate, in most instances, from the County organizations.

The answer is a qualified yes.

Q  You started to talk earlier about the meeting that I made reference to that took place between Mr. Spano and Mr. Vetrano in 1985, and you indicated that Mr. Vetrano refreshed your recollection with regard to that meeting last night.
A  Yes.

Q  My question to you is, do you now know, as you sit here, what the purpose of the meeting was that took place between Mr. Vetrano and Mr. Spano?

A  I still have really very limited, limited recollection of that. It is my understanding, my recollection, in a very unclear way, that someone must have contacted our office, or me, and asked for help. I asked Mr. Vetrano to handle it.

Now, this was 1985. Could you give me a time frame, when?

Q  Well, it was at the time that the budget for the 1986 year was in discussion.

A  Go ahead, I'm listening.

Q  Mr. Spano indicated that he met with Mr. Vetrano and Mr. Gioffre, and discussed with them the inclusion of funds in the 1986 County Clerk's budget for additional employees to staff the Office of Court Administration.

Is that what Mr. Vetrano's recollection of the meeting, as you know it now, having spoken to him last night about it?

MR. PARISI: Once again, I don't know that this witness can testify as to what someone else's
recollection was.

A My recollection, after speaking with Mr. Vetrano, is that I did ask him to help Mr. Spano any way that he could.

Let me volunteer, at that time I had just become State Chairman, that is why I asked you before what time frame it was, because right after September I assumed some additional duties.

Looking back now, it would have been very natural for me to say yes, try to help him. I just didn't recall at the time.

My whole purpose here, Dean, was to just clear up some testimony from my previous testimony.

Q Mr. Colavita, Mr. Spano also testified that Mr. Gioffre and Mr. Vetrano agreed to assist him in that matter, on the condition that he hold jobs open for referral from the Republican Committee, specifically five jobs. Were you aware of that?

A I don't have a recollection, independent recollection of that.

Q Was your recollection refreshed in any way with regard to that matter through your conversations with Mr. Vetrano last night?

A I don't recall.
Now again, let me say this. I have read the papers today, I have heard, obviously, there has been a lot of commentary about this commission, this hearing. I don't recall where I heard that.

My recollection now is I don't have a recollection of it at the time, I still don't have a recollection of it, but it could have happened, it's possible that there was some understanding with Mr. Spano.

Q I would like to return now to some questions about Mr. Keeler for a few minutes.

Mr. Keeler has served as the Chairman of the Republican journals; is that correct, Mr. Colavita?

A Yes.

Q And he was also, for a time, the Director of Playland Park; is that correct?

A Yes, sir.

Q Now, are you familiar with a vendor at Playland Park by the name of Frank Gorham?

A I don't recall ever -- I have no recollection of Frank Gorham, but again, I was made aware that he testified that I spoke to him. I think I can clear it up now.

Mr. Gorham apparently came to see me at one
time. I mentioned earlier, I mentioned it in the other
testimony, I mention it again, that I sort of had
doctor's hours. I would go to Republican headquarters on
certain afternoons and evenings, Mondays and Thursdays.
People would come in.

Apparently, Mr. Gorham came in, asking me if
I could help find a suitable place to have model
airplanes flown, I guess is the word. That is my very
unclear, hazy recollection. I think I said I would try
to help. Nothing ever came of it, I don't think.

Q You have a hazy recollection of Mr. Gorham?
A Yes. At the time you asked me that
question, at the private meeting that we had, I had no
recolletion. My memory was refreshed when I was told
that he wasn't coming in, talking about Playland, which
was the context, I believe, in which you asked the
original question.

In fact, he came in to ask my help about
finding a field where they could fly airplanes.

Q Mr. Gorham also testified that when he met
with you Playland did come up in the conversation, and
that Mr. Keeler's name came up, and that you told him at
that time that you had placed Mr. Keeler in the position
at Playland. Do you recall telling him that?
A I have no recollection of that. In fact, I have no recollection of speaking to Mr. Gorham.

I could have spoken to him about Playland.

If someone comes in and says, "I work at Playland," that is a conversation about Playland.

Q Could you have told him that you put Mr. Keeler in at Playland?

A I doubt it. I have no recollection of it.

I doubt it.

Q Mr. Gorham also testified in the same conversation, Mr. Colavita, you indicated to him that, "Patronage is my job, that's what I do."

Did you tell Mr. Gorham that?

A I don't recall that. I know that I generally don't speak that way. My job is being a lawyer, which I earned at Fordham.

Q Did you recommend Mr. Keeler to Mr. O'Rourke for the position at Playland?

A You asked me this once before, and I answered it the same way; I have no specific recollection of recommending him.

Let me say this: If Mr. Keeler had asked me to recommend him, I certainly would have. He is a very hard-working, bright and decent person. If he had asked...
me, I certainly would have.

Q    You have no independent recollection?

A    No independent recollection. Perhaps Mr. O'Rourke -- perhaps you covered it already.

Q    Mr. Colavita, were you aware that while Mr. Keeler was the Director of Playland, vendors at Playland were contributing to the Republican journals that Mr. Keeler chaired?

A    I'm aware of it now.

Q    Were you aware of it then?

A    When is then?

Q    During the time Mr. Keeler was Director of the park, and when journals were, on occasion during that period, published by the Republican Committee

MR. PARISI: Can you be a little more precise with the question, with respect to a time frame, please.

MR. McSHANE: Mr. Parisi, Mr. Keeler was the Director of the Park, as I understand it, from 1984 through 1988, and during that period there were two journals that I'm aware of that were published by the Republican Committee. There may be more, but I'm only aware of two.

My question is, during that period when Mr.
Keeler held both those dual roles, that is, Chairman of the Journals Account, and Director of Playland, was Mr. Colavita aware that vendors at Playland Park were contributing to the journals, and taking ads out in the journals?

MR. PARISI: Of the four years that Mr. Keeler was Director of Playland, which two are you referring to that there were journals?

MR. McSHANE: I'm asking if he recalls in any of those years.

MR. PARISI: The question you posed was during the time Mr. Keeler was a Director of Playland, and there were journals, is he aware.

I just want to know which two of the four years that he was Director of Playland that there were journals that the question deals with.

Q Do you understand my question?

A I thought I did, but now I don't.

Q Let me try it one more way and see if we can get through this.

During the time when Mr. Keeler was Director of Playland, did you know that vendors were contributing to the journals?

MR. PARISI: What journals?
MR. McSHANE: Mr. Chairman?

THE CHAIRPERSON: Let me ask the witness.

Mr. Colavita, I take it that the Republican Party from time to time publishes a journal; is that right?

THE WITNESS: Yes.

THE CHAIRPERSON: And people make contributions, and are listed in the journal as a result of making those contributions.

During that four-year period that Mr. Keeler was Director of Playland, were you aware that people, vendors at Playland, were making contributions to be listed in the journal as a result of activity by Mr. Keeler?

THE WITNESS: Dean, as I testified earlier, at the other hearing, I am aware of it now. I have no recollection of looking at the journal to see who bought ads and who didn't.

As I said earlier, I hardly ever looked at the journal, except one year, when they had my picture in it, playing the accordian.

I don't mean that to be funny.

THE CHAIRPERSON: I take it it's your testimony that you have no independent
recollected of vendors at Playland, during his
tenure at Playland, making contributions to be
listed in the party journals? You have no
independent recollection of that?

THE WITNESS: I don't.

Could I have seen a journal, yes.

I might volunteer to you that Mr. Keeler
had been Chairman of the journal before I was
Chairman, and I believe counsel knows that there
was a separate account that was started, and was
used just for that journal account, long before --
I shouldn't say long before, but before I was
Chairman.

That account was a separate account, was
handled by Mr. Keeler, and I had no reason,
really, to look at it.

THE CHAIRPERSON: I take it after you
became Chairman, he continued to be the Chairman
of that journal activity?

THE WITNESS: Right.

THE CHAIRPERSON: And you would assume that
in connection with maintaining the journal that he
would be active in soliciting contributions;
wouldn't you expect that of someone who is
Chairman of a journal committee?

THE WITNESS: Oh sure.

THE CHAIRPERSON: It wouldn't be any great surprise to you if vendors were contributing to be listed in the journal that he was Chairman of?

THE WITNESS: It could very well be.

Q Were you aware, Mr. Colavita, that during that period Mr. Keeler was also encouraging some vendors to join the Chairman's Club?

A I have no independent recollection of that.

Q Did you ever discuss with Mr. Keeler his dual role of journal Chairman and Director of Playland?

A I have no independent recollection of that.

If you could refresh my memory, please do.

Let me say this: As I said earlier, Mr. Keeler was a volunteer, came to the headquarters a lot. I saw a lot of him. Could we have had a discussion?

Maybe, possible.

Q Were you aware that vendors on occasion would drop contributions off at his Playland office?

A I have no recollection of ever hearing that, except at the time. I have heard it since, during these hearings.

Q Mr. Colavita, are you familiar with Mr. Ed

NATIONAL REPORTING INC. (212) 732-3120
Kilcullen?

A Yes.

Q Did Mr. Kilcullen seek a recommendation for you for a position at Playland?

A That's my recollection.

Q Did you recommend him?

A I believe I did.

Yes, I did.

Q And he got the position?

A Yes.

If I may add, he had been at Playland. As I said earlier, my recollection is that he was let go, or terminated, something happened when they brought in a different company, Marriott. When Andrew O'Rourke became the County Executive, he decided not to have Marriott. I don't have the details on that.

There were rumors around that the County was going to go back, Playland was going to go back to the County, they would be looking for a Director.

I believe Ed Kilcullen called me, to the best of my recollection, and said, "I would like you to recommend me."

I said fine. I knew him, he was from my town, so as far as I can recall, I recommended him.
Q Did you recommend him to County Executive O' Rourke?
A Yes.
Q Are you familiar with former County Attorney Logan?
A Yes.
Q Are you familiar with Terry Ruderman?
A Yes.
Q How do you know her?
A She is the wife of Jerry Ruderman; Terry and Jerry Ruderman. He is active in our party, he is -- he
was, for many years, and still is, the town Republican
Chairman in the town of Scarsdale. She is a very fine
person. She is an attorney, Cornell, I think, graduate,
or he is a Cornell graduate.
I would have no problem with them; very fine
people.
Q Are you aware that she served as a Deputy to
Mr. Logan when he was County Attorney?
A I'm aware that she was Assistant DA, and she
became an Assistant County Attorney.
Q Did you recommend Miss Ruderman to Mr. Logan
for that position?
THE CHAIRPERSON: Which position?
MR. McSHANE: Position in the County Attorney's office, Mr. Chairman.

A I have no independent recollection of that, but I could have. It's possible.

If she did ask me for a recommendation, I would have given her a very high one.

Q Mr. Logan testified that he believed that his decision to hire Miss Ruderman, which he made known before he was actually, appointed, that is, he made known his intention to hire Miss Ruderman, helped his chances becoming appointed County Attorney, because of the good will that created among party officials. Did you tell him that?

A I have no recollection of that. If he believed that, that is pretty good thinking.

Q Are you familiar with a person by the name of David Warager?

A Yes.

Q And, in fact, Mr. Warager --

A I think he pronounces it Warager.

Q In fact, I have been corrected when I pronounced it that way at least once.

A I'm so sorry.

Q I go back and forth.
Mr. Warager worked on several Republican campaigns between 1983 and 1985; is that correct?

A Yes.

Q And Mr. Warager has testified that he sought and obtained from you, personally, a commitment for a recommendation to the County Attorney's office in 1985. That is, you assured him that you would give him a recommendation to the County Attorney's office.

My question to you is, did you recommend him for a position in the County Attorney's office in 1985?

A Excuse me a second.

As I testified earlier, I have no independent recollection of meeting with Mr. Warager. I have been told that I have met with him.

I'm confused, admittedly. I don't recall whether I met with him or not, whether I recall it from newspaper accounts in 1988 or 1985. My own recollection is that he might have been at a meeting, but I don't recall meeting with him.

Q Do you recall recommending him for the position in the County Attorney's office?

A I do not recall that, but I might have. I just don't recall it.

Q I would like to turn now for a few minutes
to issues relating to Morgan Hughes, Inc. Did you meet
with Morgan Hughes in late 1982 to discuss him bringing
rides into Playland?

A  Again, as I testified, I have no
recollection of that meeting, but I have been told by Mr.
Gioffre, who worked at the County Committee at that time,
that, in fact, Mr. Hughes and his attorney did come in,
that either I or someone said to Fred, "Please handle
this."

I was told again, that we had a busy
afternoon; it was one of those Mondays or Thursdays and
Mr. Gioffre advised me, long after the meeting, that I
did, in fact, come into the room and said hello, nice to
meet you, small talk like that; and then I left.

Q  That was the extent of your contact with Mr.
Hughes on that day; is that correct?

A  That is my recollection, yes.

Q  Mr. Colavita, I would like to just direct
your attention to Commission Exhibit 1 for a few minutes.
I will represent for the record that Exhibit 1 is a copy
of a letter from Mr. Horace Borchardt to you, dated
February 2, 1983.

A  It's the wrong letter.

Q  Do you recognize the address on that letter?
A The letter on the left?
Q It's the letter on the right. It is also in your book as Commission Exhibit number 1, Mr. Colavita.
A Sure. That is my law office.
Q That's the address of your law office?
A Yes.
Q Did you ever receive that letter?
A I have no recollection of ever receiving that letter.
Q Mr. Colavita, did you ever do anything to assist Mr. Hughes in his obtaining a contract with the County of Westchester for four rides in 1984?
A Let me go back to that last question. It may have been sent. Maybe I received it. I have no recollection of it.
Q I understand.
A Maybe it was received.
Q What was your next question?
A I have no independent recollection of that, as I have testified to you before.
Q Did you ever do anything to assist Mr. Hughes in his effort to obtain contracts with the County of Westchester in late 1983 and early 1984?
A I have no independent recollection of that, as I have testified to you before.
Colavita

recollection, I'll be glad to look at it.

If I don't have a recollection, it probably
didn't happen.

Q Did you ever indicate to Mr. Borchardt that
you would help Mr. Hughes get rides into Playland?

A I have no recollection.

Q Did you ever tell Mr. Gioffre to help Mr.
Hughes in his attempt to put rides in at Playland?

A I have no recollection of that.

Let me go back and clear up something.

I have no recollection of it. Mr. Gioffre
did tell me that the day that Mr. Hughes came in, I was
the one who said, "Go and help him; see whatever he
wants." In fact, Mr. Gioffre advised me that we didn't
know at the time what he was coming in for.

Q You, yourself, don't have any independent
recollection of the meeting, or of the purpose for which
Mr. Hughes came to Republican headquarters; is that
right?

A That is correct.

Q Do you recall telling Mr. Gioffre to get rid
of Mr. Hughes when he arrived at Republican headquarters?

A I have no recollection of it, and I
testified before, I don't believe that I say things like
that, but I might have.

If I did, I better change my style.

Q  Mr. Colavita, I just have one other question

about a Playland vendor, and then I will move on to the

last topic. That is a question with regard to Eileen

Barry, who was for a time a vendor at Playland.

Mrs. Barry has stated, under oath, that at

your request she spoke to Richard Keeler about a dispute

she was having with Mr. Keeler over amounts owned on her

contracts at Playland. Did you ever speak to Mr. Keeler

on her behalf?

A  I have no recollection of that.

If you have something to refresh my

recollection, please let me know. I just don't recall

it.

As I mentioned to you in my testimony at the

private hearing, I have a recollection, a very unclear

and hazy recollection, that an Eileen Barry came into

Republican headquarters one day and had some question

about Playland. My recollection is that I said to her,

"I can't help you; go back and talk to whoever it is that

you had trouble with, try to work it out."

That's my recollection.

Could there have been more conversation,
yes, I just don't recall it.

Q     Mr. Colavita, I'm just now going to refer

you to the chart prepared by the Commission for this

hearing, which reflects that between 1984 and 1988 the

vendors at Playland Park contributed $81,963 to a variety

of Westchester County Republican committees, including

$42,000 to the housekeeping accounts of the Westchester

County Republican Committee, and $3,250 to the journal

account.

In addition, there is a reference on the

chart to the fact that the vendors at Playland

contributed $15,000 during that period to the Chairman's

Club.

My question to you is, do these figures

surprise you?

A     It's difficult to say, if you add them up,

add all the years, all the amounts; it looks like a lot

of money.

Do they surprise me?

Q     In this sense, Mr. Colavita. Were you aware

that the vendors at Playland were, to this extent,

contributors to the Republican Party?

A     As I testified earlier, I have no way of

knowing, and I had no way, and I still have no way of
knowing who is a concessionaire, and also a contributor.

If you ask me about some specific people, I might be able to tell you.

Q Is it your testimony that you were not aware that, as a group, the vendors at Playland Park were fairly consistent contributors to the Westchester Republican Committee?

A At the time they were making the contributions I was not aware. You have made me aware, very effectively, Mr. McShane.

These are only Republicans. Have you done a chart on Democrats, by any chance?

Q Mr. Colavita, I would represent, and for the benefit of the Chairman, indicate that an analysis of the Democratic Committee in Westchester County was also done, and our analysis did not reveal contributions.

THE WITNESS: That's the wrong years. You should have done it when Del Bello was in.

THE CHAIRPERSON: One of the recommendations we are making is that, under law, all the records are destroyed after five years. So, the current records at the Elections Board are only maintained going back five years.

As a state, we don't have any long memory
of patterns. One of the recommendations our Commission has made is that we eliminate that kind of feature that destroys the history, except for the last five years.

THE WITNESS: Dean, that is a good point.

THE CHAIRPERSON: You may not be aware of this, but there was testimony yesterday, I believe by Commissioner -- an investigator for our commission, Mr. Carpiniello, that according to the diagnosis that our staff has made every -- correct me, Mr. McShane, if I'm wrong on this -- every vendor at Playland, with the exception of two or three, is reflected on that chart; is that accurate?

MR. McSHANE: That is my understanding as well, Mr. Chairman.

THE WITNESS: Is that a question, Dean?

THE CHAIRPERSON: No.

What's your next question?

Q Then back to a familiar person and another question, Mr. Colavita.

Mr. Morrow has testified before the Commission that you indicated to him at one point during his tenure in the County Attorney's office -- I'm sorry,
County Clerk's office -- that you wanted him to inform you of all appointments that were made in the County Clerk's office, regardless of the position, whether it be a high-level position or a low-level position, as a matter of routine.

Did you ever tell him that?

A I have no recollection of that. His testimony doesn't refresh my recollection.

Q I have one last question for you, Mr. Colavita, and I'm going to refer in that question to a recent decision by Judge McEvoy, in the Federal District Court for the Northern District of New York.

Judge McEvoy wrote the following, and I'll quote it to you. "Although it is provided by state law, County Committee chairpersons are involved in the mechanisms of the election process. They are not, on the basis of that law, involved in the daily operations of government, whether it be in policy-making capacities or not."

Putting aside for a moment, Mr. Colavita, the reference to a basis in law for activities in government, as a Republican Chairman, during the past approximately ten years, have you been involved in the daily operations of County government?
A I don't work for the County.

Q My question is, have you been involved in the daily activities of the County as County Republican Chairman?

A I don't believe that I have. I'm a political party chairman; I do what political party chairmen do. I'm the chief executive of that party.

THE CHAIRPERSON: Do you have the decision available?

MR. McSHANE: Yes.

THE CHAIRPERSON: Show it to counsel.

MR. McSHANE: All right.

COMMISSIONER EMERY: Did you want to complete your answer?

THE WITNESS: I lost the question.

THE CHAIRPERSON: Will you repeat the witness' last answer.

Anything further you want to add?

THE WITNESS: No.

MR. McSHANE: I have no further questions.

I will give to Mr. Parisi the information I have available on the case.

MR. PARISI: Thank you.

THE CHAIRPERSON: Mr. Magavern.
COMMISSIONER MAGAVERN: I assume the job of a County party leader is not an easy one; am I right?

THE WITNESS: I love it.

COMMISSIONER MAGAVERN: I think we all love difficult jobs, sometimes.

THE WITNESS: It can be difficult at times. I have been told by the first person who gave me my first patronage job, when it stops being fun, get out.

COMMISSIONER MAGAVERN: You have got to raise funds, that's one of your jobs; right?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: You have to attract volunteers?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: To do that, because there are people who are going to volunteer, may be interested in government, yourselves, you try to get them jobs in government.

THE WITNESS: Do I discuss recommendations for jobs with many, many people, the answer is absolutely, yes.

COMMISSIONER MAGAVERN: And it is just your
natural inclination: isn't it?

If you have a good worker, who wants a job in government, to try to help them out.

THE WITNESS: If they are qualified.

What I try to do, in every instance, is to recommend people that I believe will do a job, and do it well.

COMMISSIONER MAGAVERN: I'm not suggesting --

THE WITNESS: Otherwise, it reflects back on our party.

COMMISSIONER MAGAVERN: Don't take the suggestion to be critical; it is not. I'm trying to put myself in your shoes, to understand the process, to go on from there and see if we can do anything to improve the process.

If a good worker gets a job, you would like him to stay active in politics, I take it, for the party?

THE WITNESS: That is reasonably correct.

COMMISSIONER MAGAVERN: Through all of this, you, I take it, have tried to play by the rules, as you understand them?

THE WITNESS: Always.
COMMISSIONER MAGAVERN: Among other things, I take it that you have to be concerned to avoid an appearance that people are being pressured for contributions, or that they are getting some favor as a result of contributions; is that a concern of yours?

THE WITNESS: That is generally correct, yes.

COMMISSIONER MAGAVERN: Do you recognize that that can be difficult when you have a public employee soliciting political contributions, either from other public employees, or from people doing business with that public employee in his or her official capacities?

THE WITNESS: It could be difficult, sure.

COMMISSIONER MAGAVERN: Taking Mr. Keeler as an example, he was, I take it, from the testimony, a very enthusiastic party worker?

THE WITNESS: He was a good volunteer for us, yes.

COMMISSIONER MAGAVERN: Among other things he was a good funder, I take it?

THE WITNESS: He helped a great deal.

COMMISSIONER MAGAVERN: When he was put in
a position where he was dealing with business
people -- that is his position at Playland,
dealing with people, and knowing that he was an
enthusiastic party worker and fundraiser. With
hindsight, now, can you see that that might have
presented a problem?

THE WITNESS: You're asking me to make
certain assumptions which I don't know that I want
to.

COMMISSIONER MAGAVERN: Right.
Which ones do you have trouble with?

THE WITNESS: I think what you're saying is
there was some wrongdoing, and I don't want to
comment on that.

COMMISSIONER MAGAVERN: I'm not making that
assumption, Mr. Colavita. I'm talking about a
situation, I'm using Mr. Keeler only as an
example. We will leave his name out of it.

THE WITNESS: Why don't we go to a general
example.

COMMISSIONER MAGAVERN: Let's use a
hypothetical.

Assume you have an enthusiastic party
worker, who has been active and effective in
raising funds. Assume that that person, perhaps
even on the party chairman's recommendation is
given a job where he is dealing with business
people, who do business with the government he is
working for.

Inherently, doesn't that create a situation
that has to be watched very carefully, because it
inherently runs the risk of creating an appearance
of, or even reality, that people doing business
with the government are going to feel that they
are under pressure, or that they may get some
favor if they make contributions?

THE WITNESS: I would have to agree in a
general way, without using a premise, that there
was anything improperly done.

Let's start from a premise that no one has
violated any rule of law.

COMMISSIONER MAGAVERN: Exactly. Our
concern is precisely with what may be shortcomings
in present law; that is what we are directing our
attention to.

If we can all recognize that under existing
law situations arise in which people, of good
will, decent people, enthusiastically doing their
job, are going to be put in a position that is ethically ambiguous, where there is conflicting pressures on them, where it is not clear exactly what is happening, that can be an unhealthy situation. Do you agree with me on that?

THE WITNESS: I'm having trouble agreeing, because to agree almost assumes that even though there is no legal prohibition, there may be a moral prohibition there. I'm not sure there is, Commissioner.

COMMISSIONER MAGAVERN: Maybe it indicates -- leave aside morality -- but as a matter of good public policy, maybe we ought to change the rules, so that people aren't in that situation.

THE WITNESS: I agree.

During my term as State Chairman, I made proposals to our Legislature to do a number of things, including have public financing of not only candidates, but parties.

I believe what has made America great is the two-party system, that parties should be protected so that they can remain strong and continue an adverserial type relationship, so that
we continue this great system that we have.

COMMISSIONER MAGAVERN: Can you give us some of the other proposals you made?

THE WITNESS: I was going to sum up. I have a whole speech prepared.

THE CHAIRPERSON: We would like to get that, too.

COMMISSIONER MAGAVERN: Save it for your speech; I don't want to steal your thunder.

THE WITNESS: I think if there is a problem in our political governmental being nowadays, it is the problem is not that there is too much party, the problem is there is too little party.

In my judgment, what has evolved in our society is -- and its nobody's fault -- but through a lot of rules, regulations, cases such as Mr. McShane studies each day, the party has become less of a being, less of an entity, less of an influence. The candidates have become more influential.

An illustration, and example is, one with unlimited wealth now can run and doesn't need the party. There is no need to be a member of a party.
COMMISSIONER MCGAVERN: Are you aware in some of our reports we have expressly recommended measures to try to maintain the strength of the parties?

THE WITNESS: I haven't read them.

COMMISSIONER MCGAVERN: That has been a concern of the Commission, and it has expressed it in its reports.

THE WITNESS: I was going to add one last thing. To make the playing field a little more level, there should be public funding of candidates and of parties.

Under the Buckley case, which I'm sure you are familiar with, the Supreme Court of the United States ruled that a person can use an unlimited amount of his own funds. So, someone with an unlimited amount of personal wealth doesn't need the party, he can just run. It puts another person, without unlimited funds, at a great disadvantage.

COMMISSIONER MCGAVERN: We are going to take that as a ringing endorsement for one of our proposals that we have already made.

THE WITNESS: Any way you want it.
COMMISSIONER MAGAVERN: Let me turn back to the meeting with Mr. Borchardt and his client, Mr. Hughes, in Republican headquarters.

Without attributing to you any great knowledge about the meeting, or anything beyond an acknowledgment that it occurred, and the same with the letter that was up there a moment ago, I think it was Exhibit 1, which was addressed to you by Mr. Borchardt.

Taking that just hypothetically, without asking you to acknowledge that it ever even happened; if it did happen, would that be a source of concern to you, that maybe people are getting the wrong idea about the way government is being performed in Westchester County?

THE WITNESS: If what happened?

COMMISSIONER MAGAVERN: If an attorney, or a business man, in the first instance came to a political party leader rather than to the County government officials, to present his proposals to do business with the County, if that happened would you think that that is troubling?

THE WITNESS: I would think that the attorney didn't know what he was doing, or was, in
fact, trying to build up some billable hours. Anyone who has any smattering of municipal law knows if you're making a proposal, you make it to the government, you don't make it to the political party.

COMMISSIONER MAGAVERN: It indicates that that attorney thought that the party Chairman had an awful lot of influence in County government.

THE WITNESS: It's possible.

COMMISSIONER MAGAVERN: Likely.

THE WITNESS: Conjecture on your part.

COMMISSIONER MAGAVERN: Isn't it a reasonable influence for all of us to draw?

THE WITNESS: It might be.

COMMISSIONER MAGAVERN: And if an attorney does have that impression, and if other people were to have that impression, would you agree that there is a problem of perception and confidence in government?

THE WITNESS: Using your premise, the answer is yes.

COMMISSIONER MAGAVERN: That is all I have.

Thank you very much.

THE CHAIRPERSON: Commissioner Emery.
COMMISSIONER EMERY: Just a couple of questions.

Mr. O'Rourke testified, I think after you came in, about the 1982 legislative choice, County legislative choice, of him as County Executive. He testified, I believe, you heard, at some point you withdrew your candidacy, that he ultimately became the County Executive.

Do you remember those events?

THE WITNESS: I have a recollection of them. It was 1982, it was an important time of our party.

COMMISSIONER EMERY: Of course.

Do you remember at what point -- and again, I don't want to get into internal Republican activities.

THE WITNESS: Ask me anything you want.

COMMISSIONER EMERY: I just want to know at what point you withdrew, and what the reasons were, if you can say. You can feel perfectly free not to answer, if it's in any way a confidential matter.

THE WITNESS: I might be revealing things that I never revealed before.
I was a reluctant candidate. What had happened was -- and to get the mosaic, we never believed -- I never believed that Lou Lehrman would lose that election. What happened was Governor Cuomo won, and Al Del Bello was elected.

All of a sudden, we were faced with a very nice problem. We had to find someone that we hoped the County Board of Legislators would appoint. I say that advisedly, because we had just a one-vote plurality.

A lot of my friends urged me to be the candidate. My recollection is pretty clear on it that I really didn't want to be County Executive, but I reluctantly said that I did.

I might reveal now that there were two meetings that I went to tell my Executive Committee -- it was an informal meeting, it wasn't a duly called meeting, that I did not want to be County Executive. I left both times as a candidate, because they talked me back into it.

To answer your question, I, in my own heart and mind, I was a candidate for about twenty minutes.

The time frame I don't recall.
There came a point when I really impressed
upon them that I did not want to be County
Executive. I had made a decision in my life that
I didn't want to run for office anymore; I was
going to try to build up my law business. I was
trying to do a lot of things.

I had been, incidentally, in public office
as a supervisor for eleven years.

COMMISSIONER EMERY: At some point did you
back any candidate other than Mr. O'Rourke?

THE WITNESS: No. What happened was at a
meeting of our Executive Committee, I testified
earlier that the Executive Committee conducts the
business of the party in between conventions.

At that meeting I had announced that I
would not be a candidate. In fact, there were
four other people that I had invited to come and
address the Executive Committee, who were
prospective candidates for County Executive.

I just didn't feel that it was proper for
me to tell anybody before that meeting, out of
respect for the Executive Committee, that I was
not a candidate.

However, not to waste time, I made sure
that the other people who were prospective candidates were there.

That evening I announced -- I believe it was early December of 1982 -- I announced to my own party that I was definitely not going to be a candidate, and therefore, they had better start looking at not only these four or five, but anyone else.

COMMISSIONER EMERY: My question is, who did you back?

THE WITNESS: Ultimately, I backed Andrew O'Rourke.

"Back" is probably not the right word. I recommended Andrew O'Rourke to the Executive Committee.

COMMISSIONER EMERY: In your view, was it the decisive factor in him getting the position?

THE WITNESS: Yes.

COMMISSIONER EMERY: During the years subsequent to that, what was your relationship with Mr. O'Rourke when he was County Executive and you were party leader on a day-to-day basis?

THE WITNESS: I would say it was a good relationship.
COMMISSIONER EMERY: Did you communicate often?

THE WITNESS: I like Andy. I hope he likes me.

COMMISSIONER EMERY: Did you have --

THE WITNESS: I believe he likes me.

COMMISSIONER EMERY: Did you have regular discussions with him about positions, Republican people who you would recommend for jobs in his administration?

THE WITNESS: The answer would -- I have no specific recollection, but the answer is probably so. We talked about many, many things.

COMMISSIONER EMERY: Jobs was among them?

THE WITNESS: I'm sure it was.

COMMISSIONER EMERY: You had some say, obviously, as party Chairman, over his endorsement in 1985 and in 1989?

THE WITNESS: Yes, but it was easy then.

In '83 it was a major decision. In '85 and '89, it was an almost automatic thing.

COMMISSIONER EMERY: He testified --

THE WITNESS: Incidentally, I was off the record before. I want to go on the record and say
when O'Rourke said that he had some problems with his own party, that was not me.

COMMISSIONER EMERY: He did testify -- I want to ask you about that -- he said, I believe the words were something to the effect that he almost didn't get the endorsement because he didn't give enough patronage.

THE WITNESS: There are two parts to that question.

Did I almost not get the endorsement? I would have to say that might be just a slight exaggeration.

Most of the people in our Executive Committee, which would have made that recommendation, felt he was the best candidate. As far as the patronage, I would have to say I really don't recollect that that was a reason. It might have been in his mind. I don't know.

COMMISSIONER EMERY: You have no information about people in the Executive Committee, or yourself, being concerned that Andrew O'Rourke was not giving enough patronage?

THE WITNESS: Let me answer that in a
general sense, without being specific with
O'Rourke or any other candidate.

Political party chairmen generally
recommend many people for jobs. Obviously, they
don't all receive what they think they should be
receiving. In fact, nine out of ten people that
are recommended do not receive appointments. So,
there is always going to be some dissatisfaction.

I believe it is healthy, it is good, there
should be give and take.

COMMISSIONER EMERY: That is the type of
dissatisfaction that you think he was referring
to?

THE WITNESS: If there was any
dissatisfaction.

My general feeling -- and again, without
giving it that much thought, was that the party
was pretty much very happy with Andy O'Rourke.
There is always going to be people who are
dissatisfied.

COMMISSIONER EMERY: You were satisfied?

THE WITNESS: I thought Andy O'Rourke was a
terrific County Executive, he had amassed a great
record. The people in Westchester had twice --
this is before 1989 -- elected him, and reelected him, and reelected him by a substantial number of votes in 1985.

I had no problem; I thought the party would be very proud to run Andy O'Rourke again, and I still believe that.

COMMISSIONER EMERY: Let me just turn very quickly to some of the Hughes matters.

Now, when did you first become aware of Mr. Hughes as an individual, putting aside that meeting which you don't recollect?

Did you ever subsequently become aware of him as a person who was doing business in Westchester County?

THE WITNESS: I have no recollection of every meeting Mr. Hughes.

I qualify that by saying now that he was, in fact, a member of our Chairman's Club, and we do have, for those members, a number of social activities, a Christmas party, a cocktail party. Vice-President Bush, at the time, would come and we would have a special meeting.

It's possible that he could have been at one or two of those events and I might have said
hello to him. There are many people who I say
hello to that I don't remember.

COMMISSIONER EMERY: Did you know his name
as a member of the Chairman's Club?

THE WITNESS: Yes. After a while, yes. I
might mention to you that there is an active club,
there are many members.

COMMISSIONER EMERY: Do you remember when
you first became aware of his name?

THE WITNESS: I have no recollection of
that.

COMMISSIONER EMERY: Now, when you became
aware of his name, do you also have any
recollection that he was a concessionaire, a rides
provider at Playland?

THE WITNESS: I would have to say that
there came a time when I made the association,
probably when it started to appear in the local
press.

COMMISSIONER EMERY: I'm talking about
before then.

THE WITNESS: I have no recollection of
matching the two.

COMMISSIONER EMERY: Now, are you aware --
THE WITNESS: That is prior to the newspaper publicity.

COMMISSIONER EMERY: Is your law office in Eastchester?

THE WITNESS: Yes.

COMMISSIONER EMERY: Are you from Eastchester?

THE WITNESS: I was born in Bronxville, New York, and raised in Eastchester.

COMMISSIONER EMERY: Are you aware that Mr. Hughes made contributions to the Town of Eastchester Committee?

THE WITNESS: I'm aware of it now. I don't recollect being aware of it at the time.

COMMISSIONER EMERY: I believe he testified he made two $650 contributions, for a total of $1,300. That is what he testified to yesterday, or it was brought out yesterday.

Do you have any recollection of those contributions?

THE WITNESS: I do now. I don't have an independent recollection of him making those contributions at the time.

I could have, I just don't recall it
COMMISSIONER EMERY: You have no explanation as to why he would give to a town where you are from and where your law office is?

THE WITNESS: I have no explanation, but I can make a conjecture.

COMMISSIONER EMERY: Do you have a conjecture?

THE WITNESS: It wouldn't be fair for me to make one.

COMMISSIONER EMERY: Is it generally the case that -- let me ask you this:

Has it been your experience, as party Chairman, that people who want to do business with the government in Westchester County contribute?

THE WITNESS: You're asking me for a mental operation of people that I don't know.

COMMISSIONER EMERY: An observation. Have you observed that people who want to do business, or do business in Westchester County, contribute to the party that is in power?

THE WITNESS: There are instances where people who do business with the County government do contribute to the party in power and the party out of power.
COMMISSIONER EMERY: Previously you said when Al Del Bello was in, probably, or they might have contributed to the Democratic party, but the records are too old for us to deal with them. That is natural.

THE WITNESS: Somehow I heard, and I can't tell you how, because I just don't recollect.

COMMISSIONER EMERY: My point is, as a party Chairman who cares about the reputation of the party, and the government that is in power under his party's auspices when he is in power, does it worry you, are you concerned that there is a perception that people are getting unfair or favorable treatment by the government as a result of contributing to the party in power?

THE WITNESS: If, indeed, that perception is given out, then it does concern me, yes.

COMMISSIONER EMERY: Is there anything you have done about that?

THE WITNESS: In which way? Did I make --

COMMISSIONER EMERY: Have you made --

THE WITNESS: Have I made a public pronouncement?

COMMISSIONER EMERY: Yes. Has it been a
topic of discussion in the Executive Committee?

THE WITNESS: I started to say earlier that I proposed -- I recommended, rather, to the State Legislature recommendations for public financing. I think that would solve a number of these objections that people find. I believe, as I said earlier, that the public financing should extend to parties.

Up until now -- and I'm making this distinction because up until now, up until my proposal, the subject matters were always public funding for candidates.

I added to that that there should be public funding for parties. There can be a formula to fund parties on the basis of a minimum amount, and then per voter. I say that because we are grossly outnumbered by the Democrats in New York State.

That would help, I believe, in my judgment.

COMMISSIONER EMERY: Do you continue to back public funding in the way you described it?

THE WITNESS: Yes.

COMMISSIONER EMERY: That is all.

THE CHAIRPERSON: Just one question.

Do you think it would be a good idea to
have a state rule -- and this may be covered in
your closing statement -- to have a state rule
that prohibits a public employee, who supervises
other employees, from soliciting political
contributions from those other employees?

THE WITNESS: Subject to not violating
First Amendment rights to join a party, to
actively work for a party, I would say that it
might be a good rule, yes.

I haven't given it that much thought, Dean.

Right now you may be aware that it is a
violation, I believe, of the Election Law, to
conduct it on public property.

THE CHAIRPERSON: I would like to go back
to the discussion we had before on the
attorney-client privilege, and just to clarify our
view of that subject concerning the meeting that
took place last night.

I don't know what the view of the
Commissioners will be after this hearing about
initiating a court test of the applicability of
the privilege under the circumstances described.

I do know, from talking to the
Commissioners, after this morning, that there was
a view that the privilege was not applicable.

Now, without getting into the merits of that, and that being the case, I do request the witness' response to questions seeking information about last night's meeting, so that if there is a refusal, based on the attorney-client privilege, and we do subsequently go to court, there wouldn't be any confusion about the fact that we requested the testimony at this hearing.

Why I say that is because of a statement that you made, Mr. Parisi, that you viewed the statement this morning as an acquiescence by our commission as to the appropriateness of the privilege being asserted.

It was not that at all, it was simply accepting the reality that the witness was not going to testify based on the claim of privilege, and the fact that if we wanted to go and test that claim, we would have to go to court, because we had no power to compel testimony when a witness before us declines to testify, correctly or not, based on a privilege.

I think you understand my inquiry.

MR. PARISI: Yes, Mr. Chairman.
The sole basis of my claim was not your ruling this morning. I would like to make that clear for the record.

Is it my understanding that you just want to put the questions on the record?

THE CHAIRPERSON: I consider the questions on the record -- I consider the record to be that we requested information about the meeting last night from your client, who, based on what you have said, has asserted the attorney-client privilege, for the reasons that you gave.

So, the way we leave it is that we requested the information; you have not provided the information based on the invocation of the privilege. So, if we choose subsequently to test the issue, the record will be clear as to the fact that we requested it, and the witness did not respond based on the privilege.

So, I just want the record to be clear on that.

Now, we would be happy to receive your statement.

THE WITNESS: If I may, Commissioner, I wanted to mention when I spoke about George
Morrow, I have no independent recollection, although as I said earlier some of the things -- all the things he alleged might very well have been spoken about, but I just don't recall them.

I do want to say -- and I offer this so that you will understand the background of Mr. Morrow, who is obviously, and still is, a very disgruntled person, who lost an election because, in my judgment, he was just unable, and very deficient, and now, seven years later, he is making incredible and outlandish statements, excuses to cover up for that loss.

I point out to you that there was some question as to the satisfaction or dissatisfaction with Mr. Morrow, that the last Republican Clerk who ran for election before Mr. Morrow ran in 1970, and won his election by 110,000 votes. Mr. Morrow, twelve years later, lost the election. I point that out to show what kind of a person Mr. Morrow was.

That is enough on Mr. Morrow.

What I want to say to you, and I'll be as brief as I can; I know you have been here all day long.
THE CHAIRPERSON: We will give you the opportunity to say what you want to say.

THE WITNESS: This is my personal opinion. We have one of the best governments in the history of the world. We should do everything we can to keep that government as strong as possible.

As I said earlier, this is best accomplished by keeping a very strong adverserial two-party system. We have a good two-party system, however, in Westchester County. Perhaps you have been to places that you don't have that. It is an advantage to us, and we are fortunate.

There is a lot of comment about patronage. I was asked at the last hearing about patronage. Let me say that I think that patronage is good, in that it helps maintain that two-party system. There is nothing evil, there is nothing immoral or illegal, provided it's not abused, and kept within the law. It strengthens the two-party system, and indeed, it strengthens our government. There are many collateral benefits to the system as we have it. People like me, I'm the son of immigrant parents who came to America. I was able to become a lawyer. I had no influential or
rich friends, I just got into the system; and I'm very fortunate, and I don't mind admitting, I had. My first political job given to me by a good friend and advisor named Francis X. O'Rourke -- no connection to either James O'Rourke or Andrew O'Rourke. He was a great leader. That is how I got my start. I'm very grateful to him. I think I did a good job, I worked very hard for him.

I mentioned earlier that patronage seems to have a bad connotation. It's unfair. It has helped a number of people.

I read an article recently, an interview with one of you very fine people, that it has helped a number of minorities to get into the system. In that respect it is good.

I mentioned to you about my feelings about the parties. I think the parties should -- everything should be done to help parties, to become stronger, to have a voice in government, a voice in our society, so that that good adverserial give and take produces better government.

To that end I recommended to the State Legislature that -- and I recommend these as...
enabling statutes, to allow parties to chart their
own course. What I would like to see is parties
on a county, and town, and village, and city level
have the right to nominate by convention, as we do
in the state level, so that people who are
nominated by the respective parties, in those
different levels, do not have to go out and get
signatures on petitions in order to get on the
ballot.

That would eliminate another problem that
has been the subject of many, many articles in the
media, and that is the very technical nature of
getting on the ballot in New York State.

I would like to see parties given the right
to, once they nominate someone in the primary,
have the right to work, and endorse, and spend
money and do everything to get that person
elected, which would also help in an area that I
covered before, where a person with unlimited
personal wealth can come in and run for any office
they want, and put someone who is not that wealthy
at a disadvantage.

I mentioned earlier, and I don't want to
belabor it, that I believe that public funding is
also something that -- something whose time has come. I believe there should be public funding of not only candidates, but of parties. Then, as has been done in New York City, formulas can be worked out to limit contributions.

Again, I'm covering this area briefly, limit contributions to candidates, and to parties, so that some of the objections that you have raised can be met.

As far as this panel is concerned, on a personal note, I wanted to say this: I believe that you are all honorable people. Although I may disagree with you on some things, I respect you, and I believe, though, and I have to say this, I believe your timing of this hearing, when it was proposed before Election Day, was disappointing to me. I'm not laying any blame on everyone, but it did give the appearance that it was politically motivated.

THE CHAIRPERSON: Nothing to that.

THE WITNESS: Pardon me?

THE CHAIRPERSON: There is nothing to that.

THE WITNESS: I'm saying that. I'm saying the timing, whether it was coincidental or not,
Colavita was not good, and it should have been delayed until after Election Day.

All we ask for is a level playing field.

Let me give you an illustration, Dean. In today's newspaper -- and I know that you have no control over headlines -- and I also know that many people read only headlines -- today's headline, across the Gannett newspapers had "Hidden Contributions," big heavy print. Next line, "Patronage Revealed." Subtitled, "State Commission Told of GOP Control of Jobs."

Now, a person reading that -- and I say to you, imagine someone reading that before Election Day, "Hidden contributions." What is "hidden"? There was nothing hidden.

You have the records.

Do you follow what I'm saying?

"Patronage revealed." It sounds like patronage is such a horrible, illegal thing. It's perfectly proper.

"State Commission Told of GOP Control of Jobs." That may be true, it may not be true, but look at the headline.

Do you see what I'm driving at?
Again, I'm not saying that anything was done improperly, or it was timed this way, it is just that the coincidence was bad. We tried to convey that to your counsel, at least I believe my counsel tried to convey it.

MR. BIENSTOCK: Mr. Chairman, can I interrupt and ask a question?

THE CHAIRPERSON: I'm going to come back.

The witness is entitled to present his statement.

THE WITNESS: Again, I'll close by saying that I'm not leveling any personal criticism. I think you are all fine people, doing your job. I thought that I had to, as a political leader, bring that to your attention as far as it focused on Westchester County, and the Republican Party in Westchester County.

THE CHAIRPERSON: I appreciate the statement.

Let me just -- since this is our last hearing; this Commission will dissolve some time early in the new year, so we have a number of reports on other subjects to finish and to present to the leadership of the State. So you are our
last witness at a public hearing during the life
of this Commission, unless something that I don't
expect to develop does develop.

Let me just have a few reflections on what
you said.

Like yourself, I'm also the son of
immigrant parents, and my father spent most of his
years as a bus driver. He had no political party
activity, and there were many times when he came
home to my family and expressed his frustration
and his anger at the fact that he wasn't moving
ahead because he didn't have a political contact,
and his seniority, his efforts were not being
rewarded as he thought they should be in the
system.

So, there is certainly another side to the
issue of patronage, when people in the system, who
deserve advancement, aren't getting advancement
because of reasons having to do with absence of
political party sponsors. I think that is
something that needs to be reflected in the debate
on patronage.

I have experienced it in my own life,
through my father.
Number two, this hearing is taking place today, weeks after the election, not before the election. We have no interest in being involved in partisan activity, interfering with an election.

Your comments on the timing of this hearing sort of baffle me, simply because the election took place several weeks ago, and our work in this matter was not completed until very recently. There really never was an issue about this hearing taking place before the election.

Now, I have heard counsel make reference to that in court proceedings, but that is made out of whole cloth; there is absolutely no basis for that. I just can't, you know, I can't allow you to leave here with that view of this commission.

So --

THE WITNESS: Dean, if I may. We deal in perceptions, and Mr. Parisi, who is my counsel, and party counsel, was subpoenaed to appear --

THE CHAIRPERSON: In a private deposition.

THE WITNESS: Somehow the privateness seemed to escape, and it made the press. In my judgment, it was not good for us.
THE CHAIRPERSON: I'm not aware in the course of this whole investigation that there has been any suggestion, based on any facts that I have seen, that this commission has engaged in leaking information, or providing information to the public until this hearing yesterday. Yesterday and today really is our first activity where we are presenting, through witnesses, not from statements from any of us, but through witnesses of both parties, speaking on the issues that have been addressed here.

So, whatever your counsel has said, I'm saying to you, without qualification, that it is made out of whole cloth. This hearing is taking place now simply because our investigation has been completed subsequent to the testimony today and yesterday.

The issue of partisan activity is not present.

THE WITNESS: I'm not suggesting that, Dean. I said earlier that I don't question your motives. I just thought that the coincidence was bad.

THE CHAIRPERSON: The coincidence -- I'm
not sure what it is.

THE WITNESS: Unfortunately --

THE CHAIRPERSON: You mean the private depositions.

THE WITNESS: Yes, for one reason or another, they were made public, not the depositions, the fact that it was asked.

THE CHAIRPERSON: I don't know how that can happen.

MR. McSHANE: Mr. Chairman, I think I can help you on that, just to set the record clear.

The fact that Mr. Parisi had been subpoenaed to appear at a private Commission hearing only became public at that point when Mr. Parisi challenged our subpoena and asked, in fact, for the Court to modify the subpoena to the extent of extending the time for his appearance.

THE CHAIRPERSON: That is what you're referring to as the partisan activity, that there was a subpoena?

THE WITNESS: I never said there was partisan activity. I said the coincidence. I started out by saying I believe you are all honest and decent people. I felt, as party Chairman --
and I'm the leader of this party -- that I had to bring that to your attention.

THE CHAIRPERSON: As an independent, I have to let you know I feel very strongly about the objectivity of this commission as it goes into its historical framework, as removed from partisan activity. We have let the chips fall where it may in both parties, in different areas of the state, based on our investigations.

This is a hearing. We heard a lot of testimony yesterday and today. The Commissioners now have to complete this investigation.

If there is anything more that needs to be done, we will complete it. Then we have to reach our findings and make our recommendations, make it public, and go on from there.

Thank you very much.

(Time noted: 5:35 p.m.)
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