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PUBLIC UTILITIES

Maine

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AUGUSTA, MAINE

PUBLIC HEARING

August 15, 1977

PUBLIC UTILITIES COMMITTEE

Nomination of

DIANTHA A. CARRIGAN

PUBLIC UTILITIES COMMISSION

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SENATOR CUMMINGS:

...of the Public Utilities Committee to order. We are here to discuss the nomination of Diantha Carrigan, Esq. to the Public Utilities Commission. The Secretary of the Committee will read the letter from the Governor, please.

"August 15, 1977. Honorable Edward C. Kelleher, House Chairman, Honorable Minnette H. Cummings, Senate Chairman and Members of the Joint Standing Committee on Public Utilities.

'Dear Representative Kelleher, Senator Cummings and Committee Members. Today, you will be considering the nomination of Diantha A. Carrigan to serve as Commissioner, Maine Public Utilities Commission. I feel we are very fortunate to have a person with Diantha Carrigan's legal background and ability willing to accept the nomination to the Public Utilities Commission. The excellent reputation which she enjoys both as an attorney and as a person reflects qualities which I believe the state is very fortunate to find in an individual who is interested in such an important position. I am also proud to be able to identify a native of Maine with the capabilities and willingness to serve Maine even though I recognize we may also have many outstanding out of staters in positions of high public trust. As you know, Diantha Carrigan is an attorney presently practicing law in Portland. She was born and raised in Maine and is a graduate of Lincoln Academy, Smith College and Boston University School of Law. She has been a member of the Maine and Massachusetts Bars since 1973. Recently, Diantha Carrigan served as Chairman of the Friends of Bigelow, Inc. whose referendum airport was approved by the voters of Maine. She is a former member of the Citizens Advisory Board for the Maine Land

Use Regulation Commission and has been serving as a member of the Board of Environmental Protection since December of last year. I strongly believe Diantha Carrigan is exceedingly capable and qualified to assume a position on the Public Utilities Commission and trust you will look upon her nomination favorably today. Yours very truly,  
James B. Longley'''.

SENATOR CUMMINGS: Thank you. Miss Carrigan, have you a statement? Would you like to come forward and we will ask you some questions after you have made whatever statement you would like to make?

CARRIGAN: Thank you very much Madam Chairman and members of the Committee. (Do you wish me to sit or stand?)

SENATOR CUMMINGS: You may as well sit because it may last for a while.

CARRIGAN: Thank you. I have notes prepared, written statements at this time. I was sitting in the back of the room and thinking about some things that might be helpful for you to know about me and I find that the Governor in his letter, has pretty much covered all of those essentials that I can think of and he was more than kind in what he said. One thing that you might be interested in knowing is the connection that I have with having had this appointment and essentially, it's no connection at all. I just want the Committee to know that it's not something that I thought out on my own. I was contacted by the Governor's office and asked if I was willing to be considered for the position and I said 'yes, I was' and the next thing I heard was an offer of the position to me. I was certainly honored and flattered and surprised and I recognize that it is a challenge and it is a very big responsibility. I am appreciative of the Governor's confidence

in nominating me and I am appreciative of your patience in taking the time to come here today and convening a special meeting when I'm sure it has not been long since you left Augusta and it can't be the most pleasant thing in the world to come back for a session like this but I am appreciative of you taking the time to do it. I have been in private practice in Portland since 1973 almost exactly four years. I was an attorney with the firm of Monahan, Perkins from 1973 to 1975, an attorney with Stephen Perkins from 1975 to the middle of 1976 and an associate with Jensen, Baird, Gardner, Donovan and Henry since July of 1976. I have not specialized in any particular area. I have been engaged in the general practice of law in practically all of the more basic phases of it. The only contact that I have had with the Public Utilities Commission was in approximately late 1975 or early 1976. There was a hearing by a man who wanted to run a small truckers in Portland and serve a couple of customers and we had a hearing before the Commission and that has been the only direct contact that I have had with them. I realize that I don't have any extensive background in regulatory law other than the experience that I've had with the Land Use Regulation Commission and with the Board of Environmental Protection. Although those are not the same as the PUC, it has given me an opportunity to see some of the problems and consequences of regulation and get some kind of a feel of some of the basic issues that might be involved. Other than that, I believe that Merton Henry from my office has supplied a list of the clients in our office at the present time which are public utilities. It's not a very large number of clients and I have done

no public utilities work since I have been with Jensen and Baird so I don't have any clients or any kind of issues that I would expect to have had any prior familiarity with before serving on the Commission. I believe that Mr. Henry is willing to make a statement on my behalf and other than that I would be happy to answer any questions you may have.

SENATOR CUMMINGS: Thank you. I think that if Mr. Henry would like to submit his...have you a written statement, Mert?

REP. KELLEHER: I think Mr. Henry's letter is sufficient for the Committee in terms of the way of Miss Carrigan's association with the law firm and dealing with any of the utilities or any consideration that the PUC may have.

SENATOR CUMMINGS: I think it should be on the record that if Mr. Henry was here in the past, this is all pretty new to this Committee. We have just had Commissioner Gelder here and when the Executive Council did this, they did accept others within the group ... some kind of testimony but we have not done that so we would like if Mr. Henry has anything he would like to write, we certainly would put it into the record. Other than that, I think we would like to proceed and ask you some questions. You may feel free and there is no reason why you couldn't ask for either corroboration or something elaboration from Mert if you want to, as long as he is to be here. Are there some questions? Here is Mr. Berry.

REP. BERRY: Miss Carrigan, I've got a series of questions. Now, do you feel that special rates for business and industry should be devised to encourage industry to locate in Maine?

CARRIGAN: Well, I'm not sure if that's the only way you can look at devising rates. Frankly, I think it's certainly clear that Maine needs to have jobs and needs to have responsible businesses here. I think that rates have got to be basically set on a basis of the cost of generating the power and the cost involved not only generating it but also in raising enough revenue in order to support the company's effort to develop the means for generating it, and I'm not sure how much leeway beyond that there really is to adjust rates in order to attract business. I think if you start - perhaps, I can conceive of a situation where you might lower rates for business and cause a rising rate for revenue and I wouldn't be necessarily opposed to it but I would need to know a lot more about the process for figuring the cost of generating power and the effect on non-business users. I think before I were going to get wholeheartedly behind a plan like that.

REP. BERRY: What do you consider to be the role of the PUC?

CARRIGAN: Well, I think the PUC to some extent were placed in the function of a free market place in more usual economic situations. As I understand it, in general, we are dealing with entities like power companies, generating electricity, telephone companies supplying telephone and telegraph service, railroads which were enacted in the past, common carriers and that type of thing and public water work facilities and all of those were reasons that were apparent a long time ago. I guess it was felt that those sorts of facilities were better not duplicated and better left in a situation without a competition that occurs in most business situations. Therefore, most

of them have become monopolies either in the small area or in the large area like in the case of the telephone company, and I think that when you have a monopoly situation, the customers have only one place they can go for service and if you want a telephone you get it from the telephone company, and if you don't like what the telephone company charges, you don't have a phone. Now, in another kind of situation, if you are buying clothing or buying an automobile and you don't like the price of the automobile at one place, you can go somewhere else and hope to get a better deal or get a different brand but this is a very different kind of situation and I think that when given that kind of monopoly situation with services that are pretty much essential to the way we live, I think that you need some kind of impartial third-party agency or entity in some form to take the place of the competition that would occur on the market place and the kinds of forces that would go on there, both to assure fair treatment to the consumers of the product or the service and also to insure that the rates that are charged are reasonable enough to assure the companies the kind of return they need in order to keep on with the business that they are in. So there are two responsibilities, I think, both to the utility and also to the public.

REP. BERRY: Do you believe that the consumer is sufficiently protected by the present system today?

CARRIGAN: Well, bear in mind that I don't have a tremendous detail knowledge of the present system. On my understanding of the way the Commission functions in Maine has been that in the last few years, it has become a lot more involved in investigating the backgrounds

of rate requests that were made by the utilities and I think that the more that's done, the more information that is made available, the better protected the consumer will be because it means the Commission is doing something, they're not acting as a rubber stamp and I think probably the consumers are becoming increasingly better protected.

REP. BERRY: What net rate of return would you consider to be reasonable for a utility?

CARRIGAN: There is no way I can really answer that. I'm sorry I think there are too many things to take into account and I think it is impossible to just say that X rate of return is reasonable without knowing all of the facts of the particular situation.

REP. BERRY: Now, possibly, some of these questions are maybe not fair to ask you. Maybe you can answer them. What changes would you hope to make in utility regulation if you became a Commissioner?

CARRIGAN: Well, that's another question that's kind of hard to answer, without having been a Commissioner for a while. I don't know in any great detail what the problems are and about the way the Commission functions now. One impression that I have has been that perhaps the Commission has not always had as much manpower as they would like to woman-power, whatever you want to call it to do the kind of investigation that perhaps is called for if proposals are going to begin on a public scrutiny to insure that they are fair and that the consumers are protected and so perhaps this is hyperthetical because I haven't been in the Commission at this time and I can't say for sure but I do know that one of the potential areas would be trying to get the Commission in a position where it could undertake its thorough investigation as a proposal as it would like to be able to do

at some or a lot of times, it seems like another contact or its very easy to get out of balance in terms of the resources that perhaps an individual applicant or private developer or some kind of group or industry has, compared to the resources that the state has; and I think its difficult both to insure public participation and to insure adequate scrutiny by the state of any kind of proposal so I would want to make sure that the state is well supplied with resources and staff as it can be in order to do the kind of job we want it to do.

REP. BERRY: Generally, do you believe that utilities should provide services to deprive groups, possibly, elderly or other groups at a rate lesser than the average customer pays?

CARRIGAN: I'm not totally sure that that perhaps should be the function of the utility. Its the same kind of question as asking if businesses should get special rates in order to embrace them to come in and I think again you are not going to be able to give an artificially low rate to anybody without requiring somebody else to take up the cost somewhere along the line and maybe that's the kind of help that could be given in a better way by having another agency provide some kind of funds to help people who can't pay their bills. I'm not sure that the solution is to make the utility itself charge less because somebody else will end up paying more.

REP. BERRY: Another question that may be unfair due to the fact that you have not been fully exposed to all of the things dealing with rate making process, but how do you feel in general about the fuel adjustment clause? Do you feel that possibly the charges should be excluded from the base rate?

CARRIGAN: Well, that's another...as you recognize, that is difficult for me to answer. I see that fuel adjustment clauses on my bill and I try to read the explanation of it and it never comes through as clearly to me as it might. I have no questions but that there are problems as far as cost of fuel particularly since the energy crises started in 1973 and which I think is going on, and is probably going to continue in one way or another. Whether or not there's a better method for taking into account the changes and costs over a period of time, I'm really not sure. If the clause works so that when there are cheaper fuel available for consumer benefits and when there is more expensive fuel that the consumer pays, that's not totally perhaps an unfair situation, but I can't say for sure whether I think that's something that ought to be worked into the rate for the charge and without knowing really, more about how it's done.

REP. BERRY: In the summer of 1972, you worked as a law clerk for the firm of Verrill, Dana, Philbrick, Putnam and Williamson and it's my understanding that they represent Portland Water District, Maine Public Service and General Water Works. Now, did you have any connection with any of the dealings between that firm and their clients?

CARRIGAN: None. That's the first time I knew they represented their clients at all.

REP. KELLEHER: Rep. Berry, excuse me, I have a letter from Verrill, Dana. I wrote to all the firms and uh, is it Ms. or Miss?

CARRIGAN: Miss.

REP. KELLEHER: Miss Carrigan was involved with and she never had anything to do with this whatsoever, with the exception of a small

common carrier that Steve Perkins had, I believe she had none whatsoever, and I read letters and I have copies that will be given to members of the Committee. Do you have any more questions, Phil?

REP. BERRY: No, that finishes my questioning.

REP. KELLEHER: I have one or two Senator Cummings, that I would like to ask. What's your position on nuclear power?

CARRIGAN: Well, I think nuclear power has a lot of potential and I also think it has a lot of problems. It's something that's been around for a while. Again, its not something I'm familiar with in tremendous detail. We have one nuclear power plant in the state and to the best of my knowledge, which isn't very much, it seems to be functioning pretty well most of the time. Whether its the kind of source of energy thatis wiese to invest heavily in, for the future, I'm really not sure at this time. I think that there are definitely risks involved with it and there are people that say its very, very safe and the risks of any harm are very, very small either from problems in the plant or with prblems, I guess, its pretty well acknowledged with disposing of disposing of the nuclear waste is a very large problem. I think there was some legislation passed in the last session...

REP. KELLEHER: Excuse me, do yoy think Maine could create a nuclear power part for New England?

CARRIGAN: No.

REP. KELLEHER: Do you think that Maine, if its necessary, develop a nuclear part to further the needs of Maine people, not to take care

of needs outside of the Maine boundary? This was considered a year or two ago by NERC, New England Regional Power Commission, that they thought Maine would be a nice place to build a half dozen nuclear power plants, I understand. What would be your position, as a member of the Commission, if you so are a member of that Commission? Would you oppose or support legislation in this state to allow it?

CARRIGAN: To allow a power plant, with a number of nuclear power plants in it? Well, to begin with, I said 'no, I wasn't in favor of the idea'. Based on the little that I know about it, I'm not. If I were a Commissioner, I would be bound by the law of the state which would direct the way in which I would consider any application and I would have to do that.

REP. KELLEHER: You'd be bound under the law of coming before this Committee, for example, if in fact, it was going to be allowed - or the Natural Resources Committee. I'm asking you, as an individual, what would your position be?

CARRIGAN: Well, my gut reaction is that I'm not crazy about the idea particularly with some of the reasoning that I heard behind it was that Maine was a good place to put lots of power plants because there weren't so many people and in the event of a catastrophe, why, not so many people would have any problems and that doesn't give me a great feeling of security because I live here and I don't particularly ..... reasoning if you're in Washington and far away from us but I think that individuals in the state have got to ascertain their own interest at some point and I don't think that's necessarily a way that I would approve of making a decision like that. As far as a proposal in detail, I

would have to look at the facts of the proposal and the whole situation but the concept isn't one that appeals to me.

REP. KELLEHER: Miss Carrigan, there was a Bill before this Committee in the Legislature last session restructuring the state's statute in allowing utilities going before the Commission, asking for rate adjustments and if you're not familiar with the process, it goes something like this: That the consumers of this state pay all the costs of the utilities when they go before your Commission to ask to increase the consumer's rates out there. What's your philosophical position in dealing with that? Do you think that the utilities should continue on that process in terms of using the rate payer's charges to ask for increase of the rates or do you think it should be changed and say the stockholder bears the burden of it because of the fact they benefit whatever profits are made by that said utility? What's your philosophical view point of that?

CARRIGAN: Well, I haven't given it a great deal of thought although the idea had crossed my mind in looking at some of the history of the New England Telephone rate increase requests and knowing that a tremendous amount of work has been done on it by the company and I'm sure a lot of cost incurred in all the application process and particularly in the appeals process of the Court. I'm not sure I can give you a clear cut answer on that. It seems to me that perhaps up to a point some of those costs may be reasonable and there are bound to be times when rate requests are wise and when rate increases are reasonable.

REP. KELLEHER: Well, the company always thinks they're wise.

CARRIGAN: I know, I realize that. I'm speaking of somebody is going to be objective about it. There are going to be times I'm sure when they're proper and times, I'm sure, when they're not proper. Whether it would be sensible to institute a procedure where if you lose the request for a rate increase, then the stockholders pay, and if you win, why, then the consumers pay, I don't know. Maybe its a good idea to look at the kind of expenses involved and draw a line and say 'owner requests for so many million dollars worth of increase' such and such a percentage of the cost of asking for the increase should be passed along but over and above that the Commission has discretion to order that over and above that, the stockholders should pay. I don't think its totally unreasonable to pass some of the costs of requesting a rate increase along. Its a cost of doing business and I think that's probably the reason why its done, but its certainly possible to have costs thatperhaps might not be reasonable.

REP. KELLEHER: I have just one morequestion, Senator and may have others later. I'm sure that in reading the newspaper accounts that you are familiar with what they call 'fan taxes for utilities' andthere's an 'Order I think right now, pending up in the legislative council directing the taxation committee to look into the whole tax picture of the utilities in collecting taxes from the rate payers and not reimbursing them. They're collecting many billions of dollars, I guess, nationally, and many of a few million dollars in the state, locally. Do you think that the....what wou your position be, if in fact, legislation was introduced to disallow the utilities, all of

them now, for retaining these tax dollars? The Bill would probably be in the position of saying that there should be a reimbursement of the tax dollars that are collected from the consumers in this state legally, now, but because of the tax laws of this state and nationally; but particularly the tax laws of this state. There's no reimbursement factor of the consumer or the rate payer because of the fact that utilities aren't doing it? Do you think those tax dollars that are not paid to the federal government, that are not paid to the state treasury should be reimbursed back to the very people that they are collected from?

CARRIGAN: Are you telling me that there are instances where a utility charges its consumers for taxes that have to pay and collect money for those taxes, when in fact, it has not paid a tax?

REP. KELLEHER: That's correct, and they're not reimbursed, and under the law, they haven't got to be reimbursed. This was that legislation presented to do that. What would your position be on that?

CARRIGAN: Well, it seems to me that it would be entirely reasonable to reimburse the consumers. If money is collected to pay a tax and the tax isn't paid, it seems to me that it's logical to send it back to the people who paid it if there was no necessity for it to begin with. That's certainly would be the windfall without knowing any more about it than that.

REP. KELLEHER: As your position as a member of the Commission, would you in fact, move to prove that type of a proceeding, and saying 'hey, as far as I'm concerned, this money is unfairly collected'. Would you recommend that as legislation to the legislature, the next Session?

CARRIGAN: Well, I might. I hate to commit myself to a position before...

REP. KELLEHER: Well, you know, we're going to have to commit ourselves to you, see, so....

CARRIGAN: I understand that.

REP. KELLEHER: ....so it's a two-way street.

CARRIGAN: I understand that, but you have been dealing with public utilities a lot longer than I have.

REP. KELLEHER: That's why we want to process this, and whether approve or disapprove your appointment.

CARRIGAN: I understand that, but I hope that you wouldn't ask me to commit myself to a position on legislation when I didn't know all the facts behind it and hadn't seen the Bill, and wasn't completely familiar with the situation. I don't think that would be fair to you or to the Commission or to me.

SENATOR CUMMINGS: I think that the question that Rep. Kelleher asked you is an extremely complicated one which, unless you had actually spent two or three days really looking into it. Your answer I think is excellent because it is an extremely complicated situation, this tax business.

REP. KELLEHER: We don't have to vote on it today, so maybe she can look into it and get back to us. That might be a point.

CARRIGAN: I would be happy to do that but let me just make this clear. Not having served on the Commission and not having the detailed background, it can tell you that philosophically, my feeling is that if somebody is collecting money for taxes which they're supposed to pay and that's the reason they're collecting it and they don't in fact,

pay the taxes, then they don't have any business retaining the money. That's the windfall and that doesn't seem to me, basically, to be a fair thing to do, but a lot of times legislation, which is intended to be one thing gets written in a way that may or may not really accomplish that thing and I would not, I think even between now and the time that the Senate might meet and you might make a decision on the nomination, I don't think its fair to anybody for me to promise that I would take a position on a Bill which I haven't seen based on a situation which is complex and which I'm really not familiar with.

REP. KELLEHER: I'm not asking you to promise something. I'm just trying to get your philosophical picture on this.

CARRIGAN: Well, that's my philosophical view.

REP. KELLEHER: I understand. O.K. Thank you.

SENATOR CUMMINGS: Representative Tarr.

REP. TARR: Miss Carrigan, have you actually (inaudible) or in any sense lobby for a public utilities commission in an environmental...?

CARRIGAN: No.

REP. TARR: O.K. Allright, can you tell me your feelings on public power?

CARRIGAN: Well, I have some questions about it. I'm not sure that public power is being that strongly considered now. I know there was a time when it was a big issue in the state and I recognize that there are things in connection with people on the Commission with public power - one way or the other. I frankly don't even remember the way that I voted when we had the referendum on it. I can understand why

people would want to have public power when they get into a position where they're set up with the way that they think they are being treated by private power. Frankly, I'm not always sure that the government can go into business and do really any better by anyone than a private utility can as long as its properly regulated, because if you have public power then the public is paying for it just as much as people or private people are paying for generating private power and I'm not sure that having public power would be necessarily a better solution than having good regulation of private power.

REP. TARR: Would you think that the Commission would take a stand or should take a stand - do you think it should be a policy of the Commission to take a stand if public power comes around again which I'm sure it will?

CARRIGAN: Well, I'm not sure that they should. I think they're an independent regulatory Commission and in some sense, they're almost like a Court. They have a function which is more like a judge, then it is like a lawmaker and I think that if the citizens and/or the legislature decides to set up some form of public power, then the job of the Commission is to deal with the public power the way the legislature directs it to and if people had personal feelings about it, one way or the other, I don't think that they should interfere with doing the job of the legislature, direct. Presumably, if there were a state operated power plant, there would be some provision to the way that the public utilities commission would have to cope with that and I think we would have no alternative but to do what we were directed to, by the legislature. I don't have a strong philosophical position one way or

the other on it except that I do think it is something that always has to be looked at awfully carefully because I'm not sure that it's always the best way to go about it.

REP. TARR: What do you see coming down the road, say five, ten or fifteen years from now in energy needs, and transportation needs? You're aware, I'm sure that transportation is a part of your public utilities. We've talked mostly power companies here but there are a lot more companies involved. What do you see?

CARRIGAN: Well, I'm not sure this is as near as five or ten years but I think there is a potential for a lot of change in perhaps more years than that. I think that they could build a tremendous economy on inexpensive fuel, inexpensive energy to run trucks and automobiles and to carry goods that way, as opposed to say on railroads or an older method of transportation, and the same being true with generating electricity. There doesn't seem to me that there's any question but that the supply of the natural resources that we've been using is going to run out, and there are arguments about how long it is going to be before it runs out but it seems to me that the most prudent way to deal with it is to recognize that the resources are limited and that we may not be able to go on using them the way that we have been, and it will be important, I think to have a diversified base of energy generation and not to put all your eggs in one basket for example, or look at New York City, in the blackout, that they had a few weeks ago when there was a lightning storm and there were some other situations going on that I'm not totally familiar with but then there was a loss of electricity, the whole city shut down to a greater or lesser extent and that's a lot of dependence and I really don't like

to see anything important become so dependent on one particular resource that it can't function in any other way. Now that's not to say that New York City has to change its way of being powered, but I do think that things like nuclear energy, solar power, marine power are a number of different ways of generating energy or electricity and that kind of thing has got to be looked at and probably also, more efficient ways of distributing goods and things in commerce - its going to be necessary - it just won't be economically feasible perhaps to use gasoline powered trucks to bring tomatoes from California to Maine in January. Maybe there will get to be a point at which that just won't be a way to proceed.

REP. TARR: Then you do see then, you do see, the private function of the Commission to sort of help to shape the energy policy in the state of Maine?

CARRIGAN: We have to certainly have all of those things in mind because you can't regulate a situation, or just a current situation which will last forever, and I think we'd have our heads in the sand, if the way its been in the last ten years, is the way its always going to be and I think all those changes are going to have to be borne in mind in anything that we do.

SENATOR CUMMINGS: Senator Collins.

SENATOR COLLINS: Miss Carrigan, I noticed in the beginning, that you said that you had not had any experience in business regulation, per se and of course the Commission is concerned with the cost of money in its right places, and rate of return etc. Do you have any background in accounting or corporate finance or taxation?

CARRIGAN: I've had some acquaintance with all of those areas, I've had courses in law school on corporate law and on accounting for attorneys, taxation and that kind of thing so in a general way, I'm kind of familiar with the nomenclature and the basic things that go on. I believe that one reason that I was considered for nomination for this was because I had a background as an attorney and I think both of the existing Commissioners have extensive backgrounds in business and utility regulation one way or the other as well as economics and I would hope that what I don't know that I could pick up from them. I'm not afraid of learning it - I think I could certainly understand it if the opportunity comes along but it's not again, my experience is in law and dealing with laws more than it is with those areas but I have had some general background.

SENATOR COLLINS: One more question, I noticed that you have a real concern for environmental issues. Do you see this in any way as leading toward a bias in any public utility matters that you might be involved in? For example, right-of-ways that have to be approved by the Commission- your view on the Dickey-Lincoln Dam, for example would be at least in part related to a public utility position along on the way somewhere. Do you think that you're biased towards environmental concerns that would be a detriment to your duties as a Commissioner again?

CARRIGAN: Well, I certainly would hope not. I'm not sure that an interest in the concern for environmental problems is a detriment to anything, I think that would be a result of my own bias again. Still, I think that the Commissions' duties are pretty well spelled out in

the statutes and one thing particularly as a lawyer that I'm mindful of is that, and I feel that certainly on the Board of Environmental Protection that you have a statute which says you can do thus and so and you're to look at these criteria and to make a decision based on these factors and I think that those kinds of laws pretty well set forth what a Commissioner is allowed to do. I think when people get to the point that they're twisting laws in order to reflect their own philosophies, I don't care for that and I would hope that I wouldn't do it. On the other hand, I think that it is essential that people be aware of the environmental results of what's done because in the long run what happens in the environment affects everybody who lives in it whether they are about it or not; and if the trees are down all over the state, that's going to have an impact on everybody whether they are interested in trees or not interested in trees.

SENATOR COLLINS: Do you have a personal position in respect to the Dickey-Lincoln Dam?

CARRIGAN: Not a firm personal position. Certainly all of the reports that I've read about it, has not been encouraging and that's limited to newspaper reports that all of you may have seen. I think that they're questions about whether the value of the forests that would be destroyed in order to create the Dam and the energy that might be produced by that forest is really not more than the energy that would be produced by the Dam and I think that's a question. I think it's a question of there maybe a sort of political question involved in whether how much is Maine going to benefit from this kind of a project as opposed as to whether the project is going to be created in order

to provide power for other areas and that's a difficult question to iron out. I understand that there is a Commission or a Task Force appointed by the Governor which is investigating this and its going to come out with some findings before too much longer and I'll be interested to hear what they are. As a project, it doesn't appeal to me a great deal. On the surface or as far as I've read about it in the newspapers, I certainly have a lot of questions about doing it but I can't completely - I've seen too many things on the Board of Environmental Protection which I look at on the face and think 'well, I'm not really wild about that' and then when its gone into some more detail, why, its not waht I might havethought it was to begin with. Things are not always what they seem to be on the surface.

SENATOR COLLINS: I mean you were a friend of Bigelow, right?

CARRIGAN: Yes, I am.

SENATOR COLLINS: Well, so am I.

SENATOR CUMMINGS: Senator Carpenter.

SENATOR CARPENTER: Well, I think I can go home. Everything I wanted to ask, either PhilBerry got to, or Don Collins or somebody got to. Miss Carrigan, I think you've talked here just recently in the last few minutes about the statutes pretty much binding, not binding but guiding the Commissioner as to what he can or cannot do. I personally think that there are a lot of implied things in the statutes as to what the Commission can or cannot do. I just think we were just trying to get your feelings on a lot of things and relating to Senator Collins' questions and also to Mrs. Tarr's questions, you mentioned several sources, alternative sources of power - you discussed solar

power, wind power and nuclear power but you didn't say anything about hydro power; anything in general. I was going to ask about Dickey-Lincoln in particular, what your feeling is on hydro power in general...do you have any?

CARRIGAN: Well, that was surely an oversight that I didn't mention it. Certainly it has been a traditional method for producing power in the state for a long time as far as I can see and I understand that there are a number of Dams and places all through the state that may have fallen into disuse within the last few years because other methods or power generations have come to the fore, but I certainly - that kind of a method, as long as its compatible with the resources there, I think it certainly has a lot of potential. I gather there's a question right now as to whether its economical to go and revive all the Dams on all the streams in the state and start free power, in terms of the cost of that power, it might not be as economical to do that as it is to continue operating the way we're operating now. Maybe that's an area where public power might be concerned. Maybe the way I look at that is, it certainly is a resource and its there and its something that will be feasible to do. There are a lot of other factors which affect the cost of power as it is generated now and it may be - it may take a very little change in the existing situation to make hydro-electrical power economical. Maybe we want to be prepared for that change before it comes and not be in a situation where suddenly the costs skyrocket, and everybody is running around to rebuild all the Dams. Maybe its something that's not necessarily the Commission but somebody in the state should be taking a long look at, and perhaps

providing some support that may not be economical now but may make things possible in the future to have some alternative source of power.

SENATOR CARPENTER: Here's a follow-up question. You've indicated that you don't know very much about the utility regulation business, if you will. I think the answer to this question might give me, at least, an idea as how you feel about government regulation. I noticed in your resume that you have been closely associated with the Land Use Regulation Commission. I don't know for how long, but how do you feel about the Land Use? Has it done its job? Has it done a good job? Has it been overly protective, if you will, of the state; in fact, has it interfered in any way with the laws of our citizens?

CARRIGAN: Well, let me prefice that by saying my connection with LURK for about two years I served on a Citizen's Advisory Board and we were a volunteer group - we weren't paid but we were selected out of a group of people who might have an interest in the area and we would come and meet with the staff periodically and talk over what they had been doing in the way of working first on the comprehensive plan and then on the standards for the various zones that would be created under the plan; and the point of the group was to provide a broad base of knowledge and advice and support from people who were involved one way or the other in business or in environmental things that might - any way that we could contribute to help the staff. There are a lot of political problems associated with the Land Use Regulation Commission. I think they have a task in front of them that has probably not been equal or is not like anything that any kind of state Commission has ever done. They have been charged with zoning over half of the state.

I think that the theory behind the law is very good. I think its important to do. I think they've had a lot of difficulty in a political way among the people who havebeen on the Commission and I think that hampered the functioning ofthe Commission and so some of the problems that they face, might not be faced by a Commission that has different people on it. They've had a difficult time, a difficult job they've been doing what nobody's ever done before and I had the impression when I was there, that there were times when they certainly could have used morestaff and moremoney as probably everybody in the state could at this point or says they could in order to do the job that they wanted to do and I think there has been a lot of difficulties with what they've done. I have not been aware of a time when I have known specifically that they have been unfair to somebody in particular. I don't know every dissatisfied land owern up there. I know the Friends of Bigelow havebeen involved in a recent zoning decision involving the land on the mountain and as an interested party, I can't say that I was totally happy with the decision that they made in that event. As far as people's rights are concerned, I think that its just a necessary consequence of having a government and having a lot of people that at some point, decisions are going to have to be made and not everybody will be happy but it seems to me that the theory of the law is good and I think they are making good steps towards counting itout but its a tremendous job.

SENATOR CUMMINGS: Do you have some questions?

REP. SMITH: Yes.

SENATOR CUMMINGS: Representative Smith.

REP. SMITH: Would you agree with Chairman Gelder that the trucking industry is over-regulated in (inaudible) regulations that they are offering under (inaudible) and truckers? What are your views on that?

CARRIGAN: Well, again, its difficult to say, not having been involved in those cases.

REP. SMITH: Well, I just want your opinion, personally.

CARRIGAN: Well, you're asking me my feeling but I don't make up my feelings unless I have something to base the feelings on in the way of some kind of knowledge of what the situation is. The only knowledge I have of the situation is one hearing that I attended with a very - a man who had one truck and he wanted to carry goods from a department store around the city area and he wanted to make, I think same day deliveries for a supplier of hospital equipment or something within the state and it was a very small business and he was just going in to get clearance and we went over not really knowing what to expect and every single major trucking company in the state came to oppose his application represented by a former public utilities commissioner as their attorney and the hearing lasted for five hours, and we were a little surprised because we didn't think what he was proposing to do was very much. It was a part-time business. I don't think he even had an employee working for him. He was just going to use his truck and carry, deliver goods for a department store and do some special same day deliveries for another company and I must say when I got out of the hearing I thought we had freer enterprise than that. It was a surprise to find out that things were as regulated as they were in that kind of situation. Now, I understand that the other side of the

coin is that a lot of the trucking companies say that unless they get some kind of preference in the field they can't afford to supply service to (inaudible) areas like the one which I come from which is way down on the end of the peninsula where we're not on a bus line or anything like that and its fifteen miles out of anybody's way to come and deliver something. So there may be a problem there but it doesn't seem unreasonable to me perhaps today that maybe the structure of trucking regulation ought to be looked at again to see if there isn't a better way to do it or a less cumbersome way or a way in which every small person who wants to go around and deliver appliances for their local store should have to come in and have a lawyer and go through five hours of a public hearing. I'm not sure that that kind of a situation is really necessary.

REP. SMITH: Well, you've done some investigating -- you can't whether you think that the trucking industry is over-regulated or not.

CARRIGAN: No, I can't really without knowing more about the way that they are regulated. I know some and as I say, this particular instance that I came in contact with- I was surprised and at the time my gut reaction was maybe it should be easier for somebody like my client to do what he wanted to do and was there really any reason to make him go in and get a permit to deliver appliances for a department store and maybe the regulations in that area ought to be loosened up but I can't honestly tell you unless I know more about how they're done. I'm not opposed to the idea to start with.

REP. SMITH: Would you support any legislation to the effect of maybe de-regulation of trucking industry?

CARRIGAN: Well, if after knowing more on the facts on the situation, I felt they ought to be de-regulated why I probably would support legislation but I'd have to know enough to make a clear decision before I could say that.

REP. SMITH: Do you know right now?

CARRIGAN: No, I don't.

SENATOR CUMMINGS: Are there more questions?

REP. PEARSON: I wanted to come after Rep. Smith because....a comment I had as a question and that is you were talking about the hearing that you represented your client at, and at the hearing there was a former member of the PUC, if you were to be confirmed as a member of the PUC and served out your term, would you think it would be proper for you after the end of that term to become, go into law again, private practice and represent clients before the PUC?

CARRIGAN: Well, I must say I have some misgivings about that kind of a setup. I can't promise you that I would do that or that I wouldn't do that. I think, it seems to me that President Carter has been initiating a program where employees would agree not to work in that field for two years after they've left the Commission and I think perhaps that's a reasonable way to approach it. No, I think that I would have some real ethical questions about whether I should do that if I thought that my representation was going to sway the Commission one way or the other, which on the other hand, they're probably not an awful lot of places in the state where you can learn how the Commission operates and there are people who probably know as much about utility regulations who are in private practice as there are

people who have been Commissioners who go on and do that kind of thing. I guess I don't - I'm not crazy about the idea, I can't promise you that it might not happen but I think my own feeling is that I don't - I wouldn't care to get involved in that kind of work in a short time after I had left the Commission.

REP. PEARSON: Ethically speaking, you don't think that it's necessarily improper to be a lawyer for a client before a Commission on which you serve?

CARRIGAN: Well, on which you have served?

REP. PEARSON: Yes.

CARRIGAN: I have my own personal feelings but as far as I know there is no law in the state to the effect of whether or not that is permitted and I'm not aware that the Bar Association has any rules about whether or not that's limited so it's something that an individual involved has to decide for him or herself and when you are an attorney, you have to bear in mind that a client comes and hires you and is entitled to the best of services that you can provide - honestly provide - and I can't speak for everybody else, for myself, I think I would not be inclined to represent somebody at least within a short time after I had left a Commission like that.

REP. PEARSON: How long a period of time?

CARRIGAN: Well, again that's very difficult to say, too, because never having been in that position, it's hard for me to know what the effect would be. The theory, I guess, is that you know people on the Commission or in the Department who, because, perhaps they knew you or you were friendly when you worked there, might be inclined to look

at things more your way and you might get some kind of advantage over somebody else who might not have that kind of contact. I don't think that's always necessarily true and I think sometimes that discounts the ability of staff and government departments to be objective and to do their own job without getting swayed by people whom they know. The federal government I guess, according to President Carter is saying two years is a reasonable time to ask people not to go back and appear before a Commission and that maybe is a reasonable amount of time. Its hard to say.

REP. PEARSON: But, you will not say right now, that you will not represent a client for X number of years after you get off the Commission, should you become a lawyer in private practice again?

CARRIGAN: Well, I'm not - are you asking me to commit myself?

REP. PEARSON: Yes.

CARRIGAN: Well, I'm not - are you asking me to commit myself - one way or the other and to give you a bound promise to do or not to do something?

REP. PEARSON: Yes. . Yes.

CARRIGAN: I don't think that I can do that. Not because that I think that I immediately want to go out and plan up Central Maine Power as a client, which I don't want to do, but I just - you can't ever predict what's going to happen in the future and I can promise you that I'm not taking or indicating my willingness to take this position with the idea of leaving and going back to private practice and making lots of money representing utilities for the PUC. I have no interest or desire to do that at all. If my next door neighbor

came over and said 'oh, I want a permit to run a ferry boat across the Heron Island in South Bristol and carry passengers. Would you help me out with it?' Maybe that's a different kind of situation.

REP. PEARSON: O.K. Let me follow up on some other questions that I have. You apparently enjoyed the confidence of the Governor. At least he must think a great deal of you to have placed you on the Board of Environmental Protection and now he has nominated you to one of the most important Commissions in this state, if not the most important Commission. Should you be approved and confirmed and serve out your time and the present Governor of this state or some future Governor of this state should recognize your talents and should support or nominate you for a position on the state supreme court and you accepted it and were confirmed to that position, what would your philosophy be on sitting on a Court on PUC matters?

CARRIGAN: That's a pretty big hyperthetical question. I'm not sure that I'm headed for anything as illustrious as the state supreme court. I think if there were even a hint that there might be a conflict of interest based on a judge's past association so the judge should dis-associate himself or herself in pending cases - now, I understand that Vincent Kusick is doing that. I haven't followed his nomination in great detail but I assume you are thinking of his case as well that he is represented CMP and now he has been made Chief Justice of the State Supreme Court which has pending before it a number of - well, he's pardon me, he's representating N.E. Tel. which has pending before it a number of cases involving his former client. I don't think there's any question but what he has to dis-associate

himself from those cases. Because being in a position of a Commissioner is a lot more like being in the position of a judge and it is like being in the position of advocating one side or the other, I think that the situation of the Commissioner being put on a Court is somewhat different from the position of an advocate for a party being put on but I do think that as far as any - if all of that were to come about - that a Commissioner should certainly abstain from considering any cases which had arisen while he or she was a Commissioner on the Commission. You know, as new cases came before the Court which had started after the judge had left the Commission and had no connection with it, I think again, that's something different and maybe that's the place where you would want the judge serving - the judge would be somebody who had some experience in the area and it might be helpful to the other judges, but again, its a difficult situation but I certainly don't think that the judge should sit on cases where he or she has been involved in the cases while they were beginning.

REP. PEARSON: Do you think that public utilities cases, take a telephone case and then take a case that involves Bangor Hydro that one decision on the telephone case would affect in some way, the Bangor Hydro case? I mean that many of the decisions although they are not in the same utility will affect the other one because of precedents set, etc. Do you feel that that would be the case?

CARRIGAN: Are you asking me if I were on the Court....deciding cases like that?

REP. PEARSON: Yes.

CARRIGAN: Well, yes that may happen but generally speaking when you're deciding a particular case, you're faced with either analyzing facts that have been decided or not properly decided or you are looking at a law and I guess the time when there would be that ripple effect would be if the Court were interpreting a statute and an interpretation that they made in one case might have some significance for another case. I'm not sure there are rules for judges but there are what they call the Canon Judicial Ethics which prescribe in more detail than I can remember what the judges are supposed to do when there are situations like that. I'm not sure that that would warrant a judge not hearing a particular case because it might have some ramifications for another case. Any case has ramifications for lots of other cases - in cases that exist or in cases that won't even happen for five or ten years into the future and I think that maybe that connection is more remote from the one where you would be faced with the case where you would have some personal connection with before.

REP. PEARSON: One last question, and then I'm all through. I thought Mrs. Tarr was going to ask you some, but she didn't.

REP. PEARSON: I'm thinking of telephones, the telephone company in particular. In certain towns, small towns, you have your local exchange and in order to call the next town, it's a long distance call. We are faced with that in Northern Penobscot County area, the area where I come from - particularly - and I just wanted to get your feeling on that.

CARRIGAN: Well, I come from the place where the same thing is true that you may live right on the line and you call your next door neighbor, it may be a toll call and you call a town five miles away maybe a toll call and a call to a town fifteen miles away may not be, and I know people don't like it. I don't know whether those - I assume so far those charges have been justified because of the way the independent companies were operating and the way that they - whatever arrangements they had to make to make the connection with the next town for a zone would be an extra cost is passed on to the consumer. Again, that's something that I have a hard time expressing a final opinion about without knowing the facts of the case. I don't know how those rates are set and I guess what would be indicated would be an investigation as to exactly what was going on, and how the rates were arrived at and what the costs were involved in providing that service. Perhaps in where I live - it's a toll call to Wiscasset, I think and I live in South Bristol and Wiscasset is fifteen miles away. Now, it may be that it's more expensive for the phone company to let me call Wiscasset than it is to let me call somewhere that's totally within their own jurisdiction and if that's the case, then that's the reason for the rates to be higher.

REP. PEARSON: But, you're willing to....

CARRIGAN: Of course, I'm willing to....

REP. NADEAU: I have a few questions which are basically related to legislation which come before this committee. The first one has to deal with fuel adjustment. My phone at home has been ringing and everybody has been going just bananas over CMP latest fuel adjustment rate. Now we had legislation which I think was introduced by our

Chairman, Rep. Kelleher which would affect a lot of the PUC reviews. Every fuel adjustment rate which was then passed on to the consumer. Do you think, I know you have had limited background as far as rate goes - would you want to see just where CMP or Bangor Hydro or any other electric company is obtaining its oil or its fuel, would you then just quickly pass this on to the consumer?

CARRIGAN: Certainly, I would.

REP. NADEAU: Would you move to try to detain it so that you could review?

CARRIGAN: If that's what's authorized by the legislation passed. Well, if the Commission has the power which I think they may, they have broad powers in setting rates as it is, I understand; and they may have the authority to investigate that kind of a situation anyway. Yes, if certainly given the number of complaints that you seem to have had, it is something that they are upset about and if they are widespread, why, perhaps it is something that deserves to be looked into.

REP. NADEAU: The second one I might call - as most of the others as far as public power, Ma Bel, turning to the subject of sewerage, and I know it isn't one of the most pleasant subjects to talk about... We also had a Bill here which kind of irked me and as more and more communities are starting to go into...share treatments or other forms of wide search treatments, we know that the costs are very expensive. Now, granted the reasons before stated by other former Commissioners is that the PUC was understaffed and I think this problem might be alleviated in years to come. Would you like to see sewerage districts and combination water sewer districts come under the jurisdiction of the PUC so that you could in effect keep a close watchguard as to how

their projects are going to cost consumers? Right now, there's anywhere from charging per faucet, or like in our town, sewerage is being charged by the amount of water which is being used; in other words, the local sewerage district is using the local water district's books in order to determine just how much it is going to cost and I feel the rates sometime are fairly unreasonable. There's no check. I know the sewerage district or the sewerage association had a fairly well known attorney in this area, in my party, who represented them and said that in order to change this, you could just re-elect like certain trustees, so they could make a check on the sewer charges. Well, I think this law is stupid and I think it's unfair. Would you want to have a balanced check on sewerage if you had adequate staff to do so?

CARRIGAN: Oh, certainly, it seems to me to make sense. I have a question. Does the Commission at this point have jurisdiction over the sanitary.... (inaudible)

REP. NADEAU: There is no jurisdiction whatsoever.

CARRIGAN: Well, there is some legislation about it, but it may not have gone through. Certainly a sanitary district and that kind of a thing - is very similar and it seems to me to the water problem, and it's the same kind of municipal service you don't want to have overlapping of competing sewer companies and that kind of that, and it certainly off-hand sort of makes sense. I know from being on the DEP that the state is overall the towns in particular, is making tremendous (inaudible) in sewerage treatments and it's great and it's bringing salmon back to the Penobscot and making the Kennebec run cleaner and cutting down floods in the Androscoggin and all that kind of thing.

Nevertheless, people have to pay for it...charges to homeowner and property owners for sewerage treatment systems is astronomical and probably that would be a proper kind of area for a Commission to look into, if the legislature decides that it was. I certainly would have no objection to that.

SENATOR CUMMINGS: Rep. Wood.

REP. WOOD: I have several questions. First, there was a Bill that passed this Session which dealt with questions of law in PUC cases as well as questions of tax. It seems to be there's a trend towards appealing every PUC decision into the law Courts and in making the law enforcing a higher PUC. The Bill passed and it said in effect that questions in fact, were not appealable and questions of the law were. What is your feeling on that type of approach?

CARRIGAN: Although it seems to me to make sense, my experience on appeal from other agencies that the government has felt when you get to the state supreme court or the law court, they have authority to review a case and if they feel there has been an error in it, they can remand it to the Commission to do over again or remand it to the agency to reconsider in the light of whatever they find to be wrong with it. My understanding was that the way the law had been written if you appeal to the law court, the law court has the authority to look at the facts all over again and make its own independent decision on what rates should be. It seems to me that if you have a PUC to set rates and the Commission presumably has some expertise and knowledge and ability in that area, that it really makes more sense if there's been an error to have the case sent back to them to fix the error and I could support that legislation.

REP. WOOD: Would you support legislation which said that one could not apply for rates after let's say they have received from this September until a year from this September again? We also have a problem of companys continually reapplying as soon as they get a new rate increase. They just start the process again. Do you think there is any benefit having a time lag in appealing rates?

CARRIGAN: Well, I can see where there could be a benefit to it. On the other hand, as I understand it, the process of getting a rate increase approved, has come to take a number of months and I guess the maximum is perhaps nine by the time you get done with the extensions that can be allowed and it so well may be that yes, a rate is granted and then a new rate increase immediately be asked for. But in fact, there may have been a lapse of time in between the change of circumstances. I would be somewhat concerned about cutting off all opportunity of applying for another rate increase within a set period of time, mainly because the national economy or international economy as far as oil is concerned and some of the resource which go into generating particularly electricity, all of those things can change so fast that its not inconceivable that a rate increase might be in order shortly after another one has been granted or a decrease might be in order ...its hard to tell but I guess given the way that all of those things fluctuate, I might be a little hesitant about not letting anybody come in for a set period of time. It might end up being not fair.

REP. WOOD: You were talking earlier about staff and investigative work. How far are you willing to let that staff go in terms of parent companies, in terms of conglomerates and interms of associate interests?

CARRIGAN: Well, it seems to me that I was looking over some legislation which set that out fairly in my personal review, fairly clearly as to whose books could be looked at, affiliates of a company or other entities who held at a certain interest in particular utility and I guess that it appears that someone other than the utility at hand was having a large say as to what the particular utility was doing but the law authorizes an investigation of the entities its really controlling, and it seems to me if that appeared to be a reasonable thing to do, why I don't think I would have objection to it, before we could find out how things are really happening.

REP. WOOD: In terms of your financial background, your own financial background, do you own any stock?

CARRIGAN: No, none.

REP. WOOD: There would no conflict?

CARRIGAN: No.

REP. WOOD: It seems you've been talking about the PUC interms of the Court and in terms of being impartial and yet in dealing with PUC cases, you are dealing with in many ways..... you are dealing with companies that is using my resources to argue (parts inaudible) a case to increase my rates and they have many more financial resources than I, as a consumer have. There was a Bill in that would have allowed the consumers to form a PIRG like organization to the state and to accept contributions to the pay-in system of the utility company. The utilities would not be burdened financially - there would be a charge on the bill if the customers wanted it. Do you see this as a possible approach to get away from the heavy handidness of utility cases?

CARRIGAN: Well, it has potential. I saw that Bill and when I looked at it, I - I guess its an approach to the power in another state. I also wondered though if people are concerned and upset enough about a situation, a lot of times they will get together and organize and do something about it which is not always easy to do but if the interest is there and the problem is strong enough, at least in my experience, the people are capable of doing that - like the Friends of Bigelow work that I did was an example of a citizens group working for something that they believed in. In this case, it sounds to me as though the state is creating a consumer- almost a semi-private consumer group and I can see - I certainly wouldn't be opposed to it. I wonder if there are enough interested, concerned and active people to participate in it and to make it something worthwhile. I think that as far as dealing with a stacked deck is concerned, there are two ways of looking at it. Just because an applicant is a power company or an anonymous AT and C doesn't mean that they are wrong either. I don't think you can look at the equities off the situation that way, just because they're big they're not necessarily bad either and in that sense, yes the PUC has got to be impartial. I think it has to be aware of what's going on and be aware of what's happened in the past and use its own knowledge about the kind of people its dealing with when it makes its decision and I certainly think that given the difference in power between organized utility and unorganized consumer that the interest of the consumer is the PUC is responsible to represent. It works two ways because if the utility as I understand it, is not allowed to operate in a way that's reasonable and allowed to make a fair return on its investment,

it won't be able to continue providing services that the consumer can find so its a two way tour but I do think that there's no question but that the PUC is not at all - to bear in mind the interest of the people who are buying the services that its regulating and whether or not a group that has been chartered the one this one apparently has by the state is really going to be effective, that's something I don't know. I'm not aware off the top of my head of any consumer groups that are working for any one cause, I'm sure the people of Combat, etc. and particular groups who work with low-income people have done lobbying and again I haven't been involved with this area. I'm not totally aware of it. I just think though that one has to be cautious if you're setting up, if you think a lot of people are unhappy and if you set up a club for them to join or a cause for them to join, fine if they are going to make use of it, and I hope they do and I think that's good but I'm not sure that the PUC can depend on that kind of group having been created and not pay attention to it. I think we have to bear that in mind all the time.

REP WOOD: You don't think there should be a person on the PUC that...(inaudible)

CARRIGAN: No, I don't. I think the best thing you can do with a regulatory commission is to get people who are intelligent and honest - not biased when you start out - to look at the facts and understand the law and apply it fairly to everybody. I think when you start trying to pick out somebody who is always going to be for the consumer, always going to be (inaudible) and always going to be (inaudible) its very difficult because fact situations are never the same and pressures that work on people are never the same and I think you are

much better off getting good capable people to begin with and given them laws that will let them do what the legislature wants them to do, and letting them to rather than appointing people to be in ahead of time, appointing people to take a particular attitude because I don't really think that's fair. You start splitting on a Commission. You might be setting up a Commission with a guaranteed divided vote right from the beginning and I don't really think that serves anybody.

REP. WOOD: No, but if you are dealing with the Commission, and I hate to belabor this but its something that I've noticed. Often times the Commissioners get half the salaries that the lawyers get that are representing the utilities, that they are the ones who create the facts and that your staff is not that great in terms of numbers. At what point do you let some of that impartiality go? It just seems to me in a court of law, you have two ...(inaudible) they part it out and the judge can review that situation where here the PUC is charged with making sure the rates are fair and they are listening to one side and the staff is trying to do something totally different to represent the consumers. I'm just wondering if the consumers aren't short-changed.

CARRIGAN: Well, I hope they're not and I hope that the Commissioners would bear in mind what their responsibility to the consumer is, presumably look to the Commissioners or consumers, too, they pay light bills, telephone bills and have some feeling for what that involves. I'm not sure. I recognize your problem and I think it is something that's got to be addressed and I think perhaps more than people can be made interested in that area and the more private people who are willing

and speak up and do the kind of work that's necessary to present another part of the question, I think that's very helpful and I guess the Commission cannot, I know the Commission cannot overlook the instances in the whole process, and when I say being impartial, I don't mean ignoring the interest of the consumer and I think that certainly that is one of the paramount reasons if not the paramount reason that the Commission was created, and I guess at this point, aside from having adequate funds and staff for the Commission, what you have to look at is appointing people who will bear that in mind.

REP. KELLEHER: I see that the point you are trying to make, excuse me Frank, is that the Commission was created in 1913 and the attitude and philosophy of the people who created that Commission, as in the opinion of Mr. Wood and I know personally, my own is somewhat inconsistent with what reality is today, the real question in my mind, is who drafted all the statutes that are now on the books. The first problem in my opinion is trying to change those existing statutes - like protective custody under the law.

GARRIGAN: Yes, well, I can certainly see it and it is a problem. Its a problem in all regulatory areas of having enough to bring in the other side - even on the environmental boards, you are faced with an applicant and that's what you see and there may be unhappy neighbors and citizens but its difficult how you bring them into the process and I think that you may not be able to bring them in as directly as you would like to. Maybe this proposal for organizing a group will help - in the meantime, I think you've got to make sure that you've got Commissioners on the staff who are aware and who may not be totally represented.

a utility that has a monopoly should be able to charge their advertising off to the consumer?

CARRIGAN: Well, again that's a hard thing to say. I have wondered why there's a great need for advertising if there's nobody else who applied for that service product and so in that sense, there may be some questions but there are other things that are advertised sometime besides power company that has been advertising ways of dealing with power carefully and what to watch out for, what safety kinds of things and perhaps those are justified. I think perhaps I would have the same kind of feeling toward that as I would about the attorney's fees and the cost of rate application. I think that's something that's got to be looked at.

REP. WOOD: But if there was legislation drafted that said there were certain types of advertising that are allowed such as safety, and energy conservation and those that are blatantly for promotional purposes, would be disallowed, you could find yourself probably supporting that?

CARRIGAN: You mean disallowed as far as passing the rate...

REP. WOOD: If the stockholder felt so inclined..they certainly could...

CARRIGAN: I think that I would certainly be willing to...

REP. WOOD: In talking about the implied powers of the PUC, would you take a more liberal interpretation of those implied powers or a more conservative interpretation?

CARRIGAN: Well, that's a very difficult thing to say. As I understand that Bill and I may not understand it very thoroughly, it just says that in addition to the powers that be given to the PUC it implied to have all the other powers necessary to carry out what it has been charged to do by the legislature.

REP. WOOD: That would be left to the Commissioners to interpret whether they want to push that in terms of potential court case, if they had the power. Would you be willing to push that to its fullest, what those implied powers are or would you, if they weren't concise and clear in the statutes, would you want to...

CARRIGAN: Well, if I thought it was a power that could reasonably be inferred from the language and it was something that was important for the Commission to be able to do I think that I would be willing to do that.

REP WOOD: My only final comment in talking about community of interest, I think that you should be aware that one of the towns I represent has three different phone numbers in the town so this isn't outside....

SENATOR CUMMINGS: I guess it's my turn. About cable television, have you any ideas or read anything in your experience about the future of cable television is extraordinary, what its going to do, that will obviously make it a complete necessity to us ten, fifteen, who knows how many years and we will be just as dependent upon cable as we now are on the telephone or something like that. Do you think that we should, you should as Commissioner, as a public utilities commission, do you think the commission should encourage the formation of state regulatory agencies to see to it that the franchises and the methods of delivering cable service are given a view and a lookover by the Commission?

CARRIGAN, Well, it could well be. Again, that is an area that I haven't given a lot of thought to. I suppose when you look at the fact that the federal government regulates those kind of things through the federal communications commission, maybe so.

CARRIGAN: Well, I guess a lot of questions also at this point as to whether some of the federal regulatory agencies really seave

a worthwhile function or whether some of them would be better off to stand it and letting this competition go in the marketplace. Again, to the extent that a utility is something that probably shouldn't be duplicated and shouldn't be something that a competing king of thing, you shouldn't have perhaps fifteen water companies in one town or something like that just because the resources are scarce and the way the generator is using, a good deal of energy or something. I certainly would not be adverse in seeing that kind of thing be looked into and again if we are looking toward the future, and it appears that its going to become that important in the future, it would be much better to get a handle on it now in the beginning and try to foresee the problems and let things get out of hand to start with. I would prefer that approach rather than waiting until a crisis came and then ..... reacted to it.

SENATOR CUMMINGS: There are going to be several problems in that very often small companies cannot deliver say water or power to their consumers as economically as large so that there are higher rates in small companies than there are from the larger ones. Do you think that the public utilities commission should have expertise that could help the small companies do a better job of managing?

CARRIGAN: It certainly sounds like a good idea.

SENATOR CUMMINGS: ...and then the companies should be made to conform with the management regulations from the commission?

CARRIGAN: I don't think I would be opposed to that as long as it was all reasonable. I wouldn't like to see a position where a small company one way or another was maneuvering into suddenly selling out and merging with a large one because somebody was ... I can envision problems with that kind of thing going on but it certainly makes sense to me.

SENATOR CUMMINGS: Well, then do you think on the same token then the commission should then be able to go in and see if the large companies

are doing as good a job as they should?

CARRIGAN: Certainly.

SENATOR CUMMINGS: So then the Commission should have within its staff, business managers or those who are experts in how a business should be run.

CARRIGAN: Certainly, it seems to me that it would make it a lot easier for the Commission to decide what rates were reasonable if they had the expertise to investigate the way the business is actually being conducted.

SENATOR CUMMINGS: There are some of these companies, like, for instance, the water companies, the small ones, which are very often owned by out of state overall conglomerates, and they being small companies are charged a certain management fee by the parent company which again is turned down to the consumers, so does this imply then that eventually the commission should be able to go out of state and look into the books and the management of the parent company?

CARRIGAN; I don't think that is unreasonable, if what your looking at is service of an in-state company to in-state customers whose rates are regulated by the state utility commission if its owned by an out of state company, I don't think its unreasonable to be able to call into account what they are doing.

SENATOR CUMMINGS: One of the other problems that's come up, and I've been on this committee now in my fifth year, and it has come up every time. Rates under bonds. Do you know about that?

CARRIGAN: No.

SENATOR CUMMINGS: Many of the small companies, particularly this year, it was limited to only water companies. One of the previous bills said that any company, utility that wanted to, could increase their rates before the commission made a judgment, and that then they had a bond posted ... O.K. , what do you think about that?

CARRIGAN: Well, I think it is possible to an initial situation

where that might be necessary, perhaps if a major repair had to be done very quickly or some emergency came up and there was just no way it could be done other than by immediately raising the rates and posting the bonds to reimburse consumer at the rates were not allowed to be raised, maybe I don't think they should be able to do it without the commission's approval necessarily and I guess that I would hope that it would not be done as a matter of course. For example, if a rate increase were denied and then appealed to the Court I would hope that suddenly the rate increase would not be instituted pending the outcome of the appeal. I don't really think that is necessarily fair to the consumer. If you consider that at least the rates that were being earned before or adequate to keep the business going, then I guess I would hope that they would wait out the time necessary to finalize the increase or deny it without making the consumers pay the additional amount in the meantime.

SENATOR CUMMINGS: The point of the small companies, their costs of asking for a rate increase is disproportionate to their overall income and this would perhaps litigate that cost and make it easier for them to be out of power with the larger companies, is part of their philosophy which is...

CARRIGAN: I guess I would like to know why the cost is so great of applying for a rate increase.

SENATOR CUMMINGS: Well, that gets us then to where the Commission is given hopefully larger and larger sums to hire the experts who are equipped to cope with the in-house experts of the large utilities. It is impossible for any Commissioner to know everything about every company or even perhaps to completely understand the rate sheets of some of the statements that are put before you. How are you going to know who to trust?

CARRIGAN: Well, I ....that's the good part of it. I think that being an attorney, I have to bear in mind that when you are pleading

a case, you plead a case the best you can for the benefit of your own client within the limits of honesty and I think that from the law and everything, if you are the person who has to decide, yes, you have to listen to that. If you can get your own expertise within your staff or on a contractual basis with consultants, I think that is an important thing and again I don't mean to keep referring to the Board of Environmental Protection but that has been an area where I have seen that done and I think that that's in the one instance which I did see it done, has been a very helpful thing to the Board. There was a very complicated technical point involving some oil company's application and we did hire an outside consultant to review the material that was submitted by the applicant and gave us his input into it and we didn't have the staff or anybody on the Board with the expertise to understand what we were being given so we hired an outside consultant. I think you have to be very careful who you hire when you are doing that and make sure that the consultant that you hire are hired on a contract basis for a particular job are not people whose next job is going to be working for the person who is applying for permission, so you have to be careful in that sense, otherwise, it's a matter of going through the process the same as you people screen the Commissioner up to get the kind of people that you feel you want and the Governor makes choices. I think the Commission would have to do the best it could to get very intelligent, honest, qualified people who would do a fair job and I think it would be invaluable for the commission to have that ability because it does put them at a disadvantage if they don't have the staff and the expertise within the Commission to evaluate the statements that are being made by an applicant because if you can't tell whether he's 100% right or wrong or what's going on - it's very difficult to make a fair decision.

SENATOR CUMMINGS: There is a course that's given by Irving Trust Company in New York. The course itself is free and there are

several states I have been led to believe a majority, but I have not checked and do not know that to be true of states requiring new commissioners on their public service, public utility commission to take this course for a week just in order to understand corporate finance, not necessarily propaganda from a utility or from private enterprise but more or less on an educational thing. Do you think that would be a good idea?

CARRIGAN: Certainly.

SENATOR CUMMINGS: The more understanding the better?

CARRIGAN: Definitely.

REP. CUNNINGHAM: Well, I think that a lot of the questions that you have been asked today are grinding type questions. The only axe grinding question I have is in the manner of the length of term the Commissioners serve. I understand you serve for seven years as a Commissioner, is that correct? During that time a legislator would have to be elected four times. You're not reviewed as often as a legislator and yet after being Commissioner, we talk about a lawyer representing a client, perhaps two years would be a reasonable time to have a lapse. The thing that bothers me is that you may be representing a client, perhaps two years after you have served the term and you could have been working for that client at that time for two or three years, as a former Commissioner. I am a little concerned that the term of the Commissioners are so long and I don't have an opportunity to vote on that today. I'm not sure that the vote on your nomination is proper either because of that concern I have for the length of term for the Commissioners so that I am inclined to vote negatively on Commissioners who serve more than two years because legislators serve only two years.

REP. KELLEHER: Did you vote for Gelder?

REP. CUNNINGHAM: I did, yes, and I felt at that time that it

would be inappropriate for me to raise that issue and I'm raising it at this time. I am not saying now that I won't vote for Commissioner again. I'm just saying my problem is with the system and I think that some of these questions have been axe grinding questions. My problem is with the system and not with the person. However, now lets get back to .....

CARRIGAN: There is one similarity as I understand it, there's terms of the Judges in the state courts and they are also seven years and I do think from my experience on the Board that a certain amount of time is necessary if somebody in the position of a Commissioner is really going to take time to work into it, takes time to understand what is going on and to know all the people, to know the people in the Legislature and the people on the staff, to get a feeling for the issues and to really develop confidence in the area and I think that it might possible a shorter term than 7 years would be fine. I do think they have to consider the knowledge and the expertise that people build up. It takes a certain amount of time to do and if you had a quicker turnover you might end up with a poorer Commissioner as a result. I have no axe to grind either one way or the other as to the length of time but I do think that is something to bear in mind and also perhaps one theory at least with judges is, that the more secure they are in their position, the less likely they are while they are in their position, to be tempted by some outside pressures. Federal judges serve for life and I believe there's a Constitutional provision to that effect, and so the idea being to insulate them from the kind of pressure that somebody might get if he or she thought the Legislature was going to review his or her appointment every couple of years and he or she had to go out and .....turn up some support. You would hope that you are going to get more impartial people by giving them that extra measure of security.

REP. CUNNINGHAM: I guess that brings us back to the role of the Commissioner. One of the first questions that was asked and I have a little bit of a question, in some of the testimony which was given to you. You have indicated that you feel the role of Commissioner should be one of more as a judge type of role, that is an impartial judge sitting here as a Commissioner and yet, you have also indicated that the role is one where you are an impartial third party to take the place of free enterprises, for example. How could a Commissioner be an impartial third party? I think those two words bother me a little bit.

CARRIGAN: Well, I guess I meant impartial in something not having a built in bias one or another. I would not like to see a Commissioner go in who would have an axe to grind against the power company, or who is angry about phone service and who went in with the attitude that "by God, I'm going to get that telephone company and they'll be sorry", That's what I mean by impartial. I don't, I would not like the idea as a citizen of having people appointed to the Commission who went in with an axe to grind against some established group anymore than I guess I would like them to be appointed because they were going to be pulling for the purpose of the consumer. I think that kind of bias is the thing that I wouldn't like to see. I think that part, and when I speak of being a judge, I guess I don't mean it in the sense of court Judge is as completely as impartial as he or she is supposed to be. A judge is supposed to in some cases find the facts and apply the law. A Commissioner is supposed to do to some extent the same thing, but there are certain responsibilities involved - the main aim is to provide adequate and good service to the citizens at rates which are fair to them and also adequate to insure enough of a return to the utilities so that they can continue providing the services ... its a two sided question and that's why I don't think

you can go in and say , "well, I want free electric service for everybody or I want the investors of the power company to all become millionaires." I don't think it can go either way. You have to realize that the rates are necessary in order for the company to make enough money in order to continue providing the service, and it isn't all one way or the other but the charge of the Commission to some extent is, I think, to represent the public at the public interest and there are two aspects to that public interest. Both the rates being fair to the public and the rates being efficient to the utilities to make sure the services .....

REP. CUNNINGHAM: May I follow a little bit further. You indicated that you would not be, well, you would favor investigation into the possibility of the public utilities commission being able to provide managerial expertise to small companies .....Do you look at the role that you described, would that be a proper function of the Commission, if they are regulated, should they also be business managers? ....to go in and manage one of these companies?

CARRIGAN: Well, I think my feeling about that is , that if you have a company which is charging certain rates and you have people on your staff who are competent to look at the operation of the company and see ways in which they might change their operation that would provide more economical service and enable them to lower their rates then it certainly conclusive with the duties of the Commission to give that advice to the company, and I'm not saying that the Commission should go in and take over a company that it doesn't feel is operating properly and tell it what to do, I wouldn't care for that at all and I can see yes, that there could be a potential with the wrong people for abuse of that kind of a system but on the other hand, if you let a company come in and say, well, it costs me this much to generate power now - give me my rate increase and you have no way of determining whether it perhaps

may cost him less to generate that power, if you had somebody on your staff that could understand really what is going on. Maybe there is a mistake being made in the way they are operating or something like that and it seems to me that it would be logical for the Commission to have the ability to at least go in and check the way things are being operated because again, it all is in the public interest and it would affect the rates that people were paying. If people are paying rates that are unnecessarily high and the Commission can find out why and find a way of lowering them, why, I think it would benefit the utility in improving the economics of its operation and it would benefit the public by lowering the rates.

REP. CUNNINGHAM: Could I infer then that you would be in favor of taking some management practices from say the largest utility monopoly that we know about and which you feel are very efficient ... which you and the commission feel are very efficient and telling the .....phone company, or whatever the name of the phone company is, that they've got to use those management tactics within that company?

CARRIGAN: Well, that's the kind of thing that makes me a little hesitant because I wouldn't like to be in a position to go around ordering private business to operate in a particular way that I thought was good and I don't necessarily think that you can always take method that a large company can say, that a small company has to use it. It may not work out, if there is a way that could be devised where some kind of input of that type could be made while still protecting the individual business against having the government step in and telling them exactly what to do , I guess I would prefer middle ground. I think that that concept is an important one. I can see where there might be abuse of it and I guess I would like to be protected. One method might be to say that we make suggestions and the next time you want a rate increase you have to show us that you

have made a good faced consideration or you have made some attempt to do something. Rather than make it a hard and fast thing, if you have to do this, I guess I would prefer you allow some leeway.

REP. CUNNINGHAM: Then, you said a few minutes ago that you were surprised at the lack of free enterprise in your representation of this particular small business. Then, now you feel the Commission should have some authority to tell that small company how it should manage its business.

CARRIGAN: Well, I think the kind of small company that I thought Mrs. Cummings was talking about was different. I was speaking of the man with the pick-up truck who wanted to make deliveries of appliances that could charge a certain rate. People have a choice of whether they want to use this system or not and that's not the kind of thing that I understood the Senator to be referring to. I understood her to be speaking of an example of for example that small municipal or small water companies of some sort which might not have expertise on it staff to improve its practices, which might not have thought to consider of doing things any differently from the way it has been doing them and it seems to me that if the Commission had the expertise to look over the operation of a business like that and make some suggestions more or less binding on the company. Again, I think its a touchy kind of thing about how you structure a thing like that, but again, I think that certainly is conceivable in the interest of the public and in the interest of getting rates for the payers that the company is operating just so uneconomically and so inefficiently that its rates are sky high, it certainly makes sense in the public interest, I think to look into it and to make either requirements or suggestions or do something within the Commissions power to make the operation more efficient and to make the rates fairer. That's not the samething as the situation that I was in, with my man with his pick-up truck.

REP. CUNNINGHAM: So its the man with his pick-up truck. He has a service to sell and the people are the choice as to whether or not they take that service and by the same token, I could buy the cable TV service or not, its an entertainment. I consider that personally, maybe its not, maybe its an essential service. I have a choice of whether or not I want that service to be regulated and let's go a little further. Should we regulate probably all entertainment or maybe we should regulate all outdoor movies or all movie theatres. How far are we going to go with regulation?

CARRIGAN: Well, I'm not - regulation is a matter of looking at the various interests that are involved in a situation and trying to balance them when you see a position where there is an interest that really ought to be served or protected in some way that the Legislature feels is justifiable then its your decision, the legislative decision, as to what is to be regulated. I do think, I think, that a movie theatre the way you would regulate a movie theatre, would be for entirely different reasons from the reason that you might regulate a water company. You might regulate a movie theatre, you wanted to regulate a movie theatre you would go to what extent is necessary or justifiable but it might be to protect those neighbors from the impact of having an outdoor theatre next door to them or something of that sort, but a public utility where there is only really one choice for the people to make and one place to go for that kind of service is a very different thing and in that sense, the public utilities like electric companies, power companies, phone companies, water companies are different from common carriers and I think perhaps are different from cable television and that kind of communications activity. They are a little different and what is appropriate for one may not be appropriate for the other one.

SENATOR CUMMINGS: Senator Carpenter?

SENATOR CARPENTER: Miss Carrigan, one very short question. How extensively have you lived or traveled north of Augusta and have you ever been in Aroostook County?

CARRIGAN: I never had the privilege of being in Aroostook County. I've been in most of the other counties, I've been in Eastport in connection with the Board of Environmental Protection.

REP. BERRY: Miss Carrigan, before I ask the questions, let me just say that I, like Rep. Cunningham am not overly impressed by this type of procedure. I think it is poor procedure to say the most. I first heard of you a week ago prior to going on a week's vacation, had no way of checking into your background other than what is before me and am not sure I could have done it if I had had a month. I am going to ask about six more questions and if the Committee will bear with me, I think I have to ask the questions just to satisfy myself because I think the position that your'e going to be appointed to is very important and it is a seven year appointment which I, too, think is too long. Now, you seem to be aware of many bills that dealt with utilities or utility related matters. Were you aware of these bills prior to your nomination?

CARRIGAN: No, I wasn't. The Governor's office furnished me a list or copies of the number of the bills which had passed this session so that I could review them.

REP. BERRY: Did you ever have any desire to serve as a Public Utility Commissioner or to serve in any public office prior to your nomination?

CARRIGAN: I think that I had always thought in the course of being an attorney and before that, if I had an opportunity to do some kind of public service why, it would be something that I would like. It would be something that I would think would be very worthwhile and

it would be an opportunity to do something for the state of Maine. This was one of the reasons that I came back here to practice law. I haven't been involved in politics. I did not lobby the Governor for the nomination. The only contact if you are interested that I ever had with the Governor before he asked me to take this position was a telephone call that he made to me before the Bigelow referendum in which he asked me what I thought about the Bigelow referendum and how he might come out and I tried to convince him to come out for it and he came out against it and that's the extent of my contact with him, so it's not a position that I have been working for and as far as I know, I don't have any pipeline to the Governor's office or anything like that. He had that contact with me from that time and that was all and I think all I can see from that was a mutual respect from being able to discuss an issue and differ on it.

REP. BERRY: Have you ever been in a position where substantial pressure was applied to influence any decision you might be ready to make?

CARRIGAN: No.

REP. BERRY: How do you think you would react in a position like that?

CARRIGAN: I think I'd make the decision the same way I would without the pressure, I hope. I hope that I would look at the facts and try to find the facts as impartially and carefully as I could and look at the law and see what I was given the authority to do and then it's a matter of making a judgment.

REP. BERRY: This wouldn't make any difference whether this was the Governor that was applying the pressure or anybody else?

CARRIGAN: No, and I think again that's one reason for a longer appointment, which I'm not advocating but explaining.

REP. BERRY: Now, employees of utility companies presently enjoy special low rates as far as some power companies and telephone and this has to be at the expense of the other consumers. Now, how do you feel about that situation?

CARRIGAN: Well, to some extent I guess I feel the same way as I have already expressed the situation of lower rates for industries and perhaps lower rates for other people they need. The only other thing I can think of in the case of an employee is the fact that they are getting lower rates might mean that they possible get a lower salary. I should think that some of the benefit would be considered income because then it would make the job more attractive so it may not be as direct a difference, make as direct a difference ..... as in the case where the rates are going to someone who is not getting anything else in the way of salary or benefits.

?????: Miss Carrigan, I have a very short question. I have a feeling that you don't see in black and white in the law, that you won't be able to make a decision. That's the feeling I have. I stand to be corrected.

CARRIGAN: No, I don't think you are correct. I'm sorry if I have given you that impression. I think that its very important though that when you are given a responsibility under the law, to look at what the law allows you to do and to try as much as well - you are bound to stay within that. Again, I don't like the prospect of people being appointed to positions of trust in government and leaving positions of trust to go beyond what they are legally authorized to do in pursuit of a philosophy that they may have. I think and that's why I keep referring to the law. The law is there for a specific reason and the Legislature determines what it is going to be and gives the power to the Commission as a creature of the Legislature and in order to make anything that the Commission does valid, it's bound to stay within

the law and that's why I keep referring to it. I think the whole reason that the Commissioner .... number of the laws say the Commissioners are supposed to decide what's reasonable and reasonable isn't something that you can write down in black and white and that's why you have people carrying out the law - to use their own judgment as to what is reasonable given all the things that the law allows them to do.

REP. BERRY: Are you acquainted at all with the other Commissioners?

CARRIGAN: I was introduced to Commissioner Smith about a week and a half ago and I just had a brief few words of introduction and a very cursory chat with him. I don't think it was more than five minutes and Commissioner Gelder called me on Friday and introduced himself and we had a brief discussion about the Commission and that kind of thing, just getting acquainted. When I was appointed, he was out of the State and he returned sometime within the past week so I haven't met him in person.

REP. BERRY: Do you feel from your background and the things that you have served on, you said you had no particular higher interest politically. Do you see the Commission, or your job in the Commission, perhaps as a stepping stone to a post in Washington - has this crossed your mind at all .....or are you going to be content to do your work in the Commission and to serve to the best of your ability and to let it go at that?

CARRIGAN: Well, I think if I don't do that, there's no opportunity for me going on to anything else. I'm not looking to any stepping stone to anything. I'm looking at it as a job to do when you have to do the job the best you can .....chance to lobby for something else and you don't do your work, why you're not going to get recommended for anything else anyway. No, I'm not, I think its obviously its training and its an opportunity to do work which is not given to very many people and whether that ever leads to anything in the future, I don't

I can't be unaware of the fact that it does for some people but I have no aim in mind other than to serve as a Commissioner and learn what I can.

REP. TARR: I have to be perfectly sure about this and I guess the only way ... but when you are sitting on that Commission, you are going to have people who appear before the Commission on an individual status - people in the fields of law, now you honestly feel that you can sit on that Commission and make these decisions which are vitally important to the State of Maine without any bias - Friends of Bigelow, you are going to have to be really honest, because I have to know.

CARRIGAN: Yes, I am.

REP. TARR: .....That this isn't going to influence your decision that you are going to be able to speak to these people, if there was somebody that you didn't even know who walked in .... to appear before the Commission.

CARRIGAN: I certainly would. I think if somebody came in, for example, if Friends of Bigelow came in, I might have a question about whether I should sit on a case like that if it were only the appearance of a conflict of interest, when the wisest thing to do might not be to even participate in what was going on.

REP. BERRY: If you thought you might be swayed by anything you wouldn't hesitate to say "I feel a conflict" and remove yourself?

CARRIGAN: Oh, of course, of course.

REP. TARR: O.K. Just one last thing. Off shore drilling. Have you any particular philosophy about that?

CARRIGAN: I'm not sure to what extent that's within the jurisdiction of the Public Utilities Commission. The only, the closest thing to an oil refinery on the coast at this point that I know of is the proposal by the Pittston Company to locate an oil refinery at

Eastport and I must say that when I started on the Board of Environmental Protection it was a decided thing .....granted ..... to determine what should be done. The more I learned about the fact finding application and the more I read the order that the Board had given and the conditions were put on it, the more confident I felt that if one were built it would be built in the very best way possible and one would hope to be safe and not destructive to the environment, etc. So I think from what I have seen, it is possible to have installations like that and its possible to put their effects down to a minimum as long as people are willing to require that and willing to live up to it, again whether or not that kind of thing should be on the coast is another question, but, I think that people all have strong feelings about it. I wouldn't be happy if somebody put an oil refinery next door to me but I can imagine.....

REP. BERRY: What I'm trying to get at is the harmony of a large - versus environmental.

CARRIGAN: Well, I don't think you could make those two things opposites and I think that anything done in the state has got to be done with an eye toward not .....clean air, and clean water are essential for people to live just as much as they are for animals and anything else and I think when we get reports that people should stay inside in the hot weather because of the ozone in the air....that comes from air pollution in New York and Boston and that's affecting the State of Maine right now, and the more you see of it the more our activities are curtailed because in past years, people haven't realized what they were doing to the environment, the more we are going to understand it isn't a question of one way or another, its a question of how to make them match and how you need to do and adapt, environment without destroying the conditions that you need in order to live

REP. SMITH: According to my understanding, in your testimony you have not had any association with the Governor, right?

CARRIGAN: Right.

REP. SMITH: Do you have any idea who recommended your name to the Governor for.....

CARRIGAN: No, I don't. It may have come from the staff or something. I really don't know. I didn't submit it, I don't know.

REP. SMITH: Are you a former employee?

CARRIGAN: No, I don't. I know my name was submitted for another appointment by a person I served on the Board of Environmental Protection with but not for this one. I don't know where it came from.

SENATOR CUMMINGS: Are there any other questions? Well, let's have just five minutes.....so you're welcome to stay for the working session so there will be no more input from you unless you would like to make any statement now, we will just have a five minute break and come right back, so if you'd like to...

CARRIGAN: I would like to thank everybody for their excellent questions and their courtesy and apologize for the questions that I couldn't answer because I simply don't know enough about the areas involved and also I am sorry that this procedure has caused inconvenience on interrupted plans and I can understand how you must feel waiting for a recess and having this kind of thing happen, and I appreciate everybody coming and taking the time to consider it.