

MAINE STATE LEGISLATURE

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1 CHAIRMAN BALDACCI: Members of the committee,
2 ladies and gentlemen, today we begin the final set of public
3 hearings of the Joint Select Committee to Investigate Public
4 Utilities. This committee has spent nearly a year reviewing
5 many facets of the political activities of public utilities.
6 Our investigative staff, attorneys and state audit staff have
7 spent countless hours reviewing documents, interviewing and
8 collecting information. This effort formed the basis of six
9 days of public hearings, what has come from these hearings,
10 what are our accomplishments to date, what remains to be done.

11 Our hearings clearly outline the extent of the
12 major utilities' involvement in the political process. Mr.
13 Thurlow, former president of Central Maine Power Company
14 testified that the company created staff and directed the
15 ostensible citizens committee called the Committee to Save
16 Maine Yankee and controlled it to the extent of guaranteeing
17 its loss and appointing its staff.

18 Mr. Thurlow and Mr. Webb, senior vice-president of
19 finance of Central Maine Power Company testified that major
20 vendors of the Central Maine Power Company were canvassed on
21 company stationary for funds to support the so-called
22 citizens committee. Mr. Menario, executive director of
23 Committee to Save Maine Yankee, Mr. Thurlow and Mr. Temple
24 explained how the referendum efforts were controlled by a
25 steering committee makeup of Central Maine Power Company

1 employees, the Edison Electric Institute, the Electric Public
2 Utility National Association, Westinghouse Company,
3 representing the suppliers and Save Maine Yankee and that Mr.
4 Thurlow as chief executive officer of Central Maine Power
5 Company was in total charge.

6 Mr. Thurlow, Mr. Temple, Mr. Leason and Dr. Potholm
7 all testified or made sworn statements to the committee that
8 Central Maine Power Company created and funded a major
9 statewide public opinion polling operation.

10 Mr. Thurlow and Dr. Potholm both stated that the
11 intent was in part to influence political figures to support
12 the company's political positions.

13 We have seen the major utilities move to change
14 their time and effort and accounting systems. Efforts are
15 underway to simplify the reporting requirements to the PUC
16 and for the Secretary of State.

17 There can by now be no question in anyone's mind
18 that ratepayer dollars flowed from utilities directly and
19 indirectly for the benefit, solicited or not of candidates
20 for public office.

21 What remains is to fully explore the methodology of
22 the utilities in their efforts to exert political influence.
23 That is our purpose today.

24 Before we begin with the testimony, I would like to
25 ask if the staff director would give us a report.

1 MR. ASCH: Mr. Chairman, members of the committee.
2 At the present time we have scheduled hearings for today and
3 for Friday. The staff has begun the process of preparing a
4 draft report for the committee's consideration. This is
5 being prepared in sections dealing with historical facts of
6 the investigation, the hearings that were held. These are
7 being circulated from the staff to the co-chairman. The
8 co-chairman will then have the responsibility and prerogative
9 of circulating the draft report among the committee members.
10 I would hope that comments and concerns will be directed to
11 the co-chairman and to myself as you review sections of the
12 report.

13 SENATOR SEWALL: Is this the report that we all
14 read about or some of us read up in the paper this morning
15 with the five sweeping or four sweeping recommendations?

16 MR. ASCH: I haven't seen whatever you are
17 referring to. I am preparing a report, yes.

18 SENATOR SEWALL: Have we got the basic gist of the
19 four sweeping recommendations so we might all work on that?
20 Do we know what is the subject matter?

21 MR. ASCH: You have me at a disadvantage.

22 SENATOR SEWALL: Perhaps the chairman then who read
23 it in the paper could tell me.

24 CHAIRMAN BALDACCI: Would you continue with that.
25 If you are finished with your report, I will answer Senator --

1 MR. ASCH: I have two other items I would like to
2 make here. The committee is -- the committee staff are
3 reviewing the interrogatories from political candidates. We
4 hope to be able by week's end to come to the committee with a
5 report on that. There are one or two inconsistencies in the
6 report that we feel we have to explore before we can comment
7 on them.

8 A third issue is that in light of former
9 Congressman Emery's involvement with Dr. Potholm as a
10 consultant, we are evaluating the need of the committee for
11 access to material that we have previously requested from Mr.
12 Emery. And as you know, his request for a protective order
13 for that material was denied by the Superior Court. We will
14 also be reporting back to the chairman on that issue.

15 It is possible in answer to your earlier question
16 staff have discussed with the chairman what we see as being
17 areas for possible improvement either in the statute or
18 regulatory areas. That may be to what you are referring.

19 CHAIRMAN BALDACCI: The general recommendations
20 that were discussed were not specific. Did not discuss the
21 particulars. They were just more or less an idea of some of
22 the recommendations that the committee made. I don't think
23 anybody on the committee has anymore information other than
24 the public hearings and their own sort of understanding about
25 what some of the problems are.

1 If, in fact, we further have problems and
2 recommendations that you yourself as a committee member want
3 to recommend, I think we all realize this is the process. We
4 all have a right whether it is minority or majority to amend
5 those reports. I think what is being voiced was being voiced
6 as a recommendation that I am concerned about making as an
7 individual member of this committee, not as the committee.
8 As an individual member so those are the concerns that I
9 would have.

10 SENATOR SEWALL: Would you share with us the four
11 sweeping recommendations?

12 CHAIRMAN BALDACCI: Certainly. I think today's
13 public hearing that I just as soon go over with the committee
14 if they would like to the areas that I annunciated in opening
15 statements or annunciated in the committee before. I would
16 be more than happy to. The areas of the concern. The
17 dotting of Is and the crossing of the Ts have not been
18 accomplished.

19 Today we are taking testimony from Dr. Christian
20 Potholm so I would ask Christian Potholm if he would please
21 come up here.

22 CHRISTIAN POTHOLM, PhD, having been duly sworn by the

23 Chairman, was examined and testified as follows:

24 EXAMINATION-BY CHAIRMAN BALDACCI OF DR. POTHOLM:

25 Q. Please state your name and occupation for the record

1 please?

2 A. My name is Chris Potholm. I am a professor of
3 government at Bowdoin College and president of Command
4 Research.

5 CHAIRMAN BALDACCI: Is the staff prepared to ask
6 questions of Dr. Potholm? Mr. Flaherty.

7 MR. FLAHERTY: Thank you, Mr. Chairman.

8 EXAMINATION-BY ATTY. FLAHERTY OF DR. POTHOLM:

9 Q. Dr. Potholm, I trust you will be a little patient with
10 us because many members of this committee have not had the
11 benefit of some of the testimony which you have already
12 provided. And it is important that the committee as a whole
13 develop an overall perception of your position as you see it
14 and how if at all your activities on behalf of Central Maine
15 Power and other companies can be helpful to this committee in
16 determining to what extent and by what methods monies may
17 have been utilized or things of benefit transferred to
18 political candidates.

19 With that in mind, would you be kind enough to tell
20 us how as Dr. Potholm of Bowdoin College you first became
21 involved with Central Maine Power Company and when?

22 A. I believe during 1980 I had just concluded a book with
23 two other professors at Bowdoin dealing with the American
24 government and the question of choices and change in public
25 policy. I did an article on nuclear power which appeared in

1 the local newspaper and apparently came to the attention of
2 people at Central Maine Power. And it is from that basis
3 that I was asked to come and discuss the possibility of
4 serving in an effort to defeat the referendum to shut down
5 Maine Yankee.

6 Q. And in response to that request, you did, in fact, meet
7 with representatives of Central Maine Power Company?

8 A. Yes.

9 Q. Would you be kind enough to fix that in time for us?

10 A. I imagine it would have been in the spring of 1980.

11 Q. Okay. And with whom at Central Maine Power Company did
12 you meet?

13 A. I believe it was Mr. Thurlow and Norm Temple.

14 Q. That occurred at Central Maine Power Company's offices
15 here in Augusta?

16 A. Yes.

17 Q. Could you briefly tell us what developed in that meeting
18 between you and Central Maine Power Company's Mr. Thurlow and
19 Mr. Temple?

20 A. I think I gave my opinion that a ballot measure campaign,
21 a referendum if you will was a very time consuming process
22 and would involve a great deal of effort and outline some of
23 the political points of view as it relates to any kind of a
24 campaign.

25 Q. Were you introduced to the representative of Central

1 Maine Power by Mr. Vigue, Don Vigue do you recall?

2 A. It is possible he could have been the one that came to
3 Bowdoin. He wasn't at this particular meeting I don't
4 believe.

5 Q. And did the people at Central Maine Power acquaint you
6 with what their objectives were in talking with you?

7 A. Only that they didn't want their plant shut down.

8 Q. And they wanted you to assist them in some fashion?

9 A. At this meeting it wasn't clear what role they wanted me
10 to play.

11 Q. When that meeting ended, how did it end as between you
12 and Central Maine Power Company?

13 A. I don't remember exactly. I think they were going to
14 get back to me with some ideas as to what I might do in the
15 effort should it develop.

16 Q. You have been described variously but in one context by
17 Mr. Thurlow at that point in time as a political strategist
18 for the company. Would you say that was the fair
19 characterization of the role in which you first became
20 acquainted with them?

21 A. During Save Maine Yankee I, that is the role I ultimately
22 played, yes.

23 Q. So that puts us back in 1980, early 1980?

24 A. Uh-huh.

25 Q. So I take it that you did meet with them again or

1 somebody from Central Maine Power Company communicated with
2 you, follow-up?

3 A. Yes.

4 Q. And what was the occasion? How soon after?

5 A. I don't recall.

6 Q. Very soon?

7 A. I don't recall. Certainly it followed rather, but I
8 have no idea.

9 Q. Rather predictively in light of your first meeting?

10 A. Well, I wasn't sure. I wasn't sure at all. I had said
11 a number of things that didn't seem to make a lot of impact
12 on either of the people. I was not expecting anything after
13 that.

14 Q. In any event, regardless of that, and I don't want to
15 get bogged down in that type of thing. I want to know when
16 did you meet with them again or did you meet with them again?

17 A. During the spring of 1980.

18 Q. Same cast of people, Mr. Thurlow, Mr. Temple?

19 A. Well, various other people were subsequently involved.
20 John Menario, of course. Fred Webber from EEI.

21 Q. What is EEI?

22 A. Edison Electric Institute.

23 Q. The Edison Electric Institute?

24 A. Uh-huh.

25 Q. Do you know what that is, what it was?

1 A. I think it is an organization representing the various
2 utilities, electric utilities around the country.

3 Q. Now, do I understand that Mr. Webber and Mr. Thurlow and
4 Mr. Menario and you and others met one in the same time at
5 some place?

6 A. I imagine there were a series of meetings. I don't
7 recall who was where or when. There was a series of meetings
8 that ultimately resulted in the formation of the Save Maine
9 Yankee Committee.

10 Q. Were there other people in addition to the ones you
11 named who would have been with you at one or another of those
12 meetings?

13 A. Joe Keegan was a fellow from Westinghouse. Marshall
14 Stearns was somebody that I guess he brought to one of the
15 meetings.

16 Q. Who brought Mr. Keegan?

17 A. Yes. Michael Tedi and then various CMP people came in
18 and out of various meetings.

19 Q. And I take it that from what you have just said there
20 were several meetings at which not necessarily all of those
21 names were present?

22 A. Yes.

23 Q. And certainly among the primary objectives of those
24 meetings if I understand you again was the development of
25 Save Maine Yankee?

- 1 A. Yes.
- 2 Q. And what was Save Maine Yankee?
- 3 A. Well, it was an organization to save the power plant.
- 4 Q. Well, what kind of organization?
- 5 A. I am not sure I know what you mean.
- 6 Q. Well, was it designed as a separate entity from Central
7 Maine Power Company?
- 8 A. It was separate to the extent that it was a different
9 legal entity and had a different board of directors. It
10 obviously was connected in terms of membership.
- 11 Q. And did you hold any particular position with Save Maine
12 Yankee?
- 13 A. I was subsequently voted director of Save Maine Yankee.
- 14 Q. And when you say subsequently, what do you mean by that,
15 subsequently to that?
- 16 A. To one or more of these meetings.
- 17 Q. Can you fix according to your best recollection in time
18 just about when you became a director of Save Maine Yankee?
- 19 A. Spring of 1980.
- 20 Q. And I take it you had considerable input into the
21 development of the concept of the Save Maine Yankee and the
22 implementation of it, is that a fair statement?
- 23 A. No, I believe the concept was pretty much there before I
24 became a director. I would say the implementation of the
25 strategy, the hiring of the polling firm and the hiring of

1 the media firm was certainly something I was involved in so
2 the shape of it, yes.

3 Q. Who decided who were to be the directors of Save Maine
4 Yankee?

5 A. I don't recall now, but I assume it would have been Skip
6 Thurlow would have been the primary motivator, although I am
7 not sure whether John Menario wasn't also a motivator.

8 Q. Are you familiar with Mr. Menario's presentation at one
9 point to Mr. Thurlow suggesting that he be hired by Save
10 Maine Yankee for reasons of public impression rather than by
11 Central Maine Power?

12 A. I don't believe so, but that certainly would have been
13 possible, yes.

14 Q. Well, in those days when you were involved in these
15 discussions, did you have some input along those lines? For
16 instance, were you asked for your opinion?

17 MR. RICHARDSON: About what?

18 Q. About Save Maine Yankee's appearing as a citizens
19 committee separate and distinct from Central Maine Power.

20 A. I think it was a good idea, yeah.

21 Q. Okay. I asked if you had input and you voiced that,
22 right?

23 A. Yeah.

24 Q. And the funding of Save Maine Yankee, that came up too,
25 didn't it?

1 A. Well, in the sense we projected that it would cost a lot
2 of money, and that money would come from a variety of sources
3 with people that had the most to lose by the closure of the
4 plant.

5 Q. Including Central Maine Power Company?

6 A. Yes.

7 Q. And it was your understanding?

8 A. It was their plant.

9 Q. Well, I am just trying to get the information from you
10 as best I can.

11 A. I am not trying to be obtrusive or frivolous, but I mean
12 obviously it was a billion dollar plant. Certainly they had
13 a stake in it.

14 Q. And the ratepayers had a stake in it, too?

15 A. I think they did, yes.

16 Q. Now, so far as the funding is concerned, how were you to
17 be paid?

18 A. I was to be paid by Save Maine Yankee on a monthly
19 retainer basis.

20 Q. And I understand from prior testimony of yours with a
21 guarantee nevertheless that you would be taken care of by
22 Central Maine Power Company if that compensation arrangement
23 failed through Save Maine Yankee?

24 A. No, you made that point the last time it was brought,
25 and I can't say that was my understanding then and at any

1 time my understanding now. This may well have been the case
2 for John Menario. It may well have been an explicit
3 understanding, but I don't recall that was -- the question of
4 Save Maine Yankee running out of money was not a burning
5 issue at the time.

6 Q. If I understand prior testimony you have given in this
7 regard, Dr. Potholm, your statements were to the effect that
8 you were not in a direct compensation arrangement with
9 Central Maine Power in 1980?

10 A. That's correct in my mind. There was a very -- and I
11 think very clear distinction between working for Save Maine
12 Yankee for the purposes of winning that referendum and my
13 subsequent consulting relationship with CMP which grew out of
14 that. There was no prior understanding that I would have any
15 connection with CMP after Save Maine Yankee.

16 Q. If Mr. Thurlow said as he has testified here that it was
17 understood from day one that you were indeed going to be
18 assured of your compensation whether from Central Maine Power
19 or from Central Maine -- Save Maine Yankee, would you
20 disagree with that?

21 A. I certainly didn't worry about getting paid if that is
22 what you mean.

23 Q. Is it fair to say that you understood whether in spoken
24 terms or otherwise that you were going to be taken care of by
25 Central Maine Power Company if you didn't get compensated by

1 Save Maine Yankee?

2 A. I guess so.

3 Q. Okay. That's all I want.

4 Now, what were the compensation -- what was the
5 compensation arrangement at that time between Dr. Potholm and
6 Save Maine Yankee?

7 A. I believe it was about 3,300 or \$3,500 a month plus
8 expenses.

9 Q. Plus expenses?

10 A. Yes.

11 Q. Can you give us some idea of the range of dollars
12 involved monthly for expense purposes?

13 A. No, I can't really. Just mostly travel.

14 Q. Would it have been as much as \$3,500 a month?

15 A. For expenses?

16 Q. Yes.

17 A. No.

18 Q. Well, would it be a third of it or a half of it or a
19 quarter of it, some idea?

20 A. I am not sure I understand what your --

21 Q. You were getting 3,500 a month for compensation, and you
22 indicated plus expenses. I am simply trying to get some kind
23 of ballpark feel if you will.

24 A. I would say several hundred dollars would be a ballpark.

25 Q. Fine. Now, would you tell the committee what

1 specifically you were charged with doing for that money?

2 A. Well, I don't think I was charged specifically with
3 anything other than being kind of general consultant on the
4 functioning of the committee and the people that it hired.

5 Q. What role did you play in the hiring of people?

6 A. I was part of the interviewing process when various
7 polling firms and media firms were brought up.

8 Q. Okay. Let's get to the polling and media firms. Do I
9 understand by that that various firms were being interviewed
10 to determine which of those firms might conduct polling or
11 surveys for Central Maine Power or Save Maine Yankee?

12 A. Yes.

13 Q. Okay. And you were very much involved in the choice
14 process, is that right?

15 A. The choice was fairly clear and fairly obvious, yes.

16 Q. But you were involved in it?

17 A. Yes.

18 Q. What was the choice?

19 A. Cambridge Reports.

20 Q. And what was Cambridge Reports engaged to do?

21 A. They were engaged to provide basic polling for the
22 conduct of the campaign, attitudinal survey.

23 Q. What is an attitudinal -- what should we understand from
24 you to be an attitudinal survey?

25 A. A study of the attitudes of the voters of a particular

1 area.

2 Q. For the purpose of determining what or learning what?

3 A. What they liked, what they didn't like, who they
4 believed, who they didn't believe.

5 Q. What would this tell you and or Cambridge Reports about
6 the success or failure of the referendum?

7 A. Well, it would tell who would be an appropriate
8 spokesperson and who wouldn't. It would tell some of the
9 themes that were likely to change people's minds from one
10 side to the other.

11 Q. Now, when did this --

12 A. It is difficult to do justice to a 80 or \$90,000
13 campaign in two or three minutes.

14 Q. I don't want it to be limited to two or three minutes,
15 Dr. Potholm. I want this committee to understand.

16 A. An enormous wealth of material was generated.

17 Q. How many hours of your time were devoted to this
18 particular undertaking in 1980 on a weekly basis if you will?

19 A. I have no idea.

20 Q. No idea at all?

21 A. Nope.

22 Q. Well, would it have been as much as 20 hours a week?

23 A. Some weeks it could have been.

24 Q. Would it have been less than -- I don't want to play it
25 is bigger than a breadbox.

- 1 A. I don't remember.
- 2 Q. You just don't have no idea?
- 3 A. It varied some weeks. Some weeks there weren't meetings.
- 4 Q. As a matter of fact, there were meetings about every
5 week, weren't there, in that period?
- 6 A. I don't believe so.
- 7 Q. Well, let's fix the period in time. When did the
8 Cambridge Reports company come on board for purposes of
9 conducting polling surveys?
- 10 A. April, May. Somewhere in there.
- 11 Q. And the referendum vote was to be held in September, is
12 that correct?
- 13 A. Correct.
- 14 Q. So we are talking about five to six months?
- 15 A. Yeah.
- 16 Q. Of active work in an effort to defeat the referendum, is
17 that correct?
- 18 A. Uh-huh.
- 19 Q. And you were involved in that period of time at a cost
20 to one or another of those companies of \$3,500 a month plus
21 more, right; expenses?
- 22 A. Uh-huh.
- 23 Q. And Mr. Menario was on board at that time, too?
- 24 A. Uh-huh.
- 25 Q. He was part of the team?

1 A. Yes.

2 Q. Now, in that period of time, how frequently did you have
3 meetings with these people?

4 A. Oh, I think in the beginning maybe every three or four
5 weeks, and at the end perhaps every week.

6 Q. And in those meetings, you played a role?

7 A. Yes.

8 Q. And it was a pretty well defined role, wasn't it? It
9 became more defined as time went on?

10 A. I am not sure I understand what you mean but certainly --

11 Q. Let me help you if I can based upon things you have told
12 us in the past. You submitted summaries or reports to the
13 group assembled, did you not?

14 A. Sometimes.

15 Q. Well, how many times?

16 A. I don't recall.

17 Q. Once?

18 A. No, it would have been more than that probably.

19 Q. Would it have been 10?

20 A. Probably not.

21 Q. Eight times?

22 A. I don't know, Mr. Flaherty.

23 Q. Well, you just don't remember, is that what you are
24 telling us?

25 A. It was four years ago, and there was no reason to

1 remember any particular thing that I did or didn't do.

2 Q. However the number involved, what did you submit to them?

3 A. Well, in the beginning there may have been some planning
4 memos as to what we were looking for, and then in the -- at
5 the end Command Research was hired to do tracking -- a
6 tracking poll.

7 Q. What should I understand by at the end?

8 A. Maybe the last six or eight weeks before the election.

9 Q. A couple of months before?

10 A. Probably two months.

11 Q. Now, who paid Command Research?

12 A. Save Maine Yankee.

13 Q. And I think from your earlier comments Command Research
14 is Chris Potholm, right?

15 A. Well, it is Chris Potholm and his wife.

16 Q. And his wife?

17 A. Uh-huh.

18 Q. How much was Command Research paid in that period of
19 time?

20 A. Including the polling?

21 Q. Including everything Command Research did for Save Maine
22 Yankee in those six to eight weeks you discussed.

23 A. Well, whatever 3,500 or 3,700 a month was plus the money
24 for the poll.

25 Q. That was all of it, in other words, it was always

1 Command Research?

2 A. Yes.

3 Q. Okay. These meetings, the number of which you can't
4 give us any idea as to how many occurred and which you
5 attended, did you submit so-called summaries to the group
6 regarding the results of polling efforts by Cambridge Reports
7 and later Command Research?

8 A. I don't believe I did on Command Research -- I mean on
9 Cambridge Reports, but certainly I came and gave
10 presentations on the tracking.

11 Q. And you passed out written summaries from which you were
12 working in your presentation, is that true?

13 A. Yeah, they would have been probably one or two pages
14 with some of the relevant numbers.

15 Q. And that happened on the occasion of each meeting, isn't
16 that right?

17 A. I believe so.

18 Q. Can you describe with as much detail as possible what
19 the contents of that report were?

20 A. Well, it would have been the numbers that were generated
21 that previous week for the areas that were generated.

22 Q. Numbers generated from what? You say the numbers
23 generated. Are you talking about --

24 A. The tracking polling that was going on.

25 Q. This polling was being done by?

1 A. Command Research.

2 Q. Command Research?

3 A. Although at several junctures in there, I believe
4 Cambridge Reports came back in and did another or more than
5 one attitudinal study. We -- Command Research did the
6 tracking. They did the attitudinal.

7 Q. When you talk about numbers, can you help us out there
8 please? Numbers of people polled or numbers of people in
9 favor or against or what?

10 A. Generally we were looking at the number of people that
11 wanted to shut down Maine Yankee, the number of people that
12 wanted to keep it open, the relative intensity, how strongly
13 they held those views. I don't remember exactly. We
14 probably did a breakdown of males, females that worked in the
15 home, females that worked outside the home.

16 Q. And these numbers would have some significance to you, I
17 take it, and you would communicate that to the people there?

18 A. Yes, sometimes we would be looking at different parts of
19 the state. We might be looking at Aroostook County. We
20 might be looking at Hancock and Washington County.

21 Q. Now, at the same time as these meetings or during the
22 same period when these meetings were being held, I understand
23 there were meetings also of another group of people comprised
24 of Mr. Thurlow and some of the people you mentioned earlier,
25 Mr. Webber, Mr. Keegan, is that right, who were not officials

- 1 of Save Maine Yankee?
- 2 A. Yes.
- 3 Q. Okay.
- 4 A. And then there was, of course, a larger group of people,
5 perhaps 100, 150 who came at various times to get briefings
6 on the material that had been generated, and those meetings
7 would probably have been at Maine Yankee itself.
- 8 Q. Whereas the other meetings were at Central Maine Power?
- 9 A. Some were, but then there was an office down on -- in
10 the Canal Bank building, I believe. So there were some
11 meetings at Maine Yankee, some at the Save Maine Yankee
12 headquarters and some at CMP.
- 13 Q. And Save Maine Yankee headquarters was in Healy's office?
- 14 A. Yes.
- 15 Q. Was that his law office in Portland?
- 16 A. In Augusta.
- 17 Q. And Mr. Healy was also acting in an official capacity to
18 Save Maine Yankee?
- 19 A. Yes, he was one of the directors.
- 20 Q. He was also a director?
- 21 A. Yeah.
- 22 Q. These people who came as a group of 150 or so that you
23 just mentioned, how often did they come and be briefed?
- 24 A. Oh, I think they came perhaps five or six times.
- 25 Q. Were these members of the public that had exhibited

1 unusual interest in the effort?

2 A. Usually that. Some legislators. Some people who had
3 become -- who had joined the larger Save Maine Yankee
4 Committee.

5 Q. And these people had no decision making authority of any
6 kind with respect to the direction or purposes of Save Maine
7 Yankee, isn't that true?

8 A. I don't believe they did, no.

9 Q. Now, these polls which were conducted by Command
10 Research contained various questions which perhaps even
11 varied in number, is that correct?

12 A. Yes.

13 Q. How were these questions put to the public or the people
14 who were intended to be interviewed for purposes of
15 generating results from the poll?

16 A. This would be a telephone interview.

17 Q. And the telephoning was done by personnel of Central
18 Maine Power, is that correct?

19 A. Well, sometimes it was. Other times it was done by
20 Command Research people. It all depended on the particular
21 period and whether there was a problem or not.

22 Q. Well, if it had been done by Command Research, who were
23 the people; that is to say, where were those people coming
24 from to do that work?

25 A. Well, these would be people in various places around the

- 1 state.
- 2 Q. Were they hired by Command Research to do this work?
- 3 A. Yes.
- 4 Q. How many of those people were there?
- 5 A. Oh, I would say perhaps a dozen in the course of the
6 campaign.
- 7 Q. And if the work were done by Central Maine Power Company,
8 that would not -- that work would not have been done by these
9 people?
- 10 A. No.
- 11 Q. It would have been done by personnel engaged by Central
12 Maine Power?
- 13 A. Yes. For example, Portland had its own headquarters.
14 Lewiston had its own headquarters. Bangor had some sort of
15 operation.
- 16 Q. Did you train those people or have anything to do with
17 the education of those people on how to conduct a telephone
18 interview, for instance?
- 19 A. No, most of them had had some experience in local
20 political activity, and they did their own thing.
- 21 Q. And who at Central Maine Power were you dealing with
22 directly in the day-to-day polling effort and the gathering
23 of the information, collating, feeding into the computer, et
24 cetera?
- 25 A. I would think that Save Maine Yankee it would have been

1 Bob Leason.

2 Q. Do you know what his role at Central Maine Power was in
3 those days?

4 A. Well, he was Skip Thurlow's assistant.

5 Q. Okay. Do you know who else worked in that area with Mr.
6 Leason at that time?

7 A. No, I can't say that I do.

8 Q. Now, this computer into which the material was fed, that
9 was owned and operated by Central Maine Power Company, is
10 that correct?

11 MR. RICHARDSON: Excuse me. The question --

12 CHAIRMAN BALDACCI: If you would like to confer
13 with Mr. Richardson, go ahead. Would you like an opportunity?

14 MR. RICHARDSON: I suggest the question is
15 ambiguous. I don't know which poll was conducted by who.

16 REPRESENTATIVE KELLEHER: Who is the witness here,
17 Mr. Potholm or Richardson?

18 CHAIRMAN BALDACCI: Mr. Potholm is the witness.

19 REPRESENTATIVE KELLEHER: Who was the question
20 directed to?

21 CHAIRMAN BALDACCI: Mr. Potholm.

22 REPRESENTATIVE KELLEHER: I suggest that you
23 exercise your authority of the chair. If he wants to confirm
24 with Brother Richardson, that seems to be appropriate to me.
25 Beyond that, it is up to Mr. Potholm to answer the question.

1 CHAIRMAN BALDACCI: Mr. Richardson, if you would
2 like to confer with Mr. Potholm about the question that was
3 asked, please do so, and we'll wait until you get done
4 conferring. Other than that, we would like --

5 MR. RICHARDSON: I appreciate that, Mr. Chairman.
6 I propose to exercise this witness' right accorded him by
7 Title III, Section 451 which says he has the right to be
8 represented by counsel and, quote, the witness or his counsel
9 may during the time the witness is giving testimony object to
10 any investigating committee action detrimental to the
11 witness' interest and is entitled to have a ruling by the
12 chairman on any such objection. Now, if I may state the
13 nature of my problem, and you can rule on it and then we'll
14 go from there.

15 MR. FLAHERTY: This is not an investigating
16 committee action. This is an interrogation. Section is
17 totally irrelevant. I will clarify -- I will ask Mr. Potholm
18 to clarify his position.

19 Do you understand the question I asked you, Mr.
20 Potholm?

21 A. No, I don't.

22 Q. I will ask you again. My question to you is were there
23 other people involved with Mr. Leason whom you knew in this
24 process of getting the material to the computer itself, we'll
25 get back there? I think your answer to that is you don't

1 know?

2 A. Right.

3 Q. And the next question I asked you was whether the
4 computer itself was on the premises and owned and operated so
5 far as you know by Central Maine Power Company, do you
6 understand that question?

7 A. In 1980 the answer is no.

8 Q. The answer is no, you don't understand the question or
9 the computer was not owned and operated in 1980?

10 A. The computer was not owned and operated.

11 Q. So what computer was utilized at that time?

12 A. I don't believe a computer was utilized.

13 Q. Well, was there -- in other words, surveys were
14 conducted only on paper and by telephone and all of the
15 collating --

16 A. Well, if you are talking about Cambridge Reports, they
17 had computer facilities somewhere.

18 Q. I am talking about Command Research.

19 A. In the case of Command Research at that time I am not
20 sure we used computers.

21 Q. That is what I am trying to find out. Probably not, is
22 that what you are saying?

23 A. Probably not.

24 Q. So to the extent the computers were used in the '80
25 referendum, they were not used by Command Research?

1 A. No.

2 Q. And this would I take it hold true as well for any
3 computer equipment located at your college?

4 A. Oh, yes.

5 Q. So that you had 12 people working out there throughout
6 the state doing the telephone interviews, and they would feed
7 back information which I take it was transcribed in some form
8 by them or by you and?

9 A. Usually the reports were oral. See, the whole nature of
10 a tracking poll is you want information as rapidly as you can
11 get it, and therefore to start transcribing it and sending it
12 around is not what you want.

13 Q. Now, in the instances in which Central Maine Power's
14 employees did the interviewing, I take it the same process
15 was employed?

16 A. Again, sometimes it would be written but often oral.

17 Q. Okay. But when you, Dr. Potholm, got ready to make your
18 presentation on however frequent basis you did to these
19 meetings you described, you had, I take it, some kind of
20 information in either written form or verbal form or both
21 which you utilized to develop the report or the summary?

22 A. Well, things were written down, and we went to the
23 meetings and discussed what transpired.

24 Q. For instance, we have field representative one in
25 Caribou. Submits the questions to the number of interviewees

1 that you erected. Now, how did the information get back to
2 you in answer to question one, two, three, four, five?

3 A. Well, in the case of the information generated by the
4 field people, it would go to the person who was bringing the
5 numbers all together.

6 Q. All I am asking you is how it got there? Was it in
7 writing?

8 A. Usually by telephone.

9 Q. By telephone. The person who was receiving the
10 information by telephone would write it down, is that correct?

11 A. Presumably, yes.

12 Q. That would be transmitted by that person to you?

13 A. Yes.

14 Q. Okay. And you would have all that gathered, and you
15 would make of it whatever you thought appropriate in your
16 professional judgment and develop a summary?

17 A. Uh-huh.

18 Q. And this you committed to writing, and this you
19 discussed and described at your meetings?

20 A. Yes.

21 Q. Is that a fair statement?

22 A. Yes, it is.

23 Q. Were most of the people whom you named at most of the
24 meetings? Like Mr. Thurlow, was he always there?

25 A. Some meetings he wasn't. But usually.

1 Q. What kinds of discussions were had at those less
2 frequent meetings involving people who were not directly
3 engaged by Save Maine Yankee, people like Mr. Webber? Do you
4 understand my question?

5 A. No, I don't.

6 Q. What transpired at those meetings and what was the
7 purpose of those meetings?

8 A. Well, the meetings where everybody attended on Fridays
9 usually were for the purposes of ascertaining what had
10 happened during the week and what people were going to do for
11 the next week.

12 Q. Exactly. That is not the meeting I am talking about now.
13 I am talking about the meetings with Mr. Thurlow, Mr. Webber,
14 Mr. Keegan.

15 A. Those are precisely the meetings I am talking about.

16 Q. I am sorry. I misunderstood you. There were two
17 different sets of meetings, isn't that correct?

18 A. There were two sets of meetings in the sense of people
19 down at Maine Yankee; 25 or 30 people might come into a room.
20 The meetings on Friday consisted of the people that you have
21 described.

22 Q. I see. So Mr. Keegan, do you know where he lives or
23 where he did live at the time?

24 A. He was based in Washington, I believe.

25 Q. So every Friday he would come to Maine?

- 1 A. If it was a meeting he wanted to attend, yes.
- 2 Q. Did he attend most of them?
- 3 A. It seemed to me he did.
- 4 Q. What was his input?
- 5 A. He brought the Westinghouse money.
- 6 Q. How much was that?
- 7 A. Big chunk.
- 8 Q. Westinghouse is a supplier of Central Maine Power?
- 9 A. I got a feeling they were suppliers to a lot more than
10 Central Maine Power.
- 11 Q. But including Central Maine Power?
- 12 A. I don't know whether they were the major supplier or not.
13 They certainly seemed to have a stake in the outcome of the
14 referendum.
- 15 Q. How much money did they drop in the pot?
- 16 A. I don't know. Except that it would seem to me it was a
17 lot.
- 18 Q. Was it in the hundreds of thousands?
- 19 A. I don't know.
- 20 Q. You just don't know. But it was a lot?
- 21 A. Uh-huh.
- 22 Q. How about Mr. Webber, what role did he play in those
23 meetings?
- 24 A. I think he just generally brought information.
- 25 Q. From where?

- 1 A. He also is based in Washington.
- 2 Q. And so he would come to the Friday meetings from
3 Washington with information?
- 4 A. What was going on in other parts of the country and what
5 other utilities were doing, and I think he did some fund
6 raising.
- 7 Q. Did he bring money with him, too?
- 8 A. I don't know.
- 9 Q. You have no idea? You do know the Westinghouse
10 representative did, but you don't know whether he did?
- 11 A. That's correct.
- 12 Q. Is that correct? Do you know who else did of that group
13 brought money?
- 14 A. No.
- 15 Q. Now, those surveys -- let me see if I can get clarified
16 on this if you can help me here. Is there a difference
17 between what we call polling and what we call a survey?
18 Should we be thinking of those as different kinds of
19 activities?
- 20 A. No, I think the distinction you want to keep in mind is
21 an attitudinal survey versus a tracking survey.
- 22 Q. Okay.
- 23 A. But you can call them both surveys.
- 24 Q. So the word polling is not the significant word, it is
25 survey, is that right, the generic term?

1 A. Well, both types are polls. Both types are surveys.
2 You could use the word poll and survey relatively
3 interchangeable.

4 Q. You just mentioned tracking and attitudinal. You
5 already told us what we should understand by attitudinal.
6 What should we understand by tracking?

7 A. Tracking is the measurement of something on a very
8 frequent basis.

9 Q. And in the case of the surveys which were being
10 performed first by Cambridge and then by Command Research,
11 what was the something that the tracking was done to
12 ascertain?

13 A. Well, Cambridge, their studies had a multiplicity of
14 items on it. In the case of tracking, the essential thing
15 was on the relationship on the people who wanted to shut down
16 Maine Yankee to the number of people that wanted to keep it
17 open.

18 Q. Would it be correct to say that the purpose of tracking
19 is not to ascertain attitudes?

20 A. I think in general any attitudinal aspects to it are
21 secondary to the head to head, the outcome.

22 Q. What do you mean by head to head? I am afraid I don't
23 understand.

24 A. The people wanted to shut down Maine Yankee versus the
25 people that wanted to keep it open. The head to head numbers

1 of those two people.

2 Q. So if I understand you, the surveys in these cases in
3 1980 with respect to this referendum contained two types of
4 questions in each instance, tracking questions and
5 attitudinal questions? Do I understand you fairly to be
6 saying that?

7 A. I am not sure you understand what I am trying to get at
8 which was that the tracking survey related specifically to
9 how people were going to vote on this issue. From time to
10 time there might be some questions about why they were going
11 to do that. Generally speaking it was what do the numbers
12 tell us about how they are going to vote. The attitudinal
13 surveys tend to indicate whether they were going to vote a
14 certain way.

15 Q. I understand that, I think, thanks to you. But what I
16 am trying to ascertain now is whether you are telling us that
17 both types of questions were contained in the surveys which
18 were conducted by Command Research in 1980?

19 A. I am not sure -- see what you are actually asking.

20 Q. Is there a difference between a tracking question and an
21 attitudinal question?

22 A. Only in the sense that certain questions lend themselves
23 to tracking purposes and others don't.

24 Q. All right. Let's take a question like how is Ronald
25 Reagan doing. What is that? Is that a tracking question or

1 an attitudinal question?

2 A. That could be both.

3 Q. It could be both. That appeared in all your surveys,
4 didn't it, in 1980, for Command Research?

5 A. I don't recall if it appeared on all of them. It
6 certainly is a question that I ask with frequency.

7 Q. Can you recall any survey in which the question was not
8 asked in 1980?

9 A. I don't know.

10 Q. But it is your best recollection that -- is it fair to
11 say at this point in time that the question appeared
12 frequently, how is Ronald Reagan doing?

13 A. Well, no, I am not -- I am not sure Ronald Reagan was on
14 those.

15 Q. Well, let's try another one. Jimmy Carter. Question.
16 How was Jimmy Carter doing. Was that in any of those polls?

17 A. I don't recall specifically whether it was.

18 Q. You just indicated, Dr. Potholm, if I understand you
19 that frequently at least such questions were included in
20 these surveys in 1980. Now, I am just trying to understand
21 why.

22 A. Well, perhaps you could fasten on this then. Sometimes
23 the question about Ronald Reagan was asked. I do not
24 remember whether it was asked specifically in 1980. I tend
25 to doubt that it was.

1 Q. Okay. Were any questions about political personages
2 included in those surveys in 1980 by Command Research? I
3 don't care whether it is Reagan.

4 A. I think we would have had something in there to track
5 the Maine Yankee question against. Now, whether we used the
6 president. We may have used the congressional candidates in
7 their two districts.

8 Q. Well, in 1980, you conducted a so-called summer survey
9 and this is cut number one, Save Maine Yankee, daily tracking
10 poll. Are you familiar with that?

11 A. You have had a copy of this all the time?

12 Q. It was just handed to me. I have copies of many other
13 things.

14 A. Why don't you give it to me, and I can tell you. This
15 is a tremendous waste of time. Decide what I can have, will
16 you. My goodness.

17 CHAIRMAN BALDACCI: Mr. Asch, are you making a copy
18 for Mr. Potholm?

19 MR. ASCH: Copies are being made for the entire
20 committee.

21 CHAIRMAN BALDACCI: Before you continue with the
22 questions, I think he should have a could copy of whatever
23 you are looking at.

24 MR. RICHARDSON: I agree. Thank you.

25 Q. My previous question to you was would you submit surveys

- 1 or conduct surveys with which did not have tracking questions
2 in 1980?
- 3 A. I don't believe so.
- 4 Q. Okay. Is it fair for me to conclude from that answer
5 they did contain tracking questions?
- 6 A. I am trying to think if there was more than the one
7 tracking survey for Save Maine Yankee that Command Research
8 did during that period, and I don't believe there was.
- 9 Q. How about the others, how about Cambridge Reports at
10 that time?
- 11 A. I am sure there were tracking questions on those, too,
12 but I don't remember.
- 13 Q. You assisted, did you not, in the development of the
14 numbers and kinds of questions that were to be submitted to
15 the interviewees in the polling process?
- 16 A. For which polling process?
- 17 Q. For Cambridge Reports and for Command Research.
- 18 A. Yes.
- 19 Q. In both instances you had something to say about --
- 20 A. I had some input in -- obviously I had in Atlantic
21 Research. I had some in Cambridge.
- 22 Q. In each instance, let's take Cambridge now that we have
23 Command behind us. They also contained tracking questions,
24 right?
- 25 A. I don't recall.

- 1 Q. So that if you indeed did have tracking questions which
2 included asking the same question, for instance, about a
3 presidential candidate or a gubernatorial candidate over a
4 period of weeks or months, you would be developing a pretty
5 good idea about where that candidate stood in that community,
6 wouldn't you?
- 7 A. That community troubles me.
- 8 Q. Whatever community or division of a community in which
9 the survey was conducted.
- 10 A. I am not sure I understand what you are saying.
- 11 Q. Well, let's assume for the sake of discussion that you
12 conducted a survey in and about the City of Auburn, in the
13 City of Lewiston, okay?
- 14 A. Uh-huh.
- 15 Q. If in each instance you had, in fact, inquired in your
16 survey among other things what do you think about Ronald
17 Reagan's chances and you had done that over a period of weeks
18 or months, you would develop a pretty good idea of where he
19 stood in the Lewiston-Auburn area, wouldn't you?
- 20 A. Except as a tracking practicality, you wouldn't be
21 likely to go back to Lewiston-Auburn more than once or at the
22 most twice so I mean you would be getting a fragment in
23 August and a fragment in September.
- 24 Q. Are you saying at this time that those answers to those
25 questions were of no significance to you?

1 A. No, I certainly didn't say that at all.

2 Q. They were of significance to you, weren't they?

3 A. I wouldn't --

4 Q. Quite apart from the survey that was being conducted?

5 A. Mr. Flaherty, I am trying to respond to your question of
6 the build-up of some sort of data base in Lewiston-Auburn,
7 and I am saying a look-see in August and a look-see in
8 September would not really tell me very much. Is that what
9 you are asking?

10 Q. Well, I am asking you more than that. I am asking you
11 whether it did become significant to you that Mr. Reagan or
12 Mr. Brennan was faring well or poorly at any given time in
13 your series of surveys which contained tracking questions
14 quite apart from whether the referendum was going to succeed
15 or fail?

16 A. Well, you see, I guess what is troubling me is either
17 your inability or your unwillingness to separate those two
18 questions. In other words, if Save Maine Yankee were going
19 along in a certain direction, and you were in Lewiston-Auburn
20 in August and whoever the political figure was had a certain
21 percentage of the vote, and you went back in a month and the
22 Save Maine Yankee numbers had not changed, but the political
23 candidate had changed, that might alert you to some internal
24 discrepancy within the poll.

25 Q. Okay. Do you recall giving a deposition to the attorney

1 for the Public Utilities Commission in February of 1983?

2 A. Yes.

3 Q. Do you have a copy of that there with your attorney?

4 A. Uh-huh.

5 Q. On page 121 of that I am going to read the following. I
6 am quoting. Question. And those findings would have been
7 limited to the questions relating to the Save Maine Yankee
8 referendum question. Answer -- and this is your answer.
9 Primarily but not exclusively. Question. And do you recall
10 ever sharing information relating to any of the other
11 political races, senate race or gubernatorial race. Answer.
12 Sure. Question. And that information would have been shared
13 with people outside of the company. Answer. Yes. Question.
14 And would that information have been shared with the express
15 permission of the company. Answer. Probably not, no.
16 Question. With the understanding that it could be shared.
17 Answer. Yes. Question. And with whom would it have been
18 shared. And then you go on with an example with someone from
19 the governor's office, et cetera. Do you recall that?

20 A. Yes.

21 Q. You followed that with me as I read it?

22 A. Yes.

23 Q. So it did have a significance over and above the
24 question whether the referendum was going to succeed or fail,
25 isn't that true to you?

1 A. Not in the case of Lewiston-Auburn which was the example
2 you gave me.

3 Q. Mr. Potholm, when I ask you to assume an example -- you
4 are a doctor of philosophy, aren't you?

5 A. Yes.

6 Q. When I ask you to assume an example, please don't take
7 it that I am confining your answer to that as if it were a
8 reality, do you understand?

9 A. Why not give me the example that is germane to what you
10 want.

11 Q. I am simply trying to elicit from you information as to
12 whether you had attached separate and independent
13 significance to the answers to those questions to the extent
14 that you were willing, if not, interested in sharing the
15 information with the candidates themselves concerning whom
16 you had received that information. Do you understand?

17 A. Well, what I --

18 Q. Do you understand what I am asking?

19 A. What I think you have done is confused a different
20 referendum.

21 Q. Mr. Potholm.

22 A. I thought you were talking about 1980. This testimony
23 clearly relates to Save Maine Yankee I and Save Maine Yankee
24 II. I will look here now, but I don't believe we have asked
25 any questions about the gubernatorial race and the senate

1 race about 1980. I thought you were talking about 1980, and
2 I thought you were talking about Lewiston-Auburn.

3 Q. Are those the answers you gave Mr. Moskowitz, now
4 Commissioner Moskowitz in February of 1983 under oath which
5 you just read?

6 A. That is some of the questions.

7 Q. Your attorney wants you to confer with him.

8 A. That is some of the testimony.

9 Q. He said some of them, is that what you want to say?

10 A. Yes, because we are talking about 1982 and 1980. You
11 were talking about 1980. If you want me to talk about 1980,
12 I will be happy to.

13 Q. I want you to answer this question. It is true, is it
14 not, that then that those answers had significance for you
15 beyond the simple question of success or failure of the
16 referendum in that they told you things about political
17 candidates and their destinies as you viewed it which you
18 were willing and anxious to share with them, that's all I
19 want to know?

20 A. That is absolutely incorrect.

21 Q. Okay. Then tell me why it is incorrect?

22 A. Because when these people came to Save Maine Yankee,
23 when they came to Save Maine Yankee, some of them may or may
24 not have been interested in a particular race. Obviously,
25 when we are talking about Governor Brennan, he was very

1 interested in his race. Whether McConkie, the lobsterman who
2 came to Maine Yankee was the least bit interested in one race
3 or the other, I don't know.

4 Q. Back to page 121. Line 8. Question. And do you recall
5 ever sharing information relating to any of the other
6 political races, senate race or gubernatorial race.

7 A. Sure.

8 Q. Answer. Sure.

9 A. Sure.

10 Q. Doesn't that say it all in terms of whether it was
11 significant to you beyond the referendum itself?

12 A. You're missing the point entirely, Mr. Flaherty. I
13 don't know by design or by accident. Obviously, Joseph
14 Brennan was interested in the gubernatorial race. I wasn't
15 particularly interested in the gubernatorial race except to
16 the extent that the person I was talking to brought that up.

17 Q. Mr. Potholm, the only question I have asked you is
18 whether that gained a significance separately and
19 independently of the referendum question, that's all, not
20 whether you were going to go out and peddle it or anything
21 else. I am just saying did it, and I think you have answered
22 the question.

23 A. Well, I don't know what question of the many you have
24 asked that I have answered.

25 Q. Let's go on. You have attempted to draw a distinction

1 here between 1980 and 1982. And I think you said, you
2 correct me if I am wrong, that whatever was said to Mr.
3 Moskovitz must be confined to a 1980 contest, is that correct?

4 A. No, that is absolutely the reverse of what I said, Mr.
5 Flaherty.

6 Q. What did you say?

7 A. I said that my comments to Mr. Moskovitz combined Save
8 Maine Yankee I in which certain questions were relevant and
9 Save Maine Yankee II in which other questions were relevant.

10 Q. Are you saying that while they may have had that
11 significance developed in 1982 with respect to Save Maine
12 Yankee II, they didn't with respect to Save Maine Yankee I?
13 We all know that Governor Brennan was not running for
14 governor in 1980 if that is what you are trying to tell us.
15 We knew Carter was running for president, right?

16 A. Uh-huh.

17 Q. Now, I don't care whether it was Carter or Brennan. I
18 care whether it was a political candidate because this
19 committee cares. So all I am asking is whoever the political
20 candidate, isn't it fair to say that you did attach
21 significance to those answers, political significance above
22 and beyond the referendum question?

23 A. Those questions are there to compare the changes in one
24 race with the changes in the other race.

25 Q. I understand. Is your answer yes or no?

1 A. Well, I am not sure what your question is.

2 CHAIRMAN BALDACCI: How many times are you going to
3 ask?

4 MR. RICHARDSON: It is about the fourth time.

5 CHAIRMAN BALDACCI: We'll come back to that
6 particular point defining significance. If you will continue
7 with your questions.

8 Q. Now, you have a copy of cut one?

9 A. Yes, I do.

10 Q. Command Research captioned Save Maine Yankee?

11 A. This has a lot of the information you were asking me
12 right here.

13 Q. Excuse me, Dr. Potholm.

14 A. It has got replicas.

15 CHAIRMAN BALDACCI: Would you -- Mr. Flaherty is
16 preparing a question.

17 MR. FLAHERTY: Please instruct the witness.

18 Q. Page 1. Captioned statewide, right?

19 A. Yes.

20 Q. The first question has to do with republicans, democrats
21 and independents, right?

22 A. Right.

23 Q. The second one Anderson, Carter, Reagan, undecided,
24 right?

25 A. Yes.

1 Q. The third one, congressional democrat, congressional
2 republican, undecided. And in that case, it says not
3 applicable, why?

4 A. I don't know. We may have skipped it that week.

5 Q. Okay. Was that because it was limited to one county
6 rather than statewide, and this is a statewide report?

7 A. No, I would think more that if you combine the
8 republican congressional candidate in the first district and
9 the republican candidate in the second district and did the
10 same thing for the democrats, you would end up with nothing.

11 Q. Now, on page 1, it shows John Anderson, I guess it was
12 John Anderson, as having a rating of 9.6 percent or
13 commanding 9.6 percent of the projected vote, and then on
14 page 3 it shows John Anderson as having a 7.5 percent out of
15 Androscoggin, okay? Okay, is that right?

16 A. Yup.

17 Q. What significance did that have?

18 A. John Anderson had not really taken hold in Maine.

19 Q. That is what it meant?

20 A. That is the way I read that.

21 Q. That had nothing to do with Save Maine Yankee's
22 referendum, did it, that John Anderson was not taking hold in
23 Maine?

24 A. Well, we don't have any material here that shows us the
25 Anderson voter versus the close down Maine Yankee voter.

1 That may well have had a lot of significance at the time.

2 Q. Then why wasn't it done if it had significance?

3 A. Because on a daily tracking poll, you certainly can't do
4 everything. That would have been a very esoteric way to find
5 out what was going on.

6 Q. Go to two again, page 1. Mr. Carter at that time was
7 shown statewide as being at a point at 21.8 percent of the
8 vote. Page 3 in Androscoggin he is shown as 33.3 percent.
9 So even I would conclude based on what you just said he is
10 doing better in Maine than Anderson in Maine at that time,
11 right?

12 A. Well, that would depend on what you mean by better.

13 Q. Well, you said Anderson wasn't taking a hold?

14 A. But Anderson may have started at zero and Carter may
15 have started at 40 so you don't know from that one cut.

16 Q. Mr. Reagan, he was at 38 statewide, and Androscoggin he
17 was at 27, what significance did that have to you and
18 particularly what significance to the Maine Yankee referendum
19 effort?

20 A. Well, the way I would read that there was a third of the
21 voters that were undecided.

22 Q. Undecided about Anderson, Carter or Reagan?

23 A. Right.

24 Q. What does that have to do with whether they want an
25 atomic plant up in Wiscasset, Maine?

1 A. Well, because the undecided for the plant is 31 percent.

2 Q. So?

3 A. So that would tend to tell me that those are really
4 undecided.

5 Q. The people who were undecided for Anderson, Carter and
6 Reagan are undecided for the plant for the same reason?

7 A. Well, no. It wouldn't say that. I would say just the
8 third electorate vote was still floating around out there.

9 Q. Why did you pick Anderson, Carter or Reagan?

10 A. Well, it was a statewide race.

11 Q. I see.

12 CHAIRMAN BALDACCI: Excuse me, Mr. Flaherty. I
13 have a question for Mr. Potholm. Not to interrupt your train
14 of thought.

15 EXAMINATION-BY CHAIRMAN BALDACCI OF DR. POTHOLM:

16 Q. These polls were done it says for Save Maine Yankee,
17 these polls that are in here?

18 A. Yes.

19 Q. Would you ask all these -- you have got republican,
20 democrat, Anderson, congressional, know there is, don't know
21 there is, of don't knows when explained on these particular
22 things. So you have four, five, six areas of a poll that
23 would not have a relationship to whether you are in favor of
24 closing Maine Yankee or keeping it open. This would be a
25 Save Maine Yankee poll that you would have all these

1 questions on a poll?

2 A. The page here is useful in telling me whether the people
3 of Maine are going to eventually shut down Maine Yankee or
4 not shut down.

5 Q. This page here, page 3?

6 A. I am sorry. Page 1.

7 Q. Page -- I was just talking about page 3. You had the
8 congressional races in that particular county and you had
9 presidential, republican and democrat and then you had other.
10 Those questions are important to the poll?

11 A. I have no idea where the committee wants to take this
12 whole question of the tracking. And --

13 REPRESENTATIVE KELLEHER: And that is a good point,
14 Mr. Potholm, and if you don't know, why don't you answer the
15 questions and build yourself and you will find out. Ask him
16 a question. He is saying he doesn't know where you are going,
17 Senator. My question is why don't he answer your question
18 and he can continue on. I don't know where you are going,
19 but I am assuming you have a route that you're taking as all
20 of us will have eventually when we start to ask questions.

21 Q. I haven't got a particular end to where I am going. I
22 am asking questions to gain information. I am not saying
23 that I know the answer to these questions, and I am going to
24 ask other questions. I was just concerned by looking at this
25 and it said Save Maine Yankee, and I am saying to myself, it

1 is not one question about whether President Reagan is doing a
2 good job or not. We have a series of questions before we
3 come to Maine Yankee. I was just saying is that necessary in
4 doing a poll for a utility or?

5 A. When I said I wasn't quite sure where the committee was
6 going with the tracking questions, that was not meant in any
7 disrespect. The question I have in my own mind is I don't
8 understand whether anybody understands what we were trying to
9 do here. What we were trying to do is ascertain whether the
10 people of Maine were going to shut down the plant or not.
11 All right. To have those tracking questions is enormously
12 helpful to me.

13 I don't quite understand why -- I guess it is my
14 fault. I hadn't been able to convey to you why that is
15 important. But when you look at different races, and you see
16 over time that Carter has 7 percent and 7 percent and 7
17 percent. And you see that tracking, then you can have more
18 confidence that the results you're getting from Maine Yankee
19 is also going along the same way.

20 In other words, it is a case of the confidence
21 level. The more questions you could answer if you are
22 responding and cross tabulate, the better you're feeling for
23 the universe. In this case, I do put a lot of significance
24 if you look. Number 2, 31.7 percent. Number 3, 35.3.

25 Q. What page are you on?

1 A. I am on page 3. Page 4, 34.5 percent. That tells me
2 that the electorate is still fluid. That whether we are
3 talking about Maine Yankee or those other races. Now is the
4 time, for example, to use your television. Now is your time
5 to do certain things. So the fact that there are two
6 tracking questions on there is enormously helpful to me in
7 making judgments about what the Save Maine Yankee committee
8 ought to do.

9 Q. When you say use television, you mean just by being able
10 to look at this, these survey results, you would be able to
11 see whether you needed to shore up in one county or another
12 county?

13 A. Absolutely. The whole purpose in taking a poll is to do
14 something with it. The whole purpose of generating numbers
15 is to go out and try to change those numbers. The
16 operational significance of that data to me is you have a
17 wide open race. Androscoggin County is a very good place to
18 spend some time and money because the people are truly
19 undecided. If they're undecided about the presidential and
20 congressional and they are undecided about Maine Yankee, you
21 know they're genuinely undecided. So it is enormously
22 helpful to me to look at these numbers.

23 Q. To be able to look at these numbers, right?

24 A. Right.

25 Q. But the significance or the factor -- this was raised

1 earlier would be -- the other two questions would be of
2 significance to somebody that was probably either running for
3 the campaign or running against that particular campaign?
4 They would be of significance, right? You may be interested
5 in Maine Yankee and how that is doing and the accuracy of the
6 other two, but the other two, that information would be of
7 significance to those other people, right?

8 A. Yes.

9 REPRESENTATIVE LIVESAY: I want --

10 CHAIRMAN BALDACCI: You haven't been here regularly
11 so.

12 REPRESENTATIVE LIVESAY: That exempts me.

13 CHAIRMAN BALDACCI: The procedure has been
14 established so that --

15 REPRESENTATIVE LIVESAY: The procedure is the
16 chairman asks the questions.

17 CHAIRMAN BALDACCI: For clarification.

18 REPRESENTATIVE LIVESAY: It didn't seem to me it
19 was clarifying to me.

20 CHAIRMAN BALDACCI: You will have an opportunity,
21 Mr. Livesay, at that time.

22 MR. FLAHERTY: I have a couple of questions and
23 then perhaps it would be an appropriate time for a break if
24 the chairman sees fit.

25 EXAMINATION-BY ATTY. FLAHERTY OF DR. POTHOLM:

1 Q. While we are still on this subject, understanding that
2 those political inquiries may serve a role in your overall
3 polling undertaking but understanding also that they may have
4 significance for the candidates who are involved in that race,
5 my only question to you was don't you agree that is true as
6 the chairman just asked you?

7 A. If President Carter got his hands on page 3 and he
8 didn't have anything else going for him, I guess it might be
9 of some consequence to him.

10 Q. Now, would you kindly return to your sworn testimony to
11 the PUC commission chairman, Mr. Moskovitz of February 9,
12 1983, page 122. I am going to read you a couple of questions
13 and answers, okay? Line 17. Question. The information on
14 the Keegan-Brennan race, was that information shared with
15 anyone outside of the company. Answer. I believe that it
16 was, although it was not by me. Question. What information
17 do you have that leads you to believe that it was. Answer.
18 Well, I was in a meeting with the Save Maine Yankee effort,
19 and at some point there was a question of the gubernatorial
20 match-up. The governor looked to be in good shape. Save
21 Maine Yankee looked in good shape. We would like to have the
22 governor's support. I can remember John Menario mentioned to
23 Skip that he thought it would be a good idea if Skip shared
24 the information with Brennan. End quote. Do you recall that
25 answer?

1 A. Yes.

2 Q. So that it did have enough significance to you and your
3 committee at that time that it ought to be brought to the
4 attention of the governor as I read that in order to persuade
5 him that maybe he ought to come out and help you a little
6 more, is that right?

7 A. Sounds perfectly understandable to me.

8 Q. When you made a written statement to this committee, you
9 said at page 42, and I am quoting at line 8, now when it
10 comes to this relationship between the utilities and the
11 public figures, I believe from a philosophical as well as a
12 practical point that the utilities had every right to utilize
13 the data they collected in order to gain the support from
14 those political people for their position, end quote. That
15 was your statement then?

16 A. Right.

17 Q. That is totally consistent you would agree with me with
18 the efforts to share with Brennan and or Mr. Cragin back in
19 in '81 or '82, right? That is consistent with your
20 philosophy, stated philosophy?

21 A. In other words, to succeed with Maine Yankee, it would
22 be beneficial to have other people supporting Maine Yankee as
23 well.

24 Q. Right. By telling them, hey, we have as much
25 interesting information here on you based upon polling data

1 we have developed, you look good, is that right?

2 A. I think that was Mr. Menario's point, yup.

3 MR. FLAHERTY: Then I just as soon if it is a wish
4 of the chair that we take a brief recess, Mr. Chairman.

5 CHAIRMAN BALDACCI: I agree. Just for how long,
6 Mr. Flaherty? The committee has to be able to go over two or
7 three documents that the staff has prepared. Not any longer
8 than 20 minutes we will be able to finish this up.

9 (A break was taken.)

10 CHAIRMAN BALDACCI: I would just like to point out
11 for the record that Representative Livesay was cut off
12 inadvertently when I wanted to ask questions, and he will be
13 able to ask his questions later on, and I want to apologize
14 to Representative Livesay for any inferences that may have
15 been drawn from my comments. So continuing with the
16 questioning, Mr. Flaherty, do you have some questions you
17 would like to ask.

18 Q. Dr. Potholm, we come to sometime in 1981, and I would
19 like to inquire of you regarding this company called Atlantic
20 Research, okay. Sometime was it in 1981 that Atlantic
21 Research came into existence that you recall?

22 A. Yes.

23 Q. Atlantic Research was a product in part at least of your
24 thinking and recommendations to Central Maine Power Company,
25 is that a fair statement?

1 A. Yes.

2 Q. Okay. And would you tell us what you understood to be
3 the purpose and function of Atlantic Research?

4 A. Well, when we looked at all the money we had spent on
5 polling for Cambridge Reports and Command Research, it struck
6 me that one of the things Central Maine Power ought to do is
7 give some thought to developing their own in-house polling
8 capability so they could do their own polling, save some
9 money and have a more rapid turnaround time. Cambridge
10 Reports, for example, took the better part of six weeks to
11 turn around an attitudinal survey.

12 In the context of the proposed shift from Central
13 Maine Power to something called Maine Industries, it then
14 seemed possible to put a polling operation under Maine
15 Industries which would be a profit center. And we were
16 encouraged in this regard by Chuck Winter who was the media
17 firm who does campaigns all across the country, and he
18 thought that there would be a very good national market for
19 the concept of Atlantic Research. So that would be basically
20 the background of that.

21 Q. Now, were you asked to come on board as an employee or a
22 consultant for Atlantic Research?

23 A. Actually by that -- by that time, I was -- I think in
24 January of 1981 I was on contract on a monthly retainer of
25 \$1,000 a month, and I don't believe I ever came under

1 Atlantic Research. In other words, helping them set up
2 Atlantic Research is one of the many things I was doing.

3 Q. More specifically, what form did that help take setting
4 up Atlantic Research?

5 A. Discussing with their mathematics and computer people
6 the kind of universe we were trying to sample, to discuss
7 with them the kinds of questions we wanted to have answered
8 and to go through the whole set of things that we would
9 require to do polling for Central Maine Power.

10 Q. Can you tell us how Atlantic Research was funded?

11 A. No.

12 Q. You don't know how it was funded?

13 A. No.

14 Q. You don't know how many dollars was spent?

15 A. No.

16 Q. Back in court a few weeks ago, a couple of weeks ago, in
17 your testimony you said, and I am quoting page 64 of the
18 transcript, I was involved in the setting up of Atlantic
19 Research but the people who did the programming and spent
20 tens and tens of thousands of dollars and manhours to do it,
21 they are the ones who set up the data base, not me. End
22 quotes.

23 Now, where did you get the information that tens
24 and tens of thousands of dollars and manhours had been spent
25 to set it up?

1 A. I don't know that I did. It just struck me as a big
2 enterprise.

3 Q. So when you are telling me today that you don't know how
4 it was funded or what it cost, you mean you don't know
5 specifically, but you knew it was a big undertaking?

6 A. I certainly didn't know how much it cost specifically.
7 I don't know that it was anything more than a big undertaking
8 by X or Y standards, no.

9 Q. When you said tens and tens of thousands of dollars, was
10 that just exaggeration? Were you just exaggerating at that
11 time?

12 A. No, I don't know that I was.

13 Q. You think that was a fair estimate on your part?

14 A. It could have been, yup.

15 Q. But you don't know where that money came from?

16 A. No, I don't.

17 Q. You just know from what you saw?

18 A. I know that Central Maine Power made up its mind to have
19 this capability and develop the capability.

20 Q. Now, were you placed -- you may have answered this. If
21 you have, pardon me, because I probably was not listening.
22 You were in some kind of compensation arrangement with
23 Atlantic Research?

24 A. With Central Maine Power.

25 Q. Directly with Central Maine Power?

- 1 A. Yes.
- 2 Q. Not Atlantic Research?
- 3 A. No.
- 4 Q. What was that?
- 5 A. That was \$1,000 a month retainer.
- 6 Q. Was this Command Research again, your company?
- 7 A. Yes.
- 8 Q. And again for how long a period of time did that
- 9 arrangement continue?
- 10 A. Through August of '82.
- 11 Q. Okay. And this came into existence in '81 and did you
- 12 work on the -- did you work on the effort to defeat the
- 13 election of public utilities commissioners?
- 14 A. Yes, I did.
- 15 Q. And in that regard, did you work on behalf of Central
- 16 Maine Power?
- 17 A. No, of the poll that was done for New England Telephone
- 18 in terms of the campaign itself. And then the tracking poll
- 19 for the elect PUC was paid for by CMP.
- 20 Q. So this was in 1981?
- 21 A. Yes.
- 22 Q. Did New England Telephone pay you for that, pay your
- 23 company?
- 24 A. For the first poll, yes.
- 25 Q. How about the tracking?

1 A. No.

2 Q. Who paid you for that?

3 A. Central Maine Power.

4 Q. So what role did the New England Telephone Company poll
5 play ultimately in the -- how did it relate if at all to the
6 tracking?

7 A. Well, the New England Telephone poll was in August, '81,
8 statewide survey which we did, I believe, statewide and we
9 did in each county a breakdown. And pages 5092 to 5122 which
10 I made available to the committee was the executive summary
11 that formed the basis for that campaign.

12 Q. When you say formed the basis, should I understand that
13 it was with that as your groundwork that you were able to
14 develop the information and the extent of information from
15 the tracking?

16 A. No, I don't think they were necessarily related in that
17 sense. The statewide study for New England Telephone was to
18 be given to Roger Maylor and Tony Buxton and the people that
19 were running the elected PUC and the media firm. So this was
20 basically the game plan for the campaign.

21 The tracking was really to test was the campaign
22 working. In other words, the attitudinal in that case meant
23 to the game plan. The game plan went to the people that were
24 implementing, and that tracking was to ascertain whether, in
25 fact, it was working or not.

1 Q. Now, the New England Telephone survey itself, it
2 contained those questions about political candidates in 1981?

3 A. I will have to check. I don't have the questionnaire in
4 front of me. I don't know.

5 Q. Do you have the summary? Was it August that was
6 conducted?

7 A. Yes.

8 Q. Do you have a statement of the results or a summary?

9 A. I just have the game plan which does not contain
10 the --

11 Q. Are you telling us that you don't recall whether it
12 contained any of those kinds of questions?

13 A. I guess I would be surprised if it didn't, but I
14 don't --

15 Q. But certainly based upon your method of operation, it
16 would have more likely contained them?

17 A. Yes.

18 Q. And the subsequent tracking would also have contained
19 the same questions, right?

20 A. I am not sure.

21 Q. Would your answer again be you would be surprised if
22 they did not?

23 A. In 1981, there may not have been any option.

24 Q. For that reason, it might be they weren't in there?

25 A. Yes.

1 Q. Now, you also conducted polls on behalf of so-called
2 nonutility clients in 1981 and pursuant to the order of the
3 Superior Court, you turned over certain summaries with
4 respect to those polls, is that right? I am speaking now
5 about such entities as St. Regis, then later '83 -- well, we
6 have three in '81. We have marginal, a draft questionnaire
7 and we have St. Regis for September 17, '81, St. Regis for
8 September, 24, 1981. Executive summaries. And do you have
9 those?

10 A. I don't know if we do or not.

11 Q. You gave them to us.

12 A. I thought you meant here.

13 MR. RICHARDSON: I don't know whether we have them
14 or not.

15 A. The answer to the question is we turned over to you
16 whatever the judge told us to turn over.

17 Q. You don't have any written summaries for 1982?

18 A. I am sorry. I don't know what you mean by written
19 summaries.

20 Q. I am looking at something that is captioned here --
21 let's take September 24, 1981. It says executive summary and
22 in here it says, question, are you a registered vote. Do you
23 consider yourself to be a democrat, republican, independent.
24 Question 3. There has been a lot of news recently generated
25 or concerning President Reagan's tax and budget cuts, do you

1 approve or disapprove. And question 4, George Mitchell and
2 Dave Emery has indicated they will be running for the U. S.
3 Senate in 1982. As of today, who would you favor, David
4 Emery, George Mitchell or don't know. That was in 1981.
5 That is a written executive summary that you turned over to
6 us pursuant to the court's order. Are you familiar with that
7 one?

8 MR. RICHARDSON: Counsel, I don't think we have a
9 copy of it. Just a moment. Pardon me. Yes, we do. I am
10 sorry.

11 A. Yup.

12 Q. Now, in 1981, on September 17, we have what is called a
13 questionnaire test run for St. Regis, political preference,
14 and these were extracted in both instances from the overall
15 survey commissioned by that company or hospital for you. The
16 third page which, in fact, is page 16 is captioned Mitchell
17 versus Emery, and then it lists the frequency with which
18 there has been adjustment in the percentage of the vote on
19 behalf of Emery, on behalf of Mitchell. Do you have that one?

20 A. Is that number 12?

21 Q. Yes. Handwritten 12.

22 A. Yes.

23 Q. Okay. Now, those two are for '81, and there is another
24 in 1981 captioned draft questionnaire that you gave us, and I
25 really -- this is number 10. Maybe that will help you.

1 A. Yup.

2 Q. That one there again you find September of 1981. Now
3 George Mitchell and David Emery have indicated the same
4 question as before. As of today, who would you favor, and
5 they list David Emery, George Mitchell, don't know; right?

6 A. Uh-huh.

7 Q. So these three writings for want of a better description
8 in my case contain information regarding the kinds of
9 tracking questions which were included in that survey and
10 tracking survey for St. Regis, right?

11 A. Well, in this particular case, I am not sure they were
12 in there for tracking purposes. I think they were in there
13 because the people at St. Regis wanted the answers to those
14 questions.

15 Q. So you are telling us that the people at St. Regis told
16 you they wanted those questions included?

17 A. In other words, the normal tracking question that I
18 would use would be the president's approval and disapproval
19 and the governor for reasons that I am not clear about, they
20 wanted the senatorial race and I guess the budget -- the tax
21 and budget questions were of more interest to them so they
22 would have had some input into that.

23 Q. Now, in response to the court's order, you gave us
24 excerpts from other polls done on behalf of St. Mary's
25 Hospital, a nonregulated -- nonutility client, Sportsman's

1 Alliance, Maine Hospital Association, Carey Medical and
2 another one on Sportsman's Alliance. These again are
3 captioned the executive summaries. You have all those in
4 they are all in 1983.

5 MR. RICHARDSON: Pardon me, counsel. Can you read
6 the numbers in the upper right-hand corner.

7 Q. One?

8 A. I have one.

9 Q. Two, four?

10 A. Yup.

11 Q. Five? Five?

12 A. I haven't got five.

13 Q. Those are what you gave us copies of?

14 A. Five, yup.

15 Q. Six and eight?

16 A. Yup.

17 Q. Now, you did not give us any such writings for 1982 with
18 this group. Is it because you did not do any such surveys
19 for nonutility clients in 1982? I am simply trying to
20 understand.

21 A. I gave you everything that was in my possession.

22 Q. Did you do surveys for nonutility clients in 1982, your
23 company, that is?

24 A. I don't recall.

25 Q. Okay. Fine. If you had, you're telling us that you

1 would have given us the executive summaries?

2 A. I gave you whatever I was told to give you.

3 Q. I just want to be clear for the record we have it all.

4 Now, do I understand that in the case of St. Mary's
5 Hospital which is number one here which the question is asked
6 do you approve or disapprove of the performance of President
7 Ronald Reagan and again in July for St. Mary's Hospital, do
8 you approve or disapprove of the performance of President
9 Ronald Reagan that that was put in there by the request of
10 the hospital?

11 A. We are back to the normal tracking questions I would ask.

12 Q. So you would not -- in this case, this was not requested
13 by the hospital, that is your testimony?

14 A. Well, I am not sure I understand what you say, requested.
15 We always give the client a choice. In this case, they chose
16 to have it in.

17 Q. Okay. I guess my question is probably answered by what
18 you just said. You always inform the client that you want to
19 have their opinion as to whether you should be asking a
20 question about President Reagan in this case?

21 A. Well, we normally offer the tracking question as part of
22 our package. Sometimes clients don't want them. Sometimes
23 they do. Sometimes they ask me to make a case as to why I
24 would include them. So there is certainly a discussion
25 process that goes on.

1 Q. So what I am trying to ascertain here is are you telling
2 us that in the case of St. Mary's Hospital, the surveys that
3 you did on its behalf as reflected in this final
4 questionnaire as is captioned for July, 1983, contained that
5 question about Ronald Reagan because it wanted it to?

6 A. Well, the client always approves the questionnaire.
7 They approve the questionnaire. They approve the question.

8 Q. So you are telling me that the question appeared in what
9 was submitted to the client before the survey was done?

10 A. Draft questionnaire was included, yes.

11 Q. Would have been submitted to the client before the
12 survey was done?

13 A. Yes.

14 Q. And for that reason, you are saying the client approved
15 it?

16 A. Well, yes.

17 Q. I am just --

18 A. Yeah.

19 Q. Okay. Now --

20 MR. RICHARDSON: May I have a moment?

21 Q. Are you through with --

22 A. I had the wrong one in front of me.

23 Q. Number 4, May, 1983, Carey Medical Center executive
24 summary?

25 A. Yes.

1 Q. This one at page 20 and 21 of the excerpts you gave us
2 contains a question do you approve or disapprove of the
3 performance of Ronald Reagan? Do you approve or disapprove
4 of the performance of Joseph Brennan? Do you want us to
5 understand Carey Medical Center knew those questions were in
6 that survey and approved it?

7 A. It is draft questionnaire page 20, yes. So the draft
8 questionnaire was sent up and they said go ahead.

9 Q. The answer is yes?

10 A. Yeah.

11 Q. Okay. The next one. Sportsman's Alliance of Maine.
12 June, 1983. Poll executive summary, numbers 5 and 6. In
13 this is contained a question 3 of page 5 of the excerpt. Do
14 you approve or disapprove of the performance of the president,
15 right, Ronald Reagan. Question 4, do you approve or
16 disapprove of the performance of Joseph Brennan. The same
17 two questions appear in the other one on behalf of
18 Sportsman's Alliance of Maine in June of 1983 as questions 3
19 and 4. Again, do you want us to understand those questions
20 were in there at the request of Sportsman's Alliance of Maine
21 because a draft containing them had been submitted to
22 Sportsman's Alliance of Maine?

23 A. That's right.

24 Q. But were they ever discussed with Sportsman's Alliance
25 of Maine?

1 A. Sure.

2 Q. Okay. Who at Sportsman's Alliance was that discussed
3 with?

4 A. I would imagine Dave Allen would have been the one.

5 Q. Okay. Now, when --

6 A. There was also three or four other people on their board.

7 Q. This document which is captioned executive summary, is
8 this what is returned to the client at the end of the survey?

9 A. Well, sometimes the client wants an executive summary,
10 and sometimes they don't want an executive summary.

11 Q. If one has been prepared as obviously in these cases we
12 are discussing, should I understand that it was requested?

13 A. The executive summary? Yes.

14 Q. And would have been delivered to the --

15 A. Yes.

16 Q. To the client.

17 Finally, Maine Hospital Association. February,
18 1983. Question two. Do you approve or disapprove of
19 the performance of the president, Ronald Reagan. Question
20 three. Do you approve or disapprove of the performance of
21 Governor Joseph Brennan. Again, are those included in the
22 survey because Maine Hospital Association requested them and
23 approved them?

24 A. Well, at the risk of speaking out of turn, I think Maine
25 Hospital Association cannot be regarded as sort of a

1 centralized entity. There were people who wanted some
2 questions on there. There were some people that didn't. A
3 great deal of controversy about the whole poll went and came
4 back. So I don't know whether everybody approved it. But
5 certainly some people did.

6 Q. Should we understand that those who were authorized to
7 approve it or disapprove it had approved it before the survey
8 was done?

9 A. I am trying to think exactly who that would have been.
10 I think Joe Bean certainly would have been one.

11 Q. But the answer -- all I want is the answer, is that true?

12 A. Well, there may have been people in the Maine Hospital
13 Association who didn't want those questions. I remember
14 there was a debate about them.

15 Q. Would you have gone ahead and included them in the
16 survey if those who were authorized to approve them or
17 disapprove them had not approved them?

18 A. I don't believe I would have, no.

19 Q. That is your answer, you would not have?

20 A. I don't believe I would have.

21 Q. In what set of circumstances would you conjure up there
22 for us which would make you feel that you would have even
23 though you don't believe now you would have?

24 A. Well, if I misunderstood what they were saying.

25 Q. Could that have been the case here?

1 A. It is possible.

2 Q. So if I understand your answer to that question, it is
3 conceivable that -- because of a misunderstanding on your
4 part, it is conceivable that you included these in that
5 questionnaire for Maine Hospital Association without its
6 authority?

7 A. I don't recall that situation well enough to know
8 whether that is the case or not. I don't believe it was the
9 case. I believe -- I thought I had authority, but it is
10 certainly conceivable that that organization -- I am sorry,
11 dealing with it is like dealing with a hydra. You never know
12 who is doing what and a lot of second-guessing.

13 CHAIRMAN BALDACCI: Did you say like a hydrant?

14 THE DEPONENT: Hydra, H Y D R A.

15 CHAIRMAN BALDACCI: Mr. Flaherty, do you have some
16 questions?

17 MR. FLAHERTY: I am trying to confer with the staff
18 director for a moment if I may be pardoned for a second here.

19 Q. Did you ever do any surveys for Mr. Mitchell, George
20 Mitchell?

21 A. Pardon me?

22 Q. Did you ever do a political survey for George Mitchell?

23 A. No.

24 Q. You did one for David Emery?

25 A. I don't believe I did.

1 Q. You were certain about Mitchell, but why are you in
2 doubt about Emery?

3 A. Well, because I have never had any occasion to be with
4 George Mitchell, and I have spent a lot of time with Dave
5 Emery. I am trying to think if we ever did a -- I don't
6 believe we did.

7 Q. But you were engaged by David Emery?

8 A. Yes.

9 Q. At one point, right, 1982?

10 A. Yes.

11 Q. And at that time -- was it '80 or '82? I can't remember.

12 A. It would have begun in 1980. Maybe the latter part of
13 1981.

14 Q. And you were asked, were you not, according to your
15 testimony previously at least that you were asked to give him
16 advice and assistance of some kind in evaluating his position?

17 A. In his campaign.

18 Q. In his campaign?

19 A. Uh-huh.

20 Q. And as a part of that, you were given a polling survey
21 with results done by another entity?

22 A. Yes, in other words, part of my -- in the Emery campaign,
23 I was sort of consultant on consultants in the sense that I
24 helped select the national polling firm and the national
25 advertising firm. And when the national study was done, I

1 was sent copies of it or some of the copies of it. Copies of
2 some of the materials.

3 Q. And you took that and in combination with your own
4 accumulated information as I recall your testimony in court,
5 you gave him certain advices or provided certain information
6 to him?

7 A. Well, I looked over the -- see, when a national firm
8 comes into Maine, a lot of times they can make a mistake in
9 their polling. The president's pollster may come into Maine
10 and completely miss Aroostook County or York County. So one
11 of the things I would have done would be to look at the
12 results in terms of the internal consistency within the poll.

13 Q. And you would compare that with the information you had
14 at hand yourself in order to determine the validity of it?

15 A. Not necessarily.

16 Q. In part at least?

17 A. It would be sort of in by brain. I know what Aroostook
18 County should look like.

19 Q. How did that get into your brain?

20 A. Well --

21 Q. Other than through the results of the surveys you
22 conducted on behalf of --

23 A. Reading about other people's surveys and just general
24 accumulated knowledge. I know what York County should look
25 like. I know what Aroostook County should look like. You

1 can put different people in there but.

2 Q. Did you charge Mr. Emery for that work?

3 A. No, that was part of my monthly retainer of the \$1,000 a
4 month.

5 Q. Your monthly retainer from Mr. Emery?

6 A. Yes.

7 Q. I see. So you did charge him for the work, that's all?

8 A. No, I didn't charge him for the work.

9 Q. You were paid, that's all I want to know? You were paid
10 by Mr. Emery for the work you performed at a rate of \$1,000 a
11 month?

12 A. I thought you were making a connection with the survey
13 of last --

14 Q. I am simply asking you whether you were paid by Mr.
15 Emery for the work you did for him?

16 A. I was paid \$1,000 a month.

17 Q. You didn't do work for him for nothing is what you're
18 saying? You were paid for it?

19 A. Yes. Sometimes I got paid.

20 Q. Well, was there ever a time when you were not paid?

21 A. Sure. Before this consulting arrangement, Dave would
22 ask me his advice -- my advice on certain things, sure.

23 Q. Was there ever an unpaid balance that never did get paid?

24 A. I believe --

25 MR. RICHARDSON: Excuse me. The Court in its order

1 of November 8 having done an in-camera inspection declined to
2 permit the committee to review certain documents, and among
3 the request was a request for any documents relating to any
4 unpaid balances, and therefore I must inform Dr. Potholm that
5 the request goes beyond the subject matter and the scope of
6 the committee's investigation. And as his attorney, would
7 advise him that although Mr. Emery may want to talk about it,
8 I don't think he should in view of Mr. Emery's position.

9 CHAIRMAN BALDACCI: Let me understand your advice
10 to Mr. Potholm in answering these questions.

11 MR. RICHARDSON: I advised Dr. Potholm in
12 accordance with Judge Brody's order and the position of
13 congressman Emery and his attorney Don Doyle. Very frankly,
14 Mr. Chairman, Mr. Potholm doesn't care whether this
15 information comes out or not. His client, Mr. Emery does
16 care. He specifically took a position in court on that issue.
17 And to the extent the Court ruled on that dispute, it has
18 ruled Dr. Potholm need not produce those records, and
19 therefore I am instructing him he should not answer the
20 question for that reason.

21 CHAIRMAN BALDACCI: Mr. Potholm, will you answer
22 Mr. Flaherty's question?

23 THE WITNESS: On the advice of counsel, I am not
24 going to answer that question.

25 MR. FLAHERTY: Mr. Chairman, we'll let the question

1 stand. The record will reflect --

2 CHAIRMAN BALDACCI: It is on the record now, I
3 imagine.

4 MR. FLAHERTY: I would just for the record like to
5 point out we don't know that what Mr. Richardson says is
6 correct at all. He is the only one who had access to that
7 information. We did not. There was no specific request for
8 any billings of that nature. There was a request of billings
9 of any kind.

10 MR. RICHARDSON: I don't want to burden this record.
11 But I want -- the committee did request Christian Potholm as
12 president of Command Research, subpoena directed to him
13 individually to produce books, records, accounts and so forth
14 of a general nature and included the category of accounts
15 from political or state office holders of candidates more
16 than 30 days old.

17 Now, we produced all of these materials for
18 in-camera inspection by Judge Brody. Judge Brody directed
19 that certain of these be produced, others not be produced on
20 the grounds of privilege, not germane, so forth and so on.

21 Congressman Emery through his counsel took the
22 position as the committee understands I am sure that none of
23 this information was to be produced. Therefore, while it is
24 not -- my client really frankly, Mr. Chairman, doesn't care,
25 all right. But in view of Congressman Emery's position, I

1 don't think it would be appropriate for him to produce that.

2 CHAIRMAN BALDACCI: I think if I am not -- if you
3 are incorrect, I think the judge did not -- he did not grant
4 the protective order Congressman Emery was seeking. He
5 denied that without prejudice because he did not require Mr.
6 Potholm to produce that particular document.

7 MR. RICHARDSON: Precisely so.

8 CHAIRMAN BALDACCI: He did not require him for
9 whatever reasons.

10 MR. RICHARDSON: He did not address the question of
11 whether or not the committee could compel Congressman Emery
12 to produce them.

13 CHAIRMAN BALDACCI: That is a separate issue for
14 that particular issue. Mr. Flaherty was just asking a
15 general question in that regard. And as you stated and
16 conferred with counsel, so be it. Mr. Flaherty, do you have
17 some other questions.

18 MR. FLAHERTY: I may have a couple more questions.

19 Q. Mr. Potholm, the other day we had a witness here by the
20 name of Marjorie Foss who testified to the committee in open
21 hearing that after the appearance of an article in the
22 Kennebec Journal, September, 1982 -- '83, I am sorry, you and
23 Mr. Leason approached her and told her to, quote, release,
24 end quotes, a tape that contained the raw data of the March,
25 1982, survey. And she under oath stated to Mr. Moskovitz in

1 her deposition of April 5, 1983 -- do you have that?

2 MR. RICHARDSON: No. This is the deposition of
3 this witness, of this Miss Foss?

4 MR. FLAHERTY: Yes.

5 Q. Miss Foss is the computer programmer under Mr. Leason.
6 I want to just quote this to you because I would not want
7 this record to conclude without giving you the opportunity to
8 state your position.

9 Late in the afternoon of September 24, Mr. Leason
10 and Mr. Potholm spoke to me and said they discussed not
11 keeping the tapes around anymore. There was really no reason
12 to keep the tapes. That it was Mr. Potholm's opinion that
13 industry standard if you will was not to keep tapes of that
14 nature with old survey material. That it wasn't necessary.
15 So they thought they would want the tapes deleted. That was
16 on Friday. They would get back to me on Monday after they
17 had verified this with Mr. Thurlow.

18 Question. When you had this discussion with Mr.
19 Potholm and Mr. Leason, were they both there at the same time.
20 Answer. Yes. Was this by phone or in person. It was in
21 person. It was approximately 3:00 o'clock, which I remember
22 because I was leaving work early.

23 Now, in her deposition testimony or rather in her
24 testimony at this -- before this committee, she basically
25 stated the same thing, said that she had reported it. At

1 page 42 -- I mean 62 -- I am sorry. That is not it. My
2 friend, Mr. Asch gave me the wrong reference.

3 In substance, she said that you and Mr. Leason had
4 directed her outside the premises of Central Maine Power
5 Company to release that tape, and she said release meant
6 erase it. And she reported that to Mr. Lenfest and
7 subsequently in accordance with that investigation, she did,
8 in fact, place it in the position for erasure.

9 Now, in your testimony to Mr. Potholm of February,
10 1982 -- Mr. Moskovitz of February of 1983 at page 137, the
11 bottom of page 136, the question was line 25 and I quote, or
12 22, do you recall talking either in person or by telephone
13 with Marjorie Foss on September 24. Answer. About what
14 subject. Question. About Atlantic Research tape retention
15 policy. Answer. I do remember a conversation which I
16 believe was in person leaving the building in which I think
17 Marjorie Foss was there and Bob Leason said oh, by the way,
18 Marge wants to know do you have any further need for the
19 material on the July survey. And I said no, and said we
20 don't need it or I don't need it or something like that, and
21 I got in the car and went home. End quotes.

22 Now, at page 114 of the record before Judge
23 Brody -- I am sorry, before the committee a week ago, and I
24 think you have that, Mr. Richardson --

25 MR. RICHARDSON: 114, counsel?

1 MR. FLAHERTY: Yes.

2 Q. Line 14, page 114. This is Miss Foss.

3 MR. RICHARDSON: Mr. Chairman, the record should
4 indicate that neither Mr. Potholm nor I have a record of any
5 testimony of any witness before this committee other than of
6 his own.

7 CHAIRMAN BALDACCI: So noted.

8 MR. FLAHERTY: Let the record reflect that we have
9 now provided a transcript to Mr. Richardson and Mr. Potholm.

10 Q. Directing your attention to page 114, line 14. I am
11 quoting if I understand your testimony, this is Miss Foss
12 testifying. The very next time you had anything to do with
13 Mr. Leason was on the occasion on the next day when you were
14 approached by Dr. Potholm and Mr. Leason. Answer. That is
15 what I remember, yes. Question. At that time Dr. Potholm
16 told you we think you should release that tape. Answer.
17 Well, I remember Mr. Leason telling me that I should release
18 the tapes. Mr. Potholm was clearly there and I totally
19 agreed. I remember Mr. Leason saying he and Potholm had
20 discussed it. He said he and Potholm had discussed it, and
21 he said that statement in Potholm's presence. Answer. Yes.
22 Yes, while they were telling you to release the tapes.
23 Answer. Well, I don't now want to say that is my
24 recollection. End of quote.

25 Now, there is a series of testimonial answers given

1 by Miss Foss in which she says you in company with Mr. Leason
2 told her to release the tape which she says was understood in
3 the industry to erase it or let it become erased. And you
4 have had some discussion of that with Mr. Moskovitz as I have
5 indicated. That's all I have. Did you ever tell her to
6 release that tape?

7 A. No, my recollection is -- first of all, you're confusing
8 the March tape and the July tape. Those are two different
9 tapes. But Mr. Leason asked me if I had any further need for
10 the July material and I said no. But what they did with it
11 or why they did with it, I have no way of knowing.

12 Q. Would that have been unusual?

13 A. For him to say are you through with the material?

14 Q. Would it have been unusual at that point in time, the
15 day after this problem had developed with the PUC for you or
16 Mr. Leason or anyone to go up and say, well, why don't you
17 release that tape, we don't need it anymore?

18 A. Well, first of all, my recollection is that this
19 conversation took place outside the building. You're right.
20 In the parking lot. I was walking to my car, and Bob Leason
21 said, oh, by the way, are you done with the July thing, and I
22 said I don't need it anymore.

23 Q. If Miss Foss testified that you and he tracked her down
24 out there, you would disagree with that?

25 A. Certainly wouldn't be my recollection.

1 Q. You disagree with it?

2 A. It wouldn't be my recollection.

3 Q. Are you saying you don't recall whether you tracked her
4 down or not?

5 A. My recollection is I came out of the building, and I was
6 walking towards my car and she was standing there.

7 Q. And we should understand by that that you are saying you
8 did not track her down? You were just walking to your car?

9 A. That's what I remember.

10 Q. Okay. But I am asking you again would that have been an
11 unusual request or suggestion in your mind for someone to
12 come along at that point and say destroy that or not
13 destroy -- excuse me, release or erase that tape?

14 A. That isn't the question I remembered him asking. The
15 question he asked me as I remember was are you through with
16 the July tape.

17 Q. Who is he, Mr. Leason?

18 A. Mr. Leason. And I would have said yes or no depending
19 whether I was through with it or not.

20 That brings us to another point that you raised in
21 the court which again I don't think was clear, and that is
22 the extent to which these surveys were done. And they had a
23 half life of X number of weeks, and we went on to a new one.
24 I was never involved in any settings of policy for either the
25 retention of the tapes or the doing away with the tapes. I

1 was asked on several occasions what my policy was, and my
2 policy has always been not to maintain the tapes.

3 Q. Not to what?

4 A. Not to maintain the tapes.

5 Q. So that the general practice according to you was not to
6 maintain the tapes?

7 A. My general policy was not to maintain the tapes.

8 Q. Now, do you have your testimony before Mr. Moskowitz
9 again in front of you?

10 A. Uh-huh.

11 Q. Okay. Page 107. Down at the bottom, page 22. Question.
12 Has your counsel reminded you of anything. Answer. Well,
13 just that there was a general practice. I was aware of the
14 general practice. The general practice did not consist of
15 destroying them. Question. And the general practice -- your
16 understanding was the general practice was not to destroy
17 them. Answer. Yes. Then you went on. And you don't go on
18 to qualify the yes the way I read it. End quotes. How does
19 that square with what you just told me?

20 A. I think you're talking about one of the many dimensions
21 of retention. There were computer printouts which were
22 floating all around and that were in X or Y -- I mean Ad
23 Media had a copy. I think they were floating all around.
24 Now, what was on the computer and the tapes, that is
25 something that I never physically touched the computer. I

1 have no idea what it even looks like or what went on there.
2 But when Leason asked me what my policy is, my policy is very
3 simple. It has always been we do not maintain the tapes.

4 Q. So when you told Mr. Moskovitz that there was a general
5 practice of retaining them and not destroying them of which
6 you were aware --

7 MR. FLAHERTY: Mr. Richardson, if you want to talk
8 to him, go ahead. I can't ask him the question while you are
9 talking to him to be sure he understands it.

10 MR. RICHARDSON: Go ahead. State your question.

11 (The reporter read the requested testimony.)

12 Q. You wanted us to understand you were not talking about
13 tapes?

14 A. Well, I am not sure. When I look here what they were
15 talking about. There were tapes. There were computer printouts.
16 There were microfiche. My policy with regard to retention of
17 tapes is that we do not keep tapes. I was asked that by Mr.
18 Leason. I was not asked that by Mr. Scott.

19 Q. In that very same deposition to Mr. Moskovitz, you did
20 indicate, did you not, that you had become aware of the
21 problem that had developed before the PUC involving the
22 statement of the tapes were destroyed, the information was
23 destroyed and that you did not in any way discuss that or
24 bring it to the attention of anyone that this tape existed,
25 do you recall telling him that?

1 A. Well, now again, you are mixing up tapes and printouts.
2 I don't know if anybody up at PUC did do away with tapes or
3 printouts. Certainly nobody did away with my printout. No
4 one did away with Ad Media printouts so. I have no knowledge
5 that things were destroyed up there. To this day, I don't
6 know whether they were or they weren't.

7 Q. Do you want to go to page 104. Line 8. Quote. Question.
8 Did you volunteer to Mr. Scott that you had a copy of the
9 survey. Answer. No. Right?

10 A. Did you volunteer to Mr. Scott that you had a copy of
11 the survey? No.

12 Q. You did know that it existed when you had whatever kind
13 of discussion you had with Miss Foss in the parking lot,
14 isn't that true?

15 A. I am trying very hard to understand your question. But
16 we are talking about different things. You mix up tapes and
17 printouts. I had a printout. I didn't have a tape. CMP had
18 tapes and microfiche and copies. Other people had copies.

19 Q. Dr. Potholm, I wanted to give you an opportunity to
20 explain it. The committee has this transcript. We want you
21 to have an opportunity to clarify your position that we got.
22 If you feel it should stay the way it is, that is perfectly
23 fine with me.

24 A. I can't see anything that needs to be changed.

25 MR. FLAHERTY: I have no further questions.

1 CHAIRMAN BALDACCI: Mr. Linnell.

2 MR. LINNELL: I prefer to wait until all of you
3 have your say hopefully to shorten it.

4 CHAIRMAN BALDACCI: Are there any members of the
5 committee that would like to ask any questions at this time?

6 EXAMINATION-BY REPRESENTATIVE CROWLEY OF DR. POTHOLM:

7 Q. I would like to ask a question, Mr. Potholm, if I could.
8 With the volumes of papers and thousands of telephone calls
9 and the trackings, et cetera, et cetera, that were done by
10 Command Research, did you at any time use the Bowdoin College
11 computers for this work? Any of this work?

12 A. For Save Maine Yankee?

13 Q. For any of this work that we are talking about.

14 A. Well, again, I personally don't use the computer. I
15 hire somebody to do the computer work. Where those people go
16 for the computer thing is really their business. I am under
17 the impression that in the course of some of the Command
18 Research activities, one of the firms that I used did use the
19 Bowdoin computer on one or two occasions. I don't know when
20 that was, and I am not positive as to which year or which
21 study. But I don't physically have a computer. I don't
22 physically store anything on a computer. I prefer to deal
23 with people who then go out and use whatever computer
24 facilities they have. So in a sense, I am a consumer of this
25 polling data rather than a producer in the sense of the

1 computer and the printout and so forth.

2 Q. Okay. Then who would have entered this on the Bowdoin
3 computer? What person?

4 A. A Dr. Will Hughes in the physics department.

5 Q. Did he do this by himself or with students?

6 A. I think he did it himself.

7 Q. Were students ever used?

8 A. I don't know. I doubt it.

9 MR. CROWLEY: Thank you.

10 CHAIRMAN BALDACCI: Are there there any other
11 questions? I have a couple of questions.

12 EXAMINATION-BY CHAIRMAN BALDACCI OF DR. POTHOLM:

13 Q. You were quoted in the questioning from Commissioner
14 Moskovitz where he asked you in reference to the surveys that
15 you were doing where he said to you do you sell the surveys.
16 I don't have a copy of the page. But this was in the
17 deposition. Maybe you can recollect that.

18 A. I haven't looked at this in a long time.

19 Q. Your comment was no, not to sell the service, not the
20 particular surveys that you were doing.

21 A. Do you have any idea where that is?

22 Q. No, I don't. It is notes I had taken off that.

23 MR. FLAHERTY: What are you talking about?

24 CHAIRMAN BALDACCI: It had to do in a PUC hearing
25 he was asked a question by Commissioner Moskovitz about the

1 service he was providing. He came off with the comments
2 being able to share information, the results of the survey he
3 effected to Atlantic Research.

4 MR. ASCH: Page 121.

5 Q. You were quoted, sure. Lots of specific questions. I
6 certainly was entitled to use whatever example I wanted to
7 try to sell this service to other clients.

8 A. Yes, okay. The best example of that would be Atlantic
9 Research is starting up. We go around to prospective clients.
10 In the case I was thinking of in that instance was Harvey
11 DeVaney I believe his name was or Harvey DeVane, the man of
12 business regulation. And John Menario brought me over there
13 and said, gee, we have this great new thing. It is called
14 Atlantic Research. It can do all these different things.
15 Menario and I discussed some of the things we had done and
16 some of the questions that we were able to answer. So that
17 would be a situation that I do recall where we were talking
18 about selling the service and what were the things we could
19 do with the various dimensions of it.

20 Q. Would you use -- would you use polls that you had done
21 by Atlantic Research to give an example to these people about
22 what their capabilities of it were?

23 A. Yes, or in this case, the fact that we had already done
24 studies for CMP. In other words, Atlantic Research had done
25 studies for CMP. We can do this or we can do that. Atlantic

1 Research never got off the ground. That is another thing
2 that sometimes gets lost in the record. To my knowledge,
3 there was only one non-CMP Save Maine Yankee client which
4 Atlantic Research got. But we certainly attempted to sell it
5 to a number of other clients.

6 Q. But you would use polls that were done by Atlantic
7 Research of CMP or Save Maine Yankee or whatever else, you
8 would use those as examples of the service that Atlantic
9 Research would be able to provide to these other people?

10 A. Well, my --

11 Q. That were you trying to --

12 A. My favorite example was the one that came from Save
13 Maine Yankee, and that was that after the first referenda, we
14 discovered that 17 percent, 17 percent of the people who
15 voted yes did not want to shut down the plant. And we have
16 had very interesting cross tabulations on that. And it
17 struck me that was an extremely interesting polling artifact
18 if you will. That here was 17 percent of the people that
19 voted to shut the thing down that didn't want to shut it down.

20 So here was the so-called message sender vote where
21 there were people that were actually voting one way to send
22 the message about something else. So I use that as an
23 example of what a cross tabulation company shows you. Here
24 is a person that voted no, but -- he voted yes but really
25 meant no and it was -- that is the kind of interesting

1 example.

2 Q. So if I was Bath Iron Works or if I was somebody that
3 you were trying to sell this particular service to, those
4 would be some of the things you would show me that you could
5 do over at Atlantic Research?

6 A. Not show you. We would give you that example or
7 something we found out. It was kind of interesting. We
8 wouldn't have found it out if we hadn't used this technique
9 or that technique. Not so much it was 17 percent or 15
10 percent, but the idea that we could do with Atlantic Research,
11 we could do some interesting things.

12 Q. Now, at the time that you are trying to sell this
13 service for Atlantic Research, okay, you're also running
14 Command Research or you are not running it?

15 A. Well, no, Command Research is there.

16 Q. So Command Research is operating along?

17 A. Right.

18 Q. And at the same time you're setting up Atlantic Research
19 to go out and build it up as a business for whatever reasons,
20 but you are trying to do that and show examples of what it is
21 doing, right?

22 A. Well, you put your finger on a very important dilemma
23 which I did not realize when I began that. And, namely, that
24 by creating Atlantic Research I, in effect, had created
25 competition of a very direct and serious nature to Command

1 Research. Yes. There was a situation in which if Atlantic
2 had gotten off the ground, it would have probably been a
3 tremendous competitor because it was here in Maine. It was
4 centrally located. It had a lot of advantage. And that is a
5 dilemma. That was a dilemma.

6 Q. So you actually found yourself competing with a utility?

7 A. I certainly was -- I certainly found myself in a
8 situation where I knew if Atlantic Research hadn't gotten
9 that, I could have gotten it and you mentioned the Bath Iron
10 Works. That was a clear case of what I said to my -- you
11 know, what have I done. I put a take-out restaurant right
12 next to my family restaurant and I am competing with myself.

13 Q. Yeah. So that is the difficulty in saying that you are
14 an individual. You're aware of all this information that you
15 are going over all the time, and we have all done the same
16 thing. I mean you use that when you are sitting down doing
17 something. It is that separation which we are all having a
18 difficulty because in looking at the utilities and their
19 affiliates and consultants trying to draw the line on
20 political activities in the future.

21 A. I think you are absolutely right, Senator. I think that
22 as I have thought about this whole process, I think, you know,
23 that is a very -- how do you compartmentalize knowledge. And
24 what is giving something to Joe Brennan so that he will help
25 you, you know. Those are blurred lines. I accept that.

1 Q. Okay. One other. Did you ever meet or build up an
2 acquaintance with Annette Stevens? Do you know Annette
3 Stevens?

4 A. I know who she is.

5 Q. Maine Voice of Energy?

6 A. Oh, I am sorry. I was thinking of Annette Anderson.

7 Q. Maine Voice of Energy, Annette Stevens?

8 A. No.

9 CHAIRMAN BALDACCI: Do you have that file, Mr. Asch,
10 on Maine Voice of Energy?

11 MR. ASCH: Not right now.

12 MR. RICHARDSON: I asked my client is this the
13 enemy's list lady.

14 A. I have to tell you Chuck Winter's first law on ballot
15 measure campaign is your friends cause you more trouble than
16 your enemies. Okay. And, you know, I don't care what ballot
17 measure campaign you are involved in, that is invariably true.
18 I never met the woman. But I do know when it came to Save
19 Maine Yankee, we spent an inordinate amount of time trying to
20 keep her from doing things that we didn't want her to do.
21 Whether it was running advertisement, whether it was speaking
22 publically, you know. When you go into the airport and those
23 people jump out at you, they are either the moonies or those
24 people that are trying to sell hydrogen bombs.

25 Q. I think that in all fairness to you, there are some

1 documentation that I reviewed of correspondence to Mr. Temple
2 at Central Maine Power Company indicating a concern about
3 whether Miss Stevens or Mrs. Stevens could get into Brunswick
4 Naval Air Station for a rally. Do you remember that?

5 A. There were so many things that came up from that
6 location that it is hard to remember them all.

7 Q. But you don't --

8 A. I don't believe I ever saw the enemy's list.

9 Q. I am not saying. I didn't say the enemy's list. All I
10 asked was do you know Annette Stevens, Maine Voice of Energy?

11 A. I know who she is. I don't know her personally.

12 Q. Have you ever had correspondence with Mr. Temple about
13 whether Miss Stevens could get into a particular location or
14 not at Brunswick Naval Air Station?

15 A. I don't know. I don't remember.

16 Q. Did you ever guide the efforts of Maine Voice of Energy?

17 A. Guide the efforts.

18 Q. In terms of where to be for a campaign event or a rally
19 or pass out flyers or to make sure that there is a presence
20 of the other side?

21 A. I may have sicked her on the Maine Arts Festival. I am
22 sorry.

23 Q. You are a hired political strategist for Central Maine
24 Power Company and Save Maine Yankee, and I am just --

25 A. There is something called a Maine Arts Festival which

1 disrupts our lives in Brunswick for five or six days out of
2 the year.

3 Q. I didn't know it was a disruption.

4 A. I really don't know.

5 CHAIRMAN BALDACCI: I think in this regard, I think
6 that Mr. Potholm ought to be provided with copies of the
7 correspondence from Mr. Temple in regards to the Maine Voice
8 of Energy so that we would at a later time if it is
9 appropriate be able to get his written responses rather than
10 being able to appear here if it is an inconvenience.

11 MR. RICHARDSON: Well, Mr. Chairman, he will be
12 pleased to make a written response. As I understand his
13 testimony, he does not recall authoring or dealing with such
14 letters, but I am sure if he saw them.

15 CHAIRMAN BALDACCI: Rather than have them being
16 entered into the record and make known in the light of which
17 he wanted us to understand them, I wanted to give him an
18 opportunity to look them over.

19 A. I would like to see them. I didn't mean to be flip, but
20 the whole question of the Maine Arts Festival came up.

21 Q. When Miss Foss was here in front of the committee giving
22 testimony, I wrote down comments that Miss Foss had made to
23 me, to the committee. She said that she got an impression
24 that both you and Mr. Leason were looking for her because of
25 an ongoing concern about what to do with the tapes at Central

1 Maine Power Company because she knew when she read the
2 Kennebec Journal that Mr. Scott was not telling the entire
3 story or not aware there was other information around which
4 he was saying there isn't.

5 She got the impression that you and Mr. Leason came
6 out and got her in unison. Basically Mr. Leason through
7 conferring with you is -- what he told you in front of you,
8 you said to release those tapes because you don't need them,
9 right? That is what you said here today, you didn't need
10 them, right?

11 A. That I had no reason to look at the July survey. That's
12 all together different from the tapes or the March survey
13 which was the focus of the whole Scott investigation.

14 Q. You were aware of what was going on with Mr. Scott in
15 front of the Public Utilities Commission when it happened the
16 next day?

17 A. I think there was a --

18 MR. RICHARDSON: Mr. Chairman, I have no objection
19 to the chair asking these questions. I would ask Mr. Potholm
20 to go ahead and give the answer concerning his involvement
21 with the Scott affair if that is what you are asking him.
22 Whether he was involved, what did he know about the tapes and
23 so forth or the records. He has previously testified to this
24 at deposition at some considerable length. And I would hope
25 that the chair would let him go ahead.

1 If the question is what did he do, what did he know,
2 what did he think of what Scott did and so forth and so on, I
3 would suggest if you are going to go into it, it has already
4 been through in the deposition. If it is going to be part of
5 the record in this proceeding, I would ask you to let him
6 proceed with it.

7 CHAIRMAN BALDACCI: I thought you knew what my
8 question was.

9 MR. FLAHERTY: Have you concluded your examination?

10 CHAIRMAN BALDACCI: I was going to ask for a
11 response.

12 MR. FLAHERTY: Is there a pending question?

13 CHAIRMAN BALDACCI: I think Mr. Richardson has got
14 it so there is a question that Mr. Potholm has understood.

15 MR. RICHARDSON: I am sorry.

16 (The reporter read the requested testimony.)

17 A. I am not sure what it is that I am aware of.

18 Q. You were -- did you read the articles in the newspaper
19 about the situation with Mr. Scott in front of the PUC in
20 terms of not telling the truth?

21 A. Yes, I did.

22 Q. So that you would have known when you were with Mr.
23 Leason in the parking lot talking to Miss Foss about whether
24 to release the tapes or not?

25 A. Well, I am not exactly sure when this meeting with

1 Marjorie Foss was in relationship to the first time I learned
2 about the so-called Scott affair. But when I first learned
3 about the Scott affair, I believe was the day of the Save
4 Maine Yankee meeting when it first became public knowledge.
5 We were all assured that whatever had gone on was not as it
6 was represented in the papers, and there was some sort of
7 in-house investigation and the truth was going to come out.
8 So it was very much a situation in flux.

9 REPRESENTATIVE KELLEHER: Would you mind yielding
10 for a moment.

11 EXAMINATION-BY REPRESENTATIVE KELLEHER OF DR. POTHOLM:

12 Q. This isn't in regards to any series of questions that I
13 have later on. But if I remember correctly when Mrs. Foss or
14 Miss Foss was up before the committee, her testimony was that
15 she read in the Kennebec Journal that a series of questions
16 was asked of Mr. Scott regarding some polling data and
17 information. And Mr. Scott, I believe, answered he either
18 didn't know it was available or it had been gone.

19 Her reaction to that if I recollect it correctly
20 was I was very surprised to read that because I knew we had
21 the information. I told my superior. Now who the superior
22 was, I am not sure. But I know Mr. Leason or Gleason, Leason,
23 whatever it is, became involved. She said did you read in
24 the paper today, et cetera, and he said yes. And she says,
25 you know, we have that information. He then said to her, Mr.

1 Leason, don't worry about it. I will get back to you later.

2 Now, I haven't got the transcript in front of me.
3 I am giving it to you as my recollection. I believe she said
4 the following day, but I don't want to stand on it.

5 Assuming that was it, she was contacted later on
6 the next day in regards to what she thought was a big error
7 on Mr. Scott's part, and that they had the information. And
8 she really was confused at that point in what she should do
9 with it other than report it to her superiors.

10 And at that point the next time there was contact
11 made with her you were present, Mr. Potholm. And I don't
12 know whether it was under the apple tree out at CMP, she was
13 eating lunch or in the parking lot. She was told then by Mr.
14 Leason as I understand -- remember -- recollect her testimony
15 was the tape was not important, to get rid of it. I asked
16 did you think that was kind of strange because of the fact
17 that it had some importance the day before. She said yes, I
18 did. But, nevertheless, I was told by Mr. Leason and I
19 assume with the -- and I am only saying what she assumed --
20 assumed with your presence there that was the right thing to
21 do.

22 The question later was asked would you have done it
23 exactly that way again, and she said no because counsel has
24 now of the company have told me what my rights are, and I
25 wasn't getting -- she was uncomfortable when she told us that

1 day, Chris, and I think she is probably uncomfortable still.

2 The point to me was -- I didn't bother to follow
3 the Scott hearings at all if you want to know the truth. But
4 it seemed to me -- it just seemed to me that if a question
5 was asked by some authoritative panel of court in regards to
6 some information, and the answer was that it wasn't available
7 or I don't think we had it and, in fact, the information was
8 available that that instruction to do away with it because it
9 could have -- it might have cleared up some particular point
10 in that proceeding seemed pretty bizarre to me.

11 A. Well, I certainly don't want you to have the impression
12 that I gave anybody at CMP any orders to do anything with
13 tapes or their copies or anything else.

14 Q. Mr. Leason told us that he couldn't have got off the
15 ground without your input in regards to creating Atlantic
16 Research. That he from A to Z knew nothing about polling or
17 putting it together. And, in fact, you were the brains
18 behind putting it together, and you are the recognizable
19 person with that capability of one conducting, running polls
20 and I can understand that.

21 My impression from the lady that testified was that
22 Leason wouldn't have blown his nose unless he asked you to do
23 it. My impression before that lady was that it was -- it
24 seemed irregular to do away with that information in a short
25 period of time. I am only giving you my impressions.

1 If my impressions are somewhat correct and
2 respecting you as I do as a learned individual, that if, in
3 fact, some kind of an investigating panel or court was asking
4 another person for pertinent information as they saw it to be,
5 and you were present knowing what was on that tape and you
6 consented to do it, it seems to me to be a pretty irresponsible
7 thing to do. And I am only assuming you knew one, what was
8 being asked of Mr. Scott; and two, he didn't answer it
9 correctly, honestly, but he didn't answer it correctly; and
10 three, that information was available and you were present
11 when someone consented to the fact to do away with it.

12 A. I just --

13 Q. That is just assumption. Correct me please.

14 A. I would like to correct you, and I think I have tried to
15 correct the whole misperception for quite some time now.

16 Q. That is a perception that I have.

17 A. Do you want me to correct it?

18 Q. Absolutely.

19 A. First of all, until somebody mentioned it here today, I
20 was not under the impression that the March tape which is the
21 Scott thing, that that had ever been dumped, okay. The
22 conversation that I had related specifically to was I
23 personally finished with the July study. That was all
24 together different and had nothing to do with the March study.
25 With regard to the whole investigation, the -- I don't get

1 the Kennebec Journal so I didn't see it that day but at the
2 Save Maine Yankee meeting, everybody asked Mr. Thurlow what
3 is going on.

4 And he made it very clear that the newspaper
5 accounts were not necessarily correct. That there was some
6 in-house investigation was going on and under no
7 circumstances did he give the impression that things had been
8 destroyed, whether they were tapes, things had been destroyed,
9 whether they were printouts. I knew there were many aspects
10 be it the computer printout, be it the tapes, be it computer
11 printout in other people's hands. Under no circumstances was
12 I under the impression things were being destroyed.

13 Q. Can I pick you up on that one. In regards to the March
14 tape, you said that Mr. Leason asked you did you have any
15 further use for it and your answer was no?

16 A. The July tape as opposed to the March -- the July study
17 as opposed to the March study.

18 Q. Okay. All right. Let's go to the March study. Did the
19 March study have any importance to you at that point?

20 A. No.

21 Q. Okay. Did Mr. Leason ask you do you think it is wise or
22 prudent to do away with the March study?

23 A. No.

24 Q. Okay. The July study. Did it have any importance to
25 you at that point?

1 A. No.

2 Q. All right. Did Mr. Leason ask you do you think it is
3 wise for us to do away with the July study?

4 A. No, he did not.

5 Q. So the assumption of Mrs. Foss you are saying in regards
6 to doing away with the information that was asked of Mr.
7 Scott that was, in fact, physically present, you had no input
8 whatsoever in terms of telling him to and Mr. Leason never
9 asked you at all in regards to either one of those tapes
10 whether they should be erased or not?

11 A. No. Now he called me up subsequently as Mr. Scott
12 called me up subsequently to ask me what my retention policy
13 was. All right. The question with regard to Marjorie Foss
14 as I remember it was I personally through with the July study.
15 And I was. And I never until this moment have any reason to
16 suppose that everything was being done away with at CMP.

17 Q. Was there any other copies of the March or July studies?
18 Did anyone ever have them?

19 A. Yes. They were floating all around.

20 Q. But the principal, the parent that it came off from?

21 A. If that is destroyed, it is news to me as of today. I
22 always assumed that there were backup systems, and there were
23 forward systems and there was plenty of material. I to this
24 day don't understand what Mr. Scott meant. I don't understand
25 what he did, and I don't understand what was suppose to be

1 taking place up there.

2 CHAIRMAN BALDACCI: Excuse me for just a second.

3 REPRESENTATIVE KELLEHER: I was trying to pick up a
4 point to get some understanding of myself. It is your
5 answers and your questions. Please proceed.

6 EXAMINATION-BY CHAIRMAN BALDACCI OF DR. POTHOLM:

7 Q. You're saying there are two polls, March and July,
8 correct, that you were confused as to which one was being
9 discussed down at the PUC hearing in the Scott affair,
10 correct?

11 A. Well, in my own mind, I am not sure whether it was July
12 or August, but it was the summer poll that we had done in '82.

13 Q. Okay. You mentioned the March poll?

14 A. That is the so-called Scott poll that was about
15 weatherization. That is where this whole thing started.

16 Q. There were no similarities in the questions that were
17 asked of the March poll or the July, August poll?

18 A. I don't remember. I imagine there would be tracking
19 questions and there would be --

20 A. The March poll was a big hodgepodge of weatherization
21 and this, that and the other thing. I never understood that
22 whole process.

23 Q. The July poll -- well, I will yield to counsel for --
24 but I do have one other question. I will yield to counsel at
25 this time.

1 EXAMINATION-BY ATTY. FLAHERTY OF DR. POTHOLM:

2 Q. I have only a couple of questions.

3 Dr. Potholm, you mentioned the July, '81, survey.
4 There are a couple of things I would like to clear up if I
5 may in that survey.

6 A. I was referring to the '82.

7 Q. I am now talking about July of '81, Command Research. I
8 direct your attention to question 4 on that survey.

9 A. Yup.

10 Q. Question 4 on the survey reads currently George Mitchell
11 and David Emery have indicated they are running for the
12 senate in 1982. As of now would you favor George Mitchell or
13 David Emery or undecided, right?

14 A. Uh-huh.

15 Q. Now, page 113 of the transcript of the proceeding before
16 the court, you were asked by me about your ability to collate
17 information that you developed with that of the Terrance poll
18 that was done by Mr. Emery, and I gave you an example. If
19 your information was Senator Mitchell was doing a nose dive
20 at that time and Mr. Emery's information was the opposite,
21 you would have communicated to him. Your answer was not
22 really because I never did any questions about Mitchell. End
23 quote. Now you want to change that? You did question
24 about --

25 A. When I said that, I certainly wasn't aware of that

1 question.

2 Q. It is a fact that you had, in fact, done questions about
3 Mitchell?

4 A. Well, I guess we have, yeah.

5 Q. But you said under oath in court that you didn't?

6 A. Well, I didn't believe that I had.

7 Q. One other question. At the top of that Command Research
8 survey, there is a little opening comment by the intended
9 telephoning interviewer, you want to read that?

10 A. Hello. I am blank. I am calling for Command Research
11 public opinion polling firm. I would like to ask you a
12 number of questions on a strictly confidential basis.

13 Q. Thank you. I just want to ask you about that. This is
14 what the person would be saying, right, I would ask you a
15 number of questions on a strictly confidential basis?

16 A. Yes.

17 Q. Now, you published Command Research document entitled
18 the meshing of the voter identification and get out the vote
19 programs?

20 A. I didn't publish it, no.

21 Q. Well, you committed it to print?

22 A. Yes.

23 Q. At page 8 you say, quotes, what are the sources of voter
24 identification. Number 2, quote, beyond those polling
25 efforts from July 23 to September 23 will yield names of

1 people who are for us but who have not volunteered to help.
2 No efforts should be made to contact them until the end of
3 the campaign in the get out the vote phase. In the case of
4 undecided, these should get a follow-up letter which does not
5 appear to be a follow-up letter, end quotes.

6 Now, how does that square with the representation
7 made by the telephoning interviewers to that person that this
8 is on a strictly confidential basis?

9 A. Because their names did never appear anywhere.

10 Q. How do they get a follow-up letter?

11 A. The names would never be published.

12 Q. How do they get a follow-up letter?

13 A. Well, I think this is referring to the operations in
14 Lewiston and Portland and Bangor where the people didn't use
15 Command Research to identify themselves as calling for Save
16 Maine Yankee.

17 Q. Is it fair for a person reading that to conclude that
18 you intended to say that the people whom you called, their
19 names would be retained in a file somewhere for future
20 reference, and that they would get letters later?

21 A. Entirely different polling operation.

22 Q. Okay. So it is confidential for one purpose but not for
23 another, is that what you are saying?

24 A. No, again if you are in a campaign situation and you
25 call up and you say I am calling for the Governor Brennan

1 reelection committee, people identify themselves.

2 Q. That is not a poll, is it?

3 A. Oh, sure. That is a voter identification poll.

4 Q. It is a solicitation, isn't it?

5 A. No, excuse me. Everybody does that when they do
6 candidate campaigns. This operation is not that operation.
7 And when I -- now, I jog my memory on that. Good thing you
8 held up. That was the first thing I believe we did for
9 Atlantic Research.

10 Q. Well, you called this the meshing of voter
11 identification and get out the vote programs. I read what
12 you have just said to have to do with the get out the vote
13 program as distinguished from voter identification?

14 A. First of all, this comment was written before the whole
15 Maine Yankee got going.

16 Q. You are saying they are not the same thing, is that
17 right?

18 A. My understanding is in a campaign situation, there often
19 is a situation in which you identify yourself. In this case,
20 I am trying to Save Maine Yankee, and you get support in that
21 regard. I am saying they are two different operations.

22 Q. Don't you think there would be a heck of a difference
23 between saying to the person on the other end of the line I
24 am going to ask you a number of questions on a strictly
25 confidential basis and or I am going to keep your name in a

1 file?

2 A. Sure.

3 Q. Okay.

4 MR. FLAHERTY: I have nothing further.

5 A. We are talking about two separate types of polls.

6 Q. You do keep the name of the person who was called for a
7 survey such as this?

8 A. I do not.

9 Q. What happens to it?

10 A. It is -- as soon as it goes onto the computer, those
11 things are destroyed. That is the whole idea.

12 Q. The name is not kept on a computer?

13 A. Absolutely not.

14 Q. It is gone?

15 A. It is gone.

16 MR. FLAHERTY: I have nothing further.

17 EXAMINATION-BY CHAIRMAN BALDACCI OF DR. POTHOLM:

18 Q. Mr. Potholm, I have got a copy of a campaign report that
19 I want you to look over because there is an asterisk next to
20 the bottom of it, and across from Command Research there is
21 an asterisk. And I would like you to look it over and just
22 give me your comments on that. Are you aware of this?

23 A. Yes.

24 Q. For the benefit of the committee since you are aware of
25 this, we'll tell the committee this was a report for the

1 Citizens of Emery Committee that was filed for the period
2 covering January 1, 1983, through June 30, 1983, filed by P.
3 James Nicholson, CPA and for debts and obligations excluding
4 loans. It has Command Research outstanding balance beginning
5 this period of \$4,000. Payment this period \$2,000 with an
6 asterisk and \$2,000. And down at the bottom it says both of
7 these debts have been reduced by the respective creditors as
8 a result of negotiations between the committee and the
9 creditors. The reductions were prompted due to the fact that
10 the fees charged for the service rendered were in excess of
11 the usual cost for such services. These are not reflected in
12 the itemized disbursements. And your recollection?

13 A. What is your question?

14 Q. These fees that were charged to that particular
15 committee were in excess?

16 A. Well, I am not sure why that was there, but since you
17 want to know the \$4,000. I mean I think Mr. Emery has put it
18 in the public record.

19 Q. It is public record.

20 A. When the campaign ended, I was owed \$4,000 for --

21 Q. Excuse me. This is out of the Secretary of State files.

22 MR. RICHARDSON: We understand that.

23 A. In other words, I was owed \$4,000 when the campaign was
24 over. For four months. I had not been paid for back up four
25 months from the campaign -- from the end of the campaign.

1 Sometime in January, I got a call from Joel Petroski who was
2 raising money for Dave Emery, and he said Dave is going to
3 come before the United States Senate. We didn't have the
4 money. We can't pay you the \$4,000. We can only pay you
5 \$1,000. I said I am very upset. I don't like to be left at
6 the end like this. Everybody else got paid. Why don't I get
7 paid. He said okay. We can give you \$2,000. So I said I
8 don't want to be in a position of preventing him from being
9 approved by the senate. I was not happy with it, but I
10 settled a \$4,000 debt for \$2,000. Why it says less than the
11 normal amount or whatever, I don't know.

12 Q. Then this isn't something that you in terms of your
13 services were overpriced?

14 A. I would hope I would never have to admit that.

15 Q. That was the prime excuse I got.

16 A. However if one of the things this committee could do
17 would recommend to the legislature that political consultants
18 should get paid even on losing campaigns, that I would
19 testify without a lawyer.

20 Q. So we can assume that you, in fact, had an in-kind
21 contribution to Mr. Emery's campaign to the tune of \$2,000,
22 is that correct? Would that be a correct assumption?

23 A. It is comprising a debt that -- I don't know.

24 Q. Would you say that your services which are credible and
25 you do an excellent job and you get paid for them are not

1 unreasonable? As you said it isn't indicative of the way
2 your services are charged for. You have compromised a \$4,000
3 bill down to a \$2,000 bill, right? So that would leave
4 \$2,000 that would be considered an in-kind contribution,
5 right?

6 A. It is a bad debt my attorney --

7 Q. It is a bad what?

8 A. It is a bad debt.

9 Q. It is a bad debt? How do you treat it?

10 A. Well, unhappily.

11 Q. Financially, how do you treat it? How do you treat it
12 financially at Command Research?

13 A. No, the 4,000 never came in. Only 2,000 came in.

14 Q. Right. So you wrote it down as a bad debt or you wrote
15 it as a \$2,000 bill?

16 A. I was happy to get 2,000 instead of 1,000.

17 Q. So what did you do for reporting purposes?

18 A. Report to whom?

19 Q. You filed -- you're a corporation, correct, Command
20 Research is a corporation?

21 MR. RICHARDSON: Excuse me.

22 CHAIRMAN BALDACCI: Would you like to confer.

23 Q. I am saying this is a corporation.

24 MR. RICHARDSON: Mr. Chairman, Your Honor, that is
25 an old habit. The Court has previously reviewed all the

1 financial records of this corporation in-camera, hundreds of
2 pages. All delivered. The Court has with respect to other
3 financial records that are on the request to produce to this
4 committee indicated Mr. Potholm does not need to produce
5 those records. And I do not want his answering of these
6 questions about how he or how his accountant if he knows
7 treated a compromise of a political debt of \$4,000 to open
8 the door to going back in the records which we say had
9 nothing to do with this committee's investigation.

10 I don't think this witness knows how it was treated
11 for accounting purposes. But if he does, I guess I am
12 instructing he can tell you if he knows. But by telling you,
13 I don't want the committee to understand that we are
14 relinquishing our position with respect to his financial
15 arrangement.

16 CHAIRMAN BALDACCI: I would like just one moment to
17 confer with counsel.

18 MR. FLAHERTY: I think Mr. Richardson's comment in
19 that regard is proper and well taken. He has indicated the
20 witness can say whether he knows, but he doesn't want to have
21 need of that taken its overriding effect of the Court's
22 protection to the extent there was protection with respect to
23 the financial record.

24 Q. Okay.

25 MR. FLAHERTY: The question is does he know or

1 doesn't he?

2 A. No.

3 Q. You don't know how it was handled.

4 What is your position at Command Research?

5 A. President.

6 Q. You're president of Command Research. And there are how
7 many officers to Command Research?

8 A. My wife and I.

9 Q. Those are the only two officers? And who does the
10 bookkeeping?

11 A. My wife.

12 CHAIRMAN BALDACCI: Mr. Asch, do you have any other
13 questions? Mr. Flaherty? Mr. Linnell. Thank you.

14 Are there any other questions from any member of
15 the committee of Dr. Potholm?

16 EXAMINATION-BY ATTY. LINNELL OF DR. POTHOLM:

17 Q. Dr. Potholm, am I correct in understanding that at least
18 you do not currently now work for Central Maine Power Company
19 in any capacity?

20 A. I do not.

21 Q. For New England Telephone?

22 A. No.

23 Q. Or any New England utility in the State of Maine,
24 correct?

25 A. No.

1 Q. You understand that this committee is to be -- is
2 charged with coming up with recommendations as I understand
3 it to the legislature of ways to correct what it perceives,
4 corrections in the political process, things of that nature,
5 accounting practices, things like that when we finally finish
6 with the public hearing and given the documents we have asked
7 for. Is that one of the things we are suppose to be doing?

8 A. Yes.

9 Q. Using you as a resource or rather as a backboard for
10 things of the past, I was wondering from your position if
11 someone who works for New England Telephone Company and for
12 Central Maine Power Company, if you could identify certain
13 sources of mischief so to speak that you perceived during
14 your time there that could assist us in addressing ourselves
15 to this kind of an issue?

16 A. That is a very complicated question. I think for what
17 it is worth, my observation of the head of New England
18 Telephone and the head of Central Maine Power and the
19 respective organizations is that they really do want to
20 follow the letter and the spirit of the law. That there have
21 been problems in those areas where it wasn't clear to them
22 what they should do. And I think that any laws or
23 recommendations that can take on a legal cast, that can
24 simplify the process for them will make the whole political
25 climate better and more efficient.

1 I tried to argue from the beginning, and maybe I
2 shouldn't have philosophically, but I think that the
3 utilities are in a somewhat different position than other
4 corporations, but they are not in a totally different
5 situation that they have interests to protect and that they
6 try to protect them.

7 And the one thing I feel strongest about is that
8 their efforts to protect their interest were paramount rather
9 than their trying to help this political candidate or that
10 political candidate. Certainly Dick Jalbert and Skip Thurlow
11 had entirely different people that they wanted to elect.
12 They had different people they wanted to support. But
13 underlying everything else was how could this happen to their
14 company.

15 So I would think in the area of reforms that
16 anything that can stipulate exactly what is prohibited
17 conduct and exactly what is acceptable conduct will be
18 followed. Not because of all of the problems in the last
19 couple of years because that is basically the way they want
20 to behave. I think there was a lot of gray areas clearly
21 that you as a committee have uncovered that should be made
22 either black or white.

23 The whole question of in-kind contribution and the
24 way you put a value on something. My own situation as it
25 relates to this is I think as a general proposition everybody

1 outside of polling puts too high a value on its retention
2 value. That really polls are good for a short period of time
3 for a particular purpose and then they age very rapidly.
4 They go downhill more rapidly and they become not very useful.
5 And I think that is something that is generally not
6 appreciated.

7 The other thing is that the extent to which polling
8 material is of only marginal utility unless you are going to
9 do something with it. And that anybody that is running a
10 statewide campaign would know that there are only so many
11 hours in the day. You only have so many scarce resources,
12 and the polling is not really an end. It is a means to
13 something. But, you know, I did encounter a great deal of
14 good will on the part of the utility people as it related to
15 the political process, and none of them had any expression
16 that they wanted to do something in my hearing that was not
17 an acceptable part of the process.

18 Q. How subjective is polling?

19 A. I think it can be very subjective. That polling
20 consists of a certain amount of science, a lot of art and an
21 awful lot of kind of quality of what can you do with
22 something. In other words, how do you operationalize them.
23 I may go through 5,000 pages of a printout to find one or two
24 things that really can make a difference in the electoral
25 process.

1 And that different people can ask different
2 questions in different ways, and you can get all kinds of
3 different responses. That the truth of a poll is really in
4 the answers that are in the tape for a very brief period. It
5 is not something that is sort of out there in a variety of
6 different ways.

7 So I think there is a lot more subjectivity to the
8 implementation of a poll and what value a poll is then there
9 is in the physical gathering of the data. But polling
10 represents for better or for worse as you know from the last
11 election looking at the networks, it is a quick fix. And
12 people went out and said Walter Mondale is dead long before
13 he was really dead in a political sense.

14 In other words, the polls can become a self-
15 fulfilling philosophy, and I think the utility of polls by
16 reporters is something that often they only look at the
17 surface, the head, top head, the match-up. They don't look
18 at the underlying terms and that is bad in the political
19 process.

20 I don't know what to do about it. I think that is
21 more how reporters treat match-ups than -- but it becomes
22 part of our lexicon, and we accept all of those things as
23 givens. And maybe Reagan would have beaten Mondale, but it
24 certainly wasn't over when it looked like it was over in my
25 judgment. So there is a lot of subjectivity to the polling

1 process and what you do with the polling product.

2 Q. Is it uncommon for two people in the same business you
3 are to use the same kind of information and come up with
4 different analyses of it?

5 A. Yeah, in fact, if you read the Newsweek special edition,
6 I think it rings very true to my ears as to what goes on in a
7 political campaign with regard to polling. And you have
8 Caddell coming in saying scrap this, do this. You have Peter
9 Hart saying the numbers really say that. It is style, it is
10 personality and it is a lot of different viewpoints. And it
11 is people looking at the same data and coming up with
12 different conclusions.

13 You know, is the water jar half full or half empty.
14 That approach to what the numbers say. And how valid are
15 those numbers over time. What may be a very valid numerical
16 situation now may really change quite rapidly. If you read
17 that Newsweek account, those people were prisoners of daily
18 polls. And I mean millions of dollars and grand strategies
19 and cut out California and do New York all in the basis of
20 somebody running in with a piece of paper.

21 So yes. Just the fact that one nationally
22 reputable poll could have Ronald Reagan ahead by 23 points
23 nation-wide and another poll by an equally reputable national
24 firm having him ahead only by nine, that is what we are
25 talking about. Millions, tens of millions of people. And

1 yet those polls were really off. Nobody got it wrong Reagan
2 wasn't going to win, but the margin was -- six different
3 margins.

4 Q. I am not sure if it is clear, but I guess I would like
5 to have you answer it. Tracking questions are not new to you?

6 A. I don't believe they are, no.

7 Q. It is a subject that is normally done in polling as far
8 as you are aware?

9 A. Yes.

10 Q. For the reasons you have explained here, at the PUC and
11 at court?

12 A. Yes.

13 Q. It is in our record?

14 A. Yes, I think because I have come to have institutional
15 polling, corporate polling from the political arena, I am
16 more likely to use them all the time. It is my normal
17 reference. I can look at a poll and instantly tell whether
18 it has been coded right.

19 Now, that doesn't mean that everybody would put in
20 the same questions that I would have. But if you put in the
21 two that I do, the governor and the president, you do get an
22 internal track between the two of those because the governor
23 and the president doesn't move in the same direction. One
24 will move this way. One will move that way. Very rarely do
25 they move in the same direction or at the same time. It is a

1 very useful shorthand way for me to look at numbers.

2 But other pollsters surprise the heck out of me. I
3 went down to Connecticut for a friend of mine who is running
4 in a Connecticut district, and Peter Hart who has a
5 tremendous reputation would have him in probably the most
6 ethnic district in the United States. The fifth
7 congressional in Connecticut, and he never asked the question
8 about Italians or Irish-Americans, hispanics or blacks. That
9 is what he did. Absolutely the first question I would ask.
10 So different pollsters do approach things from a different
11 perspective. But to have a benchmark is always better than
12 to have no benchmark. Intellectually that makes the case.

13 Q. You are now talking about tracking questions in a poll?

14 A. Yes.

15 Q. There are also tracking surveys, right?

16 A. Right. Where the emphasis is on quick turnaround time,
17 get information, pick a ship, is something moving, is
18 something changing.

19 Q. Those can be done overnight then?

20 A. They can be done overnight.

21 Q. And they are done overnight sometimes?

22 A. Yes, in fact, their validity is rapidly overnight. That
23 is why if you took the time to do a big printout and
24 executive survey, the whole thing it is like a river. It all
25 flowed by you. You want to get the material in the decision

1 making hands as quickly as you can. There is a tremendous
2 premium placed on the time constraint.

3 Q. You filed a lot of papers with this committee. I don't
4 want to go through many of them. But I understood from what
5 you indicated that you saw nothing wrong with Governor
6 Brennan getting copies of or getting information about
7 polling that CMP or Save Maine Yankee was doing, that was
8 being provided to Charlie Cragin or Peter Bradford got
9 briefed by somebody? I am not sure, was it you?

10 A. Yes.

11 Q. How did that come about?

12 A. He called me up.

13 Q. He called you?

14 A. Yes.

15 Q. And he wanted to be briefed about what?

16 A. He was going out speaking on behalf of Maine Yankee. He
17 said and I wanted to know what he should stay away from, what
18 he should get into.

19 Q. This involved the elected PUC or was that something else?

20 A. This was the Maine Yankee II.

21 Q. Okay. Anyway you saw nothing improper or wrong about
22 that sort of information being passed around?

23 A. No, I think if you take a step back and you say this
24 poll was paid for by Senator Baldacci and is now Senator
25 Baldacci's property, he can do with it whatever he wants in

1 my judgment intellectually. He can give it to whoever he
2 wants. He can put it in his drawer. It is his to do what he
3 wants.

4 I guess if I were a candidate and my opponent got a
5 poll from the utility and I didn't, I would probably be upset
6 about that. And then I probably would want an even handed
7 behavior on the part of the utility. But intellectually, I
8 don't have a problem with whoever pays for the poll doing
9 what they want. If that means nothing or that means putting
10 it in the Portland Press Herald or it means giving it to
11 their friends, I mean I think that is their right to do it.

12 Q. That taking as a given, at least from the commissioner's
13 point of view so long as the money was paid for by that poll
14 was from the ratepayer's money?

15 A. Yes.

16 Q. You don't know how they paid for that?

17 A. Obviously as a ratepayer I would be upset if this money
18 was coming from a ratepayer side rather than a shareholder
19 side. That is my personal impression. You can make a case
20 the ratepayers ought to pay for it. I think that that seems
21 to me something that could be very pretty easily segregated.
22 This comes from this section or this comes from that section.
23 I guess the whole question of ratepayer shareholder percent
24 thing is something you are wrestling with on a number of
25 accounts. I think that is a very important distinction.

1 Q. Do you think it is at all feasible this committee to try
2 to conjure up a type of law that would prevent utilities from
3 sharing this kind of information with anybody other than
4 themselves?

5 A. Well, obviously I am out of the utility polling business
6 so it doesn't really effect me.

7 Q. They are out of it also.

8 A. Well, then it is a moot point. Intellectually, I have a
9 problem with treating the utilities differently than other
10 companies. I have an intellectual point of view. As long as
11 they abide by the laws, I don't see why they should be
12 treated differently.

13 The whole question of how the monies are generated
14 to pay for the polls that I -- that is a separate area. But
15 the legitimate use of the polling information is to do
16 something with it, to try to effect, try to change voter
17 attitude, try to change the attitudes of the PUC, try to
18 change the attitudes of the legislature. I think that is all
19 proper.

20 Q. Other than the amounts of money which may have come
21 flowing into Save Maine Yankee, do you see anything
22 particularly different about that kind of activity than any
23 other political candidate you worked for?

24 A. No, I think ballot measure campaigns are of their nature
25 different than you people are used to looking at it, and I

1 think that is why they look a little funny. In your local
2 race or gubernatorial race, you usually think republicans
3 here, democrats here and the independents in between. And
4 you make mental calculations that you have to get so many of
5 this, and you really write off the other parties and so forth.

6 In a ballot measure campaign, I don't do that. You
7 look at the universe as a whole and you don't care whether
8 the votes come from republicans, democrats or independents,
9 you just -- in other words, you don't start by writing off a
10 third of the electorate as you do in partisan politics. By
11 the same token you don't write off your normal sources of
12 money. Anyone that wants to support your cause, you are
13 happy to take it. As long as it is done legally obviously.

14 So the use of money for ballot measure campaigns I
15 think is all across the country, there are more and more
16 ballot measured campaigns, and I think Maine is one of those
17 states it is pretty easy to get on the ballot. We have a lot
18 of ballot measure campaigns, and we will have a lot more in
19 the future. It is the way of the future as far as special
20 interest groups, whatever they are saying. It is so easy to
21 threaten the ballot. Let's get our point of view and go
22 ahead and do it.

23 I think you are going to see more ballot measure
24 campaigns rather than fewer, and I think something like Maine
25 Yankee, the dollars look enormous but the stakes are enormous,

1 too. If you were going to go out and replace Maine Yankee,
2 that would cost \$1 billion. So that is a big hunk that
3 somebody is trying to protect. What would the elected PUC
4 have meant to the telephone company or the paper company or
5 whatever. There is just lots of situations in which the
6 ballot measure campaign has repercussions way beyond who gets
7 elected governor, senator or representative because they
8 really don't change too much.

9 CHAIRMAN BALDACCI: Mr. Linnell, may I interrupt
10 just for one second. Just on that particular point. I want
11 to get something clear.

12 EXAMINATION-BY CHAIRMAN BALDACCI OF DR. POTHOLM:

13 Q. You said that with ballot measure questions that they
14 take in the whole universe, and they don't necessarily go
15 democratic, republican or independent. Why with a ballot
16 measure question like Save Maine Yankee would you have
17 President Reagan to congress people, republican or democrat
18 above that portion of it?

19 A. No, the result breaks as it has to by republican,
20 democrats and independents. When you sit down to set the
21 scope of your campaign, you don't say I am not going to get
22 all the republicans. In other words, it is the mental set
23 you have to start the campaign with that the universe is 100
24 percent instead of what you always do really is 2/3. If you
25 are a republican, you don't expect to get more than a handful

1 of democrats. You expect to get 55 percent of the
2 independents plus as many republicans as you can.

3 Q. Head on head competition with the ballot measured
4 question you are dealing with the whole population?

5 A. That's right. The whole thing about Governor Brennan is
6 not drag him into something I thought he would be be
7 uncomfortable. The point is he is a powerful authority
8 figure for democrats and independents and republicans. So
9 the idea is to put together the broadest possible coalition.

10 The ballot measured campaigns that have failed in
11 Maine have failed precisely because they have their mind set
12 of Rs, Ds and Is, but you want to know is your authority
13 figure that you have on television -- is Joe Brennan really
14 delivering the Irish hard core Ds for Bangor. When he does,
15 you keep him on the air. When he doesn't, you take him off
16 the air. It is looking at the universe. It is saying the
17 universe has 100 percent in it rather than 66 percent the way
18 you normally look at it which is a normal important part of
19 it.

20 Q. If you were asking the questions on the candidates that
21 it would throw you off from the ballot measure question which
22 you were doing, that is what I was running through my mind
23 that it would throw you off because, you know, maybe when it
24 came to the politicians they would feel differently about it
25 or a party orientation rather than a ballot measure question

1 and that would be a conflict. That is the only thing that is
2 running through my mind.

3 A. Right. If somebody says they're undecided about Maine
4 Yankee, they are undecided about President Carter, and they
5 are undecided about Olympia Snowe, you are going to say to
6 yourself I am not going to worry about that voter. He's not
7 voting.

8 In other words, it is a way of looking at who is
9 really undecided and who isn't. If somebody says I have made
10 up my mind on Carter, I have made up my mind on the second
11 congressional deal, that is a real voter. That person is
12 likely to go to vote. You want to go after that cluster of
13 people that are in that category.

14 CHAIRMAN BALDACCI: Mr. Linnell, I am sorry to
15 interrupt.

16 EXAMINATION-BY MS. ALLEN OF DR. POTHOLM:

17 Q. If on the ballot measure you are not concerned with who
18 votes, you want everybody to vote for you regardless of party,
19 why did you ask what party affiliation, is that just a
20 curiosity or is it --

21 A. Let me repeat that again. What I am saying you do care
22 very much who is coming your way. Will all republicans come
23 your way. Will all democrats. You care very much. The
24 universe is only democrats, independents and republicans, and
25 it is also frankly only Irish, Franco and English. Those are

1 the only ways you can break up the Maine universe are those
2 six categories. So you care tremendously that the R, D, Is,
3 it's terribly important who is beginning to move.

4 What I am saying is when you start to campaign, you
5 don't write off if you ran a ballot measure campaign and say
6 I am only going to try to get republicans or democrats. You
7 lose that big portion of the election in the beginning. See,
8 conceptually you start off with a different universe than
9 when you start in your own campaign for representative. But
10 you don't feel --

11 Q. I understand that. What you do is when you have the
12 information you might say you need more help getting the
13 democratic vote. Then you would look to a person that might
14 influence those?

15 A. Exactly. In the elected PUC, I choose that because that
16 is a very good example. In the elected PUC, that probably
17 would have passed except that the governor was such a
18 powerful figure, not just for republicans, not just for
19 independents but conservative republicans believe the
20 governor. And you could actually see. He delivered tens of
21 thousands of votes in big bunches. There are not a lot of
22 political figures that can do that. I mean if X and Y
23 endorses something, there is not much transfer. But the
24 governor, whether it is this particular governor or the
25 office, I think in this case is a combination, is the most

1 powerful authority figure. If you don't have them, you are
2 going uphill.

3 CHAIRMAN BALDACCI: Are there any other questions?
4 I would like to thank you very much for coming today. I
5 would like you to know that there will be a couple of
6 questions that will be sent to you for response that was
7 discussed earlier and some material sent to you so hopefully
8 by Friday we'll be able to have it.

9 THE WITNESS: Have it to me by Friday?

10 CHAIRMAN BALDACCI: Have it to you by Friday so you
11 can review it with counsel and send it back.

12 MR. RICHARDSON: We'll respond immediately upon
13 receiving it.

14 CHAIRMAN BALDACCI: Thank you very much, Mr.
15 Richardson.

16 MR. RICHARDSON: Certainly.

17 (TIME: 4:55 P.M.)

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CERTIFICATE

I, Erin M. Durkin, a Notary Public in and for the State of Maine, hereby certify that the foregoing is a complete and accurate transcription of my stenographic notes taken in the aforementioned matter.

Dated this 30th day of November, 1984.

North Windham, Maine.

Erin M. Durkin
Reporter

My Commission Expires

January 23, 1988.

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