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Transcript of the September 20, 1988 Meeting of the New York City Charter Revision Commission at the New York City Bar Association

New York City Charter Revision Commission

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Sara Rabin

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MEETING OF THE

NEW YORK CITY

CHARTER REVISION COMMISSION

-----x

Bar Association
42 West 44th Street
New York, New York

Tuesday
September 20, 1988
8:15 a.m.

Michele Berkey,
Hearing Reporter

"FOR A STERLING TRANSCRIPT"



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PRESENT

RICHARD RAVITCH,
CHAIRMAN

HARRIET R. MICHEL,
VICE-CHAIRMAN

AIDA ALVAREZ,
COMMISSIONER

JUDAH GRIBETZ,
COMMISSIONER

PATRICK J. MURPHY,
COMMISSIONER

ARCHIBALD R. MURRAY,
COMMISSIONER

W. BERNARD RICHLAND,
COMMISSIONER

DAVID G. TRAGER,
COMMISSIONER

ROBERT F. WAGNER,
COMMISSIONER

FRANK MAURO,
DIRECTOR OF RESEARCH

ERIC LANE, ESQ.,
COUNSEL

GRETCHEN DYKSTRA

* * * *

1
2 THE CHAIRMAN: I wonder if we
3 could begin, please.

4 Nobody else was able to come on such
5 short notice, but everybody received the
6 note from me, and I have heard no dissent
7 from any of our colleagues who are absent.

8 COMMISSIONER WAGNER: Dissent in
9 what way?

10 THE CHAIRMAN: No disagreement
11 with going with that course of separating
12 the meeting.

13 COMMISSIONER WAGNER: I have some
14 questions on the statements, I mean, some
15 of these questions it's like being -- you
16 don't say what you are going to do and, I
17 mean, I tried it out on some people. They
18 said they would have to have some
19 explanation of what you are going to do,
20 prohibitions against conflict of interest,
21 and how are you going to do it.

22 THE CHAIRMAN: I wonder if I
23 could just explain how I got to --

24 COMMISSIONER WAGNER: I am sorry,
25 because I was in the hospital at the time,

1
2 but I brought it up last time. I don't
3 think it's very helpful to the public.

4 THE CHAIRMAN: Well, let me just
5 recite what occurred. When we discussed
6 this at our last meeting, a number of you
7 suggested that we ought to break this out
8 into a greater number of questions, but the
9 majority felt, given the arguments; brevity
10 was in this instance a virtue, No. 2 that
11 most of the people who voted on
12 propositions do so as a result of having
13 information they acquired prior to going to
14 the voting booth, and that was
15 traditionally true with respect to
16 propositions. That in 1938 and 1962 when
17 there were major charter questions on the
18 ballot, that they were on as one
19 proposition, basically not describing the
20 substantive context, but just asking the
21 voters whether or not they approve the
22 changes recommended by the Charter Revision
23 Commission.

24 Then 1975, the separate issues were
25 spelled out. That was due in part to the

fact that in order to get a report out of that Commission, which was internally divided, there was an agreement to put on all the questions, even those the majority of the Charter Revision Commission hadn't supported. Since we made the decision that we did, we have had a large number of comments from a number of good government groups and individuals suggesting that it would be far more helpful, particularly in light of the fact that these proposed changes are not generating a great deal of newspaper publicity in the light of the fact that that is on the ballot.

This is the first time that the charter change is on the ballot in a presidential year, that it would be helpful if we broke out the questions and gave more information to the public on the ballot itself, and, therefore, in thinking about it, it was my best judgment that was possibly, probably the more sensible thing to do which would be to spell out to the public the gist of what these charter

changes were intended to accomplish, and come up with five questions.

We have, as you know, ten separate changes, but thought ten were too many questions. One of the factors you recall of some concern that if you have too many propositions in the ballot, it could slow down the election process in the voting booths significantly.

And, second of all, there tends historically to be a fall off in the number of votes in each successive proposition on the ballot.

All states questions are Proposition No. 1, after considering this carefully, it was my judgment to put five on, and there was kind of a logical breakdown of a proposition here.

We have all seen the proposals. We have some suggested changes, changes which come from a number of you.

I would like to go through these one by one with you, but I would like to remind you all that a number of people have to

1
2 leave in about a half hour so that
3 hopefully we can conclude our business. If
4 we can't, we have to reconvene at another
5 time.

6 If nobody has any objection, I'd like
7 to go through the proposals one by one.

8 MR. LANE: Let my make it clear,
9 you should have in front of you a
10 September 19, 1988 afternoon draft. That
11 is not the draft that was sent you. There
12 are some changes made, and particularly in
13 Question 3 reducing its complexity.

14 Additionally, Pat, I would suggest in
15 the interest of speeding that we only
16 address the ones that someone may have a
17 problem with.

18 THE CHAIRMAN: I would like to
19 read them because we have gotten comments
20 from other people.

21 COMMISSIONER MURPHY: And members
22 of the Commission who are here.

23 COMMISSIONER WAGNER: The
24 September 19th draft, is that it?

25 MR. LANE: Yes.

1
2 THE CHAIRMAN: Now, I am going to
3 read it and then permit me -- just note
4 some suggested changes that I think make
5 sense.

6 "Shall the prohibitions against
7 conflicts of interest for public servants
8 be clarified and strengthened and shall the
9 Board of Ethics be renamed and
10 restructured," and inserting the word "and"
11 taking out the comma after "renamed."

12 MR. LANE: He is reading the one
13 that you have in front of you right there,
14 and putting in some grammatical changes.

15 MR. CHAIRMAN: "To be more
16 independent, with the power to enforce such
17 prohibitions, as proposed by the Charter
18 Revision Commission."

19 COMMISSIONER GRIBETZ: Say that
20 again.

21 In other words, the only change that
22 I did was to eliminate the comma after
23 "renamed," insert the word "and" and put a
24 comma after the word "independent"?

25 COMMISSIONER WAGNER: My question

1
2 is, why aren't you spelling out what you
3 are going to do to be more independent? I
4 have tried this out on some intelligent
5 people, and they just think it's a general
6 statement about motherhood and good God and
7 everything else.

8 MR. LANE: The way to explain
9 what is done, which is similar to the
10 changes you made in '61, is we have made
11 hundreds of changes. We have an abstract.

12 COMMISSIONER WAGNER: Can you
13 improve of what we did in '61?

14 MR. LANE: My point is, there is
15 an abstract that lays out each of the
16 changes, which the Board of Elections
17 prints and makes available at the voting
18 booth for the public to review, and that
19 has what each of these questions involve,
20 but if we were to put all these details --

21 COMMISSIONER WAGNER: If a person
22 is going to get it at the voting booth and
23 start reading what it's all about --

24 MR. LANE: If they have it in the
25 polling booth, it wouldn't fit on the

1
2 ballot. We have a whole program.

3 COMMISSIONER WAGNER: I don't mean
4 a long explanation, but by two sentences
5 what are you going to do to strengthen it
6 or something like that, I just think this
7 is very confusing.

8 MR. LANE: I guess our answer to
9 that is we have probably eight ways of
10 strengthening each of which have equal
11 virtue, all of which, you know, since we
12 took a long time to discuss it, whether it
13 be \$20,000, five percent, the
14 post-employment things, it would be
15 impossible since we have done the entire
16 chapter. Every piece of the ethics chapter
17 is new.

18 I think we would probably be accused
19 of selecting certain ones to be favored or
20 leaving certain ones out to argue our
21 cause, so we just made a choice to make it
22 as simple as possible, hoping our education
23 campaign and the abstract are sufficient.

24 COMMISSIONER RICHLAND: That is
25 not the abstract. That is what will appear

on the ballot; is that correct?

THE CHAIRMAN: Yes.

MR. LANE: Yes. And I have
said --

COMMISSIONER RICHLAND: There's to
be a discussion of each of these. Is that
what we are going to do?

COMMISSIONER WAGNER: I get the
reaction from intelligent people who say
you should strengthen and clarify and so
on. You are not really saying what the
hell you are doing. Not on all of them but
on Question 2 and Question 3.

THE CHAIRMAN: The question is,
really, can you explain what you are doing
with any greater clarity than we have here?

COMMISSIONER WAGNER: There is no
clarity here. There is a big principle and
everybody is for that principle, but what
are they voting on to obtain that
objective?

THE CHAIRMAN: I don't know how
you summarize all the changes we are making
in a single paragraph, that is my problem.

1

2

COMMISSIONER RICHLAND: Will all
this fit on the ballot?

3

4

THE CHAIRMAN: Yes.

5

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MR. LANE: But I don't think all
the changes in the ethics chapter.

7

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COMMISSIONER RICHLAND: On the
machine?

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COMMISSIONER MURPHY: Yes.

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COMMISSIONER WAGNER: Again, what
I said as I was going through it, the
reason, basically the provisions, as
suggested by the Charter Revision
Commission 61, 62 was because all the
political leaders in both parties were
against it, and the voter went in and voted
for it because it must be pretty good if
everybody is against it.

But there are no political leaders of
any strength now that are going to say
that, and people are going to pay any
attention to it.

MR. LANE: We have no comments to
elicit a positive vote.

THE CHAIRMAN: Let me say, just

1
2 citing your example, that, in fact, the
3 reason --

4 COMMISSIONER WAGNER: You are
5 going to guarantee the political leaders
6 are going to be against it?

7 MR. LANE: Interestingly enough,
8 we did receive some calls from people that
9 surprised me, that strengthening the ethics
10 law might not be the virtue that we think
11 it is. So what I mean is, it's not
12 necessarily a wonderful thing to some
13 people.

14 COMMISSIONER WAGNER: Why don't
15 you say so then, if it's not such a
16 wonderful thing?

17 COMMISSIONER RICHLAND: As I
18 recall, the questions on the ballot in
19 regards to the amendment to the
20 Constitution were very simple. We said,
21 shall the Constitution as proposed by the
22 amendment be adopted with only one separate
23 suggestion. One separate notion; is that
24 right?

25 COMMISSIONER WAGNER: Because the

Constitution Convention of '38 --

COMMISSIONER GRIBETZ: '67.

COMMISSIONER WAGNER: Having them all lumped together can get you in a lot of trouble, and I think you should say what you are trying to do. Give them credit that they are not going to read all these statements that are going to come out.

COMMISSIONER RICHLAND: You have a better chance to get them adopted.

COMMISSIONER WAGNER: You voted against everyone.

THE CHAIRMAN: Let me say, I still think, Bob, in that year people voted for that because you were for it and because the newspapers were for it and because it generated a lot of publicity, not just because the political leaders were against it, and I think most people's awareness of these kinds of issues stem from the work that some governmental leaders engage in, and hopefully some of the elected officials in this City will support these charter amendments.

1
2 I hopefully expected that the good
3 government groups will and that the
4 newspapers will and that's going to
5 generate the public's knowledge about the
6 details.

7 COMMISSIONER GRIBETZ: May I ask
8 counsel a question or two which might
9 hopefully be helpful. When we --

10 COMMISSIONER WAGNER: Let me just
11 say I am not going to make a big deal out
12 of this, and I will be guided by the
13 majority.

14 COMMISSIONER GRIBETZ: I don't
15 want to tell you that very early in the
16 morning, but when you speak we listen,
17 okay, and I know you are always trying to
18 be helpful, and you have some concern of
19 testing it out on people. We ought to be
20 wise enough to consider it and see what we
21 can do.

22 COMMISSIONER RICHLAND: That's a nice
23 position to be in, Mr. Mayor. I wish I was
24 in that position.

25 COMMISSIONER WAGNER: Keep it up.

1
2 COMMISSIONER GRIBETZ: When we
3 first considered the propositions, it's my
4 recollection that counsel said that the
5 Board of Elections was concerned that it
6 was a presidential year, there were always
7 problems with closing the polls, with long
8 lines of people waiting to get in, and that
9 should be a factor for us to consider in
10 posing the questions.

11 MR. LANE: I said that a number
12 of people who had watched the election
13 process in New York had expressed that
14 concern. In fact, there is always concern
15 about the machine, about the stability of
16 the machines.

17 COMMISSIONER GRIBETZ: Let me
18 pursue these questions for a moment.

19 MR. LANE: At least I got the
20 impression that whether or not it was the
21 Board of Elections or people knowledgeable
22 in the election process were concerned
23 about how much space we could take up on
24 the ballot. That was one of the concerns.

25 COMMISSIONER GRIBETZ: Then we all

1
2 read that editorial in the New York Times.
3 I think there was a sentence in it to the
4 effect that the Board of Elections
5 complained about the format of our
6 questions which were then two.

7 MR. LANE: That is correct.

8 COMMISSIONER GRIBETZ: They did.
9 They communicated officially?

10 MR. LANE: It wasn't in writing,
11 but I received an official communication
12 from their counsel that they thought the
13 number of questions were too few.

14 COMMISSIONER GRIBETZ: Did he also
15 tell you at the time how much space would
16 we have on the ballot?

17 MR. LANE: No. We didn't raise
18 the question. He just felt that as a
19 matter, I think he was thinking in the
20 terms of how you are laying it out for the
21 public.

22 COMMISSIONER GRIBETZ: Because I
23 would take it that if we approach the five
24 questions in the context of what Mayor
25 Wagner is suggesting, we might have a

practical problem.

Okay, let me just highlight it by way of an example.

If you take Question 2, the second line uses the word "clarified," uses the word "strengthened," the third line says "restructured," "independent," the fourth line talks about "power to enforce."

Now, each of those phrases are phrases that some might consider motherhood phrases that require for the public some elaboration, and I will just pick one at random, "be more independent," okay, and I would add a phrase such as, "there shall be three citizen members not holding government or political party office appointed by the mayor with advice of consent of the City council."

That only addresses one of the issues, and then here I would say, certainly would give the public more knowledge about what the question is, but it would be selective.

Maybe we should talk about clarifying

1
2 and strenghtening the question. I am at a
3 loss, and I get back to the question of how
4 much space do we have.

5 MR. LANE: Well, I would
6 suggest --

7 COMMISSIONER GRIBETZ: And if you
8 take Question 2 and put in four or five,
9 six words for each of the four or five
10 words that could stand further elaboration,
11 you are going to have a long question, and
12 then if you do with the other five, you may
13 end up with them complaining that we are
14 taking up too much space in the ballot,
15 and, therefore, I ask what is the practical
16 solution?

17 MR. LANE: Can I just add one
18 other point to that? When you read these
19 ballot questions, one of the real concerns
20 is if you come across a question that is
21 very complex and long, one of the things
22 you worry about is the delay that it takes
23 in reading them.

24 When you are having a presidential
25 year and people are lining up, which has

1
2 been one of the complaints, and I think is
3 one of the complaints in the lawsuits that
4 have been filed about getting into the
5 polling places, and, secondly, people won't
6 go beyond, if you have the second question
7 that's very long.

8 In fact, the original maintenance
9 question that we sent you, and we realize
10 that we didn't think anyone would go beyond
11 it, so we have shortened it with the goal
12 of trying to be informative but trying to
13 make it possible for the voter who goes
14 into the booth to be available to look at
15 all the questions and get some idea of
16 what's in them, but we are not intending to
17 educate the voter in the voting booth. We
18 are trying to inform them and hopefully
19 educate them through the three million
20 pieces of material we are sending out.

21 COMMISSIONER WAGNER: It's very
22 well written what's in there.

23 COMMISSIONER RICHLAND: Isn't it
24 appropriate to state the questions in such
25 a way as Judah says, they sound as they are

in favor of motherhood, because that's what these questions do.

Are you in favor of the charter revision that have been suggested by the Charter Revision?

COMMISSIONER ALVAREZ: Could we simply add a line, for example, and give one example so at least there is a flavor for the nuts and bolts?

COMMISSIONER WAGNER: Or by doing such --

COMMISSIONER ALVAREZ: For example, by doing blank one line.

COMMISSIONER MURPHY: Tell us all the things. The meaning, the number of pamphlets that are being published and distributed, I think they're making a larger effort than before to give the public, and perhaps that may help to alleviate the problem we are having here.

COMMISSIONER RICHLAND: But all of those are provided for in the material that you find at the election booth. They are all spelled out. Do we really have to

1
2 spoon feed the voters and spoon feed them
3 with a sweetened material? These sound
4 like an advertisement in favor of what we
5 are proposing.

6 COMMISSIONER MURPHY: What's
7 so bad about that?

8 COMMISSIONER RICHLAND: That's not
9 what our job is. Our job is to ask the
10 voters are they in favor of what we
11 suggest, that does not mean that we have to
12 say that are you in favor of motherhood and
13 are you in favor of virtue. This is one of
14 the problems.

15 VICE-CHAIRMAN MICHEL: I think
16 these questions talk about --

17 COMMISSIONER RICHLAND: Have you
18 seen questions presented in this way, Bob?

19 COMMISSIONER WAGNER: No.

20 VICE-CHAIRMAN MICHEL: These
21 questions get to the effect, and I think
22 the voter wants the very effect that these
23 questions get to, those who have not paid
24 any attention to it to the point that they
25 get to the booth, they are the kind of

1
2 voters who want to hear, in fact, that the
3 conflict of interest will be clarified and
4 strengthened. Those are the kind of words
5 that will encourage them to vote for it.

6 First of all, I think you are giving
7 more credit to the sophistication of the
8 voter than actually those who are
9 interested in it will avail themselves to
10 the detail --

11 THE CHAIRMAN: I wonder if I could
12 ask your indulgence? Let's go through the
13 questions and then go back and revisit
14 these issues, because I appreciate both
15 what Mayor Wagner and Commissioner Richland
16 was saying, but I don't think this language
17 does that.

18 Let's go to the question, "Shall city
19 agencies," and I am going to just note a
20 couple of changes. "Shall city agencies
21 prepare and update plans for" strike the
22 word "keeping" and insert the word
23 "maintaining bridges, streets, parks
24 buildings and other major capital assets"
25 strike the words "in good repair." It's

now been taken care by substituting the words "maintaining and keeping and shall the mayor request the funds necessary for such maintenance," so strike out the words "to implement these plans" and insert the words "for such maintenance or explain the reasons for not doing so as proposed by the Charter Revision Commission. I'll read it again, "Shall city agencies prepare and update plans for maintaining bridges, streets, parks, buildings and other major capital assets and shall the mayor request the funds necessary for such maintenance." That seems to me to be appropriate and straightforward of what our structure amendment is.

We go to Question 4. "Shall the following changes to the charter as proposed by the Charter Revision Commission." Then we listed one --

COMMISSIONER GRIBETZ: Why do we have to say "as proposed by the the Charter Revision"?

MR. LANE: There is a custom to

1
2 doing it. It's always been done, and it
3 comes out of the law.

4 COMMISSIONER GRIBETZ: Okay.

5 THE CHAIRMAN: Back to Question 4.
6 "Require all city agencies when adopting
7 rules which regulate the behavior of
8 individuals or businesses to solicit public
9 comment and regularly publish such rules in
10 order for them to remain in effect, and
11 provide" and strike the word "minimum" "and
12 provide due process for formal hearings
13 held by," insert the words "held by city
14 agencies."

15 Now, I think that is a straight-
16 forward explanation of the Administrative
17 Procedures Act.

18 Next, "require the mayor and top city
19 administrators to establish controls to
20 ensure the effectiveness and integrity of
21 agency operations; create an independent
22 tribunal to hear and decide appeals
23 concerning those city taxes," insert "those
24 city taxes" "for which there is currently
25 no independent," and insert the word

"administrative appeal."

Next, "reorganize the charter to make it more coherent, make technical changes, and eliminate" strike "unnecessary" and insert the word "inappropriate gender references in," strike the word "all."

COMMISSIONER ALVAREZ: Why not say "in all sections"?

MR. LANE: It just sounds redundant.

THE CHAIRMAN: We change in all sections.

Question 5, "Shall the following changes to the charter, as proposed by the Charter Revision Commission, be adopted: provide an orderly process for determining when a mayor is temporarily or permanently unable to carry out the duties of office; require that vacancies in the offices of council member, council president, comptroller and borough president, currently filled by designees of the council or comptroller, be filled by the voters in special elections?"

1
2 And the phrase "by the voters" is in
3 the draft in front of you, it was not in
4 the draft that you received by delivery the
5 other day.

6 COMMISSIONER GRIBETZ: Is it
7 office or offices of council members?

8 MR. LANE: Offices.

9 THE CHAIRMAN: You are asking
10 the --

11 COMMISSIONER GRIBETZ: I am just
12 asking.

13 MR. LANE: It's offices. It's
14 more than one.

15 THE CHAIRMAN: Question 6, "Shall
16 the following changes to the charter, as
17 proposed by the Charter Revision
18 Commission, be adopted, establish a panel
19 of city officials and representatives from
20 community and civic organizations to
21 oversee a nonpartisan program to encourage
22 voter registration and voting; establish
23 the powers" --

24 COMMISSIONER WAGNER: Here you
25 get into some detail, in Question 6.

1
2 THE CHAIRMAN: "Establish the
3 powers and duties of the Campaign Finance
4 Board, including 1, publishing and
5 distributing a nonpartisan voters' guide
6 with information on candidates, ballot
7 proposals and referenda, 2, administering
8 any voluntary system established by local
9 law that limits campaign contributions and
10 spending" --

11 COMMISSIONER RICHLAND: Wasn't it
12 more candid in the draft that was sent to
13 us originally? This does not indicate that
14 this body of non-elected people shall have
15 the power to mandate expenses.

16 COMMISSIONER GRIBETZ: It's in
17 the next phrase, Bernie.

18 THE CHAIRMAN: I think we are
19 mixing apples and oranges.

20 COMMISSIONER RICHLAND: In the
21 other one it said "with powers and duties
22 to provide partial campaign financing." It
23 should be "provide campaign financing."

24 COMMISSIONER GRIBETZ: We have the
25 same power and duties right at the top

phrase of the new draft.

COMMISSIONER RICHLAND: I understand that, but it seems to me that the draft that was given to us originally was more candid and more non-advertising, and this doesn't disclose what the actuality is. You know that this is something that I have considerable trouble with.

THE CHAIRMAN: Bernie, it seems to me this phrasing of it as against the first draft establishes a bit more about the registration, but it says that the Board, the Board itself has three powers and publishes and distributes a nonpartisan voters' guide, it administers a volunteer system established by local law that limits campaign contributions and it insures that the candidates in the '89 elections will be funded by this proposal, will be funded, in other words, in accordance with that local law. We are not trying to confiscate it.

COMMISSIONER RICHLAND: I think we should be more candid that this gives the power to the Board to mandate.

1
2 THE CHAIRMAN: But that's not what
3 it does. What we are saying that if the
4 voters approve this proposition, that means
5 the City is mandated to fund the
6 requirements of this local law in 1989, not
7 otherwise.

8 It doesn't mandate that the Board do
9 anything other than what local law requires
10 them to do.

11 COMMISSIONER TRAGER: It is
12 inaccurate because this says that we are
13 avoiding partisan campaign financing and we
14 are not. We agreed that we weren't going
15 to take up the issue except with a limited
16 respect with 1989. But you are saying that
17 we are in this charter mandating a system
18 of public financing and we are not.

19 COMMISSIONER RICHLAND: For 1989.

20 COMMISSIONER TRAGER: That's in 3.

21 COMMISSIONER RICHLAND: Much of
22 that was in the one that was given to us
23 originally.

24 COMMISSIONER TRAGER: No. The one
25 that's given to us originally is too broad.

1
2 It implies that we adopted the system and,
3 in fact, it's the local law that adopted a
4 system.

5 COMMISSIONER RICHLAND: No, the
6 local law does not adopt a system. This
7 does not mandate the expense to the
8 budgetary process, and what we are talking
9 about here is the ability to mandate the
10 difference between what is provided for in
11 the budget and what the -- what this
12 particular Board decides is appropriate,
13 and --

14 THE CHAIRMAN: With all due
15 respect, you are wrong. The Board does not
16 have the latitude to do what it thinks is
17 appropriate.

18 The law is very specific and it
19 requires that the government, or through
20 this Board provide matching funds for
21 contribution under certain conditions, with
22 "certain" all caps. All this does is say
23 for 1989 the City must provide the money to
24 fund the requirements. It doesn't give the
25 Board unlimited money to spend.

1
2 The law contains the provision as to
3 how much money. The Board doesn't have the
4 discretion to spend unlimited amounts of
5 money.

6 COMMISSIONER RICHLAND: Who said
7 so? The determination of what funds are to
8 be expended for what purpose is a budgetary
9 matter which is ordinarily under the
10 control of an elected official, and it
11 seems to me, we ought to be candid enough
12 to deal with it in a candid way.

13 THE CHAIRMAN: We really have a
14 short timespan. I think this is being very
15 candid. We are requiring that the
16 expenditures be made in 1989.

17 MR. LANE: It basically -- well,
18 I'll let Gretchen explain.

19 MS. DYKSTRA: It's basically a
20 three-prong strategy that includes the
21 media, the distribution of handbooks and
22 personal appearances by the commissioner,
23 including talking at a variety of meetings.

24 I will start with the distribution of
25 the handbook. We have in the works two

million copies of handbooks which will be eventually published in Chinese, Spanish and English.

We have devised a relatively comprehensive strategy for distributing those using the majority city agencies, for instance, the Housing Authority, to get into all senior citizen centers that are funded either by HRA or the Department of the Aged.

We have targeted the Health and Hospitals Corporation and they will distribute them in waiting rooms of public hospitals.

We are dealing with the unions which will help us to distribute it to their members, we are looking for major outlets to get large numbers of those books out.

We are also, Sunday, October 30th, stuffing it in every Sunday paper, the entire Daily News and the New York Times south of 96th Street and all copies of El Diario and the Chinese Daily News.

Interestingly enough, there are only

1
2 40,000 New York Times distributed north of
3 96th Street and it adds a lot of money, so
4 that the distribution of handbooks: But
5 that is not separate from what we are
6 trying to do with the media.

7 COMMISSIONER WAGNER: You have
8 some way of checking, seeing whether these
9 agencies will distribute them, because you
10 can find people in these agencies who are
11 not very enthusiastic to distribute them?

12 MS. DYKSTRA: Once we make
13 contact with the points people, they will
14 then spend their time going down the ladder
15 as it were to the various people
16 responsible at the different levels, so
17 that is being handled by the Community
18 Relations Staff.

19 COMMISSIONER GRIBETZ: May we ask
20 general questions, Mr. Chairman?

21 THE CHAIRMAN: Sure.

22 COMMISSIONER GRIBETZ: Are all
23 these two million copies printed?

24 MS. DYKSTRA: No, we are waiting
25 for the end of this meeting, because the

1
2 next million and a half will have a sample
3 ballot on the back page.

4 COMMISSIONER GRIBETZ: Is it
5 possible, if we finally determined the
6 question, for the voter of having a voter
7 handbook, a correlation of the text to the
8 question?

9 MS. DYKSTRA: That's what I mean
10 about the sample ballot will be on the back
11 page.

12 COMMISSIONER GRIBETZ: I want to
13 eliminate the confusion when we talk about
14 campaign finance reform.

15 MS. DYKSTRA: You can pull a
16 little line, and it will say see Page 8.

17 VICE-CHAIRMAN MICHEL: Excuse me,
18 you mentioned a number of papers, you
19 didn't mention the Amsterdam News or any
20 black publications.

21 MR. LANE: Number one, they don't
22 have a Sunday edition, but we are not
23 targeting minority papers, we are targeting
24 language papers.

25 COMMISSIONER ALVAREZ: Why the El

1
2 Diario and Chinese News on the theory that
3 most people read a daily paper, whether it
4 be the New York Times, whether or not they
5 be black or white?

6 MR. LANE: And the Daily News
7 illustrates that.

8 MS. DYKSTRA: We are doing the
9 entire run of the Metropolitan Daily News,
10 100 million copies.

11 VICE-CHAIRMAN MICHEL: You are not
12 doing Newsday?

13 MS. DYKSTRA: No.

14 COMMISSIONER GRIBETZ: And the
15 Post? Somebody might claim that they have
16 a Saturday edition. I am just asking, I am
17 not an expert in this area, somebody could
18 say we are selective.

19 MS. DYKSTRA: I think they could
20 say we are being selective.

21 COMMISSIONER GRIBETZ: What is the
22 reason?

23 MS. DYKSTRA: The reason is we
24 think we will reach ninety-nine percent of
25 the voters through those papers.

1
2 COMMISSIONER ALVAREZ: If you put
3 it in the Chinese paper, then you have to
4 put it in the Saturday or Friday edition of
5 some black papers. It's just going -- I
6 think people are going to raise the
7 question of being selective, I would.

8 MS. DYKSTRA: Which black papers?

9 COMMISSIONER ALVAREZ: Whether
10 it's the Amsterdam News --

11 MS. DYKSTRA: I am willing to look
12 into it, but if to do the Amsterdam News,
13 and then I think we would be perhaps
14 criticized for not doing all the Spanish
15 papers.

16 COMMISSIONER ALVAREZ: So you do
17 the larger circulation papers. I would be
18 sensitive to it.

19 VICE-CHAIRMAN MICHEL: That's a
20 question. I ask about Newsday because
21 there are a lot of people in Queens who
22 read Newsday who don't read the Daily News
23 on Sunday but who do take Newsday on
24 Sundays, so that's why I asked the
25 question.

1
2 MS. DYKSTRA: I will look into it.
3 Newsday is relatively small, that's why I
4 discounted.

5 VICE-CHAIRMAN MICHEL: But they are
6 concentrated in Queens.

7 COMMISSIONER WAGNER: Can I just
8 ask this question? After this meeting,
9 that handbook will try to link up the
10 questions with answers, a great deal is
11 left out in these things.

12 MS. DYKSTRA: We will figure how
13 to do that graphically as for the stuff
14 into the papers. I will look into the
15 others and we will do it. And at this
16 moment it costs \$84,000 to do those four
17 papers. It will obviously cost more to do
18 it.

19 With the media strategy, it's pretty
20 conventional. We are calling all the TV
21 and radio stations in the hopes of getting
22 interviews set up. I have to tell you, the
23 response has not been overwhelmingly
24 positive, but we continue to try that.

25 We are writing letters to the editors

1
2 in response to when we see articles in
3 various papers that provide a natural hook
4 for our agenda, and we submit letters to
5 the editors of papers.

6 We are in the process, and Dick will
7 make appointments, and we will soon begin
8 the meeting with the editorial boards.

9 Some of you are participating in WNYN
10 every Tuesday and the first Tuesday in
11 November that will devote an hour to the
12 major issue of the charter revision.

13 We have two thirty-minute productions
14 in collaboration with WNYC and some of the
15 housing projects like Starrett City are
16 producing TV shows for their own cable
17 networks, and obviously in all those cases
18 we will be pushing the handbook.

19 We have another round of subway
20 posters going up that are advertising the
21 availability of handbooks.

22 We have produced, in both Spanish and
23 English, public service announcements that
24 are being sent out today literally to all
25 radio stations again announcing the

availability of the handbook not advocating on behalf of the proposal.

We are considering the production of a television PSA, but it is a little expensive on the TV station, and at this point have not been too enthusiastic about their willingness to broadcast, although the cable station would.

So it is a question of whether or not the cost is effective on the cable outlets and community.

Dick is scheduled to speak in many citywide meetings and in addition he has begun to appear in community boards, and there will be more of that.

The community relation staff and myself meet weekly, if not daily, also at smaller meetings that people have shown interest and, of course, there's the distribution of handbooks, for instance, the Chamber of Commerce, all of them have been contacted, asked whether or not Dick could speak, and asking what their avenues for the distribution of handbooks in

concert with the speaking engagement.

Dick is going to Montauk to appear in front of the Municipal Council. DC-37 has been very helpful, and they are going to spearhead the effort by all the unions.

We hope to get the handbook to their members, and we are also hoping and working on trying to get them to add a tag line at the end of their calls for Dukakis and Bush in November saying "Vote yes on Questions 2 through 6."

COMMISSIONER WAGNER: You shouldn't get them involved in being for or against the charter revision.

MS. DUKSTRA: There is also in the works privately a spearheaded effort to establish a citizen committee, and we will follow that with interest, although we do not, we are not part of that. There are groups that are trying to do that.

COMMISSIONER WAGNER: Anybody against it?

MS. DYKSTRA: Yesterday I think Pauline Toole got her first word in part of

Queens. We are beginning to see votes against public campaign financing, and we have heard that there is some opposition to special election, but not in any organized way, so that's it.

COMMISSIONER ALVAREZ: Can we vote?

THE CHAIRMAN: I would just like to make one more change which is stimulated by Bernie's comments.

In the last sentence of Question 6, on the third line from the bottom where it says, "spending" third line from the bottom on the page in front of you, you have the last page, to put a colon after the word "spending," strike out the parenthetical reference to 3, and says "and insuring that candidates to the 1989 elections," "in the 1989 elections". So we just say, "establish the powers."

COMMISSIONER GRIBETZ: Would you read 2?

THE CHAIRMAN: "Administering any voluntary system that limits campaign

contribution and spending."

COMMISSIONER GRIBETZ: Semicolon,
"and insuring that candidates in the 1989
elections abiding by such limits receive
the matching grants earned under such law."

I think that's more accurate, as
Bernie suggests.

COMMISSIONER GRIBETZ: Another
quibble, a semicolon or a comma, I am going
to take the blame for a quibble, but it's
really, and before the No. 2, insert the
word "and" one and two.

THE CHAIRMAN: I am trying to
differentiate.

COMMISSIONER GRIBETZ: I am
trying to differentiate it, which doesn't
modify the power of the board.

THE CHAIRMAN: We understand.
Let's read the full text together. Okay.

"Establish the powers and duties of
the Campaign Financing Board, including (1)
publishing and distributing a nonpartisan
voters' guide with information on
candidates, ballot proposals referenda, and

(2), administering any voluntary system that limits campaign contributions and spending, and insuring that candidates in the 1989 elections abiding by such limits receive the matching grants earned under such law? "

Is that what you say?

THE CHAIRMAN: Correct.

COMMISSIONER RICHLAND: My problem is that I doubt that this fairly describes the provision of the charter that gives to the Campaign Finance Board the power to direct the finance administrator to take from the general funds an amount of money which they determine to be necessary to pay these.

The public finances, that is what my objection to it was. It's as simple as all that, and I am not going to argue the matter further. We are dealing here with what the estimate of cost is supposed to be, \$28 million. I have never yet found an estimate of municipal cost to be less understated by a fact of probably one hundred percent. So we are dealing with

substantial amounts of money. Having said that, I rest.

THE CHAIRMAN: Anybody have any further comments or observations?

COMMISSIONER TRAGER: Can we call a vote?

THE CHAIRMAN: Would you like to make a motion?

COMMISSIONER GRIBETZ: I would make a motion, but before I make a motion, I would like to go back to Question No. 2, I want everybody to be comfortable, and I have a feeling that the mayor is not comfortable with Question No. 2.

Would it be worthwhile to spend a little more time on Question No. 2? Let's spend some time on it. The other questions are okay.

COMMISSIONER WAGNER: Especially if there is going to be a --

MS. DYKSTRA: Correlation.

THE CHAIRMAN: Judah's suggestion, I think, is a useful one, and the question, I think, is to try to make Question 2 as

descriptive as the other questions are, of what the contents of our charter are.

Now, do you have any suggestions, Judah, as to having accomplished that?

COMMISSIONER GRIBETZ: I want to get back to what I tried to say at the beginning. There are certain words that could be elaborated on, and the question that I have that each, if we elaborate on each, we may have too long a question.

Okay, let me just review it so that we could perhaps get suggestions from all of us.

The words "clarified" and "strengthened" could be elaborated on. The word, "restructure" the phrase "restructured to be more independent" can be elaborated on, and "the power to enforce such prohibitions" can be elaborated. One is easy to me.

To substitute "restructured to be more independent," we can more specifically say that we shall be an independent city agency appointed by the mayor and confirmed

by the city council with no ties to city or political parties right out of the handbook, but that's about eight or ten words and it only addresses one of the issues which --

THE CHAIRMAN: I think that's a valid point. Eric, is there any question? Let's take these one by one. If you insert eight more words --

MR. LANE: I think that the question of adding all the words is getting the people to read through the various questions.

I don't believe the Board of Elections will have a problem if we add ten more words to a question. The problem is how complex you make the question in regard to the voters being able to read them?

If you take each of the words that Judah referred to, we clarify this in very flexible and numerous ways, mostly dealing with the type of prohibited interest. \$5,000 or five percent, whichever is less, for certain people acquire an interest in

1
2 certain cases. I mean, it's a very complex
3 idea what we did there.

4 Strengthening, we made a lot of
5 examples of strengthening. For example, we
6 are prohibiting certain top level
7 governmental officials from soliciting
8 funds for political contributions, stopping
9 superiors from soliciting funds from
10 people that work them, subordinates or from
11 them to participate in political campaigns,
12 that's two or three of the examples of
13 strengthening of which there are more.

14 If you want to really lay out those
15 changes, it's not simply a question of
16 eight or ten words, it becomes a question
17 to make it clear of several paragraphs.
18 And then I am not so much worried about the
19 space, but I am worried about how people
20 will read it, and they will just say, what
21 are they talking about? So I think it's
22 so complex.

23 COMMISSIONER ALVAREZ: That's not
24 what he is saying. He is saying that you
25 would have to rewrite it. At the point

1
2 where you say, "be renamed and
3 restructured," and then, put a for example,
4 to create --

5 MR. LANE: Let me just finish. I
6 am not arguing that we can't put in an
7 example next to each word of what we did.

8 COMMISSIONER ALVAREZ: At least to
9 give an example such as, people know
10 something that's concrete versus rhetoric.

11 MR. LANE: Clarified, and
12 strengthened by the finding of a
13 prohibition. Defining strengthen, for
14 example, by prohibiting top level
15 government employees from soliciting funds,
16 for example, you have to be clear.
17 Restructured in the fashion that Judah
18 suggested by just saying what we are doing
19 there, but by choosing these as opposed to
20 others, it seems to me that we are going to
21 choose the strongest ones we did.

22 COMMISSIONER ALVAREZ: So what?

23 MR. LANE: Fine with me.

24 COMMISSIONER WAGNER: You are
25 going to do that?

1
2 MR. LANE: I think we are just
3 discussing this. I want to do the language
4 right now while we are here.

5 COMMISSIONER GRIBETZ: We have to
6 do it now?

7 THE CHAIRMAN: Absolutely.

8 MR. LANE: So let's take the word
9 "clarify." The basic way we clarify, the
10 basic way that we clarify is by defining
11 what a prohibited interest is. That was
12 our major clarification where we said five
13 percent, \$5,000, whichever is less, that
14 was our fundamental clarification, because
15 as you recall, no one ever knew what a
16 prohibited interest is.

17 What we really did is define a
18 prohibited interest. If we said, "to be
19 clarified by defining a prohibited
20 interest," that's what we did.

21 MS. DYKSTRA: Business interest.

22 MR. LANE: Business interest. I
23 am just trying to work with you on this.

24 The second one under "strengthening,"
25 there are a number of provisions which

strengthen this act ranging from prohibitions on people who are presently employed to tightening certain post-employment restrictions, I would say there are seven or eight of them. One which you know, one. The one I read you right away was "prohibit certain top government officials from soliciting public contributions, protecting the superior-subordinate business relationship between government employees" is another good example and major change.

That's very strong. In fact, people have criticized us and continue to, in spite of the fact that we substantially narrow the definition to make sure it only applies to the same matter or different people. I mean those are some examples, maybe we can just choose one of them to be the example.

Or we could just say by, after the words strengthening by limits, for example, both city and employment practice.

THE CHAIRMAN: I don't like that.

1
2 COMMISSIONER WAGNER: That's not
3 taking up too much space?

4 MR. LANE: Unless we went to
5 laying out every provision of the act, I
6 think we can add some language. The
7 question is how selective we are.

8 THE CHAIRMAN: We can select out
9 one fact and try to put it in here with
10 language to elaborate the four verbs that
11 we have used today to describe what we are
12 doing, but by selecting four facts we are,
13 in fact, prejudicing the seriousness of the
14 other things that we haven't cited as fact,
15 that's the problem.

16 COMMISSIONER ALVAREZ: "Be
17 strengthened and clarify."

18 COMMISSIONER ALVAREZ: Then you
19 continue to, "and shall the Board of Ethics
20 be renamed and restructured" and include
21 Judah's recommendation you have now given
22 two examples of those words, and it flows.

23 THE CHAIRMAN: I think that's a
24 good suggestion.

25 MS. DYKSTRA: I think that makes

sense.

COMMISSIONER RICHLAND: I think that's what you get when you are overimpressed by editorials written by Jack McKenzie in the New York Times.

I think that the question that we originally presented was the same and a simple one. I think that's what we should have adhered to.

MS. DYKSTRA: I think Aida's suggestion is a good one, to reverse the strenghten with the clarify and find an example for clarification.

COMMISSIONER GRIBETZ: First there are four things. In two of the four we can be specific. Just for discussion, okay. "Shall the Board of Ethics be renamed," the conflict of interest instead of being renamed, we say what it's being renamed. We will start it off by saying what we are renaming. "Be made up of three independent citizens appointed by the mayor and confirmed by the city council with no ties to government or political parties,"

1
2 that handles two of the four problems,
3 okay?

4 The next two problems are
5 clarification and strengthening.

6 MR. LANE: So we should leave in,
7 "given the power to enforce"?

8 THE CHAIRMAN: That's clearly
9 descriptive.

10 COMMISSIONER GRIBETZ: Okay, then,
11 we have the issue, let's put aside the
12 issues of clarification and strengthening.
13 Let's say, that we could say, "with power
14 to enforce such prohibitions with
15 appropriate penalty including fines up to
16 \$10,000." That's specific, that's right
17 out of the handbook.

18 MS. DYKSTRA: Say that again,
19 "with the power to enforce such
20 prohibition"?

21 COMMISSIONER GRIBETZ: "With power
22 to enforce such provision prohibition."

23 MS. DYKSTRA: "Prohibition."

24 COMMISSIONER GRIBETZ: "With
25 appropriate penalty including fines of up

1
2 to \$10,000."

3 COMMISSIONER GRIBETZ: I am
4 copying from your handbook, okay?

5 MR. LANE: We want to read it
6 back.

7 COMMISSIONER GRIBETZ: Now I
8 still, I am faced with clarification and
9 strengthening, okay? And here we have a
10 dilemma.

11 MR. LANE: Clarification, we can
12 do easily.

13 There are some other minor ones, but
14 this is crucial.

15 COMMISSIONER GRIBETZ: Clarified
16 by prohibited business interest, and then
17 strengthen, okay, by --

18 MS. DYKSTRA: Do what Aida
19 suggests, then reverse them.

20 COMMISSIONER GRIBETZ: All right.
21 So let's -- you read back to me what I have
22 been fumbling forward on.

23 I tell you what I am going to suggest
24 after she tells me what I said.

25 MS. DYKSTRA: I think, "Shall the

1
2 Board of Ethics be renamed The Conflicts of
3 Interest Board, would be made up of three
4 independent citizens appointed by the mayor
5 and confirmed by City council and with no
6 ties to government or political parties
7 with power to enforce such prohibitions
8 with appropriate penalties and fines up to
9 \$10,000, and shall the prohibition be
10 strengthened and clarified, for example, by
11 defining a prohibited business interest."

12 COMMISSIONER RICHLAND: You are
13 omitting the misdemeanors.

14 COMMISSIONER GRIBETZ: Let's put
15 the prohibition, and put the clarification
16 before the penalties, put the penalties
17 last.

18 MS. DYKSTRA: "With power to
19 enforce such prohibitions."

20 COMMISSIONER GRIBETZ: Put the
21 prohibition clarification first, and then
22 put the enforcement last.

23 MR. LANE: I think we have to
24 move it up first, then.

25 COMMISSIONER WAGNER: You have to

1
2 get in scope of what the penalty is going
3 to be.

4 MS. DYKSTRA: No, I think not.

5 COMMISSIONER WAGNER: Don't you
6 think we can take out what the penalty is,
7 and so on and so forth.

8 COMMISSIONER GRIBETZ: You don't
9 want it?

10 COMMISSIONER TRAGER: I don't
11 think the \$10,000 fine is going to be the
12 power of the Board. I think it's going to
13 be recommendations.

14 THE CHAIRMAN: I agree.

15 COMMISSIONER GRIBETZ: Well, let's
16 cut it down.

17 COMMISSIONER RICHLAND: Let's go
18 back to the original one which we sent to
19 the Board of Elections.

20 THE CHAIRMAN: Let's read it now.

21 MS. DYKSTRA: I am not sure, I was
22 playing with it. "Shall the Board of
23 Ethics be renamed the Conflicts of Interest
24 Board, would be made up of three
25 independent citizens appointed by the mayor

and confirmed by city council with no ties to government or political parties."

COMMISSIONER WAGNER: Period.

MS. DYKSTRA: "With power to enforce prohibitions that have been both strengthened and clarified, for example, by defining a prohibited business interest."

THE CHAIRMAN: That, I think, makes a great deal of sense.

COMMISSIONER TRAGER: The only part that I would object to is the business renamed, because would he ask why they are changing the ethics to conflicts of interest.

COMMISSIONER GRIBETZ: You have to speak for the people who are not here, and he would say that if he was here.

COMMISSIONER WAGNER: Who is he, father?

COMMISSIONER GRIBETZ: Fred Friendly.

COMMISSIONER ALVAREZ: I like the idea of including the Conflicts of Interest Board. So people know what it's being

renamed to.

COMMISSIONER RICHLAND: You think there is going to be enough room on the ballot for the presidential election?

MS. DYKSTRA: I will keep in the "Conflicts of Interest Board", and "Shall the Board of Ethics be renamed, the Conflicts of Interest Board, be made up of three independent citizens appointed by the mayor and confirmed by City council with no ties to government or political parties with power to enforce prohibitions that shall be both strengthened and clarified for example by defining a prohibited business interest."

MR. LANE: Do you think we should have another example?

COMMISSIONER GRIBETZ: I would again just --

THE CHAIRMAN: It seems to me that that meets the question that Bob Wagner raised.

Does that makes more sense to you, Bob?

1
2 COMMISSIONER GRIBETZ: Can I throw
3 out one last thing for your consideration?
4 What troubles me is that we may have other
5 people saying to us, we picked the wrong
6 example so if we could leave, if we
7 could --

8 COMMISSIONER WAGNER: Leave the
9 example out.

10 COMMISSIONER GRIBETZ: Yes, and
11 just say "clarified and strengthened,"
12 okay. Without the example would be, in my
13 judgment, less subject of people saying we
14 are selective.

15 THE CHAIRMAN: I think that's
16 correct.

17 COMMISSIONER ALVAREZ: We are back
18 to where we started with the description of
19 what new Board is, with the description of
20 what the new Board is.

21 THE CHAIRMAN: What Judah has done
22 to me, I think what is done to meet Mayor
23 Wagner's concern and it doesn't say
24 positively what we are doing, doing it
25 simply describes it as self-congratulatory

language, and I think Judah is rephrasing it. We are creating an independent Board and describing what it is.

Let's take the example out, and I strongly urge that we conclude this, and I know that a number of people are looking at their watches.

COMMISSIONER GRIBETZ: Let's reread the last thing.

MS. DYKSTRA: "Shall the Board of Ethics be renamed the Conflicts of Interest Board, would be made up of three independent citizens appointed by the mayor and confirmed by city council with no ties to government or political parties," and here is the change, "and be given the power to enforce prohibitions that shall both be strengthened and clarified."

COMMISSIONER WAGNER: Period.

MS. DYKSTRA: Period. "As proposed by the Charter Revision Commission:

THE CHAIRMAN: Is everybody satisfied enough with that to entertain a

motion on the questions?

COMMISSIONER TRAGER: I move that the questions be presented to the voters in a manner in which we have in this document dated September 19, 1988 afternoon draft as modified by our meeting.

COMMISSIONER MURPHY: Second.

THE CHAIRMAN: All in favor, please indicate by raising your hands.

(Whereupon, there was a show of hands)

All opposed?

COMMISSIONER RICHLAND: I oppose on the ground that I stated, I think the original version that was sent to the Board of Elections was sufficient and appropriate, and the charges that have been made might, short of spelling out and writing out the entire charter provision and --

(Continued on next page)

1
2 THE CHAIRMAN: Are you objecting
3 or abstaining? Are you abstaining or
4 voting against?

5 COMMISSIONER RICHLAND: I am
6 voting against.

7 THE CHAIRMAN: So the vote is
8 eight to one.

9 Thank you very much.

10 (Time noted: 9:30 a.m.)
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C E R T I F I C A T E

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, MICHELE BERKEY, a Hearing Reporter and Notary Public within and for the State of New York, do hereby certify: That the within is a true and accurate transcript of the proceedings taken on the 20th day of September, 1988.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of October, 1988.

Michèle Berkey
MICHELE BERKEY