

P U B L I C H E A R I N G

before

SENATE COMMITTEE ON LABOR RELATIONS

on

Senate Bill No. 605
Labor Relations Consultants Disclosure Act

Held:
March 13, 1970
Assembly Chamber
State House
Trenton, New Jersey

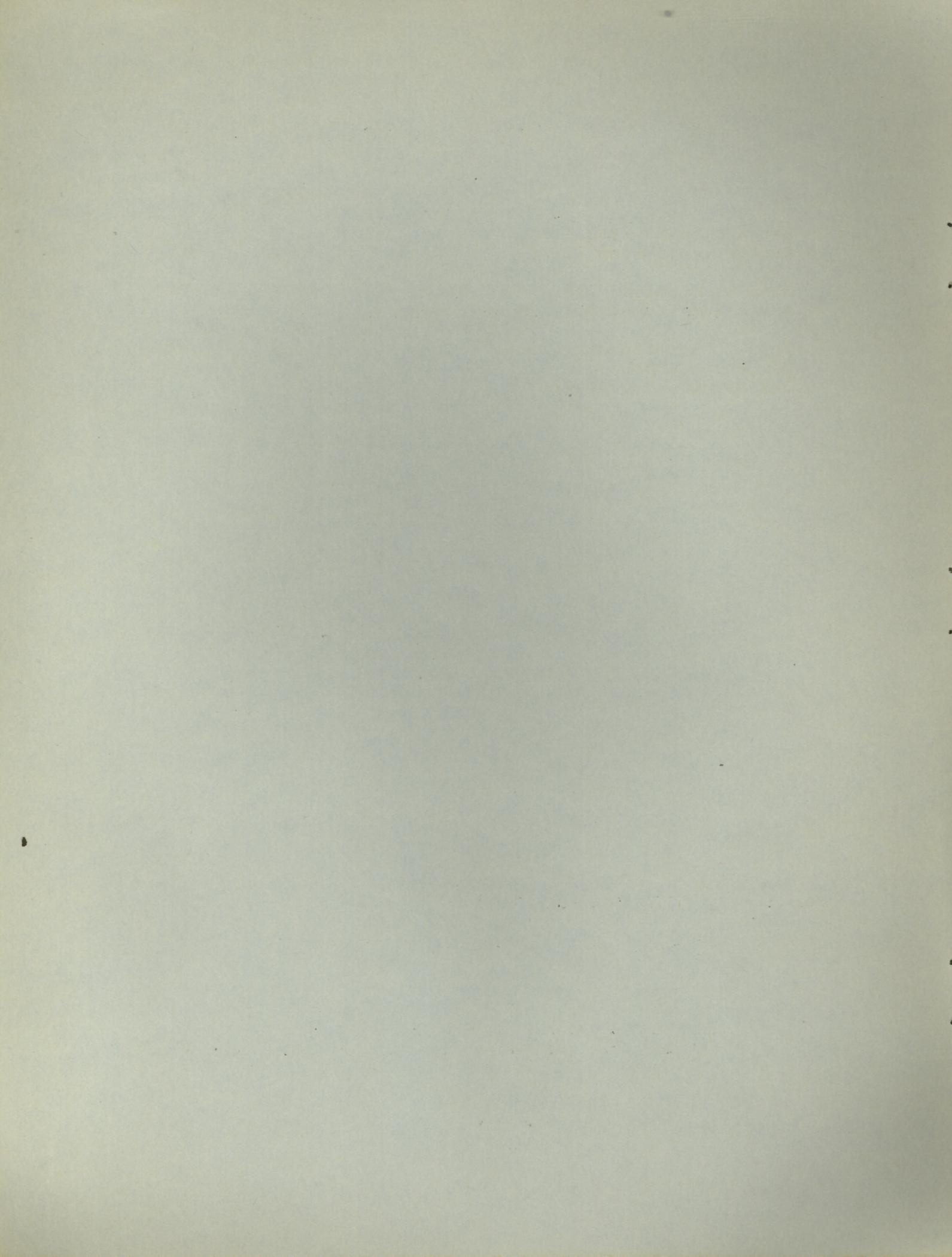
MEMBERS OF COMMITTEE PRESENT:

Senator Francis X. McDermott (Chairman)

also

Assemblyman Robert K. Haelig, Jr.
(Chairman, Assembly Committee on Labor Relations)

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SENATOR FRANCIS X. McDERMOTT (Chairman): Good morning, ladies and gentlemen. My name is Frank McDermott. I am Chairman of the Senate Labor Relations Committee.

This morning I am conducting a hearing on Senate Bill No. 605 which was introduced on February 16, 1970, and has as sponsors Senators McDermott, LaCorte and Rinaldo. The bill is presently in the Committee on Labor Relations in the Senate. The bill is known as the Labor Relations Consultants Disclosure Act. Its purpose is to require the registration and disclosure of information by people who hold themselves out to be labor relations consultants.

The purpose of the bill results from a Grand Jury presentment in Union County last November. The presentment is based on an investigation involving some known criminal syndicate mobsters who held themselves out to be labor relations consultants.

For the purpose of developing this record, we have as our first witness here today the Prosecutor from Union County.

May the record show that Assemblyman Robert Haelig, from Middlesex, Chairman of the Assembly Labor Relations Committee, is co-chairing this meeting with me.

The first witness that I call is Prosecutor Kaplowitz.

Mr. Kaplowitz, on behalf of the Committee, I appreciate the fact that you have taken time out from an exceedingly busy schedule to come down here today to testify, and that what you will tell us will be most helpful in developing

the record for this bill. Should you have any criticism of the bill, should you have any wish to amend the bill, we would certainly be most happy to hear your viewpoints.

L E O K A P L O W I T Z: I hope that whatever I may say, and my Assistant Prosecutor, John Stamler, who accompanied me and presided in the Grand Jury during the lengthy proceedings that culminated in this presentment that you made mention of, will be of some assistance.

I am assuming that if any questions are directed toward the presentment itself they will be directed toward the language of the presentment, and neither one of us have any objection to discussing background information as long as we're not asked to reveal anything that might be of a confidential nature that took place in the Grand Jury Chamber proceeding itself, that is by way of names, investigative reports or things of that nature.

SENATOR McDERMOTT: Mr. Kaplowitz, I am sure Assemblyman Haelig and I are both agreeable to the fact that there is a confidential relationship that has developed between the witnesses and your office, who testified before the Grand Jury, and we realize that it would be unfair and perhaps unethical for you to disclose the names of the witnesses, and we appreciate the fact that you will just give us the summation of your testimony.

MR. KAPLOWITZ: All right. In reading 605, it is my opinion, and now, of course, I speak merely for myself, - it is my opinion that the underlying purpose of the bill is most salutary. However, I frankly feel it doesn't

quite go far enough.

Our investigation was one in depth, far deeper than the tone and tenor of the presentment itself for reasons that are rather difficult to explain and perhaps even more difficult to discuss. But the bill, if legislation of this sort wants to do the job, as I know, Senator, you desire it to do, then I think it has to be tightened up in some respects. You can't legislate morality. That's what we found in our investigation.

We found people in the business world who, for the sake of profit, threw morality to the winds and didn't care with whom they were dealing or how they were dealing provided an economic end was secured for their own purpose.

Now, query. Should this type of legislation require the licensing of a person who holds himself out to be a labor consultant? I don't know. This bill merely talks about a labor consultant registering or filing a certificate with the Commissioner of Labor that he is representing a group in a particular capacity.

Now I toss out for the consideration of the Committee, strengthening it to the effect that a licensing requirement would prohibit people holding themselves out to be labor consultants who are not qualified in the remotest degree to do such. And that's what we found in our investigation in this particular situation, that people held themselves out to be labor consultants that knew as much about labor consultants as the man in the moon but, nonetheless, they did get the job done. For instance, they were able, from

our investigation, - they were able to get a strike called off where law enforcement agencies' hands were tied to some degree. But that wasn't because they had any unique ability to be a labor consultant, that was because they had unique ability in other areas to control persons in the labor area.

Now I further think that in the definition portion we speak about the terms "employer," and so forth, and I think it becomes a little cumbersome to call a labor organization, as such, an employer. I think that when we talk about the individuals we should talk about somebody who acts on behalf of a labor union or on behalf of an international so that he is the person that the act is designed to control as distinguished from a labor organization who is termed an employer, because a labor organization - I think the term itself is so ambiguous that you may not know or it may be difficult to determine who you mean by a labor organization. Suppose a labor organization represents three locals, or one local represents three plants, or things of that nature.

So I suggest that perhaps some consideration might be given to the definition along those lines.

The bill does try to exempt certain categories of persons who can act, such as New Jersey Attorneys and people who act in a mediatorial capacity, in paragraph (d). That I think is good. But I think the exemption from application of the act should again be spelled out so that it really says that it doesn't apply to a duly elected or appointed business agent or a duly elected international representative

or any representative of labor itself. There is some attempt to say that in a subsequent paragraph but I'm not quite sure it's clear enough for my own personal purposes in evaluating the bill.

So that anyone who represents either his own local, or others, in labor, whether he is a fully paid employee or not, - because there is some language in the bill that one of those exempted would be a full-time, salaried employee of an employer -- now I could conjure up a situation where a man may not be a full time employee and still have a perfect right to act as a labor consultant. He may be hired as a specialist; he may be called in for a one-purpose situation; or he may not really be a full-time individual; it may be a part-time job; he may or may not be salaried. So what you're talking about in paragraph (d) of the bill is a full-time, salaried employee.

I think there might be some consideration given to thought along those lines to determine if that's in fact what you're after.

SENATOR McDERMOTT: May I interrupt you for just a moment?

MR. KAPLOWITZ: Sure.

SENATOR McDERMOTT: I see you did your homework, Prosecutor.

MR. KAPLOWITZ: I just made some notes on your bill, Senator.

SENATOR McDERMOTT: Just to point out to you, I have received amendments from Victor Parsonnet, who is Counsel to

the State AFL-CIO, which clarify the definition of "labor consultant" with regard to the people that you referred to.

MR. KAPLOWITZ: Fine.

SENATOR McDERMOTT: And these amendments are quite acceptable to the Committee and they will be introduced possibly with other amendments.

MR. KAPLOWITZ: Knowing Mr. Parsonnet's reputation for thoroughness, I'm sure they would be most acceptable to me. But I'm merely giving you my own observations of the bill.

Now I think a crucial area of legislation of this nature - and I think it's needed, I think the public deserves it, and, frankly, I think the public should have a bill of this nature - but I think there should be a mutual reciprocal obligation upon labor and management to the extent that, while the bill now speaks of a labor consultant filing a notice of his representation with the Secretary of Labor, I think management should be required to file a reciprocal certificate or notice that management is now doing business with someone who holds himself out to be a labor consultant. Then the Commissioner of Labor and Industry gets a notice from the consultant that he represents a group dealing with the "A" industry and "A" industry files a reciprocal certificate or notice that its management is dealing with someone representing this group of employees; because, otherwise, it is conceivable - and I'm sure you all know that management, when we talk of management in industry it's not always General Motors, there are areas of management that haven't

got big corporate structures that operate out of a very small office, out of a hat, out of their own homes, but in the true sense they're management, they employ people, they put money into the stream of our economy, and they deal with labor. So that I think there should be that mutual, reciprocal obligation upon those who deal with the labor consultants to file, the same as you're requiring a labor consultant to serve or file his notice with the Commissioner of Labor.

I would view that as perhaps being my most stringent suggestion in the bill.

Now the bill does talk about making any person who "knowingly and willfully falsifies all or any part of any statement under this act shall, upon conviction, be guilty of a misdemeanor." I would assume that that applies to any portion of the act, that it just doesn't apply to whether he files the notice or not, because what I'm, in effect, referring to is, what about somebody who holds himself out to be a labor consultant but in fact is not? That's what I would like this bill to go after.

I would like this bill to tell you, if you're a labor consultant this is what you have to do to be a labor consultant.

And then I suggest that the provision which talks about "the Attorney General may, upon the request of the Commissioner, institute a civil action to enjoin such person from engaging in such activities" - I think that's too loose. I don't like the word "may", first of all, because

it's discretionary. The Commissioner may never report it, not for any purposeful reason but it may never get to the point of reporting it. An injunction proceeding may not be instituted. So that I think there should be mandatory requirements.

When you leave something open to discretion to institute a civil action to enjoin, the areas of opportunity given to those who want to flaunt the provisions of the act are manifold. And I think that it should be either mandatory or some other language introduced which would eliminate what I call the looseness of the language so that the discretion element is there. Because if you are violating a law of this nature which is designed for a proper purpose, then there should be no discretion. If a man holds himself out to be a labor consultant who is not and has no business to be, and management has no right to deal with him regardless, then let the teeth of the bill act.

I also think that while it talks in section 11 of the act that, "any labor relations consultant required to file a notice who fails to file the notice, and so forth, be guilty of a misdemeanor, - I have no objection to the penalty imposed - I think some consideration should be given to, again, a mutual obligation upon management who negotiates with an unauthorized individual, so that management should have culpability imposed on its part if they, in fact, negotiate with someone who is unauthorized to act in the capacity of a labor consultant.

The observations that I have made are those that,

you know, sort of came to mind as I read the bill. I know of the Senator's extreme interest - Senator McDermott's extreme interest in this legislation. I know that he and Senators LaCorte and Rinaldo were most anxious and did receive as rapidly as possible copies of the presentment that the Grand Jury returned, when it did return it, and we in Union County, from the standpoint of pride of authorship, were happy that our Union County Senators took immediate action upon the recommendations of the Grand Jury.

This is a very troublesome area. I know from having been Prosecutor for a little over five years, from having dealt in areas of this nature, that reforms, even with legislation of this nature, are not going to be easy to come by. But if you are going to have reforms, then I think the bill has to be a little tighter.

I hope I have been of some small assistance, Mr. Senator, and we are happy to have been given the opportunity to appear. And anytime representatives of a Prosecutor's office are asked to appear before a legislative committee, we deem it sort of a privilege and a compliment to the office. So, on behalf of my staff, I extend to you my appreciation for inviting us.

Thank you very much.

Now, if you have any questions, I will see if I can answer them.

SENATOR McDERMOTT: Let me say, Mr. Kaplowitz, I must compliment you because you have done an extremely thorough job of reviewing almost every line of this bill

and you have made some very helpful suggestions to us in tightening this up.

Your suggestion about requiring management to report too is well taken, very well taken, because as I see it, by what you propose, you are going to have a cross-check now where, beforehand, this bill had that one weakness. If a labor relations consultant didn't report and nobody complained about it, then he would just go on his merry way. In this particular case, as you suggest, where you have the two parties involved doing the reporting then if one party reports you will be able to find out about the other party's participation.

MR. KAPLOWITZ: Precisely.

SENATOR McDERMOTT: I think that's an excellent suggestion.

I would like to ask you a question.

MR. KAPLOWITZ: Sure.

SENATOR McDERMOTT: You have done such a thorough job of this in a legal, technical sense --

MR. KAPLOWITZ: Not really.

SENATOR McDERMOTT: -- have you discussed this with any labor union officials as to their attitudes in this?

MR. KAPLOWITZ: I took the liberty of discussing the fact that I was going to testify before this Committee. I think, Senator, you spoke with me on Wednesday of this week, and it was yesterday that I took the liberty of speaking to two members of labor whom I feel close to and thought I could get a cross-section of their views toward the bill. And I

say unanimously, even though it's only the two people whom I spoke to, their attitude is, if there are people that are crooked in labor, let's get rid of them. The honest labor movement wants a good movement. The honest labor movement wants negotiations and contracts entered into at an arm's-length transaction in good faith. So I really don't think that labor, as such, has any opposition to the bill. But I didn't discuss with these people the observations I made in connection with mutual, reciprocal obligations on the part of management. I would like to think they might be pleased with that, but I don't know.

SENATOR McDERMOTT: Maybe management won't.

MR. KAPLOWITZ: That's what I'm talking about.

SENATOR McDERMOTT: Do you have any questions of the witness, Assemblyman?

ASSEMBLYMAN HAELIG: No.

SENATOR McDERMOTT: Well, Mr. Kaplowitz, on behalf of Assemblyman Haelig and myself, again I want to thank you for coming down here. I appreciate the viewpoints you have given us and I am sure they will be most helpful in developing this bill further.

MR. KAPLOWITZ: Fine. Thank you.

SENATOR McDERMOTT: The next witness is Mr. John Stamler. Would you please take the witness stand?

Would you please, for the record, identify yourself and your position.

J O H N H. S T A M L E R: My name is John H. Stamler.
I am Assistant Prosecutor of Union County.

SENATOR McDERMOTT: Mr. Stamler, you've heard testimony given by Prosecutor Kaplowitz. We would like, for the benefit of the record, to have some testimony by you about the factual background of the Grand Jury Presentment which resulted in the drafting and introduction of this legislation.

In keeping with what Prosecutor Kaplowitz said, we do not expect you to reveal the names of witnesses. If you can reveal the names of the parties involved, of course there has already been a public record, we would appreciate that but we don't want you to violate any confidences or do anything that would be unethical or improper from your point of view as an Assistant Prosecutor.

MR. STAMLER: Thank you, Senator.

May I first at least mention that I differ with my superior in one aspect. He said he has no criticism of the penalty set forth in the bill. That was the one thing that I found severely lacking.

The bill provides that if a person is found guilty of a violation of the bill it will be a misdemeanor and be subject to a penalty of no more than one year imprisonment or a fine of no more than \$10,000.

Now almost every misdemeanor in the criminal statutes provides for a maximum of three years imprisonment. And I think we found, through our investigation, dealing with people in organized crime, that the one thing they fear most is

prison sentences and not a fine. The money they can come up with. And I think that this punitive provision of the bill that provides for no more than one year imprisonment - that's nothing more than a slap on the hand, and I think it should be the same as for any other misdemeanor under the criminal statutes.

Now the presentment dealt with one specific instance of the involvement of alleged members of organized crime with the Garden Apartment Construction Industries. Our investigation, however, covered far more areas and more incidents involving other persons other than Simone, Samuel Rizzo, DeCalvacante. In particular, the presentment dealt with the construction of a garden apartment development in Parsippany, New Jersey, known as Mt. Pleasant Village, which was built by Riverside Estates, Inc., a New Jersey corporation. Construction on that project began sometime in 1963.

During the course of the testimony presented before the Grand Jury the witnesses who appeared were the principals of the corporation, the mason contractor, the plumbing and heating contractor, the carpenter, the superintendent of construction for the principals, an officer in the Parsippany Police Department, and the business agent for one of the unions that had pickets on the line.

We found, and I think that the Committee would be interested in just how a person like DeCavalcante and his predecessor, Delmore, worked.

Delmore was the --

SENATOR McDERMOTT: Do you have a first name for Delmore?

MR. STAMLER: Nick.

-- was the unofficial head of organized crime or the syndicate in Union County up until his death in 1964. And that was at a time when law enforcement officials did not know too much about the inner-workings of organized crime as we do today.

Delmore, at that time, - his legitimate front was a plumbing business in Kenilworth, New Jersey, named Kenworth. He met the principals of this corporation, Riverside Estates, Inc., at a cocktail party in January, 1963, and he approached the principals and introduced himself and said that he was a labor relations consultant and he knew they were about to start construction on a large garden apartment development and, if he could help out, they should call upon him.

He asked if he could submit a bid, which he never did, for the plumbing work.

The construction began on the job and the employers were using - excuse me, the principals subcontracted out all the work so that some contractors employed union labor and some used non-union labor.

Construction began and a contractor other than Kenworth got the job for the heating and plumbing work. The picket line appeared a short time after the meeting with Delmore and perhaps, coincidentally, after another plumbing and heating contractor got the job.

Thereafter, one of the principals of the corporation which was doing the building and who by another strange coincidence happened to be the attorney that formed Kenworth Corporation for Delmore some few years earlier informed his partners that Delmore was the person who could settle the strike which occurred and the principals later met with Delmore at his office in Kenilworth. They told him of the picket line and Delmore told them only that he would see what he could do.

Now the witnesses stated that they didn't know why the pickets appeared. They didn't know what their grievance was. They didn't know what they wanted.

A few weeks after that -- from the testimony of the witnesses it appeared that the pickets disappeared anywhere from one week to three weeks after they appeared. Delmore then contacted the principals and told them that the matter had been resolved. At no time did he tell them what he did and at no time did the principals ask Delmore what he had done to effectuate a settlement of the strike or the removal of the pickets.

He told them as a result of the matter being resolved, his fee would be \$100 per unit for each unit, which would have amounted to \$70,200 based on the planned number of units. From that time until early 1964, the principals paid between \$10,000 and \$12,000 and always in cash as requested by Delmore. No receipts were obtained or were ever requested by the principals.

The principals read in the paper of Delmore's death. Nothing happened for a short time thereafter until they received a phone call from Simone De Cavalcante who identified himself as the successor to Delmore in all of Delmore's interests. He

said that he was aware of the fact that an arrangement had been made between Delmore and the principals of the corporation, that there was money due Delmore and that De Cavalcante would now collect Delmore's money.

One of the principals, and not the attorney involved, met with De Cavalcante and worked out a settlement of \$25,000, which the principal prided himself upon because in effect he was cheating De Cavalcante out of almost \$60,000. The \$25,000 was paid in six payments and it was always in cash and without receipts. Each of the principals contributed equally toward the payments which were made up of personal funds. One of the principals used the funds he received from the corporation for services rendered as its attorney, another would cash a personal check made payable to himself or to cash, and another principal would cash the salary checks that he received from the corporation. Despite the fact that these principals told the Grand Jury that they regarded the payments as legitimate expenses of doing business, they never declared these payments as business expenses or claimed a deduction therefor. And to avoid being questioned by the Internal Revenue Service on the cash disbursements, they even went so far as to treat the amounts paid to Delmore and De Cavalcante as income to themselves and paid the income tax thereon. So in addition to paying the total amount of \$35 or \$37 thousand, they also paid income tax on that money.

The corporation was able to complete construction of the 702 units without fear of a picket line and with non-union labor on most of the construction. The importance of using non-union

labor is best appreciated when you realize that in the construction of a garden apartment unit, the average cost in the years 1964 to 1967 when this particular job was being built was \$10,000 a unit. By using non-union labor, the principals could save \$2,000 or 20 per cent per unit. Thus by paying De Cavalcante and Delmore \$100 per unit to insure labor peace and to be able to use non-union labor, they could save on the cost of construction \$1900 per unit or almost \$1.3 million on the entire job.

So it was quickly apparent to the Grand Jury that it benefited these men to do business with organized crime, regardless of what in fact they admitted they knew about the background of these individuals.

In the course of our investigation we also became aware of another incident of which I would like to make the Committee aware, involving Mr. De Cavalcante. A nursing home which was being built in West Orange, New Jersey, experienced a violent and prolonged strike. There was physical injury, police officers were injured, and it was at the stage where the nursing home was in operation, but all of the construction had not yet been completed. The principals in the nursing home had had their lives threatened. Their cars had been stoned as they tried to enter the premises. Despite seeking the help of the West Orange Police and the FBI, they could not find out who was behind this strike and why it was so violent and intense.

As it so happened, Kenworth was doing the plumbing and heating work on this job and one of the principals met Mr. De Cavalcante one day in a trailer at the job and De Cavalcante

suggested perhaps he could work something out. After one or two preliminary meetings, a meeting was held at the Holiday Inn in Kenilworth, New Jersey, which I think would make the National Mediation Service jealous as to how Mr. De Cavalcante was able to operate.

In one of the dining rooms, he set up a small table to his right at which were seated the principals of the nursing home. He was seated at the central table with two of his aides, and to his left were seated the members of the unions which were striking. Like a true professional, Mr. De Cavalcante would first call over the principals in the nursing home and ask them what they would offer. He would then send them back and call over the members of the labor unions involved and ask them what they would take. As a result, at that one meeting this strike which law enforcement officials and all legitimate means could not resolve was settled amicably and quickly and expeditiously and at a good price to the builders.

Thereafter, one of the principals involved admitted that De Cavalcante asked for nothing and that he sent De Cavalcante a \$500 pair of cufflinks as a Christmas gift. When asked whether he was obligated or threatened in any way to settle the strike by De Cavalcante, he absolutely denied it.

I think the one interesting thing though is that the principal involved first and then his wife who later took over the control of the nursing home contributed approximately \$1000 a year for four years thereafter to an orphanage of which De Cavalcante is the prime United States backer. They said

that they were interested in the orphanage which is located in Sicily strictly because of Mr. De Cavalcante's humanitarian pleas on the orphanage's behalf. They said that no threats were made at any time nor were they even asked to give this money.

If there are any questions you would like to address to it, I would be glad to answer within the limits prescribed. As you know, what took place in the Grand Jury room is secret. Until an order is signed by the Assignment Judge of our county releasing those transcripts, we can't discuss what actually took place in the Grand Jury room.

SENATOR MC DERMOTT: Mr. Stamler, in both stories it appeared evident that there was money given by the principals to De Cavalcante. Is there any criminal law on the books now in the nature of extortion that could be applied to either the business principals or to the labor consultants?

MR. STAMLER: Well, of course, our initial goal was, if we found evidence of criminal activity, to return an indictment rather than a presentment, which is really nothing more than a statement of a certain situation in public affairs.

We found in the Grand Jury that the extortion statute in this State is entirely too limited and restrictive. It requires some threat to person or property.

The principals involved in this matter would not admit at any time to being threatened. Now there was no question that these particular witnesses had the advice of counsel and the Grand Jury was convinced that these people knew that as long as they said they never paid these moneys under threat of harm to

themselves or to their property that there could be no criminal sanctions imposed against De Cavalcante or anyone else.

May I call your attention to the fact that the witnesses involved were offered immunity from prosecution in any way because of the statute on the books that makes it a crime to bribe a labor representative and these people were afraid that at some future time it might develop that in fact De Cavalcante was a duly-authorized representative of a labor organization. These people were more afraid of De Cavalcante than they were of the sanctions which the State could bring against them for false swearing or perjury and they would not admit to a threat of any kind. Without that, there was missing the criminal element on which to base an indictment.

SENATOR MC DERMOTT: In your researching the background on our statute on extortion, did you look at any other states to determine whether or not they have an extortion statute that might cover a situation similar to this one?

MR. STAMLER: We found that the Federal statute which deals with using extortive means to take control of business could be adapted to fit the needs of a situation such as this. Of course, I think that the bill is restrictive in that it arises out of this one particular presentment and the situation therein. I doubt since his conduct has become public whether De Cavalcante or any other people like him would engage in similar conduct. I am sure they are going to adapt their means because as fast as law enforcement and the Legislature find a means to control them, they find another surreptitious means

to get around it.

I think that the statute proposed is going to have to be broader than the bill that is presently drafted. I think it is a little bit too limited. But I think Mr. Kaplowitz has set forth those reasons. I think that the Federal statute should be considered by this Legislature, perhaps to adopt a State law to that effect.

SENATOR MC DERMOTT: Would you send me the citation to that Federal statute at your convenience? I will appreciate it and I will incorporate it as part of these hearings because we would like to look at that.

MR. STAMLER: I will be glad to.

SENATOR MC DERMOTT: Assemblyman Haelig, do you have any questions?

ASSEMBLYMAN HAELIG: No, I have no questions.

SENATOR MC DERMOTT: Mr. Stamler, we certainly appreciate your coming down here today. We realize that you have an extremely busy schedule. But what you told us has been very helpful to us. Your giving us the background behind the Grand Jury presentment upon which this bill is based has been very enlightening to the Committee.

Secondly, your suggestion about doing something with regard to our present criminal statute on extortion will be taken under consideration by this Committee and we will endeavor to follow your recommendations in that area. It is not absolutely necessary that we put it all in this one bill because, as you know, it amends different existing statutes. But we will certainly investigate it and we will turn it over

to the Attorney General for his consideration.

MR. STAMLER: Thank you, Senator.

SENATOR MC DERMOTT: Thank you again, Mr. Stamler.

The next witness is Mr. Fred Hermann. Mr. Hermann, would you please identify yourself and your association.

F R E D C. H E R M A N N: Yes, sir. I am President of Van Brunt and Son, a local trucking company, located in Old Bridge, New Jersey.

SENATOR MC DERMOTT: Would you spell that, please?

MR. HERMANN: V-a-n B-r-u-n-t and Son, Incorporated. I have some literature here covering the history of the company that I would like to distribute and make available to the Committee and to you, sir.

SENATOR MC DERMOTT: Thank you very much. We will be happy to accept it.

Mr. Hermann, would you please state your interest in matters involving labor racketeering?

MR. HERMANN: As President of, probably the oldest trucking company in the State of New Jersey, I am concerned and I have been concerned for many months and years with the competitive situation that the legitimate motor carrier faces in New Jersey. In order to compete favorably or at the same level, it is necessary that we compete with carriers that have similar contracts to ours.

SENATOR MC DERMOTT: You mean labor contracts?

MR. HERMANN: Labor contracts. And when we compete with motor carriers who have lower contracts, we are forced out of

that particular market.

It has been our observation that the sweetheart contracts attract the Porto Ricans, the blacks and the uneducated whites who are not familiar with the Federal statutes and who are exploited by these criminal elements that this Committee is interested in, Senator.

The number of legitimate carriers as they try to compete with these operators, gradually become eroded. The motor carriers are retarded in their growth and I believe that I speak for most legitimate carriers, even though I am here specifically for Van Brunt and Son, when I make these statements.

I think the Committee has a golden opportunity here. I am not a legislator - I am not an attorney or an expert on this. But I think the Committee has a golden opportunity to compel these labor contracts to become a matter for public scrutiny. I think not only the truck driver should have the contract available to examine, but I think the legitimate businessman should have the opportunity to examine these contracts because every time a sweetheart contract is drawn, there is a legitimate motor trucker or a legitimate businessman who is hurt. And while I don't see too many other businessmen here voicing my sentiments today, it is an economic fact of life that someone has been dispossessed of a contract or a piece of business because of a lower sweetheart contract which is available.

So my recommendation to the Committee is to give some consideration to this possibility of making these contracts available to the public. I also feel that public disclosure

in so far as labor and management are concerned, in so far as their interests are concerned, is also important. I don't think that you have to limit this disclosure just to labor consultants. I think management consultants certainly could be made part of this.

SENATOR MC DERMOTT: Are you endorsing Prosecutor Kaplowitz's suggestion that management be required to disclose when they use a labor consultant?

MR. HERMANN: Absolutely, because only legitimate management would agree with this. The illegitimate management, the management that is able to get the sweetheart contracts, might shy away from this. The legitimate businessman should welcome this opportunity.

SENATOR MC DERMOTT: From your knowledge and experience in the field, would you say that many of these sweetheart contracts are generated or negotiated by people who are presently outside the scope of any licensing provision?

MR. HERMANN: Absolutely.

SENATOR MC DERMOTT: Would this apply to attorneys?

MR. HERMANN: Well now, I can't speak for attorneys. I just don't know that. But I know it is like quicksilver, we just can't pin down these contracts. They are all over and we just can't compete with them.

SENATOR MC DERMOTT: Are you organized?

MR. HERMANN: Yes, we are. And I have a newspaper excerpt on a publicity release that we put out a number of months ago on this particular subject explaining our interests, and I would like to distribute that also to the members of the

Committee.

SENATOR MC DERMOTT: Can you just tell us basically what is in there. I will be happy to distribute it to the Committee members.

MR. HERMANN: Well, the particular local that organized Van Brunt and Son is a legitimate local.

SENATOR MC DERMOTT: What is that local?

MR. HERMANN: A legitimate union.

SENATOR MC DERMOTT: A Teamster local?

MR. HERMANN: A Teamster local. We negotiate at arm's length with Robert Coar, who is President of Local 701 in North Brunswick, and each time the contract expires we have honest negotiations with this man. We have had some strikes. We have had some difficulties. But nevertheless, it is an honest relationship.

However, the contract that we have with Mr. Coar has placed us out of much of the tonnage that moves in New Jersey. We just aren't competitive any longer. So while we are hurt, Mr. Coar's local is hurt.

SENATOR MC DERMOTT: Are you saying that Teamster contracts are not uniform?

MR. HERMANN: I am saying exactly that, sir.

SENATOR MC DERMOTT: And they are not uniform in the wage rate?

MR. HERMANN: They are not uniform in the wage rates in many cases. They are not uniform in the way the welfare and pension benefits are collected. They are not uniform in so far as the number of holidays are concerned.

SENATOR MC DERMOTT: And all this adds to your basic cost of operation.

MR. HERMANN: Because we pay the highest, we pass this along to our shipping public, those who will pay our rates, and those who won't go to the truckers who have the lower scales and who pay the lower benefits.

SENATOR MC DERMOTT: Do you know whether or not it is a practice in your union that each member get a copy of the contract?

MR. HERMANN: That is a practice. Every member has a copy of the Local 701 contract.

SENATOR MC DERMOTT: I presume by what you stated earlier that in many cases the minority groups that we have in New Jersey in the work force, Porto Ricans and the colored and some whites, they don't get copies of their contracts so they don't know whether or not they are entitled to certain benefits or certain wage rates.

MR. HERMANN: That is exactly right, sir.

SENATOR MC DERMOTT: Your main goal though is to make all contracts public so that anybody can examine them, is that it?

MR. HERMANN: Well, I think it should be a matter of public record for everyone so that when we negotiate at least the operators know what other contracts are available. I think the uneducated whites, the Porto Ricans and the blacks also should have this information available to them.

SENATOR MC DERMOTT: And you would support any law or regulation that would require a union member to have a copy of

the contract between his union and the employer, right?

MR. HERMANN: Yes, sir.

SENATOR MC DERMOTT: Do you have any questions, Assemblyman?

ASSEMBLYMAN HAELIG: No.

SENATOR MC DERMOTT: Well, I certainly appreciate your coming down here, Mr. Hermann. You, like the other witnesses, have given us suggestions of going into other areas to investigate, to decide whether or not we ought to expand the existing labor laws in the State of New Jersey in the area of disclosure to the membership of their true rates and benefits and disclosure to business competitors as to what their competitors are paying and whether or not they may have some special preference from certain unions.

We also appreciate the fact that you are saying that the public is entitled to this knowledge too.

We appreciate your thoughts. We appreciate the fact that they are based on your experience and we certainly more than appreciate the fact that you have taken time out from your business. I am sorry to note that you are the only management man here. You are not afraid to speak your mind and I think we appreciate the fact that you had the courage to do that.

MR. HERMANN: Well, it didn't take that much courage, Senator, because when you are back against the wall in an economic situation that we are in this particular instance, we had to make a move. I am personally grateful to you for your interest and Assemblyman Haelig's for arranging this

and for the State's suddenly assuming this interest. This thing has been a cancer in so far as the State of New Jersey is concerned for many, many years and it is sickening that it has gone on as long as it has. So I am personally obligated to both of you, sirs, and I appreciate the opportunity.

SENATOR MC DERMOTT: We'll take that material.

[Exhibit submitted by Mr. Hermann can be found on page 32 of this transcript.]

SENATOR MC DERMOTT: There have been others invited to this meeting to present their viewpoints. Some of them were unable to come because of other commitments. Others felt it would be better if we introduced into the record a written statement from them.

I invited the New Jersey State A.F. of L. - C.I.O. to testify here today. I have received a letter, which I will introduce into the record, dated March 11, 1970, sent to me by Mr. Charles H. Marciante, Secretary-Treasurer of the A.F. of L.-C.I.O.

[Reading]

"My dear Senator McDermott:

"The New Jersey State AFL-CIO appreciates the opportunity to advise the Senate and Assembly Committees on Labor Relations of its position on Senate Bill 605. This bill requiring public disclosure of information by persons engaged as labor relations consultants would not affect labor unions as such. Labor unions do not engage labor relations consultants to handle their organizing activities or collective bargaining activities but rely upon their elected officers, International staffs or upon attorneys for these services. The practice has arisen whereby employers, both public and private, have retained the services of specialists to act as labor relations consultants for them. As recent publicity has disclosed, some of these 'labor consultants' have abused their positions to the detriment of the working man and the public as a whole.

"The Labor Management Reporting and Disclosure Act of 1959 has on a national level required that 'Labor relations consultants and employers of such consultants file a report with the Secretary of Labor detailing the nature of the arrangement or agreement between the employer and the labor relations consultant in any industry affecting commerce.'

"As we see it, Senate Bill 605 would supplement the provisions of the Labor Management Reporting and Disclosure Act of 1959.

"Thank you for this opportunity to present our view.

"Very truly yours,

Charles H. Marciante"

In addition to the letter that I have here from the Secretary-Treasurer of the AFL-CIO, I also have and will introduce into the record suggested amendments to Section D of this bill, given to me by counsel to the New Jersey State AFL-CIO, attorney Victor Parsonnett. They are in line with the suggestions made by Prosecutor Kaplowitz during his direct testimony and the Committee will review these amendments for possible insertion in the bill.

[Suggested amendments submitted by Mr. Parsonnett can be found on page 33 of this transcript.]

I have also invited to this hearing the Attorney General of the State of New Jersey, Mr. George Kugler, who unfortunately could not attend because there was a conflict in his schedule at this time as the Governor called a Cabinet Meeting at ten o'clock this morning. However, Mr. Kugler did send to this hearing a Deputy Attorney General to be an observer of the testimony given here today, a Mr. George T. Dougherty. And as stated to Prosecutor Kaplowitz, this Committee when the record is complete will forward the same to the Attorney

General for his review and this Committee will endeavor to meet with the Attorney General and his staff in drawing legislation to cover all the areas that were suggested by the witnesses.

Additionally, an invitation was extended to United States Attorney for the District of New Jersey, Mr. Frederick B. Lacey. I had previously sent to Mr. Lacey a copy of this bill and by letter dated March 3, 1970, he answered my letter and made his comments on the bill.

[Reading]

"Dear Mr. McDermott:

"Thank you for your letter of February 24, 1970, and the proposed legislation enclosed.

"As you know, at the request of the Legislature, I submitted certain legislative recommendations related to the problem of organized crime, together with several relevant exhibits. I assume that you have seen this material.

"Much as I would like to comment upon specific pieces of proposed legislation such as that concerning labor relations consultants which you sent to me, I feel that I should decline to do so, as a general rule of policy, particularly since such specific comments would have to be cleared in advance with appropriate persons in the Department of Justice in Washington.

"Please accept my best wishes for success in your efforts.

"Sincerely yours,

Frederick B. Lacey
United States Attorney"

Subsequently I had a telephone conversation with U.S. Attorney Lacey and he said that he would endeavor to come this morning, but that he would have to secure proper permission from his superiors in Washington. Mr. Lacey endeavored to secure such permission and unfortunately was unable to secure.

that and telephoned me back on March 11, 1970, and said that his department would not give him an exception from their general policy. The department decided to stand by their rule with regard to his appearing in person to testify on specific legislation. And for the record, let it be made very clear that it is a policy of the Justice Department that they do not comment on specific legislation before state legislatures. They will, however, make recommendations in a general manner on a specific type of legislation that will bolster Federal laws or existing state laws.

Are there any further witnesses? [No response.]

Do you have any comments to make, Assemblyman Haelig?

ASSEMBLYMAN HAELIG: No. I have found the testimony to be very informative and I appreciate your invitation to the Assembly Labor Relations Committee to participate in the public hearing today.

SENATOR MC DERMOTT: Thank you very much, and thank you for coming today too.

I now declare this hearing closed.

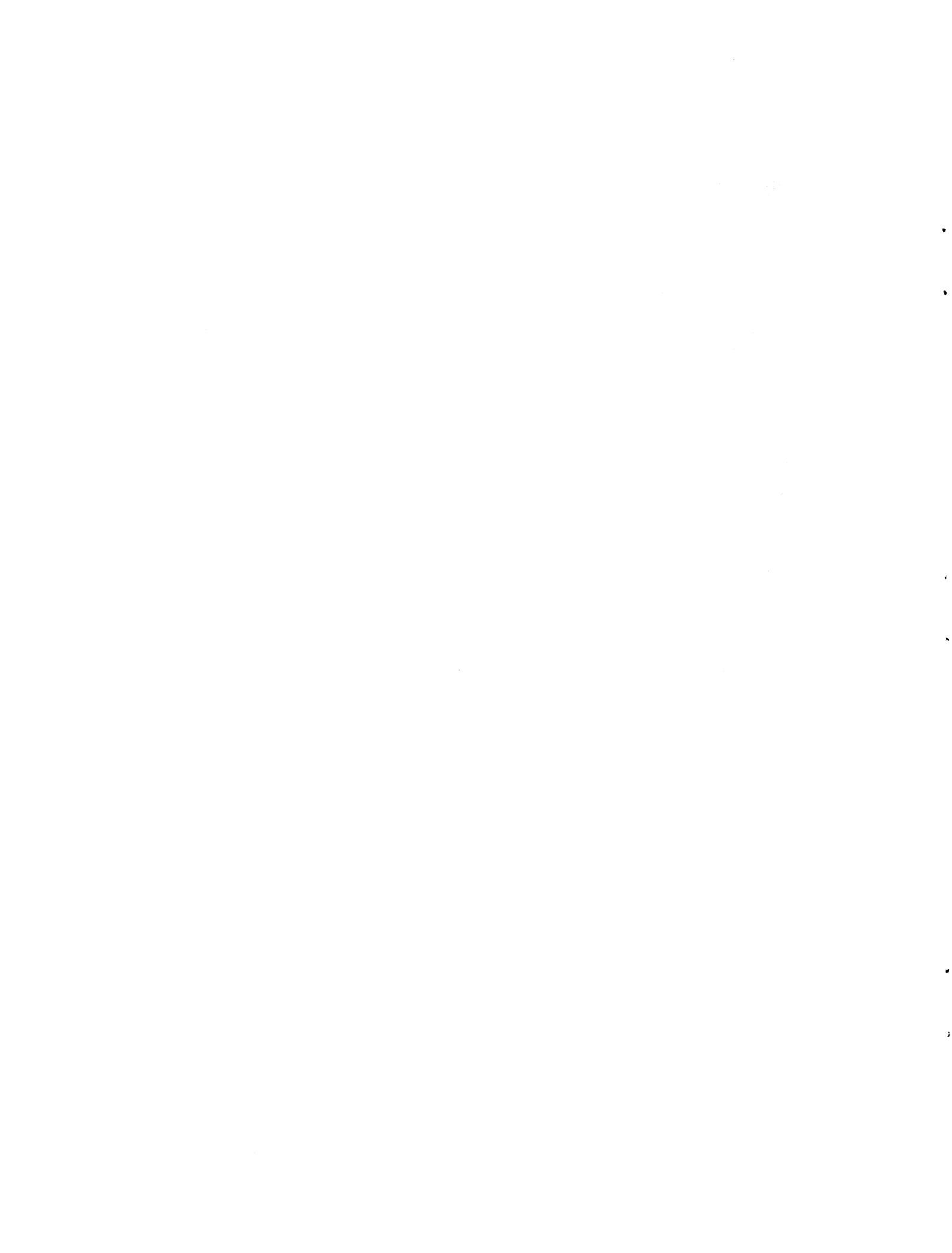
[Hearing concluded.]

March 10, 1970

SUBMITTED BY VICTOR J. PARSONNETT,
Counsel, New Jersey State AFL-CIO.

Section "D"

The term "labor relations consultant" means any person who for compensation advises or represents in New Jersey an employer, employer organization or labor organization concerning employee organization concerted activities or any collective bargaining activity including but not limited to grievance handling, mediation and arbitration, except a full-time salaried employee of an employer or employer organization, or a full-time salaried employee or duly elected officer or agent of a labor organization including a local or international union, or an attorney at law of New Jersey.



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