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COMMISSION MEETING

before

AD HOC COMMISSION ON LEGISLATIVE ETHICS AND CAMPAIGN FINANCE

"Continue seeking agreement on what changes, if any, in current
State laws and regulations governing conflicts of interest
the Commission should recommend to the Legislature"

August 24, 1990
Room 334
State House Annex
Trenton, New Jersey

COMMISSION MEMBERS PRESENT:

Dr. Alan Rosenthal, Chairman
Albert Burstein
Patricia Sheehan
Thomas Stanton, Jr.
Senator Carmen A. Orechio
Senator Donald T. DiFrancesco
Assemblyman Thomas J. Deverin
Assemblyman Garabed "Chuck" Haytaian

ALSO PRESENT:

Marci Levin Hochman
Assistant Counsel
Office of Legislative Services

Frank J. Parisi
Office of Legislative Services
Aide, Ad Hoc Commission on Legislative Ethics
and Campaign Finance

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AD HOC COMMISSION ON LEGISLATIVE ETHICS
AND CAMPAIGN FINANCE

Alan Rosenthal
Chairman
Albert Burstein
Michael Cole
Patricia Sheehan
Thomas Stanton, Jr.
Carmen A. Drechio
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General Assembly

M E E T I N G N O T I C E

TO: MEMBERS OF THE AD HOC COMMISSION ON LEGISLATIVE
ETHICS AND CAMPAIGN FINANCE

FROM: ALAN ROSENTHAL, CHAIRMAN

SUBJECT: COMMISSION MEETING - August 24, 1990

*Anyone who wishes further information on the Commission meeting may
contact Marci L. Hochman, Aide to the Commission, at (609) 292-4625 or
Frank J. Parisi, Aide to the Commission, at (609) 292-9106.*

The Ad Hoc Commission on Legislative Ethics and Campaign Finance will
hold its next meeting on **Friday, August 24, 1990 beginning at 1:00 p.m. and
ending at 3:30 p.m. in Room 334 of the State House Annex, Trenton, New
Jersey.**

The purpose of the meeting will be to begin seeking agreement on what
changes, if any, in the current State laws and regulations governing conflicts of
interest and lobbying the Commission should recommend to the Legislature.

Subsequent meetings of the Commission will be held beginning at 1:00
p.m. and ending at 3:30 p.m. in Room 334 of the State House Annex on
September 5th, September 12th, September 26th and October 3rd.

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Executive Director
Election Law Enforcement Commission
New Jersey Department of Law and
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(MEETING OPENS AT 1:20 p.m.)

DR. ALAN ROSENTHAL (Chairman): Why don't we get started? Frank, do you want to call the roll, please?

MR. PARISI (Committee Aide): Okay. Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Here.

MR. PARISI: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Here.

MR. PARISI: Senator DiFrancesco? (no response; arrives later) Senator Orechio?

SENATOR ORECHIO: Here.

MR. PARISI: Mr. Stanton?

MR. STANTON: Here.

MR. PARISI: Ms. Sheehan?

MS. SHEEHAN: Here.

MR. PARISI: Mr. Cole? (no response) Mr. Burstein? (no response; arrives later) Chairman Rosenthal?

DR. ROSENTHAL: Here.

MR. PARISI: Mr. Chairman, you have a quorum.

DR. ROSENTHAL: Let me just announce once again our schedule of meetings, and you want to just check this on your calendars. September 5th, 1:00 till 3:30; September 12th, 1:00 till 3:30; September 26th, 1:00 till 3:30. Hopefully at that 26th meeting, we'll be reviewing the draft report prepared by staff, and then we've also scheduled October 3rd from 1:00 till 3:30 in case we need that time. I suspect we will need that time.

I've been asked to request that we try to hold the discussion to one person at a time, because it makes it very reparing the transcript when several people are ice. I know that the members are very nd are very difficult to restrain, unless they ves.

We've dealt, to a large extent so far, with campaign finance, although we have heard testimony from individuals, legislators, and organizations on both campaign finances and the general field of ethics.

Today's meeting will be a discussion of the general field of ethics. My thought was that we'd have an open discussion about the areas that fall under the ethics section, and then in the two upcoming meetings, we would try to reach agreements. If any members feel that we can reach agreements at this meeting after discussion of a topic or two, we might do it at this meeting.

MS. SHEEHAN: Excuse me, Mr. Chairman. In the material that we received dated the 16th, I believe, where we talked about disclosure, the last paragraph was on the question of raising money and that it should go to their campaigns. It seems to me when we were making that discussion, we excluded things like the Heart Drive or the Cancer Society where the checks were going to the organization as a fund-raising event, as opposed to the legislator. They were using their name for a charitable purpose. That doesn't seem to me to be clear in this paragraph. It sounds like all the money has to go-- I mean I don't think that's what we intended.

DR. ROSENTHAL: Okay. We can clarify that. What we intended was only when they were getting the checks made out to them for the benefit of the charity, they would go through the campaign fund. But if they're lending their name and the checks are made out directly to the charity, it goes directly to the charity and not to their campaign fund. That correction will be made.

MS. SHEEHAN: Thank you.

DR. ROSENTHAL: Any other corrections in the summary of the last meeting? I mean, you'll get another chance to look at some of those things when you get the draft report. We will be able to kind of clean up any messes that we left.

Basically, what we have on the plate as far as discussion today -- and there are two memorandums that you can work from -- one is a memo prepared by Marci Hochman on the areas of personal interest, gifts and honoraria, financial disclosure, the composition of the ethics body, and State contracts. Those are the essential areas that have come up, you know, in the testimony of witnesses.

And then Frank, -- I don't have it handy -- you were dealing with your memo, which is dated August 24, on lobbyists, lobbyist disclosure, the reorganization possibly of the filing of lobbyist reports, and whether there should be any other kinds of recommendations made on lobbying activities.

So those are the areas that we've got to consider. I think we might as well start with Marci, as listed here: the current provisions and kinds of options that exist. This is not an exhaustive list of options, but they seem to be the leading or main options.

MR. STANTON: Are you working with the August 17th memorandum?

DR. ROSENTHAL: That would be the August 17th memo, and it seems to me the two pertinent memos are the Hochman memo and the Parisi memo.

I suggest we start our conversation in terms of the personal interest and the basic, you know, regulations covering personal interest and whether or not the regulations as they exist are considered to be satisfactory, or what kinds of problems there seem to be, and what the possibilities are? Do any of the members want to comment on that, or would you rather comment on any of the areas that you feel strongly about because this will be just kind of a freewheeling discussion. Tom?

MR. STANTON: I was just going to say, as I read, that does not read badly at all, provided that it is honored, and all those regulations on personal interest are followed

scrupulously. I've somewhat of a sense that some people are very careful about this and others are not. Is that the case, or is it felt that they are reported very carefully under that provision?

DR. ROSENTHAL: What about members of the Ethics Committee who've had experience in this area, how does this--

ASSEMBLYMAN HAYTAIAN: Well, I have had experience in this area. I've worked personally in an engineering firm, so I'm an electrical engineer, and every time there is a bill that has to do with engineering, there is always a question as to whether there is a personal interest. If I owned a business I could understand that there could be a personal interest, but if you work for someone -- I truly don't understand that, but it is always mentioned that because I work for, or I worked for -- and I don't anymore, so I don't have that problem now-- If I worked for an engineering firm and there was a bill that had to do with say, "wetlands regulations," then I had a personal interest. I don't understand how one person could come from that point to another. So, yes, I have had occasion to witness that. Therefore, I put in a bill, Al, Assembly Bill No. A-2948, that probably would make it very difficult in that concerning personal interest and legislation, and amending Public Law 1971, Chapter 182.

Now when I mentioned this to Marci, probably a year-and-a-half ago, she looked at it and she said, "I don't know if anyone can serve in the Legislature." I don't know if those were her exact words, but it was pretty close. And I said, "Well I think I could serve in the Legislature under this personal interest bill." So I don't have a problem with it, and that's why I introduced it. It is A-2948. It takes out where -- if I may read it -- this one section b. "A member of the Legislature" -- which is presently in the law by the way, and I'll give you where I've amended it -- "A member of the Legislature shall be deemed to have a personal interest in any

legislation within the meaning of this section, if by reason of his participation in the enactment or defeat of any legislation, he has reason to believe that he will derive a direct monetary gain or suffer a monetary loss. No member of the Legislature shall be deemed to have a personal interest in any legislation within the meaning of this section if by reason of this participation in the enactment or defeat of any legislation, no benefit or detriment could reasonably be expected to accrue to him as a resident of this State or member of the Legislature." That's the new added language.

What was taken out was, "as a member of a business, profession, occupation, and group." And, I can leave it to Marci maybe to give a better explanation of that and then continuing -- "to any greater extent that any such benefit or detriment could reasonably be expected to accrue to any other resident of this State or member of the Legislature." That's the new language. What was taken out is -- member of such business, profession, occupation, and group. And then I can read the new section which says that if any member does have a problem with a personal interest, and they were told that they did, then they would have up to the 30th day following enactment to withdraw their sponsorship. And, maybe Marci could explain the changes--

DR. ROSENTHAL: Now this is only on sponsorship.

ASSEMBLYMAN HAYTAIAN: Well it's personal interest. It's everything.

ASSEMBLYMAN DEVERIN: I'm not sure it doesn't even make it worse, rather than make it better. You know, if you go back to the-- All the years I've been here, it's always been, can a teacher vote on a school bill? Now when we raised the minimum pay to \$18,500 per teacher, every teacher voted for it. When we change the insurance laws, every lawyer votes for it. I think that's a good place to start, because I'm not sure that that would change in any way. And, I'm not sure that

there's-- And Marci would be right. When you have a citizens' Legislature, my God, there would hardly be any votes for a lot of stuff. If every teacher had to abstain for every-- Even if it's a school funding program or even for a tax and the purpose of the tax is to go to the schools, can a teacher really vote for it if he sits in the Legislature? If you vote for an environmental law and you're working for a company, if a law comes up in Environment and you vote against or for that law and it affects the company you work for, are you in a conflict of interest? If you're a banker and they come up with a banking law, anybody who works for a bank or if he's an engineer-- The only guy who can serve is people who are retired or have no employment at all. So, I don't know whether we can ever really come down to an answer to that? Whether that solves it or not, I don't know, and I'm not sure how you-- But that's someplace to begin: What really is a conflict when it comes to a vote? That's always been a bone of contention.

DR. ROSENTHAL: Basically though you could have a regulation prohibiting that kind of conflict, or you could have disclosure.

ASSEMBLYMAN HAYTAIAN: Alan, let me give you an example because I've been stung by this, and therefore, it's always been first in my mind. I worked for an engineering firm--

ASSEMBLYMAN DEVERIN: Excuse me. You were stung because a reporter wrote something about it. It doesn't say you were stung--

ASSEMBLYMAN HAYTAIAN: No, no, I was stung because--

ASSEMBLYMAN DEVERIN: --by something the reporter said.

ASSEMBLYMAN HAYTAIAN: That's correct. So, therefore, the public image is one that I'm very concerned about, as we all are. I mean perception, as I've been told, is more important sometimes than facts. So, the problem that I had personally is that, I worked for an engineering firm that was a

subsidiary of a developer's firm. AI'm an electrical engineer. I have nothing to do with development. I didn't have anything to do with development. I worked on a cableless television system; cableless. Now what does that mean? That means an antenna out there that can transmit TV signals within a five-mile radius. It has nothing whatsoever to do with development. But I sponsored, or co-sponsored, a wetlands regulation that clarified what we meant in the Legislature and I was hit, as you all know, with all sorts of accusations even to the extent that one Senator from the other side of the aisle, questioned my integrity. Now, I didn't understand that, and maybe I'm too naive -- I don't believe I am -- but, I didn't understand that, so my reaction to that was, I don't have anything to worry about when it comes to a personal interest; none whatsoever. So therefore, I don't have any problem with a bill like this.

You know, it makes it very difficult on legislators. What are we supposed to do, if the perception is there, and that's important? Do we refrain from voting on anything? Therefore, as Tommy says, we don't serve. And maybe that's really what it's going to come down to: Either people without jobs starting out from school become legislators, or people who are retired and have no personal interest. But, if you pay a telephone bill or you have stock in the telephone company and you vote on a bill with communications, are you now in conflict? I don't know.

That's the kind of problem that we face. So, I had to face that. Fortunately, some people -- many people in my district understood and believed exactly what had occurred and so when I stood for reelection I won by 71% of the vote. But yet, people in say Bergen County, who are Armenian friends of mine, said, "Oh my God, what in the world happened here?" Until I explained to them, you can't explain to the whole public, but once it's in print, right away you're looked upon

as doing something wrong. I don't think that's fair. Therefore, I would like to clear it up for all of us, because we have to serve.

DR. ROSENTHAL: Senator Orechio?

SENATOR ORECHIO: Yeah, I just wondered whether or not Chuck thinks that 52:13D-1.8 is flawed? I mean that colors the situation you're talking about.

ASSEMBLYMAN HAYTAIAN: It does, Carmen, except that it doesn't to the extent that this bill would. Because what 52:15 does-- It says, and I can't do it verbatim -- but I believe it says if you don't have any interest any more so than someone else, then you are not in conflict; therefore, you don't have a problem. But every time the public looks at that, someone writes in and says, "Oh wait a minute, I don't agree with that." And that's exactly what occurs. Because someone read in the newspaper about the wetlands situation and me in particular-- Two people who I didn't know, had no idea what was going on in the Legislature, wrote in and complained to the Ethics Committee, saying, wait a minute, there's a conflict because he works for a developer.

SENATOR ORECHIO: Chuck, even if your bill became law, people would write in and complain to the Ethics Committee.

ASSEMBLYMAN HAYTAIAN: Well, fine.

SENATOR ORECHIO: Secondly, if you were---

ASSEMBLYMAN DEVERIN: Reporters are going to write-- They have a right to write what they want. No matter how you write the law--

ASSEMBLYMAN HAYTAIAN: Absolutely. Except that if personal interest comes into play, and you start pulling out people, then they can't sponsor, and they can't vote.

SENATOR ORECHIO: If you worked for Hovnanian directly as a developer, okay, in his programs, this would still exempt you, because there are other developers that would have benefited from that wetlands legislation.

ASSEMBLYMAN HAYTAIAN: Not the new bill I'm sponsoring.

SENATOR ORECHIO: I'm talking about the old one. The old one would have covered you as well. I don't see how it's flawed? We ought to start from that premise maybe. Is it flawed?

DR. ROSENTHAL: You think that the statute looks okay.

SENATOR ORECHIO: I think so, because you're always going have people going to the newspapers. You're always going to have people sending letters to us, you know, making allegations, and basically that's the job of the Commission, to investigate the allegations and see if there's any merit or validity to the complaint.

ASSEMBLYMAN DEVERIN: I think the statute works all right. It's my impression that the thing that bothers people are some of the honorarium, whether we should accept it; whether someone who is a sponsor of a piece of legislation and some group wants him to come to speak before them; whether that legislator should pay his own expense to go there or they should reimburse him for that trip. If he gets an honorarium, should it be limited? I personally think that if you get an honorarium it should be a minimal amount of money, not a wide open amount of money.

There seems to be a problem as to what lawyers can do as far as getting clients are concerned, whether they can affect people or not, whether people who work for companies -- whether they're in conflict if they sponsor legislation that affects the overall industry they're in. That's the kind of stuff that seems to be, but as far as this goes, I don't know what you change with -- and Chuck just said it. You'd have to exempt people who are teachers, lawyers, businesspeople, even housewives who vote on a tax bill, if you're a senior citizen. You'd have a hell of a time trying to define it to that fine degree. But, there is a broad thing that people, that the public does not understand and the press rightly picks up --

rightly or wrongly picks up that I trust we can come up with some kind recommendation for.

MR. STANTON: Well, that's sort of where I started from. I don't look upon this particularly as a problem area. I have not, over the years that I've been around the State, I don't think I've ever gotten myself righteously indignant about any one of these personal interest issues that I can recall. And I haven't liked all the legislation that's come down the pike either.

ASSEMBLYMAN HAYTAIAN: What do we do when the accusations are thrown about that there is a conflict, because most people don't understand? I mean as soon as there's a perception that there's a problem, they say conflict of interest. I don't really believe they understand what conflict of interest really means, and that's just conflict. Everybody has a conflict. Anybody that's an elected official, that's conflict. How do we offset that perception? I think that's really what the point is and that's what we're trying to do here. How do we offset that perception? I'm not quite sure other than a bill of that type, because the bill that's working now-- There are still calls that there are conflicts; there are still accusations that there are conflicts.

ASSEMBLYMAN DEVERIN: If we had this bill, in your situation -- and I don't remember exactly what happened -- if this bill was in effect rather than this, what would you have had to do?

ASSEMBLYMAN HAYTAIAN: I don't know. I asked Marci that and she said that--

ASSEMBLYMAN DEVERIN: What would you have to do? You mean the reporter couldn't say that you were an engineer that sponsored a piece of legislation?

ASSEMBLYMAN HAYTAIAN: Tommy, I truly am not sure, except that I felt that here we have to clarify one way or the other the personal interest section.

ASSEMBLYMAN DEVERIN: You see, I'm trying to make everybody understand everything we do.

ASSEMBLYMAN HAYTAIAN: A lot of people don't understand the tax package. I think it's great, and a lot of people don't understand that. (laughter)

DR. ROSENTHAL: Senator?

SENATOR DiFRANCESCO: Yes, sorry I'm late, but I couldn't get here any earlier

DR. ROSENTHAL: That's okay. I just want to point out that two of the public members aren't here and all four legislators are here, so I want everyone to take notice of that. I'm very embarrassed that I'm part of the public--

ASSEMBLYMAN HAYTAIAN: I made sure I came home from Tampa to be here.

SENATOR DiFRANCESCO: I'm sorry I was late, and therefore missed the beginning of the discussion, especially I see you are talking about the concept of personal interest and what is a personal interest. I think, quite frankly, it's a matter of how you apply it; how you apply this to the facts, and how you interpret this. Instead of changing the language of the present law, it's a matter of who's doing the applying, and how are they applying it. I think staff would agree with that to some degree.

We've had a lot of discussions about this over the years and I'm not sure there's any major change needed with the statute. I think it's the frustrations, and the gripes are concerned about how the statute is applied to the cases that come up.

DR. ROSENTHAL: Now what's the problem with application?

SENATOR DiFRANCESCO: For example. Well, let me give you an example of something that perhaps people could look at in different ways. Let's say I have a substantial practice -- law practice -- which I don't have a substantial practice of

any degree at this time, that's derived from representing banks -- and I'm on the Banking Committee, and a bill comes up that would directly benefit a bank or two or several. Is that a personal interest? It's how it's applied is when we run into the problems. I don't think it's the language of the statute.

DR. ROSENTHAL: How would that be applied?

SENATOR DiFRANCESCO: Today?

DR. ROSENTHAL: Yeah.

SENATOR DiFRANCESCO: Well, I believe that if you don't have an interest that is any greater than anybody else's it's applied, and obviously you can file a statement if you think you have a personal interest. I don't think that that particular example would be a personal interest of anything, under our present scheme. And I'm not suggesting that-- I don't know that that's the right attitude anymore. I think that the public is demanding some changes, and the changes may have to come about as to how the statute is applied to every individual case by the Ethics Committee.

DR. ROSENTHAL: Would a different kind of, or a more full disclosure--

SENATOR DiFRANCESCO: Full disclosure would, of course--

DR. ROSENTHAL: --would that help meet that situation?

SENATOR DiFRANCESCO: Absolutely. I noticed a couple of people left since they-- No question that full disclosure would help meet that. How you apply that to lawyers who are the public members who would probably be suited best to deal with that because the Supreme Court regulates lawyers, and to the extent to which a lawyer can compromise his confidentiality with respect to naming clients. It could become a problem, but, if you didn't have that to worry about-- Someone suggested that I should disclose who my clients are. I think they're talking more about substantial clients, like I represent the Township of Scotch Plains. I would tell everybody I represent the Township of Scotch Plains.

DR. ROSENTHAL: Would you have any problem disclosing your clients?

SENATOR DiFRANCESCO: No. I probably could write it right down on a piece of paper right now -- all seven of them. (laughter)

SENATOR ORECHIO: He doesn't have many-- (laughter)

SENATOR DiFRANCESCO: Well, I mean. And my mother, my brother. They give big fees. (laughter)

SENATOR DiFRANCESCO: No, I think-- Al would probably tell you; it's very difficult to do. But, I think this is a substantial client, Al, you know. You're getting a substantial whatever that is. Of course there, we go back to what a substantial amount of money every year from a particular client. I wouldn't have a problem with mandating disclosure.

MR. STANTON: Let me ask you a question on that. In the Martindale-Hubbell book, there are listed under the various law firms, major clients. Now the law firm asks you-- We've been asked, can we list you as a client? I can't think of anytime we would have said no. Now that's obviously not an exhaustive list.

MR. BURSTEIN: No that's just the Martindale--

MR. STANTON: It gives a representative idea of the subject.

MR. BURSTEIN: Yeah. It's a kind of puffing on the part of the lawyer or the firm to show that they represent substantial interests, whether it be banks or insurance companies or things like that. If there was a requirement that a lawyer should disclose that kind of thing, industries that are part of a utilities system or regulated industries or something of that sort, that would be one thing, but to disclose the relationship with every client that you have, is very difficult to do. First because it's a transitory thing. I have a client and they're sick of me and they go, as has happened to Don obviously, since he's down to seven.

(laughter) But, to define it as a major client is somewhat difficult because how do you say what is major as opposed--

SENATOR DiFRANCESCO: Maybe major to me, may not be to you.

MR. BURSTEIN: Yeah. To non-disclosable, from an ethics standpoint.

SENATOR DiFRANCESCO: I mean, in a serious vein, you'd have to define that, too.

MR. BURSTEIN: Yeah, it really becomes a problem.

SENATOR DiFRANCESCO: Well, that could be defined in dollars; you could define that in terms of dollars. If you get more than \$10,000 a year from a particular client, you must disclose it.

MR. BURSTEIN: Except that, even that is not a particularly good mechanism by which you can handle this ethics problem. I think there are fewer and fewer firms that are now on a regular retainer basis, where you can say with certainty, that you are going to get "X" dollars from that client that year. It's much more of a random sort of thing now.

SENATOR DiFRANCESCO: Well in our case, it's the previous year.

MR. BURSTEIN: Yeah, well it would have to be obviously, the previous year.

SENATOR DiFRANCESCO: It would just expand the financial disclosure.

MR. BURSTEIN: If you had a negligence case where you got, as an example, more than \$10,000 or whatever, "X" dollars, you disclose that private client? It just doesn't seem to make sense.

DR. ROSENTHAL: What happens if you're in a large firm and there's many, many clients? Will you disclose all the clients or only the ones that you bring in as business, or the ones you handle?

MR. BURSTEIN: Well, if you start restricting it, it really undercuts the whole idea of disclosure.

DR. ROSENTHAL: So you disclose all the clients.

MR. BURSTEIN: You would have to disclose all them, and that might not sit too well with your partners.

DR. ROSENTHAL: Pat?

MS. SHEEHAN: I think that we have a real problem with public perception, and that's the whole reason we are here. But I think that we have to look at things beyond just trying to answer yesterday's headline, the possibility of tomorrow's headline. One of the things that I think is very important is a citizen Legislature and citizens, in a broader sense -- people that are doing something else and this is a commitment to public service that they make. And, I know that we want to assure ourselves and the public that the people who we elect to office are, in fact, doing it for the sake of good government and so on.

It makes me very nervous when we try to cover all the possibilities to exclude any wrongdoing because I think that the more that we do that, the more we set ourselves up so that the only people eligible to serve in elective office are the ones that can't make it any other way; they can't hold a job, or they can't have a successful background in whatever field that they're an expert in. And if we make the rules such that a person in a law firm is not going to subject the members of his or her firm to the public's scrutiny on a privacy matter, then that person is not eligible to serve anymore by his or her own reading of the requirements. And it seems to me that it wasn't that many years ago that our Chief Justice resigned rather than impose new reporting restrictions on his big firm. I think that's a loss to the Legislature and that kind of situation. So I don't have any answer except that I don't want us to start trying to cover all would haves, should haves, and could haves so that all that's left in the pool of talent are people that can't do anything else and don't do that very well.

MR. BURSTEIN: Present company excluded. (laughter)

ASSEMBLYMAN DEVERIN: Just for the record, I want to make a postscript. When Chief Justice Wilentz resigned, I happened to live in that district and I got that seat, and that's why I'm sitting here today.

SENATOR DiFRANCESCO: So it wasn't a loss after all. (laughter)

MR. STANTON: I mean a more recent example of that was when regulations went in on people who dealt with casinos could not serve on any State Boards, Commissions, and so forth. You all remember literally hundreds of people resigned from the State College Board and all kinds of advisory boards all around the State. It was just plain ridiculous. That was a case of overkill as to definition of a conflict of interest that had to be changed. It was an unfortunate thing. A lot of good people left public service at that time.

DR. ROSENTHAL: Is there any way that the disclosure could report the nature of the business, or the nature of the clients without specifically mentioning clients by name? In other words, it's sort of the idea of the labeling that we got that impacts, where in some way you can get an idea in financial disclosure what an individual member's dominant business is. I mean if the clients-- If there are a lot of banks, not which banks, but banks, does that make sense or is that doable, or is that just another thing that might go awry?

ASSEMBLYMAN DEVERIN: Put them in a generic category?

DR. ROSENTHAL: Generic categories of one sort or another.

MR. BURSTEIN: I really don't know how effective that would be, Al. I don't think too highly of that.

MR. STANTON: That's so broad. We have 190 branches in our bank. So some guy falls down on the sidewalk in front of the branch, that doesn't go to the general counsel's office. Usually a local attorney will take care of that. That might be

the only thing he does for the bank that month. If you literally had every single lawyer do for every bank, the varying degrees of that are intensive. Yet there are five or six--

DR. ROSENTHAL: The practice would look a lot better than it is.

MR. STANTON: Yeah, there are five or six firms that might do a lot of business, an awful lot, and there may be 25 or 30 other firms that do some work for a large institution.

DR. ROSENTHAL: Sure. Well, there would have to be some definition of substantial amount of the business comes from this category of clients. I think there are definitional problems here. There would be room for misunderstandings, I guess.

So, you're not-- Al, you're not sold on anything like this?

MR. BURSTEIN: I just don't think it would be useful.

DR. ROSENTHAL: Okay. So you don't think this kind of disclosure is necessary, as well as any kind of regulation.

MR. STANTON: Well, I just say that-- I think, you know, I have 22 years as the Chief Executive Officer of a large institution that watches legislation, and has people watch it for us. I've never gotten myself upset over the personal interest aspect of a legislator. Really, I just never have.

I mean, I have been ticked off by various things, but this particular clause has never been a problem to us. That's why I start off by saying, I don't see a problem here, unless there are cases that I don't know about of people who have purposely ignored this in some way, and I don't hear anything around the table here that says this has been a big problem.

Chuck had a problem. Of course, that sounds like somebody who ran with--

ASSEMBLYMAN HAYTAIAN: I think it's a problem. Personally, again, I just think it's a problem, and you can't appreciate it if you haven't been through it. If you've never been through it, you can't appreciate it. I mean, people look at you cross-eyed. So, therefore, my idea is to tighten up on the personal interest, and then you will not have accusations.

SENATOR DiFRANCESCO: I missed that one. How does your bill tighten up? You see, I missed that part.

ASSEMBLYMAN HAYTAIAN: I think it tightens it up because it takes away-- It says, member of a business, profession, who is a resident of the State, which means that that's the underlining of the--

DR. ROSENTHAL: So, even if an entire profession benefits, that would be a conflict of interest, because that profession benefits more than any citizen of the State.

ASSEMBLYMAN HAYTAIAN: That's right.

DR. ROSENTHAL: So, if you're a teacher, and you vote on funding for the schools, you've got to declare a conflict.

ASSEMBLYMAN HAYTAIAN: That's correct. Let's put it in another category. You're an attorney and you represent a municipality and you have a large retainer, and now a cap bill comes up. You've got to disclose.

DR. ROSENTHAL: Do you disclose the conflict, or do you abstain?

SENATOR DiFRANCESCO: Do you vote?

ASSEMBLYMAN HAYTAIAN: It could be--

SENATOR DiFRANCESCO: Are you saying that you have a personal interest?

ASSEMBLYMAN HAYTAIAN: You have a personal interest. That's correct.

DR. ROSENTHAL: Oh. You declare a personal interest, but you can vote and do other stuff.

ASSEMBLYMAN HAYTAIAN: Well, you can, based on-- The new section talks about sponsorship.

MR. STANTON: You know, early on in these discussions, we talked about disclosure. To try to put a business analogy to it a little bit, if anybody has read a lot of proxy material or things that companies have to file with the SEC, you could put outrageous things in there, as long as you disclose them. Some people let those things go on the basis that very few people look at them, but I mean, truly, you can put-- You can call a business totally speculative, it will probably fail, put anything you want in there, and as long as you say that it is a disclosed item, it will go through.

ASSEMBLYMAN HAYTAIAN: But Al, let me also state that I don't have a problem with disclosing my income tax return. If that were part and parcel of our regulations and part and parcel of our responsibility to disclose in the Legislature, I would do it. I don't have a problem with that, so therefore, if it's personal interest or disclosing my tax return, I don't have that problem.

DR. ROSENTHAL: Yeah, I think there is a tendency to go overboard on these disclosure items, and it has a downside effect that I believe has to be seriously considered; and that is, every time-- It's obvious that when you come into public life you give up certain amounts of privacy and confidentiality. That is a given. But I think there has got to be some kind of line drawn that does not deter people from coming into public life because of what they believe to be leaving themselves naked to the wind in the sense that everybody knows everything about their entire lives. That goes for the disclosure of income tax returns as well as some of these other matters that we've been talking about.

The whole notion that because you vote a certain way, it is connected to some kind of personal or self-interest, I think, again, is something that is much too simplistic when you take a look at what really happens on voting on specific measures. My experience is that -- for the most part -- in

fact almost always -- people vote from a complex set of reasons, not because they are representing John Jones, and not because of any other undue influence, as you might describe it, but rather because of experience, background, training, whatever you may call it. Those are the prime motivations for casting a vote on a particularly tough issue.

I'm not talking about the (indiscernible) ones, but on difficult issues; the ones that gain public attention, the ones that are really the subject of a lot of press and media attention. I think that it is much too simplified an analysis to say that simply by disclosure you are really purifying the system. I don't believe you do. It's simply because of that fact; namely, that our motivations in voting are much more complicated than they would appear to be on the surface.

ASSEMBLYMAN DEVERIN: He's got a great point, you know. When I talked about teachers, if you looked at the vote on the new school funding, teachers on one side of the aisle voted, "Yes," and teachers on the other side of the aisle voted, "No," so it doesn't always come out that way -- that you vote because of the benefits of it.

DR. ROSENTHAL: Let me ask a question. Marci listed a couple of options, in terms of curtailing participation, one of which is if you are sponsoring a piece of legislation, that a member who sponsors a piece of legislation should publicly disclose any financial or personal involvement he has with that piece of legislation, regardless of whether that involvement is no different than the involvement of any other member of the business, occupation, or group. Now that goes only to sponsorship of legislation.

MR. BURSTEIN: Too easy to evade. Get somebody else to sponsor it.

MR. STANTON: Sure, that's real easy to get around.

DR. ROSENTHAL: So, you don't think that would be useful?

MR. BURSTEIN: I don't think it would work. Anybody with a real malevolent intent, they would get their buddy to put the bill in.

SENATOR DiFRANCESCO: I think you have to do something like this: That sure, somebody else get somebody to do-- That's the idea. You don't sponsor the bill. Somebody else sponsors a bill that somebody wants or somebody needs. You're not the sponsor. I'm not sure I get the logic of how that's evasive?

I mean, if somebody comes to me and says, "I want you to introduce this bill, blah, blah, blah," and I recognize that I have this problem as outlined in "A," then some other legislator is going to introduce it. That's true. I understand it. But at least you address the problem that the legislator has, so I would be favorable toward such a proposal.

SENATOR ORECHIO: Do you abstain, or do you vote for the bill if you had an interest?

SENATOR DiFRANCESCO: Well, according to Chuck's bill, if you have a personal interest, you have to file a statement that that is not going to have an effect on your vote. The fact that you have a personal interest is not going to sway you in your vote. If it is going to sway you in your vote, then you better not vote.

MR. BURSTEIN: Did you ever meet a legislator who says that it would sway you? Come on.

SENATOR DiFRANCESCO: Isn't that true, Marci?

MS. HOCHMAN: The way the law is right now, you have a definition of personal interest as this financial gain or loss which you will experience from a piece of legislation. However, there is a proviso, and that is, if you do not have a gain or loss which is different than any other member of a profession, occupation, or group, then you don't have a personal interest at all, and you wouldn't have to file anything.

SENATOR DiFRANCESCO: Right, but if you do have the personal interest, what happens?

MS. SHEEHAN: But, if you file, can you vote?

MR. BURSTEIN: You simply disclose it and say that it will not sway you in your vote.

SENATOR DiFRANCESCO: Okay, because if it will, you better not vote, right?

MR. BURSTEIN: Of course, theoretically.

DR. ROSENTHAL: Basically, even under--

ASSEMBLYMAN HAYTAIAN: That's current law.

SENATOR DiFRANCESCO: No, I didn't mean--

DR. ROSENTHAL: But even under your bill, even if you -- as I understand it-- Under your bill you can disclose a personal interest, but you can still vote if you disclose a personal interest.

SENATOR DiFRANCESCO: If it's not going to affect your vote.

DR. ROSENTHAL: If it's not going to effect your vote. What legislator would admit that his or her personal interests would affect the vote?

MR. BURSTEIN: One who will not be reelected.

ASSEMBLYMAN HAYTAIAN: Oh, no. There are people--

SENATOR DiFRANCESCO: There have been-- I think there are instances where--

ASSEMBLYMAN HAYTAIAN: There are people who have indicated that they didn't-- The fact is, I'm sure on file, are legislators who have indicated that they would not vote on a piece of legislation because of a potential problem with this particular section of the statute.

MR. BURSTEIN: Yeah, but that's left to each individual judgment of the legislator, isn't it? It's left up to the judgment of the individual legislator as to whether or not he will be swayed, which is a very subjective sort of standard.

ASSEMBLYMAN HAYTAIAN: That's correct.

SENATOR DiFRANCESCO: Yes, it is.

ASSEMBLYMAN DEVERIN: The only time I--

ASSEMBLYMAN HAYTAIAN: But it could have a reverse effect also. That legislator could indicate that it would have an effect, but it could be a negative effect on the company he or she works for, rather than a positive effect. I mean it could work both ways.

MR. BURSTEIN: Well, yeah. Whatever the interest may be.

DR. ROSENTHAL: Marci, could you provide some clarification?

MS. HOCHMAN: It is interesting, and it's appropriate to clarify that the Code of Ethics, the Code that the Legislature imposed on itself, is more restrictive than the law in this regard. The law simply says that if you felt that you had a personal interest, you would have to file a statement that notwithstanding that interest, that you could cast a fair and objective vote, but what the Code of Ethics states is that when you file this statement, the Joint Committee will review it, and then the Joint Committee could investigate any statement that was so filed and then it would be able to make a determination as to whether such a vote would look bad in terms of public perception.

MR. BURSTEIN: Question: Can either that body -- the Ethics Review Body -- or any other type of legislation take a vote away from a legislator constitutionally, whatever the cause?

MS. HOCHMAN: I don't believe that we have ever had, at least in my experience with the Joint Committee, an instance where someone made a filing that they had a personal interest and that the Joint Committee then investigated the matter and told the member not to vote.

MR. BURSTEIN: But, suppose they did that? Could they constitutionally forbid a vote? I don't think so.

SENATOR DiFRANCESCO: No.

ASSEMBLYMAN HAYTAIAN: Probably not.

DR. ROSENTHAL: It would certainly--

MR. BURSTEIN: It might make them look bad, but I'm talking in terms of the law, or the reg pursuant to law, saying that you cannot vote because you have "X," "Y," or "Z" interest.

SENATOR ORECHIO: You can vote, but--

SENATOR DiFRANCESCO: Then you've created a conflict of interest for yourself--

MR. BURSTEIN: Well, you may.

SENATOR DiFRANCESCO: --that is punishable by your own code that you've enacted.

MR. BURSTEIN: Well, no. I don't think that the punishment can follow if you have-- If the law, in the first instance, cannot interdict the vote--

SENATOR DiFRANCESCO: It's unconstitutional.

MR. BURSTEIN: That's right. I, frankly, have some doubts about that.

DR. ROSENTHAL: I think one of the problems that I have with Chuck Haytaian's bill or with any bill like this, is that it would, in a sense, be a powerful deterrent from people who have particular positions -- occupations -- from voting on matters or participating.

Take teachers, for example: It would not prohibit them from voting. They could declare that the apparent conflict wouldn't affect their votes, but I think they would be susceptible to a lot of public pressure, and the easiest course would be to abstain. I think you could really push people toward abstentions in people who would abstain in order to be on the safe side. I think that could be very dangerous in terms of limiting participation. I don't want to take a chance, you know. I'm a teacher, and this is a bill for

teachers. I'm a lawyer. I'm a banker. Everybody has got some kind of professional ties.

ASSEMBLYMAN HAYTAIAN: But an abstention in our system where you need 41 votes, can determine whether a bill passes or not.

DR. ROSENTHAL: Then you--

ASSEMBLYMAN HAYTAIAN: So, therefore the abstention is a very powerful nonvote.

MR. BURSTEIN: Abstention is a negative vote. That's what it is.

DR. ROSENTHAL: It's a negative vote. So by abstaining, you're voting anyway.

MR. BURSTEIN: Of course, you're really not doing very much for the problem.

MR. STANTON: But, you have a mechanism, the election mechanism. If I'm a teacher, and I run for election as a legislator, everyone knows that I'm a teacher. They would expect me to vote in the interest of a teacher, I think. If I was a banker and ran, I don't think they would expect me to vote against everything that would have to do with banking or abstain from everything.

SENATOR DiFRANCESCO: The truth is, they assume that you do. Whether you do or you don't, people assume that lawyers vote the way lawyers want them to; that teachers vote the way that teachers want them to, because it is very difficult to define what (indiscernible) in the first place. So they do make that assumption.

MR. STANTON: I mean, you know, it's not carte blanche, but to make somebody abstain because it has something to do with their occupation would be ludicrous.

MR. BURSTEIN: Just take lawyers as an example, with regard to this no-fault. That's been a matter of great public attention.

I do almost, in fact, zero negligence work, so I don't have a direct personal interest in how all that sifts out, but I was opposed to the no-fault; that is to say, the verbal threshold concept, for reasons that have nothing to do with what appeared in the paper, but every time there was an analysis made of the impact of the verbal threshold, I found at least to my satisfaction if to nobody else's, that it would have had very little impact upon the insurance dollar -- what was paid out by the insured. I opposed it on that basis, but the general public would think, "Uh huh, he's a lawyer. Self-interest; he's doing it because of that reason."

No way in the world that you are going to overcome that. There are certain problems and burdens that come with public life, and that is one of them. The perceptions are not going to be changed. They will think that you are doing it out of self-interest.

ASSEMBLYMAN DEVERIN: Listen, you can go to dinner with your best friends today, and in a conversation somebody will say, "Aw, they're all the same. They're all crazy. They're all bad." And you say, "Well, I'm a politician."

You know, that's perception. You're never going to change them. You're never going to make everybody love us. In fact, if we get two of them to love us, we're pretty lucky, but you're not going to get everybody.

MR. BURSTEIN: You're one of the exceptions, Tom. I don't know of anybody who doesn't-- (laughter)

ASSEMBLYMAN DEVERIN: Yeah, sure, yeah, yeah.

MR. STANTON: I remember one time, years ago, (indiscernible) came to a Bankers' meeting and he gave out bumper stickers in front of everybody's place that said, "Don't reelect anybody." He was against everybody. (laughter)

How can you be that way? You have to look at who people are and what they do.

DR. ROSENTHAL: All right. Let me push the members of the Committee to the personal interest and financial disclosure. Are there any things that you think ought to be done in those areas? Chuck Haytaian has a bill.

SENATOR DiFRANCESCO: I think we could disclose more.

ASSEMBLYMAN HAYTAIAN: Well, I have the bill, and I am a sponsor of it so I feel that we should tighten up the personal interest. I also believe that we should have the requirement that tax returns be part of the disclosure.

DR. ROSENTHAL: What about that? Tax returns as part of--

SENATOR DiFRANCESCO: Can I address his first point?

DR. ROSENTHAL: We've been talking about the bill, but go ahead.

SENATOR DiFRANCESCO: On the point about expanding the personal interest: If you expand it in that fashion -- and let me ask you this question -- and a teacher votes on a school funding bill, would that in your eyes be a personal interest, and must be disclosed?

ASSEMBLYMAN HAYTAIAN: Yes, absolutely.

SENATOR DiFRANCESCO: If everybody knows that you file a statement today, and you know that this person is a teacher, you know I'm a lawyer, doesn't that happen today? I mean, the press knows who the teachers and the lawyers are. I'm trying to figure out how this makes it more difficult, other than we will be filing personal--

ASSEMBLYMAN HAYTAIAN: I think it is important that we do tighten up the regulations on personal interest. This bill would do it, maybe to a greater extent than would be necessary, but I don't know of any other way. If we leave it the way it is--- If we leave this statute the way it is, then what have we accomplished on personal interest?

DR. ROSENTHAL: There's another problem I see with it; and that is, that a member will vote on hundreds of bills in a session.

SENATOR DiFRANCESCO: We would have staff working on this.

DR. ROSENTHAL: You would have to expand the staff, because you not only have to get advice substantively as to what the bill means and in terms of the partisan positions on what the bill means, but you would certainly have to get advice as to whether or not you have a personal interest in every bill that you vote on.

SENATOR DiFRANCESCO: Right.

DR. ROSENTHAL: You'd have to know whether to declare a personal interest, not only a teacher voting on an education bill -- which is an obvious one, that you would know about -- but there would be a lot of other bills that you might have a personal interest in without even realizing.

ASSEMBLYMAN DEVERIN: I don't think the criticism has been-- I don't remember through the years even with some of the recent articles, that the criticism is about how you vote. It's how you got this client, or how you sponsored this bill, or how you had somebody else sponsor a bill. The sponsorship is more--

It's very obvious if you are a teacher. You have to be out of your mind to be in a profession--

DR. ROSENTHAL: Well, what do you do about sponsorship?

ASSEMBLYMAN DEVERIN: Well, that particular part that Marci said may have some-- I think it has some merit.

DR. ROSENTHAL: Well, Al said you would just evade that by going to somebody else and getting--

ASSEMBLYMAN DEVERIN: Well, yeah, you could do that, but that's done now. I'm sure you know that that's done now. But at least you know that the guy is not pushing something. If it's a thing for an engineer or a thing for a teacher, the teacher himself is not sponsoring the bill, and the sponsor carries a lot of weight with the bill. If you're a sponsor you have more muscle than if you're just a talker. If you're a

sponsor you can direct it, you can hold it, you can move it, you can shove it, or you can do what you want with it. So the sponsorship of a bill has a lot to do with whether a piece of legislation is passed or not.

DR. ROSENTHAL: What do you--

ASSEMBLYMAN DEVERIN: You can bury a piece of legislation--

DR. ROSENTHAL: What do you think about that proposal: the declaration of a personal interest vis-a-vis a bill that you sponsor?

ASSEMBLYMAN HAYTAIAN: We have that currently. I mean-- Marci, help us all here. We do have that now. There is no change. The personal interest changes the requirement.

SENATOR DiFRANCESCO: We don't prohibit the member from sponsoring a bill in which he has a personal interest.

ASSEMBLYMAN HAYTAIAN: Under the present--

DR. ROSENTHAL: This is changing the definition of personal interest here. Your option here would change the definition of personal interest.

SENATOR DiFRANCESCO: Yeah, that's right.

ASSEMBLYMAN HAYTAIAN: I think we ought to go back one step.

DR. ROSENTHAL: This says, regardless of whether that involvement is no different than the involvement of any other member of the profession. In other words, what this option does is to take your idea, but to limit it only to sponsorship, not to voting. It takes your idea and says, only in the case of sponsorship, do you have to declare a personal interest, even though, regardless of whether it doesn't extend beyond your occupation or profession?

MR. BURSTEIN: How do you define a personal interest?

ASSEMBLYMAN HAYTAIAN: Well, that's--

MR. BURSTEIN: It is very disturbing, because suppose you're-- Focusing on education for a moment: I'm a parent, I

have no other interests, but I'm a parent having children going into a school system and there is some kind of a bill dealing with bilingual education or something like that that my child needs desperately. Is that a personal interest as defined in the statute? Are we talking only in terms of a monetary interest?

SENATOR DiFRANCESCO: I would support Chuck Haytaian's bill if you're looking for votes.

ASSEMBLYMAN HAYTAIAN: We're not.

MR. BURSTEIN: What a copout.

SENATOR ORECHIO: You have a point. The "D" option that we're talking about: What do you do with the Judiciary Committee, for example? Right now the Senate Committee has seven lawyers and four nonlawyers, and basically with the issues that come before it, it's probably wise to have a lawyer to Chair that Committee. What happens to the process?

SENATOR DiFRANCESCO: Well, we have to--

SENATOR ORECHIO: I mean, these committees, whether they involve banking or insurance, have people who are on the committee because they know that work and they're expert in it. You are now forfeiting the right to have good public policy shaped because of having a requirement that you can't have a majority or you can't have the chairman of that committee represent the majority of that group, that specific group. That's not right. I don't think that's good public policy.

DR. ROSENTHAL: Does anybody like that kind of idea?

SENATOR DiFRANCESCO: Well, is there any Committee other than the Judiciary Committee where there is a majority of the members of a profession?

DR. ROSENTHAL: From an occupation or profession?

SENATOR ORECHIO: Labor, Industry, and Professions for example, would have people involved in labor, banking, and insurance, so you comprise all of them.

SENATOR DiFRANCESCO: Well, we have three more to add to that.

SENATOR ORECHIO: You could say, in effect, that I represent labor, you represent insurance, and you represent banking. Well, if you scratch my back-- You don't have to say the word, but it could happen if you want to really look at it from this perspective.

SENATOR DiFRANCESCO: Well, in this meeting you have three lawyers, one labor leader, and one dentist.

SENATOR ORECHIO: Lawyers are everywhere.

SENATOR DiFRANCESCO: Certainly the insurance companies and the Insurance Committee are not going to say that they're happy that we have three lawyers on the Insurance Committee.

SENATOR ORECHIO: I'm kidding, I'm kidding. Don't be so sensitive.

SENATOR DiFRANCESCO: I don't think bankers would say that either.

SENATOR ORECHIO: But the lawyers probably make it a good committee.

SENATOR DiFRANCESCO: Prohibit lawyers from serving in the Legislature. You know, we could resolve this very easily.

ASSEMBLYMAN HAYTAIAN: Al, I think that the problem that we have, and the problem that I have with personal interest is, if we leave it as is, have we solved the problem of the public and the outcry in the last year or so about what's happening in the Legislature? I think the answer is, "No, we have not," if we leave it the way it is. Therefore, I say we should tighten it.

How do we tighten it? I have a bill in to tighten it. There may be other ways to tighten it. That's one way I have suggested, but I believe we need a tightening, both in the voting process as well as the sponsorship process.

DR. ROSENTHAL: Pat?

MS. SHEEHAN: I don't think that you'll ever devise anything that will preclude the public from crying foul in a particular situation about a particular legislator or public official. I mean, that's going to come up all of the time. It seems to me that anything that we've suggested so far only makes it more confusing. I don't know if what we have is good or bad, to be honest with you, but I don't see us suggesting anything that makes it any less confusing than it already is on this particular area, that when you get to talking about other sections, you get to talking about gifts and honoraria. I mean, I think we've got other problems.

DR. ROSENTHAL: Well, let's move on. We'll revisit all of this in our next meeting, in terms of voting.

MR. STANTON: Could I just add one question before we leave this?

DR. ROSENTHAL: Yeah, sure.

MR. STANTON: Are there a lot of filings under this, Marci?

MS. HOCHMAN: Actually, the vast bulk of the filings that we have seen state that, "I don't believe I have a personal interest, but even though I don't have a personal interest, I'm going to abstain anyway, and I'm filing." That's the vast majority, which wouldn't have to be filed at all.

ASSEMBLYMAN DEVERIN: And the perception of the criticism -- as I understand it, as I read it -- doesn't really come from the personal interest (indiscernible). It comes from what you do as a legislator, when the honoraria are involved, or if you talk about anybody you talk about-- Where the trips are to, the gifts-- They're the things that the people perceive as bad, not so much that a teacher voted for a teacher's bill, or somebody, a lawyer voted for the insurance. They may get mad at him, but they don't consider that wrong, because a lot of people say, "What the hell, if you're a lawyer, you have to be nuts to vote against something that

helps the lawyers," or, "You've got to be crazy, if you're a teacher, to vote against a teachers' bill."

What they're concerned about is the rest of this business of how come this guy got \$2500 to speak here.

DR. ROSENTHAL: What about eliminating honoraria? Not allowing members to receive honoraria or travel expenses in connection with their official duties?

ASSEMBLYMAN DEVERIN: I have no big heartache with that. I think maybe you ought to-- There are times now, where there ought to be-- I'm not sure that eliminating honoraria altogether-- There may be a sentiment for eliminating or-- Either one of the two. I could live with either one.

DR. ROSENTHAL: Yeah, well, I mean, just discussing.

ASSEMBLYMAN DEVERIN: But, I'm not sure that eliminating a lot-- For instance, someone who is the sponsor of a bill or has to speak to a group, I'm not sure that he has to pay his own expenses, you know, but that the expenses should be limited to where it is. I'm not so sure that that's such a terrible thing, but, if you go on a six- or seven-day trip to Boca Raton--

DR. ROSENTHAL: If the meeting is in New Jersey, all he has to do is drive to the meeting.

ASSEMBLYMAN DEVERIN: Yeah, that's true.

DR. ROSENTHAL: If the meeting is in Boca Raton, he can explain it in New Jersey, pay his way to--

ASSEMBLYMAN DEVERIN: Yeah, that's true, and I agree with that. I can live with that. And I think that probably, if we are going to do something and do away with the honorarium and do away with the trips, is probably the best thing that could happen to us -- much more than the idea of who has a personal interest in a piece of legislation.

MR. STANTON: Well, it's hard to sometimes talk about these things in little pieces, because this whole loophole problem is one that I think should be addressed, but when you

have a convention, and you have a large number of people, to have legislators there who are knowledgeable in those areas is helpful to that convention, and I don't think it is dishelpful to the legislators. I do think there could be a cap on the amount of those expenses, and not have it open-ended.

I've done a little discussing of this before I came to the meeting, and it is a wide range of what those expenses might be, but if those expenses were capped, let's say at \$1000, or \$1500, you mentioned Boca Raton. Someone comes down on an airplane and stays three or four nights. That's going to cost \$1000 very quickly. I mean, that's not an awful lot.

DR. ROSENTHAL: Well, there's no reason the legislators should stay three or four nights, except that it's nice.

SENATOR DiFRANCESCO: Well, it would depend on the weather. (laughter)

MR. STANTON: You can have legislation in a vacuum, too. I don't know if that's good for the-- I mean, there are ways to go about this thing. I think if you take away some of the open-endedness of this--

ASSEMBLYMAN HAYTAIAN: Alan?

DR. ROSENTHAL: Yes.

ASSEMBLYMAN HAYTAIAN: Let's talk about Boca Raton. I think it's important, because the Bankers' conventions have been held down there, and I had been invited as a speaker and also as a participant. I went to the meetings that were held.

I learned a lot more -- because I wasn't on the Banking Committee, but I was on the leadership -- I learned a lot more about banking and the needs for legislation -- or the opposite, no need for legislation -- whereas you can say there is no reason to stay down for three days. Well, if you look at the schedule, it's not three days of sitting in the sun. I can sit in the sun for one hour, with my complexion, and I'll have a tan you'd think I had been in the sun for days.

The point is, if you go to a convention and you participate, you can learn a lot. And I think that is really what we're talking about. If it's a matter of you're part of a convention, then what you're saying is, "All conventions should be held in New Jersey." I would say, "Fine." Do we have the facilities to do that? I don't know if we do or not.

DR. ROSENTHAL: No, what I'm suggesting is, for purposes of discussion is that, sure people learn by going to Bankers' and other association conventions, but if you're talking about perception as well, this may be an important part of perception. And there certainly are members in any legislative body who will go down primarily because it's Boca Raton and not attend sessions, and there's no way to kind of govern who's going to sessions and learning, and who isn't.

MR. STANTON: Well, people are on programs and a legislator who is invited to a convention is at least on a program, for sure.

DR. ROSENTHAL: Oh, what I'm suggesting here is that you can limit expenses to whatever the expenses are, plus one day.

ASSEMBLYMAN DEVERIN: Or a limited number of trips.

DR. ROSENTHAL: Or a limited number of trips. There are ways to limit.

MR. STANTON: Or it can be limited by dollars, too.

DR. ROSENTHAL: Yeah.

MS. SHEEHAN: I would agree, I think, that doing away with honoraria is a very public and relatively easy thing to do. It's hard to justify. You're a public official, and you get a stipend in some way, and from that there's no need necessarily for an honorarium beyond that. But I would think, I've been on the other side of this in terms of putting together a program for people in our industry, you really look to legislators, both Federal and State, to come talk about some

of the issues you are facing at the moment. And I know, it's several years ago now, but apparently the Federal rules have some kind of per diem limit. We had the Commissioner of the Food and Drug Administration as one of the speakers at a pharmaceutical industry banquet. His per diem, or session at this convention -- his per diem was such that it didn't cover the cost of the hotel where the meetings were held and he was staying 45 miles away.

MR. STANTON: Motel 6, huh?

MS. SHEEHAN: I mean, I think, you got in your own way. It was nuts. The difference, I mean the price of the hotel was unconscionable, but everybody who was paying it-- We should have been able to pay that guy's hotel room and not have him drive 45 miles to come to the sessions. So, I guess my point is, that I think banning honoraria if that's something that seems acceptable to the legislators, is something we should consider, but in terms of trips, try to establish some reasonable payment of expenses. Whether that's to be limited by dollars or the number of days, I don't know; but so it's not a 10-day junket, but it is, in fact, a sharing of information.

DR. ROSENTHAL: Now that I think of it, Eagleton had a conference recently in Virginia on the Legislature. The institution and we paid travel expenses for some legislators.

MR. BURSTEIN: For some.

DR. ROSENTHAL: Not for all.

MR. BURSTEIN: Not for all, that's right.

DR. ROSENTHAL: And under this -- and these were legislators from all over the country -- but under this kind of provision we couldn't have paid the travel expenses.

MS. SHEEHAN: You know, your conference would have been lesser for it, if those people hadn't come.

DR. ROSENTHAL: Right, and it had nothing to do with any kind of industry-- We weren't pushing, I don't think, anything. Question, sir?

SENATOR ORECHIO: Al, a question. Basically, we're part-time legislators. Hot-shot lawyer, like Donny, he earns \$250 an hour. He's asked by the banking field to come to a convention to talk about some bill he has. In addition to getting reimbursed for his expense and so forth, he's being denied the right to practice law at home. The honoraria actually, really in effect, may cover partial expense, that he incurred by losing earnings, by virtue of his presence in another state. So I think what you really could do is infringe on the well-being of those who have the expertise or who are sought after, and have something to offer in this society in general. I don't know whether that's a good thing.

MR. BURSTEIN: I go part of the distance with Carmen on that. I don't think there ought to be a complete bar on the acceptance of honoraria. I think there ought to be a limitation on honoraria, simply because the people, as Carmen points out, are carving out part of their private time, non public time, to do whatever is going to be done, attendance at a convention -- and it can be right down the road -- here in New Jersey. We were talking in terms of these out-of-state things, but doing something within the State, they carve out some of their time. As long as there's a limitation and it's not an outrageous limitation and that is -- say one that's so generous that it's meaningless -- then I think we ought to do that.

Beyond that, it seems to me that we shouldn't be recommending things that tend to isolate the Legislature from the real world, and the real world is incorporated to some extent at least in the conventions that are held by trade groups and professional groups. If legislators do not have the opportunity to attend those things or they're limited in such a way as to deter them from attending meetings of that sort, I think it's a loss to the legislators and a loss to the general public.

You're going to get criticism. If they overdo it, that is to say if they stay for a full week at a convention where a couple of days would have sufficed, that's a matter of public attention. The legislator would be subject to criticism. Fine. But as far as recommending limitations, there is such a variety that I would hesitate to get involved in a recommendation of limiting the amount of time that can be spent at any one of these conventions.

I think that what we ought to be doing is encouraging the interplay between what is happening in the real world and the legislative process.

MR. STANTON: I want to say I agree with that. As I said before, it's bad to do things in a vacuum. You've said it very well, Al.

ASSEMBLYMAN HAYTAIAN: Al, a question. I guess it was last spring I was invited to go to Israel as a member of the Legislature of New Jersey. It was a 10-day trip. I couldn't go, but are we talking about a trip overseas also; pay your own way? I'm not quite sure. You know, we're talking about in one instance, here in this country, we're also talking about here in New Jersey. There are organizations that have invited folks to go overseas. Now what do we do there?

SENATOR ORECHIO: Are you talking about government?

ASSEMBLYMAN HAYTAIAN: Well, both: government and private.

DR. ROSENTHAL: You're invited because you're a legislator. You wouldn't be invited otherwise.

SENATOR DiFRANCESCO: We're not talking about State or Federal government sponsored paid for trips here.

ASSEMBLYMAN HAYTAIAN: No, no. Organizations or--

DR. ROSENTHAL: The other way to restrict it is to have to do with taking honorariums for trips with groups that are registered as lobbyists in the State. And that would probably preclude having any effect on Israel.

SENATOR ORECHIO: Russia's involved in casino gambling. If a Perskie or Codey were invited to go over there to work with those officials in terms of implementation of casino gambling industry, I mean, what do we do? Who's paying? The guy's giving his time up, a long trip. Is Russia paying the bill?

ASSEMBLYMAN HAYTAIAN: I'm talking about both.

SENATOR ORECHIO: I thought we were talking generally about gifts from lobbyists and special interest--

DR. ROSENTHAL: All, but you could limit it by saying those organizations that are registered as lobbyists in New Jersey are restricted, whereas, the Soviet Union, Israel, and others are not restricted. I mean, in other words, the Soviet Union has no desire to soften you up as a legislator in Trenton.

MR. BURSTEIN: There is still the red menace. Don't discount it. (laughter)

MS. SHEEHAN: There's always, I mean, when I was in local office, the biggest thing to happen every year, was the League of Municipalities Convention in November. It was always a two-day wonder in the press. Who was going? How many from this town? And they always had to show at least one picture of an empty session.

The inference was, and this was before casino gambling, just the inference -- a wild junket to Atlantic City on the public trough. Well, the fact of the matter is it was the most advantageous event of my career -- practically, of a local official. It gave you the shot of catching people who duck your phone calls all year long. You got more done. You found out what was happening. You found out where there might be a pile of money. You found out how some other Mayor got it. The plumbers had their convention. The electricians-- I mean it was probably the most effective and most important event outside of town that a local official had.

DR. ROSENTHAL: But that's where you're going -- to your own organizational annual meeting

MS. SHEEHAN: Yeah, but the City of New Brunswick paid our way to go, and the press had a field day complaining and criticizing.

SENATOR DiFRANCESCO: But to carry that out, they want Chuck Haytaian to speak at the League of Municipalities as he had in past years, at a dinner -- I'm making that up, because I don't know if they do that -- but at a dinner, and they want him to stay overnight and they're going to foot the bill. Under this scenario he would drive home. Or maybe not.

DR. ROSENTHAL: Well, but then you certainly wouldn't get an honorarium--

SENATOR DiFRANCESCO: There's no reason to have, I mean, how many of us take honorariums? I'm not aware of very many legislators that accept honorariums. I don't think there's any reason to accept honorariums today. We get paid \$35,000 a year. The reason we get paid \$35,000 a year is we don't take honorariums.

ASSEMBLYMAN HAYTAIAN: That's not true.

SENATOR DiFRANCESCO: Yes, it is true.

MS. HOCHMAN: I wouldn't know, but I certainly have seen--

SENATOR DiFRANCESCO: There's a few. I'm talking about percentage-wise there are very few legislators that accept it. I've been offered honorariums. I don't know anybody that takes them.

MR. BURSTEIN: When we were making \$10,000 a year--

SENATOR DiFRANCESCO: That was maybe different. That's what my real estate taxes--

DR. ROSENTHAL: As I understand it, nobody really has a strong argument. Well, you made the argument in favor of honorariums, Senator Orechio, and that is if you're using time that you would otherwise-- But I could argue that you're going

down there as a legislator and not as a private citizen. You're devoting legislative time, and it's part of your salary. Whether you contribute your salary to charity or take it home or whatever, it's still part of your salary.

ASSEMBLYMAN HAYTAIAN: Well, wait a minute. No, that's not true. We're legislators for our district. We're not legislators to go down to Atlantic City or anywhere else to talk. So that's not true, Al.

DR. ROSENTHAL: Well, then don't go. You are being invited because of your position in the Legislature and therefore, it ought to be part of your legislative compensation if you go.

ASSEMBLYMAN HAYTAIAN: Then what you're saying is, if we are legislators elected by our district -- by our constituents in our district -- we should remain in our district.

SENATOR DiFRANCESCO: Can we define what an honorarium is? We're talking about getting \$500 to make a speech somewhere -- right? -- not staying overnight, not the room cost. We're talking about getting money to make a speech. Why do we have to have that?

DR. ROSENTHAL: I'm saying that you don't need that because that speech is given as part of your duty as a public official.

ASSEMBLYMAN HAYTAIAN: Well, what we could do is eliminate that. I'd be in favor of that. I mean, up till now, we've had that. The point is, we could eliminate that, and you'll have a situation where people will decide whether they're going to go down or not.

SENATOR DiFRANCESCO: Well, I think 95% of the people are like that now, anyway.

ASSEMBLYMAN DEVERIN: Very few times do they offer honorarium. If you do, very few people get it. I bet if you looked at the disclosure, I've gotten one in 21 years, I think, to tell you the truth. So, that's how many you get. I think

that's one of the things that people don't understand. He's right. If we did away with it, it wouldn't hurt anybody. The honorarium, itself, we ought to do away with it.

DR. ROSENTHAL: What about gifts?

ASSEMBLYMAN DEVERIN: I think the matter of going there-- If you have to fly somewhere or take a train somewhere, I don't see anything wrong in being reimbursed for that. But just for making a speech, is unfair. It's not unfair, that you could wipe out and it wouldn't hurt anybody. The expense of the traveling is different. I think you may have a problem with that.

SENATOR DiFRANCESCO: Well, you can eliminate it, but you can be sure that most legislators will not participate because of the expense.

MS. SHEEHAN: And that's not fair to impose that obligation on you and on your family in order to enlighten this group of bankers, or pharmacists, or whatever. I think that's asking too much; to ask them to pay their expenses.

SENATOR ORECHIO: You've been invited. It's not a junket. You've been invited because of your expertise. You're doing a group a favor.

DR. ROSENTHAL: What about gifts, as well as honorarium? What about legislators accepting gifts and if so, from whom, and how much?

MR. STANTON: That would probably be most effectively taken care of by dollar value. I mean a gift is such a nebulous thing. I love New Jersey ties, for instance. I guess I've given a couple thousand away over the last five years. Somebody says I like your tan tie, I say give me your card, and the next thing I know, is that a gift? I mean it cost \$8 wholesale, you know. But if you're talking about giving somebody a color TV set that costs \$1000, that's a different story.

ASSEMBLYMAN DEVERIN: The ruling now is a gift can't exceed \$250. Right?

DR. ROSENTHAL: You report it.

MS. HOCHMAN: Okay. Currently the Conflict of Interest Law and the Code of Ethics would absolutely prohibit anything of value if it was given with the intent to influence you in the fulfillment of your duties or matters related to your official duties. There are not restrictions on gifts generally other than in those areas. However, if it was valued in excess of \$250 it would have to be reported. The source would have to be reported.

ASSEMBLYMAN DEVERIN: Yeah, but would we want to ban the companies giving out samples? I remember when I first came down here. Every Monday somebody gave us a basket of fruit-- an agricultural place, or a box of candy or something that was made in New Jersey. Nobody does anymore for some reason or other, but do you want to ban all that?

MR. STANTON: You go to a Chamber of Commerce dinner, you walk out and they give you a bag full of goodies, you know, that are donated by the manufacturers.

MR. BURSTEIN: Has this posed any kind of a problem up to this point?

SENATOR DiFRANCESCO: Yes.

MR. BURSTEIN: How?

SENATOR DiFRANCESCO: You wine and dine legislators. The concept: the idea that legislators are being wined and dined and receiving travel, and gifts, etc.

MR. BURSTEIN: So your concept of a gift would be a drink as well as anything else.

SENATOR DiFRANCESCO: Well, it is. I mean the question is, do we have a threshold? Do we prohibit--

MR. BURSTEIN: Well the threshold, as Marci just said, is \$250.

DR. ROSENTHAL: For reporting.

MR. BURSTEIN: For reporting purposes, okay. So, let's assume for reporting purposes, you have that threshold. Would you ban everything -- is that the idea -- of any value?

SENATOR DiFRANCESCO: Would I? Yes. Which would include the trip to Boca Raton.

MR. BURSTEIN: I think that's so restrictive--

SENATOR DiFRANCESCO: I've been on the trips, by the way.

DR. ROSENTHAL: But presumably, a trip to Boca Raton or your reimbursement for expenses would not be a gift.

SENATOR DiFRANCESCO: We have this argument about gifts and reimbursements.

ASSEMBLYMAN HAYTAIAN: Yeah, we did have that--

MS. HOCHMAN: We do have a little bit of a confusion in that area.

SENATOR DiFRANCESCO: I was at the Bankers Convention in Palm Beach this year. Was I reimbursed or did I receive a gift?

ASSEMBLYMAN DEVERIN: That's the best I ever did was Philadelphia. How the hell do you get a trip to Palm Beach?

SENATOR DiFRANCESCO: Banking Committee.

MR. STANTON: Did you have to aggregate the value of the number of drinks you had down there as part of the total package?

DR. ROSENTHAL: Whatever the law is, it can be changed, but it would be my idea, you know, if the Commission recommended banning honorarium but agree to expenses to conventions that those expenses not be considered a gift but considered reimbursement for participation in official duties.

MR. STANTON: I would think from the standpoint of someone who has been an official of an association, like the Banking Association, I think that would be adequate to our purposes. I mean, I think we would feel that would be a reasonable thing. You don't have an honorarium, but you

reimburse for reasonable expenses. But, I think there should be a cap on that.

MR. BURSTEIN: And I think there should be a two drink limit for every legislator at these conventions. They can't handle more.

DR. ROSENTHAL: What do you think? You're dubious about this whole business--

MR. BURSTEIN: I am. I really am. I mean the monitoring of--

SENATOR DiFRANCESCO: Al, let me give you an example. You know, we have a \$500 event -- \$500 ticket event which I mentioned before -- and Merck buys a table, New Jersey State Opera Ball, Boy Scouts, whatever it may be, and they want to take three or four legislators there. The ticket is \$500.

MR. BURSTEIN: Under your concept you would have to refuse it. Is that right?

SENATOR DiFRANCESCO: Absolutely.

MR. BURSTEIN: Yeah, and I think that's wrong. I think that's wrong.

DR. ROSENTHAL: I don't think that would be considered a \$500 gift. That would be considered a gift in the amount that the food or dinner is worth.

MR. BURSTEIN: Yeah, but whatever the value, Don is saying that we ought to prohibit it completely. I think that's wrong.

ASSEMBLYMAN HAYTAIAN: That's a \$500 gift. I think Marci would categorize that as a \$500 gift. Correct?

MS. HOCHMAN: What we had said in trying to make the financial disclosure filings uniform, a reimbursement would technically be, you set out the money in advance, and they reimbursed you; paid you back. The prepayment of expenses, the footing of the bill without the legislator even knowing actually the amount involved, we have considered a gift just because it wouldn't be a reimbursement because you didn't prepay the expenses on your own.

SENATOR ORECHIO: That's semantics.

DR. ROSENTHAL: Theoretically the Legislature can do whatever it wants, or enactment of a kind of legislation--

ASSEMBLYMAN HAYTAIAN: But make a mistake on a disclosure form, Alan. It's not that simple. Make a mistake and bango.

DR. ROSENTHAL: But you can decide to change the form or change the law--

SENATOR ORECHIO: To pursue Al's, rather Don's advocacy of no gifts, this also means that if he's invited to a football game, and it's zero weather out and he's given a ticket, he can't go because he's getting a gift.

SENATOR DiFRANCESCO: Pay for the ticket myself.

SENATOR ORECHIO: You're going to be out in the cold.

DR. ROSENTHAL: That's if you prohibit--

SENATOR ORECHIO: Yeah, well that's what he wants to do. I don't think he's aware of what the scope of this prohibition is.

SENATOR DiFRANCESCO: No, let me start out again. I have done all these things. But these are the things we've been criticized for.

SENATOR ORECHIO: Does it make it wrong if you're criticized?

ASSEMBLYMAN HAYTAIAN: Could I? The California Ethics Law is described as a model. It bans honorarium, limits gifts to \$250 annually, prohibits free trips to foreign countries -- specifically what I was talking about -- \$2000 fine for voting on matters affecting their own financial interest, and it bans ex-legislators from lobbying for 12 months after leaving the Legislature.

DR. ROSENTHAL: Let me add that the quid quo pro for the Ethics Law was a salary commission and the expectation is that within the next year, the salary is going to be doubled. They're currently at about \$47,000--

ASSEMBLYMAN HAYTAIAN: And they're full-time legislators, correct?

DR. ROSENTHAL: Well essentially, they're full-time legislators with a salary of about \$45,000, and they are looking toward a salary that would be the same as a court judge. I'm not saying that's right or wrong, but I'm just saying it's a different case.

ASSEMBLYMAN DEVERIN: That was done in a public referendum, wasn't it.

DR. ROSENTHAL: They agreed to the salary. The ethics legislation was contingent upon the initiative being enacted that passed the ethics package plus the salary committee.

ASSEMBLYMAN HAYTAIAN: Well, we have at this time honorarium, we have gifts that have to be disclosed above \$250 -- depending on what we call gifts -- but I think we understand that. We have free trips to foreign countries. We don't prohibit that. The fact that the fine on voting on matters-- Well, I think our Ethics Law pretty well takes care of that. We don't have fines, but we can be censured and thrown out of the Legislature. I believe; I'm not sure. And to ban ex-legislators, I'm not quite sure if we have any restriction at all on that.

MS. HOCHMAN: The casino representation--

ASSEMBLYMAN HAYTAIAN: That's two years. Is that it? Two years. So that's what we do have.

DR. ROSENTHAL: Have we exhausted the subject of gifts? I don't feel any ground swell or thinking it's a big problem.

MS. SHEEHAN: I think, at least for me, I am having a problem knowing what a gift is. I didn't know I had that problem. But, to me, a gift is a gift; an item, a thing. And now we're hearing that meals are gifts. Trips are gifts. I don't know now what we mean anymore about gifts.

SENATOR ORECHIO: Anything of value that you don't pay for.

ASSEMBLYMAN DEVERIN: Yeah, but there's something wrong with me paying my train fare to Keansburg, and then somebody paying me back my train fare to Keansburg. Or somebody sending me a ticket that's prepaid to Keansburg. Where the hell is a gift-- That's assinine.

DR. ROSENTHAL: Okay, that we could probably specify as reimbursements associated with your legislative position. But if you went to Giants Stadium as the guest of a company, you're in a box, that's a gift. If you're taken out to dinner, that's a gift. If you go to some large reception, there's a gift involved there, perhaps.

ASSEMBLYMAN DEVERIN: You know, we can stretch it to a point, Al--

DR. ROSENTHAL: Well, those are gifts.

ASSEMBLYMAN DEVERIN: I have season tickets for the Giants. I go to every game. I sit through the cold weather. I've been doing it for 40 years. I'm not a new Giant fan. Not since they came to Jersey. Okay, so somebody says, stop in and I'll buy you a drink, or I'll have a drink, and I'll go to some box and have a drink. Is that a gift?

SENATOR ORECHIO: That's a gift.

SENATOR DiFRANCESCO: The way he drinks, it's above the threshold.

ASSEMBLYMAN DEVERIN: If you had my liver, you'd stop going to places like that.

DR. ROSENTHAL: Okay, there are many, many gifts. Suppose you have a threshold on gifts. But does that apply to all the gifts you can accept in a given time period? Does it apply to gifts you can accept from a particular person, lobbyist, or organization?

MR. BURSTEIN: Who's going to keep these records?

DR. ROSENTHAL: We'll get to that.

MS. SHEEHAN: Isn't that oppression?

DR. ROSENTHAL: Let me just say for the record: I have a conflict. I am in favor of anything that increases work for staff because I am educating students who need jobs.

MR. BURSTEIN: Does that mean you're going to stop participating in this discussion then?

DR. ROSENTHAL: No, I'm just stating it for the record.

MS. SHEEHAN: Did I understand you to say earlier, or Marci, if the annual Cancer Ball or the Boy Scouts of America had a benefit and the tickets are \$500 each, that if we take a table and invite four legislators to come to the Boy Scout Jamboree or Candlelight Ball, that's a gift?

SENATOR DiFRANCESCO: Well, that could be an exception, too.

DR. ROSENTHAL: That could be an exception or the gift could be the meal, but certainly not the -- much of the proceeds which go to the organization.

MR. STANTON: Well, nothing is going to the legislator, except the meal in that instance.

ASSEMBLYMAN HAYTAIAN: So what do we have to do then, figure out how much the meal costs? I mean--

DR. ROSENTHAL: No, but let's say there's a threshold of \$250. What kind of threshold is that? You can only take -- anything over \$250 has to be reported as a gift.

MR. BURSTEIN: Per gift.

DR. ROSENTHAL: Per gift.

MR. BURSTEIN: Not aggregated.

SENATOR DiFRANCESCO: I have a problem with that.

MR. BURSTEIN: Well of course there's a problem. The whole thing is ridiculous. I mean keeping records of these things.

SENATOR DiFRANCESCO: That's the law now. I have a problem with nonaggregate. I have no problem with saying I can't go to Boca Raton because, you know, that's a big gift. Now, the legislator that gets taken to dinner, and wined and

dined 25 times a year by this particular lobbyist, and the aggregate might be \$2000, \$3000. I have a problem with that legislator not having to report that aggregate amount of money from that lobby group, or whatever.

ASSEMBLYMAN HAYTAIAN: That's right. I mean we have a session here. I leave the session. I go have pizza. And I eat, and I pay for it, and I go home. There are legislators who go and as Donny says, may be wined and dined, and may be wined and dined after every session, so therefore, the aggregate then becomes important.

DR. ROSENTHAL: So, what about by any individual company, lobbyist, or whatever?

MR. BURSTEIN: I think the whole thing is ridiculous.

SENATOR DiFRANCESCO: Why, Al? Why?

MR. BURSTEIN: What I find unusual is that the public members here are far more generous, it seems to me, in their comments, than the legislators are upon themselves. You fellows are much more restrictive.

ASSEMBLYMAN DEVERIN: I don't think this guy is running next time. (laughter)

MR. BURSTEIN: No, what I'm saying is that I think that you're getting in the area-- I realize that legislators are sensitive to the idea of criticism and that they have been criticized, and it's been rather intense, but I don't think that that's going to be cured by this kind of a process, because there are so many loopholes to it; how you're going to monitor who gets what and when, I just think is an impossible task.

SENATOR DiFRANCESCO: It's my responsibility to do that. To make a responsible report.

MR. BURSTEIN: Well, I understand that. You're a responsible guy. Maybe the next fellow is not.

SENATOR DiFRANCESCO: You're going to place the fear in the mind of the legislator that he violates this particular

provision, and someone finds out about it, he's got a problem, so therefore, he may not do it. It will have a chilling effect on the whole event happening, and we don't need to have that kind of thing.

MR. BURSTEIN: On the lobbying side, the lobbyist has to report with whom he speaks, or dines, etc.

SENATOR DiFRANCESCO: Absolutely. We're going to do that anyway. That's a given.

MR. STANTON: Well, yes and no. Maybe I'm not using the nomenclature that I call the loophole, where if I could go out with the Senator and we could talk about the Giants, or the Pistons, or we could talk about Baghdad, and we never talk about legislation, I don't have to report.

DR. ROSENTHAL: Well, we'll get to that.

MR. STANTON: But that comes right down to this thing of having wine and dine when it comes to \$3000 or \$4000.

DR. ROSENTHAL: But let's assume that we recommend changes in the--

MR. STANTON: That would pick up what we were just talking about.

MR. BURSTEIN: That would satisfy, from my standpoint, what ought to be done.

DR. ROSENTHAL: So then you would basically have the lobbyist report expenditures.

MR. BURSTEIN: Exactly. The onus would be on the lobbyist.

MR. STANTON: Yeah, that's where I think this should fall.

DR. ROSENTHAL: So you wouldn't have any limitation on gifts.

MR. BURSTEIN: No, because if a legislator is insensitive enough to his public responsibility that he does accept large gifts of one sort or another which have to be reported on the lobbyist side and are subject to public

scrutiny, that's where the opening counts. That's where the public knows about it. That's where an opponent in a political campaign can raise hell about, but other than that, I think we're getting into an overregulation.

MR. BURSTEIN: I harken back to some of-- I didn't buy everything that Larry Sabato said when he testified here, but I think that he did strike one fairly common chord amongst all of the testifiers, and that is that you can get too deeply enmeshed in overregulation of many of these things. And I think this is one area where we will.

DR. ROSENTHAL: What about the lobbying -- as long as we had a transition into the lobbying area -- what about the "expressly clause"? That's in Frank's memo, which we all have, if we can find it.

MR. STANTON: Yes, that's in Frank's memorandum of the 24th. Expressly connected to a particular piece of--

DR. ROSENTHAL: Why do I have three copies of Marci's memo, and-- Oh, here it is.

This is number one, under Disclosure: "Should the Commission recommend strengthening the current disclosure laws, and that would basically be to require that all moneys spent on lobbying -- goodwill lobbying as well as direct lobbying -- be reported?"

Does anybody have a problem with a recommendation that the "expressly clause" be changed in--

MR. STANTON: I almost feel that if we don't close that loophole, we haven't done our job. That's how strongly I feel about that, because I feel that that is probably the biggest area of abuse that we have. It's so easy to do that, and a great deal of money is spent in that arena. I think that would go a long way towards accomplishing what this Commission is about.

MR. BURSTEIN: I agree with Tom on that. I would take out that express language.

MS. SHEEHAN: I think we even heard testimony from lobbyists saying, you know, they should report what they spend.

SENATOR DiFRANCESCO: Who they spend it on, right?

MS. SHEEHAN: That's right. I mean, I'm not interested-- I don't think anybody cares about their heat and their light and their whatever. What I'm interested in only is what they spend on the legislators or in trying to influence the bills. That's what it means, I think.

DR. ROSENTHAL: Would you be prepared to vote on that, right now, as long as there seems to be such agreement on the expressly clause?

ASSEMBLYMAN HAYTAIAN: Yeah, I think we are. I think I would include in that, for instance, if a lobbyist takes a legislator to dinner that that be reported, correct?

MR. STANTON: That's what we said.

ASSEMBLYMAN HAYTAIAN: Okay, I'm sorry.

SENATOR DiFRANCESCO: That would be the effect of it, right--

MR. STANTON: That would be the effect of it.

SENATOR DiFRANCESCO: --regardless of what they are talking about?

ASSEMBLYMAN HAYTAIAN: Absolutely. It doesn't matter what they talked about, the fact that they spent money--

SENATOR DiFRANCESCO: I think the best example is if the bankers take me to Boca Raton and I report it as a reimbursement or a gift, they don't have to report it -- that they've taken me to Boca Raton, I mean. That's ridiculous.

MR. STANTON: That's right. That is ridiculous. I mean I really think this is a hard--

SENATOR DiFRANCESCO: I mean, we should be up-front with, you know--

ASSEMBLYMAN HAYTAIAN: And the lobbyists are required--

MR. STANTON: The lobbyists are required to disclose that.

ASSEMBLYMAN HAYTAIAN: That's correct.

DR. ROSENTHAL: Could you repeat that, because-- I'm sorry, I missed that.

ASSEMBLYMAN HAYTAIAN: All I mentioned, Al, is that if a lobbyist, for instance, takes a legislator to dinner, that is reportable. It should be reported by the lobbyist.

ASSEMBLYMAN DEVERIN: Regardless of what they talk about?

ASSEMBLYMAN HAYTAIAN: That's correct.

DR. ROSENTHAL: Yeah, but isn't that in the language of the number one option under Disclosure?

SENATOR DiFRANCESCO: Yes.

DR. ROSENTHAL: "Should the Commission recommend eliminating the provision in current lobbying law which does not require the disclosure of expenditures undertaken for the purpose of communicating with the members of the Legislature or their respective staffs unless the communications are expressly connected to a particular piece of legislation?" That is the recommendation that is up for a vote. Do you want to--

MR. STANTON: I would move that, Mr. Chairman.

DR. ROSENTHAL: Okay. Tom moves that. Do you want to call the roll? (speaking to Mr. Parisi) We're all set, and you can get the language from the memo.

MR. PARISI: Is there any preference as to the order of vote? (no response)

Okay. Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes.

MR. PARISI: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MR. PARISI: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MR. PARISI: Senator Orechio?

SENATOR ORECHIO: Yes.

MR. PARISI: Tom Stanton?

MR. STANTON: Yes.

MR. PARISI: Patricia Sheehan?

MS. SHEEHAN: Yes.

MR. PARISI: Al Burstein?

MR. BURSTEIN: Yes.

MR. PARISI: Chairman Rosenthal?

DR. ROSENTHAL: Yes.

Now, what about the frequency of lobbying reports, as long as we're on lobbyists and lobbying?

MS. SHEEHAN: I have a question on that. I don't seem to understand the difference or the distinction between lobbyists and legislative agents. Are all legislative agents lobbyists, or are all lobbyists, legislative agents?

MR. STANTON: Well, a legislative agent -- as I understand it -- is an employee of a lobbyist. But, in essence, they both do exactly the same thing.

SENATOR DiFRANCESCO: They all register as legislative agents.

MR. STANTON: They all have to register.

DR. ROSENTHAL: Another point that Frank raised, do we want a threshold on the reporting, so that there would have to be, you know, expenditures of at least \$100 a quarter?

MR. STANTON: Oh, I think there should be a threshold. I mean, we'd get overwhelmed.

MS. SHEEHAN: A cup of coffee?

MR. STANTON: What would you--

DR. ROSENTHAL: Could you come to a mike, too?
(addressing Dr. Herrmann)

Do you have a threshold idea, Fred?

F R E D E R I C K M. H E R R M A N N, Ph.D.: Yes. Well, currently in the law, there is a threshold. The Commission believes there should continue to be a threshold if you want to get away from so-called "candy bar reporting" and "soda pop reporting." I think a lot of the members of the

Commission this afternoon did refer to the fact that if somebody buys you one drink, do you have to report that?

DR. ROSENTHAL: What's the threshold now?

DR. HERRMANN: Well, currently it's an annual report, so it's an annual threshold and you report an individual's name who receives a benefit; if he or she got more than \$25, a single pop. For example, if you bought them a lunch for \$30, then you would have to give their name and the date that you did it. If you gave them a \$15 lunch, then they wouldn't appear. So, it's a \$25 single event threshold, and for the year, it's \$200 before you have to list names.

MR. STANTON: Well, that's pretty low.

DR. ROSENTHAL: So if we went to quarterly reporting, and ELEC has recommended quarterly reporting--

DR. HERRMANN: That's correct. Currently there's a bifurcated system. There is quarterly reporting currently with the Attorney General of the kinds of legislation that you're lobbying on. There's annual reporting with the Commission in terms of how much money is being spent. What we're recommending -- and we've done this with the Attorney General, going back eight years -- is to combine the two into just quarterly reporting with the Commission of how much you're spending.

MS. SHEEHAN: Is the Attorney General opposed to this, over these eight years?

DR. HERRMANN: Originally, the history of it was in 1982, when I think Irwin Kimmelman was the Attorney General, we did a joint report at the Commission with the Attorney General, and we made all of these recommendations. I think every Attorney General since, including the current Attorney General, has agreed with these recommendations and basically that's where we are.

DR. ROSENTHAL: That's a recommendation that the Commission would be responsible for all of the information, is--

DR. HERRMANN: That's correct.

DR. ROSENTHAL: So, all of the filings would be with ELEC, and not with the Attorney General?

DR. HERRMANN: That's correct. I would suggest that you check with the current Attorney General's staff, because I don't want to speak for them, but my understanding has been that they would be in agreement with that.

There is a bill here. As a matter of fact, we had it in the back of our White Paper No. 5. The Senate version is sponsored by Senator Lynch and the Assembly version sponsored by Assemblymen Schluter and Baer, which lays out practically all of these ideas in one bill. There is a threshold in here, and I believe it was-- It's done by the quarter, and it's -- I have to find it-- Well, they left in \$25 per day and \$100 per quarter.

MS. SHEEHAN: I'm sorry, say again.

DR. HERRMANN: There's \$25 per day and \$100 per quarter for reporting the names of legislators, or the Governor, or the Governor's staff.

MS. SHEEHAN: Per legislator?

DR. HERRMANN: Yes.

DR. ROSENTHAL: How do Commission members feel about that, quarterly reports, \$100 threshold per quarter?

ASSEMBLYMAN HAYTAIAN: I don't have any problems with quarterly reports, but I don't believe we ever came to a conclusion -- at least the time that I left early from one meeting, I had a cost conference -- but that was the meeting that we did not agree with moneys for ELEC, constitutionally, so that they would have a set revenue source. I don't believe we--

DR. ROSENTHAL: Right. We did not.

ASSEMBLYMAN HAYTAIAN: You know, we keep on doing

these things, and we ask ELEC to take the responsibility, we're going to have to come to a conclusion about funding.

DR. ROSENTHAL: I think we came to the conclusion at that meeting that it is very important for ELEC to be funded adequately to do its job of administering the law and monitoring it, but we didn't--

ASSEMBLYMAN HAYTAIAN: That still leaves it up to the Legislature.

DR. ROSENTHAL: Right, right. We did not decide to recommend any kind of fee system. There was a division on that vote, as I recall.

ASSEMBLYMAN HAYTAIAN: It's the old story of, we put mandatory sentences in for criminals, and then we decide not to build jails, so now we have overcrowding in the jails. We just can't do that.

I agree with disclosure quarterly, but in the same vein, I think we have to come to a conclusion in this Committee as a recommendation of a set source of revenue for ELEC. I truly believe that.

DR. ROSENTHAL: We can revisit that. I'd rather wait if we revisit that issue till Michael Cole, who is the chief opponent of that, get's back. I mean, I happen to be on your side on that, but I think Michael--

MS. SHEEHAN: He had real constitutional problems with user fees and General Treasury items, and--

ASSEMBLYMAN HAYTAIAN: I think we should be -- we should caution ourselves to give ELEC more responsibilities, especially disclosure, and then not fund them. I mean, we can't do that.

MR. STANTON: I think we've all, at one time or another, expressed ourselves on that, that you can't do the things that we have said that we're going to do, and all of these requirements without properly funding them. I mean, it has to be implicit in all processes.

Constitutionally, I guess that's an issue that, you know, wait until Mike comes. But there have been-- Well, maybe I had better not comment. I thought there had been some areas where that has-- But we've had some directly related user taxes in this State.

DR. ROSENTHAL: Well, I'm not sure that it's a constitutional issue, I think Michael was talking as a principle of government that we shouldn't tell the Legislature how to fund some -- or we shouldn't suggest to the Legislature. I believe that that's all we're doing is suggesting to the Legislature, and I don't have any problems suggesting how we should fund ELEC, but I think we ought to have that discussion at one of the next two meetings when Michael Cole is here.

But, what about a proposal that we could vote on, that would recommend the ELEC suggestions for quarterly reports, \$100-- Could you put that in language that--

DR. HERRMANN: Well, let me clarify. It was our recommendation to have the quarterly reports. The Commission hasn't come forth to say what the threshold should be. That was a threshold that was in the Schluter, Baer, Lynch bills.

DR. ROSENTHAL: Let's take the \$100, known as the \$100 quarterly threshold.

DR. HERRMANN: That's \$100 per quarter, and that's for detailing names, and \$25 per day for detailing names. You would have to add-- In the aggregate you would report, but you wouldn't have to detail names unless it was more than \$25 per day, per individual and \$100 per quarter, per individual.

DR. ROSENTHAL: Why even per day for individuals? I mean, isn't that just a lot more reporting?

DR. HERRMANN: That's what it's been. That's currently in the law right now.

DR. ROSENTHAL: Oh, \$25 per day.

DR. HERRMANN: That's currently in the law right now.

SENATOR DiFRANCESCO: I don't want to change that. I don't want to change that.

DR. HERRMANN: Certainly, I think it makes sense to have a de minimis threshold. It's just a question of what the de minimis threshold is?

MS. SHEEHAN: I'm sorry. Could you explain that to me again, Fred?

DR. HERRMANN: Sure.

MS. SHEEHAN: Twenty-five dollars per day, per individual legislator. That's clear, I can understand that. How do you get to the \$100 per quarter, per legislator?

DR. HERRMANN: Okay. Let's say that I was a lobbyist and I took a legislator to lunch every day, for six days in a row, at \$20 a day.

MS. SHEEHAN: Okay.

DR. HERRMANN: Also, let me clarify one other thing that we talked about.

MS. SHEEHAN: To make an aggregate number, it isn't whether I, as a lobbyist, spend \$100. It's if I, as a lobbyist, spent \$100 on a particular person.

DR. HERRMANN: One person, correct.

MS. SHEEHAN: Okay, got you.

DR. HERRMANN: Also, another thing to clarify, too, is that under current law -- and this is a good idea to keep this in -- there is something called a specific event. What that is, let's say a lobbyist -- and this happens all the time -- has an event say, over in the Masonic Temple, where they invite the entire Legislature after the session to come over and have a drink and eat some crackers. The current law does not require that somebody stand at the door and then follow each legislator around and try and determine how many drinks you've had or how many crackers you ate. You would report the expense for the whole event, and that's the expenditure.

So, again, that's a de minimis for each individual. Nobody's going to eat that much or drink that much that it would go over a \$25 limit, or some de minimis standard, but certainly we don't want to create those kinds of situations where somebody is going to have to follow somebody around to see how much they are going to drink and eat at that kind of event. That would be silly.

MS. SHEEHAN: So, that would be if a Joe Katz sponsored something at the War Memorial Building. Would that also be true if the Builders Association or the Realtors sponsored something at the--

DR. HERRMANN: Yeah, and let me clarify, just defining terms a little bit, because we talked-- In the current law it talks about lobbyists and legislative agents, and it really is the reverse in terms of what one would think as a lobbyist. A lobbyist you usually think of as an individual. Under current law the lobbyist is actually the parent corporation, the Acme Construction Company, or the Hoola Hoop Corporation. That's the lobbyist. If they go out and hire somebody to actually go into the Legislature and testify and talk to legislators about bills, that person, under current law, is called a legislative agent.

What we've suggested for terminology is actually having three terms. The first term would be the contract lobbyist, which is the person who runs his or her own lobbying firm and perhaps has a few associates, and they're collecting money from lobbyists, corporations, whoever, to go out and try and influence legislation.

Another type of person is what we would like to call an employee lobbyist. For example, the Hoola Hoop Company has six or seven Vice Presidents who do some lobbying. They're not contract lobbyists. They actually work for the Hoola Hoop Corporation, but they're out there doing what a contract lobbyist would do.

Finally, we have the lobbyist employer -- I think is the term we used -- the lobbyist employer, which is the corporation itself, which is employing employee lobbyists or contract lobbyists.

It is very important, of course, to define these terms very carefully in the law, and currently it's not that carefully defined. It's very difficult to read this law and really understand who's supposed to report what. There's a mixing up--

DR. ROSENTHAL: Will that cover all of the cases, then, those three classifications?

DR. HERRMANN: We believe so, and we believe that the Lynch, Schluter, Baer legislation really lays that out very well.

MS. SHEEHAN: I would really want to support that, Mr. Chairman.

DR. ROSENTHAL: That clarification of--

MS. SHEEHAN: This (indiscernible) clarifying the definitions. Number one, coming here today, I couldn't figure out what was a lobbyist and what was a legislative correspondent--

DR. ROSENTHAL: Agent.

MS. SHEEHAN: --or a legislative agent.

Number two, I think that -- at least in my mind -- there is a very different situation between a corporation who has employees who do lobbying, or legislative agenting -- whatever -- and a company that is solely a lobbyist company. I mean, they're not manufacturing spare parts or Band-Aids or anything. They're a lobbyist group. So, I like having it spelled out who's what.

DR. ROSENTHAL: And basically, an association would be similar to a corporation--

DR. HERRMANN: Correct.

DR. ROSENTHAL: --with an employee lobbyist?

DR. HERRMANN: Right. It's the source of the funds that goes into the lobbying process is the lobbyist organization.

DR. ROSENTHAL: The New Jersey Environmental Federation would be the--

DR. HERRMANN: That could be an example, yes.

DR. ROSENTHAL: --employer lobbyist, and the lobbyist would be the person.

DR. HERRMANN: Let me just check our glossary from our White Paper, because we have these terms in here and they are used in this legislation. There's a contract lobbyist. There's the employee lobbyist.

MS. SHEEHAN: Employee?

DR. HERRMANN: Employee lobbyist, and then there's the lobbyist organization. The lobbyist organization is defined as the special interest for which an employee lobbyist, a contract lobbyist -- we also have something called a vendor lobbyist -- works. A vendor lobbyist would be defined as a lobbyist who argues solely on governmental contracts and grants.

SENATOR DiFRANCESCO: Are we supposed to know the difference between these people, as legislators?

DR. HERRMANN: No. It would be in the law.

SENATOR DiFRANCESCO: Is this going to place a burden on the legislator?

DR. HERRMANN: I don't believe so. No. This would be defined in terms in the law.

ASSEMBLYMAN HAYTAIAN: Just keep the red badges on all of them, that's all.

DR. HERRMANN: Basically, your concern, I believe, as a legislator, would be anybody who offers to buy you lunch, the antennae should go up, and that's--

SENATOR DiFRANCESCO: Well, we don't have to report it?

DR. HERRMANN: Currently?

SENATOR DiFRANCESCO: Unless it's over a certain amount of money?

DR. HERRMANN: Well currently, you don't have to report it unless they talk to you about specific legislation, but you've already voted to throw that one out.

ASSEMBLYMAN DEVERIN: No, the lobbyist report.

MS. HOCHMAN: One is reporting it to them, and one is reporting it to us. Two different forms.

SENATOR DiFRANCESCO: Yeah. From my perspective, I report something over a certain threshold no matter who gives me lunch.

DR. HERRMANN: That's correct.

SENATOR DiFRANCESCO: It doesn't matter if it's my next-door neighbor, theoretically. Right?

DR. HERRMANN: That's correct, yes.

MR. BURSTEIN: Can we do lunch tomorrow, Donny?

SENATOR DiFRANCESCO: What's your badge number?

ASSEMBLYMAN HAYTAIAN: When you're in the Minority, you never get asked out to lunch.

SENATOR DiFRANCESCO: That's right. We don't get that many offers, Al.

ASSEMBLYMAN DEVERIN: Take it. Don't turn him down.

DR. ROSENTHAL: Let me suggest two recommendations that we can make a decision on. The first one-- Frank, read the language.

MR. PARISI: Should a lobbyist who spends money on a legislator be required to file a report with ELEC of all money spent, in excess of \$100 per quarter, or \$25 per day?

MS. SHEEHAN: On the legislator?

MR. PARISI: Right.

DR. ROSENTHAL: On an individual legislator.

MS. SHEEHAN: You know, we're not talking about your heat and your light and your phone bill, here.

ASSEMBLYMAN DEVERIN: Individual legislator?

MR. PARISI: Right.

MR. BURSTEIN: I would so move.

MR. PARISI: Okay, all right. We'll go from the top first, this time.

Chairman Rosenthal?

DR. ROSENTHAL: Yes.

MR. PARISI: Al Burstein?

MR. BURSTEIN: Yes.

MR. PARISI: Pat Sheehan?

MS. SHEEHAN: Yes.

MR. PARISI: Tom Stanton?

MR. STANTON: Yes.

MR. PARISI: Senator Orechio?

SENATOR ORECHIO: Yes.

MR. PARISI: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MR. PARISI: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MR. PARISI: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes.

DR. ROSENTHAL: There is another proposition that we discussed and that has to do with clarification.

MR. PARISI: This is written in broad terms. The question is: Should there be a clarification of the terms "lobbyist" and "legislative agent," as used in current law?

DR. ROSENTHAL: Well, why don't we specify the clarification, as long as we've got it?

DR. HERRMANN: Okay. The Commission suggests that we divide the definitions into three type of entities; which would be, employee lobbyist, contract lobbyist, and lobbyist organization.

DR. ROSENTHAL: Okay. That's clear. Why don't you call the roll?

SENATOR DiFRANCESCO: What's that right there?
Employee lobbyist?

MS. SHEEHAN: No. I'm none of the above.

SENATOR DiFRANCESCO: See what I mean?

DR. ROSENTHAL: You don't have to be one. I'm not.

MS. SHEEHAN: Mary K. Brennan would be the employee lobbyist?

DR. ROSENTHAL: That's the employee lobbyist.

MS. SHEEHAN: J&J would be the corporation?

DR. ROSENTHAL: Right. Some of us are none of these.

MR. PARISI: Okay. I'll start from the bottom again.

MR. BURSTEIN: I'm the only citizen on this whole damned--

MS. SHEEHAN: No, me too.

MR. PARISI: On the proposition, Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes. I was stunned.

MR. PARISI: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MR. PARISI: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MR. PARISI: Senator Orechio?

SENATOR ORECHIO: Yes.

MR. PARISI: Tom Stanton?

MR. STANTON: Yes.

MR. PARISI: Pat Sheehan?

MS. SHEEHAN: Yes.

MR. PARISI: Al Burstein?

MR. BURSTEIN: Yes.

MR. PARISI: Chairman Rosenthal?

DR. ROSENTHAL: Yes.

The next matter has to do with the reorganization:

Should the Commission recommend that the process of disclosure for lobbyists and legislative agents -- or the new terminology -- be reorganized, and that the authority should be with ELEC, and not with the Attorney General?

Now, my suggestion would be that we hold off discussion and that we get in touch with the Attorney General's Office between now and the next meeting, to get the Attorney General's ideas on this, and if they think ELEC should have the authority, that's fine; and if they don't, they will be invited to be here to give us their reasons why not.

MR. STANTON: But, de facto, the Attorney General has delegated that to you.

DR. HERRMANN: That has always been my understanding, Mr. Stanton, that they agreed that we should have it, but I feel pretty strongly that--

MR. STANTON: Oh, they have to have their say.

DR. HERRMANN: Absolutely, absolutely.

DR. ROSENTHAL: Are there any other-- There's one other-- Let me just bring up, for discussion purposes now, one other area. We'll return to the conflicts of interest, financial disclosure, personal disclosure area, at our next meeting certainly, but one other area has to do with the composition of the ethics body, which we didn't touch on at all in discussion, which we did touch on much earlier in the life history of the Commission.

Yes, sir?

ASSEMBLYMAN HAYTAIAN: Al, before you go off of this, there is III, "Other Types of Lobbying."

DR. ROSENTHAL: "Other Types of Lobbying," okay.

ASSEMBLYMAN HAYTAIAN: I think we should discuss that, because I think that we should have an extension to the Executive branch and also the State Boards and Commissions.

MR. STANTON: Is that under our purview at this juncture? It is?

ASSEMBLYMAN HAYTAIAN: Well, sure, that's a recommendation to the Legislature. I think we should do that.

DR. ROSENTHAL: I'm not sure whether it's under our purview or not. I mean, that's for us to decide. I don't think that's clear whether--

ASSEMBLYMAN DEVERIN: That's for another day, isn't it? Do you want to start that now?

ASSEMBLYMAN HAYTAIAN: Not everybody is constantly looking at the Legislature. They are looking at other parts of government.

DR. ROSENTHAL: All right. You know, my feeling is that I would disagree with the Minority Leader; not in terms of substance, but in terms of the jurisdiction of the Commission. I think that a major charge is to look at legislative campaign financing, legislative ethics. I think we should focus on that.

Now the Legislature may take this further. If we make some recommendations, the Legislature may want to consider those recommendations in the larger context, but I would opt for letting this ride. I think we know much less about this subject. I don't think we've had a heck of a lot of testimony on this subject.

Yes?

DR. HERRMANN: I was going to, if I might-- One loophole that you might be able to address jurisdictionally, because it is my understanding that you're dealing with just the Legislature, and I can understand if you start talking about the Executive branch, obviously, that's not the Legislature. But for some reason -- I don't know why -- the lobbying law covered the lobbying of the Governor and his staff but never covered the legislative staff, and that might be something that I think would be appropriate to address.

In other words, under the current lobbying law if I lobby the Governor directly, or anybody on his personal staff or any of the Cabinet officers, it has to be reported. In the Legislature, if I lobby a legislative staff person, Executive

Director of the Majority or Minority in either house or research associate, that's not reported. So, I think, logically speaking, if the Governor's staff is covered, the Legislature's staff should be covered as well.

DR. ROSENTHAL: Does anybody have any problem with that? I think that's clear.

MR. STANTON: From a practical standpoint, I would imagine many of the lobbyists, especially in talking of the specifics of legislation, talk to your staff rather than you guys.

DR. ROSENTHAL: But we're talking about expenditures. We're talking about spending money.

MR. STANTON: Spending money on staff?

ASSEMBLYMAN DEVERIN: Taking them to lunch.

DR. ROSENTHAL: Presumably the same limits would apply to staff.

DR. HERRMANN: Yes.

DR. ROSENTHAL: I mean, we could write, "a legislator or a staff person," into the prior recommendation.

DR. HERRMANN: Exactly.

DR. ROSENTHAL: One hundred dollars a quarter, \$25 per--

DR. HERRMANN: I'm a former staff person, so I-- But, yeah.

MR. STANTON: Would that staff person, would that be Senator DiFrancesco? I mean if, you have an event -- a \$25 event -- a \$25 event for Joe Blow and a second \$25 for Don, or is it \$25-- You consider them as one?

DR. ROSENTHAL: No. It seems to me that if a lobbyist spends \$25 on, let's say, Senator DiFrancesco's aide, that's a separate expenditure, or on Albert Porrone, or on Kathy Crotty. Those are all separate expenditures; any member of the legislative staff defined as OLS, as partisan staff, and as district staff.

MR. BURSTEIN: Spending it on Porroni is an absolute waste of money. (laughter)

ASSEMBLYMAN DEVERIN: Yeah, I'd rather--

SENATOR DiFRANCESCO: Spending money on anybody in OLS is a waste of money. (laughter)

ASSEMBLYMAN DEVERIN: I would much rather take Marci Hochman to lunch. (laughter)

DR. ROSENTHAL: Can we just-- All right-- So the proposition would be that the reporting requirements for lobbyists apply to lobbyists' spending on not only legislators, but on legislative staff, as well.

ASSEMBLYMAN DEVERIN: Just add it to that last one.

DR. ROSENTHAL: Yeah, it would be added to the other provision.

MR. PARISI: I'll go from the top again.

DR. ROSENTHAL: The vote is on amending the other provision to include legislative staff, as well as legislators.

MR. PARISI: Okay. Chairman Rosenthal?

DR. ROSENTHAL: Yes.

MR. PARISI: Al Burstein?

MR. BURSTEIN: Yes.

MR. PARISI: Pat Sheehan?

MS. SHEEHAN: Yes.

MR. PARISI: Tom Stanton?

MR. STANTON: Yes.

MR. PARISI: Senator Orechio?

SENATOR ORECHIO: Yes.

MR. PARISI: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MR. PARISI: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MR. PARISI: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes.

DR. ROSENTHAL: If there's anything else on lobbyists, I'd just throw out for brief discussion the composition of the ethics body. There's, you know, several options that Marci has listed. One is public members on the Joint Committee, another is longer terms for Committee members. Currently they are one-year terms. And the third option is a simple ethics body with jurisdiction over various branches of government. Yes, sir?

ASSEMBLYMAN HAYTAIAN: I would make a motion that we appoint public members to the Joint Committee.

ASSEMBLYMAN DEVERIN: I have-- You know, talking about pieces of legislation, I have a piece of legislation that's been in for about six years, I guess, where there would be four public members appointed to the Board; two members appointed by the Speaker and two members appointed by the President of the Senate, and those people would have to have no political background at all. They couldn't be former members of the Legislature. They couldn't be members of a particular party or part of a political party -- apolitical people.

MR. BURSTEIN: The voters.

ASSEMBLYMAN DEVERIN: That's been an idea of mine for years. We've got to have four members on there at least, to take some of the--

ASSEMBLYMAN HAYTAIAN: I agree with Tommy except that I don't think the Speaker and the Senate President should be the appointing body. If we have that, it should be the Leaders of the house and the Senate, and that's both Leaders in the house.

DR. ROSENTHAL: Majority and Minority.

ASSEMBLYMAN HAYTAIAN: Absolutely.

DR. ROSENTHAL: Who appoints members of the Committee?

ASSEMBLYMAN HAYTAIAN: The Speaker.

ASSEMBLYMAN DEVERIN: The Speaker, but by recommendation of the Minority Leader.

DR. ROSENTHAL: Could it be the same way?

ASSEMBLYMAN HAYTAIAN: Yes, I would suggest that it be the same.

DR. ROSENTHAL: The same language for the public members as--

ASSEMBLYMAN DEVERIN: Except that you have to make this squeaky clean and nonpartisan. What would be the reason for the Republican appointing one and the Democratic-- You're not going to come up with something--

ASSEMBLYMAN HAYTAIAN: Well, how can we assume that-- Let's put it under this scenario: You have what you presently have; both houses controlled by one party. I mean that's reality. Now, are we to assume that both Senate President and Assembly Speaker are going to appoint nonpartisan people to this Commission? How do we know that's the case?

ASSEMBLYMAN DEVERIN: Let's assume the Minorities are going to appoint somebody.

ASSEMBLYMAN HAYTAIAN: Well, no, but I think in essence the recommendations should come from the Leaders of the house and then the appointment by the presiding office.

DR. ROSENTHAL: I mean, I have a problem, Assemblyman Deverin, with the prohibition on people who have had any kind of partisan experience. I mean--

ASSEMBLYMAN DEVERIN: Again, I throw it out for discussion because it's just--

DR. ROSENTHAL: For example, I think someone like Al Burstein would be a good member of that, and certainly he's been a legislator and he's been a partisan Democrat--

ASSEMBLYMAN DEVERIN: Maybe that goes too far, I'm not even sure of that.

MS. SHEEHAN: Why couldn't it be the same as the way the four public or the four legislative members are now appointed?

DR. ROSENTHAL: There are eight. Eight legislators--

MS. SHEEHAN: You know, from both parties.

ASSEMBLYMAN HAYTAIAN: It's done by-- I mean, the Speaker sent the list to me and said we want recommendations for appointment. And so, I recommended. And that's how we did it.

DR. ROSENTHAL: Right, on recommendation of the Minority.

MS. SHEEHAN: Can we appoint four public members with that same---

SENATOR DiFRANCESCO: Our appointments are made by the Speaker and the Senate President. They don't have to take your recommendations.

ASSEMBLYMAN HAYTAIAN: He does not. But, I--

SENATOR DiFRANCESCO: In some cases they haven't, by the way.

ASSEMBLYMAN HAYTAIAN: But not in the Assembly--

DR. ROSENTHAL: In other words, you would not go along with the Speaker and Senate President having the authority on the recommendation of the Minority Leaders for the Minority -- you know, for two of the positions

MR. STANTON: Well, that changes every two years.

SENATOR DiFRANCESCO: Well, I've had experience where I submitted a name, but it was sent to the Ethics Committee and was rejected, so I'm trying to rationalize. I agree that they should be Republicans and Democrats. That's one thing I think. I agree with you. They should be partisan to clarify the whole thing.

DR. ROSENTHAL: They don't have to be. They don't have to be partisan, but they can be.

SENATOR DiFRANCESCO: They don't have to be, but they can be-- Well, the problem is that if it's going to be a Joint Committee, then it has to continue to be a Joint Committee.

DR. ROSENTHAL: But how often do you divide on partisan lines on that Committee?

ASSEMBLYMAN DEVERIN: Not often.

SENATOR ORECHIO: In Donny's case, his particular Republican wasn't wanted. He still had a Republican choice.

SENATOR DiFRANCESCO: I didn't mention your name.

SENATOR ORECHIO: Let's elaborate. You still have Republicans to recommend--

SENATOR DiFRANCESCO: No, I think that Chuck's like a Minority Leader. Listen, by the time this is enacted, you guys are going to be in the Minority anyway. (laughter) The Minority Leader ought to have the direct appointment-- The Minority Leader and the Speaker and the Minority Leader and the Senate President -- select four people. That's the way I feel; direct appointment.

MS. SHEEHAN: They each appoint one.

ASSEMBLYMAN DEVERIN: The point, Al, I'm trying to make is that I think there ought to be public people in--

DR. ROSENTHAL: Well, I think there's general agreement that there should be public members on the Committee. And I think-- Is there general agreement that there should be four public members along with eight legislators? And, I think there's general agreement that, however it's done, the Majority Leaders and the Minority Leaders ought to have the appointment--

ASSEMBLYMAN DEVERIN: I'm not sure that we should dismiss offhand the fact that it should be apolitical. Or else, I could anticipate a Speaker-- If the Republicans ever took over appointing a Republican State Chairman, or the Democrats appointing it-- Which would take away the idea of the public body-- Maybe going back to where they're ever a member of the Legislature--

DR. ROSENTHAL: Well, I wouldn't want to prohibit people with political experience or political views from serving. I would think that the Majority and Minority Leaders

would try to get good people. I don't think these are partisan issues. I just don't think they have or there's any--

SENATOR DiFRANCESCO: The SCI is a good example of what kind of appointments-- I guess that's the Senate President?

ASSEMBLYMAN DEVERIN: And I'm not even sure I described the bill right, if I remember rightly. And I haven't seen it and I haven't read it in the last couple of months. If I remember rightly it does say that their background has to be nonpolitical. But, I see nothing wrong with--

MS. SHEEHAN: I would be opposed to eliminating or disqualifying people who were political. I mean, I see nothing wrong with being a Republican or a Democrat.

DR. ROSENTHAL: I would imagine the Leaders would select fairly decent people who have good reputations.

MR. BURSTEIN: Another pro bono body that I can't--

DR. ROSENTHAL: What about the idea that the term be two years instead of one year?

ASSEMBLYMAN DEVERIN: Well, it's almost that now. Very seldom do we change terms.

ASSEMBLYMAN HAYTAIAN: I thought that was the case.

MS. HOCHMAN: Right now it is organized annually.

DR. ROSENTHAL: It's a one-year term.

ASSEMBLYMAN DEVERIN: Yeah, but the appointments are always just-- Though it's not written that way, it's been done that way for the last ten years.

DR. ROSENTHAL: Well, why don't we just specify a two year term? I mean, particularly with regard--

MS. HOCHMAN: Public members as well?

DR. ROSENTHAL: As well, yeah, a two-year term everybody.

MR. BURSTEIN: Staggered, or do you want to do it at the same time?

MR. STANTON: For each legislative session.

ASSEMBLYMAN DEVERIN: Because the Assembly runs every two years.

DR. ROSENTHAL: Now do legislators get reappointed to the Ethics Committee or is that something you can get off after--

ASSEMBLYMAN DEVERIN: Well, you've got to get volunteers sometimes.

DR. ROSENTHAL: Sometimes. In other words--

ASSEMBLYMAN DEVERIN: Not everybody looks for that appointment.

DR. ROSENTHAL: Have you gentlemen served more than two years?

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ASSEMBLYMAN DEVERIN: Not everybody looks for that appointment.

DR. ROSENTHAL: Have you gentlemen served more than two years?

ASSEMBLYMAN DEVERIN: Yes, because nobody else wants it.

DR. ROSENTHAL: In other words, you are eligible for reappointment, and public members would be eligible for reappointment, too.

MR. STANTON: Mr. Chairman, I think you don't want to say two years because, suppose I was on for a year and then I retired and went away, and then my successor-- Would he be for-- I think it should be concurrent with the legislative session.

DR. ROSENTHAL: Concurrent with the legislative session, right.

SENATOR ORECHIO: Al, I have a question. Is 12 too many, too large?

DR. ROSENTHAL: I don't think so. You know better than I do. I don't think 12 is too large.

ASSEMBLYMAN HAYTAIAN: Twelve is not a big committee. We just have to get a bigger room.

SENATOR DiFRANCESCO: I don't know if you can do it any other way. The alternative would be to--

DR. ROSENTHAL: The alternative would be to have fewer public members which I think would be a mistake because there

has to be some, because there has to be some group or-- Yeah, I think 12 would do.

Why don't we finish up today's meeting by voting on this recommendation? Marci?

MS. HOCHMAN: Should four public members be appointed to the Joint Committee? The Presiding Officer and the Minority Leader of each house having the authority to appoint one member, the appointment of both legislators and public members to serve concurrently with the two-year legislative session.

MS HOCHMAN: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes.

MS. HOCHMAN: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MS HOCHMAN: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes

MS. HOCHMAN: Senator Orechio?

SENATOR ORECHIO: Yes.

MS. HOCHMAN: Chairman Rosenthal?

DR. ROSENTHAL: Yes.

MS. HOCHMAN: Mr. Burstein?

MR. BURSTEIN: Yes.

MS. HOCHMAN: Ms. Sheehan?

MS. SHEEHAN: Yes.

MS. HOCHMAN: Mr. Stanton?

MR. STANTON: Yes.

DR. ROSENTHAL: Could you just wait one second and sign this?

ASSEMBLYMAN HAYTAIAN: Thank you, Al, for the meeting today.

DR. ROSENTHAL: Oh, you're welcome.

(MEETING CONCLUDED AT 3:33 p.m.)

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