

PUBLIC HEARING
before
ASSEMBLY REVISION AND AMENDMENT OF LAWS COMMITTEE
on
ASSEMBLY BILL NO. 521
(Right to Strike by Public Employees)

Held:
May 10, 1972
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Kenneth A. Black, Jr. (Chairman)
Assemblyman Brian T. Kennedy
Assemblyman John N. Dennis
Assemblyman John J. Sinsimer
Assemblyman Vincent O. Pellecchia

ASSEMBLY, No. 521

STATE OF NEW JERSEY

INTRODUCED JANUARY 31, 1972

By Assemblymen GARIBALDI, JACKMAN, PELLECCIA,
SINSIMER, BASSANO and MEGARO

Referred to Committee on Revision and Amendment of Laws

AN ACT to amend the "New Jersey Employer-Employee Relations Act," approved April 30, 1941 (P. L. 1941, c. 100) as said short title was amended by P. L. 1968, c. 303.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 8 of P. L. 1941, c. 100 (C. 34:13A-8) is amended to
2 read as follows:

3 8. a. Nothing in this act shall be constructed to interfere with,
4 impede or diminish in any way the right of private employees to
5 strike or engage in other lawful concerted activities.

6 b. *Except as provided in subsection c. of this section, nothing in*
7 *this act or in any other law of the State of New Jersey shall be*
8 *construed to interfere with, impede, or diminish the right of a*
9 *recognized representative of public employees selected or desig-*
10 *nated pursuant to the provisions of section 7 of P. L. 1968, c. 303, to*
11 *engage in a strike for the purpose of establishing, maintaining,*
12 *protecting, or improving terms and conditions of employment, or*
13 *of a public employee to participate in such a strike.*

14 c. *No court of the State of New Jersey nor any judge or judges*
15 *thereof shall issue a restraining order or temporary or permanent*
16 *injunction in any case involving a strike by a recognized representa-*
17 *tive of public employees unless—*

18 (1) *the commencement or continuance of the strike poses a*
19 *clear and present danger to the public health or safety which in*
20 *light of all relevant circumstances it is in the best public interest*
21 *to prevent: provided, that any restraining order or injunction*
22 *issued by a court for this reason shall prohibit only such specific*
23 *act or acts as shall be expressly determined to pose such clear*
24 *and present danger; or*

25 (2) *the representative has failed to make a reasonable effort*

26 to utilize the procedures provided in section 6, of P. L. 1941,
 27 c. 100, as amended for the resolution of impasse in negotiation;
 28 provide, that any restraining order or injunction issued by a
 29 court for this reason shall indicate the specific act or acts which
 30 the representative has failed to perform and shall remain in
 31 effect only until said act or acts shall have been performed;
 32 and such order or injunction shall be issued only on the basis of
 33 findings of fact made by the court or judge or judges after due
 34 notice and hearing in open court prior to the issuance of such
 35 restraining order or injunction.

36 d. Any restraining order or temporary or permanent injunction
 37 heretofore entered by any court of this State in any case involving
 38 a strike by a recognized representative of public employees shall
 39 be dissolved and any penalties imposed by reason of violation
 40 thereof shall be vacated and fines remitted, unless within 30 days
 41 after the effective date of this act findings of fact sufficient to sup-
 42 port the order or injunction are made by the court or judge entering
 43 the same following the procedures set forth in section c.

44 e. Nothing contained in this section shall prevent a court from
 45 enforcing any lawful provision of an agreement covering terms and
 46 conditions of employment.

1 2. This act shall take effect immediately.

STATEMENT

This bill would give public employees the minimal elements of due process by granting a right to withhold services under certain circumstances.

A court would be empowered to issue a restraining order or a temporary or permanent injunction in any strike by a representative of public employees (1) that poses a clear and present danger to public health and safety or (2) in which the recognized employee representative has failed to make a reasonable effort to utilize the procedures provided by law for the resolution of an impasse. The procedures provided by law include mediation and fact-finding.

Since the enactment of P. L. 1968, c. 303, a number of severe impasses have occurred between recognized representatives of public employees and their public employers. At the present time, when a strike occurs or appears imminent, the employer appears in court and automatically secures an immediate temporary restraining order. This order usually prohibits the recognized employee representative from engaging in any concerted activity, including picketing, mass meetings and demonstrations. Since a judge has no authority to do otherwise, he is usually forced to issue such an order

regardless of the circumstances. As a result, public employees can be enjoined from striking even though there is extreme provocation by the employer and the public health or safety is not endangered.

The provisions of this bill should produce the peaceful settlement of most public employer-employee disputes. Because a court could no longer issue an instant injunction without due process, public employers will seek the resolution of differences through good faith negotiation. By the same token, a court would restrain a recognized employee representative that failed to negotiate in good faith or did not follow procedures established by law.

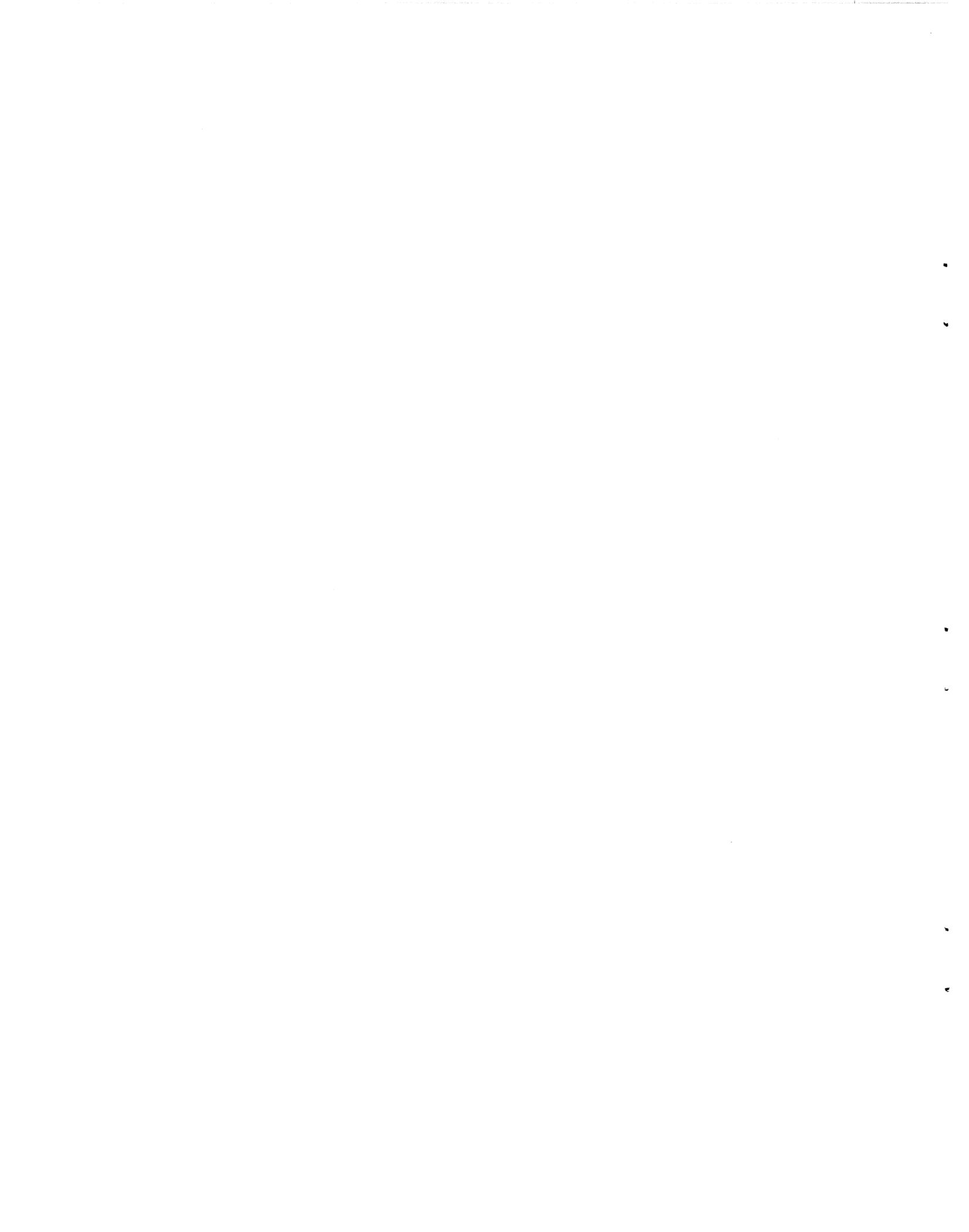
This legislation calls for the vacating of penalties and remission of fines arising out of violation of restraining orders and court injunction. Such action would be authorized unless the court or judge find by following procedures set forth in section c. within 30 days sufficient facts to support the order or injunction.

The public interest should be served by the establishment of this reasonable and fair balance in the negotiation process.



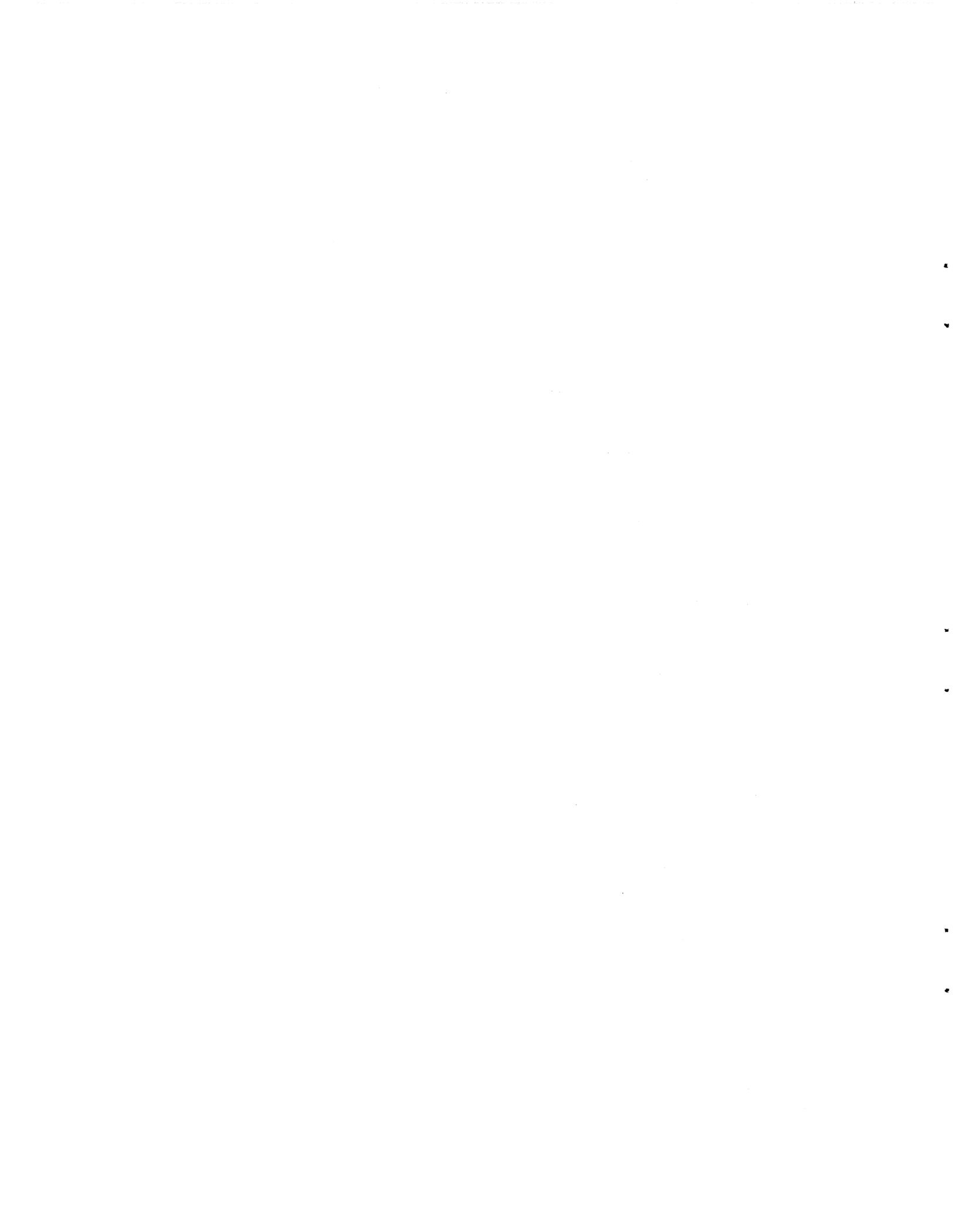
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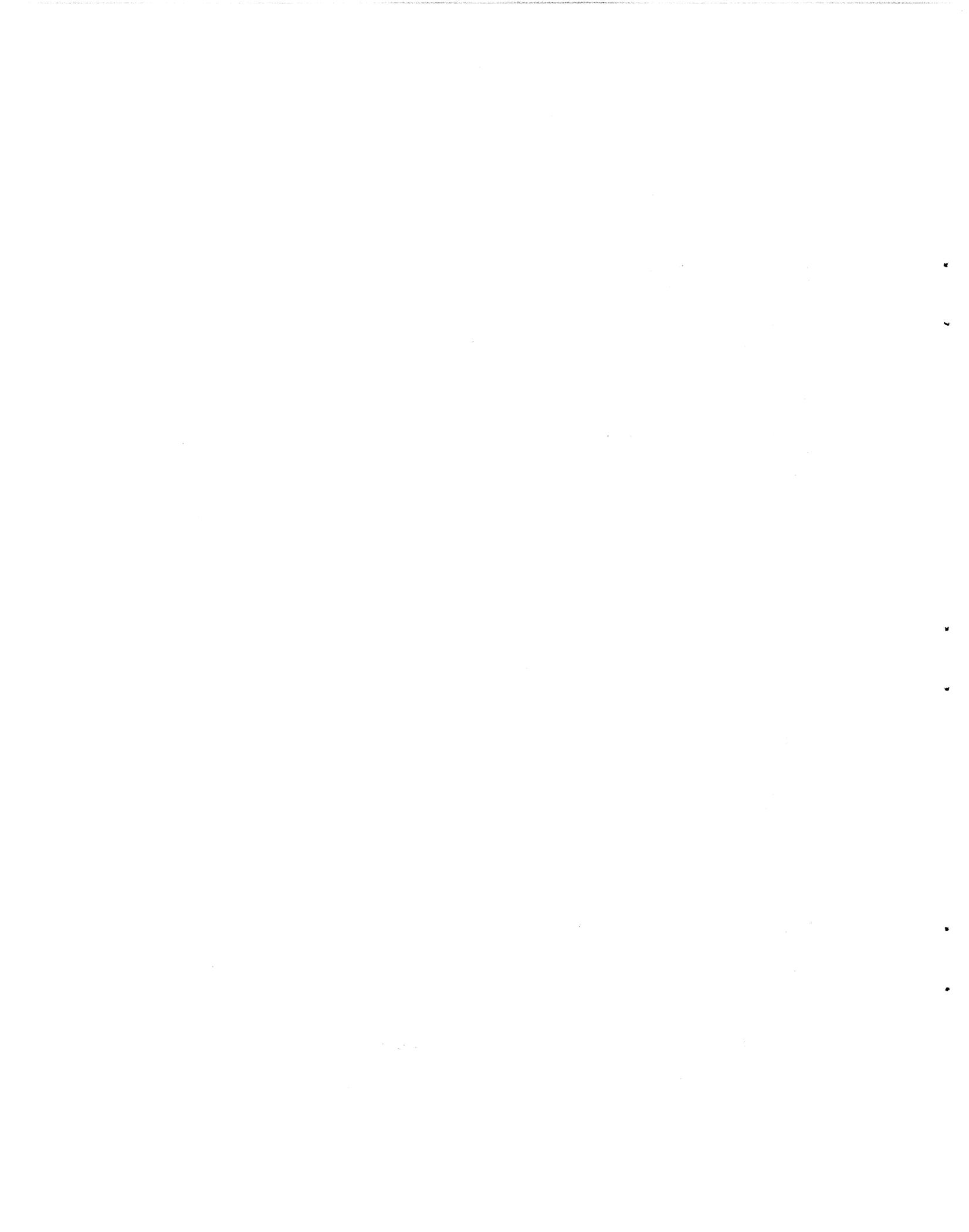
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ASSEMBLYMAN KENNETH A. BLACK, JR. (Chairman): Good morning, ladies and gentlemen. The second session of the public hearing being held by the Assembly Revision and Amendment of Laws Committee, with regard to Assembly Bill 521, will come promptly to order at 18 minutes after the starting time.

My name is Assemblyman Kenneth Black and I am Chairman of the particular Committee in which this bill rests at the present time.

On my left is Assemblyman Sinsimer, who is a member of the Committee; and on my right is Assemblyman Pellecchia, who is also a member of the Committee.

I regret that we do not have a larger representation of Committee members today. I have had cancellations due to prior commitments on the part of the other members. I think, however, for those of you who were here last Wednesday, - I think you saw something unusual in that we had the front table filled and that doesn't normally occur.

For those of you who were not here, during last Wednesday I gave a brief summary at that time as to what transpires at a public hearing and I will repeat it very briefly today.

There will, of course, be no applause and there will be no demonstrations from the balcony or on the floor. To those people here who wish to give testimony, if it is a prepared document, please present it to one of the young ladies in the front or to the legislative expert assigned to our Committee, Mrs. Pat Donath, who sits to my right, in S. Howard Woodson's seat.

We are going to ask you today to summarize your prepared text, if at all possible. We had listed some 85 to 90 individuals who wished to give testimony with reference to Assembly 521. As you know, we managed to cover only approximately 25 of those last week. Consequently, in order that we might bring the public hearing

to a close today - and we hope that we will be able to - I am asking you to summarize as much as possible. All prepared statements will be printed in their entirety, as well as your summary remarks, in the minutes of this public hearing. The minutes of the public hearing will also remain open until May 30th, up to which time any person may submit written statements relative to their thoughts on Assembly Bill 521.

As you all know, we attempted to have 25 individuals give testimony during the afternoon session last week. We did not accomplish this. Consequently, the individuals who were not called upon during the afternoon session, whose names were read off, will be included in those speaking earliest today.

There will be questions only directed from the Chair to the person giving testimony. The public hearing, once again, is to enable the members of the committee to gain your thoughts and, I'm sorry to say, it's an undemocratic process in that we do not let you ask us questions to gain our thoughts.

At this time, I would like to call upon Miss Dolores Corona, President, Union Township Education Association.

ASSEMBLYMAN PELLECCCHIA: Mr. Chairman, before the proceedings get under way, I would like to enter into the record, without any fanfare, a release made by Congressman Rodino asking for clemency for the teachers of Newark and other teachers. And without reading it, I would like to enter it in the record. (See p.64 A)

ASSEMBLYMAN BLACK: Very fine. Thank you Assemblyman Pelleccchia.

Good morning, Miss Corona.

D O L O R E S C O R O N A: Good morning, Chairman Black and members of the Committee on Revision and Amendment of Laws.

Chairman Black and members of the Committee on Revision and Amendment of Laws.

My name is Dolores Corona. I am President of the Union Township Teachers' Association, chairman of the Fair Play for Teachers N.J.E.A. Committee, but more important, I am and have been an active participant in the process of teacher negotiations for ten years. Quite honestly, Gentlemen, if I were sitting on the side of the table with the Board of Education in negotiations, I would do exactly the same thing that they are doing today and have done in the past. I, too, would elegantly stall negotiations past budget deadlines and even refuse to meet with teacher units; I would refer to most proposals presented by the teacher unit as non-negotiable; I would be eager to drive the teachers to fact-finding, a sometimes costly process to the teacher association, and then have no regard for the submitted report; I, too, would renege to my advantage. And why not? As the process exists today, I am encouraged to be dictatorial and defiant. What can teachers do if I refuse to negotiate in good faith?

But, Gentlemen, I am not a negotiator for a board. I am, instead, a teacher leader and negotiator who has been pressured to utter frustration, who has felt the futility that is synonymous with teacher-board negotiations. Allow me to reflect with you on the past three years of negotiations in Union Township, a community in Union County, with a school population of over 8,000 pupils and a teacher staff of approximately 500. Perhaps you can grapple with the role of frustrated teacher for a minute or two

In 1969 we started negotiations in early October and, after 170 hours of negotiations, mediation, expensive fact-finding, board's refusal to accept any part of the fact-finder's report which was not in its favor, mediation again, our teachers surrendered two days before the opening of school in September of 1970. Negotiations for the following year commenced in early October of 1970. This year saw mediation fail, board's refusal to meet with the teachers until after the board election and

budget vote, a two-day work stoppage and a settlement finally in late February after the judge ordered the board to meet with the teachers, around the clock if necessary, and it was necessary. It is now 1972. We have been in negotiations since early October. We have witnessed 62 hours of negotiations, 3 mediation sessions totaling 15 hours, and will be going into our fourth fact-finding session tomorrow evening. What's the point, Gentlemen? The point is best epitomized in a statement presented across the table at one of our negotiating sessions this year by one of our Board members--"We are going through the motions of negotiations; we will play the game."

It is not my intention to discuss personalities of board members, because I honestly do not believe that bad faith negotiations is a result of individuals and their personal sentiments, but, rather, a result of an outmoded attitude that board members feel must exist among all boards. This attitude I speak of is one of paternalism, one of supposed infallibility, one which regards desired participation by teachers in decision-making as interference. I submit the following letter as testimony to explain this attitude I speak about.

3/28/72

Mr. Francis Hill, President
*New Egypt Teachers' Association

Dear Mr. Hill,

I protest the conduct of your negotiator Mrs. Janice Mayer during the negotiations meetings.

I have hereby cancelled all future negotiations meetings until she is removed as a member of your negotiating team.

I regret this action but feel it is necessary and would appreciate your prompt attention to this matter.

Sincerely,
Mrs. Anna Davis
Board President

* New Egypt is a community in Burlington County.

Boards literally abhor teacher negotiations and their resistance to negotiations is obvious. Negotiation means bilateral decision-making in respect to matters traditionally within the unilateral control of the school board, and teaches us that authority is seldom relinquished without a struggle. The resistance is rarely articulated in these terms. It is concealed instead in the liturgy of sovereignty,

professionalism, democracy, and selflessness and teacher militancy and unrest are attributed to the efforts of teacher organizations to "take over the schools".

This attitude must be changed! The problem as I see it is the lack of the essential ingredient to collective bargaining--appropriate balance of power. I ask you, Assemblymen, to contemplate this analogy. What if the now equally-powerful Assembly and Senate of our State legislature were to become the omnipotent Senate and impotent Assembly. What if the extent of your power were acquiescence to Senate decisions and nothing more? I ask you to apply that same feeling to teacher-board relations. I say that A521 will develop a system that provides for the equitable resolutions of employer-employee disputes, will minimize the need for strikes and will protect the public if and when strikes occur. I respond to the fear that because A521 includes other public employees, namely, firemen and policemen, legislators cannot support it. I argue that the legislative language of A521 sets an excellent control on this situation. It expressly states that the public employees must prove to the court, that by withholding services they are not "...posing a clear and present danger to the public health or safety." A521 grants the public employee his right to "due process" but clearly mandates his responsibility in that process.

I sat through the public hearings on A521 on May 3, 1972, and I heard the testimony of board members, mayors, and P.T.O. leaders and I was flabbergasted at the absurd innuendo. Each was concerned about the interruption in the educational process of the students in a period of a teacher strike with the implication that striking teachers were not. Where is this deep-seeded concern on the part of board members when they turn down teacher requests for additional psychologists, better facilities, more reading specialists, modern textbooks, etc? I contend that the five day, ten day, twenty day interruption in the educational process is nothing compared to the years of interruption that could exist if teachers sat back in the fear of penalties of injunctions or if boards, operating solely under the mandate of the taxpayers' cry to keep taxes down, are allowed to deny the necessities of

education for our youth.

The press of teachers for balance of power in negotiations is not organizationally inspired; organizations do not create need; they respond to need. What, then, has really prompted teacher strikes. The public focus on teacher demands for improved salaries and fringe benefits tends to present a distorted picture. Money is not always the sole or even primary motivating factor. The problems facing education are many and complex. If they are to be successfully resolved, it will be necessary to involve the teachers, who, because of their background and training, have a special knowledge and competence which enables them to make a valuable contribution. A teacher having committed himself to a career of socially valuable service and having invested years in preparation and perhaps years of post-graduate study after being hired has a special identification with the standards of his "practice" and the quality of the service provided to his "clientele". As a result of this identification, teachers characteristically seek to participate in decision-making in respect to teaching methods, curriculum content, educational facilities and other matters designed to change the nature or improve the quality of the educational service being given to the children, and they see negotiation as the vehicle for such participation.

You bet, teachers are concerned for their students, their profession and themselves; so concerned that they are willing to spend as much as six months in jail, lose salary, pay heavy fines, take abuse from those who never took time out to study the circumstances of the strike, and picket in cold and rain. And they will continue to be concerned. Penalties and prohibitions will not deter work stoppages. When educators feel sufficiently aggrieved and have no alternative avenue of redress, they will strike regardless of the penalties. As a teacher, I, joined by thousands of others of the New Jersey Education Association, am absolutely repulsed when I think of 243 of my colleagues having been incarcerated. Society calls teachers "professionals" yet, the laws of this state inflict punitive measures upon us when we take necessary action to secure professional growth. When teachers, the most educated sector of our society, make the decision that it is necessary to disobey

an injunction, something is wrong. One of the ironies in the situation is that teachers are not being punished for conducting a strike. There is no penalty for that, because there is no law against teachers going on strike. They are being punished for violating court injunctions issued on the Common Law. The problem, Gentlemen, is the absence of written law.

Thousands of members of the New Jersey Education Association have joined together in a massive campaign to win what is rightfully theirs--the American principle of Fair Play. When the first teacher entered jail, we might have had a state-wide strike; members of the N.J.E.A. were certainly pushing for such action to exert pressure. Instead, the N.J.E.A. chose the road which would educate the public about the teacher dilemma. We believe in law. We chose to do things legislatively because this was the right thing to do--this was Fair Play. We have gained, since the start of our campaign on January 20, 1972, tremendous public support for A521. Through our massive letter-writing campaigns and our newspaper ad campaigns, we have convinced people of the need for A521. Our successful rally in Asbury Park on April 23, 1972, and our workshops in each county were all indicative of real strength among our N. J. teachers. Educators are speaking on Fair Play and the essential A521 bill to community organizations and on radio programs. All this takes time, energy and money, but putting a law on the books is the democratic way--the way of Fair Play.

Allow me again to refer to the testimony heard on May 3, 1972 on A521, and very briefly respond to some of the negative statements.

Mrs. Malovany, president of the State Boards' Association argued that strikes by teachers should not be allowed because it would put youngsters on the street. She pointed out that, because most youngsters had two working parents, it would be necessary to keep them in school. I find this argument fatuous and offensive. I am a teacher and not the administrator of a day-care center. To deprive me of a basic right for my welfare because the two parents of a child find it necessary to improve their own welfare is preposterous and tragic, to say the least.

I heard a Superintendent from Salem County refer to A521 as a bill to encourage strikes. Remember, teachers do not want to shut schools down; they do not want to lose long stretches of salary. I believe that expanding the right to strike will reduce the number of strikes. Give the employee the right to strike and we have the motivating power for true bargaining. Based on the experiences of Pennsylvania and Hawaii, it is reasonable to assume that a balance of power brings about quicker and more peaceful settlements.

And now to the presentation by another witness opposed to A521. This P.T.O. leader spoke about the bitterness that existed between teachers and board during negotiations. How right she was! Boards and teachers, during negotiations, become extreme adversaries; an antagonism which is not wholesome for the educational system does exist between teacher and board. But the reason for this is not the concept of negotiations, but, rather, the long, drawn out process that now exists. In most school systems, negotiations begin in or about October and, as collective bargaining exists today, does not end until after February. Hours and hours of negotiation nurture bitterness and antagonism. Quick settlements are the answer and the balance of power put forth by A521 will bring about those settlements.

Gentlemen, let me close with these thoughts. Teachers who strike are not striking in defiance of the law but in defense of the law. Teachers cannot be silent and passive when their profession is being attacked, when their students are not being given the right to a meaningful education. For the youth of our state, for the 72,000 members of N.J.E.A. and their families, who are your public too, I urge the passage of A521.

Thank you very much for the opportunity of having presented testimony.

The gentleman on my right is Walter O'Brien, member of the New Jersey Education Association Staff.

I will entertain any questions.

ASSEMBLYMAN BLACK: Any questions?

ASSEMBLYMAN SINSIMER: ~~Was~~ Corona, you identified yourself as Chairman of the Fair Play Committee. Could you tell us exactly what the Fair Play Committee is and what its objectives are?

MISS CORONA: Yes, Assemblyman Sinsimer.

The Fair Play Committee is actually a State committee composed of a person from every county, and then it works all the way down to the local level. As I said, it's an NJEA Committee. But this Committee has been formed for two purposes: One, to show the public, as I mentioned in my testimony, that we are absolutely repulsed by our colleagues being put in jail; and, number two, this Committee has been formed to try to work for the passage of 521 and 520. We feel that there is a balance of power that is needed. These are two bills that are bills for fair play for teachers. And, since January 20, 1972, we have been throughout this entire State with radio programs, television appearances, speakers' bureaus, workshops in every county, letter writing, - you name it, we've done it - to try to get 521 and 520 through the Legislature.

ASSEMBLYMAN SINSIMER: You mentioned also that during some of your own negotiations in Union Township, I believe it is, that - here is a quote from your statement - "our teachers surrendered two days before the opening of school in September of 1970." Does that mean that you gave up all of your demands?

MISS CORONA: Well, you might say it was almost like that. You know, at that point, two days before school, - as I said, teachers don't like to strike - it

would have been a decision that would have been most difficult. School was opening, We didn't give up all of our demands but we certainly did not get many of the things that we thought we might have gotten for the educational system in Union Township. So we did go back to work, accepted what the Board gave us, and then started negotiations all over again for the following year.

ASSEMBLYMAN SINSIMER: This letter from Mrs. Anna Davis, where she's demanding that a member of the teachers' negotiating committee be removed, - have you ever made a similar demand on board members? and, if so, was it honored?*

MISS CORONA: I would not think of making such a demand on board members. I believe in balance of power for both sides. That's a kind of attitude that exists with boards but not necessarily with the teachers.

ASSEMBLYMAN SINSIMER: Thank you.

ASSEMBLYMAN BLACK: I would like to state that Assemblyman Kennedy, on my right, has joined us at the head table. Brian Kennedy is also a member of this Committee.

Any questions, gentlemen?

ASSEMBLYMAN KENNEDY: No.

ASSEMBLYMAN PELLECCCHIA: Miss Corona, I believe it is.

MISS CORONA: Yes.

ASSEMBLYMAN PELLECCCHIA: First, I would like to commend you on the preparation of your statement and your method of delivery. I appreciate some of your frustrations because I've gone through some similar frustration. The travesty that's been put upon our back, as far as justice is concerned in the State, where we have had 250 teachers go to jail -- I'm just going to ask two simple questions. I promised myself on the way down, while last week I was very vocal, this week I intended to shorten this hearing and keep quiet, but

I can't at this point.

One of the questions I would like to ask - you made reference to strikes in your particular presentation - what rights do the teachers want in strikes? I know you came out with some of that in your statement.

MISS CORONA: I was involved in this. I also mentioned that we had a two-day work stoppage. That's also frustrating. We went before a judge and all I could remember is the board lawyer standing before that judge and saying, "But, sir, you must give them an injunction. They have defied the law." And we just sat back, automatically sat back and said, "Well, here it comes." But it was a very unusual situation, perhaps not the normal situation that exists. Our Board refused to meet with us. A two day strike. We appeared in court, at least to show cause, and what happened is, that particular judge refused to give an injunction at that particular time. He ordered the Board to meet with us, and we did meet with the Board that evening. But I can't help but reflect on what that Board lawyer was trying to do at that point. He kept saying to the judge, "But, Judge, you must give them an injunction; you must. They have stayed out for two days." And the Judge replied, "The injunction will be there; as long as they go back to work now and negotiate there is no reason why I must give an injunction at this time." And as the lawyer was going out the door, he was still shouting, "But, Judge, you must give them an injunction." And I even recall our lawyer saying, "You must be trying to put teachers in jail." And, oddly enough, the Judge seemed to agree,

So I am looking for fair play. We're looking for a balance of power; we're looking for the situation that when we appear before a judge we want the right to defend our situation.

ASSEMBLYMAN PETLECCHIA: The other question you almost answered. What is the solution? What do you believe is the real solution?

MISS CORONA: I believe the real solution lies in 521. I have said it many times before. I believe that when boards go around that table and have this idea that teachers may strike, and I don't say that we will. I say may strike, this puts the balance of power there.

As I see it, Assemblyman, when we are refused the right to strike, we are really refused negotiation. We have a Chapter 303 that allows us to negotiate, but of what value is that, if we go into that room and we have no power to negotiate? Give us the right to strike; give us the right that will guarantee us the right to negotiate.

ASSEMBLYMAN PELLECCCHIA: Thank you.

ASSEMBLYMAN BLACK: Any further questions.
Thank you very much.

MISS CORONA: Thank you.

ASSEMBLYMAN BLACK: Mrs. Helen P. Leach, Point Pleasant Beach Board of Education.

Assemblyman Jack Dennis has joined the Committee, and he is also a member of the Revision and Amendment of Laws Committee.

M R S. H E L E N P. L E A C H: Chairman Black and honorable members of the Assembly Committee on Revision and Amendment of Laws. I am Mrs. Helen P. Leach, a member of the Point Pleasant Beach Board of Education.

I should like to address myself, representing a unanimous decision by my Board of Education, to the opposition of Assembly Bill 521.

Public Law 303 mandates a negotiated agreement between the public employers and the public employees, and once this agreement is signed by both parties, it is obligatory that both parties perform according to the articles in the agreement. The grievance procedure protects both parties in carrying out the articles of the agreement, for the term of the agreement.

All too often Boards of Education are accused of not bargaining in good faith, when in reality, they just aren't agreeing to all the teachers' proposals. Legislators must be made aware that all too frequently the early agreements which were agreed to by Boards of Education, were nothing more than the NJEA agreement, which favored the teachers in all respects. This occurred during the time when many Board members were by and large totally amateur in handling the new task presented them, and before they had some degree of professional expertise in negotiating. These Boards have learned there are many Board powers and prerogatives they should have returned to them. Despite what has been said already by employee representatives, Boards on the whole, are truly attempting to represent the needs of all concerned--the student, the public, and not least of all, the teacher. Boards of Education deserve this right. This, then, makes negotiating a give and take situation for the first time in many districts--not just a giving situation. The teachers are finding this fact very difficult to accept.

As Mrs. Malovany noted last week, in Pennsylvania last year, the first year when permissive strike legislation was enacted, no less than 64 school strikes were called by Thanksgiving. Normally negotiations don't begin until about October 1. I also heard much testimony stating strikes would be reduced with the legal right to strike. I disagree with these statements fully. I do believe teachers will strike at the first indication a Board of Education hints that it is not giving in to specific teacher demands, rather than pursue true negotiating. In Freehold Township, once the recent 9-day strike was settled, the teacher association's president said, (quote) "We might as well go out on strike again", (end quote) because the Board of Education had not held its public meeting at the time first indicated for the purpose of ratifying the agreement. Boards of Education do have to notify the public a certain number of days in advance of any adjourned or

special meetings. Perhaps this was the reason for a delay. Getting a full Board together on short notice isn't an easy task. This, too, may have been the reason for the delayed meeting. I don't know, but it is very possible. Whatever the reason, certainly an immediate threatening statement by the teacher association's chief officer was unnecessary. This type of threat does make clear to me, however, that any testimony declaring that A521 will cause less strikes should be disregarded or considered only where factual information and evidence is given to advance such a statement.

I would like to add to the testimony already given that the Pennsylvania teachers' union supplied more than adequate subsistence funds to support those locals which decided to strike in the state of Pennsylvania. In addition, one-half million dollars in interest-free loans were made available to the striking teachers. Striking would prove no great loss to the teachers; however, the loss to the school children would be irreparable. How much easier it will be to strike rather than negotiate--as many of us are still doing on this date.

Regarding the economic assistance that can be expected to be given teachers in striking districts, may I ask who will help the parents that will have to leave their jobs to care for their children while the teachers are striking? Due to the economy of today, many homes find both parents employed and the mother working during those hours she normally expects her children to be taught in our schools. This aspect alone can lead to a danger in health and safety of those affected. This was alluded to by Mrs. Malovany when she was questioned by the Committee last week. It is of vital importance when deciding the future of A-521, despite the fact that Miss Corona finds this repulsive and oppressive. I know for a fact that Boards of Education have been requested to remove their negotiators.

If the State assumes the fiscal responsibility of the operations of the schools in New Jersey, and, if as a result of this action, the State then negotiates teachers' salaries, whether by county or region, what will prevent a state-wide strike? Before proper court action can be achieved, just attempt to conceive of the damage that can result. These "ifs" are not facts, true; nevertheless, these "ifs" could become very real in the near future with legislation such as A521.

Since the right to strike is so important to the teachers' fair-play campaign, then the right to fire, the right of economic sanctions, the right to terminate tenure--all of these must be considered as fair also. Teachers cannot be given such security and then be granted, in addition, the right to break their contracts before contract dates expire. Once a contract expires, then the right to strike becomes more palatable. However, tenure teachers have contracts which do not expire! Under Title 18A, tenure teachers have what amounts to an automatic contract from year to year. Therefore, tenure and "the right to strike" cannot be given to teachers. One or the other must go!

In industry mere machines remain idle during a strike. In education human beings remain idle. Students are deprived of the orderly education our Constitution states must be provided them.

I have been reading of late about legislators leaning towards the teachers in their fight for A521. These legislators, I am certain, realize the we as individual or collective Board members do not measure in number that of the teachers in the State. However, we do represent a far greater segment of the voters. We will not hesitate to inform the public of their legislators' voting record.

As U. S. Congressman Howard, a former teacher, said to a group of teachers recently, (quote) "Just as you have the right to work, you have the right to withdraw that work." (end quote) The Asbury Park Press, in its April 25 editorial said to this remark, (quote) "Fair enough, but let's see whether Mr. Howard is consistent. Will he defend "the right to work" of those millions of Americans who cannot hold a job unless they join a union? Will he vote for a national right-to-work law? And will he apply his considerable influence to the adoption of the right-to-work measure now before the New Jersey Legislature?"

"Except in the 19 states that have adopted right-to-work laws, contracts forced on employers by unions prevent employees from holding their jobs unless they join the union and pay dues thereto even though the dues are spent for activities which they disapprove. Here is a repressive provision that is a total denial of freedom in holding a job.

"Now that Mr. Howard has at last recognized the right to work as fundamental in a free society we hope that he demonstrates sincerity by championing the cause. Will he take the lead in supporting a national right-to-work law? Will he insist that workers who do not want to participate in a strike be free to continue at their jobs without being intimidated and even cudged by picket lines? In other words, when he finally discovered the right to work was the Congressman on the level or just making another political speech (end quote)

In its April 30 issue, another Press editorial blasted Howard's position once again, stating, (quote) "Consistency requires Mr. Howard to state whether he would promote or support a similar bill in the Congress in behalf of federal employees. If public education should be torn apart in New Jersey

piece by piece, by legalized strikes of public employees, equally vital public services performed by federal employees could be thrown into chaos. Public health and safety could be eroded by legalized strikes in the educational system. This system must survive to train those who must provide the vital health and safety services that only government can furnish.

"Mr. Howard's judgment is an invitation to frustrate orderly government. It would discourage tranquility in a society beset by many ills, including illegal student boycotts that so often occur in the wake of the militancy that persuades teachers to strike." (end quote)

In closing, permit me to read a poem entitled "Grievance", taken from The Furrows Publication of the Nebraska Association of School Administrators, which so poignantly relates the issue discussed here today.

The school and teacher both agreed,
And both were very wise,
That five and twenty children
Make a class of ideal size.

But when the class assembled,
Came three enrollees late,
And the twenty-five ideal
Became, of course, twenty-eight.

There followed, then a crisis,
Its boundaries out of reach,
Because of this violation
The teacher couldn't teach.

She filed a formal grievance,
And the principal wrung his hands,
While the Association gathered
In solemn, long-faced bands.

The superintendent was confronted,
And requested to explain,
Why such evil was permitted
In Democracy's good name.

His reply was not sufficient,
And all thought it was most ill,
That he blamed this dire condition
On non-users of the Pill.

The Board was called in session,
And met throughout the night,
But could arrive at no decision
Which would dissipate their plight.

Finders were consulted
To elicit all the facts,
And come up with an answer
Which wouldn't raise the tax.

Their task became dilemma,
And their efforts went for naught,
Of one thing only they were certain,
The twenty-eight could not be taught.

One recourse was left for action,
Regardless of the like,
To retain professional dignity
The teachers went on strike.

The effects on Education
The parties all did rue,
But, pray, what might have happened
Had that class been twenty-two???

Thank you, gentlemen.

ASSEMBLYMAN BLACK: Thank you very much.

Any questions?

ASSEMBLYMAN SINSIMER: Mrs. Leach, in your dealings with the teacher negotiators in your particular district, would you say that you have been fair, your board has been fair in its negotiations?

MRS. LEACH: Absolutely.

ASSEMBLYMAN SINSIMER: Then why would you fear a teacher's right to strike?

MRS. LEACH: Because I think within the framework of the law, as it is now, true negotiation does take place. There is the allowance for give and take. But if you have the right to strike, teachers, in my opinion, as soon as you show you are going to stand firm on a certain point that you firmly believe is your prerogative, I believe there will be a threat of strike, and the boards will be at the mercy, totally, of the Education Association.

ASSEMBLYMAN SINSIMER: In other words, you feel that teachers are unreasonable in their demands?

MRS. LEACH: I feel that the teachers have the right to make whatever demands they feel will improve the lot of students or the lot of the teachers themselves. By the same token, the Boards have the right to demand what they feel is properly theirs. And to get an agreement, there has to be negotiation. You just cannot threaten the board immediately when they say, "we don't really go for this particular demand", and they're going to be determined to get that particular demand. They'll threaten you with a strike.

ASSEMBLYMAN SINSIMER: You mentioned before that in a strike in industry it was only machines that were idle, not humans.

MRS. LEACH: I indicated that in most cases.

ASSEMBLYMAN SINSIMER: Well, aren't there humans who run these machines?

MRS. LEACH: Yes, but they are out on strike.

ASSEMBLYMAN SINSIMER: Aren't they idle when they're on strike?

MRS. LEACH: They are. And the teachers, of course, are idle when they go out on strike too. But they are striking. I'm talking about the product that is affected by the strike. That's what I was alluding to.

ASSEMBLYMAN SINSIMER: You mentioned that the teachers should - I don't know that I can give the exact language - but that they should remain in school because in many cases both parents are working and the parents are counting on the teacher being there to baby-sit their children.

MRS. LEACH: I didn't mean to imply they're baby-sitting any children.

ASSEMBLYMAN SINSIMER: No, the term baby-sit was mine, but that was the implication I got; in other words, that they should be in school because the parents were not at home to take care of the children. Isn't that what you were saying?

MRS. LEACH: Yes. I think that unless a family is blessed with a provider that can afford the necessities of life today to educate your children and to just maintain your budget, the two parties in the family are forced to work. And I don't think I'm going to be contradicted on that. If you choose not to have both work, then you're living on a fairly low income today, unless you have an exceptional provider.

Now, these women who are working, very often, are working the hours they know, or they at least feel, their children are going to be in school, not for the purpose of being baby-sat but for the purpose of receiving an education. And when there is a strike, there is a disorderly interruption at this point. And this is where chaos can certainly result.

ASSEMBLYMAN SINSIMER: Well, the parents who work,

in all probability, would have the right to strike, would they not?

MRS. LEACH: It's all according to where they work, I would assume.

ASSEMBLYMAN SINSIMER: Unless they are public servants, I think that could be a safe assumption.

MRS. LEACH: I don't think so. There are some places where you're not in a union or don't go out on strike.

ASSEMBLYMAN SINSIMER: Well, what would these parents do during the summer time?

MRS. LEACH: They know that this is going to happen, that there is no school in session, and they provide accordingly. They do not provide for the possibility of a teacher strike.

ASSEMBLYMAN SINSIMER: All right. You mentioned the Pennsylvania strikes being 64 in number, are you also aware that these strikes were for an average of 9 days duration, only 9 days duration?

MRS. LEACH: Yes, with the longest being 25, I believe.

ASSEMBLYMAN SINSIMER: Are you also aware of the fact that in Pennsylvania they have not made out any better financially than they have here in New Jersey?

MRS. LEACH: Does this mean then that perhaps they won't gain as much with the strike?

ASSEMBLYMAN SINSIMER: No. But the strikes have often been equated with banditry. I just wanted to point out that in Pennsylvania where they have the right to strike teachers are no better paid than in New Jersey where they don't have the right to strike.

MRS. LEACH: I have a feeling that they started much lower than New Jersey before, but, of course, I don't know if this is true. I would have to get facts.

ASSEMBLYMAN SINSIMER: You read a couple of editorials from the Asbury Park Press. Does your entire

Board or did your entire Board in a public meeting subscribe to the editorials about Congressman Howard that appeared in the Asbury Park Press, or is that strictly your own criticism?

MRS. LEACH: My Board subscribes to everything I have said here today.

ASSEMBLYMAN SINSIMER: Including the endorsement of these editorials?

MRS. LEACH: Yes, sir.

ASSEMBLYMAN SINSIMER: All right. Now, just one more question on tenure. I think you heard testimony here last week that teachers would be willing to give up tenure or at least there was an indication that they would if they had the right to strike. If teachers were to give up tenure, would you then be willing to grant them the right to strike?

MRS. LEACH: I said that it becomes much more palatable. And I also believe there was testimony given last week that indicated some teachers were very reluctant to give up tenure too.

ASSEMBLYMAN SINSIMER: That's all the questions I have.

ASSEMBLYMAN DENNIS: Just one question. Two-thirds of the way through your presentation you mentioned, besides tenure, several other things. Would you just rephrase those? I guess it was comparing private industry.

MRS. LEACH: All right. "Since the right to strike is so important to the teachers' fair play campaign, then the right to fire, the right of economic sanctions, and the right to terminate tenure, all of these must be considered as fair also."

ASSEMBLYMAN DENNIS: Thank you.

ASSEMBLYMAN BLACK: Assemblyman Kennedy?

ASSEMBLYMAN KENNEDY: No questions.

ASSEMBLYMAN BLACK: Assemblyman Pellecchia.

ASSEMBLYMAN PELLECCIA: Well, I promised to refrain

but I just can't let this one go by without a few questions.

I commend you on your presentation and I certainly feel that you have a right to your opinion. There are some things that I would like you to make clear to me.

You were on these chambers on May 3d, I presume, and you heard some of the evidence given by several people.

MRS. LEACH: Yes, sir.

ASSEMBLYMAN PELLECCCHIA: On May 3d there was a Robert Roggenstein who is a member of the Education Association Executive Board and he contended that at their last negotiations they sat for many hours - that was the negotiations of '69 and '70 -- they sat for many hours. They had presented to that Board 100 questions and after many, many weeks, they resolved four. Would you say that that is bargaining in good faith on anybody's part?

MRS. LEACH: Without knowing what the hundred questions were, sir, I feel I cannot answer that.

ASSEMBLYMAN PELLECCCHIA: You can't answer that. All right. Is it a fact that any negotiations, where you have give and take, - some of the statements that you made that Assemblyman Dennis just asked you to repeat - that this does become part of negotiations and you do negotiate some of these items?

MRS. LEACH: The things that I just indicated here are negotiated?

ASSEMBLYMAN PELLECCCHIA: That Assemblyman Dennis asked you to repeat. The right to hire and --

MRS. LEACH: These are not negotiated.

ASSEMBLYMAN PELLECCCHIA: They're not negotiable?

MRS. LEACH: No, sir.

ASSEMBLYMAN PELLECCCHIA: In my opinion, they should be.

MRS. LEACH: The law states that there is tenure. So, I mean, that's not negotiated.

ASSEMBLYMAN PELLECCCHIA: Talking about the law, how much dues do you pay to your Association? or to your union?

MRS. LEACH: You mean the State --

ASSEMBLYMAN PELLECCCHIA: Yes.

MRS. LEACH: We're a small district. We would pay the minimum. I can't really tell you exactly.

ASSEMBLYMAN PELLECCCHIA: Where would that money come from?

MRS. LEACH: Where does it come from? Our Board budget.

ASSEMBLYMAN PELLECCCHIA: Your Board budget. In other words, the people pay your dues to a union to protect the Board. Is this what I understand?

MRS. LEACH: I guess you could assume this. It comes out of the budget. However, I would like to say that only since 303 have the Board members, who are, by and large, amateurs - and I include myself as number one candidate -- that we've had to resort to assistance. And because there is such a turnover of board members, we will always remain an amateur group, unfortunately. Now, I don't know how you can compare a \$600,000 budget with a \$6 million budget that we are fighting - I better put quotes around the word "fighting".

ASSEMBLYMAN PELLECCCHIA: In your particular school, was there ever a breach of contract where the teachers broke their contract during the course of the year?

MRS. LEACH: Where the teachers did?

ASSEMBLYMAN PELLECCCHIA: Yes.

MRS. LEACH: Actually we've had very good conditions in our system. However, there has been a breach of contract against the board, not against the teachers, just this past year.

ASSEMBLYMAN PELLECCCHIA: In your particular school?

MRS. LEACH: Yes.

ASSEMBLYMAN PELLECCCHIA: You also stated that strikes would endanger some of the pupils and the family and the relationship that's involved. Doesn't 521 spell out that you would have recourse where there is a danger?

MRS. LEACH: Sir, it doesn't happen over night, however.

ASSEMBLYMAN PELLECCCHIA: But doesn't it spell out that there --

MRS. LEACH: It would have to be proven, first of all. And from testimony that I heard last week, someone was asked what was a clear and present danger to the health and safety, and I don't have it to quote but I think it was indicated that if the police - it was a public servant, however, it wasn't a teacher, I don't think - was out for a couple of months, was it? - I don't really remember the numbers given but that was a long time before they considered --

ASSEMBLYMAN PELLECCCHIA: Well, I don't believe that this is exactly the intent of the bill that's before us.

I have a thousand other questions I would like to ask you but, for the sake of expediency, I think I better cut it down to just one more question.

In your opinion, if two adversaries were in a ring fighting and one had his hands tied behind his back, do you think that would be a fair contest?

MRS. LEACH: I disagree with your question, first of all, because I don't think either party has his hands tied behind his back, at least that has not been my experience. And I feel that this has been projected as the board being tyrannical and the poor Teachers Association having its hands tied behind its back. I disagree with that philosophy. I think through the legal framework of existing laws neither side has its hands tied.

ASSEMBLYMAN PELLECCCHIA: Mrs. Leach, while I said it was the last question, I will definitely make this one the last. Isn't it a fact that the situation in Newark, where one member of the School Board was quoted as saying, "I do not intend to bargain in good faith", that this does create a situation where there cannot be honest bargaining?

MRS. LEACH: Sir, I am not totally familiar with the entire Newark picture and I really feel that I'm not equipped to answer that question.

ASSEMBLYMAN PELLECCCHIA: No further questions.

MRS. LEACH: Thank you.

ASSEMBLYMAN BLACK: Assemblyman Kennedy?

ASSEMBLYMAN KENNEDY: I have just one statement to make. I hope that Assemblyman Pelleccchia's New Year resolutions have not met with the same fate as the resolution he made to himself this morning.

MRS. LEACH: Thank you.

ASSEMBLYMAN BLACK: I have a question, Mrs. Leach. I've been very quiet today and all during last Wednesday's hearing. You made mention of two figures, one was \$6 million and one was \$600,000. What does the \$6 million figure represent?

MRS. LEACH: The New Jersey Education Association budget. This is the information I was given. If I am incorrect, I stand corrected.

ASSEMBLYMAN BLACK: If you're incorrect, I'm sure you are going to be corrected.

MRS. LEACH: I'll have to take my punishment.

ASSEMBLYMAN BLACK: And the \$600,000, I take it then, is contributions of the Boards?

MRS. LEACH: Right. And if I'm wrong there, I stand corrected also.

ASSEMBLYMAN BLACK: Thank you very much.

MRS. LEACH: You're welcome.

ASSEMBLYMAN PELLECCCHIA: Excuse me --

ASSEMBLYMAN BLACK: Not another question.

ASSEMBLYMAN PELLECCCHIA: The Chairman of the Committee brought up an interesting point. He asked the amount of money involved. I asked you where did the money come from when we were talking about the Association. Now I ask you, where does the money come from that the Teachers Association handles?

MRS. LEACH: It comes out of the teachers' pockets, whether they believe in it or not

ASSEMBLYMAN PELLECCCHIA: Just like it comes out of the taxpayers' money whether they want it to or not.

Thank you.

ASSEMBLYMAN BLACK: I would next like to call Mr. Phillip Yacaveno, First Vice President, New Jersey State PBA.

P H I L L I P Y A C A V E N O: Good morning, ladies and gentlemen. My name is Phillip Yacaveno, First Vice President, New Jersey State PBA; in which we have 16,000 members.

I will make a brief statement because our Association met yesterday and we didn't have time to have a prepared statement, such as we heard from the past two speakers.

As you know, as policemen we don't want to strike, we don't like to strike.

As you all know, in the past and in the present, we have answered all sorts of emergency calls during our vacations, days off, holidays. We have spent time away from our families during all these emergencies.

We also feel that if this is the best thing they can come up with, A-521, we are definitely in favor of it because it gives the public employee the right that everyone else does have in this country, especially in the private sector.

As an arbitrator for the New Jersey State PBA, traveling all over the State, I get to negotiate with different town councils and what-not. You sit across

the table from people who have the right to strike, and the answers they give you, and keep you there for hours at a time, not negotiating in good faith, and you have to sit there and listen and they give you no straight answers while you are trying to negotiate in good faith with the police department involved. Then you hear a man, with a frustrated voice, when you go outside, "Yack, what do I do now?" This is the negotiator for the town.

Well, what else do we have to do? Policemen have resorted to demonstrations, job actions of all sorts, which we don't want to do. But we are forced to do things such as this to make the people and the town council realize that the policemen need better working conditions, better salaries, in order to raise their families like anyone else.

My Association also believes that a person who chooses public employment for his career shouldn't be penalized by having his rights taken away, that everyone else enjoys in the private sector.

Therefore, I urge you, gentlemen, we will support this bill, A-521, with every endeavor, and we are hoping that it does pass so that everyone can enjoy the rights of the people in the private sector.

Thank you.

ASSEMBLYMAN BLACK: Thank you very much, sir.
Are there any questions?

ASSEMBLYMAN DENNIS: Just one question. Concerning salaries for policemen and firemen, they can go on the ballot, can't they? I've seen a couple of communities, I used to represent, where they put it on the ballot, a public referendum.

MR. YACAVENO: Yes, they could go on the ballot. But, like I said, in many places where I arbitrated, the Councilmen and Mayors, and what-not, do not have the gumption to go to the people and say maybe your taxes are going to be raised three or maybe four points in

order to give the policemen a decent salary, or the firemen a decent salary so that he won't have to hold two jobs to support his family.

ASSEMBLYMAN BLACK: Thank you very much, sir.

Mr. Al Worth, American Federation of State, County and Municipal Employees.

M. R. P A C H M A N: Gentlemen, my name is Mr. Pachman. I'm appearing on behalf of Mr. Worth for the American Federation of State, County and Municipal Employees.

We have a rather short statement, gentlemen, which I will read to you.

This statement is rendered to the Committee on behalf of the American Federation of State, County and Municipal Employees and its Constituent Subordinate Bodies within the State of New Jersey. AFSCME would like to register its position as being in favor of the passage of Assembly Bill #521, and the enactment of that bill into law.

It is our feeling that the right to strike for public employees is an integral part of the collective negotiating process, the right to which was granted to public employees under the New Jersey Employer - Employee Relations Act.

Collective negotiation, gentlemen, is a process by which two parties, the public employer and its employees, join together in a spirit of accommodation in order to settle their disputes. This spirit of accommodation is achieved only if both parties to the dispute are aware of the other side's viable ability to take some action in the event that accommodation is not reached. More simply stated, it is the possibility of the strike which serves as an inducement to both parties to bargain effectively to solve their differences. Without this right, no such inducement exists and the entire negotiating process is prostituted.

In addition, recent history in New Jersey has demonstrated full well the ability of lengthy debate in the Courts over injunction and contempt procedures to divert energies and attentions from the bargaining table where they should be concentrated, to the Courtroom where this expenditure of effort in no way affects the basic underlying problem; that is, the contract dispute.

It is for both of these reasons that we strongly support this Bill which provides the right to strike for public employees, thereby guaranteeing that a speedy and effective resolution of contract disputes will result. It is not merely in the public employees' interest that this result should follow, but also in the general public interest of the citizens of the State of New Jersey.

Mindful of the overriding public interest involved herein, we would wish to point out that Assembly Bill #521 provides for the safeguarding of that public interest in that it permits the restraint or enjoining of those strikes which a court finds pose a clear and present danger to the public safety, and further guarantees that both sides shall have fully utilized the procedures set out for contract dispute settlement in law.

Having stated the above we would like to indicate to the Committee that there is no attempt to indicate by our support of Assembly Bill #521, any opposition to the concept of arbitration as a preliminary step in the collective negotiating process.

Thank you.

ASSEMBLYMAN BLACK: Thank you very much, sir.

Are there any questions? (No questions)

Ladies and gentlemen, at this time I will make the statement that we are going to recess at 1 o'clock for lunch, we will come back at 1:30, and we will terminate the day at 4 o'clock this afternoon.

I am also going to have to put on my villian's cloak. Since we have now had all of the major positions presented, I asked you last week and earlier today, and I will again ask you to condense your presentation and please do not read through a complete formal presentation.

I now have to exert my prerogative, which is non-debatable, not subject to arbitration, and will ask you to summarize within a five minute period and I will notify you while you're speaking at the end of that five minute period. You will then be given three minutes more to complete your presentation. That's a total of eight minutes and perhaps we can accomplish the presentation of new cogent points to the presentations which have already been made. If you do not like it, write your Assemblyman and he will tell me about it.

I would now like to call upon Mrs. Dorothy Lassiter, Passaic Education Association.

She is not here. I will not let anyone else go to 16 minutes. We will chalk that off and say that we've made headway.

Mr. Zakorian, Cherry Hill Education Association.

H R A I R Z A K O R I A N: Chairman Black, members of the Committee, I'm Hrair Zakorian, President of the Cherry Hill Education Association.

Our Association is unified with the NJEA and NEA. I have come here to urge the passage of Assembly Bill 521 into law.

While I'm not a lawyer, nevertheless, I recognize that we are dealing here with a law which is designed or should be designed at all times for the common good.

Accordingly, I would feel privileged to make a few suggestions based on what I understand to be fundamental propositions recognized by labor lawyers and lawyers who represent management.

The statement of findings and policy was subsequently retained when in 1947 Congress adopted Taft-Hartley. I would respectfully suggest that the major objective in the Federal Public Policy of both 1935 and 1947 was the equalization of bargaining power between organized employers and the individual, unorganized employee. Congress found as a fact that a workman alone and without association with fellow employees was the victim of an inequality which promoted both the depression of wage rates and the suppression of purchasing power.

To eliminate that condition, considered as a social evil, the Federal Government adopted as a national policy the encouragement of collective, as distinguished from individual, determination of wages, hours, rate of pay, and terms and conditions of employment, and equality of bargaining power between employer and employees.

You will perhaps agree that the New Jersey Supreme Court - *Lullo vs. International Association of Firefighters* - has left to the Legislature the responsibility for giving effect to the State constitutional guarantee contained in Article I, paragraph 19 of the Constitution of 1947.

This was also the purpose in the enactment of Chapter 303, designed to equalize the bargaining power of public employees and public employers.

The present system frustrates equalization, particularly in the schools. A teachers association is recognized as the exclusive bargaining agent. Negotiations commence in the fall and are protracted into the spring, and all the while the board can sit back and say, "If you don't like the offer, you can go to jail."

There is no simpler way of stating the precise truth. The Teachers Association must rely exclusively on

moral suasion, and the effect is no greater than the extent of the sensitivity of the Board of Education members. And that sensitivity is shielded in the immunity against anything coercive.

As long as representatives of public employees can rely on nothing more than an appeal to the conscience of the employer, we shall be required to seek sages and saints in boards of education.

This unequal bargaining power is clearly manifest when we consider that the ratio of Association leaders, who are in jail, to board members is infinite.

Thank you.

ASSEMBLYMAN BLACK: Thank you very much, sir.

Are there any questions, gentlemen?

No questions.

Thank you very much, Mr. Zakorian.

Mrs. Margaret S. Roukema, Vice President, Ridgewood Board of Education. Is Mrs. Roukema present? (No response)

Mr. Paul A. Shelly, Superintendent of School, Paramus Public Schools.

MRS. MARGARET S. ROUKEMA LEEDS: I am Mrs. Leeds, representing the Paramus Board of Education. Last week I also brought with me Mrs. Manio from the Rochelle Park Board of Education, and today I am speaking also for Mrs. Vandenberg from the Rochelle Park Board of Education.

The Paramus Board of Education, and these others, too, feel greatly constrained to appeal to your Committee which is now conducting hearings on Assembly Bill 521.

It is our contention that this so-called "Right to Strike" bill runs completely counter to the right of minor citizens of the State of New Jersey to a free public education. We cannot urge too strongly the rejection of this bill. There is, in our opinion, no justifiable parallel between the right to strike in the private sector and the right to strike in the public sector.

Those who have of their own volition chosen to enter the teacher profession have chosen the solemn and weighty responsibility of public service which cannot be lightly cast aside in the name of the "right to strike". What happens in such a situation is very plain. Children become the pawns in the process. We have already seen ample evidence of this in the State during the past several years when teacher organizations have not only disobeyed the law on work stoppages by public employees but have also broken the law by deliberately violating court injunctions. Who can measure the impact on young minds created by members of the teaching profession who decide what laws they will or will not obey?

With respect to the bill under consideration, we particularly call your attention to that portion which states that no restraining order may be issued by a court unless "the commencement or continuance of the strike poses a clear and present danger to the public health or safety which in light of all relevant circumstances, is in the best interest to prevent". The effect of denial of one's right to free public education is far too subtle to be covered by such wording. The implication of the wording is that only after someone is hurt or damage is done can intervention take place. The loss of one's education does not present an immediate clear and present danger, in my mind. How many days of education may be denied a child before an injunction could be granted? According to this law, it would seem that a strike could go on indefinitely unless there were some clear evidence of danger. Even then any action by the court would have to be delayed until all parties have received due notice, there had been a full finding of facts and a hearing in open court. It seems to us that this bill invites extended confrontation by pitting boards of education, who are legally and morally responsible for the education and welfare of children, against teacher organizations whose prime interest seems to be self-

seriously in nature and who want to blatantly interfere with the public interest without paying any of the consequences.

The Teacher Association of this State has in recent months conducted a massive statewide campaign, which our first speaker alluded to, to create the impression that the vast majority of boards of education have been uncooperative and intractable in their negotiations with teachers. Nothing could be further from the truth. The vast majority of the more than five hundred school districts in the State have in fact negotiated in good faith and have enjoyed good working relationships with their teacher groups. Why then a mechanism that subjects all communities, and more particularly all children, to the practice of work stoppages as a means of resolving labor disputes? We hear the cry of "Fair Play" for teachers. Where is the fair play for children?

In Paramus teachers have been historically paid well and relations between the Board and teachers have been good. The salaries paid to Paramus teachers have been well in excess of national and regional medians. Staff ratios have also been well above the national norms. Over one third of our teachers are at maximum salary levels, indicating relatively a low turn-over and a high job satisfaction. There are many other districts through the State that have similarly worked over the years to maintain good salaries and working conditions. All of this seems to be blown to the wind in a thousand full-page Teacher Association sponsored ad telling about how terrible and unreasonable boards of education are.

The first mark of a profession, we believe, is its dedication to the people it serves; secondly, its level of fairness and ethical conduct; and, thirdly, its responsibility for self-discipline. We see a notable absence of these ingredients in the actions of the State Teachers Association with respect to its recent campaign on A-521.

We urge the Committee, indeed we implore the Committee, to weigh the public interest and particularly the student interest in the balance very carefully before arriving at any conclusions on A-521. We, frankly, do not see how the Committee can conclude other than to reject this bill. We rest our case convinced that you will arrive at a sound and responsible decision.

Now, this is my prepared statement. I just want to add one thing because I sat here last week until 5:20 and I am here again today.

There seems to be a - I don't know whether it's a lack of knowledge of facts or what-have-you, but I do want to clarify that the New Jersey Board of Education was mandated by legislation in 1903. Every board of education in the State of New Jersey must join the Association. They must pay a stipulated amount of money, which they don't have any choice in voting for either.

Now, this was done by the Legislature and it certainly is not by choice.

Thank you.

ASSEMBLYMAN BLACK: Are there any questions?

ASSEMBLYMAN SINSIMER: Mrs. Leeds, you said the vast majority of the more than 500 school districts have, in fact, negotiated in good faith. Do you believe then that there are some who have not negotiated in good faith?

MRS. LEEDS: Well, yes. I sat here last week and I heard testimony that horrified me. And I will say that I would believe that testimony from the people involved. Fairlawn is a community fairly near to us. I know they have their problems. Newark certainly has its problems. Now, whose fault the negotiations were, or what happened, I wasn't there to actually see, but I will accept that there was lack of faith on some side there.

ASSEMBLYMAN SINSIMER: I notice you mentioned too that you have very good rapport, evidently, in Paramus, with the teacher groups that you negotiate with. So,

would you feel that this vast majority that is negotiating in good faith should fear teachers going on strike if and when they get the right to?

MRS. LEEDS: Yes. And this is why I am here today. I feel, you know, if two people get together and they're there, they know they are going to negotiate, and one does ask for a little bit more than he knows he will settle for - and this goes on both sides - but if the threat is there, the threat - well, I am going to be a little facetious, but we'll say, I don't like what you're wearing today or I don't like the way you said hello to me - it could go on either side, you know, you didn't say hello to me when I was down the shopping center the other night, you must be stuck-up, or something, and we get this antagonism - I don't think that we need more antagonism. I think there is enough inherent in the negotiations themselves and to add fuel to the fire by giving people the legal right to strike would certainly be detrimental to the proper negotiations.

ASSEMBLYMAN SINSIMER: Don't you feel the striker himself suffers during a strike?

MRS. LEEDS: Yes. I think that everyone suffers during a strike. I think that there is nothing worse than a strike. As I drove down here today, I passed the Telephone Company where a big building was going up and there were people out picketing because of a construction workers' strike today. Those men, I'm sure, would much prefer to be doing their job too. I don't see where a strike really helps anybody. If we could have another way for negotiations so that we could avoid strikes, I think that would be the solution.

ASSEMBLYMAN SINSIMER: Well, it has already been brought out in testimony here that striking itself is not against the law presently, that disobeying an injunction is. But in your testimony here you said the teacher organizations had disobeyed the law by work stoppages. Do you still stand

by that statement?

MRS. LEEDS: Well, in the fact that they have disobeyed the injunction.

ASSEMBLYMAN SINSIMER: You amplify that by saying, they have also broken the law by definitely violating court injunctions.

MRS. LEEDS: I stand corrected.

ASSEMBLYMAN SINSIMER: Don't you agree, they only broke it when they violated the court injunction?

MRS. LEEDS: Yes. I stand corrected on that point.

ASSEMBLYMAN SINSIMER: All right. Thank you.

ASSEMBLYMAN BLACK: Any further questions?

ASSEMBLYMAN PELLECCIA: Just a statement. I have the law you referred to. Your last remarks, I'm sure, were meant for me. I am afraid that I'm going to disappoint you. I have no questions. Surprised?

MRS. LEEDS: Yes.

ASSEMBLYMAN BLACK: Any further questions?

Thank you very much.

I would like to call now, Mr. Louis Casazza, Vineland Education Association.

L O U I S C A S A Z Z A: Assemblyman Black, members of the Revision and Amendment of Laws Committee, I am Louis Casazza, President of the Vineland Education Association unified with NJEA and NEA, and I represent more than 510 teachers.

I can honestly say that I have the pulse beat of our members because I have recently attended many faculty meetings in various schools throughout Vineland. We have discussed Assembly Bill 521 at great length and there wasn't one teacher that did not give their support for A-521. Let me explain why A-521 is so urgently needed.

Last year I served as a member of our negotiating team. Little progress was made at the table and after several months of trying to negotiate we reached an impasse

and filed with PERC. At this point, the Board hired a negotiator.

During the next four PERC sessions, we experienced high levels of frustration and intolerance brought about by so-called "good faith" negotiations on behalf of the Board.

Seven months passed before our Association reached an agreement. Why so long?

The teachers presented their proposals in good faith assuming that the Board would return a counter-proposal. We were not so fortunate as to receive a counter-proposal which we felt was in good faith.

The reply that we did receive was, and I quote, "Our counter-proposal is that we reject yours." We were then bound to resubmit another proposal hoping that it would be received in a more collective bargaining attitude on the part of the Board. When the new proposal was returned by the Board, their counter-proposal was - Yes, gentlemen, you surmised it.- "Our counter-proposal is that we reject yours." Is this good faith bargaining? Definitely not. Ask the teachers from Freehold or Madison Township. They faced the same negotiator.

The law which gives public employer-employees the right to bargain in good faith is unfair. It's one-sided.

Boards can do as they wish and get away with it. Boards tell the public that they advocate educational improvement and at the same time reject any proposals on class size and specialists.

The employee is powerless at the table. What recourse is left after all attempts have been made to reach an agreement? Only one: to withhold our services. But, by withholding our services, we would be faced with injunctions, fines and jail sentences that hundreds of teachers in New Jersey encountered.

The teachers in Vineland do not want to strike but when all else fails and there is no clear and present danger to public health or safety, we need this option,

without going to jail. We need our day in court before an injunction, not after.

Gentlemen, I urge you to support A-521.

Thank you.

Any questions?

ASSEMBLYMAN BLACK: Thank you very much. Are there any questions?

ASSEMBLYMAN DENNIS: Yes. Just quoting you - "Boards can do as they wish and get away with it." Is your Board an elected board or an appointed board?

MR. CASAZZA: Appointed board.

ASSEMBLYMAN DENNIS: Therefore, it is appointed by a mayor and council who are in turn elected by the people. If the mayor and council appoint these people to the Board and the people don't like the people who are appointed to the Board, technically they can, at the next election, throw out the mayor and council. I realize it's a long process, it's not one or two or three years, but technically they could be thrown out of office if they are not doing a good job. Is that not correct?

MR. CASAZZA: Very true. We had our election yesterday and the mayor did not run.

ASSEMBLYMAN DENNIS: Are negotiations - I guess, they are not open to the public, are they? Unfortunately, I've never sat on a board of education so I am kind of new at this.

MR. CASAZZA: They are closed to the public.

ASSEMBLYMAN DENNIS: They are closed to the public. Are any records kept? I mean, are they open at all, to your knowledge, in any school districts that you know of? If somebody wanted to get - you know, they hear the teachers saying one thing and the board of education saying something else - is there any way in which an interested person, an outsider, could find out what has actually happened?

MR. CASAZZA: I presume if the board decided to make any of this a public record, it may be possible.

ASSEMBLYMAN DENNIS: I know in some areas they are taping negotiations.

That's all I have.

ASSEMBLYMAN BLACK: Any questions, gentlemen?

I have one - perhaps Mr. Applegate might like to join you -- I was wondering if you could give us a clarification of the statement made earlier with regard to the \$6 million budget.

MR. CASAZZA: I believe someone will clarify this in a moment.

ASSEMBLYMAN BLACK: Fine. I didn't know if you wanted to insert that.

Thank you very much.

MR. CASAZZA: Thank you.

ASSEMBLYMAN BLACK: Mr. August Duva, President, Firemen's Mutual Benevolent Association.

I want to thank the last few speakers for keeping their presentations well within the eight minute limit.

AUGUST J. DUVA: Good morning. I am August J. Duva. I am President of the New Jersey State Firemen's Mutual Benevolent Association. This is the largest organized group of professional firefighters in the State of New Jersey. We have approximately 5,000 members.

A few short years ago, municipal police and firemen had to go to the electorate for pay raises on public question on the respective ballots. Unless the people in Public Safety entered into a covenant with the local governing body, the governing body's political persuasion depended upon the area in geography within the State, when the issue was strictly local, we were usually soundly beaten on the ballot by our fellow citizens who enjoyed the services we provided them. This had to be done through political contract, if you will; and this was all changed, in 1968, with the advent of PERC.

When the Public Employment Relations Commission was established, we no longer had to go on public question; we could elect a representative of our own choosing and present a list of requests and/or demands to the employer's representative and negotiate the request for changes in the benefit structure under which we were working.

It was determined that the language under Section 19 of the New Jersey Constitution, indicated that because under subsection (a), the wording in the private sector, the right to enter into collective bargaining, this gave the private sector the right to strike; and the wording under subsection (b), the right to join together, present their grievances through representatives of their own choosing, this denied the public sector the right to strike.

I would like to make a definite statement that we put our pants on one leg at a time, just like the employees in the private sector; when we cut, we bleed; when we defecate, we raise a stench. There is no difference. And we would like to have the same rights.

Whenever we, the employee, in the private sector enter into a community of interest effort to take job action or enter into a slowdown, public employers almost without exception seek to enjoin us to maintain status quo, and the courts, almost without exception, have granted the employers the injunctive relief they've sought.

We do not want the right to strike. We want the right of the threat to strike without penalty. Whenever we enter into a job action or a slowdown, we have been threatened with and have, in fact, in some jurisdictions lost the right of dues checkoff. And, gentlemen, this is the fuel that makes the vehicle go.

So, we in the FMBA will support A-521 for the right of the threat to strike without penalty.

Thank you.

ASSEMBLYMAN BLACK: Thank you very much, Mr. Duva. Are there any questions?

ASSEMBLYMAN DENNIS: How many times have the policemen or firemen gone to the ballot? You mentioned earlier that they have gone to the ballot, through referendum.

MR. DUVA: Prior to 1968, almost every time they sought a pay increase, somewhere in the State.

ASSEMBLYMAN DENNIS: I was wondering what percentage because all at once I've seen - of course, this has been in the past few years -- I've seen them pass. I've never seen one go down yet.

MR. DUVA: They rarely do.

ASSEMBLYMAN DENNIS: That's why I asked. Do you have any idea what percentage?

MR. DUVA: Well, Assemblyman Dennis, I have been a working fireman, fire officer, for some 24 plus years, and prior to 1968 every three or four years we had to go on the ballot to seek our pay raises.

ASSEMBLYMAN DENNIS: And they were defeated each time?

MR. DUVA: No. When presidential elections or a close gubernatorial election or a United States Senator election was in question, we entered into an agreement with the local political governing body and we were successful. When the issue was just to elect freeholders, we were soundly defeated almost every time.

ASSEMBLYMAN BLACK: Any further questions?

Thank you very much, sir.

Mr. Robert Chanin. (No response)

Mr. Patrick G. Welsh. (No response)

Mr. Ernest ~~Boerner~~.

ERNEST BOERNER: Assemblyman Black, I have taken the liberty of bringing along Dr. Mark Horowitz since during last week's testimony there seemed to be interrogation rather than trying to get the facts and, being a layman,

I'm not qualified to give it, I thought I would bring him along with me.

ASSEMBLYMAN BLACK: We use many methods to get the facts, sir. We try not to resort to interrogation.

MR. BOERNER: Well, during last week's session - I am listed as Ernest Boerner, President of the Ocean County School Boards Association, but as of last night, I am now Ernest Boerner, Past President of the Ocean County School Boards Association, the fact being that being a member of the Board of Education has become a luxury. Most laymen and employees cannot afford it. The money they lose from wages to attend board meetings, sessions such as this, is becoming prohibitive.

Mrs. Stilwell, at the last meeting, said that the large amount of teachers here showed their interest. I wonder if somebody would have been interested had they not been paid by the very people whom they are trying to browbeat, whether it be a sick day or a professional day or what-have-you, they are being paid by the boards of education to be here.

We also talked about the imbalance of power between boards and teachers. I saw Mr. Applegate jump up and down when \$6 million was mentioned. His budget is \$4 million. It hasn't been adopted yet but it is proposed to be \$4 million.

The New Jersey School Boards Association Budget is \$635,470 and odd change. The New Jersey Education Association has 57 field representatives. The New Jersey School Boards Association has two county liaison officers. Talk about imbalance of power - we are non-professional laymen; they are professionals.

I am quite sure that you yourselves know the number of lobbyists you have on both sides and it is a fact that NJEA well outnumbered those supplied by the New Jersey School Boards Association.

To answer your question, sir, if you want to use

the broadest sense of the word "union", yes, the New Jersey School Boards Association is a union. Unionism is a joining of people together for a common goal. And the Legislature, in its wisdom, saw this need because boards of education were not joined together for the common goal, and enacted the law, as was stated before.

The dues structure - and if you would like the information - I assume that since you asked seven times last week that you would have obtained the information but, since you have not, I will give you the structure:

Zero to 150 pupils, \$260; 151 to 500 pupils, \$440; 501 to 1,000 pupils, \$860; 1,000 to 4,000, \$1160; and 4,000 and over, \$1200.

As for my prepared statement - and it's less than five minutes, Assemblyman Black:

We, the twenty-eight member Boards of Education of the Ocean County School Boards Association, are vitally concerned with providing uninterrupted quality education for the children of our County.

Each member Board has been apprised of and has had an opportunity to review the contents of A-521. This Bill was thoroughly reviewed by the Ocean County School Boards Association at its regularly scheduled meeting in April. We considered the NJEA's fair play for teachers campaign, which has no other purpose than to obtain passage of A-521. We also considered the allegations being made, that public employees cannot attain social and economic justice without the legal right to strike. We feel this allegation is unfounded, for it has been repeatedly demonstrated in the private sector that the strike as an instrument for resolving labor-management disputes, is anachronistic, in that it is destructive to both sides.

Without the right to strike, the school teachers within the last decade have made social and economic gains unparalleled in the history of their profession.

The public sector, as a consequence of the Public

Employment Relations Act, Chapter 303, Public Laws of 1968, now has a highly developed and sophisticated grievance and arbitration procedure to redress grievances, mediation and fact-finding to aid in the ~~collective~~ bargaining process. The passage of A-520 has further enhanced the procedure.

We feel that the teachers should not be permitted to cloak themselves in the mantle of legal protection while using the children of this State as pawns. Past performance by the teachers indicates to all how the right to strike will be used. Wildcat strikes, now a normal procedure with teachers, although against the law, - it is a common law - are not concerned with the present contract as in private industry but rather future contracts. The teachers could well take a lesson from private industry. Strikes are conducted at the termination of a contract.

If the teachers wish to relinquish their status as professionals and become laborers, then they should first study labor law.

It has been stated at this hearing that days lost because of a strike could be made up. Our schools in Ocean County, and those in Monmouth, Atlantic and Cape May, are located in resort areas. Our children and their families would be directly affected by an extended school year. It would eliminate the many summer jobs which now offer employment to our children, for they would be filled by those from New York and Pennsylvania. The employers have but a ten week season and need full seasonal help available at the beginning of the season. The economic loss to the family is immeasurable.

We, the members of the Ocean County School Boards Association, individually and collectively, go on record as being unalterably and unequivocally opposed to the passage of Assembly Bill 521.

ASSEMBLYMAN BLACK: Thank you.

Any questions, gentlemen?

ASSEMBLYMAN SINSIMER: Mr. Boerner, do you have a good rapport with the teacher negotiating groups in your district?

MR. BOERNER: Out of the 28 boards, I would say, over-all, yes. My particular board of education - we have excellent rapport.

It was noted before that demands were brought to the board from the teachers and those demands were returned. Our teachers don't demand, they request. They know full well that anything that affects the education of the child will not be bargained in good faith because they are our prime product. Our counter-demand this year was, give us a way to pay the good teacher more money, and they did, they came up with merit pay which NJEA is against; because we feel that there are exceptional teachers and there are good teachers and they should be paid adequately. But we also know that there are bad teachers who --

ASSEMBLYMAN SINSIMER: Are these exceptional teachers members of the NJEA?

MR. BOERNER: Most assuredly, so.

ASSEMBLYMAN SINSIMER: You mentioned that the teacher groups may browbeat the Board. What do you mean by "browbeat", with regard to striking?

MR. BOERNER: Well, the threat of eliminating the educational process which you're doing when you go on strike, I think is browbeating. We've heard testimony here about how boards don't negotiate in good faith. We have not had the situation on my board of education but I've had many situations where the entire NJEA package was dropped on the table and they said, this is what we want. There was no- well, this doesn't look too good and this will affect our school, or anything like that. This is what we want. And when boards of education will say, "Hey, you know, this is beyond our capability", "Oh, you're not negotiating in good faith." And they continue

this. If they would come - to use my own school board as an example, they took NJEA's package, which I think last year was over 100 items, and they cut it down to 20. To me, they came with a legitimate proposal because they understood the situation in the school. The teachers are professionals; they know what the school needs; they know how the school should be run; they know the capabilities of the board; they know their town; they know what to request; but for them to drop over 100 items on the table and say, "This is what we want," and if you don't give it to us you're not negotiating in good faith." I think it is hypocrisy.

ASSEMBLYMAN SINSIMER: Didn't you say they withdrew 80 of those proposals?

MR. BOERNER: Ours did, yes. As I stated before, we have excellent rapport with our teachers. I think that our board-teacher relationship is one of the few where the board at its annual meeting invites the teachers to come and listen to our speakers. Just recently we had an Associate Commissioner of Education, United States Department of Education, speak. Our teachers were there. Our teachers throw an annual picnic for the teachers and the board is invited. So our rapport is tremendous because we understand what is best for the school and we don't get those types of demands which I've heard about here, and which NJEA lays on the table and says, "This is what we should have."

ASSEMBLYMAN SINSIMER: Well, as you already testified, the NJEA lays it on the table and these demands are reduced as part of the negotiations anyway. Isn't that correct?

MR. BOERNER: Yes. But is that good negotiations to take over 100 items and consider you're only going to get 10? I mean, when we go into negotiations, we say, "This is basically what we can do." And the teachers say, "This is basically what we would like to have." We don't

come up with 100, we come up with 20 because 20 is a reasonable and realistic amount. Boards of education, you know, they don't have the type of monies that just flow like manna from heaven; they have to be governed by what the taxpayer allows them to use.

ASSEMBLYMAN SINSIMER: Well, I think the number of demands would and should vary with the district that the teachers are representing. In some areas maybe 100 demands would be justified, in others maybe it should only be ten. But I still think that would depend on the individual district and the problems of that particular district.

MR. BOERNER: I agree with you 100%, but it seems that it's becoming normal now that, instead of negotiating in good faith, the whole package is dropped, and if we give them 100 maybe we'll get 20, but if we give them 20, which we feel in good faith are justified, they will only get 10. So rather than going into a negotiation session where truth is the criteria, it appears that falsehoods are coming out and we're going to get what we can get and that's it.

ASSEMBLYMAN SINSIMER: You made a statement before that teachers made tremendous gains without strikes and - I don't know what your exact language was but it was something that they are on a parity now with private industry. But isn't it true that because private industry does have the right to strike and that they use that right from time to time that they have made these gains that have made the teachers want to imitate these gains and get these particular advantages themselves?

MR. BOERNER: I think not, Assemblyman. I don't consider a starting salary of \$6.00 an hour a bad starting salary. Granted, the time in college has to count for something, and perhaps the first four or five years that a teacher is a teacher they are not economically paid the way they should be; but it's a proven fact that after the fourth or fifth year their education starts to pay off

and their economical gains climb at an astronomical rate.

ASSEMBLYMAN SINSIMER: You made one other statement, Mr. Boerner, that strikes in industry are only at the termination of a contract. I would like to correct you on that. It depends again on the contract itself. If the contract has a no-strike clause, then, obviously, a strike does not occur during the term of the contract. But there are many cases where strikes do occur during the contract.

MR. BOERNER: I agree with you. I said a "wildcat" strike, in my statement. And a wildcat strike has to do with the present contract; a controversy between management and employee on interpretation of the contract is what usually causes a wildcat strike.

ASSEMBLYMAN SINSIMER: Where there is a breach of contract, there is often a strike.

MR. BOERNER: An assumed breach of contract. They just don't go because they say this is a breach of contract. The employee says, "It appears that what you did is against the stipulations in the contract." And they say, "Oh, no, it's not." And there is a wildcat strike at that time. And I will give you a fine example. Many industries, management personnel, are not allowed to work; it is the employees' job to work; the management personnel is there to supervise and instruct. If per chance management decides that this job is not getting done quickly enough and pitches in to help, which is not their prerogative, the union representative will say, "That's not your prerogative." And if he says, "go to blue blazes." I can assure you there will be a wildcat strike.

ASSEMBLYMAN SINSIMER: Well, by your own admission, you have very good rapport with the teacher groups in your area. Now, that being the case, would you honestly fear the right of the teacher to strike?

MR. BOERNER: This bill does not govern my school

board alone, it governs the State of New Jersey school boards and teachers and children. My school board, - I can honestly say, we could probably reduce their salary and they wouldn't strike.

ASSEMBLYMAN SINSIMER: That's all.

ASSEMBLYMAN DENNIS: Mr. Boerner, how many hours a week, approximately, do the board of education members spend?

MR. BOERNER: Well, I had a meeting last Sunday night that lasted from 8 until 1 o'clock; I had one Monday night that lasted from 8 until midnight; I attended a meeting last night that lasted from 6:30 until almost midnight. Of course, I'm here again today; I was here last week.

ASSEMBLYMAN DENNIS: Is this typical with other members throughout the county?

MR. BOERNER: This is what I'm saying, it's becoming a luxury to be a board member. I can't afford it anymore. I lost a day's pay today. I lost a day's pay last week. I can't afford it. I had to drop out. I could no longer take the county presidency.

ASSEMBLYMAN DENNIS: When they negotiate, do negotiations take place during company time, I mean, during the school day, or do they negotiate in the evening?

MR. BOERNER: I understand in some schools they do, but you get paid to do a job and negotiating is a personal thing and is not a job, so we do not negotiate during working hours.

ASSEMBLYMAN DENNIS: It's strictly in the evening.

MR. BOERNER: Right.

ASSEMBLYMAN DENNIS: Since you represent a public school, the teachers are public, - I asked the question earlier - apparently the meetings are closed, negotiation meetings are closed.

MR. BOERNER: Absolutely.

ASSEMBLYMAN DENNIS: But since you both represent

a segment of the public, being public employees and representing the people, can the public - I mean the man on the street, if he wants to, - have a record of what happens at those negotiation meetings, or are any records kept for public consumption?

MR. BOERNER: Yes, we keep a tape recording of all negotiations. It might seem odd to those here assembled but after our last negotiation session, it was agreed, ~~and~~ the teacher association and the school board agreed on the terms of the contract, it would be sealed by a handshake, which is almost unheard of anymore.

ASSEMBLYMAN DENNIS: You say you do tape your meetings?

MR. BOERNER: Yes, we do tape them. The reason why we don't make it public is because sometimes personalities come out. And I think, when you discuss personalities, it's not for the public to hear. The reasoning behind it, yes; how you reach your conclusion, yes; but all the ramifications - and there is nobody who really wants to listen to two or three hundred hours of tape to find out what happened.

ASSEMBLYMAN DENNIS: What about then just starting from the opening day and the closing day? Is that open to the public? I mean, does the public know what the public employees are seeking? You said over 100 things - is this open? In other words, the list that's presented to you?

MR. BOERNER: Yes, the information is available because at the regular board meeting a report is made by the teachers committee to the entire board,

ASSEMBLYMAN DENNIS: What they're seeking.

MR. BOERNER: What they're seeking.

ASSEMBLYMAN DENNIS: And then, of course, the end results are open.

Thank you. That's all I have.

ASSEMBLYMAN PELLECCCHIA: Mr. Boerner, I truly appreciate your position and I realize that you have a job to do, and I do respect your position and I respect the position of all the other people who have testified before you.

I really have no questions at this time but I want the Chairman to know the strain I'm under to take that position.

Thank you.

MR. BOERNER: Mr. Chairman, if I may, would it be acceptable for Dr. Horowitz to make a statement at this time? Less than five minutes?

ASSEMBLYMAN BLACK: All right, fine.

DR. HOROWITZ: Thank you, Mr. Chairman. And thank you, Mr. Boerner, for giving me some of your time.

I regret, in a way, that Mr. Pelleccchia changed his approach by stating that he's going to restrain himself, because he certainly didn't restrain himself last Wednesday; nor did he restrain himself prior to my arrival here today.

In fact, we question, as an Association, whether or not, Mr. Chairman, you've been conducting public hearings or interrogation of public officials.

We submit that many board members have been intimidated by a certain member of your Committee. We are very much concerned with the ethical conduct manifested before us last Wednesday and today. We believe, from what we've read in the manuals devised by the New Jersey Legislature, it is the function of the legislative committee to hear testimony in an unbiased fashion, and if a member of a committee has a personal view to present to the Committee, he should apply to testify before the Committee. We might as well have the sponsor of this bill sitting as a member of this Committee because that's exactly the way the hearings are going thus far.

ASSEMBLYMAN PELLECCCHIA: Mr. Chairman. A point of order.

DR. HOROWITZ: Let me finish my statement, Mr. Chairman?

ASSEMBLYMAN PELLECCCHIA: A point of order, Mr. Chairman.

ASSEMBLYMAN BLACK: Assemblyman Pelleccchia, I will respond to this statement.

DR. HOROWITZ: We notice that as school board members come before you they are questioned as to the dues structure of New Jersey School Boards Association and its functions, and many of them were unable to answer your questions in particular, primarily because the dues bill is paid by the Board Secretary and acted upon by the Board of Education, along with a multitude of other bills to be paid.

We noticed that not too many NJEA representatives, if any, were questioned as to dues structure. How many of them know the total budget of their State association? How many of them could have responded intelligently to the questions asked board members about their own association?

If you want to conduct public hearings as to the functions and financing of the New Jersey School Boards Association, then fine; let's do it and call it exactly what it is but let's not do it under the guise of public hearings on Assembly Bill 521, especially when we suspect that Legislators are being fed questions and incorrect information by a vested interest group.

Two questions that were asked before --

ASSEMBLYMAN PELLECCCHIA: Mr. Chairman, I just have to protest against this kind of testimony at this particular hearing. How could this individual know whether anyone is feeding questions to anyone on the Committee?

DR. HOROWITZ: I said, I suspect, Mr. Chairman.

ASSEMBLYMAN PELLECCCHIA: And, further, he is not testifying on the bill, he is making a villification here of this Board, and me in particular, and I resent it, Mr.

Chairman.

ASSEMBLYMAN BLACK: Assemblyman Pellecchia, first of all, I, as Chairman of the Committee, am responsible for the manner in which this public hearing is conducted. I, personally, will respond to this comment.

DR. HOROWITZ: Thank you very much, Mr. Chairman.

Two questions were asked previously by other members of the Committee - one as to the average number of hours spent by board members in their functions. Recent research that we have indicates that the average board member is spending 18.5 hours per week serving as a local school board member. This number has increased substantially in the past couple of years.

And as to the public disclosure of the ins and outs of the negotiations process and the demands of the Teacher Association and counter-demands of the school boards, we, as an Association, are opposed to making public the entire negotiations process, for very obvious reasons. The negotiations process is an adversary process. There are demands made that realistically even the labor group does not anticipate achieving. However, it would not be to the advantage of the community, the teachers or the board of education, and especially to students, to make public all the demands made by both the board and by the employee group. And for this reason we would not suggest - and I think you would find a direct parallel in the private domain - that the give and take in the negotiations process be subject to the spotlight of public scrutiny.

Mr. Chairman, I appreciate the opportunity to come before you. I apologize for having to have made these statements but I feel, on behalf of the school board members of the State who have had to take a day off from work, as Mr. Boerner has, and lose pay, who have journeyed to Trenton on two occasions to come before you, - to many of them it's their first experience testifying before a body of the State Legislature, which we may not all realize but it is an

awesome experience for many people - and I felt these things had to be said.

Thank you.

ASSEMBLYMAN BLACK: Thank you very much, Mr. Horowitz.

Now, in response, let me state, initially, that when this public hearing was opened all in attendance were advised that anyone wishing to have a question asked need only present that question to the Chair and that question would be asked.

Secondly, I feel that this public hearing has been conducted in probably the fairest and most unbiased manner possible. I have attempted to insure that every side receive equal opportunity to speak and to be heard. I have made sure that at no time did we have more than 3 speakers speaking from the same point of view or position on this particular bill. This has not been easy. I have had to adjust the schedule.

The manner of questioning that comes from the Chair is subject to my scrutiny and my control. And be assured that when that manner of questioning reached a point in which it was either unfair or extremely prejudiced, then I would have stepped in.

I will say that emotions run high with regard to a bill of this nature. And I believe that the leeway that I saw fit to establish retained both the nature of the question and the nature of the response in a manner that was best suited to the handling of this particular bill.

If there are any questions regarding the manner in which this Committee is functioning, I would rather they had been directed to me, as Chairman, and not necessarily entered into the public record. Since they have been entered in the public record, then I wish also to have my statement entered for the public record.

Let us go on to the next witness.

ASSEMBLYMAN PELLECCCHIA: One thing, Mr. Chairman.

I want to thank the Chairman for stating his position. I think it was very fair. I don't think I want to dignify the other statement, and I have no further questions of the witness.

ASSEMBLYMAN SINSIMER: Mr. Chairman, if I may, I just want to comment.

I don't know what the witness meant about intimidation. I think we tried to conduct this questioning in a manner to elicit opinions from people on both sides of the argument. Obviously, as the Chairman pointed out, emotions do run high on it. There are very strong pro arguments and very strong con arguments. But to imply that there is anything unfair - incidentally, let me say this, that I am losing a day's pay every time I come down here too, but I am employed by private industry, and I don't like to see these hearings continue any longer than possible.

But, if anyone had an unfair advantage, Dr. Horowitz, it was yourself, because you appeared here as a witness without your name being on the agenda.

ASSEMBLYMAN BLACK. Assemblyman Sinsimer, let us proceed.

ASSEMBLYMAN SINSIMER: I just wanted to point out that there are people waiting to testify whose names have been on it who haven't been given that opportunity.

ASSEMBLYMAN BLACK: This is quite true.

The next person to give testimony will be Mrs. Jacqueline Hummell, West Deptford Education Association.

M R S. J A C Q U E L I N E H U M M E L L: Gentlemen: My name is Jacqueline Hummell. I am a fifth-grade teacher in West Deptford Township Public Schools, Gloucester County, and President of the West Deptford Education Association.

I am speaking today to urge you to vote in favor of Assembly Bill 521, the bill that will give the public employees of New Jersey the right to due process - the right

they want, need, and deserve.

We have all heard a great quantity of testimony, both for and against this bill. As I have listened to the various speakers, my thoughts have consistently returned to one question: "Why should teachers, and all other public employees in our State, be denied the right guaranteed to all other Americans - the right to have their fair and equal voice heard in our courts?"

Although most of us in southern New Jersey are not confronted with the problems encountered in the more urban areas of North Jersey, situations change, communities change, but, most important, administrators and boards of education change. What appears to be harmony and an amicable relationship today, could very easily become discord and hostility tomorrow.

Gentlemen, we cannot continue to allow New Jersey teachers to be jailed in such astronomical numbers. We cannot allow recalcitrant Boards of Education to continue wielding their ultimate weapon when teachers are faced with no other alternative than to withhold their services. Under our present system, judges have no choice but to issue injunctions at the employer's request - or rather, demand - regardless of their feeling as to the right or wrong of the situation, and without hearing both sides of the matter in question. This is not because of the requirements of the law. Quite the contrary. Because, in fact, gentlemen, there is no law that prohibits public employees from striking. Rather, it is the absence of written law that forces our honorable judges to fall back on common law.

Teachers do not want to strike, but they do want fair play. They do want equal rights at the bargaining table. But as long as boards of education, and all other public employers, are playing the negotiating game with a stacked deck, the intent of Public Law, Chapter 303, to give public employees equal negotiating rights, is

completely negated.

To quote a cliché: "The journey of a thousand miles begins with one step." Gentlemen, the end of the thousand-mile journey for the public employees in the State of New Jersey is still some distance away and some time in the future. But, when A-521 becomes law, our goal will at least be in sight. However, you must take that important first step.

Our neighboring public employees in the State of Pennsylvania already have a glimpse of that goal. Their law, similar to our bill, A-521, has given them this gleam of a brighter future for education. Senator Richard Frame, a sponsor of the original Pennsylvania bill, has said that he was pleased with the operation of the bill in its first year. He also stated that it made a rational relationship between public employers and public employees to the benefit of the educational system.

Therefore, gentlemen, I can do no more than to urge you, once more, to recall your duty as representatives of the people; remember your interest in the progress of education; and, most of all, adhere to your belief in justice and fair play. Vote in favor of A-521.

Thank you.

This is the end of my prepared statement. I have one comment I would like to make.

The gentleman who just spoke, Past President of the Ocean County School Boards Association, asked if teachers would still be interested enough to attend these hearings if they were not being paid. I speak for the Negotiating Chairman of the West Deptford Education Association, myself, and most likely others present, in stating that we are not being paid to attend, we are, in fact, losing two days' pay.

ASSEMBLYMAN BLACK: Thank you very much, Mrs. Hummel. Are there any questions? (No questions)

Next will be Mr. Charles A. Bell.

C H A R L E S A . B E L L : Gentlemen, my name is Charles A. Bell. I am a member of the Newark Board of Education in Newark, New Jersey. I am Chairman of the Board Grievance Committee. I also serve on the Board Negotiating Team.

I was informed about this hearing by the President of the Board, Mrs. Fullilove, who said she was here last week. And she asked me if I could possibly get away from the grievance procedure for a while to come before this distinguished body of gentlemen to make some statement concerning Bill A 521, giving the right to public employees to strike. I told her at that time that I personally felt I would be wasting my time, knowing how the State Legislature acts on bills, especially when they relate to something that really affects the City of Newark. I feel you are going to do what you want to do; you are going to go ahead and pass the bill.

However, I just want to bring to your attention, you talk about the right for public employees to strike. But what you are really talking about is not only the right for public employees to strike in the State of New Jersey, you are talking about those "strike happy" teachers. You are talking about other public employees. You are talking about the right for policemen to strike. Let the policemen go out on strike in Newark, Trenton and other cities. You are talking about the firemen and the garbage workers. You are talking about the aides in the hospitals. You are talking about those public employees, giving them the right to strike when they are going to directly affect you; then it is something else. But it is quite obvious you are talking about the "strike happy" teachers. It is not only in the State of New Jersey. Take a look at any public employees throughout this country and you can notice that the public employees who are striking, whether state law permits or not, happen to be the teachers. Now you can pass a law or not pass a law; it's not going to stop these "strike happy" teachers from going out on strike.

I just want to say in Newark - this is very emotional

for me, so if I get a little carried away, you will just have to bear with me. Newark is a testing ground not for the Newark's Teachers Union improving the quality of education. But in the last teachers' strike, the labor movement in this country came down on the City of Newark. The National AFL-CIO, the National AFT, the National EA came down on the City of Newark. In Newark when you talk about unionism, especially about teacher unionism, you are talking about an organization that, as is true throughout this country in cities that are predominantly black, is being equated with the skill trade unions that have historically prevented black people from moving up in the jobs. Now you are talking about giving people the right to strike. And in many instances as it relates to urban cities where black people have finally come into a majority and finally have some kind of so-called powers to control a particular situation, it seems as though teachers' unions are now in a direct line of confrontation with black people in urban cities. What has happened in Newark, what has happened in New York, what has happened in most major cities with teachers' organizations is going to continue to happen. I am saying what you are about to enact here is not going to help the situation.

Kennedy had some kind of executive order granting public employees the right to engage in some kind of collective action, but it didn't go to the extent of giving them the right to go out and strike. It is quite obvious that an end run is being made on local levels with state governments.

I just want to inform you of the over-all strategy in terms of what was happening. I just want to mention three items from the last negotiation in Newark. - I am sure you are going to have some questions - binding arbitration, the welfare fund and non-professional chores. You have heard about it. You have heard it from the press. I want to give you my point of view. I sat through the whole darn thing.

Binding arbitration - personally I support their concept

of binding arbitration. What happened in Newark with binding arbitration? The contract that was negotiated in 1969 and 1970 was a political contract that was given to the Newark Teachers' Union by Mayor Addonizio, who at that time was involved in a political election; a strike was in progress and he gave anything away to eliminate that strike, thereby hoping that he would be re-elected as mayor. The strike was in progress and the teachers at that time received binding arbitration. As a result of the atmosphere under which the contract was negotiated, the administration at that time was not really involved in the bargaining process. So they felt something was being shoved down their throat by the local municipal government. Binding arbitration, the welfare fund and non-professional chores were the three issues.

As a result of binding arbitration, 19 cases went up to the arbitration panel. Eighteen of the cases were won by the union; the Board won the other. The cost for implementing these cases was something like three to four million dollars. O.K. The case that really broke the camel's back as far as binding arbitration, before this decision came down, the community in Newark was not really familiar with binding arbitration or what it was really doing in the contract, but it was an arbitrated decision on non-professional chores. Just before the expiration of the '69-'70 contract, an arbitrator gave an award on non-professional chores. Teachers, you no longer have to pick up the kids from the playgrounds, you no longer have to assist in the supervision of the kids in the lunch room, you no longer have to perform any kind of hall duty. As a result of that, with the teaching staff in Newark being predominantly white and the City of Newark being predominantly black, there was an obvious confrontation. The black people were saying, "You teach in the city. You work in the city. But you don't want to put your hands on my little black kid. You don't want to pick them up from the playground. We consider this as being very important."

The union won that arbitration award and immediately

they implemented the award unilaterally, sending out leaflets in every school, "Do not pick up kids from the playground. Do not perform any cafeteria duty. Do not perform any hall duty." As the result of that, our system went into complete chaos - complete chaos. That was the issue of non-professional chores.

Why were the people in Newark so up tight about the issue of non-professional chores? That was it.

The welfare fund - what do I have to say about the welfare fund? In the City of Newark that is basically a welfare city, people can't get money to go to a doctor and the Board is talking about giving away \$400 to pay for a teacher having his or her teeth fixed. Do you know how that went over in a community like Newark? That was an issue - welfare fund, non-professional chores and binding arbitration.

I see you are giving me a notice here.

But again I want to talk about this issue of non-professional chores. As recently as two weeks ago, a case went up to arbitration. The union sent a case up to arbitration. Now teacher aides, the aides who were brought in to perform these duties that teachers didn't want to perform, don't want to do non-professional chores. Now they are telling us to go hire aides for aides and took it to binding arbitration. As a result of that the arbitrator said, "Well, let me see your paper work and if it says this or it says that --" So that is still up in the air.

In the meantime, as late as last Friday, some Federal moneys came from Washington. The men said, we want you to put to work 245 people who are presently on welfare. O.K. We need them. We want them. We need help in our schools. If you don't believe it, go into a school during the lunch hour and I guarantee you cannot stay there. They were going to give us 245 people to perform non-professional chores and the union said, no - no. As a result of that, we are still around. We went to the City Council to get money for an emergency appropriation to get help. The City Council said, no. But yet we are responsible for whatever happens in the

Newark school system.

I could go on and on, but I am sure you gentlemen -- I hope you have some questions to ask me. So I am just going to cut my statement short and react to any questions you may care to direct to me at this time.

ASSEMBLYMAN BLACK: Any questions?

ASSEMBLYMAN SINSIMER: Mr. Bell, you are acquainted with a Mr. Donald Saunders, are you not?

MR. BELL: Donald Saunders was hired as a labor relations specialist for the Newark Board of Education during the 1969-70 school crisis.

ASSEMBLYMAN SINSIMER: He was the chief negotiator for the Board of Education?

MR. BELL: He was the labor relations specialist.

ASSEMBLYMAN SINSIMER: But he was appearing on behalf of the Board of Education.

MR. BELL: He represented the Board at the bargaining table. We had the right to select whomever we pleased to represent us at the bargaining table.

ASSEMBLYMAN SINSIMER: But you selected Donald Saunders.

MR. BELL: Yes, no question about that. Establish that as a fact. Go ahead with your question.

ASSEMBLYMAN SINSIMER: Now Donald Saunders issued a statement on December 22nd, 1971, in the public press and his statement was, quote, "I wasn't bargaining in good faith. There was no way I could." Later he went on to say that the strategy of the Newark Board of Education was to provoke a strike.

MR. BELL: Two months prior to that Donald Saunders was hired by a labor organization. His life-line, his bread, his money now depends on his affiliation with this union that he works for. O.K.? So the statement that appeared in that paper -- I don't know what Donald Saunders said. I am only saying that Donald Saunders now works for the Teamsters' Union that now has the school security guards, the chauffeurs. They are now trying to get the cafeteria workers and they are now going out for our laborers. And Donald Saunders now

represents the union. So a statement like that sort of falls in line with whatever Mr. Saunders may say for his own personal expediency.

ASSEMBLYMAN SINSIMER: But at the time in question, he was employed by the Board of Education for the Board of Education. Isn't that correct?

MR. BELL: Listen, I told you, The man worked for the Board of Education, He sat at the bargaining table as one member of a team and he was the so-called spokesman.

ASSEMBLYMAN SINSIMER: -- the chief negotiator.

MR. BELL: Spokesman, chief negotiator - call him whatever you want.

ASSEMBLYMAN SINSIMER: I want to call him what he was. If he was the chief negotiator ---

MR. BELL: Well, you can call him a spokesman or you can call him the chief negotiator. As far as that goes, the union brought in a guy from Washington by the name of Vincent Russell, a guy from Detroit by the name of Bates, and someone from Albert Shanker's office in New York, all outsiders. Now if you are talking about some kind of statement, you know, like - I thought the whole thing was sort of ridiculous - yes, we reacted initially with all these outsiders coming in. The list of the demands that we received from the Newark Teachers' Union was the same demands that Albert Shanker submitted to the Board of Education in New York and they had the same negotiating team that travels throughout the country that comes into cities like Newark and other big cities.

ASSEMBLYMAN SINSIMER: Mr. Bell, you used the term "strike happy teachers" several times. In your opinion are all of the teachers in New Jersey strike happy?

MR. BELL: Let me talk about Newark - O.K.? I know Newark better. Since this act was passed in 1969, at the expiration of each contract we have had a strike. All right? As far back as 1965 we have had strikes. O.K.? Now in 1968 - I go back to 1968 because it was at that time that State law permitted public employees to engage in some kind

of meaningful action around a bargaining table. I do have problems with that law as it exists now. But I feel that the law has means within it to overcome any kind of impasse. You have in there a means for fact-finding and mediation. But if somebody wants to strike, they are just strike happy, they are going to strike anyhow. That is my position. And I say the Newark Teachers' Union is a "strike happy" union. If you don't think so, I think you should even go and ask the International of the AFT, whether or not the Newark Teachers' Union is not a "strike happy" union.

ASSEMBLYMAN SINSIMER: I will ask them if they appear to testify.

MR. BELL: Subpoena them. Don't you have subpoena powers?

ASSEMBLYMAN BLACK: ~~How do you subpoena them, sir?~~
Assemblyman Dennis?

ASSEMBLYMAN DENNIS: Good morning, Mr. Bell. It is a pleasure to see you. Being a representative from Essex County, although I don't represent the city ---

MR. BELL: What's your name?

ASSEMBLYMAN DENNIS: Assemblyman Dennis.

MR. BELL: Who?

ASSEMBLYMAN DENNIS: Dennis. I do not represent the City of Newark. My district is ---

MR. BELL: I have a meeting tonight with the Essex County School Board Association. I don't usually participate on the county level or the State level. It is the first time I have seen these guys in the State. So don't ask me anything about the State Association of School Boards.

ASSEMBLYMAN DENNIS: No, I am not. I want the record to show that I have not taken a position one way or another on this bill. I have tried to remain neutral and hear the testimony. You seem to indicate because of what you have heard here that some members of the Committee have made their minds up. I just want you to know I have not indicated one way or another my position.

Secondly, I have been down to not all the schools in

Newark - fortunately I have been elected three times - but I have been down to see the schools in Newark and I appreciate the problems you are facing,

I did have one question. Sometime ago, they used to have a lot of part-time teachers. What they were were permanent-temporary teachers. Now is the situation now? Is the City of Newark still having a problem with the teaching profession?

MR. BELL: There is no problem. There is an over abundance of teachers. The Board's policy now is to bring in as many so-called qualified teachers as we can, not only qualified because they have the papers, but people who we feel can do the job effectively, people committed to the children and not with the AFT philosophy, which is teachers first, children second. Our philosophy is children first and then our employees come next. We have the job of educating children and not giving out grab benefits for teachers who are our employees.

ASSEMBLYMAN DENNIS: I want to get back to one other thing, and that is aides. A parent could come and work in the school on a volunteer basis. But they will not allow the so-called aides - and you mentioned there were 240 ---

MR. BELL: 245 in a program by the name of PEP program that were offered to us from a guy from Trenton who wanted to give them to us. He tried everything he could, but he couldn't get the union to go along with it. O.K.?

ASSEMBLYMAN DENNIS: Thank you.

ASSEMBLYMAN BLACK: I have several questions. The first I would like to ask: With reference to the statement made by the gentleman who was hired by the Board to assist in their negotiations, do you think he fairly represented the position of the Board in that statement if that statement were true?

MR. BELL: Let me say I don't know if that statement is true. I don't know if he made the statement. I saw the article that this gentleman had that Rodino had published in the paper. Again I would have to point out that the man

is now working for a union. I should also point out that I was working for a union during the teachers' strike last year, the State, County and Municipal Employees in New York. But it was the teachers' union, it was the local labor council in Newark, it was the State AFL-CIO who put the pressure on District Council 37, State, County and Municipal Employees in the City of New York - you know, get that Charlie Bell, put pressure on him, make him perform as a labor unionist, and if he does not perform as a labor unionist, then take away his life-line. They put the pressures on hot and heavy. As a result of that, I lost my job with the labor movement. You know, I am not really bitter. I understand the game and how it is played. But what really gets me is I believe in basic trade union principles. I believe if I go out on strike and if I stand up for something, I am willing to pay the price. I voted against a teachers' contract when it first came up for ratification. I knew the price that was involved. I was willing to pay. I have a family to support. I have bills to pay as some gentleman from some association stated. But when the unions put the pressure on me because I wouldn't dance according to their music - I was willing to pay the price.

I am saying that to tell you this, that within the State law, 303, there are means for resolving impasse. But the teachers in Newark, every time they have gone out on strike, in '65, in '68, in '69, '70, '71, every time they came back requesting to receive pay for the time they were out. And I say if you are going to be a trade unionist, stand up as a trade unionist, defend the trade union principles, and be willing to pay the consequences. And they are not willing to pay the consequences. They are now attempting to make this end run ~~around~~ from the national level to deal with the state in order to get what is going to benefit them personally.

ASSEMBLYMAN DENNIS: I have one last question on what you said. I asked this question last week of somebody.

When a teacher is out on strike, do they get paid or do they not get paid? I was told they did not get paid last week.

MR. BELL: I can show you records in Newark where 2,000 teachers, it is alleged, were out on strike and 1,000 of them were paid for the time they were out, by entering into some kind of collusion with their doctor who falsified statements. It was not until I became a member of that committee to review these certificates that we turned them down.

ASSEMBLYMAN BLACK: Any further questions? (No response.) Thank you very much, Mr. Bell.

MR. BELL: I am sorry I took up so much time because there is another School Board member here from Newark and we had planned to leave by one o'clock and I am hoping you will give Mr. Hamm an opportunity to come before you.

ASSEMBLYMAN BLACK: I will do that and we will close with him being the last speaker of the morning. Mr. Hamm?

L A W R E N C E H A M M: Mr. Chairman and members of the Committee on Revision and Amendment of Laws, my name is Lawrence Hamm and I am here today as both a member and representative of the Board of Education of the City of Newark.

I am ~~here~~ today to urge and warn the New Jersey State Legislature and its machinery against the approval of Assembly Bill 521. I want to urge this Legislature not to pass this bill because once effective it may have a detrimental effect upon thousands of public school students in the City of Newark. I am here to urge this law-making body against the passage of this proposal because I understand that there is strong probability that a wicked plan such as Bill 521 could be approved by New Jersey's white, suburban-oriented State Legislature, which, by the way, has a notorious reputation for being insensitive to the needs of urban communities, especially black ones. I would also like to inform you of the far-reaching consequences of the passage of this bill.

The approval of Assembly Bill 521 would give public

employees the right to strike. In terms of Newark's public educational institution this would give approximately six thousand teachers the right to walk out of classrooms containing 80,000 students. Not only could they leave their students for as long as they please, but without fear of penalties or imprisonment for their crime,

Until last June, I had been a student in Newark's public school system. During my last two years at Arts High, myself along with 80,000 other students, suffered two major teacher strikes. The first was in 1970 and lasted five weeks. The second was in 1971 and lasted for 11 weeks. Between February of 1970 and April of 1971 Newark's public school students missed 16 weeks of school. This is equivalent to a loss of one-half of a year in terms of reading achievement.

During those two strikes a mockery was made of our school system. The schools became drug pushers' paradise. Many students found the atmosphere quite conducive for such things as drinking wine and smoking in the school bathroom. Absenteeism and tardiness rose to proportions such as we have never seen before. Many students dropped out of school altogether to seek employment, and many of them are still on the streets unemployed today. As a result of the strike there were sharp increases in the amount of our student unwed mothers. Education not only ceased to function but as a result of those strikes many more students were added to our already rising lists of functional illiterates. We are still, to this very day, feeling the effects of the strikes of previous years.

What was the result of these two strikes? Well, besides the students being deprived of even the poor quality of education they had been receiving, there was the contract. I'm referring to the 1971-73 binding agreement between the Newark Board of Education and the Newark Teachers Union. This document is worthless from beginning to end for everyone except the teachers. There is very little in this contract that is beneficial to the student or the community in terms of education.

What it boils down to is teachers receiving automatic salary raises and fringe benefits with little or no effort at all. In fact, most of them will get this money and continue to display that same old racist insensitivity toward our students which has been perpetuating this decadent educational system with its same low reading levels year after year.

Who do teacher strikes really hurt? I could sit here and give you a statistical breakdown and show you how a teacher strike impedes the educational development of our student population. But I don't think that's necessary because I believe you all are cognizant of that. Of course, teacher strikes hurt nobody but the students and we all know this. The union knows it; that's why their contract expires on February 1st instead of June 1st or July 1st. Their ability to do harm to the educational welfare of the student is really where their bargaining power lies.

But I take the detriment of a teacher strike and a teacher's right to strike one step further than harm to the student. I consider a teachers' strike in Newark at this time as a blow against black people. Why black people? Well, one reason is that I know that the average white student, especially those in nearly all white schools, is reading and doing mathematics more than a full grade higher than the average black student. So even though a strike would hurt both of them; as you can plainly see, it would hurt the black student more. A second reason, which would tie in with the first, is that black people who live in some of the most adverse conditions in this country under the same conditions that exist in Newark, who are politically oppressed, economically exploited, and socially degraded, will need all the skills necessary to liberate themselves from a wretched existence such as this, and will need to acquire them as soon as possible. Anyone or any person who should delay this process, black or white, is an enemy. A third reason is that young black people because they are the future of African Americans need all the opportunities possible to succeed in life. Not having a quality education will hinder their success. A teachers' strike,

as those strikes demonstrated in the past two years, can impede the quality of their education. A fourth reason would be that the NTU, the Newark Teachers' Union, is a white-controlled, white-majority organization whose members, most of them, live outside of the City of Newark and for the most part are not sensitive to the needs of black students.

A fifth and final reason - and this was demonstrated during last year's teachers' strike, is that many of the white parents who had children in the Newark public school system backed and supported one of the longest teachers' strikes in the nation against their own kids. I can't understand that.

So now we have a bill here that would not only make it legal for people to interfere with the educational welfare of all of Newark's public school students, but threaten the very survival of black people. I think this measure is only typical of the type of racist acts that are perpetrated through the law-making machineries of this nation.

The Newark Board of Education is unanimously opposed to this bill, A 521. And I would like to give this warning: Last year the flames of racial tension in Newark during the teacher's strike were very hot. Who knows what could happen this year? I am saying if teachers walk out this time, who knows, it might be the last.

ASSEMBLYMAN BLACK: Any questions?

ASSEMBLYMAN SINSIMER: Mr. Hamm, you mentioned that in 1970 there was a five-weeks strike in Newark of Newark school teachers and in 1971 there was an eleven-weeks strike and there were strikes that Mr. Bell gave testimony on prior to that, I think, going back to 1965. Do you think then that the passage of A 521 would provoke more strikes in Newark or fewer?

MR. HAMM: Of course, it would provoke more strikes. If they would strike when there was no law - you know, when it was against the law for them to strike - why not strike now? What is the sense of even having negotiations if they have the right to strike?

ASSEMBLYMAN SINSIMER: Mr. Hamm, you refer to racist acts on the part of teachers and also you mentioned the students wanted to liberate themselves. Was that the reason you introduced a motion that the Black Liberation flag must be flown in Newark classrooms?

ASSEMBLYMAN BLACK: Mr. Sinsimer, that has nothing to do with A 521 and I would prefer that we not get into that situation.

ASSEMBLYMAN SINSIMER: All right. Let me ask you this then: Do you consider education a racial issue at all?

MR. HAMM: Education doesn't have to be a racial issue, but education is of prime importance to black people. Because through education we will get the skills necessary to deal with the conditions in which we live today - those basic skills of reading and writing. For instance, the national norm for sixth grade is 6.1. Our city-wide median is 3.8. The national norm for mathematics in the seventh grade is 7.1. Our city-wide median is 4.9. I got secondary reading reports the other week that tell me the majority of our students graduate on the seventh grade reading level and we have many students reading below that. Beside not receiving the basic skills, hardly any of these students receive any real technical skills so they can have any saleable employment after graduation from high school. So this is why education is essential for black people.

ASSEMBLYMAN SINSIMER: Yet a number of school children in Newark are now black. Isn't that correct?

MR. HAMM: That is very true. Let me put it like this: 72 per cent of our student population is black, approximately 12 per cent is Spanish-speaking and the remaining per cent are white.

As a Board of Education member, I sit here representing all the students in the City of Newark. I feel a strike would be detrimental to all of them. But I understand that a strike would be more detrimental to black people or to black students because of the simple fact that if you have the

average student, say, at the Ridge Street School reading on a 5.5 level and the average student at the Marcus Garvey School reading on a 3.8 level, a strike for 11 weeks would set them both back a half year, but it would hurt the black student more because then he would be reading close to a second-grade level. The white student would be reading on a fourth-grade level.

ASSEMBLYMAN SINSIMER: Don't you feel though as a Board member you should represent all races equally?

MR. HAMM: I just said I do. But I just have an understanding of who would be hurt the most.

ASSEMBLYMAN DENNIS: Mr. Hamm, how is the enrollment pattern? Are there more students coming into the elementary grades or is it tapering off or remaining the same in Newark?

MR. HAMM: Our classrooms are becoming more overcrowded.

ASSEMBLYMAN DENNIS: There are more and more students. So you will be needing more and more teachers coming into the school system hopefully.

MR. HAMM: We will need them.

ASSEMBLYMAN DENNIS: -- assuming you have the classrooms,

MR. HAMM: -- to put them in,

ASSEMBLYMAN DENNIS: Right. In Newark you have what? the Newark Teachers' Union? Is that the teachers' group? Is that part of the NJEA or is that different?

MR. HAMM: I don't know.

ASSEMBLYMAN DENNIS: Does the Newark Teachers' Union include all teachers, both black and white?

MR. HAMM: The Newark Teachers' Union does have black teachers in it, yes.

ASSEMBLYMAN DENNIS: So it does affect one the same as the other as far as the teachers go, I assume.

ASSEMBLYMAN SINSIMER: Mr. Hamm, the Newark Teachers' Union is not a part of the NJEA. I just happen to know that.

MR. HAMM: I didn't say it was.

ASSEMBLYMAN SINSIMER: The President of the Newark Teachers' Union is a black woman, is she not?

MR. HAMM: That is very true. Carol Graves is black.

ASSEMBLYMAN SINSIMER: And hasn't she been jailed on more than one occasion?

MR. HAMM: That's very true.

ASSEMBLYMAN BLACK: Are there any further questions, gentlemen? (No questions,) Thank you very much, Mr. Hamm.

Ladies and gentlemen, we will now recess, the time being five after one, We will be back at twenty-five of two.

(Recess for Lunch)

(Afternoon Session)

ASSEMBLYMAN BLACK: Ladies and gentlemen, the public hearing will now resume and the first speaker will be Mr. Harold L. Ritchie, Superintendent of Schools of West Paterson. Is Mr. Ritchie present? (no response)

Next will be Dr. Richard M. Neuberger, Metuchen Board of Education.

R I C H A R D M. N E U B E R G E R: Mr. Chairman, members of the Committee, assembled speakers. My name is Richard M. Neuberger, a member of the Metuchen Board of Education. I am here representing the Board, the taxpayers of Metuchen, and myself, to speak in opposition to Assembly bill 521, as specified in our Board's resolution of April 11, 1972, attached to the statement which I presented to you.

Chapter 303 is supposed to spell out the rights and privileges of employees and employers in the public sector. The Metuchen Board supports such legislation just as it supports the rights of the employees to organize, be represented and bargain collectively. But we need a law that is better than 303, that is more complete than 303 and easier to understand. In fact this should be a statute that is consistent with and can be related to other State laws such as Title 18 and Title 11.

Because of deficiencies in Chapter 303 many problems have been created. Now, rather than enact A-521 which is a patchwork attempt, we feel that Chapter 303 should be totally revised and made a law which, as I said, is more consistent with other State laws.

The present bill, A-521, is like putting a thumb in a dyke. It is only stopgap and we don't think as a Board that is going to solve the problems that 303 have presented us with. We really need some new creative thinking in the whole area of public sector employee-employer relations.

I must comment here that to hear them tell it the teachers are a deprived group of citizens but we feel that they are a privileged group having more rights than any other employee in either private or public sector.

I will comment now on the private sector so as to draw some comparisons. In general the right to strike in the private sector involves a product. Where in the private sector employees have the right to strike, employers have the right to lock out as an offensive weapon. The U. S. Supreme Court has allowed industry and businesses to use lock outs just the same way as employees use strikes to obtain an economic gain for themselves. In the private sector, the Federal Labor Laws very specifically spell out what one may and may not do. Here both sides can take steps to prepare for a strike or lock out.

The employees can contribute to a strike fund, either as an international or as a local. Some states even contribute to the private sector workers' ability to strike by allowing them unemployment benefits.

The employers, on the other hand, have other lawful methods to prepare themselves for a strike. They can establish revenue sharing plans, such as the airlines; they can get strike insurance; they can subcontract; they can bring in new employees; they can inventory so that if there is a strike there is very little problem. This is vastly different than in the public sector.

In the public sector, especially education, no product as such is involved, only a service. A service cannot be inventoried, cannot be subcontracted. We cannot get insurance against such strikes. There is no way that an employer in the public sector can use any of the methods available to the private sector to win its argument. The employees can have a strike fund. They can gain the support of other unions. There is no way of combatting this type of strike by public-sector recognized unions. We are totally at their mercy. A strike by public employee unions, particularly teachers, can only work to the disadvantage of the students. First, there is time lost in the classroom. Then, equally as important is the strike certainly destroys the rapport, destroys the moral growth, destroys respect, all this when impressionable children see their teachers, their guides, their idols striking, marching, militantly closing schools.

The teachers are looking for the best of all worlds, the best of the private sector, the best of the public sector. What do they have already? The present statutes protect them and protect them well. Under existing laws they are allowed tenure, they have promotion and demotion protection, layoff protection, protection against reduction in their salaries. What appears to us as a very large inequity is that in addition to the rights they enjoy both by statutes and collective bargaining agreements, they are now seeking the paramount right from the private sector - the right to strike.

In addition to the incalculable harm that would result to a school district, we must ask the further question - is this amendment to Chapter 303 fair to the taxpayers? We think not. Especially, is it fair to the children? What really is teaching all about? Is it not to teach the youngsters? Then tell me, what do they learn when they see their teachers out on strike? What are they learning when they see the fighting, the bickering, the arguing, by these very people to whom they are looking, by the people who are supposed to be inspiring them - their teachers?

One of the arguments put forth by the teachers is that the school boards can close and find the time anyway. We have an answer to that. School closings are orderly, planned and scheduled in advance, leaving the statutory number of days in the schedule because they are built in. I cannot speak for the other districts but in Metuchen the school calendar is recommended by the teachers via their Advisory Council. Our calendar for next year is exactly the one the teachers presented. So both the teachers and the board know there are no extra days for a strike.

Instead of A-521 we recommend a total review of the entire problem. Look at 303 carefully before you change it now. We feel that the present structure in 303 is not the answer. What the teachers are asking for in A-521 is even worse.

The closing of school because of a work stoppage is abhorrent to our Board of Education. An alternate method, other than

521 must be developed to offer the resolution of any impasse that may occur. Any alternative must be equitable and acceptable to both sides as well as to the students, and also must be workable.

Both the teachers and the boards are a necessity for the proper operation of the schools and the education of the children. As a board we consider that the well being of students is paramount to all other concerns. Any unscheduled, unplanned loss of time to the educational process is extraordinarily harmful. But this harm may not in the legal sense be proven to be a clear and present danger to the health and safety of the students or the community. Teachers must be made aware that while a work stoppage may help them get better bargaining powers, the same power could eventually lead to the elimination of some legislated security factors that are not presently provided by law to any other group of people, such as tenure protection, sick leave, pension provisions and certification standards.

Considering all of these factors and others that have been presented by individuals in opposition to the bill, I implore you as legislators in behalf of the Borough of Metuchen, its residents and taxpayers, to vote no to assembly bill 521. We need creative thinking much more than A521. Thank you.

ASSEMBLYMAN BLACK: Thank you, sir. Are there any questions? No questions? Thank you very much.

Mr. Bernard Lelling, Matawan Education Association?

(no response)

Mrs. Felice Meiswinkle?

M R S. F E L I C E M E I S W I N K L E: Assemblyman Black, members of the Revision and Amendment of Laws Committee, my name is Felice Meiswinkle. I am a member of the Bridgeton Education Association and the NJEA representing 400 teachers. I am glad to have the opportunity to participate in a process such as this hearing. I am satisfied that all of us recognize the need for listening to both sides of an issue and I am here to assist in upholding this fair process. Today we all are witnessing fair play. I wish that were true all the time.

During recent years our society has experienced an active

equalizing process of living powers that have in the past been deprived of equality. The ideas motivating these movements are based on the idea of equal rights. Needless to say, since you detect my accent, I lived my childhood in a European country under a regime that did not respect the rights of others. The power was on one side only, the other side was helpless. And this unfortunate experience makes me especially committed to assist in preserving the principle of equality. No matter how large or how small an issue, fairness can only result when this principle is being respected.

The issue here is education. As a teacher and a mother of seven children I am doubly interested in the betterment of education. I do not like to see my colleagues and fellow citizens who have served the cause of education being committed to jail because of an outdated law that only protects the rights of one group, that of the school board, when both groups should be treated equally. This one-sidedness leads to the wielding of power and often arrogance of one sector and to the frustration and despair of the other. This is highly unfair in any situation. Negotiations for educational issues under these circumstances become unreasonable where reason should rule and uncreative where creativity should prevail. For the sake of my own children as well as for all students, I want to see the field of education attracting the best people, not the mediocre. But as long as teachers are being treated as second class citizens the field of education will be less than attractive. To serve the cause of education an atmosphere of mutual respect for the rights of the teachers as well as for the rights of school boards must be present at the negotiating table. Until now the teachers have been at the mercy of school boards because the boards have the right to their day in court, but not the teachers. The teaching profession is thus dealt a blow of injustice and disrespect.

Bill A-521 would give us teachers the power to meet controversy on equal terms. It would motivate school boards to cooperate rather than dictate and I don't like to have to submit to a dictator again. Most of all it would aid education by

helping to create a positive atmosphere during negotiations so that the schools for your children and mine may be improved as much as both powers, school boards and the teachers, can feel free to accomplish.

It was rather pathetic to hear the testimony given by some representatives of the school boards. Their philosophy of education exhibits some serious shortcomings. I am referring to a remark made by Mrs. Malovany, President of the School Boards Association and Mrs. Leach today. They said that a teachers strike would present a hardship to many mothers who are obliged to work. Gentlemen, has the American institution of learning become a day care service? As a teacher, I am greatly insulted. Did I receive my bachelor and master's degree in order to substitute for a mother? And as a mother I am appalled to see American education thus degraded.

Naturally a strike would inconvenience some mothers but strikes have been occurring all along. The current legislation has not deterred striking. But we are not debating strikes, we are asking for a right which should exclude any presumption. Should we teachers give up our right to a fair hearing in court for the sake of someone else's convenience? I should say not. We teachers regard our profession as a primary commitment, not a secondary occupation. We are not amateurs unlike some board members. We are neither hired substitutes, although at times we do fulfill many roles, nor are we children who are being handed an ice cream cone - another absurd remark made by a school board representative. We are responsible citizens who deserve the respect of all people who respect education.

Gentlemen, your support of bill A-521 will show the confidence you have in us as professionals, as we are here to express our confidence in you as executors of fair play.

As one of my children said to me this morning, more power to you, mom, and I replied, not more power, son, just equal power. Thank you.

ASSEMBLYMAN BLACK: Any questions, gentlemen?

ASSEMBLYMAN DENNIS: I just have one question. Going back to Mrs. Leach's statement this morning, I think she tried to emphasize - correct me if I am wrong - and I am speaking for myself and my wife who is employed, I don't think we think of schools, since my mother-in-law has been a school teacher for 25 years, as a day care center or baby sitting session. I think that what Mrs. Leach said is that we know our child is going to school that day and we make allowances for this. For instance, in the summer obviously we know the school is going to be closed and we make allowances for that. We are fortunate we can hire a woman to come in and cover at lunch time. I think that is what she said this morning. I don't think - I hope not and I don't think so - that Mrs. Leach implied that schools are baby sitting services. They are there to get an education.

ASSEMBLYMAN BLACK: Any further questions?

Thank you very much.

Mr. Louis E. Eversmeyer, Willingboro Township Board of Education?

L O U I S E. E V E R S M E Y E R: My name is Louis E. Eversmeyer, Willingboro Board of Education, former mayor and councilman of Willingboro Township.

I am here on behalf of the Board as Legislative Chairman and I would like to address myself to this bill and to some of the comments that have been made in the past. In particular, one of the union men referred to the board as "tyrants." I object to being called a tyrant, carte blanche. I am sure as there are teachers who are mediocre teachers and who are below average teachers, there are good average teachers and above average teachers, there are also boards of education who are fair and just and who are not all tyrants.

My objection to the right to strike, and my board's objection, is that we are mandated by law to have 180 days of education. If the teachers go on strike, when would we make this up? Would we make it up through deletion of a Christmas recess, Easter recess, etc? Our current school calendar is mandated by law.

We must give 10 holidays during the year. In order to build this in to our school calendar for the next school year our school starts the Tuesday after Labor Day and ends on the 15th of June next year. This allows very little time to compensate for teacher's strikes, especially since it only includes Good Friday and Easter Monday during the Easter recess and one week at Christmas.

I heard testimony where one strike extended for eleven weeks. I am asking you, gentlemen, how could we meet the law of 180 days if an 11 week strike transpires? How do we make up time that is lost? I would also ask a basic philosophical question. A man in this United States of America determines his own future. He chooses a career, prepares himself for it. He knows the conditions that exist in that job when he prepares himself and accepts this as his future. I do not understand what right is violated. This I fail to understand, what basic right has been violated - because they are not allowed to strike? We have a freedom of choice. There are certain benefits that go with this choice. Where else can you go and get tenure after three years? You be a good boy for three years and then you are home free. And gentlemen, I can tell you that we tried to shake the dead wood out of the teachers. We have a lot of fine teachers but we have some lousy teachers and we can't get rid of them because they have tenure. We can't withhold an income without just cause, per the legislature. And that just cause is almost down to the point now where you have to have a teacher convicted of child abuse to get rid of them and you have to have very strong evidence of a strong misdemeanor to withhold an increment. These are mandated by law and this is what we are fighting. The board's management prerogatives have been diluted to the point where they are non-existent. We cannot transfer a principal, we cannot transfer a teacher because it is a grievable item. We don't have that right. We have to prove everything. We are an abstract thing. How can you prove it is for the betterment of the system? The teacher says it is for punitive action and the board says it is for the betterment of the system. You go before an arbitrator who is not dealing in

education, who is not involved in education in any way. He decides the case and the board loses. This is where we are so we don't even grieve it.

Gentlemen, if you read the paper in the Philadelphia area you will know that we had a teacher with 16 years experience find a bomb-like device in the school, defuse it himself, pass it around as a joke until 11:30 in the morning and our hall aid who gets \$2.10 an hour, who is a non-professional, said, "Hey, I think you ought to take that to the principal," and we immediately evacuated the school. This teacher is a tenured teacher and because he is active in the WEA, the Willingboro Education Association, the board felt that we couldn't even suspend him for 5 or 7 days, one week, because we would be facing a grievance and we would be facing all the hassle that arbitration would bring about. But here is a man who exposed a whole high school to a device he knew nothing about and what can we do about it?

Perhaps you feel this is irrelevant to this bill but I say it is not because we must prove, according to your law, that there is going to be harm to our children if the teachers are allowed to strike and this is a very abstract question at best.

I have dealt, as I have said, as a former councilman and mayor in negotiations with police. Our police happened to get sick, they didn't go on strike, they just got sick and our Township was without police protection. These are the problems that we face in this sector. I am saying, gentlemen, that these people make a choice. Nobody in the United States of America has to be a policeman, has to be a teacher, has to be a pilot, has to be a chemist, it is free choice and I think when you make that choice you are adult enough or mature enough to know the conditions that go with it. I am not against improving working conditions but I am saying I think there has to be a limit and I think that the club over the board's head is already gigantic and unbalanced in favor of the teachers. I think this would further unbalance the board's prerogatives and I am very concerned about this.

I have data that I don't want to have to go through with

you, gentlemen, I would like to give it to you, one of which is a statistic from Rutgers on the policemen's starting salaries, the other being an agreement between the Board of Ed and our teachers which incidentally has been negotiated, it is a 2 year contract. Also, there is a list, which is more meaningful, of what our teachers are actually going to receive next year. It has their name and their degree level and their salary for next year. Just so you have some idea of what is going on in a district and I think we are fairly typical for a south Jersey district. Our salaries are in the average for Burlington County and in that area, just for your information and edification.

I would like to point out one thing from the NJEA review. It is dated May 1972, "I have heard referred to many times in this hearing that the teachers are sweeping the crumbs from the master's table. They are underpaid, overworked, and underprivileged, - this is from their own report - "the average classroom teacher's salary rose from \$10,100 in 1971 from an average of \$6,954 reported in 1966. About 30% of New Jersey's teachers receive extra compensation for extra duties with the average extra earnings of this group equal to \$847. One-third of the teachers reported extra earnings from non-educational sources. The average extra earnings from this group is \$2,263." I would suggest that you gentlemen review this in its entirety since it has a breakdown in percentages and that's the only paragraph I would like to take the time here to read. If you would like, I will leave my copy of the New Jersey Education Association Review.

For the record, our policemen's salaries in Willingboro start at a base salary of \$8,094. This is for a 40 hour week. Each man is guaranteed an 8% override because we pay differential and other benefits. They also get everything except their jockey shorts. This is provided by the Township. Their socks, all of their clothing is prepared and delivered to them by the Township. They also get 10% discount in every store in town and they get their uniforms cleaned free. Now this isn't bad for a young man who has to be 21 years old, 20/20 vision and a reasonable character. In other words, he can't be convicted of a misdemeanor

My point is, I guess, in summary that I feel that this bill is ahead of its time. If we are dealing with a massive situation where all boards or the majority of the boards in this State are dealing in bad faith then perhaps this bill has some merit. I say at this time the majority of the boards are dealing in good faith. A majority of the boards are already laboring under the hammer, so to speak. We do not want strikes, we want good teacher-board relations. The only way we can maintain this - and whether you like it or not it comes down to money. Whenever it gets down to the nitty-gritty in negotiations it comes down to the subject of money.

Gentlemen, you are the legislators and you must help us pay the bills so if you give them the right to strike you are, in effect, giving them the right to strike against the legislature because you have to help us pay the bills. I'd just like to make that point also. There is a limit to what the Township can bear and we are coming down to the point where we are going to be facing the same situation they are facing in Philadelphia, either reduce the number of teachers and start increasing class size in order to meet our salary requirements or we must reach a leveling off some place in salaries which is reasonable and just. I believe in being firm but fair. I would like to hope that there is some way that we could resolve this problem other than Assembly bill 521.

ASSEMBLYMAN BLACK: Thank you very much, sir.

Any comments, gentlemen?

ASSEMBLYMAN DENNIS: Just one question - a point of information - I assume Willingboro is near the Philadelphia area?

MR. EVERSMEYER: Yes.

ASSEMBLYMAN DENNIS: What size town is it?

MR. EVERSMEYER: We are a community of 50 thousand people, we have 17 thousand registered voters and about 11,281 homes.

ASSEMBLYMAN DENNIS: By the way, I am sure I speak for the other legislators, we all get the NJEA magazine as well as the Board of Education publication too.

MR. EVERSMEYER: We have 15,000-plus school children and very limited industry so we are very cognizant of the tax dollars.

ASSEMBLYMAN BLACK: Thank you very much.

Mr. Arthur Lehrhaupt, Hunterdon Education Association.

A R T H U R J. L E H R H A U P T: Assemblyman Black, members of the Revision of Laws Committee. My name is Arthur Lehrhaupt. I am the elected representative of the teachers of Hunterdon County on the NJEA Executive Committee. I have served in various capacities in county and local professional associations, including the presidency of the Hunterdon Central High School Teachers' Association, NJEA. In addition, I have been privileged to represent, as a negotiator, the teachers of the school district in which I am employed, every year since the inception, in 1968, of the New Jersey Employer-Employee Relations Act - Chapter 303. I believe I may draw from this background information which may be of value to you in your consideration of this important piece of legislation. I might add that I abridged this somewhat, since my original statement, in the interest of time.

I come from a county which is rural-suburban in nature. A county where, on the surface, it may seem as though peace prevails in relations between boards and educators. Many may think that the problems of Jersey City, Newark, and other urban centers are not shared in our county - that these problems are peculiar to certain regions and not to others. This is not true.

In Hunterdon County today there lie beneath this apparent calm, problems which I fear may soon surface. I firmly believe that Assembly bill 521, which provides public employees with the limited right to strike, will go a long way toward the prevention and control of these problems, problems which have given rise, under present law, to circumstances harmful to the public interest.

I see clues that these problems are coming, and in too many instances are already with us.

In much of Hunterdon County today negotiations are dragged out and stalled in an apparent design by school boards to avoid engaging in true, good-faith negotiations.

I have several examples in my complete testimony which I am deleting in the interest of time.

It has always seemed to me that the negotiation process is an excellent way to improve the level and quality of our schools. When groups, each seeing things from their respective frames of reference, sit down together in a good-faith effort to reach agreement which is in the best interest of all, a school cannot help but benefit. Ideally, in true good-faith negotiations, one would glean the best of these various insights to the benefit of all.

But, in New Jersey, a severe imbalance exists at the negotiations table. Weakness in the present law creates this imbalance.

Mrs. Leach, who gave testimony here this morning, indicated that teachers don't like negotiations when they don't "get it all." Our experience has been that boards give a blanket "no" to virtually every proposal of teachers to better schools and to raise the level of their profession. We find that the phrase "board prerogative" is used as an excuse to avoid good-faith negotiations. As a result negotiations in the public sector, it seems to me, can well be characterized as a lord-serf relationship. The classroom teacher, the one person who meets children on a daily basis, cannot sit down at the negotiations table as a co-equal and school boards know this. A school board knows that it can say no to all of the proposals of their teachers and they know that their teachers are ultimately without redress.

We heard it said this morning, children first, teachers second. I hold that the well-being of children and teachers are inseparable. Teachers are the prime resource of the school system. The present imbalance and abuses create frustrations and demoralizes the teachers. These frustrations and the demoralization of the teaching staff has a deleterious effect on the educational services rendered and is ultimately harmful to the children we teach.

Students have only contempt and disrespect for teachers who weakly acquiesce, particularly children today. They have respect

for teachers who, in their frustration, display the courage to speak out for quality education and have the backbone to elect to withdraw their services and stand up for their convictions.

Mrs. Leach said that the right to strike becomes palatable under certain circumstances. She thereby admits that she is not opposed to the concept in principle but wants teachers to bargain for equality. With respect to her statement regarding the working parents, where both parents work, I would point out that schools are presently commonly closing unexpectedly for emergencies and frequent snow days without much difficulty and this occurs throughout the school year.

The imbalance at the negotiations table brings about a situation wherein the intent and the spirit of the law can be brazenly disregarded. For true negotiations to take place there must be a balance at the table. Teachers and board members must sit down as co-equals. In Hunterdon County we see A-521 as preventative. It is our position that with A-521 we can prevent many of the deplorable conditions which have occurred elsewhere in our state and have been so harmful to the public interest. We believe this is a just and necessary bill and is most certainly in the public interest.

That concludes my abbreviated statement. I did not come prepared for this purpose but since this morning - and I recall last week as well - there were some statements made regarding the concept of teacher tenure, I would appreciate the opportunity to address myself to that.

It seems to me that the concept of teacher tenure really has nothing to do with equality at the bargaining table. Tenure exists in private industry as well as in public industry. Perhaps it is not called tenure. In many labor unions, for example, a person after a certain period of employment has the opportunity to appeal any possible dismissals up to binding arbitration where testimony and hearings are given. This is just tenure under a different name. In fact, very often the probationary period is far less than the three years required of teachers. All tenure is-- it doesn't keep a mediocre teacher in his job, it doesn't prevent him from being dismissed, it gives him a due process

hearing in order to be dismissed after so many years of service. Teachers can be dismissed under the tenure laws.

I'd like to consider the conditions that existed in education prior to the tenure laws. In many instances politics entered and teachers had to pay to maintain their jobs - pay the local politicians. Very often when a school board saw that a teacher reached a certain step on the salary guide--let's say, to take a high step on a present salary guide, if a teacher were making \$16,000, had many years of experience, was a good qualified teacher who has rendered many years of service to the district, an economically minded school board could then choose to replace him with two new teachers at \$8,000. What happens to quality education then, when you have a school board which is economy minded? Furthermore, the issue of tenure, it seems to me, protects the teacher who is very much in the public eye. If a teacher wishes to become active in a political party of his choice or wants to speak out on controversial issues outside of the school system-- Suppose he takes a stand on a moral issue, say the Vietnam War for example, and he makes his opinions known publicly and then the next Monday at a board meeting he is denied a contract by a 5 to 4 vote, it seems to me that the issue of teacher tenure is not one of protecting mediocrity, it is one of academic freedom. What we are being asked here is to give up this right - the protection of academic freedom - in order to gain another right and I resent having to bargain for my rights. I believe that I should be equal to any other citizen in this State. This law does provide for the protection of the public health and safety. With that in mind I think I have every right to be as equal as any other individual in this State.

ASSEMBLYMAN DENNIS: How long have you been teaching?

MR. LEHRHAUPT: This is my 8th year.

ASSEMBLYMAN DENNIS: When you started, you knew that that time that the teachers did not have the right to strike?

MR. LEHRHAUPT: Yes, I did. May I elaborate on that a bit? I knew the teachers did not have the right to strike but I see many injustices in the present situation and it seems to me I can do two things, - three things. I can leave teaching, that is

one option that is open to me and I think that would be a disservice. I believe I am a good teacher and I believe that would be a disservice to my students. I can stay in teaching and acquiesce to these injustices and I think that would be wrong and it would be setting a very bad example of citizenship for my students. Or, I can do what I am doing today, I can fight to correct wrongs that I see in the system. Just because eight years ago there were injustices in the system does not mean that because I became employed as a teacher eight years ago I have to accept these injustices for the rest of my career.

ASSEMBLYMAN BLACK: Thank you very much.

Mr. William A. Pock, President, Manville Board of Education, Manville, New Jersey.

W I L L I A M A. P O C K: Chairman Black, members of the committee, my name is William A. Pock, President of the Manville Board of Education, Somerset County.

Once again boards of education throughout New Jersey are struggling with the problem of negotiations. Each year since 1968 when P. L. 303 was enacted the situation surrounding negotiations in school districts become gradually worse. Hundreds of hours are spent each year by board members negotiating. Teacher demands or requests, as they are referred to, have reached into areas that have bordered on the ridiculous. Relations between the teachers and boards of education have steadily deteriorated as boards try to hold the line on the school budget because of a spiralling tax burden upon local property owners. These budgets contain the teachers salaries and their increases plus other fringe benefits. This bill that has been introduced in the Legislature known as Assembly bill 521 would permit teachers to strike. This kind of legislation would be a fatal blow to the local school system and the taxpayer. It would be a weapon that could be used virtually to blackmail the board of education and the taxpayers of a district, not to mention the interruption of the students' education.

We as a board of education have taken a positive stand against this bill and have urged our representatives in Somerset County to defeat it. We have urged other boards of education

to do likewise.

Teachers consider themselves professionals and have always been afforded this recognition, however legislation of this kind, if enacted, could, in the public eye, wipe out that recognition. To be a professional one must be thoroughly educated in a specialized field and earn recognition through dedication of service in that field. Such recognition will ultimately be rewarded with monetary and other considerations. Teacher negotiation, in my opinion, is justifiable but it should carry with it certain limitations and the right to strike is most certainly one of those limitations.

The public and the student must not be permitted to be used as a whipping boy by teacher associations or to be intimidated by threats to public education if their demands are not met during negotiations. There are far too many laws already that afford a teacher more rights than any other working citizen. Isn't this fair play?

We agree with Assemblyman, John F. Evers of Passaic. His comments appeared in a local newspaper recently and I quote, "the right to strike bill for public employees is nothing more than a sellout to the New Jersey Education Association. It is an absolute disgrace that the proponents of this measure who were elected to the Legislature to cope with the many problems facing us today should so easily fall prey to a few powerful special interest groups." Being familiar with the political arena and its mechanics we know that it will take much political courage to withhold support of this bill. The simple fact remains that there are 70,000 plus teachers in the State of New Jersey.- certainly a recognized voting block compared to some 6,000 board of education members.

However, may we remind you that these 6,000 board of education members represent total communities and cities. These citizens do not wish to have their childrens' education interrupted by strikes, as they have been in Newark, Madison Township, Freehold, etc. They certainly do not want their garbage collection, and police protection interrupted by strikes either. Or, for that matter, any other municipal services which are financed

by their property taxes. May I add that these are some of the highest in the nation.

We are sure if those in organized labor testifying in favor of this bill last week in these very chambers would have polled their membership to determine reaction, as we had in the New Jersey School Boards Association of our board members, we feel they would be surprised at the result.

We therefore urge you to consider this bill carefully for we believe there are other avenues and methods open to settle labor disputes for those in public service than by strikes. Thank you.

ASSEMBLYMAN BLACK: Thank you, sir. Are there any questions?

Mr. Arthur Knudsen, Bridgeton Education Association.

A R T H U R K N U D S E N: Good afternoon, Assemblyman Black, members of the Revision and Amendment of Laws Committee.

My name is Arthur Knudsen. At the present time I am a chemistry teacher in Bridgeton Senior High School in South Jersey. I have been there for 12 years. I am also the president of the Bridgeton Education Association and member of the NJEA.

I volunteered to speak to you today because I feel the needs of education are at stake. Our association is convinced that A521 will prevent any situations from reoccurring which happened to us at Bridgeton within the last two years. The first instance was when our association voted overwhelmingly to stand behind the high school teachers during a job action they had taken during racial disturbances in March 1971. Our sole motivation for not reporting to classes was concern for the safety of the students and teachers. The board, at the time of the riots, was not going to close the school, even though we had met with them several times previous to the job action to help solve the problem. The board's lack of definite commitment on several proposals weighed heavily in our decision. Overall we felt the board failed to realize violence in the high school was the result of existing and deep rooted problems. We reported back to work after being out two days as we were informed unofficially that the board had an injunction to be served on us.

The second situation I can relate to you was during negotiations last year, last summer, and this past fall. We utilized 303 to the fullest extent. That is, we went to fact finding. However, the board totally rejected the fact finders report. So where did that leave us? Luckily, or perhaps through the planning of the board, this happened at the beginning of the summer. Had it happened earlier we probably would have had to resort to some form of job action. Consequently, we agreed to continue with the post-fact finding which cost us and the taxpayers an additional large sum of money for the fact finder's services. This continued through the entire summer and we came back in September still unsettled, with the freeze hanging over our heads, a touchy situation still in the high school, and no legal, binding contract. What could we do? The board finally settled with us at midnight on September 15th, ending a complete year of hassling over negotiations. I felt at that time, and I do now, that if the board had not settled that evening the association would not have reported to work without a legal contract. I am sure this weighed heavily on the board's mind at that time as they most probably knew the pulse of the staff. This most probably had bearing on the signing that evening.

Had A-521 been in effect, this unnecessary delay, which caused nothing but frustration and ill feelings and certainly did not serve education, would have been avoided.

I urge you, as an educator, to support bill A-521.

ASSEMBLYMAN BLACK: Thank you very much, sir. Are there any questions?

Mr. John R. Grasso, President, Logan Township Board of Education.

(no response)

Mr. Stewart Williams, Alloway Township Board of Education.
S T E W A R T W I L L I A M S: I am Stewart Williams representing Alloway Township Board of Education.

Mr. Chairman, members of the Committee, Ladies and Gentlemen. As a member of the Alloway Township Board of Education and a member of several unions since 1940, therefore being

familiar with union policies, I am opposed to Assembly bill 521.

Surely the judge or judges did not fine or give prison terms to those teachers in North Jersey for striking, but for not complying with the injunction. This is a good example of poor leadership on the part of the union.

As professional teachers, this was one of the worst lessons they could teach the students. Take any strike and evaluate it completely as to everyone concerned. No one has gained but many people have lost and you have a never ending cycle.

Not negotiating in good faith is far too loosely used and can cause impasse in negotiations. I can see nothing in Assembly bill 521 that would warrant passage. Thank you.

ASSEMBLYMAN BLACK: Are there any questions?

ASSEMBLYMAN DENNIS: In your statement, on line 3, you say "take any strike and evaluate it completely as to everyone concerned...no one has gained." I assume you mean not every strike in the United States in the past history of labor, but just in the public employee field?

MR. WILLIAMS: No, I would take private and public.

ASSEMBLYMAN DENNIS: In other words you are saying the strikes that occurred in the 20's and 30's and 40's have not helped?

MR. WILLIAMS: I do not think so.

ASSEMBLYMAN DENNIS: Where is Alloway Township?

MR. WILLIAMS: In Salem County.

ASSEMBLYMAN SINSIMER: Sir, so you understand that before labor organizations came into power we had such things as long work weeks, no time and one-half for over time, very few holidays, vacations without pay, and all of these benefits - that is in the line of salary and fringe benefits - were won on the basis of strikes. We got the 40 hour week because of strikes. We get vacations with pay because of strikes. We have holidays because of strikes. We have the wages that are paid today because of strikes. And certainly without them the standard of living in America would be much lower than it is today.

MR. WILLIAMS: I have been associated with several unions since 1940. In two cases when unions organized the job I was on

I took a decrease in pay, at the time it was 12½¢ an hour.

ASSEMBLYMAN SINSIMER: I would say that proves responsibility on the part of the union. If you were working for a firm that could not afford - who could honestly not afford the increase, this would show responsibility. But I think you will agree that the general trend has been up rather than down in wages.

MR. WILLIAMS: It wasn't the fact that they could not afford an increase, they were paying the wages. When the union came in we took a decrease of 12½¢ an hour.

ASSEMBLYMAN SINSIMER: Then you needed a better union.

(laughter)

ASSEMBLYMAN BLACK: There was some question earlier about fair and impartial treatment. I'd like to ask Mr. Williams, were you here all day on Wednesday last week?

MR. WILLIAMS: Yes, I was.

ASSEMBLYMAN BLACK: And you come from my district?

MR. WILLIAMS: Yes.

ASSEMBLYMAN BLACK: And the president of your board is named Mrs. Eugene R. Taylor?

MR. WILLIAMS: Yes, sir.

ASSEMBLYMAN BLACK: And she is my aunt?

MR. WILLIAMS: Yes, sir.

ASSEMBLYMAN BLACK: And you still waited until today?

MR. WILLIAMS: Yes.

ASSEMBLYMAN BLACK: That's fair and impartial treatment, I don't care how you look at it.

(laughter)

Thank you very much, Mr. Williams.

MR. WILLIAMS: You are welcome.

Ms. Marilyn Ward, President, Boonton Education Association.

M S. M A R I L Y N W A R D: My name is Marilyn Ward, I am President of the Boonton Education Association, Vice President of the Morris County Council of Education Association, a member of NJEA and NEA and I would like to add that I voluntarily chose to join those organizations. I did not have to join when I became a teacher.

Chairman Black and members of this Committee. As NJEA President, Warren Cummings, stated last week, public employees in general are at a gross disadvantage in negotiations. Specifically I am interested in how that disadvantage affects teachers in my system. Now I would like to cite an example with which I am totally familiar.

After five months of negotiations, impasse was declared. A mediator assigned by PERC was unable to move negotiations and invoke fact finding. After many delays that first fact finding session is scheduled for May 11th, tomorrow evening - 8 months after our negotiations began. Time, effort, and money-consuming but more than that it has been monumentally frustrating - frustrating in view of the fact that we have been informed by our board of education negotiators that our time, effort and money are being wasted because if the fact finder renders a decision in favor of the teacher's association that they, the board, will not accept nor act on those findings, what legal recourse do we have to counter with at this time? None.

If we did have further recourse available perhaps the board would not have announced its premature, unfair, decision. To say that our people suffer from what we would probably term a brick wall syndrome would not be understating the case. We have tried every exit but every door produces just another brick wall. We are not asking for carte blanche strike rights. We are simply asking for relief from unfair practices and a way out. We feel, the Boonton Education Association, that at this time A-521 satisfies those requirements.

ASSEMBLYMAN BLACK: Thank you very much. Are there any questions?

(no questions)

Mr. Jesse Jacob.

(no response)

Councilman W. Elmer Johnson, Cedar Grove.

ASSEMBLYMAN DENNIS: He called me. He is not coming. Mr. Chairman, he is going to send a statement..

ASSEMBLYMAN BLACK: Mr. Walter Siff, Scotch Plains-Fanwood Board of Education.

W A L T E R S I F F: Assemblyman Black, gentlemen of the Committee: As a member of the Board of Education of the Scotch Plains-Fanwood School District, I thank you for the opportunity to express our concern over Assembly Bill 521, and to urge you to vote against reporting that bill.

You have heard much - as we all have - about how this bill is needed to insure "fair play for teachers." I recall some years ago, in the offices of a large ~~and~~ aggressive corporation, meeting with their large and aggressive sales vice-president, who had framed and hung on his wall an old-fashioned, cross-stitched sampler which his wife had neatly embroidered with this motto: "All I ask is a fair advantage."

I think the essence of collective bargaining is a rough balance of power between the parties so there is a mutual pressure to reach agreement. When the power of one party is very much greater than that of the other, the result is not bargaining, but coercion. It is my sincere belief, which is shared by all the other members of my board, that enactment of this bill will result in such a severe imbalance of bargaining power between boards of education and their employees as to render the collective bargaining process meaningless.

Most school districts in this State are dependent upon State aid for a significant fraction of their total revenue and this aid may be withheld if schools are open less than 180 days in the year. (NJSA 18A:58-16). From a Board of Education's point of view, then, the stakes in any labor dispute which could come to a strike automatically escalate from the amounts and questions at issue to that plus the State aid. Faced with a legal strike, most boards could quickly be forced, not to compromise, but to capitulate. From an employee group's point of view, on the other hand, there is likely to be no economic penalty from a legal strike, at all as most boards will have no choice but to make up the lost days to recapture their State aid, in addition to meeting their obligations to the children.

Under the present law, common law, of course, where the threat of judicial sanctions against an illegal strike does much to balance the threat of loss of State aid, there are still some

strikes against boards of education, but the potential loss for both sides helps to minimize the capricious or extended strike, and fosters bargaining and compromise. I think the gentleman from the Bridgeton NEA pointed out a few minutes ago where, after rather lengthy negotiations, a settlement was made under the gun. What settlement under the gun? I think it typical of many labor negotiations. ~~there is nothing wrong with that.~~ To expect that there will be fewer legal strikes than illegal ones, or to expect that coerced settlements will be fairer than negotiated ones, is as illogical as it is naive.

A final word: I am told that a recent rally in support of this bill drew a substantial crowd. I know very well that there are far more teachers alone than there are school board members. But I would like to point out that the Scotch Plains-Fanwood Board is elected and reflects much of the diversity in our district. With only nine members, we are Republican and Democrat, men and women, black and white, Catholic, Protestant and Jew, college graduates and not, with various occupations and incomes typical of the range found in the community. It should not be too surprising that we frequently - perhaps even generally - disagree. So when the Board unanimously approved this statement, I suggest that it represents not only our own view, but that of a very large number of our constituents as well.

For all of these reasons, I respectfully urge your opposition to Assembly bill 521.

ASSEMBLYMAN BLACK: Thank you very much, sir.

Are there any questions, gentlemen?

(no questions)

Thank you sir.

Mr. William Slinger, Piscataway Education Association.

(no response)

Mr. Anton Schulzki, Morristown Education Association.

A N T O N S C H U L Z K I: Chairman Black and members of the Committee, I am Anton Schulzki; I am president of the Morristown Teachers Association - NJEA - and we have about 250 members.

Last week Bill Cummings pointed out that Chapter 303 is

an excellent law but it still leaves teachers at a gross disadvantage at the bargaining table.

Teachers in New Jersey are jailed when they strike, which is not against the law in New Jersey, but school boards, who violate Chapter 303, a law of the State, by refusing to bargain in good faith, are never punished. And boards of education violate Chapter 303 with impunity.

I have been involved in contract negotiations three times and this in a district where teachers always believed that they had a "good relationship" with the board. The "good relations" prevailed so long as the teachers did not assert themselves or demand rights that are their due. When we did, this "good" board also began to violate Chapter 303. We were confronted at the bargaining table with such statements as, "we will not make a counter proposal because it might be more than you would be willing to accept."

This is a school district that did not want to strike but how, after five months of teacher attempts at resolution, could the teachers get the board to obey the law - Chapter 303? The teachers finally voted to strike. With the threat of a strike, the board began to negotiate and a settlement was reached. The point is, that the teachers were willing to face penalties in order to force the board to obey the law.

Where is the fairness? Why must teachers go to jail when they are forced into strike situations by boards that are violating the law and receive no punishment?

I believe A-521 would work to improve relations at the bargaining table between teachers and boards of education.

There was something said before which I would like to comment on and that was the fact which someone brought up that in private industry strikes are only called after a contract has expired and before a new contract is agreed upon. They, of course, in teacher strikes, don't occur usually in that same type of situation. Teacher strikes have occurred during the life of a contract. But I think this fact has to be remembered, teachers work under a peculiar situation because the school board elections and the budget elections occur in the middle of the year and teachers are

required to negotiate with the board during this particular period of time and it is very easy for the boards to stall negotiations until after a budget is adopted and a set figure has been locked into the budget, so that after that election no real bargaining can take place between the two parties because that figure has already been established. This is another instance where the teachers are at a distinct disadvantage at the bargaining table. Thank you.

ASSEMBLYMAN DENNIS: Just as a point of information, on contracts, are they one-year contracts as a rule? Are most of the contracts throughout the State one-year, two-year or three-year contracts?

MR. SCHULZKI: They vary. I think recently most of them have been one-year contracts.

ASSEMBLYMAN BLACK: Thank you very much, sir.

Mr. Don MacDonald, Woodbridge Township Board of Education.

(no response)

Mrs. Ann Whitehead, Essex-Fells Board of Education.

M R S. A N N W H I T E H E A D: Chairman Black and members of the Assembly Committee on Revision and Amendment of Laws; Thank you for giving me an opportunity to speak to you today in regard to Assembly bill 521.

I am Mrs. Ann Whitehead, President of the Essex-Fells Board of Education. Our district offers, in my opinion, the finest educational experience possible today to our 329 pupils from kindergarten through 6th grade. I also believe that we owe this superb quality of education in large measure to our highly skilled and dedicated teaching staff, some of whom have been with us for well over 20 years. In fact, they are now teaching second generation pupils from the same family.

We parents in Essex-Fells, like most parents throughout the State, care more about our children's future than anything else in our lives. For this reason we cooperate in every way possible with our children's teachers. I believe our teachers care nearly as much as we do about our children's educational preparation and, in turn, we care about fair and just salaries and working conditions for our teachers as much as they do. We

need them and they need us. Because our goals are the same, and because we work together to achieve them, our children receive an eminently thorough and efficient education, and Essex-Fells School is a good place to teach.

Some arguments have been presented here to the effect that a few days of school deferred until later by a teachers strike probably would not seriously affect the education of pupils. Analogy has been made between interruption of school by a strike and interruption of school for reasons of bad weather or sickness, also summer vacation. Reasons of bad weather and sickness certainly could be termed acts of God. Now, I cannot imagine a good teacher saying that interrupting a student's organized educational plan for any reason is not an important matter. I know how we feel about this in our district, and I urge you and invite all of you gentlemen to come and visit us any time. You will see when you come how vital the orderly day-by-day progression of the educational process is to our children; that's why we get what we do. Each day lost for any reason is eminently serious and if there were a way to avoid any interruption caused by acts of God, we would do so. In addition, weather or illness interruptions are normally very brief. No statement as to length of strike is made at the outset of one, instead confusion reigns and anger erupts in the homes of those affected.

I know our teachers do not want to strike, and I do not believe that any dedicated professional teacher in our State will tell you he wants to strike. Now there are over 1,480,000 pupils in New Jersey's public schools today. And where in Assembly bill 521 is there a provision for the rights of these students in case of a strike? Or their parents' rights? Or taxpayers' rights? I plead with you, gentlemen, do not lead us down the path of confrontation, the path of A-521. Consider instead the provisions of Assembly bill 1123 regarding "fair and final offer." Consider, instead, any and all alternatives to teachers strikes. Help us foster greater cooperation among all parties involved in education. But remember that the most important party in education is not the board of education, is not the parents, is not the taxpayers, is not the teachers; it

is the students. Our children are counting on you to nourish their future. Thank you.

ASSEMBLYMAN BLACK: Thank you very much.

Assemblyman Sinsimer?

ASSEMBLYMAN SINSIMER: Mrs. Whitehead, you are calling our attention to the provisions of Assembly bill 1123 regarding "fair and final offer"?

MRS. WHITEHEAD: Yes.

ASSEMBLYMAN SINSIMER: Now I have read that bill and it provides that the teachers or the teachers organization and the board both submit a written offer to one another and if an impasse is reached then a third party decides which offer shall be the one chosen. Now in your estimation which offer would be the fair offer, the one submitted by the teachers or the one submitted by the board of education?

MRS. WHITEHEAD: Well, Assemblyman Sinsimer, I think that, as with any matter of this nature, you would really have to know what both offers were. I couldn't answer that in a blanket manner and I can't imagine that anyone could.

ASSEMBLYMAN SINSIMER: But at any rate, a third party could choose either solution, right?

MRS. WHITEHEAD: That is in the provision of Assembly bill 1123.

ASSEMBLYMAN SINSIMER: So then either solution could be the fair and final offer, right?

MRS. WHITEHEAD: That is what Assembly bill 1123 states.

ASSEMBLYMAN SINSIMER: Even though either solution might be completely contrary to the other one?

MRS. WHITEHEAD: I understand that that could be so.

ASSEMBLYMAN BLACK: Any further questions?

(no questions)

Thank you very much, Mrs. Whitehead.

Mr. James Whitney, Hanover Park.

(no response)

Mr. George Nucera, Belleville Education Association.

(no response)

Mr. Max Kletter, Nutley Education Association.

(no response)

Mr. Robert Neff, Verona Education Association.

ASSEMBLYMAN DENNIS: Mr. Chairman, I believe last week all of these people from Essex County had about two or three car loads and I don't believe they came down today.

ASSEMBLYMAN BLACK: I'll run through just in case.

Miss Florence Mallinson, Newark Education Association.

(no response)

Mr. David McClure, West Essex Education Association.

(no response)

Mr. Ralph Mazzocchi, Essex County Education Association.

(no response)

Mrs. Pauline Colangelo, Trenton Education Association.

(no response)

Ms. Georgia Gibson, Edgewood Education Association.

M S. G E O R G I A G I B S O N: Assemblyman Black, members of the Revision and Amendment of Laws Committee, I'd like to answer the gentleman from Willingboro before I give my written statement. I would like to know what would have happened if Pasteur, Lister or Semmelweis had accepted the status quo of medicine when they entered the profession a few hundred years ago, where we would be today. I think the same analogy applies to education as it is today. We all know about the one-room school house and the school master with the switch. I think we have come a long way since then and it is because of dedicated professionals.

I am Georgia Gibson a member of the Lower Camden County Regional Education Association, a single parent with responsibilities and also a taxpayer in the local municipality. I come before you today to ask for an in-depth consideration and deliberation as to why I feel A-521 is another step in the right direction for educational progress.

As a social institution, education is expected to do more and more. For whatever the reason, higher expectations on the part of the public, the abrogation of responsibilities by the other institutions, the responsibilities of educators seem to

include anything and everything which can be subsumed under the rubric of cognitive, effective and motor development. In addition to the traditional three r's public school educators are being held responsible, functionally speaking, for effective baby sitting, good mental health of pupils, control of drug abuse, successful post-school vocational and social adjustments, love of country, etc. It seems that if educators are to assume these responsibilities society should be prepared to allocate sufficient authority and resources, both human and fiscal, in the same way it has responded to past medical and welfare needs.

However, before such expectations can become a reality, a number of problems must be solved. Chapter 303 of the Public Laws of 1968 is the first step in the right direction but the monopolistic privileges of the boards of education were not to be challenged by anyone, especially teachers.

Accountability refers to all facets of education and, as such, teachers accept the concept. Through good faith negotiations teachers will be able to insure equitable class size, institute instructional councils, curriculum development, remedial programs, in-service programs, and set up structure for interdisciplinary cooperation and coordination. But, alas, too many boards of education decided that these items are not negotiable. Their teachers are to have nothing to say about the institution of learning to which they are responsible.

It appears to be assumed by many boards that the four years of preparation and continued graduate work does not prepare one to be cognative of what constitutes good educational practice. For over one hundred years to be a dedicated teacher meant servitude to the educational establishment. But I submit to you, it has relegated education to a level of mediocrity we are no longer willing to abide by.

Can you fathom to its fullest the traumatic effect suffered when knowingly a person defies an injunctinn because it is the only recourse left to gain the rights guaranteed by P.L. 303?

A-521 is necessary. Teachers have a constitutional right to the same due process granted to every other citizen in this State. If boards of education and other factors opposing A-521

are complying with the law. why are they so afraid of it? As a member of the NJEA Executive Committee, I represent 5,000 teachers in Camden County and I would like to say that although board members have mandatory membership within their association, as a teacher my membership is completely voluntary. So I am not only paying my own dues, I am paying the board dues out of my taxes. And as far as our dues are concerned and budget, gentlemen, the average teacher pays \$4.20 per month for dues to the association which gives us approximately a three and one-half million budget. Along with this budget, negotiations is a very, very, minor part. We have an instructional unit, we have a research library and, of course, all of our employees. And I think one of the major innovations within the past few years is our human relations council. The gentleman from Metuchen was here this morning and knows some of the work that we do there. Down in Asbury Park and up in the forest two of our staff members met for six days with the students from Metuchen, parents, teachers and board members, developing human relations guide lines. Now this has happened in other places also with many of our urban districts, bringing teachers, pupils and parents together.

I would like to say that teachers are willing to give their pupils and the public the accountability they are seeking and all we are asking is, will you, the legislators, give us the necessary tools in A-521 to do the job we have been highly trained for?

Thank you for your attention.

ASSEMBLYMAN BLACK: Are there any questions?

I'd just like to make a statement. Along with the list of duties, if I had my way, I'd like to make you the Monday through Friday religious instructor also but I haven't been successful for lo these past five years. Thank you.

MS. GIBSON: It could be arranged occasionally.

ASSEMBLYMAN BLACK: Mr. Michael Truss, Clark Board of Education.

M I C H A E L T R U S S: I am wondering if there is any more left to say.

Mr. Chairman and distinguished members of the Legislative Committee on Revision and Amendment of Law, I am Michael Truss, Board member in Clark.

Clark is located in Union County and has a population of approximately 19,000 people.

The Clark Board of Education naturally is opposed to Bill 521 on the grounds that it will encourage disruption of the educational system which we are charged by the State to conduct in an efficient and effective manner.

We find this bill has not been properly, seriously and sufficiently researched for the important task it is earmarked to perform in the public sector of employment in the State of New Jersey. Specifically, this bill does not provide the courts with sufficient guidelines and criteria to expedite the reasonableness for the right to strike by public employees.

Public employees could conceivably begin their strike with any issue, at any time, and for any number of times during the year, because in the bill it says, "nothing in the act or in any state law of New Jersey shall be construed to interfere with, impede, diminish the right, . . . to engage in a strike . . . involving terms and conditions of employment."

Lack of clarification of terms and conditions of employment further hampers judicial judgments when weighing reasonableness of the right to strike.

Nothing in the bill provides guidelines to help resolve the problems which created the bill in the first place. What happens at impasse during negotiations? Striking does not create solutions; it creates distasteful polarization.

Nothing in the bill would prevent secondary boycott from happening -- Teachers striking would generate cutting off other services: fuel, shipment of food, school supplies and equipment, possibly bussing of handicapped children in addition to regular students, and curtailment of refuse collection.

The burden of investigation within a time limit - which the bill does not determine - will further hamper a reportedly overburdened court system.

This bill encourages capricious strike activity - no question. The strike poses no economic threat or hardship to public employees. The burden of the hardship is clearly with the student, his parents, and other taxpayers who will be asked to cover the costs of the strike.

This bill vacates all fines and penalties imposed on public employees violating any court order restraining temporary or permanent injunction placed against the violators.

This kind of legislation does not create respect for law. There are no incentives to obey the law; fines and penalties are meaningless.

If the fines and penalties are vacated for public employees, then this act is in gross violation of equal opportunity for private sector employees.

This bill does not serve the public welfare.

The public, as we on the Board of Education, fear the loss of time children experience in their educational development during strikes. This is a prime consideration.

The public fears the physical and property damage that may result, the loss of confidence in their school system and more importantly in the employees at their schools. The Newark teachers' strike proved this last point when parents blocked the school doors to prevent striking teachers from entering - because of a number of reasons, among which were the use of foul language, defying the law, emotionalism in public.

The public fears teachers will be against teachers, thus destroying what cooperation and morale developed in the past will be hard to come by in the future.

After any strike, private industry can pass on their added costs to the consumer who has the right to select and determine if he desires to purchase the product or services of any private industry. . . the public schools do not have this

right of passing on the cost to a discriminating consumer.

The consumer in the public sector must absorb any and all costs involved, including costs incurred by any extra services provided by the local police, by the county police cooperative force, by emergency health units, by partial and full idleness of other non-striking employees (cafeteria workers and aides, principals, coordinators, chairmen, department heads, supervisor staff members, psychologist, helping team members, and others), let alone the payment to top administrators for doing work on the strike rather than on the curriculum where they should be working.

The public knows they must pay for costs incurred, no matter what the outcome on either side, therefore, stretching and possibly bankrupting the school system or the means of acquiring the funds for providing a good education for youngsters.

This bill does not consider the many legal privileges and protections built in by law for the public employees and not found in the private employment sector.

Public employees enjoy the protection of tenure benefits, increment benefits, sick leave benefits, pension and annuity benefits and all the others, which is not 100 per cent true of the private sector employees.

This bill should be a "trade-off" in light of the many irrevocable privileges and practices enjoyed by public employees. This bill is not "fair play" but "foul play" .. to children, to taxpayers, to boards of education, and to the people of the State of New Jersey.

This bill will place undue pressure and force upon all boards who experience teacher demands through strikes.

In order to return children back to the classroom, the attitude of "give employees what they want," will prevail. This will be real, costly, and hopefully in the future will not bankrupt the public school service as we know it today.

This bill implies that Public Laws of 1968, Chapter 303, is not working - it is.

Current laws do basically provide the machinery to

resolve terms and conditions of employment in the public sector - and they are being improved upon each year, particularly with the new amendments currently introduced in bill form in the Legislature. We do not have to resort to primitive means of settling our differences by striking . . . or through job actions.

Perhaps Bill A 521 is arriving on the scene too early; we haven't given Chapter 303 time to work out its kinks. New Jersey Education Association President Warren C. Cummings said it is an "excellent law," that it was on its way, through new amendments to solve "unfair labor practices." I agree. This is true. I feel it will give public employees equality, which we all seek, at the bargaining table. The Public Employment Relations Commission will now have the power beyond fact-finding to equitably arrive at a binding decision that will be enforced on both sides, something that we are looking for.

We agree, some boards of education do not negotiate in good faith, and, equally true, some teacher units do not negotiate in good faith. The people of New Jersey need orderly and functioning services. Chapter 303 does provide this and is in the right direction. But what we need is more time and effort to research this so that we can come up with an equitable solution for both sides.

Assembly Bill 521 is not a balanced weight in fair play. It would be just the opposite in reality. Boards of education would have no recourse whatsoever to act beyond meeting reasonable demands of the public employees. In many instances, strikers' greed would supersede the board's ability to pay and the strike could continue until demands are met.

Chapter 303 has resolved approximately 90 per cent of the cases brought before it and through its process, a very impressive figure in the field of negotiations. What is needed is effort and concentrated energies to improve this law in helping the other 10 per cent.

Assembly Bill 521 is a big stick representing the 10 per cent of unresolved cases. Legislators, savoring this bill, are using this stick to poke at an organized beehive, stirring up more problems than solving.

This bill, if enacted into law, will affect many other areas of concern to the public.

Without question, bargaining strength of the school board's negotiation team will be permanently damaged. The teachers now hold the big stick, the strike threat. It is now in the other hand, as we have been hearing all day today and the other time we testified, Chapter 303 now becomes diluted, if not meaningless.

Also potentially good quality men and women who today serve and are willing to provide their time and effort as you have heard today on boards of education will not come forward to serve when we have strikes.

Thank you.

ASSEMBLYMAN BLACK: Thank you very much, Are there any questions?

ASSEMBLYMAN PELLECCCHIA: Mr. Chairman, you know I have really restrained myself all afternoon. I have been very still and I think it wouldn't be fair if I were to ask Mr. Truss questions I might have asked the other speakers. But I note one thing and I am wondering whether it is an error on your part or on my part.

On top of page 2, paragraph one, you refer to secondary boycott.

MR. TRUSS: Yes.

ASSEMBLYMAN PELLECCCHIA: Are you familiar with the National Labor Relations Board Act of 1947?

MR. TRUSS: No, I am not familiar with the act itself.

ASSEMBLYMAN PELLECCCHIA: Under that act, there is no secondary boycott allowed, no matter whether it is the private sector or the public sector.

MR. TRUSS: I stand corrected.

ASSEMBLYMAN PELLECCCHIA: No other questions.

ASSEMBLYMAN BLACK: Thank you very much.
Mr. Sal Rainone.

S A L R A I N O N E: Assemblyman Black and members of the Revision and Amendment of Laws Committee: I am Sal Rainone, President of the Teaneck Teachers Association, an affiliate of the Bergen County Education Association, NJEA and NEA.

For the record, I am a teacher who lost substitute's pay on May 3rd and a full day's pay today for the sake of appearing here.

I represent approximately four hundred concerned citizens who also happen to be public employees. We support A 521, not because we perceive the bill as serving us as a special group, but because we see it passing the ultimate test of all good legislation in that it will truly serve the general public interest.

We do not believe that the unfair labor practices flagrantly exercised by many public employers, about which we have heard so much here, set an example that is in the public interest. Nor do we believe that the waste of taxpayer money in the unnecessarily prolonged negotiations that result when boards of education feel no real compulsion to bargain in good faith is in the public interest.

We also fail to see how the public benefits when teachers are removed from their classrooms, branded as criminals, and incarcerated after reacting predictably to the imbalance currently present in relations with their employers.

But much more importantly, beyond these obvious complaints that have been registered with you many times during this hearing, are certain basic philosophical questions which have helped determine our position on this bill.

First, does the denial of any right to any segment of the public, even the right to strike, serve the best interests of the public as a whole?

Second, does the denial of due process to anyone, even teachers when boards seek to enjoin them from striking, serve the over-all best interests of the people?

Gentlemen, the position of the Teaneck Teachers Association on these questions is firm and clear-cut. We contend that injustices and inequities levied upon any subgroup, whether identified by race, religion, sex, age, or the sector in which they work, will erode the foundations of a democratic society. We strongly believe that in a democracy it is foremost in the interest of the people to have equity in all areas, even in public employment, at the negotiating table, on the picket line, and before the bar.

We assert that true equality and full justice are more important in the long run for our State and our Nation than uninterrupted public service.

From this position, we urge release and passage of A 521. Thank you.

ASSEMBLYMAN BLACK: Any questions, gentlemen? (No questions.) Thank you very much.

Miss Carol Poole? (Not present.)

Mrs. Audrey Dittman?

A U D R E Y D I T T M A N: Mr. Chairman and Committee members, I am Mrs. Audrey Dittman and I represent the Bridgewater-Raritan Board of Education.

Bridgewater and Raritan are suburban communities. We have in our school system 11,000 students and 620 teachers.

While I am here today speaking as a representative of that Board, I would like to mention that last year I served as President of the County Boards, 22 of them in Somerset County. Also I am an Alternate Member of the Board of Directors of the New Jersey School Boards Association and next year I am to be one of the Directors.

To give you a little more of my background and my thinking on this, I am Past President of four PTA's and two PTA councils. I am the mother of five children, all of whom are receiving wonderful education in our school system. I happen to be the wife of the Deputy Mayor of Bridgewater

and I am a former school teacher. I taught school for seven years. I am not teaching at the present time.

I would like to add one more thing in the way of my background here. This past year I served as Chairman of what we refer to as an Educational Council. Now this is a group that is composed of five teachers, the Superintendent of Schools, two Board Members, and two principals. We sit around the table once a month and discuss mutual problems. Many things we have solved in this manner and I have a lot of faith in discussing things, trying to arrive at a decision that way. Some of the things that have been brought to the attention of the Educational Council are guidance counsellors, how they may be used more effectively; a block plan proposal that is used in the secondary schools; teacher evaluation; grading system; even class size has been discussed there; and a summer professional program for teachers.

I think with one exception everything that has been discussed there and has been carried as a recommendation to the board, the board has gone along with the recommendations of the Educational Council. I would just like you to keep that in mind while I make my other comments here.

We used to be a board that came out with a nine to zero vote. Recently we have found that our votes come out more like a five-to-four vote. But this vote against A 521 is a unanimous feeling of the board.

I would like to read the statement that was prepared for you last week, and many of these things, of course, are just repetition. But this is what the board has authorized me to say. This is for the most part their wording. I took excerpts from their comments from the minutes at the time that we passed this resolution.

(Reading)

The Board of Education of the Bridgewater-Raritan Regional School District, in Somerset County, at a regular meeting held February 22, 1972, passed a resolution supporting the New Jersey School Boards Association's position which is to oppose A 521,

which, if passed, would legalize public employees' strikes.

The greatest concern of the Board members was the effect that the teachers' strikes would have on the school children. Children's education would be jeopardized while the teachers are in the process of striking in order to attain for themselves higher salaries and greater benefits.

The Board members of Bridgewater-Raritan feel that it is immoral for professional teachers to use the children as pawns. We also feel that for our legislators to enact legislation legalizing teacher strikes would be a travesty of justice.

These are quotes taken from the minutes, as I said. There are quite a few of the Board members who feel while it is very unfair for the teachers to have the right to strike, which would in essence be the teachers holding the club over the heads of the board members, that there should be some recourse for the board members. And this would probably end up one of our famous five-four votes.

We do feel that the youngsters do look up to the teachers. This goes without saying. They should - they are fine people. Some of them, they identify with. When the youngsters see the teachers striking, their first thought when they do not like something, perhaps the lunch program - who knows? - all right, we don't like it - let's strike. They would just assume this from the attitudes of the ones whom they respect.

Also we would wonder - many times there are youngsters who are insecure who are able to identify with a certain teacher. They feel that their teacher is their friend. I just wonder what some youngster might feel who knows that his teacher cares more about striking for his own salary than continuing his education.

I would like to propose what was proposed just a few minutes ago here. I would like to reiterate what that woman Board member said. Some of us feel that the teachers should have some recourse in cases of unsatisfactory negotiations.

It should be pointed out that at the New Jersey School Boards Association's Delegate Assembly last December that what is called a "fair and final offer" proposal was approved and is now being drafted for submission to the New Jersey Legislature as an amendment to Chapter 303, the Public Employer-Employee Relations Act.

The "fair and final offer" procedure would permit a neutral fact-finder appointed by the Public Employment Relations Commission to recommend a final offer chosen from one of the disputing parties. In effect, such legislation would tend to make both parties modify their final offers to correspond more closely.

Some of us feel that this "fair and final offer" legislation perhaps could be the answer. It would make teachers' strikes absolutely unnecessary.

I would just like to add incidentally that recently when I was accompanying my daughter to various universities - our third daughter - to make a choice of colleges, we were in Pittsburgh, Pennsylvania. I seized an opportunity then to go to the attorney for the Pittsburgh Board of Education to talk with him about their strike law and to find out about the number of strikes and just talk the whole situation over with him. I spent about an hour with him. And I came away from there feeling that this perhaps wasn't the answer because they had had over 60 strikes in Pennsylvania, not in Pittsburgh because they were on a two-year contract there. But it didn't seem to me that this was the best way.

I am a very strong advocate of this "fair and final offer."

ASSEMBLYMAN BLACK: Thank you very much. Are there any questions? (No questions.) Thank you.

Barbara Mulhern. Is Barbara Mulhern here?

B A R B A R A M U L H E R N: Assemblyman Black and members of the Committee, I am Barbara Mulhern, Board of Education, Glen Ridge, County of Essex, and I am speaking as the Board's Legislative Representative.

In my printed statement, I speak on the first page of our own Board's relations with our Education Association in relation to Public Law 303. I am not going to read all that now in the interest of brevity.

(Portion of Mrs. Mulhern's statement which she did not read can be found beginning on page 74 A.)

Our appearance here is not predicated by any special need in our community, but by what we feel are the best interests of the larger community, the entire state. The Glen Ridge Board of Education recognizes the need for amendment to Public Law 303 for situations where recalcitrance and stubbornness on both sides have precluded any means of settlement in a labor dispute, but we strongly oppose passage of this amendment to the law which will guarantee absolutely the right of public employees to strike.

By definition, a public employee works for the public good. He has taken his job because of some sense of dedication to persons whom he serves. We have seen the results of failure to do so across the Hudson when 80-odd bridge tenders walked away from their jobs, leaving their bridges open and completely disrupting motor transportation into Manhattan. The largest mass transportation system in the world can come to a grinding halt because of 1400 motormen. Somewhere along the way, we seem to have forgotten that public employment, as well as public service, is a public trust.

Furthermore, passage of A 521 will put the public employer in an untenable position for two reasons. It is he who has been charged with providing the service. Be it a municipality providing police or fire protection, or a school board providing education, the public employer must continue to provide his service. At no time may he do as the factory owner might, and discontinue production. For this reason, strikes by public employees are, in our opinion, a form of blackmail. Teachers will have to earn more than policemen, who must earn more than firemen, who must then earn more than the sanitation men, etc., in a possibly endless succession

of disruption of public services, with the taxpayer paying more and more in a continuing spiral of higher costs. In addition, because of the nature of the associations which represent most of our public employees, there is a chain reaction in any one of these fields which assures us that if, for instance, the teachers in a relatively affluent community settle for a high salary guide, that same guide will be demanded by teachers in a neighboring poorer district, even though those teachers are fully aware that the latter district has not the funds to support such a guide. Once again, the right to strike could lead to an endless succession of school strikes, and yet the children must go to school.

Passage of A 521 will put the public employer in an impossible position for another reason: Should this bill be passed, any and all public employees could strike at will and leave with the public employer the burden of proof that such a strike would endanger public health or safety or that no reasonable effort had been made to resolve an impasse in negotiations. This would require endless expensive and time-consuming court appearances. Surely the public interest will not be served by such a procedure.

Although A 521 putatively applies to all public employees, it seems obvious to us that it was specifically created for teachers, since it contains provisions to exculpate persons who have in the past engaged in illegal strikes.

There are few, if any, persons in either the public or private domain who have the benefits guaranteed by state law, that are already held by public school teachers: They have job security provided by stringent tenure laws; they have non-reducible salaries, automatic increases up to 16, 17, 18 or even more years of service; they are provided additional automatic increases for graduate credits; there is free movement between districts without loss of pension benefits. And with all this, these same teachers are now demanding the right to strike.

They speak of themselves as professionals. Teachers

insist, in all dealings with their employer, the Board of Education, that they be treated as professionals, that they be evaluated as professionals, that they set their hours as professionals, that, as professionals, they be given a free hand in curriculum planning and revision. We find it extremely difficult to view their demand for the right to strike as a professional attitude.

Nowhere have we mentioned those who suffer most in the event of any strike of public employees. Historically, in a strike of public employees, it is the innocent who suffer. In Montreal the police walked out, leaving the community unprotected with devastating results. Recently, in New York, the employees at state mental hospitals walked out, leaving mentally retarded patients to fend for themselves. If teachers walk off their jobs, countless children will lose precious days and weeks of their education. It has been said that a strike of teachers would not endanger the public health or safety. This is not entirely true. In special education, such as the education of the handicapped, the mentally retarded or the emotionally disturbed, there is an extremely sensitive on-going relationship between the teacher and the child. This relationship requires weeks to develop and should not be broken by a process that could be lengthy and disruptive. Because these children do not recoup lost time as readily as normal children, any unplanned break is more than unfortunate. It is tragic. At no time in history have we had more children to educate and more problems in so doing. The boards of education need the assurance that the teachers will be present to get their jobs done.

The six hundred three local boards of education in New Jersey are charged by the State to provide a thorough and efficient school system. This charge is founded in law. How then, can this State's legislative body pass a law directly opposing the original mandate?

We submit that, as intelligent human beings, we should be able to find a better way to settle differences between

parties than that which is proposed in this legislation, the right to strike. For this reason, the Glen Ridge Board of Education opposes passage of this bill.

ASSEMBLYMAN BLACK: Thank you very much. Any questions?

ASSEMBLYMAN SINSIMER: I have one. Mrs. Mulhern, in referring to the endangerment of public health or safety, you said if a teacher whose purpose was to educate the handicapped went on strike, it would cause some endangerment to health and safety. Suppose an Education Association were to go on strike with the proviso that the teachers of the handicapped would remain on the job. Would you then object to the teachers' right to strike?

MRS. MULHERN: Our Board would object to any teacher striking. We object to all teachers striking. It would be particularly tragic for the handicapped or emotionally disturbed.

ASSEMBLYMAN SINSIMER: Glen Ridge is a relatively affluent community?

MRS. MULHERN: Yes.

ASSEMBLYMAN SINSIMER: Would you say that the salary scale, the salary guide, as you call it, is generally higher in Glen Ridge than it is in other areas of Passaic?

MRS. MULHERN: I can't answer exactly where we stand at the present time. We are relatively high in our county, median possibly. A year ago we were median. I think we are a little above that now.

ASSEMBLYMAN SINSIMER: You said the law would guarantee absolutely the right of public employees to strike. You do understand there are certain steps in the law that lead to a strike. The strike does not occur first.

MRS. MULHERN: As I read this, I believe that a public employee could strike and the burden of proof of whether the two provisions have been taken care of would be up to the employer and not the employee.

ASSEMBLYMAN BLACK: Thank you very much.

Ladies and gentlemen, we now reach the point where we can take up items for arbitration. It is four o'clock.

I indicated earlier this morning that we planned to terminate at four and I have thirteen people who have indicated they wish to testify. And we have, I am sorry to say, a quasi-legislative obligation to attend a function in Newark this evening. When I say "we," I am talking about the entire Legislature. I am going to release my Committee members at this point to leave at their discretion.

I would first like to determine, however, how many of the people who wish to testify have prepared statements. Could I see a show of hands? Now, of course, you realize that we can take the prepared statements and they will go in the record. The question now is: Do you wish to come back to Trenton for a third session? That would probably be on Wednesday, the week after next, on the 24th of May. How many would be interested in doing that? (Show of hands.)

I would like to call a one-minute recess so that you can determine in your own minds whether or not you would like to come back for a third session the Wednesday following next. We have tentatively set up that day. But I will say this, I am not sure how many of the legislators can be here at that time. To be quite honest with you, I am not even sure that I can be here at that time at this point.

(Short Recess)

ASSEMBLYMAN BLACK: We appreciate the tentative agreement. I believe I would like to see a show of hands of those who wish to give statements verbally, other than these four names: Charles Stubblefield, Jean Aires, Dorothy Johnson and Kathleen Pietrunti. Can I see a show of hands of those other than the names I mentioned who wish to give statements?

(Four people so indicate.)

We can continue if the statements will be limited to five minutes. If anyone has serious objection to that, we can terminate now and come back on Wednesday, the 24th of May. If no one has any objection, we will proceed. The other members of the Committee have to travel a lot further than I do on this particular day and they are going to be leaving.

I wish to thank them all for their turnout. It is extremely comforting and encouraging to a Chairman to see this interest expressed by members of his Committee.

I will call first Mr. Charles Stubblefield.

C H A R L E S S T U B B L E F I E L D: My name is Charles Stubblefield. I am President of the Trenton Education Association, NJEA and NEA.

Mr. Chairman, first I would like to say thank you very much for remaining to hear the things that some of us have to say with reference to A 521.

I would like to do two things: Number one, I have a prepared statement, a very short one, that I would like to read. Number two, I would like to speak to two points that have been made this morning with reference to the fact that teachers strike only for money and that we are not concerned with the entire student population, if I may. Thank you very much.

This day has been a very long time coming and I am overjoyed to be a part of the Welcome Committee. As a matter of fact, I consider it an honor and a privilege to be involved in this struggle, which I believe is a very important additive to quality education, not just in the State of New Jersey but throughout the country.

As a member of the negotiating team of the Trenton Education Association for the past three years, I consider myself qualified to speak to the issue, Bill A 521. It is my opinion that all public employees should have the right to strike and Bill A 521 would give this privilege. It is my opinion that public employees must have the right to strike if the intent of the Legislature is to have all parties approach the bargaining table as equals.

I feel the passing of Bill A 521 will decrease the number of strikes, thus bringing about more and quicker solutions at the bargaining table. The passage of this bill would make it clear to everyone involved, that the responsibility of a solution rests solely on the shoulders of the persons

sitting at the bargaining table. To do this, honesty and sincerity of purpose must be placed on the table and local politics removed from the table.

As a member of the Trenton Education Association Negotiating Team, I have had the unpleasant opportunity of watching the local board stall, refuse to discuss the issues, and even state what the solution should be - "Take it or leave it." My question here is this: "Is this true collective bargaining?"

In conclusion, I would like to say I sincerely believe this bill, A 521, is the answer to the ills of collective bargaining.

Mr. Chairman, this ends the prepared statement.

The two issues that I would like to speak to now are as follows: As I said before, I have heard it said here many times that we strike only for money and we are not concerned about the entire population of our schools. This I take issue to and I would like to use as a vehicle a situation that existed in Trenton a couple of years ago with which I think many of you here are familiar, and I am speaking about the eight-day strike in the city.

First, I would like to say this, that that strike was built around the following issues. And I might underscore that it was not salaries. The strike was built around class size, number one. And I want to say here that this coming Friday, the Association will go in court, asking that the local board live up to its agreement made during that same year with reference to class size. That is this coming Friday. The second issue was special facilities because we felt that in our student population there are students who need special help - there are students who cannot cope with the regular curriculum and there needs to be special arrangements made. So special facilities was one. Auxiliary personnel was another, and this would go along with the special facilities. Another was preparation periods. I don't think any of us here feel that we can do anything without time

for preparation to do a good job of it. I think if teachers are expected to do the job, there should be time for preparation. Another item was professional development and educational improvement, text books and instructional materials. These were the items which we went on strike for, not salaries.

I might say this also, something along the lines that started the strike: That year I was Chairman of the Negotiating Team. We had tried for several months to reach some conclusion and three days before the strike, we were told -- We had talked about everything except money because we felt that this year in particular we had polled the teachers in the City of Trenton, of which there are approximately 900, and we felt very sure that money was not the issue; class size and the issues I just mentioned were. We were unable to reach an agreement. We had gone home one night after working all day. I was called about twelve o'clock by a member of the board and told that they would like to have the Negotiating Team meet them at the high school and felt some progress could be made. I was elated. I called the other members of the team and we met the board there. We remained there until about five the next morning and we weren't able to move because the board had decided that they wanted to talk about salaries because they felt if there could be an agreement on salaries the other issues wouldn't matter. This we did not feel and, of course, nothing could be done. As a result of that, we were told, "O.K., to hit the bricks," and the next morning we did.

This is what I want to bring out here. I am sure you are aware of the fact we have had only two strikes in the city in the history of Trenton - one, a one-day strike; the other, an eight-day strike. I was a part of the team on both of those strikes. And I can say in neither case was the issue salaries, especially not the one that happened two years ago.

I would like to point out again that these were the things that caused that strike: class size, special facilities,

auxiliary personnel, preparation periods, professional development, text books and instructional materials. Those were the issues. Thank you very much.

ASSEMBLYMAN BLACK: Thank you, sir.

Joseph V. Piskorowski.

J O S E P H V. P I S K O R O W S K I: Mr. Chairman, I am Joseph Piskorowski, Vice President of the Lawrence Township Board of Education.

I requested that I make a verbal statement here, although I am submitting a written, prepared statement, because I feel there is a point here that hasn't really been touched on today and I would like to say it for all to hear.

Boards of education are governing bodies elected by the people to represent the people as a whole. If a particular group of "public servants" were to engage in a power struggle with a governing body and force its will upon that body, the governing body becomes a government, not of the people, but of pressure groups. This must not be permitted to happen. Government must rest with the people as a whole, through those whom the people have elected to exercise their will.

Thank you. That's my point.

(Complete statement submitted by Mr. Piskorowski can be found beginning on page 76 A.)

ASSEMBLYMAN BLACK: Thank you, sir.

Jean Aires.

R O S E M A R I E M A C C I A: Assemblyman Black and members of the Revision and Amendment of Laws Committee, I am Rose Marie Maccia, a member of the Education Association of Passaic. The other prepared statements by the people from Passaic have been submitted to the recorder.

"With liberty and justice for all" - except teachers! Is that the way the flag salute should read in New Jersey? Confessed murderers, drunkards, dope addicts, rapists, pushers, to mention only a few, receive suspended sentences for first offenses. Firemen, policemen, mailmen and transit workers

are warned, but teachers, those villains of society, are sent to jail for their "crimes" which consist of efforts to raise the standards of their profession.

At this moment, gentlemen, six of my colleagues - Nick D'Agostino, Irv Goldstone, Rachel Prather, Audrey Thalsheimer, Paula Lockwood and Manlio Boverini - are serving jail sentences of from 30 to 90 days. Unless you personally witness this depravity, you cannot fully comprehend its meaning. What did these six do? Well briefly, they were either elected officers and/or members of the negotiating team when our entire local association, was forced because of bad faith negotiations by our Board of Education, to go out on strike.

As you well know, they are not in jail because of striking per se but rather because they were named by the Board or its representative in a Court Order, obtained without any sort of hearing, enjoining the strike to end. The issue of the Court Order was not the first nor the last involving teachers in a similar situation. (However all do not go to jail similarly.)

The interpretation of this violation is at present entirely dependent upon one person, the presiding judge. Hence sentences have varied greatly and to me this means discrimination. The only fair way to correct this situation is through A521.

The passage of A521 will also give us, (what is guaranteed by the 14th Amendment,) due process; providing for a hearing before an injunction may be issued. This point, I feel, is often overlooked in all the rhetoric about "right to strike". We are not seeking a blank check to close schools

or suspend other services at will, but rather an opportunity to have our day in Court. Please remember, an injunction can and will be issued if the employee groups have not followed the clearly stated procedures of A520 or the strike presents a clear and present danger to the public health and safety.

In reality, this bill is a companion bill to A520. Unfortunately, experience had shown us that some Boards of Education do not believe in 303 or in any other legislation that gives teachers the responsibility and right to determine their working conditions and the improvement thereof. So in order for 303 and A520 to function effectively, we must have A521. By the way, by improving their working conditions, teachers improve the learning conditions.

I would like to discuss for a moment, the "victims" of a teachers' strike. It has been implied that the victims are the students; I think not. During a strike, classes are not held but rather postponed. In fact, classroom time interrupted by a strike is much less of a disruption of the learning process than scheduled vacations or student absences. In reality, the 180 day minimum assures the time element.

As for the economics, it is only the teachers, who like all strikers-- public and private, take it on the chin. In fact, the economical clouts of public employees' strikes are injurious only to the strikers. Taxes are still collected, but salaries are not paid.

Since the essence of effect of a public employees strike is not economics, you must be wondering what the real "why" is. Gentlemen, I know from personal experience, it is self-respect. It is the knowledge

that you did not let yourself or your colleagues be bullied and forced into accepting a contract that is demeaning and is an insult to your intelligence and professionalism. It means that you have not succumbed to the bad faith tactics of the Board of Education.

At this point, I would like to read a letter sent by a student to one of our teachers in jail. Many such letters were received by our teachers. It is dated April 20, 1972.

"Dear Miss Prather:

"I am very sorry to have to write you this letter under the circumstances. I think that the jailing of the six Passaic teachers only adds to the downfall of Passaic as a city. If it has not happened already, Judge Simpson will soon realize his mistake. People such as yourself only enlightened the community while lunatics continue to create havoc. It is a shame to lock up six good citizens and it just shows that justice is blind.

"Just last week, our history class was taken to the Municipal Court and I am sure that most people would agree, including Judge Simpson, that when teachers are locked up and drug users are let off with a small fine and a period of probation, something is absolutely wrong,

"I believe that you and the five others have only taken a step in the right direction.

"Sincerely,"

I will withhold his name.

I truly believe, it is a law whose time has come. If, however, after hearing all this testimony, you still cannot see your way clear to releasing this bill for a vote, I suggest you consider writing a new one, one in which to establish "Fair-Play", and remember "turn about is fair play," school board members would be subject to court orders and jailings for failing to negotiate in good faith. Thank you.

ASSEMBLYMAN BLACK: Thank you very much.

Mr. George A. Ostergren, Hillsborough Township Board of Education.

R O N A L D D U F F: Chairman Black and members of the Committee, ladies and gentlemen: I am Ronald Duff, Legislation and Policy Chairman of the Hillsborough Board of Education.

The Hillsborough Board rarely agrees unanimously on anything except the motion to adjourn, but we did manage to agree unanimously to oppose A 521.

Regardless of what has been said about schools being day-care centers - and I do not agree that they are - or baby-sitting services - again, I don't agree that they are - the Board of Education absolutely cannot stand a teachers' strike. They will have to capitulate. That's the only outcome that the Hillsborough Board can see. The citizens in the township or in the local community will force the Board to capitulate. They cannot stand to have their children not going to school. But teachers, as far as I can see, lose nothing. We are required by law to open the schools 180 days a year. If the teachers close them down for 60 days during the regular school year, that means we have to extend the school year 60 days into the summer. The teachers still receive their full year's pay.

The only people that will lose in the case of a teachers' strike will be the children.

We have heard many times that a teachers' strike is the last resort - the teachers will not take job action. In Hillsborough we have what is generally considered to be a good school system, good working conditions with good working relations with the faculty, with the students and with the administrators. We have a good salary scale. We are the second highest in Somerset County. Our benefits include all the regular benefits. In addition, we also have free dental care.

The Board has been and is currently negotiating in good faith with the teachers. But in any organization there

are always a group of malcontents that manage to stir up trouble.

In Hillsborough we had an instance where a student was out of school sick. A teacher promised to administer a make-up test. When the student came back, the teacher refused, saying this was part of the job action.

We had several students ask for help from their teachers after school. The teachers refused, saying, this is part of their job action. All this occurred before impasse was declared. The teachers came to school wearing arm bands and buttons. They told the students that the Board of Education is not providing sufficient money for supplies. Now they did this down to the third grade level, which disturbed the children, and, no need to say, the parents when they went home with these tales. They boycotted all of the home and school association meetings. Again this was all before impasse was declared, while we were still negotiating. They picketed the Board of Education meeting.

I would like to read some brief excerpts from a letter which I will turn over to you from the President of the Hillsborough Teachers Union to the Board of Education. (Reading) "Our first action was the wearing of arm bands and buttons and the boycotting of home and school associations. The hope of the Association was that this action would encourage the Board to reopen negotiations by submitting a written counter proposal. The high school will stop all volunteer programs after 3:10 P.M., such as school clubs, non-contracted programs, free academic tutoring, volunteer chaperoning of extra curricular activities. The actions taken by the Association thus far have been planned not to interfere with the regular school day."

That concludes my testimony. Thank you.

ASSEMBLYMAN BLACK: Thank you very much.

Mrs. Hallaway.

M A R G A R E T H A L L A W A Y: Thank you, Assemblyman Black, for staying. I think the other gentlemen should have given these people the same respect. I feel very bad about it. I know these people have to get home at a certain time too. I know those gentlemen work hard, but I think they should have shown the same respect to the people that are here.

ASSEMBLYMAN BLACK: Let me clarify that point. We had agreed that we would terminate at four o'clock. These gentlemen had made commitments and when you are in the public eye, you are frowned upon for not keeping your commitments. I assumed the responsibility for the Committee and I am going to be frowned upon because I am going to get there late. But I felt it was in the people's interest to complete this if at all possible today. That is the reason they left with my blessing. I am staying because they will not have to vote on the bill until they have had a chance to review the entire minutes of this hearing.

MRS. HALLAWAY: If it was that important, all right, but I still think if they could have stayed, they should have and I think maybe they could have.

ASSEMBLYMAN BLACK: Let me say also it is not uncommon to come to a public hearing in Trenton and find only the Chairman sitting here from the very start. So I think these gentlemen did a tremendous job.

MRS. HALLAWAY: I know they do a tremendous job because working on a bill like this, I think is.

I am a grandmother who has worked in PTA's from the time my daughter started school at 6 until the time she left school, and that was a lot of years. I worked right through the high school years in the PTA. I feel with what I have seen the teachers give in education to my daughter and what they are giving in education to my granddaughter they should be highly respected. I feel very sad that I have to see a calvacade of cars coming down Broad Street in Newark and knowing that these people were put in jail for fighting for

their rights in the 1st and 14th amendments. A judge told me a couple of years ago when I fought for the rights of children and business concerns were wanting to take this right away from me that the 1st and 14th amendments gave a right to every human being in this country. This is why our parents came here. This is why the Hungarian revolutionaries came here - for freedom in America.

I feel these teachers deserve every bit of freedom everyone else has. If my husband who works in a factory can strike, I see no reason why a teacher shouldn't be able to strike if there is no other means of getting what justice demands. They are not asking for the world. They have asked for help for our children and a better educational system for our children. It is very say to see a situation such as existed in my area where there has been a monopoly on the board of education by one man and no one was able to cut into that monopoly and fight for better education and for the teachers. I feel that ought to be worked on a little bit too - no monopoly like that. Because this destroys good education and does not permit the teachers to fight for what they believe would give better education.

I am also here for Bill 520.

ASSEMBLYMAN BLACK: Let me caution you. We can only discuss 521.

MRS. HALLAWAY: All right. Also in my Hudson County area we have a big responsibility to our children and people in our park areas. We have park police working in these areas. They are considered civil service park police. They make a salary of \$6,000 per year. These men are not allowed to fight for their rights. They are not allowed to negotiate in any way. If they were to try to, they are threatened - "Well, we are cutting out all the park police." I think this bill must be passed because this will also help them in being able to fight for their rights. I think if police can have certain advantages in one area and in another area, they are denied the same advantages, it is a very thing.

I favor both these bills, however they work. I am not

versed in this as much as I should be. But I know what is happening in my area. I know what is happening to the teachers and I feel these bills must pass to have better communication and safe and good education for our children. Thank you.

ASSEMBLYMAN BLACK: Thank you very much. Let me state with regard to your park police in Newark, I believe there is a bill in, which would merge the park police with the regular city police of Newark, and this will undoubtedly give them better benefits.

MRS. HALLAWAY: I know that. But I am talking about our Hudson County Park Police, which are now with the county. Will this also work for them? It will not, will it?

ASSEMBLYMAN BLACK: I believe we are talking about all the park police throughout Hudson.

MRS. HALLAWAY: -- throughout New Jersey?

ASSEMBLYMAN BLACK: Yes. Now I say that; I didn't sponsor the bill. I have read it. I am in favor of it. But I can't tell you the full extent because I am not that familiar with it.

MRS. HALLAWAY: I sat in the Senate when this bill was being discussed. Now I didn't understand that it did cover my area. If it didn't cover my area, something else will have to be done because we are going to lose all protection in every one of our county parks in Hudson because they haven't got the right to bargain and protect themselves. Thank you.

ASSEMBLYMAN BLACK: Perhaps if this particular bill doesn't cover them -- I think there are two, one for Newark and one for Hudson -- if it doesn't cover them, perhaps you had better talk to one of your legislators from up there and have them put it in.

MRS. HALLAWAY: I will. Thank you.
Kathleen Pietrunti.

KATHLEEN M. PIETRUNTI: Thank you, Chairman Black, for remaining behind.

My name is Kathleen Pietrunti. I am President of the

Brick Township Education Association in Ocean County.

Although it does serve a great deal of good to discuss the merits of A 521 in a general way, perhaps a more graphic realization of how necessary this legislation is can come from citing two specific instances, both of which concern me personally. As you may realize, I was suspended from my teaching position last September, and am still under that suspension, because of an Orientation Day speech I made which was critical of the superintendent of schools. Needless to say teachers throughout the district were angered and amazed that the Board of Education could take such action; yet in their search for methods to project these feelings, they ran head on into the brick wall of law. A strike, of course, was out of the question, as were less drastic forms of protest, such as slowdowns, picketing and other similar job actions. Teachers knew that should they give healthy ventings to their anger and dismay, they would be stopped by that Board of Education's seemingly divine right for injunctive relief. This was a situation that cried out for some kind of action on the part of teachers who found themselves abused and humiliated through this action against their leader; yet because of the anomaly of our legal proceedings, this anger turned to a frustration that has continued to fester throughout that district. Our teachers believe an injustice has been done and for them to be denied the expressions of dissent common to all other working Americans has undoubtedly left deep psychological wounds on many of them. It stands to reason that such frustration ultimately would adversely affect the level of education in a community that needs the continued fine performance of its educational staff.

I say to you here today that had these teachers been able to briefly withhold their services - or to at least picket or take other effective job actions - that the educational climate in Brick Township would have been far healthier this school year.

A more insidious attack on teachers perhaps is an

action taken by the Brick Board of Education at a public meeting, September 13, 1971, a week after my suspension, in which they passed a resolution stating that teachers engaged in strikes or other "illegal" activities would not only be subject to the penalties under the law but would face dismissal from their jobs. The enormity of this insult both to us as teachers and to you as lawmakers should be apparent. These men have chosen to take the law and twist it for their own purposes. We recognize that under the present system certain job actions will be punished severely by the courts. Whereas we do not agree that this is at all fair or just, we are willing to pay the price that civil disobedience has always paid throughout history. We realize we follow in the footsteps of a man like Thoreau, men who created the early labor unions, the great civil rights workers of the early 1960's and we do not hesitate to face up to the consequences of our protest. But to say that after going to jail we come out and lose our jobs is a gross example of double jeopardy. There is no reason why any teacher should face double punishment for a single act, no reason why Title 18, which so frequently mothered and protected teachers' rights should be used now to do them in. Yet this is exactly what the Brick Board of Education and other Boards of Education are now doing, and I call this a blatant perversion of the essential character of law, that it is administered equally and fairly to all.

And I say, gentlemen, that these abuses that I have just stated to you would be eliminated, or severely curtailed, by the rapid passage of A 521. As has been said before over and over again, teachers do not deserve second-class citizenship, and the legislation before you will certainly eliminate and diminish far more evils than its detractors say it will allegedly create. Thank you.

ASSEMBLYMAN BLACK: Thank you very much.

That was the last speaker that I had on my list. Do I hear an objection? You're right. Dot Johnson, please. You are correct. I turned the sheet over too soon.

D O R O T H Y H. J O H N S O N: Assemblyman Black,
I want to commend you. You have woven your way through a very difficult, highly emotional, sometimes factual, sometimes not factual maze of words. And you are charged with a very serious responsibility. You are charged with picking those words which are truth and those which are said to establish and protect a position.

I would like to identify myself. My name is Mrs. Dorothy H. Johnson. I am a music supervisor in the Borough of Rockaway. I graduated with the first class that gave degrees at Trenton College. I have been teaching for many, many years, quite obviously. I am very deeply involved. I am the legislative chairman for 5,000 teachers of Morris County. I am a member of the State Legislative Committee. I am a member of the Negotiating Team of my local. I have been also active in many other areas. I was appointed by the Superintendent when an Advisory Council was formed. This Advisory Council was charged with studying our school system. I mention this, sir, only to tell you that teachers are not interested in money. I have raised a son alone since his father died when he was six years old. He is now teaching in West Morris Regional High School in Mendham. He has a Master's degree in Political Science, his major thrust being toward the Negro and his position in our society and what can be done educationally and socially to make him an equal citizen.

Are you going to tell this young man that he does not have and does not deserve an equal position before a judge before you open the jail door to him? That is idiocy. Because he will not buy it. He will not accept it. And if it is forced on him, you have lost a very intelligent young man to our profession. Unfortunately, I must tell you that the teachers who are coming in today's world are not used to taking what is given to them with a very kind "thank you." They are going to not only want what they want because they know they deserve it - they know they are educated more so than any other group of people who ever entered the profession - but they are

also going to become completely disillusioned with our process of operating the public schools.

I want to suggest to you also, sir, that the world is changing. The American Medical Association, that very revered group of professionals, took a poll of its members. Sixty-two per cent of the doctors said that because they were not willing to accept the prices that were given to them by the socialized system of medicine which had been instituted under Medicare and some of our other social medical programs, they wanted to form a union. Now this must be indicative of something. This must be indicative that no longer can educated people be under the yoke of - well, it has been said second-class citizenship. That really is almost an insult to us because we are not intellectually nor professionally entitled to second-class citizenship. If anything, we are entitled to a little more than first-class citizenship. If you have not sat in a classroom - if you have not stood in a classroom - excuse me - if you have not operated in a classroom in the last ~~three~~ years, I want to submit to you that you really do not know what this game is all about. The children who come to us today come from highly-disturbed homes. They come from homes where the social evils that have been built up through the last 25 years have suddenly come into flower. And I am ashamed of a Board of Education member that sits in this chair and says to you that a teacher is not entitled to due process because there are two parents working. Doesn't that Board of Education member realize that the reason many kids in today's world are turned off and are working against the establishment is because of the highly materialistic attitudes of their parents. This is a very serious situation and it will not go away.

I implore you as one who is leaving this profession at the end of June, as one who has worked very hard for the children, having spent my own money and my own time in Russia going through the school system, in England, my vacation periods visiting and studying the open classroom, in Paris with the

Minister of Education, in Italy observing schools, to give us equal justice. If you do so, with our dedication and our background, we shall not only produce in this country the finest educational system possible, but we will also do it with self respect and eventually become professionals.
(Applause.)

ASSEMBLYMAN BLACK: Thank you very, very much. I am sorry Lou Applegate isn't here. If I were he, I would talk to you about what you are going to be doing next year instead of terminating your period this year.

I believe that I am now correct in saying that I have covered the list of those who were going to speak. I thank you all for bearing with me. Some of you have been here all day today and some of you all day last Wednesday. This is probably one of the most controversial issues that I have seen come up for public hearing in a good while. I have seen more people here to give testimony at this public hearing than any that I have attended in the past four years. It has been my pleasure to work with you and I appreciate your sincerity and your assistance and your interest in coming down to explain your positions.

If there are no further questions, let the record reflect that the public hearing on Assembly Bill 521 was closed as of 4:50, May 10, 1972. Thank you very much. (Applause)

(Hearing Concluded)

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Rodino asks clemency for 16 Newark teachers

By ROBERT W. MAITLIN
Star-Ledger Washington Bureau

WASHINGTON — Rep. Peter W. Rodino Jr. (D-10th Dist.) has asked Gov. William T. Cahill to grant clemency to 16 Newark school teachers now awaiting jail sentences.

The teachers were sentenced for striking against the Newark Board of Education in 1970.

* * *

In a letter to Cahill, Rodino said that the state could have no interest in seeing the teachers sent to jail.

He said 12 of the 16 teachers have served other sentences for their participation in the strike.

Rodino told the Governor that 186 teachers have already been jailed because of the strike.

The congressman called the arrests one of the largest jailings of people for union activities in the history of the United States.

Rodino said that the teachers' union has been fined \$280,000 and all the teachers now awaiting jail have also been fined.

He said the chief negotiator

for the Board of Education has stated that he did not and could not bargain in good faith.

"This alone creates a doubt as to the wisdom of imposing

additional punishment on these teachers," Rodino said.

"In the light of all that has transpired, surely the interests of justice will not be served by further jailings."

Statement of the Metuchen Board of Education Before
The Assembly Committee on Amendment of the Law

May 3, 1972

Submitted by: Dr. Richard M. Neuberger, Chairman
Committee on Policy and Legislation

Mr. Chairman, members of the committee, assembled speakers.

My name is Richard M. Neuberger, a member of the Metuchen Board of Education. I am here representing the Board, the taxpayers of Metuchen, and myself, to speak in opposition to Assembly bill 521, entitled, "An Act to Amend The New Jersey Employer-Employee Relations Act", Chapter 303.

Yes, we have Chapter 303 and while we are not against the right of any group of employees to organize and bargain collectively, the organizing and bargaining, their rights and privileges should be spelled out in a law better, more explicitly, more completely, and more easily understood than Chapter 303. In fact it should be in a statute that is consistent with and can be related to other state laws, such as Title 18, Title 11, etc. Because of the many deficiencies in Chapter 303 it has created many problems. Rather than a patchwork attempt such as A521 to repair a poor law, rather than waiting until Chapter 303 has become a self-serving vehicle for some particular interest, it would be far better to take a good look at the entire law. Revise the entire statute before putting your thumb in a dike as a stopgap temporary plug. What we need is new creative thinking in this whole area of public sector employee-employer relations.

To review briefly some of the background, some of the thinking that went into the Metuchen Board of Education's decision to oppose A521, let me review what the right to strike bill means insofar as we see what the teachers are asking. To hear them tell it teachers are a

deprived group of citizens. But does the private sector have all the rights of teachers under Title 18A? No they do not!

In general, the right to strike in the private sector involves a product. There is no product involved here in the public sector. Where, in the private sector employees have the right to strike, employers have the right to lock out as an offensive weapon.. The U.S. Supreme Court has allowed industry and businesses to use lock outs just the same way as employees use strikes to obtain an economic gain for themselves. In the private sector there is the Federal Labor Laws which very specifically spell out what one may and may not do. Strikes and lock outs, as I said, are economic muscles. Both sides, however, can take steps to prepare for a strike or lock out.

The employees, for example, contribute an assessment to a strike fund. This strike fund can be a pooled fund of an international union like the Teamsters or Machinists and can be used for any local of that international union that may wish to strike. Locals in themselves may have their own insurance plans. Some states even contribute to the private sector workers ability to strike by allowing them unemployment benefits. All of these and other methods are allowed.

The employers, on the other hand, have other lawful methods to prepare themselves for a strike. They can establish revenue sharing plans, such as the airlines have; they can get strike insurance; they can subcontract; they can bring in new employees; they can inventory (that is, build up stock) so that if there is a strike they do not have to worry. This is vastly different than in the public sector.

In the public sector, especially education, no product is involved, we are performing a service. A service cannot be inventoried.

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Our service cannot be subcontracted. We cannot get insurance. There is no way that an employer in the public sector can use any of the methods available to the private sector to win its argument. We are at the complete mercy of the employees. There is no way of combating a strike by the public sector recognized unions. A strike by public employees, particularly teachers can only work to the disadvantage of the student. First there is lost time in the classroom. Then, equally as important, a strike certainly destroys the rapport, destroys the moral growth, destroys the respect previously established; all this when impressionable children see their teachers, their guides, their idols striking, marching, and closing schools.

What then are the teachers really asking for? They are looking for the best of all worlds; the best of the private sector, the best of the public sector. What do they have already? The present statutes protect them. Under existing laws they are allowed tenure; they have promotion and demotion protection, layoff protection, protection against reduction in their salaries. They are very well protected indeed. What appears to us as a very large inequity is that in addition to rights that they enjoy both by statutes and collective bargaining agreements, they are seeking the paramount right from the private sector - the right to strike.

In addition to the incalculable harm that would result to a school district, we must ask the further question - is this really fair to the private sector employees who do not have nearly the mandated protection that teachers do?

Is this amendment to Chapter 303 fair to the taxpayers? We think not. Especially, is it fair to the children? What is teaching all about? Is it not to bring up and instruct the youngsters in

all matters? What do they learn when they see their teachers out on strike? What do they learn when they see fighting, bickering, and arguing by the people they look up to, by the people who are supposed to be inspiring them?

One of the arguments put forth by the teachers is that the school boards close school from time to time anyway. We have an answer to that, yes we do. School closings are orderly, planned and scheduled in advance, leaving the statutory number of days in the schedule because they are built in. I do not know about other districts, but in Metuchen the school calendar is recommended by the teachers via their Advisory Council. Our calendar for next year is exactly the one they presented so we both know there are no extra days for a strike.

We are recommending a total review of the entire problem. Look at 303 carefully before you change it now. Remember that we are dealing in a service, we have no protection as employers against a strike of our employees. We are at their mercy. We do not say that the present structure in 303 is the right structure, is the right way to solve the problem, but what the teachers are asking for is even worse.

The closing of school because of a work stoppage is abhorrent to the Board of Education. An alternate method, other than A521 therefore must be developed to offer the resolution of any impasse that may occur. The alternative must be equitable and acceptable to both sides as well as to the students, and be workable.

Both the teachers and the boards are a necessity for the proper operation of the schools and the education of the children. As a board we consider the well being of the students as paramount to all other concerns. Any unscheduled, unplanned loss of time to the

educational process is extraordinarily harmful. But this harm may not in the legal sense be proven to be a clear and present danger to the health and safety of the students. Teachers must be made aware that while a work stoppage may help them get better bargaining powers, the same power could eventually lead to the elimination of some legislated security factors that are not presently provided by law to any other group of people - tenure protection, sick leave, pension provisions and certification standards.

Considering all of the factors that I have presented in opposition to this bill, I implore you as legislators in behalf of the Borough of Metuchen, its residents and taxpayers, to vote No to assembly bill 521. We need creative thinking - not A521.

Thank you.

THE PUBLIC SCHOOLS
596 Middlesex Avenue
Metuchen, New Jersey 08840

WHEREAS, the Board of Education of the Borough of Metuchen, County of Middlesex, State of New Jersey is dedicated to providing a thorough and efficient school system for the children of its school district, and,

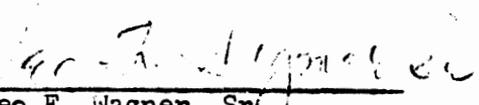
WHEREAS, the Board of Education has negotiated a contract with the Metuchen Education Association which precludes a strike by said Association, and

WHEREAS, the Board believes that school teachers and other school employees should not have the right to strike for the purpose of improving the terms and conditions of employment, and

WHEREAS, the Board feels that passage of A 521, which legalizes strikes for all public employees including school employees, would be detrimental to the welfare of the children of Metuchen and the community as a whole,

NOW, THEREFORE, BE IT RESOLVED that the Board of Education of the Borough of Metuchen, County of Middlesex, State of New Jersey hereby opposes the passage of Assembly Bill 521 and urges all members of the New Jersey Senate and New Jersey Assembly to do their utmost to defeat this bill, and

BE IT FURTHER RESOLVED, that this resolution be incorporated into the minutes of the public meeting of the Board of Education of the Borough of Metuchen on April 11, 1972 and copies of the resolution be sent to The Honorable William Cahill, Governor of the State of New Jersey, all members of the Middlesex County legislative delegation, all members of the Education Committees of the New Jersey Assembly and Senate, the Freeholders of Middlesex County, the Mayor and Council of the Borough of Metuchen, and the New Jersey School Boards Association.


Leo F. Wagner, Sr.
Business Administrator/
Secretary of the Board
Metuchen Board of Education

April 11, 1972

Assemblyman Black, members of the Revision and Ammendment of Laws Committee... My name is Arthur Lehrhaupt. I am the elected representative of the teachers of Hunterdon County on the NJEA Executive Committee. I have served in various capacities in county and local professional associations, including the presidency of the Hunterdon Central High School Teachers' Association, NJEA. In addition, I have been privileged to represent, as a negotiator, the teachers of the school district in which I am employed, every year since the inception, in 1968, of the New Jersey Employer-Employee Relations Act - Chapter 303. I believe I may draw, from this background, information which may be of value to you in your consideration of this important piece of legislation.

I come from a county which is rural-suburban in nature - a county where, on the surface, it may seem as though peace prevails in relations between boards and educators. Many may think that the problems of Jersey City, Newark, and other urban centers are not shared in our county - that these problems are peculiar to certain regions and not to others. This is not true.

In Hunterdon County today there lie ;beneath this apparent calm, problems which I fear may soon surface. I firmly believe that Assembly Bill 521 - which provides public employees with the limited right to strike- will go a long way toward the prevention and control of these problems - problems which have given rise, under present law, to circumstances harmful to the public interest.

I see clues that these problems are coming, and in too many instances are already with us:

In much of Hunterdon County today, negotiations are dragged-out and stalled in an apparent design by school boards to avoid engaging in true, good-faith negotiations.

One board in Hunterdon County didn't sign its contract with its teachers for this school year until as late as November.

Another board, during negotiations, refused to make an offer on any teacher proposal during numerous sessions - and then - through its administrative agents - developed detailed, written plans for an administrative-board strategy during a possible teacher strike, when all the while the teachers had not given the slightest indication of any such intent and were attempting to conduct negotiations in good faith. These board-administration strike plans were then posted for all to see in an apparent and obvious attempt to intensify feelings and provoke teacher action.

A board in Hunterdon County to this day has not offered its teachers one dime beyond their present salary schedule, which legally they cannot go below - and call this good-faith negotiations. And it is already May - so late in the year.

Impasse - mediation - factfinding - these are no strangers to Hunterdon County.

It has always seemed to me that the negotiations process is an excellent way to improve the level and quality of our schools. Teachers seeing things from the point of view of one involved in the daily classroom activity - administrators seeing things from an umbrella point of view - board members seeing things from the point of view of the community - when these groups, each seeing things from their respective frames of reference, sit down together in a good-faith effort to reach an agreement which is in the best interest of all - the school cannot help but benefit. Ideally, one would glean the best of these various insights to the benefit of all.

But, in New Jersey, a severe imbalance exists at the negotiations table. Weakness in present law creates this imbalance.

As a result, negotiations in the public sector, it seems to me, can well be characterized as a 'lord-serf' relationship. The classroom teacher - the one person who meets children on a daily basis - cannot sit down at the negotiations table as a co-equal. And school boards know this. A school board knows that it can say "no" to all the proposals of their teachers - it can say "no" to all attempts of a mediator to bring the parties together - it can say "no" to all recommendations of the state-appointed factfinder. The board knows that there is no legal redress open to their teachers beyond factfinding. If then the teachers in their frustration display the courage to speak out for quality education and elect to withdraw their services - the school board knows that it can obtain an instant injunction preventing the teachers from carrying out the actions into which they were provoked. The board knows that teachers are without any opportunity to have their case heard by a judge in open court and judged on its merits before an injunction is issued.

This imbalance at the negotiations table brings about a situation wherein the intent and spirit of the law can be brazenly disregarded. For true negotiations to take place there must be a balance at the table. Teachers and board members must sit down as co-equals.

We see A-521 as preventative. It is our position that with A-521 we can prevent many of the deplorable conditions which have occurred elsewhere in our state - and have been so harmful to the public interest.

Without A-521, we fear these problems will soon be upon us.

We believe this bill is just.

We believe this bill is necessary.

We believe this bill, most certainly, is in the public interest.

Thank you.

STATEMENT OF MRS. BARBARA H. MULHERN, ON BEHALF OF THE GLEN RIDGE BOARD OF EDUCATION, BEFORE THE COMMITTEE ON REVISION AND AMENDMENT OF LAWS OF THE N. J. ASSEMBLY ON MAY 3, 1972 IN OPPOSITION TO PASSAGE OF A-521.

I am Barbara Mulhern, serving my second term as a member of the Board of Education of the Borough of Glen Ridge, in the County of Essex, and speaking for that Board, in opposition to Assembly Bill 521, dated January 31, 1972.

At its first executive session following introduction of this bill, the Glen Ridge Board unanimously opposed passage of the bill. At its next regular Board meeting it passed a resolution to that effect, attached hereto. This resolution cited the Board's dedication to providing a thorough and efficient school system for its children, stated that the Glen Ridge Board had a satisfactory contract with its teachers and the fact that a strike of public employees, particularly teachers, would be detrimental to the welfare of the children of Glen Ridge and to the community as a whole.

Upon passage of Public Law 303 in 1968, the Glen Ridge Board negotiated a contract with its teachers which has been satisfactory to both parties up to the present time. Contract negotiations began in the district on November 13, 1968. A Board document was presented and, over the course of a dozen or so meetings, a contract was agreed upon. Even in these early days of negotiations, agreement was reached on such substantive issues as:

- a. grievance procedure including
- b. binding arbitration
- c. teacher aides
- d. school calendar
- e. leaves of absence including
- f. sabbatical leave
- g. strike and sanction clause
- h. teaching load

Continuing negotiations in 1969-70, 1970-71 and 1971-72 have brought about modifications to the original contract but these have, in the main, been relatively minor. It is interesting to note that formal grievances numbered zero until March 1972, even with binding arbitration. On January 13, 1971 an impasse was called by the Education Association over salary negotiations. The impasse was finally resolved by further negotiations without recourse to PERC who requested negotiations continue; a mediator was not appointed.

(The balance of Mrs. Mulhern's can be found beginning on page 42 A.)

Statement of Joseph V. Piskorowski, Lawrence
Township Board of Education.

The Lawrence Township Board of Education is opposed to A521, because its passage would permit employees of this board to collectively strike in order to force the board to accede to its demands. We deem strikes by school board employees contrary to the public interest for the following reasons:

1. Unlike strikes against private enterprise, in which the employer is hurt financially, strikes by school employees hurt only the education of children. The board of education does not suffer financially, either during or after a strike.
2. It is the responsibility of all citizens to promote continuing education for students in the public schools. The board's legal responsibility is to provide that service, for which it was created. It cannot close the schools or lock out the employees if their demands are exorbitant. Board employees, therefore, should not be permitted to walk out or close down the schools to force their own personal demands.
3. Since school board members have no personal interest or profit motive in negotiations, but rather exercise the will of the voters who elected them to office, board employees can foster their own interests at the ballot box and by persuading other voters and their elected representatives to improve their compensation and other benefits. This is a distinct advantage over persons employed by private industry.

4. Employees of boards of education have chosen their profession of their own free will, knowing full well the conditions of their employment and the responsibilities related thereto. They always have the alternative to seek employment in private enterprise, should their aspiration be unfulfilled in public service.
5. Boards of education are governing bodies elected by the people to represent the people as a whole. If a particular group of "public servants" were to engage in a power struggle with a governing body and force its will upon that body, the governing body becomes a government, not of the people, but of pressure groups. This must not be permitted to happen. Government must rest with the people as a whole, through those whom the people have elected to exercise their will.
6. This Board rejects the concept of governmental bodies using arbitrary power, and embraces the concept of negotiation, mediation, fact-finding, and in extreme circumstances, arbitration in order to achieve fair and equitable terms and conditions with employees.

Therefore, it is in the interest of the continuity of public education, the due process of governmental law, and the confidence in the process of responsible negotiations, that we urge the Legislature to oppose A-521.

Joseph V. Piskorowski,
Vice President
Lawrence Township Board of Education
2565 Princeton Pike
Trenton, New Jersey 08638

Brick Township Board of Education firmly believes that Assembly Bill 521 must be defeated for the teachers already have the protection:

1. Public law 303
2. Grievance procedures
3. Collective bargaining and negotiations
4. The Court of Law if the first 3 have failed.
5. Arbitration.

At present they are striking at will for a day at a time to harrass boards and during a contract year for many insignificant reasons.

Pass Assembly Bill 521 and they will cripple the state as they have done in New York for the Association has shown contempt for Boards of Education and have in some cases shown complete irresponsibility and contempt for the courts.

Boards of education are not manufacturing a tangible item such as cars, we are dealing with the education of children and their welfare and to give teachers the rights to strike against the children and taxpayers of any community is the same as telling our legislators to legalize Rape, for that is exactly what we will be doing to our children and taxpayers by passing A 521.

Give them the right to strike and I believe that collective bargaining will break down for then we will only get demands. And if we are really talking about fair play and the right to strike then surely this bill must be accompanied by a right to strike for the taxpayers who must have some protection.

And last but certainly not the least if we do endow them with the Fatherly right to strike then they no longer need the Motherly cloak of Tenure.

And just in case our benevolent legislators who support this bill have not thought about it, what will they do when all of their employees go out on strike for the bill certainly does include all public employees.

And I might add legislators all across the Country are against this kind of a bill.

A bill of this magnitude can only serve to decay our educational system.

William Bell
Brick Township Board of Education

**BOARD OF EDUCATION
CRANFORD, NEW JERSEY**

Statement of John E. Dwyer, Jr., Board Secretary/School Business Administrator,
Cranford Board of Education on Bill A-521, read May 3rd, 1972:

Ladies and Gentlemen:

I am here to address you today as the representative of the Cranford Board of Education.

I know you have been sitting here listening to speakers for several hours, and you are tired of hearing the same comments repeated over and over. Therefore, I'll try to be as brief as possible.

The Cranford Board has passed a resolution asking you to vote against this right to strike bill. I won't read the resolution, but I do have copies for each of you. A great deal of thought went into it, and we earnestly hope you will read it.

I would like to make one point, however. In our view, this legislation involves only one question - whether students are to be used as pawns in the collective bargaining process. The right to strike has a rational basis in the private sector - the penalties of the strike are felt primarily and directly by the company involved in terms of lost profits and production. The strike is an economic weapon directed primarily against one of the bargaining groups - the employer.

This rationale clearly does not apply in the case of school employees. A teachers' strike is not an economic weapon directed against the employer. A strike does not cause any real economic penalty of the Board of Education. Its only effect is to interrupt and delay the education of the students. A teachers strike seeks to coerce the Board and the community into accepting a demand by inflicting punishment on their children. We believe that the

use of children and their education as pawns in adult disputes is an unacceptable action and therefore should be discouraged.

We frankly acknowledge that collective negotiations in the public employer/employee area have not been completely satisfactory. Unfortunately, disputes have, on occasion, resulted in strikes and job actions. But we do not believe that relaxation of the prohibitions against such strikes will lead to improvement of the negotiating procedure. Only a complete review and revision of the Public Employees Relations Act can do this.

You have heard, and will hear, a considerable amount of urging from teacher associations, asking that you vote for this bill. The teachers represented by these associations are organized and have an effective voice, but they are a small group.

Unfortunately, the citizens who make up the largest part of your constituency are not organized and, therefore, have difficulty in making their views known to you.

Boards of Education are, like state legislators, elected representatives of the people they serve. We have tried, in our remarks, and our resolution, to express to you our analysis of the concerns of the voters of our community.

Just as the community will hold its Board of Education accountable for any mismanagement of the school system which leads to a strike, it will hold its state legislators accountable if they pass a bill which makes the strike a legal bargaining weapon. We would like to report to our community that its legislators acted in the best interests of the educational system by voting against this bill. We sincerely hope you will enable us to make that kind of report.

Thank you.

BOARD OF EDUCATION
CRANFORD, NEW JERSEY

WHEREAS a number of bills have been introduced in the Assembly and Senate which would grant public employees the right to strike, and

WHEREAS, Assembly Bill 521 is now under consideration by the Assembly Committee on Revision and Amendment of Laws, and

WHEREAS the Cranford Board of Education believes, (1) that teachers' strikes are especially harmful since the penalties they cause are primarily borne by the students whose education is interrupted and delayed, (2) that the potential for harm when students can be used as pawns in negotiations is too great to be permitted, and (3) that persons who choose to enter the teaching profession should forego strikes or other job actions since these are incompatible with a thorough and efficient system of education as is mandated by the State Constitution,

BE IT RESOLVED that the Cranford Board of Education urges the Legislature to defeat Assembly Bill 521, and should the Legislature pass said bill, the Cranford Board of Education urges Governor Cahill to veto it.

BE IT FURTHER RESOLVED that the Secretary of the Cranford Board of Education send a copy of this resolution to each member of the New Jersey Assembly Committee on Revision and Amendment of Laws, to all Union County Assemblymen, to all Union County State Senators, to Governor Cahill, to all Union County Boards of Education and to the New Jersey School Boards Association.

April 18, 1972

My name is Walter Kent, and I represent the Glen Rock Board of Education.

We recognize, of course, that this bill affects all public employees; and while the effects of a strike by the police, sanitationmen, hospital workers, or other municipal or state employees would be profound, since I am here representing a Board of Education, I will confine my remarks to our concern regarding the possibility of legalizing teacher strikes.

It is our absolutely unequivocal and unanimous opinion that teacher strikes must not receive the sanction of law. The overriding consideration in this matter is the best interest of the students, and our concern in their behalf leads us to the conviction that not only should the law not permit teacher strikes, but that the law should specifically prohibit them. We believe that in the case of a protracted strike such as has occurred in Jersey City and Newark, much harm can be done to the pupils, and in the case of high school seniors, it might be irreparable. Granting teachers the right to strike can in no conceivable way be of any benefit to the children, only the teachers. It is our apprehension about this potential threat to the students that compels us to oppose this proposed legislation. The youngsters take the trip through the school system only once, and they are entitled to uninterrupted passage.

We have some other reasons for opposing this legislation which we would like to present: We believe that a need to strike has hardly been demonstrated, and I respectfully request you to examine some of the terms and conditions of employment which the teachers have secured for themselves without having the right to strike.

First of all, they have lifetime tenure. They have a work year of about 180 days as compared to about 235 for most of the non-teaching labor force. They have automatic annual salary increments. They have paid vacations, paid days off for personal reasons, tuition assistance, fine pension plans, insurance coverage for medical care and hospitalization costs, insurance coverage for dental, optical and prescription drug costs, extra pay for extra-curricular work, and salaries that we believe are commensurate with jobs of comparable responsibility and training in industry. And these salaries have had some remarkable increases in recent years. According to the N.J. Commissioner of Education Blue Book figures, total teachers salaries in New Jersey amounted to \$524 million for the school year 1967-1968 and for the following year, \$595 million, an increase of 13.5%. For the year 1969-1970 the figure was \$681 million, an increase of 14.4% over the preceding year. If you take the overall increase from 1967 to 1970, the increase is an astonishing 29.9%, or almost 10% per year. This hardly seems to demonstrate a salary hardship.

I should like to submit figures from a publication of the U.S. Department of Labor, Bureau of Labor Statistics, Bulletin 1693, published 1971 -- National Survey of Professional, Administrative, Technical and Clerical Pay in Private Industry, June, 1970, pp. 22-27 with explanatory notes pp. 41-71. They show that the dollar amounts of the salaries that teachers receive are commensurate with the salaries paid to other workers with comparable educational and training backgrounds and job responsibilities in industry. Accountants.

auditors, chief accountants, attorneys, buyers, job analysts, directors of personnel, chemists, engineers and engineering technicians in private industry receive salaries very similar to teachers' salaries, without receiving some of their more notable fringe benefits, e.g., tenure and the 180-day year. Obviously, salaries in industry range widely, and the tables go into much detail, but if I may run the risk of generalizing, they show starting salaries in the \$7,000-\$8,000 range up to maximums in the \$25,000-\$30,000 range and some slightly higher. The variations depend on training requirements, experience and supervisory responsibilities. The salaries paid to the teaching fraternity are very much in line with these.

You must not legalize teacher strikes, because there is no countervailing force of competitive economics which would force the union demands to be reasonable and have limits. We do not have a salable commodity, nor a profit and loss statement, from which we could fairly and justly calculate labor's share of the return. We do have the taxing power, and if strikes were legalized, the public would be at the complete and total mercy of the strikers, because, under present tenure laws, they cannot be discharged or replaced. You would in effect be removing from the elected officials the right to establish the tax rate and giving it to tenured employees. The Boards would then be forced to resort to confiscatory tax rates without limit. In many communities the initial demands of the teachers associations have carried with them increases in costs that have been in the range of 15-20%. If these demands could be backed up with the force of a strike, the effects on the taxpayers would be potentially explosive. If teachers are given the right to strike,

in order to maintain a balance of power, we must have the right to replace the strikers effectively, quickly, and permanently.

We should like to repeat here a part of our resolution, already entered on the record, which says "...The state legislature is respectfully requested to devote its time and energy to a revision of the PERC law as a more judicious approach to protecting the rights of both the public employees and employers....."

We believe the law should be revised to remove vagueness and ambiguities. It should clearly spell out negotiable areas and must definitely remove board prerogatives from negotiability. It should explicitly define what is meant by "terms and conditions" of employment, and we believe they should be limited to matters of salary, fringe benefits, and physical environment. We believe the law should limit collective bargaining rights, for example, curriculum and class size should not be negotiable. We believe that the law should also be modified to provide some sort of enforcement power to PERC. There are several options we have considered, although we have no firm commitment to any, other than a commitment to the principle of enforceable decisions. It could be done by PERC through regionalized offices, or at least with regionalized hearing officers. They should be permanent posts so these people would know the local tax and cost structures and could make more meaningful decisions. Or, the arbitration could be provided by the state labor department. Or, an idea which has much appeal, is the establishment of labor courts, such as exist in many states. We believe that the adversary relationship as exists in civil and criminal courts, if applied to a labor court, would be that method which would most closely approach justice.

LIVINGSTON BOARD OF EDUCATION
Livingston, New Jersey

May 2, 1972

The Livingston Board of Education is firmly and unani-
mously opposed to the principles and provisions in Assembly Bill
Number 521, and we wish to be placed on record in opposition to
favorable action on this bill by your Committee or by the Assembly
as a whole.

We base our opposition on the fact that the bill is
unilateral in its effect; deleterious to the welfare of the
school children of the State; contrary to the established
doctrine of the separation of the powers of the branches of
government; and an additional and unwarranted protection to a
category of employees who are already over-protected in terms
of tenure, salary, fringe benefits, and conditions of work.

We should like to state our objections for the record
in serial order--with reasons--and we urge that the Committee
of the Assembly, taking these arguments into consideration,
will not act favorably on this bill.

- I. THE BILL DOES NOT PROVIDE ANY DEFINITION OF A
STRIKE OR "OTHER LAWFUL CONCERTED ACTIVITIES."
(SECTION 8.a.)

The bill thereby gives carte blanche to public
employees to engage in mass sick calls, job actions
rule book ploys, and other tactics which workers
blandly insist are not strikes, but which have
exactly the same effect and are often simply
euphemistic substitutes for strikes.

- II. THE BILL DOES NOT CONTAIN ANY CLARIFICATION OF
THE CONFLICT OF A STRIKE BY TEACHERS AND A MINIMUM
180-DAY REQUIREMENT FOR THE PUBLIC SCHOOLS.

Teachers have, in the past, been protected from
economic loss, which every other striker must
contend with, because the state mandate for the
180-day school year requires that they be brought
back to work. Even when strikes are of long
duration, teachers have suffered less economically
than have other public employees or workers in the
private sector, such as bus drivers or auto workers.

The administrative device of keeping schools open in order to maintain some semblance of continuity of education is the only means by which teachers can be penalized, and this is done, actually, at the expense of giving a less effective education to the pupils in the schools.

III. THE ACT BRINGS THE RIGHT TO STRIKE INTO THE AREA OF POLITICS RATHER THAN KEEPING IT IN THE AREA OF ECONOMICS.

The Brookings Institution has stated that by the introduction of the legal strike into government employment, we will create a "vulnerability of a typical large cities' political structure to the strike weapon." In the present bitter competition of various agencies in government for political and economic preference in the division of the tax dollar, the right to strike imposes a political nightmare upon governing officials.

IV. THE PROVISION FOR THE LIMITATION OF INJUNCTION TO CASES OF "CLEAR AND PRESENT DANGER TO THE PUBLIC HEALTH OR SAFETY" IS A POLITICAL DEVICE TO ASSURE NON-INTERFERENCE.

The history of public employee strikes, particularly those of teachers, policemen, firefighters, and sanitation workers, has amply demonstrated the ineffectuality of such provisions for the protection of public health or safety. Skeleton crews in firehouses; policemen refusing to walk their beats; children without education for months; mountains of garbage in the streets--all these have not been construed as emergent enough to warrant the sweeping penalties that are available in the laws of some states.

V. THE PROTECTION AGAINST THE COURTS AMOUNTS TO A LEGISLATIVE INTERFERENCE WITH THE JUDICIARY, THE ONE AGENCY TO WHICH GOVERNMENT OFFICIALS MAY TURN FOR ENFORCEMENT OF THE LAW.

The provisions limiting the function of the courts in cases of strikes or work stoppages are based upon the alleged unfairness of the courts in dealing with recent teacher strikes and the sentencing of teachers to jail sentences. The validity of the action of the courts in these cases has been

upheld by appellate tribunals right up through the United States Supreme Court, so that if any principle of constitutionality or fair play had been violated, those teachers could not have been sent to jail. In fact, by their defiance, these teachers invited the penalties that were imposed upon them, and the provisions of this bill will only fortify that defiant attitude.

- VI. THE BILL MAKES NO PROVISION FOR PENALTIES AGAINST WILFUL OR RECALCITRANT PUBLIC EMPLOYEES WHO REFUSE TO ACCEPT AGREEMENTS, IGNORE ARBITRATION, OR AVOID THE OPPORTUNITY TO NEGOTIATE.

The bill assumes throughout that governmental bodies, such as boards of education, will always be in the wrong, and the bill does not provide for penalties against the exercise of the massive obstructive power of the New Jersey Education Association, the police and firefighters associations, and the Civil Service employees' organizations. The bill fails to provide the same sauce for the goose that it does for the gander.

- VII. THE AVAILABILITY OF THE LEGALLY ESTABLISHED RIGHT TO STRIKE WILL REDUCE THE PRESENT OBLIGATION ON PUBLIC EMPLOYEES TO EXHAUST FULLY THE NEGOTIATING PROCESS.

The history of teacher strikes in the State includes numerous cases of strikes hastily called and of strikes called during the life of an existing contract. The establishment of a right to strike for public employees, especially with the vague provisions stated in this bill, can only encourage hasty and irresponsible action.

We unanimously ask the Committee and the Assembly to consider most seriously the arguments we have presented, in addition to many others which you will receive from governing agencies such as ours, and we urge you most strongly to act unfavorably on Bill Number 521.

THE LIVINGSTON BOARD OF EDUCATION
Livingston, New Jersey 07039

BY: ROBERT B. KINSEY
President

RBK

JCB:ee

The Long Beach Island Board of Education, in a desire to set forth for the record its position on pending legislation permitting public employee strikes, do hereby state the following:

1. That passage of the aforementioned legislation would, in its opinion, irreparably damage the public school system in the State of New Jersey
2. That a more viable means for the resolution of impasse between public employers-employees does exist.

At present, Chapter 303, which requires public employers to negotiate collectively with their employees concerning terms and conditions of employment, is approximately four years old. That negotiations have, in fact, occurred during this period is amply attested to by comprehensive contractual agreements and significant economic increases over that period of time in most of the 600 school districts in this state.

The right to collectively bargain guaranteed by Chapter 303, plus present tenure laws, make the bargaining position of teachers very strong. To further add to this strength by placing in their hands a "loaded gun" in terms of the strike legislation proposed as Assembly Bill 521, which would amend the Public Employer-employee Relations Act and limit the courts from issuing injunctions against strikes except under very specific conditions, is indeed intolerable.

The proposed legislation (A521) is uniquely simple: (1) it amends an existing law, and (2) it reads as follows:

"(a) Nothing in this act shall be construed to interfere with, impede or diminish in any way the right of private employees to strike or engage in other lawful concerted activities.

(b) Except as provided in subsection (c) of this section, nothing in this act or in any other law of the State of New Jersey shall be construed to interfere with, impede, or diminish the right of a recognized representative of public employees selected or designated pursuant to the provisions of section 7 of P.L. 1968, c. 303, to engage in a strike for the purpose of establishing, maintaining, protecting, or improving terms and conditions of employment, or of a public employee to participate in such a strike.

(c) No court of the State of New Jersey nor any judge or judges thereof shall issue a restraining order or temporary or permanent injunction in any case involving a strike by a recognized representative of public employees unless: (1) the commencement or continuance of the strike poses a clear and present danger to the public health or safety which in light of all relevant circumstances it is the best public interest to prevent: provided, that any restraining order or injunction issued by a court for this reason shall prohibit only such specific act or acts as shall be expressly determined to pose such clear and present danger; or (2) the representative has failed to make a reasonable effort to utilize the procedures provided in section 6 of P.L. 1941,

c. 100, as amended for the resolution of impasse in negotiation; provided, that any restraining order or injunction issued by a court for this reason shall indicate the specific act or acts which the representative has failed to perform and shall remain in effect only until said act or acts shall have been performed; and such order or injunction shall be issued only on the basis of findings of fact made by the court or judge or judges after due notice and hearing in open court prior to the issuance of such restraining order or injunction.

(d) Any restraining order or temporary or permanent injunction heretofore entered by any court of this state in any case involving a strike by a recognized representative of public employees shall be dissolved and any penalties imposed by reason of violation thereof shall be vacated and fines remitted, unless within 30 days after the effective date of this act findings of fact sufficient to support the order or injunction are made by the court or judge entering the same following the procedures set forth in section (c).

(e) Nothing contained in this section shall prevent a court from enforcing any lawful provision of an agreement covering terms and conditions of employment."

You will note in paragraph (b) that a proviso is inserted to in no way impede the right to strike of public employees for the purpose of establishing, maintaining, protecting, or improving terms or conditions of employment. In paragraph (c), the judges of the state, instead of teachers, are now restrained, unless: (1) the strike presents a clear and present danger to public health or safety. Further,

the court must prescribe the exact act which it is enjoining, thereby permitting all other actions to continue. This type of "cop-out" language is designed to permit the continuance of a strike even after injunction by the courts and to serve as the basis for appeal of the original injunction. The same may be said for item c-2.

Further, no matter what the actions occurring, the last paragraph of c provides that they may continue until a full and open court hearing occurs. At present, the actions must first cease and then be subject to hearing by the courts.

A Board of Education is a duly elected or selected representative of the people of this state. The people, of course, include children, as well as adults. The main and primary responsibility of a Board of Education is to carry out the requirement set forth by the constitution of the State of New Jersey, which is to provide for the maintenance of a thorough and efficient system of public education. It is impossible in concept to perceive of a school district carrying out this mandate while teachers are legally permitted to withhold services that the children require. In our form of representative government, we have been taught that a representative body should analyze the goals and objectives of the population it represents and attempt to carry forth these objectives. The people of this state cannot have their goals and objectives subverted through the use of collective force rather than the power of rational persuasion. A professional in any profession

obviously has the right to withhold his individual service if he believes the conditions or salary under which he is asked to work are unacceptable. This act of withholding of service is done quite simply by a refusal to continue to render service. In most professions, it is called a resignation.

However, the teaching profession has seen fit to lobby and petition for the use of collective force in lieu of rational attempts to change the minds of a community relative to education's need. The use of collective force can only be viewed as intimidation in order to acquire items of self-interest, beneficial primarily to teachers rather than children. This attempt at intimidation of the public can only be viewed as a totally clear and present danger. It is an attempt through fear to disenfranchise the public in its right to determine the type of education it desires, for if the public is not enlightened sufficiently to maintain the franchise, it is not our proper role to disenfranchise them, but rather to enlighten them.

EMIL L. PORFIDO, LEGISLATIVE CHAIRMAN

RAMSEY BOARD OF EDUCATION

STATEMENT RE: BILL NO. A-521 AUTHORIZING PUBLIC EMPLOYEES
TO UTILIZE STRIKES

After four years of collective bargaining under Public Law 303, many gains in public employee working conditions, fringe benefits, and salaries have occurred. Experience shows that public employees now have greater means to gain benefits and controls within their field of employment. In the area of teachers this is particularly so.

With the similarity in collective bargaining procedures between those in the public and those in private service the age old question of governmental immunity from public employee strikes must now be re-examined in terms of this proposed legislation. As a member of the Ramsey Board of Education and speaking by authority of that board I would like to offer the following statements in opposition to the legislation (A-521) which would grant school employees the license to strike.

The right to strike in industry has a decidedly different context than the right to strike would have in the public sector. Namely, a strike in industry is usually against the employer and is a means of pressuring that employer into changing conditions. Any pressures or shut downs that occur, affect that employer and his business but he has the prerogative of passing on added costs to the consumer. However, in the public sector, particularly in this case of the schools, the strike really is not against the employer because the members of the board of education do not make their livelihood with the schools, and does not affect their personal business; rather we must assume that a strike against the public schools is a strike against the children. Even though teachers in their zeal to get this legislation passed no doubt will say that the results of a strike will provide better conditions for students to learn, I still must reaffirm our opinion that the effect of closing the schools because of strikes can only result in damage to the opportunities of children and deny them their legal right to a good education.

Furthermore, I would like to cite to you that the strike is really beginning to be an outmoded way to get things done in the field of labor. Mr. George Meany has recently been quoted in his testimony before the Senate Committee as follows:

"The strike is outmoded as a modern method of resolving labor problems."

Gentlemen, I submit to you that not only is the strike outmoded, it is not a justifiable means to resolve the problems of working conditions within the schools. Our children have the right for an education. Our obligation is to them. Therefore, we cannot inflict upon them the possibility of strikes that will deny them access to the schools.

Furthermore, I would like to point out that teachers by virtue of legislation already have ample protection within their job and have due process available to take care of all of their labor problems.

1. Teachers already have job protection in the element of tenure. They may express themselves freely and bargain with the Board of Education without fear of losing their jobs.
2. The enactment of Public Law 303 four years ago and a prospect of improving that Act at this legislative session gives them complete appeal procedures for resolving of labor problems.

Furthermore, if the resources of 303 do not provide the relief necessary the public courts are available to teachers.

Therefore, it is our firm belief that teachers already have ample means to compel Boards to accede to their demands and it is not necessary nor is it practical to give them the additional right to strike. Therefore, I have been instructed by the Ramsey Board of Education to urgently request that this legislation be defeated when it comes on the floor for voting in the legislature.

BOARD OF EDUCATION
49 Cottage Place
Ridgewood, New Jersey

May 2, 1972

Statement of the Ridgewood (Bergen County) Board of Education

Testimony, May 3, 1972, before Assembly Committee on Revision and Amendment of Laws, on consideration of A521, amending P.L. 1968, Chapter 303, granting the right to strike to public employees.

The Ridgewood Board of Education judges this bill, A521, to be against the public interest. The result of this legislation will be disruption of the educational programs of the children in the state and adverse interference with the constitutional and statutory functions of Boards of Education.

Boards of Education are a branch of government with obligations and powers to operate the public school districts of the state. Granting the right to strike would give public employees the power to bring a branch of government to a halt. Children and taxpayers would be victimized by such power. Costs would surely be raised, but not educational levels, as is obvious in the aftermath of any major strike-torn district such as New York City or Newark.

Sanctioning the right to strike would be a radical change in public policy that to us is totally unwarranted. There are essential differences between government and private enterprise. Unlike the private business sector, no school district can choose to close its plants, pick a new location, substitute machinery or produce a different product. We must operate our schools. The parent has no alternative if the schools close. School strikes have always occurred during the academic year, disrupting schedules of students and families, diverting time and energies from education to confrontation. The NJEA has widely published a series of alleged "fair play" advertisements which assert school boards have provoked strikes. Beyond the cartoon distortions of powerful boards oppressing frail teachers, or the glib misstatements of facts, none of these ads note that the strikes were not only illegal but were "wildcat" walkouts in the midst of a negotiated contract year.

But the basic policy change in sanctioning strikes by public employees is not our only problem with A521. This bill is an amendment to Chapter 303 which, in itself, has been inadequate to do what it purports to do. The issue still to be resolved is that of defining the areas for collective bargaining while clearly delineating the statutory powers of school boards.

Into this morass of conflicting interpretations concerning the scope of "negotiable" issues, this amendment comes compounding the problem by adding strike provisions. Is this to say that an education association can strike over staff evaluations or curriculum selections or any of a multiple number of management decisions? Based on review of NJEA master contract goals, there is no limit to their grasp, not simply for participation, but for final decision-making power.

The history to date of negotiations under 303 demonstrates that control of public schools is shifting to the NJEA and out of the hands of the citizens who have chosen school board members to represent the community will.

Let's examine what the impact of this amendment will be in terms of the revered concept of local control. Currently, there is considerable statewide discussion of the Tax Policy Commission Report recommending a restructured tax base, and the Botter decision which implies a radical reorganization of public education in New Jersey. Historically, the operation of the public school system in New Jersey has been effected through a tradition of "home rule" and "community control." In the public debate on the impact of a restructured tax base much reassurance has been given as to the intention of preserving that hallowed tradition. Yet, regional or statewide collective bargaining accompanies the new tax structure (which is the most probable arrangement) and the right to strike is added to the existing conflicting interpretations of Chapter 303, it would give dramatic impetus to a shift from local public control of education to the monolithic control of the NJEA. At that point, continued talk of the concept of "local control" would be empty rhetoric. Moreover, the costly pension and sick leave provisions secured by the NJEA in past years from the legislature suggest that regional or state bargaining will result in higher cost settlements and higher taxes.

In conclusion, the use of coercive measures by public employees is not necessary to enable them to obtain fair compensation and good working conditions. What is needed is a new Public Employer-Employee Relations Act, not an NJEA amendment to the existing inadequate law. One that will effectively define the legitimate areas for negotiation; protect the employer in carrying out the mandates of state and administrative ruling; prohibit strikes and job actions; and establish effective machinery to settle disputes arising from the collective bargaining process.

We urge this committee to oppose this amendment and to spearhead a move for comprehensive revision of Chapter 303 to better serve the needs of public education, while preserving the benefits of community control.

RIDGEWOOD BOARD OF EDUCATION

J. Laurence Kulp - President

Margaret S. Roukema (Mrs. Richard W.) -
Vice President

Virginia Hyman (Mrs. Lawrence)

Gene Sullivan

Richard C. Sullivan

STATEMENT

by

DONALD M. MACDONALD

WOODBRIAGE TOWNSHIP BOARD OF EDUCATION

ASSEMBLY REVISION AND AMENDMENT OF LAWS COMMITTEE

Public Hearing

Trenton, New Jersey

May 3, 1972

Gentlemen, I appreciate this opportunity to testify before the Assembly Revision and Amendment of Laws Committee at this public hearing on Assembly Bill A-521.

I am testifying on behalf of the Woodbridge Township Board of Education of which I am a member.

I have been a board member for more than six years. During this period, I have been directly involved in negotiating with public employees and have made a conscious effort to develop some expertise in this area.

We, in Woodbridge Township, have run the gamut in public sector negotiation. As some of you recall, the first teacher strike in New Jersey took place in Woodbridge Township in 1967.

Based on our experiences, we subscribe to the intent of the proponents of A-⁵²¹~~251~~, which is to establish "reasonable and fair balance in the negotiation process."

HOWEVER, WE DO NOT BELIEVE THAT THE PRESENTLY PROPOSED BILL WILL ASSIST IN ACHIEVING THIS GOAL AND ARE IN OPPOSITION TO THE BILL.

Rather, we believe this bill WILL ONLY SERVE TO INCREASE THE ADVERSARY SITUATION SEEMINGLY INEVITABLE IN ALL NEGOTIATIONS and will unduly place the public employer in an untenable position.

In theory, our public school system is a state institution.

Education is not merely a function of government--it is of government in much the same sense as police power, or power to administer justice, or to tax.

In general, the maintenance of the public school system is one of the state's duties designed to promote the public welfare and the good order and peace of society.

HOWEVER, THE PRESENTLY PROPOSED ASSEMBLY BILL NO. 521 WILL NOT ASSIST IN ACHIEVING THESE AIMS. When the Legislature delegates its administrative power, as it does to Boards of Education, it does not delegate its legislative power, also.

This Assembly can thus legislate the license to strike by public employees, but this body has not, and is not legislating the ability for Boards of Education to resist unreasonable demands of organized labor groups.

From a historical perspective, labor legislation was enacted by the Congress of these United States to equalize the power ratio between the working man and his employer. In the private sector, the right to strike is counterbalanced by the employer's economic ability to withstand labor demands.

WHAT ABILITY IN THE PUBLIC SECTOR IS PROVIDED TO BOARDS OF EDUCATION?

There is no ability, short of injunction, to resist an unreasoned organized assault.

THE ANSWER TO HARMONIOUS LABOR RELATIONS DOES NOT LIE IN PASSAGE OF A-521.

If, as the proponents of this legislation claim, the only desire is to achieve "fair play," then the Boards of Education agree.

If the aim is to achieve better mechanics for resolution of public sector labor disputes, then we totally endorse the same position.

However, such aspirations are not encompassed by this proposed legislation BUT RATHER, the solution lies in REVISION OF CHAPTER 303, PUBLIC LAWS OF NEW JERSEY, 1968.

If the Public Employees Relations Commission had the ability to rule on unfair labor practices, and the power to enforce these decisions, the need for consideration of strike legislation such as A-521 would be more evidently superfluous.

A PATCHWORK QUILT OF NEW LAWS TO CORRECT PREVIOUSLY INADEQUATE LEGISLATION IS NOT THE ANSWER.

The rights of both public employer and employee must necessarily be subordinated to the welfare, health and safety of the public.

Unlike the private sector where the disruption of services or the flow of goods can plausibly lead to discontinuance of a company and/or loss of jobs to its employees, a Board of Education, or municipality, could not suspend its operations permanently, or even for an extended period of time.

Obviously, such a situation is inconceivable.

While it is apparent that a public employer or employee organization, with ineffective or non-existent bargaining power, constitutes an untenable situation in our current society, the proposal of A-521 as remediation for the shortcomings of chapter 303 DISREGARDS THE INTENDED ULTIMATE PURPOSE OF ANY LEGISLATION--THE PUBLIC WELFARE.

WHAT, THEN, ARE THE ALTERNATIVES?

Public work stoppages have increased alarmingly over the last three decades. While the times have changed, the legislation has not. The legislation to meet the changes should be realistic and reflect the balanced necessity of rights for both parties to this issue--not just one side of the bargaining table.

The implementation of CHAPTER 303's provisions giving power to the Public Employee Relations Commission to rule on unfair labor practices will vitiate the need for consideration of statutory strike legislation.

A plausible alternative for future consideration might be a proposal, similar to that in President Nixon's 1970 recommendation to Congress, concerning basic transportation industries, i.e., that both parties to a labor dispute submit to an impartial panel their final positions on ^{each} ~~such~~ outstanding issue in contention.

This panel then could select and impose totally either of the proposals upon both parties. Such a procedure would more fully insure both parties submitting more realistic final positions because of the fear that none of their desired aims would be achieved if their final positions were not reasonable.

The recommendation of the Appellate Division of the Superior Court of this state should be very seriously considered.

In an unsigned opinion dated February 8, 1972, the Appellate Division called on the legislature to establish legal machinery for the COMPULSORY SETTLEMENT of public employee disputes to avoid strikes.

In the matter of the Newark Teachers' Union, Local 481, American Federation of Teachers, AFL-CIO, the court stated:

It is unfortunate that resort must be had to contempt of court procedure in this type of situation. Jailing teachers is not the answer to school strikes. The solution is legislative. Public employees have the right to bargain collectively as to the terms and conditions of their employment but cannot do so on equal terms with their employment unit since they have no means of negotiating from a position of strength. If the present policy is to be continued, machinery for the compulsory settlement of deadlocked labor disputes involving public employees should be established.

Another view worthy of consideration is that of Philip E. Garber who suggests "last offer arbitration." Under this plan, the arbitrator would make a choice between the final offers of the parties on an issue-by-issue basis. (Arbitration Journal, Vol. 26, No. 4, 1971. p.226-238.)

In summary, the Woodbridge Township Board of Education opposes Assembly Bill A-521

Personally, as a veteran member of an elected Board of Education, I am strongly convinced that granting public employees the license to strike is NOT a forward step. Such a step will only heighten the adversary situation that exists to some extent in all employee-employer negotiations.

I am concerned by the seeming anarchist tendencies of many in our society today and cannot condone removing needed restraints to protect the

public. I am most concerned by the deleterious effect of our young people if teachers are permitted to strike.

There must be a better way to resolve disputes in the public sector. We have presented some alternative methods.

One thing is certain--A-521 is not a move in the proper direction.

April 10, 1972

TO THE BOARD OF EDUCATION, HILLSBOROUGH TWP.

The Hillsborough Education Association wishes to inform the public and those members of the Board who are unaware as to why negotiations between the Board and the Association are at an impasse. The impasse did not occur over one negotiating session, but as the result of continued disregard of the negotiations procedure on behalf of the Board. The Association prepared for months before the actual session began. When the sessions began, the Association was prepared to negotiate in 'good faith' and continues to hold that position. At ten meetings with the Board during the months of December and January, the Board rejected most of the Associations proposals, without offering a counter proposal. This in itself can constitute 'bad faith' negotiations by the Board.

The Board again showed bad faith when it arbitrarily cut \$189,000 from the budget, thus making it impossible to provide the approved monetary allowance as provided by the Federal guidelines.

Faced with this display of bad faith from the Board, the Association tried to negotiate a salary less than that approved by the Federal guidelines, but even this rock-bottom figure was rejected by the Board.

The Boards bad faith continued when it insisted that the teachers accept what offers were made for a two year contract or there would be no settlement. The teachers conceded again in an effort to keep negotiations alive. The Association tried

to negotiate salary, fringe benefits, educational programs, and class size for a two year period. The Board rejected our proposals without offering a counter proposal; thus, leaving the Association no other choice but to declare an impasse in negotiations.

Because of the lack of counter proposals from the Board, the Association was forced to begin activities that would express our discontent with the Board and their consistent display of bad faith in negotiations.

Our first action was the wearing of arm bands and buttons, and the boycotting of Home & School Association meetings. The hope of the Association was that this action would encourage the Board to reopen negotiations by submitting a written counter proposal.

The Board remained silent.

As further encouragement, the Association at a general meeting sanctioned that these additional actions be taken by its membership.

1. The High School will stop all volunteer programs after 3:10 p.m. (such as school clubs, non-contracted programs, free academic tutoring, volunteer chaperoning of extra-curricular activities.
2. The faculty will no longer subsidize the school curriculum by purchasing supplies such as paint, paper, magic markers, kleenex, tape, etc., with personal funds. This has proven to be necessary because of the very low budget of \$130 per elementary class for a full years supply of everything needed, since most items are consumed during the year. Prices have increased, but not the budget.

The actions taken by the Association thus far have been planned not to interfere with the regular school day. It is the sincere hope of the Association that these actions will

so move the Board to begin negotiating in good faith by presenting to the Association a written counter proposal to the proposals most recently rejected.

Sincerely yours,

M. Patricia Perna
President, H.B.A.

Chairman Black and members of the Committee on Revision and Amendment
of Laws

Although I am more familiar with the personalities and biographical material of some of the committee members more so than other - I do have some understanding of all of you and yet I wonder if you know about the "real people" that come before you today as teachers as well as citizens and taxpayers to speak on a crucial matter. It is sad and tragic that some people think that only radical and militant individuals ask for the passage of A521 - which is really a conservative measure to create an equality that is long overdue if you accept the interpretations of the Fourteenth Amendment. For after all what is Bill A521 - simply a mechanism of due process of law - the right to be heard in the courts when intolerable situations exist in negotiations.

Legislators speak of the desires of the public they represent in these matters - but gentlemen you must recognize the factor that we are the public - Yes, and we are contributors to the public not only in our teaching and our taxes but in our communities - we are the Little League coaches; the Lions member, the B'Nai Brith member, the hospital volunteer and the Sunday school teacher. Gentlemen, I ask you - do you think that individuals who give to their communities want to harm their fellow citizens? Of course not they are the builders not the destroyers of

society. They do not look for the quick, irrational way out of a problem. They want to insure the success of PERC - but even a revised PERC will be inadequate if there is not this final step of reinforcement. Teachers do not strike without lengthy deliberations over the perplexities of the critical situation when negotiations fail. But when the negotiations in some areas still mirror the slave-master relationship and equality is totally lacking - teachers will be compelled to stand for their theoretical rights as workers and self dignity.

Man's social nature is a "complex system of responses and needs". In the relation of man to man (teachers to board) everywhere there is the seed of government. - Consequently we turn to you the legislators to maintain a system of order and equality in the New Jersey community.

Strife between privileged classes and oppressed or exploited classes has caused unrest and dissension through the ages. To allay this problem new laws are necessary as society changes.

"Modern democracy is in virtue of its origins individualistic, optimistic and rational." However, the three main propositions on which it is based have all been seriously challenged in the contemporary world. Individual conscience has proved not to be the rule as the ultimate source of decisions about what is right or wrong. Secondly a basic harmony does not exist between different individuals or groups to enable them to live peacefully in a society and third where action has to be

taken in the name of society rational dialogue between individuals, which is the best method of reaching a decision on that action has not always happened.

Gentlemen we do not want to turn the tables around and gain control instead we are searching for the equality that is supposed to be an inherent right of the people. Help us to create a balanced situation in public employee negotiations. Vote yes on A521. Give us the tools that we need as laborers in our daily struggle for existence.

For Passage of A-521

Carol Dempsey, N.J.E.A. member

Assemblyman Black, members of the Revision and Amendment of Laws Committee:

I am Carol Dempsey, a history teacher in Passaic High School and a member of the Education Association of Passaic and the N.J.E.A.

I have come here today to speak for the passage of Assembly Bill 521, Establishing Public Employees Strike Rights.

A-521 should be passed because it would help to end injustice! Those working in the public sector would have for the first time a weight to balance out unfair practices in negotiations. This bill would give to public employees in New Jersey due process of the law, which is already guaranteed to most Americans.

Others before me have presented these same and other good reasons why this bill should be passed.

Gentlemen, you are knowledgeable men, who are, I'm sure, well acquainted with the particulars of A-521. Obviously, you have carefully thought about the consequences of this bill.

Therefore, I would like to address my remarks to another aspect of why A-521 should be passed.

"There is nothing," Gentlemen, "so powerful as an idea whose time has come." Ideas won't keep. Indeed, the time has come for Establishing Public Employees Strike Rights.

You have already seen that teachers will strike when their school boards disregard common decency or violate the spirit of state laws. They have done this in spite of court injunctions, fines and jail sentences.

These people are saying something essential. They are asking for the indispensable in a democratic society -- Justice!

Equally important, they are also involved in the continuing process of social change and with that the attendant need for legal change.

Teachers have changed their approach to meet specific problems, both in terms of the way in which they see their goals and in terms of the obstacles they are at work to overcome.

Years ago, poor working conditions and low pay were acceptable to teachers in communities. In these communities teachers received a fringe benefit that somewhat compensated for monetary gains -- Respect!

Unfortunately, the world has changed. It is no longer a simple place where all values are understood and shared by everyone.

"Respect in the Community" is not understood in a consumer-oriented world in which buyers and sellers compete in the market place. It is a pity, but "Respect in the Community" is not a negotiable item. It is a myth in today's world. It doesn't pay the doctor, the lawyer, the insurance agent or the carpenter.

May I add a word about "Devotion to one's Duty." Teachers have always been conscious of their responsibility to the community and to their students and I believe they will continue to be so, but is that any reason to treat them as second-class citizens!

Gentlemen, I implore you to recognize the changing

times and thus the changing needs of teachers and other public employees. Support A-521, an idea whose time has come!

I will conclude with two quotes on the process of social change.

The first quote is by John Dewey, celebrated as one of America's finest pragmatic philosophers.

"It is demonstrable that many of the obstacles to change which have been attributed to human nature are in fact due to the inertia of institutions and to the voluntary desire of powerful classes to maintain the existing status."

Louis Brandeis, at one time an Associate Justice of the United States Supreme Court, said:

"There must be power in the states and in the nation to remould through experimentation our economic practices and institutions to meet changing social and economic needs."

Again, Gentlemen, I repeat, "It is time for a change!" Support A-521, please.

Thank you.

Carol Dempsey

TESTIMONY GIVEN BY ROCCO S. CARRI BEFORE
THE NEW JERSEY ASSEMBLY PUBLIC
HEARING ON MAY 3, AND MAY 10, 1972
ON ASSEMBLY BILL 521

TO BEGIN WITH, LET ME MAKE IT PERFECTLY CLEAR THAT TEACHERS DO NOT WANT THE BLANKET POWER TO STRIKE. UNFORTUNATELY, SOME OF MY FELLOW TEACHERS HAVE BEEN PUT IN A POSITION, DUE TO BAD-FAITH BARGAINING ATTITUDES AND TACTICS OF SOME BOARDS OF EDUCATION, WHEREBY, OUT OF TOTAL FRUSTRATION, THIS WAS THE ONLY RECOURSE THEY SAW FIT.

THESE TEACHERS HAVE NOT BROKEN ANY WRITTEN LAW. THEY HAVE NOT VIOLATED THE FEDERAL OR STATE CONSTITUTIONS. THEY ARE NOT RADICAL OR VIOLENT. YET THEY ARE IN JAIL. WHY?

THE PROBLEM IS THE ABSENCE OF WRITTEN LAW. IN THIS ABSENCE, SAYS OUR NEW JERSEY SUPREME COURT, THE RULES ARE SET BY COMMON LAW.

ONE OF THE IRONIES OF THE SITUATION IS THAT TEACHERS ARE NOT BEING PUNISHED FOR CONDUCTING A STRIKE. THERE IS NO PENALTY FOR THAT, BECAUSE THERE IS NO LAW AGAINST TEACHERS GOING ON STRIKE. THEY ARE BEING PUNISHED FOR VIOLATING COURT INJUNCTIONS ISSUED ON THE COMMON LAW. THIS COMMON LAW HOLDS THAT SCHOOL BOARDS ARE SOVEREIGN BODIES WHICH, LIKE THE MONARCHS OF THE MIDDLE AGES FROM WHENCE THE COMMON LAW COMES, CAN DO NO WRONG.

USING THE COMMON LAW, THE SUPERIOR COURTS ISSUE "CEASE AND DESIST" ORDERS AGAINST TEACHER STRIKES BECAUSE IN NEW JERSEY A SUPERIOR COURT JUDGE HAS NO CHOICE BUT TO ISSUE AN INJUNCTION BARRING A STRIKE WHENEVER A SCHOOL BOARD REQUESTS ONE. IF THE FRUSTRATED TEACHER VIOLATES THE INJUNCTION, THE SCHOOL BOARD'S ULTIMATE WEAPON, HE IS PUNISHED.

YET, IN NEW JERSEY, LOCAL SCHOOL BOARDS CAN, AND HAVE, UNILATERALLY COMMITTED UNFAIR LABOR PRACTICES WITH IMPUNITY.

SOME SCHOOL BOARDS HAVE REFUSED TO NEGOTIATE IN GOOD FAITH. BY THAT I MEAN THAT THEY WILL NOT EVEN DISCUSS THE TERMS AND CONDITIONS OF EMPLOYMENT WITH THEIR EMPLOYEES.

SOME SCHOOL BOARDS HAVE DEMANDED THAT TEACHERS GIVE UP EXISTING BENEFITS, AND CALLED THAT NEGOTIATIONS.

SOME SCHOOL BOARDS HAVE HALTED NEGOTIATIONS TO DEMAND SUDDEN CHANGES IN THE LEGALLY RECOGNIZED BARGAINING UNIT.

SOME SCHOOL BOARDS HAVE SCHEDULED NEGOTIATING SESSIONS, BUT NO BOARD REPRESENTATIVES SHOWED UP.

SOME SCHOOL BOARDS HAVE STALLED NEGOTIATIONS UNTIL AFTER THEY ADOPTED THE BUDGET FOR THE YEAR FOR WHICH THE BENEFITS WERE BEING NEGOTIATED.

SOME SCHOOL BOARDS HAVE SAID "YES" ON INDIVIDUAL ITEMS NEGOTIATED WITH THEIR EMPLOYEES, THEN SAID "NO" TO THE SAME ITEM WHEN THE TIME CAME FOR ADOPTING THE FINAL PACKAGE.

SOME SCHOOL BOARDS HAVE RENEGED ON SIGNED AND WRITTEN AGREEMENTS.

ARE THESE THE THINGS THAT SCHOOL BOARDS ARE ELECTED TO DO?

AS A RESULT OF THESE ATROCIOUSLY UNFAIR TACTICS, I SEE ONE POINT AND I SEE IT CLEARLY. THE POINT IS BEST SUMMED UP BY J. GARFIELD JACKSON, CHAIRMAN OF THE NEW JERSEY EDUCATION ASSOCIATION HUMAN RIGHTS COMMISSION:

"THE CIVIL AND HUMAN RIGHTS OF EDUCATORS REQUIRE FURTHER LEGISLATION. THEY ARE INHERENT IN OUR CONSTITUTION. SOCIETY MUST DEAL FAIRLY WITH US."

GENTLEMEN, TO EQUALIZE THE BALANCE OF POWER WHICH BOARDS

OF EDUCATION NOW SEEM TO HOLD, WE NEED ASSEMBLY BILL 521.

I AM FORTUNATE. IN MY 2 YEARS OF NEGOTIATING WITH MY BOARD THEY HAVE, TO THE BEST OF MY KNOWLEDGE, BARGAINED IN GOOD FAITH. I WISH EVERY TEACHER IN THIS STATE COULD EXPERIENCE THAT. BUT AS LONG AS EVEN ONE BOARD BREECHEES THIS BARGAINING STANDARD WE MUST SPEAK OUT AND PROTECT THE INTEREST OF ALL OF OUR TEACHERS.

WE WANT ONE SET OF RULES FOR BOTH THE BOARD AND THE TEACHERS TO ABIDE BY - AN EQUAL BALANCE OF POWER.

ALL WE ASK IS FOR LEGISLATION WHICH WILL GIVE US OUR DAY IN COURT WITH LIBERTY AND JUSTICEFOR ALL.

THANK YOU.



KENNETH A. GIBSON

MAYOR

NEWARK, NEW JERSEY

07102



M E M O R A N D U M

TO: Assembly Committee on Revision and Amendment of Laws

FROM: Kenneth A. Gibson

RE: SUPPLEMENTAL STATEMENT BY THE CITY OF NEWARK ON
ASSEMBLY BILL 521

DATE: May 9, 1972

After reading an account of the first day's public hearings on A-521 I find there are several points that should be made.

First, the argument by public employees that the lack of a right to strike has deprived them of many benefits and made them second class citizens does not hold up under close scrutiny. In Newark, employees are the recipients of a wide range of benefits and protections. Employees are covered under Titles 40, 34, and 11 of New Jersey Statutes. Employees can only be removed for "good and just cause" or as an economy move. In the event of a layoff those employees with tenure have bumping rights. All permanent City employees are covered in some form by a pension program, either contributory or non-contributory. All employees are covered by the Compensation Insurance Act and are guaranteed sick leave benefits of fifteen days a year which they can accumulate from year to year. City employees have thirteen paid holidays a year and receive from twelve to twenty vacation days yearly depending on length of service. Newark City employees have an internal training program and a tuition reimbursement system for outside formal studies. Newark public employees and eligible members of their families get full hospitalization coverage under Blue Cross and Blue Shield and Major Medical. Finally in almost all cases City employees have a full range of employment advancement opportunities. All these benefits were won without a right to strike. It appears that public employers are nowhere near as unsympathetic to employees as labor would like us to believe.

Secondly, the responsibilities and functions of the public and private sector are not even remotely similiar. Private employers have a responsibility to profits while public employers are responsible to their constituents. Must the Mayor be forced to grant raises despite the needs and wishes of a majority of his constituents?

Can councilmen approve these raises in the face of complaints that services are deteriorating? As one council member put it "How can I explain to my constituents that I voted for increased pay scales for employees when the sewers are flooding, streets are dirty, health care is inadequate, crime runs rampant, and the property tax rises to a point where it is confiscatory."

Currently the City of Newark is negotiating contracts with its twelve unions. Agreements have been reached with five unions but the other negotiations are stalled because the City Council has not appropriated the funds. The Council feels they should not appropriate the funds until all twelve units have agreed to terms. The unions believe they should not come to terms until the money to cover the agreements is available. This is a conflict that occurs under our check and balance system and is best resolved within that system. Public employee unions should not have the right to force a confrontation by a strike. Public employees should not be able to circumvent the normal political process by exercising an unrestrained strike in the public sector. A-521 would allow public employees just such rights.

To give public employees the right to strike puts their employers, elected public officials, in an impossible position: To deny employees their demands means a strike which will cut off essential services to the community; To accept employee demands, means generating justified community outrage over misuse of the tax dollar.

Another point that distrubs me is the lack of a clear definition of the phrase "clear and present danger." Historically this has been interpreted by the courts in a very narrow vein. A-521 interprets this phrase too broadly and would deprive citizens of basic, essential servies. Several speakers praised the lack of a clear definition because each case would be decided on its merits. I find this is a reprehensible position. For example, the Transport of New Jersey Transit strike has not caused simply "inconvenience" as one committee member felt but has presented a clear and present danger to health and safety of citizens.

While the middle management suburbanite may have felt no danger, other citizens have not been so lucky. Ask the cleaning lady who picks up the office after the executives. She must either walk home at 10:00 P.M. or take a taxi that charges a substantial portion of her salary. Ask the waitress who does not have access to a car and lost her job because she could not get to work. Ask the senior citizen who must walk home with the groceries. Ask the small businessman who does not cater to upper middle class customers. To them the recent bus strike was a threat to their safety, their ability to make a livelihood and their fight for survival.

We do not contend that private employees should have their right to strike limited. We do contend that because of the basic differences already explained public employees should not be given this right. In the complex interdependence of City life, there is no such thing as a strike that does not present a "clear and present danger." What happens, for example if the public works department goes on strike. How high must the garbage be piled before a "clear and present danger" exists? How many homes must be flooded by a broken sewer main before an injunction can be issued? How much snow must fall before a judge decides that it is essential to the public health and safety to clear the streets? What does the injured person who cannot get to the hospital do while the hearing is being held?

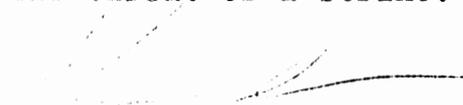
At the hearing one witness stated police and firemen should have a right to strike but should refrain from using it. Another said that limited job actions by police or firemen should be allowed. What sort of Pandora's Box is A-521 opening? On the weekend of April 29th, Newark suffered 117 fires that left more than 300 people homeless. Will firemen be allowed to participate in a job slowdown that enables them to attend only fires where lives are at stake or an entire block is threatened? Will policemen be able to refuse to answer simple muggings and robberies? If A-521 is enacted will someday we find massive strikes by public employees only weeks before municipal elections to coerce public employees into accepting labor demands?

Another point that was continually reiterated at the hearings was the jailing of teachers for breaking the law. While we all deplore sending anyone to jail teachers knew what the law was and the consequences of their actions. Civil Disobedience is a technique that have been used to express outrage over grievances for decades. However those who advocated civil disobedience realized that part of the commitment to civil disobedience meant being prepared to

accept the consequences of their actions. Jail sentences are one of those consequences.

One final factor which also must be considered is the rate at which the public sector is growing. The New Jersey State League of Municipalities in its May, 1972 issue points out that the "size of the public labor force in almost every area is growing more rapidly than almost any other sector of the economy...Between 1960 and 1970 State and Local employment increased 64 percent...It is further estimated nationally that government manpower requirements by 1975 will rise nearly 50 percent above the 1970 level, compared to 10 percent in manufacturing and 22 percent for all workers for this period.

The productive aspect of the hearings was that time and again a solution was mentioned. That solution is compulsory binding arbitration after all other negotiation attempts have failed. Labor representatives dismiss this argument saying it will destroy collective bargaining. This point was never proven and no evidence was ever submitted in support of labor's claim. Let us try the binding arbitration method as a solution to the current problem before considering the very dangerous alternative of a right to strike bill. Binding arbitration removes the need to use the court, guarantees a fair and just settlement and ends the need for strikes and other types of job actions. The Assembly should not report out a right to strike bill but instead recommend legislation that will end disputes in the public sector without the threat of a strike.


Kenneth A. Gibson
MAYOR

NEW JERSEY STATE LEAGUE OF MUNICIPALITIES



City of Clifton NEW JERSEY 07015

WILLIAM HOLSTER
CITY MANAGER

CITY HALL
ROOM 207—PHONE (201) 473-2600

May 2, 1972

Reasons for Opposition to A521 (Public Employee Strike Bill)

The New Jersey State League of Municipalities has gone on record in support of certain amendment to Chapter 303 of the Laws of 1968 (now known as the Perc Law) in order to provide an orderly framework for processing employee demands in the public sector and at the same time protecting the citizens and taxpayers from unfair labor practices.

In May of 1970 the League Study Committee, after a thorough two year study and analization of all the comments of its members and public employee groups, proposed a list of amendments to the present law. We are attaching a copy of that recommendation.

On Page 6 of the recommendation the paragraph designated eleven (11) establishes very forcefully the League's opposition to permitting strikes by public employees.

Statement by Mayor Luther: "... pointed to the long-standing community view that the public interest is jeopardized by work stoppages by public employees. Legalizing strikes would result in an epidemic of paralyzing stoppages. Most of which would endanger the public safety. The statement added that a provision permitting strikes would be in conflict with the philosophy of Chapter 303 which was enacted to provide employees with avenues for negotiating their objectives, thereby eliminating the need for the strike as a weapon in dealing with employing units of government."

The Committee urges that Chapter 303 be amended to include the following provision drawn from the Municipal Employee Relations Act of Massachusetts:

"It shall be unlawful for any employee to engage in, induce, or encourage any strike, work stoppage, slowdown or withholding of services by such employees."

Chief Justice Wientraub stated in 53 N.J. Bd. of Ed., Borough of Union Beach vs. N.J.E.A., et al:

"It of course is essential to the constitutional promise (Article 1, para. 19) of an ordered society that government shall be able to govern, and we may therefore assume the Legislature could not legislate the branches of government into idleness".

It is our contention that Assembly A521 would not only permit close down of governmental operation but would produce complete chaos by abdicating government to public employee organizations which have been shown to be not only the most militant of labor groups but protected in their militancy by present statutes.

The Governor of the State of New Jersey in a conditional veto of Senate Bill 746 (Chapter 303 in 1968) stated:

"First, of paramount concern to me is the fact that the bill, as presently drafted, appears to suggest that public employees have a

right to strike, contrary to long-established judicial interpretations of the New Jersey Constitution. Whether by indirection or otherwise, the Legislature in a last-minute amendment struck from Senate Bill No. 746 language disavowing any intention upon its part of enlarging upon the rights of public employees under the Constitution. That deletion, considered in conjunction with certain other provisions of the bill, implies that public employees may engage in work stoppages. The Public and School Employees' Grievance Procedure Study Commission developed a concept of collective negotiations which embraces a bundle of bargaining rights up to but not inclusive of the right of public employees to strike. But for the defects noted in the act, I would assume the Legislature intends that the term 'collective negotiations' be given no greater scope than did the Study Commission. If, however, the Legislature intends more, it should be clearly understood that the Governor of this State will not become a willing partner. I have suggested language which will remove all doubt as to the intention of Senate Bill No. 746 on this subject." and proposed the following amendment:

"Nothing in this act shall be construed to alter the obligations and duties of persons in public employment under Article I, paragraph 19 of the Constitution of the State of New Jersey as the same has been interpreted by the courts of this State, particularly as bearing upon the absence of a right to strike. This act shall not be construed to confer upon public employees any rights not expressly granted by this act."

The Governor's strong language at that time, . . . "If, however, the Legislature intends more, it should be clearly understood that the Governor of this State will not become a willing partner."

The validity and uncommon foresight of both the Chief Justice and the Governor are prophetic in the course of events since then.

The many illegal strikes and super-militancy actions of teachers groups should flag any suppositions that their groups are willing or capable of the necessary controls to maintain orderly implementation of the proposals of Assembly A521.

The statement on the Bill, in itself, should give pause where the onus and burden of proof by court action is required by the public employer and tax payer to prove (1) . . ."clear and present danger to public health and safety" and (2) . . ." (that) employee representative has failed to make a reasonable effort to utilize the procedures provided by law for resolution of an impasse".

This kind of factual type court question will lead to cluttering our courts with innumerable cases with prolonged litigation and cost the tax payer additional funds not only for new court personnel and judges, but also to defend these additional actions.

Evidence supporting the above statement that manifold increased litigation can be expected is manifested by a review of the many cases already in the courts on the question of public employee strikes even though the principle of "no strike" has been established by our State Supreme and the U.S. Supreme Court. (At the present moment there is an unauthorized teacher's strike in progress, in Freehold, N.J., pointing up the "public be damned" attitude of this organization). (See Herald News article, dated 5/2/72 attached).

The attached article from the Herald News of Clifton, Passaic, N.J., dated 4/27/72, not only points up the militancy of N.J.E.A. but the abusive pressures foisted upon legislators who may differ on even one of N.J.E.A.'s proposals.

Assembly Bill A521 becomes all the more offensive in light of the changing position of some of our most influential labor leaders who have come to the belief that strikes are no longer good tools for organized labor.

A.F.L.-C.I.O President George Meany, told a labor sub-committee recently that he no longer believes strikes are good tools for organized labor and he has appointed a committee to find an alternative method.

Mr. Meany hopes that the American Arbitration Association will come up with a solution. (See Paterson News Editorial dated 4/22/72 attached).

In light of the above, and present day thinking of labor and management and some of our legislators concerning binding arbitration (no strike) and the need for greater production to offset greater cost, A521 is not only repugnant but regressive.

An article and editorial published in the Herald News dated 4/22/72 is further evidence of the lengths to which propaganda is used to misguide our legislature and the public in furthering the aims and goals of this professional organization.

The attached editorials, Herald News dated 2/3/72 and Paterson News dated 2/2/72 and 4/26/72, spell out the consensus of opinion of the public and these two newspapers that Public Strikes are not in the Public Interest.

The fairy tale by the sponsors of this legislation "that the right to strike is a minimal element and that the provisions of A521 should produce the peaceful settlement of most public employer-employee disputes", is ludicrous and absurd and would be laughable if it were not so tragic.

A521 rather than simplify the negotiative process would greatly complicate it; rather than speed up court action would bog our courts down in endless litigation; rather than provide better government would produce greater shutdown with its concomitant worsened government.

Since S400, the "Payment of Public Funds for Strike Benefits", which was subsequently rejected as it has been in nearly every State in the Union, (see New York Times editorial dated 5/1/72, attached) no bill if enacted would produce more chaos than A521.

Rather than a step into the future in new methods and procedures in handling labor disputes it would take us back to the 19th century with the children being deprived of education, and the public being deprived of needed services.

PROPOSED AMENDMENTS TO CHAPTER 303, NEW JERSEY EMPLOYER-EMPLOYEE
RELATIONS ACT OF 1968 RECOMMENDED BY THE NEW JERSEY STATE
LEAGUE OF MUNICIPALITIES

The New Jersey State League of Municipalities has been on record in support of public employee labor relations legislation which would provide an orderly framework for processing employee demands in the public sector. Chapter 303 of the Laws of 1968 was originally viewed, as a step in the right direction. Imperfect though it was, it provided an administrative foundation and brought order where there previously had been chaos.

However, a year and a half of experience under Chapter 303 has revealed a number of major inadequacies and inequities in the act.

A number of municipal officials have viewed these problems to be of sufficient importance to warrant outright repeal of the legislation. The matter of repeal was seriously considered by the League in its deliberations, but the final conclusion was reached that the interests of public employee labor relations would be far better served by correcting the present inadequate law than by leaving New Jersey with no guidelines at all through repeal. With proper amendment, the PERC law can become an effective, equitable implement bringing labor peace and fairness to the public sector.

The League, through its Committee to study the New Jersey Employer-Employee Relations Act, has made an intensive review of municipal experience under Chapter 303. The Committee is composed of mayors, municipal managers, municipal attorneys and other officials, all of whom, in their official capacities, have had extensive first-hand experience in the public employee-employer relations sector. They are: Joseph M. Nardi, Jr., Chairman, Mayor, Camden; James Alexander, Assistant Business Administrator, Trenton; Christian Bollermann, Attorney, Board of Adjustment, Cresskill; Walter J. Davis, Mayor, Bloomfield; Francis X. Hayes, 1st Assistant Corporation Counsel, Jersey City; Henry N. Luther, III, Mayor, Parsippany-Troy Hills Township; John T. McHugh, Township Manager, Willingboro, President, New Jersey Municipal Management Association; Albert Pannullo, Administrative Analyst, Department of Administration, Newark and James D. Westman, Township Manager, Franklin (Somerset).

Earlier this year the Committee requested the legislature to delay any action on amendments to the PERC law until municipalities, through this League Committee, had the opportunity to formulate a comprehensive position on the broad application of Chapter 303. The Committee has completed its deliberations and now makes the following recommendations:

1. Comprehensive Amendment of Chapter 303. Several bills, namely S-537, S-564, A-498, A-777, A-780, A-810, A-862 and A-897 are now pending before the Legislature which make piecemeal amendments to Chapter 303. It is recommended at the outset that amendatory legislation be prepared which contains a comprehensive revision of the present law, and that the respective piecemeal amendments not be moved further.

A-1

2. Composition of the Public Employee Relations Commission. Chapter 303 (N.J.S.A. 34:13A-5.2) presently provides for membership on PERC of persons representing identified management and employee interests. The Committee believes that such composite membership has rendered PERC an inappropriate agency to sit as a quasi-judicial body hearing allegations of unfair labor practices. The Committee recommends that Chapter 303 be amended to provide that PERC be comprised of members representing the public generally and that no membership by persons with either employee or employer bias be authorized. (A-862 would accomplish this purpose).

However, if the present philosophy is to prevail wherein PERC will continue to be comprised of individuals with such employee or employer affiliations, the Committee recommends that the Commission be enlarged to include a representative of municipal employers. Only State and board of education employers are now represented.

3. Management Rights and Areas of Grievance Concerning Conditions of Employment. Chapter 303 is seriously deficient with regard to the definition of negotiable terms and conditions of employment in that it does not reserve to public employers the management prerogatives not open to negotiation or grievance which are essential to such public employers in meeting their policy making obligations under the law. The Committee recommends that a reserved rights of management clause be amended to the law, both as a new definition of "management rights" under N.J.S.A. 34:13A-3 and under N.J.S.A. 34:13A-5.3 as a qualification to the negotiation and grievance of terms and conditions of employment. The following language drawn from the State Employment Labor Relations Act of Wisconsin is suggested:

"Management Rights" Nothing in this chapter shall interfere with the right of the employer in accordance with applicable law, rules and regulations to:

1. Carry out the statutory mandate and goals assigned to the agency utilizing personnel, methods and means in the most appropriate and efficient manner possible.
2. Manage the employees of the agency, to hire, promote, transfer, assign or retain employees in positions within the agency and in that regard to establish reasonable work rules.
3. Suspend, demote, discharge or take other appropriate disciplinary action against the employee for just cause; or to lay off employees in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive.

4. Unfair Labor Practices. The present law is inadequate in three basic respects in its provisions covering violations or unfair labor practices.

(1) Chapter 303 (N.J.S.A. 34:13A-6) does not specifically empower the Public Employment Relations Commission to rule on alleged violations (unfair practices). The procedures set forth in the Commission's Rules and Regulations dealing with such violations are without specific statutory authorization. Chapter 303 should be amended to grant such powers and authority to the Commission.

(2) "Unfair Labor Practices," including but not limited to "bargaining in good faith" are not defined in the present Act. The Committee recommends that N.J.S.A. 34:13A-3 be amended to include the following definitions drawn from the language of the Connecticut legislation on the subject.

"Unfair Practices" - (a) Employers or their representatives or agents are prohibited from: (1) Interfering, restraining or coercing employees in the exercise of the rights guaranteed in section 2 of this act; (2) dominating or interfering with the formation, existence or administration of any employee organization; (3) discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this act; (4) refusing to bargain collectively in good faith with an employee organization which has been designated in accordance with the provisions of this act as the exclusive representative of employees in an appropriate unit; (5) refusing to discuss grievances with the representatives of an employee organization designated as the exclusive representative in an appropriate unit in accordance with the provisions of this act. (b) Employee organizations or their agents are prohibited from: (1) Restraining or coercing (A) employees in the exercise of the rights guaranteed in subsection (a) of section 2 of this act, and (B) a municipal employer in the selection of his representative for purposes of collective bargaining or the adjustment of grievances; (2) refusing to bargain collectively in good faith with a municipal employer, if it has been designated in accordance with the provisions of this act as the exclusive representative of employees in an appropriate unit.

"Bargaining in Good Faith" For the purposes of this act, to bargain collectively is the performance of the mutual obligation of the municipal employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings appropriately related to the budget-making process, and confer in good faith with respect to wages, hours and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession.

(3) The third deficiency regarding the area of unfair labor practices and other violations of the Act is that no enforcement provisions or legal remedies are set forth. It is recommended, therefore, N.J.S.A. 34:13A-6 be amended to empower the Commission to initiate enforcement procedures when violations have been determined. The following provision from the State of Connecticut is suggested:

"If, upon all the testimony, the board determines that a prohibited practice has been or is being committed, it shall state its findings of fact and shall issue and cause to be served on the party committing the prohibited practice an order requiring it or him to cease and desist from such prohibited practice, and shall take such further affirmative action as will effectuate the policies of this act".

5. Definitions. Chapter 303 is deficient (in N.J.S.A. 34:13A-3) with regard to other definitions. The terms "supervisor" and "professional employee" should be amplified. The Committee suggests the following language drawn from the National Labor Relations Act (and also appearing in Assembly Bill 498):

"The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment".

The term "professional employee" means:

(1) Any employee engaged in work (A) predominately intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (B) involving the consistent exercise of discretion and judgment in its performance; (C) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (D) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes; or

(2) Any employee, who (A) has completed the courses of specialized intellectual instruction and study described in clause (D) of paragraph (1) and (B) is performing

related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (1).

The term "managerial executive" appearing in connection with exclusions from participation in employee representative units as set forth in N.J.S.A. 34:13A-5.3 is not defined in the Act. It is recommended, therefore, that the following definition of "Managerial Executive" be added to N.J.S.A. 34:13A-3:

"A managerial executive is an employee who participates in the formulation, determination, or effectuation, of management policy, and exercises significant independent judgment in his work."

6. Confidential Employee. It is recommended that the "confidential employee" be added to those persons ineligible for inclusion in an employee representative unit under the provisions of N.J.S.A. 34:13A-5.3. "Confidential Employee" should be included in the definitions in N.J.S.A. 34:13A-3, and the following language is suggested:

"A confidential employee is one who has access to, or possesses, information relating to employment labor relations or who assists and acts in a confidential capacity to persons who exercise managerial functions in employee labor relations."

7. Established Practice Provision. The Committee believes that Chapter 303's exception by virtue of "established practice", to eligibility for inclusion in an appropriate representative unit runs counter to the basic concept of the appropriate unit principle. The Act should be amended to delete that mandate, making the matter of established practice a subject for negotiation by the involved parties.

8. Negotiation of Rules and Regulations. Chapter 303 (N.J.S.A. 34:13A-5.3) provides that new rules or modifications of existing rules must be negotiated by the employer with the employee representative. The Committee views this mandate as an unreasonable restraint on the employer, which should be replaced with a provision that such rules must be, whenever practicable, announced in advance and discussed. The Committee recommends the following language which appears in Assembly Bill 498:

"Proposed new rules or modifications of existing rules governing working conditions shall, whenever practicable, be announced in advance and discussed with the majority representative before they are established."

*See 7-6
in 13A-5.3
in 13A-5.3*

9. Conflict with Civil Service. Chapter 303 creates a body of employee grievance procedures which overlap parallel provisions in Title 11, Civil Service, with the result that an employee may process grievances under both bodies of law on the same set of circumstances. It is recommended that Chapter 303 be amended in this regard to include a clause that an employee must make a choice of remedies, and having processed his grievances through one channel would be precluded from the other. It is also suggested that Title 11, Civil Service, be amended to provide a similar provision in reference to grievance procedures available under the Public Employer-Employee Relations Act and stipulating a similar election of choice of remedies.

10. Individual Bargaining Rights. To conform with the New Jersey Constitution and Federal practices under NLRB, it is suggested that the act be amended to provide the following provision:

"An individual shall have the right to process his own grievance provided the majority representative is present and provided that any agreement reached with the individual employee is not violative of the contract."

11. Strike Provisions. The Committee is unalterably opposed to any extension to public employees of the right to strike. A statement outlining such opposition was presented on April 7 before the Assembly Labor Relations Committee at a public hearing on Assembly 810.

The statement, presented by Mayor Henry N. Luther, III, of Parsippany Troy Hills, pointed to the long-standing community view that the public interest is jeopardized by work stoppages by public employees. Legalizing strikes would result in an epidemic of paralyzing stoppages. Most of which would endanger the public safety. The statement added that a provision permitting strikes would be in conflict with the philosophy of Chapter 303 which was enacted to provide employees with avenues for negotiating their objectives, thereby eliminating the need for the strike as a weapon in dealing with employing units of government.

The Committee urges that Chapter 303 be amended to include the following provision drawn from the Municipal Employee Relations Act of Massachusetts:

"It shall be unlawful for any employee to engage in, induce, or encourage any strike, work stoppage, slowdown or withholding of services by such employees."

In conclusion, the League wishes to reiterate its general support of public employee labor relations legislation as well as the belief that with the amendments recommended above, the present law can become a workable and fair mechanism for employer-employee negotiations in the public sector.

HN 5-2-72

Backlog up 25% in appeal courts

TRENTON (AP)—The backlog of cases in the Appellate Division of New Jersey Superior Court has risen 25 per cent in the last year, statistics reveal.

There were 2,569 appeals pending on April 1, compared with 2,040 a year before.

The case backlog has increased more than 300 per cent since 1966, when the state's public defender system was adopted.

The Appellate Division, which has expanded in the last decade from two to five parts with three judges in each part, is now capable of hearing a maximum of 48 appeals a week.

This means it would take more than a year to clear the present backlog of cases.

AK #/2/7/72

Evers' stand irks educators

By EDWARD J. MULLIN
Herald-News Staff Writer

About 800 Passaic County school people rallied last night in support of their six joined brethren and the proposed teacher-strike sanction legislation that might keep others out of jail.

The occasion was the Council of Education Associations dinner in the Wayne Manor Restaurant, Wayne. Special guests were the Passaic County legislators whose votes the teachers want for the right-to-strike bill, A-529. It was a distinctly hard-sell situation. Yet four of the six legislators who attended said, in varying terms, that they would not support the bill in its present form.

Most firm was Assemblyman John F. Evers, the only Republican among the six. He was occasionally interrupted by

light, responsive heckling, and his speech was the most dramatic thing in an evening uniformly more exciting than the garden-variety legislative pressure dinner.

Evers, who had spoken against A-521 months ago, started his speech by saying that someone he met early in the evening told him "You're the enemy." A few people in the audience were heard to say "right," in agreement. Evers denied that he was the enemy, and took credit for making his position clear.

"You know where I stand," he said. "You know where we stand," said someone on the floor.

Evers pointed out that he had supported many of the New Jersey Education Association's bills, and that he had been a cosponsor of A-520, the bill giving enforcement powers to the Public Employment Relations Commission. This too is a

major NJEA bill, and has already been passed by the Assembly. It was to be voted in the Senate today, and was expected to pass.

But Evers said he drew the line on A-521.

"Don't tell me that strikes are the answer, because they're not," Evers said. There was a negative response from the floor, after which Evers went on to say that strikers are losers.

"You're a loser," somebody said. Evers continued, saying the people could vote him out of office if they disapproved of his record. There was applause to that.

While none was subjected to the same critical treatment that Evers received, Sen. William J. Bate and Assemblymen William H. Hicks and Herbert Klein all said they do not support A-521 in its current form. The bill has not yet been voted in either house, and will not be until after a public hearing next month.

Bate said he hoped the bill could be made acceptable by an amendment that would require binding arbitration to resolve deadlocked negotiations between teachers or other public employes and their employing agencies. Klein and Hicks expressed sympathy with the teachers but said they could not vote for the bill because it places the interests of the teachers above the interest of the children.

Hicks used a pastoral apology, saying he did not think the interest of the sheep should be placed above that of the shepherd. Hicks opened his speech by denouncing the meeting of legislators and teachers as "an act of dishonesty . . . which should be rare when politicians get together."

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Sen. Joseph Hinkala did not establish a position as clear as the others did. He said he did not think he would vote for the bill if the vote were being taken as he spoke, but that he does not know what he will do when the time comes. He said his opposition to the bill is not "100 per cent," and that it might change.

Firmly committed to the bill, and frequently encouraged by applause as he spoke, was Assemblyman John J. Sinsimer. He is one of the bill's sponsors. Giving teachers the right to strike will neither provoke nor promote strikes, Sinsimer said. Rather, he said, it would stimulate good bargaining.

Sinsimer also spoke of an Assembly resolution he has sponsored, calling upon Gov. William T. Cahill to grant amnesty to teachers now serving or facing jail sentences for striking. He said he was hopeful the resolution would be voted in a week or so. Mimeographed copies of the resolution were made available to those at the dinner.

Sinsimer read a letter of support from Assemblyman Vincent O. Pellecchia who, like Sinsimer, is an organized

labor man and cosponsor of A-521.

Passaic County's eighth legislator, Sen. Joseph A. Lazara, did not attend the dinner, although he had expressed an intention to do so.

Passaic County's six jailed schoolteachers are all from the city of Passaic. One of them, Mrs. Audrey Thalsheimer, sent a letter in which she said she would not be in jail if A-521 were law.

Mrs. Thalsheimer, who is serving a 45-day sentence, said that life in jail was made as tolerable as possible through the kindness of Sheriff Frank J. Davenport. He was at the dinner, and was applauded.

There were Bergen County people at the dinner, among them Miss Kathryn E. Stillwell, one of the 14 Fair Lawn teachers who are scheduled to

begin serving jail terms July 1.

Miss Stillwell said she had fought against teacher strikes for 30 years on the ground that teachers are professional people. They are still professional people, Miss Stillwell said, but they have been reduced to a status of second-class citizenship. Teachers do not ask preferential treatment, Miss Stillwell said, but should not be kept at a disadvantage in their negotiations with boards of education.

There are times, Miss Stillwell said, when laws must be broken to prove that they are unfair and unjust.

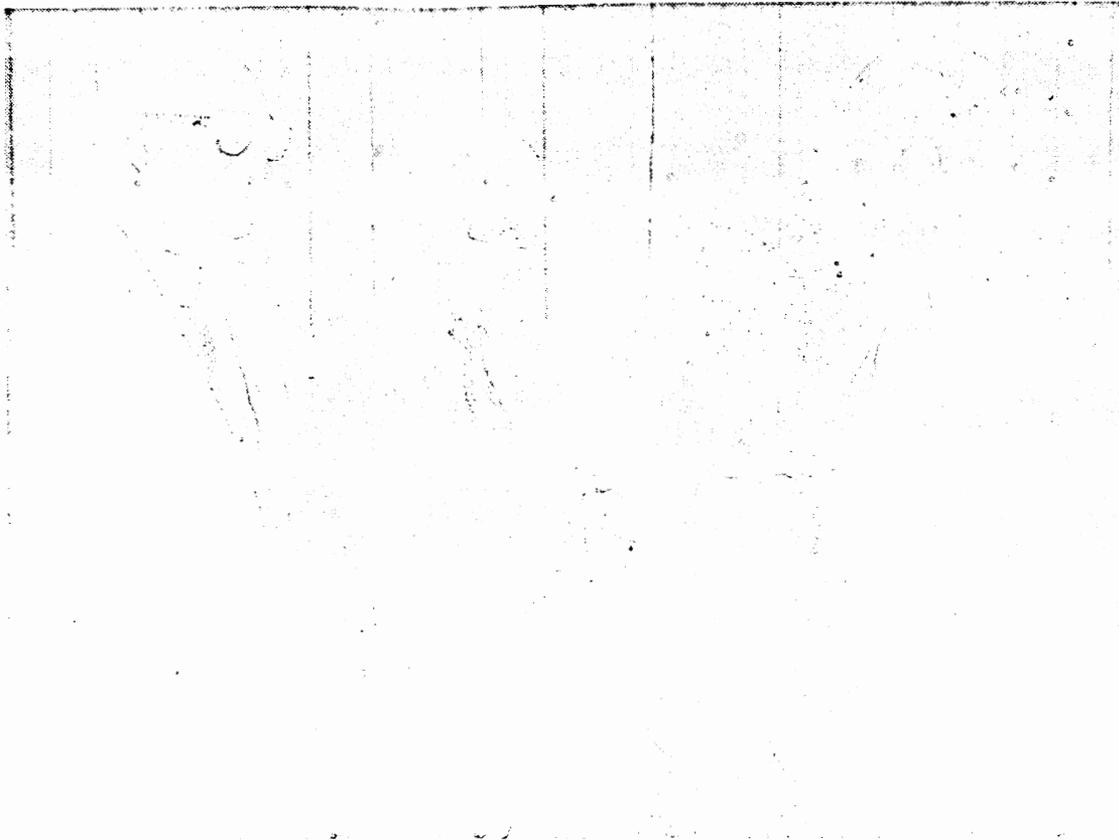
Miss Stillwell expressed the hope "that The Herald-News gives what I am saying accurate coverage."

The Herald-News, which has editorially opposed teacher strikes, was also criticized for

Lewis Applegate, the NJEA public relations director. He expressed the wish that the paper would give more attention to the teachers' activities, beyond those of their contract commitments, in the service of education. He spoke of money spent by the teachers for institutional advertising and added that "unfortunately, some of it has to go to The Herald-News, I'm afraid."

Applegate, a chief lobbyist for the NJEA, said there are about 30 votes for A-521 available in the Assembly now. He said the lobbying effort would continue until they get the 41 votes necessary for passage.

Toastmaster for the dinner was Joseph Grecco, principal of Clifton School 13 and legislative chairman for the council. Grecco is himself a former legislator, having served in the Assembly during the 1960s.



RALLY FOR TEACHERS — Quartet in the spotlight last night at Wayne dinner of the Council of Educators' Association to promote legislation for teachers are, from left, toastmaster Joseph Grecco, Clifton principal and legislative

chairman of the group; State Sen. Joseph Hinkala, D-Passaic; Miss Leonie Heimann, president of the organization, and Paul Strich, Clifton school principal and chairman of the aff.

Herald-News Photo by Roger Tompkins

The Paterson News

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SATURDAY, APRIL 22, 1972

Teacher Strike Solution?

There has rarely been a strike that has not been settled. . . after weeks or months of loss to worker and employer and, what is worse, hardships for the public as in the case of New Jersey's long lasting bus strike. There must be some means of settling labor disputes before work is suspended. It is something we have a right to expect in a civilized society which is conquering disease, outer space and many other serious problems.

In view of disagreements we have had over previous actions by AFL-CIO President George Meany, it is gratifying that we now find a position of accord. Mr. Meany told the Senate labor sub-committee that he no longer believes strikes are good tools for organized labor and he has appointed a committee to find an alternative weapon. He hopes the American Arbitration Association will come up with a solution. We join him in this hope.

In view of the fact that teachers' strikes, and those of firemen, police and public employes are especially abhorrent, every consideration should be given the proposal of the New Jersey School Boards Association for making teacher strikes unnecessary.

The School Boards group is seeking legislation for what is called a "fair and final offer" procedure which would permit a neutral fact finder, appointed by the Public Employment Relations Commission, to recommend a "final offer" chosen from one of the disputing parties. Both sides would have to agree beforehand to accept the fact finder's decision.

The New Jersey School Boards Association represents 600 school boards with 5,000 members and thus should gain support for the legislation proposed.

If the plan is adopted and if it works, it could be extended to other public employes and then to labor disputes in industry and commerce.

Strikes, particularly those which paralyze services and hurt the public, as well as those accompanied by vandalism and physical force, must be, and we think can be, avoided with fairness to labor, management and the public.

THE HERALD-NEWS

SATURDAY, APRIL 22, 1972

They want to be in jail

THE jailing of Passaic school strike leaders for contempt of court (not for striking!) has been attended by a great deal of publicity.

Much of it has been of the same character as the grandstand appeal by a legislator to Gov. Cahill to grant "amnesty" to teachers in jail or under jail sentence for refusing to obey court orders.

There's one fact about the Passaic teachers' case which has not been publicized, and it should be.

It is that the Passaic teachers, with one exception, are in jail of their own free will.

They want to be in jail.

They don't want to be in their classrooms, teaching their students.

The story is that a New Jersey law passed in 1969 provides for the release from county jail of prisoners during the day to work at their jobs. Five of the 21 counties in the state have work-release programs. They are Bergen, Essex, Middlesex, Morris and Salem.

The law permits the release of certain persons, not of everyone. The individuals must be trustworthy and no menace to life and limb. The release must be approved by the assignment judge of the county. The prisoner goes back to work at the end of the day and serves out his allotted time.

The Passaic teachers were offered the chance to participate in the work-release program provided it could be arranged. And it could be

arranged. However, a spokesman for the majority said the teachers were not interested. One of the group said that he was interested.

He is Manlio Boverini, Passaic High School coach, physical education teacher and night school principal. He is interested in meeting his obligations as a teacher.

The problem caused by Passaic County's lack of a work-release program is not an insurmountable obstacle. The teachers were tried and sentenced in Bergen County, which does have the program. Sheriff Joseph Job is a pioneer in the work-release experiment. By request and upon presentation of a reason, the transfer from Passaic to Bergen could be arranged.

If Dr. Boverini does not change his mind, he will be able to leave the jail in the morning, attend to his various jobs and return to jail when his day's work is done. He will continue to serve the public while paying the penalty.

The other teachers could, too. But then they would not be martyrs. They would not be able to kid the public with stories that their students were being deprived of their talents by heartless laws. They would not have a reason to persuade legislators to vote to rewrite the laws to suit the New Jersey Education Association.

The teachers certainly have the right to refuse to participate in the work-release program. But they don't have the right to fool the public.

THE HERALD-NEWS

THURSDAY, FEBRUARY 3, 1972

The right-to-strike bill

THE legislation to give public employes the right to strike is just about the worst bill to be tossed into the hopper at the Statehouse since Senate 400, which made strikers eligible for unemployment compensation.

In some aspects, the right to strike bill is worse than Senate 400. It would not only make it possible for public employes to blackmail the public but would also put handcuffs on the courts. The original version of the bill (a revised version has not yet been printed) said flatly that "no court... nor any judge or judges... shall issue a restraining order or temporary or permanent injunction in any case involving a strike by a recognized representative of public employes unless—" and the exception was when public health or safety was endangered, which would mean that policemen, firemen and certain other public employes would not have the right to strike.

The revised version has been described as having a provision that would exempt the Passaic schoolteachers who defied a court order not to strike and were sentenced to jail terms for contempt of court. This sort of legislative meddling with the functioning of the courts is the best way to destroy the courts.

One of the sponsors of the bill, a new Passaic County representative, Assemblyman Vincent Pellechia, said the Passaic teachers were treated unfairly by the courts. Assemblyman Pellechia happens to be a union official and is hardly an objective judge of the fairness of the courts. The facts in the Passaic case are that the teachers deliberately flouted a court order. They knew what they were doing. They have no excuse at all. If teachers are to be permitted by the legislature to ignore a court order, then every citizen is entitled to the privilege of refusing to obey a court order, and where would we be then?

The legislation which Assemblyman Pellechia, along with Passaic County Assemblyman John Sinsimer, another union official, and Assemblyman Peter Garibaldi of Middlesex County, a former union official, are sponsoring is not in the public interest. Assemblymen Pellechia and Sinsimer are Democrats, and Assemblyman Garibaldi is a Republican. The moral seems to be that when the people are foolish enough to elect a union official to public office, they are electing someone to represent the interests of organized labor. Assemblymen Pellechia, Sinsimer and Garibaldi are not representing the public.

The Paterson News

WEDNESDAY, FEBRUARY 2, 1972

Hits NJEA On Strike Bill

It takes a public official of rare courage to buck the powerful education lobby as Assemblyman John F. Evers (R) of Passaic county has done. Evers has lashed out at a right-to-strike bill for public employes calling it "nothing more than a sellout to the New Jersey Education Association and other unions at the expense of our citizens."

The measure which was introduced by Republican Assemblyman Peter Garibaldi of Middlesex would give public employes the right to strike without restraining orders unless "there is a clear and present danger to public health or safety."

The bill would also rescind any penalties levied against public employes for striking unless a new hearing is held within 30 days of passage of the Garibaldi bill.

Evers points out that the measure is co-sponsored by Passaic County Democratic Assemblymen John Sinsimer and Vincent Pellechia, whom Evers describes as "powerful union officials."

Evers believes that such a bill would open the way for school strikes.

Few will disagree with a ban on strikes by firemen and policemen. Beyond question these would constitute a danger to public health and safety. Whether a teachers' action would present such a danger would be the subject of argument. However, teacher strikes are not in the public interest.

Teachers have struck in the past and have gone to jail for doing so. So obviously the militants will do what they want despite the present laws.

Making it legal to strike might encourage school teacher walkouts.

The Paterson News

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WEDNESDAY, APRIL 26, 1972

Teachers Who Strike

It is bad for the children, for the public and even for the teachers themselves when there is a teachers' strike.

Teachers who walk off the job as they have done and are doing are violating the law and the intent of their oaths.

They need no further encouragement to strike and this is what they would be getting should the legislature pass a measure co-sponsored by two Passaic county assemblymen asking Gov. Cahill to grant amnesty to teachers facing or serving jail terms for violating court orders forbidding strikes.

Assemblymen Vincent Pellecchia and John Sinsimer should reconsider taking action which would in effect circumvent court decisions.

Instead they might help teachers and the public by supporting part of a proposal of their Democratic colleague, Senator William J. Bate. Bate also asks for commuting of jail sentences for Passaic teachers but he wants a law requiring binding arbitration in all public employe labor disputes.

This latter suggestion we support but it would be most effective if further legislation sponsored by Assembly Republican Leader Richard W. DeKorte of Bergen and John F. Evers of Passaic were adopted to enlarge the Public Employees Relations Commission (PERC) with four additional members of the public to insure that the panel of arbitrators is impartial. At present PERC operates under frequent criticism of being controlled by special interest groups favoring labor.

Bate properly opposes a bill which would give teachers the right to strike.

Hopefully we will one day get laws which will establish means of fairly settling teacher demands without strike. Until then court imposed penalties cannot be flouted. . . especially for public employes.

Teacher strikes are one of the reasons why during 1971 the nationwide percentage of school bond issues approved reached a record low of 46.7 per cent, according to a report from the Office of Education of the U.S. Department of Health, Education and Welfare.

Strike Subsidy

NYT 5/1/72

Among the tasks awaiting the Legislature in its adjournment rush is the need to correct a long-standing inequity in the state unemployment insurance law, one that puts employers in the position of subsidizing long strikes against themselves.

The most recent demonstration of the mischief caused by the law's provision for paying job insurance benefits to strikers after seven weeks of idleness came in the seven-month statewide strike of 38,000 telephone installers and repairmen. That strike, a rebellion against a national wage pattern established by the parent union, ended in February on terms only nominally better than those available after the first week.

Without the \$75 a week each striker received from the employer-financed insurance fund, the phone walk-out unquestionably would have ended much earlier. Now the New York Telephone Company must replenish, out of the bills paid by telephone users, the \$41.5 million drained from its insurance tax reserve by the strike. Two years ago, when settlement terms were being ratified in a long tie-up at General Electric, union locals in other states openly accused their sister locals here of resisting the settlement because of their benefit cushion against wage loss. No other state, except Rhode Island, provides such insulation for strikers.

Far from serving its supposed purpose of keeping the state neutral in industrial disputes, this anomalous provision not only serves to prolong strikes but perpetrates a second form of inequity. Innocent bystanders thrown out of work by strikes in their establishments are barred from receiving benefits through all of the seven-week penalty waiting period prescribed for strikers.

A bill in committee in both State Senate and Assembly would rectify both types of unfairness. It deserves passage before the Legislature goes home.

5 in jail had option to teach

By PAT KENNEDY
Herald-News Staff Writer

The five Passaic teachers who entered jail on Monday — amid protests that their pupils would suffer academically as a result — could be teaching in their own classrooms during their sentences, if they so chose, their attorney admitted yesterday.

According to Emil Oxfeld of Newark, the lawyer hired by the New Jersey Education Association to handle the case with its many appeals, the possibility of work release had been discussed by all the teachers involved. He refused to say when and where it had been discussed.

Oxfeld said the initiative had to come from the teachers themselves, individually or as a group. Although Passaic County has no work-release program, a scheme could be worked out "in a number of ways," he said.

Bergen County does have a work-release program. Under it, minimum-security prisoners can leave jail to work at their regular jobs, returning to sleep at the jail after work.

Oxfeld said the teachers could be remanded into Bergen County custody and then be allowed to go out and work. "Or, into my custody," he added, as an

additional example of the alternatives. The teachers had been sentenced two years ago by Judge Arthur Simpson.

The teachers in jail now are Irving Goldstone, serving 60 days; Nicholas D'Agostino, 60 days; Mrs. Audrey Thalshemer, 45 days; Miss Rachel Prather, 30 days, and Mrs. Paula Fuydal Lockwood, 30 days.

One teacher who has not yet begun to serve his 75-day sentence is Dr. Manlio Boverini. He confirmed to The Herald-News that the possibility of work release had been discussed by all six teachers prior to the others being jailed last Monday.

All the teachers except he himself had rejected the proposal, he claimed. "I want to be with my kids as long as possible," he said.

He had asked for a week's delay before the start of his sentence, and claimed that he was hoping approval for work release would come through so he would not have to enter jail Monday as scheduled.

He is principal of the Passaic night school, physical education teacher at the high school and a track starter.

Albert Krenicki, director of continuing education in Passaic, showed a reporter

a carbon copy of a letter addressed to Sheriff Frank Davenport, asking that Dr. Boverini be allowed out of jail from 6 to 10 p.m. on Monday through Thursday night, through June 10, so he could finish the year's work at the evening school.

Krenicki said he was not certain whether Dr. Boverini would be reporting for work Monday evening.

The letter to Davenport was dated April 13. Questioned yesterday afternoon, Davenport denied having received it. He said he had not received requests from any of the teachers, or from anyone else, asking him to arrange work release for them. He said he expected Dr. Boverini to enter jail Monday as scheduled.

When the possibility of work release was mentioned, Davenport, who has been against having such a program in Passaic County, replied.

"I don't see that this is something for publication," he said. "Don't try to create problems for them (the teachers) and us."

"Everything is going along smoothly here. The girls (the women teachers, who are doing clerical work in his office) are happy here. Why make trouble for us?"

Questioned on Wednesday, Jack De-Young, warden at the Passaic County Jail, denied any knowledge that a work-release program had been discussed with the teachers. He said that Dr. Boverini, a personal friend of his, had said he was going to apply as an individual for work release.

Meanwhile, the jailed teachers are scheduled to receive visitors today for the first time since their incarceration Monday.

They spent the past week doing menial chores for the county. Ironically, De-Young said yesterday that he had sent the teachers to work outside the jail as a sort of modified work-release program. He hoped to demonstrate to the reluctant Davenport that such a program might work in Passaic County. But the teachers were not assigned teaching jobs.

The three women are doing clerical work under the supervision of other employes of the sheriff's office. They put in a full day's work and then are returned to jail in one of the special sheriff's cars which are used to convey prisoners.

They wear street clothes to work.
Please Turn to Page 2, Col. 2

5 in jail had option to teach

(Continued from Page 1)

They don prison garb when they arrive at Hope Dell, where all women prisoners are living on the converted second and third floors.

There are 20 women in the 25-room wing, so each prisoner has her own room. They have dubbed it "The Hotel" because of its freshly painted and refurbished interior.

Each woman in "The Hotel" is issued a cheap transistor radio for her own use. The radios are purchased with money from the inmates' welfare fund.

The teachers' day begins at 7 a.m., when they are awakened and have breakfast. Then, they are taken to the courthouse building for work.

Meanwhile, the two men — Nicholas D'Agostino and Irving Goldstone — are housed in a section of the county jail reserved for civil prisoners. They share a third-floor room. According to DeYoung, it is the custom in Passaic County to keep civil case prisoners separate from criminals.

The two men have the use of a black-and-white television set. There are some 40 sets in the jail, DeYoung said.

After breakfast, a sheriff's car takes D'Agostino and Goldstone to the county vocational school in Wayne. There, they are under the supervision of Alex Smollok, vocational school board secretary and business manager.

D'Agostino, who owns a service station, works as a mechanic with the vocational school mechanical staff, keeping the school vehicles in condition, according to Smollok. He is issued a mechanics uniform to wear.

Goldstone has been assigned to the library office, where he catalogued books this week. He wears street clothes. Neither teacher has had any contact with the student body, Smollok said yesterday.

The men eat lunch apart from the non-prisoners, and then are supervised by the security staff as they take some exercise on the grounds in front of the building.

DeYoung said yesterday that he planned to ask the two teachers to take part in an experimental motivational program of teaching reading to some of the jail's younger inmates.

APR 3 1985



