

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

before

ASSEMBLY COMMITTEE ON LABOR RELATIONS

on

Assembly Bills Nos. 542, 544 and 810
[Public Employees right to collective
bargaining, etc.)

Held:

April 7, 1970

Assembly Chamber

State House

Trenton, New Jersey

Members of Committee present:

Assemblyman Robert K. Haeling~~x~~g [Chairman]

Assemblyman Everett B. Vreeland

Assemblyman Peter P. Garibaldi

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ASSEMBLYMAN ROBERT K. HAELIG, JR.: This public hearing will now come to order. My name is Robert Haelig, Jr., Assemblyman representing Middlesex County and Chairman of the Assembly Committee on Labor Relations.

With me here are two other Assemblymen, one a member of the Labor Relations Committee, Mr. Everett Vreeland of Morris County, and the other, the Sponsor of the three bills which are the subject of this public hearing, his name is Peter P. Garibaldi, also representing Middlesex County.

I have one announcement. I was asked to announce that the Assembly Education Committee is holding a meeting with the College officials in the Assembly Lounge, so if anybody is here under other circumstances, the College meeting is downstairs.

I have had several witnesses request that they be given the opportunity to testify before noon and, since they are few in number, I will acknowledge that request and accommodate their wish to testify early. Either of the Assemblymen with me here at the table will have the opportunity to question any of the witnesses.

The three bills which are the subject of this public hearing are Assembly Bill 542, Assembly Bill 544 and Assembly Bill 810.

As the first witness, who has indicated to me that he has to leave quite early, I will call Mr. Vincent Apruzzese, Chairman of the Management-Employee Relations

Committee of the New Jersey State Chamber of Commerce.

V I N C E N T J. A P R U Z Z E S E: Thank you, Mr. Haelig, Mr. Vreeland and Mr. Garibaldi. My name is Vincent J. Apruzzese and I am representing the State Chamber as Chairman of their Labor Management Committee.

With regards to Bills 542 and 544, the Chamber would like to request an opportunity to file a statement at a later time as its position is still under review.

With regard to Assembly Bill No. 810, this bill, of course, deals with that area of labor relations that has captured the attention of the entire Nation and, of course, in our State as well, with regard to various strikes that have occurred in the public sector.

We would like to state that in our opinion this legislation at this time may very well compound, if it were passed, an already difficult problem. We do not conceive that it is in the public interest to open the floodgates, as it were, to strikes by public employees in every type of public employment. We do, however, feel that in the supercharged and emotion-packed areas of labor relations we do need more light instead of heat.

We submit that an in-depth study by a commission of experts is in order in this field. As any observer of the collective bargaining scene will note, there have been many developments in many of these states throughout the Country. The Task Force on State and Local Government Labor Relations, which has been a group busily

engaged on this subject for several years, has publications which it puts out annually in which it reviews the approach to this problem in various states. There are many experimental approaches being developed. Without going into them, let me just mention an approach, for example, that was part of the Capell Report to our Federal Government dealing with the question of postal employees. In that report there were many approaches suggested for the treatment of this type of difficult problem. One approach would consider the last best offer of each side, the thought being that if there were binding arbitration, both the public body and the negotiating union would try to come up with their best offer at the conclusion of negotiations and then, if the parties could not agree, a binding would not strike the balance or dictate the terms of settlement but select one or the other of the last best offers.

I don't mean to suggest at this point that that is necessarily the solution. What I do mean to suggest is that there are some very excellent provoking thoughts being advanced on this subject in many quarters and, consequently, I would submit to this Committee the suggestion that an in-depth study, by experts in the field, be undertaken by a commission that can make recommendations in this extremely difficult area.

It would appear to us that if this approach is

adopted, we might better chart a course for our State to follow to bring harmony in this most difficult area rather than add to some sad experience already part of the record.

Thank you.

ASSEMBLYMAN HAELIG: Thank you very much, Mr. Apruzzese. I have no questions. Mr. Vreeland?

ASSEMBLYMAN VREELAND: No.

ASSEMBLYMAN HAELIG: Mr. Garibaldi?

ASSEMBLYMAN GARIBALDI: Thank you, Mr. Chairman. Mr. Apruzzese, you stated that you thought, in the event that such legislation as is being proposed here today were passed, it would create chaos - even though you didn't say that, can I take what you did say to construe that?

MR. APRUZZESE: Well, what I did say was, we have an extremely difficult problem and it seems to me that the legislation as currently drafted could very well compound that problem. After all, this legislation would allow strikes in every type of public employment, police, firemen, any type. I suggest that, while it is a very difficult area and one that will tax the abilities of the most informed and the most able in the field of labor relations, it is something that ought to be thought through extremely well and an in-depth study looking at the experiences all around the country and the various approaches that have been taken would best serve our interests at this point.

To answer your question specifically, I would

say, if this legislation were placed on the books it would make an already bad situation far worse.

ASSEMBLYMAN GARIBALDI: Further, you said that the subject should be studied further. Are you aware of Chapter 303 of the Laws of 1968 which was the result of a great deal of study?

MR. APRUZZESE: Yes, sir.

ASSEMBLYMAN GARIBALDI: And which we find has not resolved the problems which are confronting the State of New Jersey, more specifically New Jersey.

Do you feel that Chapter 303 of the Laws of 1968 are in need of amendment or adjustment in order to provide public employees a method of resolving what could be considered legitimate grievances?

MR. APRUZZESE: I think, Mr. Garibaldi, it would be a safe statement to say that implicit in my remarks is the feeling that such an in-depth study at this time could very well introduce new thoughts, new concepts, that were not considered by our Legislature heretofore, and it may very well present a different course to pursue. After all, New York made an effort at putting such a statute on the books and then it revised that particular statute, and lessons have been learned there and, similarly, in other states in a very rapidly developing field. I think it's safe to say that any student of the collective bargaining scene will tell you that the past three years has developed a tremendous change in thinking and direction in many areas

of public employment.

So, consequently, it's my view that we ought to update this information; we ought to update our knowledge and see how we can best approach the problem.

ASSEMBLYMAN HAELIG: Thank you very much for your testimony, Mr. Apruzzese.

MR. APRUZZESE: You're quite welcome. Thank you.

ASSEMBLYMAN HAELIG: The next witness representing the United Automobile Workers Union, Mr. Joel Jacobson, please.

J O E L R. J A C O B S O N: Thank you, Mr. Chairman, Assemblyman Vreeland and Assemblyman Garibaldi. My name is Joel R. Jacobson. I am the Director of Community Relations for the United Automobile Workers and I appear here today to offer general support for the broad objectives of all three bills on behalf of our 50,000 members in the State of New Jersey who work at such plants as the Assembly Plants of the Ford and General Motors Corporations in Mahwah, Linden and Metuchen; the General Motors Plant of Hyatt Roller Bearing, and Fisher Body in Clark Township in Trenton; Bendix Aviation and Curtis-Wright in Hasbrouck Heights and Woodbridge.

I went to the specific trouble of naming each one of these to you to emphasize what you already know, that each of the 50,000 members of the UAW employed at these plants work every week a specified number of hours

at a specified amount of wages, under specified conditions, which are mutually agreeable to both the employer and the auto worker, this agreement having been reached through the process of collective bargaining. I say, parenthetically, that through this process these automobile companies have prospered almost beyond description and we in the UAW are quite proud of the contract that we have negotiated for our members in industrial work.

It is obvious that the UAW operates within the context of the private sector, and the subject here today is the employment of individuals in the public sector, a distinction that many make much of. We cannot place much emphasis or accept that distinction. Even though there is not one member of our Union who will be concerned or affected by these bills, we find it difficult to accept the concept of the premise that if I work for the Ford Motor Company in Mahwah I am a free citizen and if I work for the Board of Education in Newark I am a somewhat enslaved citizen. As a matter of fact, the right to picket, which is the demonstration of the strike, I am told, emanates from the First Amendment to the Constitution. Now the First Amendment to the Constitution does not say that everyone has the right to express themselves freely except school teachers in Newark, and I doubt very much whether we would accept, as a philosophical concept, the

fact that there must be in this Nation two classes of workers, those who are free and those who are somewhat enslaved.

The truth is, today public employees in this State are currently secondclass citizens who are denied their fundamental guarantees of the United States Constitution.

Now the framers of the State Constitution, in 1947, evolved a rather ambiguous declaration concerning the rights of public employees in a spirit of compromise. And, as most compromises, it solved little and created many new problems. The ambiguity of the State Constitution and the harsh judicial rulings which have resulted therefrom are an invitation today for public agencies to refuse to negotiate with their employees. In a most recent situation in Newark, the Board of Education for over a month refused to negotiate with its employees.

Now while we here discuss somewhat the high flown and philosophical aspects of the rights of public employees, the workers themselves, who are employed by public agencies, are much more concerned with the pragmatic aspects of collective bargaining. We all praise school teachers as being highly regarded guardians of democracy in the teaching of our children and most of them are horribly underpaid. It is no great honor to be able to say that in some industrial plants a man who is employed as a porter earns as much as and in some cases more than the starting salary

for some school teachers.

Now I state this not to denigrate the porter. He has had the good sense to join a union and engage in collective bargaining. But pity the poor school teachers, many of whom have had the good sense to join a union but all of whom are denied the right to collective bargaining. And experience has shown that when workers find themselves exploited in low wage jobs and employers refuse even to discuss the conditions with them, there is only one route that any self-respecting individual can travel. And the present ban on collective bargaining for public employees is guaranteed to exacerbate tensions, to multiply provocations, and to generate more and longer strikes in the public sector.

And Mr. Apruzzese, who spoke just before me, is wrong when he says that the situation will become worse if the right to strike is provided employees. As a matter of fact, it is difficult to envision a situation which is worse than we have at the moment. And his reference to the New York Law was slightly a misinterpretation. The New York Taylor Law, the one which is most unworkable, contained a prohibition on strikes and was universally ignored as being unworkable and unenforceable.

So the recent experience shows that despite jailings, repression, tyranny, the situation will get worse, and it is a fact of life that injunctions will not operate our schools nor teach our children.

The blanket denial of collective bargaining rights for all public employees, regardless of their duties, in my opinion is ridiculous. Under certain conditions, it is reasonable to expect that policemen and firemen, charged with the preservation of the health and safety of our community, may voluntarily waive their right to strike. Conditions must include statutory guarantees for a fair and workable machinery which will enable them to seek a redress of their grievances.

It is unfair to leave police and firemen, who voluntarily waive their right to strike, at the mercy of the unilateral decisions of municipal statesmen or politicians, depending upon your point of view.

But we all agree that police and firemen must preserve the health and safety of the community. But how about other public employees? Will the withholding of their labor strike at the vitals of our existence? Will the health and safety of the community be jeopardized if the towel attendant at the municipal swimming pool, or the gardener at the county park, or the typist at the State Museum were to strike?

To ascertain whether a strike affects the health and safety of the community, the determining factor must not be the character of the employer but the function of the employee. And the jailing of school teachers in the City of Newark is the latest blunder in a long comedy of errors.

Is justice served when a school teacher, the mother of three children, must sit in jail for three months because she found her working conditions unacceptable?

When the citizens of the Soviet Union are compelled to work under conditions which are unacceptable to them, or be imprisoned, all of us here call it slave labor; but when school teachers in Newark are thrown in jail for refusing under conditions which are unacceptable to them, our courts call it justice, and some judicial zealots call it law and order. And at this very moment, while we sit here, Mrs. Betty Rufolo, a mother of three, an officer of the Newark Teachers' Union, is serving a three months' sentence in the Essex County Penitentiary in Caldwell. I must say, that's some law, some order, some justice.

New Jersey has another unique distinction in repression. Also serving in Caldwell at this moment is Mr. David Seldon, President of the American Federation of Teachers, who came to Newark to support one of his local unions on strike, made a speech, walked the picket line and is now serving 90 days in Caldwell.

I would bring to your attention that the last time that a National Labor Leader was jailed for supporting the strike of one of his local unions was when Eugene Victor Debs was imprisoned during the

railway strike of 1890. Jersey Justice hasn't made much progress since that time.

So we consider, as employees of the private sector, that the ban on collective bargaining in the public sector is an alien repression in a democratic society. Furthermore, it's unworkable.

Public employees, as has been shown by the Post Office Employees, by the School Teachers, and by virtually every other category of public employees, will no longer remain the mild, meek, malleable martyrs of passive acceptance of whatever the State House, the Hall of Records or the City Hall hands out. You cannot divide this Nation into free workers who can strike and public workers who cannot strike. And the time has come, and we urge you to make this distinction, when all public employees become first class citizens and particularly the school teachers who teach the Pledge of Allegiance to our children, that they will speak the truth when they say that this Nation becomes one nation, under God, indivisible, with liberty and justice for all.

Thank you.

ASSEMBLYMAN HAELIG: Thank you, Mr. Jacobson.
Do you have any questions, Assemblyman? (No questions)

Thank you very much.

MR. JACOBSON: Thank you.

The next witness is Mrs. Frances Carnochan, President of the New Jersey Education Association.

F R A N C E S C A R N O C H A N: Assemblymen Haelig, Vreeland and Garibaldi, I am Mrs. Frances Carnochan, President of the New Jersey Education Association, here to speak to you in support of Assembly Bill 810. I am here because NJEA's Working Conditions Committee has endorsed this bill; because many of our 65,000 members feel - theoretically - that any American deprived of the right to withhold services is relegated to a second-class citizenship status; and because, in practice, a growing number of our most dedicated teachers are being fined and jailed for actions they feel are justified by declining school conditions or growing school board indifference in New Jersey today.

However, we do have one serious objection to the bill. As presently worded, it would still withhold the right to strike from employees of the State Government, including, among others, the faculties of our State Colleges, teachers at the Marie Katzenbach School and teachers in institutions and agencies. The NJEA recommends that this restriction be removed and that all public employees in New Jersey be given the right to strike.

The remainder of my statement is totally in support of this bill. It will explain to you why the NJEA believes:

- # That school closures do not harm the health, safety, or welfare of the public.
- # That legal prohibitions against teacher strikes do not work.
- # That legal prohibitions against teacher strikes are outmoded and unfair.

The NJEA believes that every public employee should have the same right to strike as is available to workers in the private sector -- with the exception of a few groups whose duties are essential to public health and welfare.

One of our great U.S. Supreme Court Justices, Oliver Wendell Holmes, said: "I think the strike is a lawful instrument in the universal struggle for life."

Faculties in private schools and colleges have the right to strike. Even teachers in our parochial schools may walk off their jobs without violating any law or suffering court penalties.

Electricians can go on strike and leave us literally in the dark. Fuel-oil deliverers can strike, and our houses go unheated. Milk-deliverers can strike, or bread deliverers, and basic foodstuffs -- needed for health by all children -- are deprived us. Truck drivers can go on strike, tying up transportation and threatening the nation's food supply. All these things can happen -- and more -- without any striker or strike leader being punished.

Let's look honestly at school closings. Schools are closed at least two days of every week -- Saturday and Sunday -- and there is no outcry. The State itself closes the schools on Election Day and all legal holidays -- with no worry about damaging the health, minds, and safety of children. School boards also close schools at other times -- and there is no court action.

Yet when teachers, themselves, close a school -- often in an attempt to improve it -- they face insult, cries of tragedy, and such court action as fines, probation, and imprisonment.

State law requires boards of education to negotiate in good faith with representatives of their employees. Many boards do this. These boards are not the ones involved in teacher strikes. The strikes come in districts where school boards do not observe State law.

Some school board members sit back and do nothing, refuse to negotiate in good faith, and suffer no penalties. When frustration forces the teachers to act, the school board -- no matter how dirty its hands -- can use the courts to punish them.

Government must be responsive to the legitimate grievances of its employees if it is to withhold the right to collective action that employees in the private sector enjoy. Government with dirty hands cannot be allowed to hold a punitive club over the heads of sincere and dedicated employees.

Commenting on the recent postal strike, the New York Times editorially said: "The lasting lesson of the postal strike must be that no policy for keeping public employees on the job can work merely on the basis of the severity of the penalties it prescribes. The Government must be a model employer if a no-strike law is to prevail."

Punishing public employees for striking has nowhere halted public strikes.

Donald B. Straus, president of the American Arbitration Association, has written on this subject in TRIAL MAGAZINE. "Penalties against individual strikers do not seem effective protection against a strike," he believes. "Most workers, especially enmasse, are not easily replaceable and the penalty would defeat the objective -- to get production or service resumed as quickly as possible.

"An obvious deterrent would seem to be jail sentences for union leaders responsible for illegal strikes. It has been tried and is not effective. It is difficult to negotiate with men in jail, and the jailing of leaders seldom weakens the resolve of their followers. If anything, they are viewed as martyrs.....

"The best hope lies in improving roads to agreement rather than in erecting barriers against strikes."

The problem that public employees face in New Jersey is that they have no further legal recourse when the employer rejects a fact-finder's report. Such rejection has been a cause of some of New Jersey's teacher strikes.

Theodore Kheel - the New York City labor lawyer who is one of the nation's most effective mediators - discussed this problem in a 1969 address to the Federal Bar Association.

What Mr. Kheel recommends is this: "We should acknowledge the failure of unilateral determination, however disguised by unreal promises of joint negotiations, and turn instead to true collective bargaining, even though this must include the possibility of a strike.....

"For too long our attention has been directed to the mechanics and penalties rather than the participants and the process. It is now time to change that, to seek to prevent strikes by encouraging collective bargaining to the fullest extent possible....."

In the opinion of the NJEA's Working Conditions Committee, New Jersey will have fewer public disruptions when public employees possess the right to withhold services - and those that do occur will end more quickly. Mr. Kheel holds similar beliefs. His statement says: "In any environment conducive to real bargaining, they, the strikes, will be fewer and shorter than in a system where employees are in effect invited to defy the law in order to make real the promise of joint determination. Reliance on legal prohibitions, penalties, and elaborate third-party recommendations has not worked in some places

and before we turn in desperation to compulsory third-party determination, which cannot serve as a steady diet, we should give bargaining in the public sector the same try it has with beneficial results received in the private sector."

As the Labor Committee of the 20th Century Fund has pointed out: Collective bargaining "loses all color of reality if the workers have not the right to reject management's offer and quit."

Continued prohibition of strikes is intolerable. The current situation stands in the way of quality teaching and quality learning in those districts which are in dire need of improvement in this State. The prohibition obviously does not prevent teacher strikes. It only increases the cynicism of society toward its laws.

In conclusion, I want to thank the sponsors of this bill for introducing legislation which would give to public employees a right now enjoyed by millions of citizens in our society.

Your Committee, Assemblyman Haelig, has been most gracious to afford us this opportunity to present our point of view on this most important matter.

We thank you very much.

ASSEMBLYMAN HAELIG: Thank you, Mrs. Carnochan.

I have a couple of questions. You indicated

in your testimony that in your opinion teacher strikes don't harm the public interest. How long do you think a teacher's strike would have to go on before it would injure the interests of the children involved?

MRS. CARNOCHAN: I think that would depend on several issues and, number one, why the strike had taken place. And I might say here that many of these strikes are taking place because of the conditions in the schools and because the teachers do want more special services for the children where they need them the most.

ASSEMBLYMAN HAELIG: Well, I recognize that. However, the thrust of my question was, a teacher's strike obviously deprives the children in the school system of a certain number of days of their education which, if it's a short strike, can be added on to the end of the school year, I suppose, but how long do you think a strike would have to go on under those circumstances before the education of the children involved became seriously threatened?

MRS. CARNOCHAN: I think it all depends on the circumstances. You would have to take each one individually.

ASSEMBLYMAN HAELIG: Well, let's take the best school system in the State where educational facilities are first-class and the only argument was over salaries. Let us suppose the teachers went out on strike. How long

could the strike go on before the education of the children was threatened.

MRS. CARNOCHAN: Number one, I don't think under those circumstances it would go on very long. And I still say, I can't give you a definite number of days or weeks.

ASSEMBLYMAN HAELIG: Well, are you in favor of a complete right to bargain collectively and strike?

MRS. CARNOCHAN: Indefinitely?

ASSEMBLYMAN HAELIG: Indefinitely, yes.

MRS. CARNOCHAN: No, we are not.

ASSEMBLYMAN HAELIG: Well how would you prevent a strike of indefinite duration by public employees under the terms of the bill that's before us on the table?

MRS. CARNOCHAN: Well we feel that under this, if we did have this right, you see, this would keep many of the districts from striking to begin with because people would sit down, boards would sit down with the employees of the school system and discuss these things. You see, there isn't any recourse now. If the board steps away from the table or if the two groups cannot get together, they have no recourse after the fact-finder if the report of the fact-finder is not accepted.

ASSEMBLYMAN HAELIG: Who has no recourse?

MRS. CARNOCHAN: The teachers.

ASSEMBLYMAN HAELIG: The teachers have no recourse. We all know that there are occasions where strikes take

place in the private sector that go on for quite a long time. What makes you think that strikes would end more quickly if public employees were given the right to strike under the law?

MRS. CARNOCHAN: You're speaking in reference to educators.

ASSEMBLYMAN HAELIG: Of course, your own experience is in education so you can address yourself to that.

MRS. CARNOCHAN: Would you repeat that, please?

ASSEMBLYMAN HAELIG: Yes. What makes you think that, if public employees were given the right to strike to invoke economic sanctions against the public employer, the strike would end more quickly than it does now when the law provides for penalties against striking?

MRS. CARNOCHAN: Because in the case of having the right to strike there would be some recourse. Number one, the educators do not want to go out on strike, they would want to settle it as quickly as possible. But the point that we brought up here this morning is the fact that once you do stand up for the school system or for the working conditions in the school system, and they do go out, they have absolutely no recourse. They are going to jail, being fined. Teachers would want to go back as fast as they could.

ASSEMBLYMAN HAELIG: Well, assuming that both the employer and employees want to go to work, there's just

no question about that. The objective of collective bargaining is to create a situation where both parties are reasonably happy and can get the work program started again. But what makes you think that a strike would end more quickly if public employees were given legally the right to strike than it would when they don't have that right?

MRS. CARNOCHAN: Well, number one, the teachers don't want to strike but this would give them some recourse and boards would sit down with them and stay with them until they did come to some agreement. Let me say, many boards, because there are boards that do do this.

ASSEMBLYMAN HAELIG: Mr. Garibaldi?

ASSEMBLYMAN GARIBALDI: Mrs. Carnochan, thank you for your presentation.

One of the points that you brought out in your presentation, I think, was the one point that transcends everything else that everyone seems to be fearful of and that is the right of a strike. But I detected from your talk that you believe that if we look carefully enough we would all find that teachers, in addition to looking for economic justice for the professional responsibilities which they have, want to improve the quality of education for all of the students throughout the entire State of New Jersey. And that point I read

into your statement and I am sure everyone else did here. But do you believe that where you might be confronted - if a group of teachers in a particular district were confronted with an uncompromising position of your employer, the Board of Education, that because of the laws that exist right now say if you don't go back to work you're going to go to jail, that this will in fact prevent you from striking if you believe what you said is right?

MRS. CARNOCHAN: We have proof of that in the State right now.

ASSEMBLYMAN HAELIG: Then, in fact, we could under our present law be confronted with a very lengthy strike, under the provisions of the Act as it is now.

MRS. CARNOCHAN: That's right.

ASSEMBLYMAN VREELAND: I have one question.

You did say, Mrs. Carnochan, that one of the things we should strive to do is to improve the roads to the grievance.

MRS. CARNOCHAN: Yes, sir.

ASSEMBLYMAN VREELAND: Would there be any wisdom, in your judgment, if there were legislation that was passed due to the fact, as has been stated here, that some boards of education refuse to arbitrate in good faith, - if we had legislation forcing the boards of education to sit down and discuss this in good faith, would you feel that that would be improving the roads

to the grievance that you speak of?

MRS. CARNOCHAN: Yes. It would be bound to be an improvement because many boards do do this now and, as I stated, this isn't where we have the strikes.

ASSEMBLYMAN VREELAND: I'm inclined to agree.

Thank you very much.

MRS. CARNOCHAN: You're very welcome.

ASSEMBLYMAN HAELIG: If there are no further questions, thank you very much for your testimony, Mrs. Carnochan.

MRS. CARNOCHAN: You're very welcome.

May I make one addition, please? On our statement, on page 5, line 8, after the word "worked" the fifth word from the end, would you please insert there "in some places"? We would like to make that clear.

ASSEMBLYMAN HAELIG: Page 5, line 8.

MRS. CARNOCHAN: Right. Thank you very much.

ASSEMBLYMAN HAELIG: Thank you.

The next witness will be Mayor Henry R. Luther, III, of Parsippany-Troy Hills, testifying on behalf of the New Jersey State League of Municipalities.

H E N R Y N. L U T H E R, III: Mr. Chairman, Assemblyman Vreeland and Assemblyman Garibaldi, my name is Henry N. Luther, III, and I am Mayor of the Township of

Parsippany-Troy Hills. I appear today representing the New Jersey State League of Municipalities. The League has established a Special Committee to study the New Jersey Employer-Employee Relations Act of 1968. I am a member of that Committee which is composed of Mayors, municipal managers and attorneys with public labor law experience.

Our Committee has held several meetings addressed to the whole framework of Chapter 303 and is in the process of preparing a comprehensive position paper on behalf of municipal employers covering what we believe to be serious weaknesses and, in fact, discriminatory provisions of the present law.

I appreciate that the hearing today is addressed to several bills and not to the overall provisions of the public employee labor relations law. I am mentioning the work of the League's committee, however because I think it is very relevant for two reasons: first, to indicate to this Assembly Committee that the League is vitally concerned and has given rather extensive deliberation to this important subject; and, two, because one of the aspects of the public employee labor relations act which gives the League committee most cause for concern is the matter of the strike. And it is the strike question, of course, which is the subject of this hearing.

Gentlemen, my remarks are addressed to Assembly 810, and only to that bill. This ill-conceived measure would grant public employees other than those employed by the State of New Jersey the right to "joint or concerted economic action in support" of collective bargaining activities. In short, the legislative right to work stoppages and strikes, would be granted.

This proposed legislation runs counter to broadly accepted concepts of the role of the public employee in our society. It is in direct violation of the clearly recognized constitutional implication that public employees shall not be accorded the same rights to unrestricted collective bargaining and economic sanctions as are extended to employees in the private sector. It runs counter, also, to the very legislative intent of Chapter 303 itself. Chapter 303 was enacted to provide a framework for the orderly processing of negotiations between public employee organizations and their governmental employers with the objective of minimizing and, in fact, obviating the interruption of governmental operations which were occurring in increasing numbers in New Jersey and elsewhere in the Nation. The purpose of the Act was to eliminate the need to resort to the strike as a weapon in dealing with employing units of government. It was enacted in recognition of the catastrophic, crippling results of strikes in the public sector.

The dimensions of the crippling results of a strike in the public sector need not be elaborated upon to this committee; the rash of strikes, work stoppages and slowdowns in our school systems, in our airports, in our postal service and in our garbage collection systems give elequent testimony to the fact. And it should be pointed out that these strikes and many others like them have been illegal strikes. It must be obvious to everyone that if the strike technique were to become legal, the rash would burgeon into an epidemic and our local governmental agencies would be perpetually beset by one paralyzing stoppage after another.

We, therefore, cannot counsel too strongly that this measure not be reported out of this Committee. In fact, I might add in passing that

the members of the League's committee are seriously considering recommending that Chapter 303 be amended to include a more specific non-strike clause accompanied by strict penalties for violation.

I would like to make one final point to this Committee. The framers of Assembly 810 have made a distinction between employees of the State and those of other governmental jurisdictions and grant the strike privilege to the latter but not the former. I cannot see the logic of this distinction. A massive walkout by thousands of public works employees in any one of our state's large cities or by its teachers, or by its garbage collectors would be just as inimical to the public welfare as would a strike by the clerical workers in the State Department of Banking or the Department of Conservation and Economic Development, for example. It is the public interest which is at stake, and that public interest is just as vitally affected by work stoppages in counties, municipalities and school districts as it is by such stoppages on the state level.

The League is on record supporting the principle of public employee labor legislation. We believe that with proper amendment, Chapter 303 can become a workable equitable framework for the expression and negotiation of public employee objectives. A pacific climate is vitally needed in the public sector. Chapter 303, can emerge as a step in the right direction toward that goal. Assembly 810, if enacted, will become a giant step backward. I therefore repeat our strong opposition to Assembly 810.

ASSEMBLYMAN HAELIG: Thank you, Mayor Luther.
Are there any questions?

ASSEMBLYMAN GARIBALDI: Yes. Mr. Luther, the last statement you made was that Assembly Bill 810, if enacted, would become a giant step backward. Assuming that we were to go along with what we have now on the books, do you feel we're moving ahead?

MAYOR LUTHER: I think 303 was a step forward and I think the bills which are presently being contemplated to improve it are also a step in the right direction, yes.

ASSEMBLYMAN GARIBALDI: And, again, you believe that under the Statutes that exist in the State of New Jersey the restraint on public employees to strike is going to be enough to satisfy, what I consider, the chaotic situation that exists in the State? Do you believe that we can continue on in this way?

MAYOR LUTHER: No, I don't necessarily accept your premise. I think obviously that a number of years ago, without 303, public employees were in fact in a very bad situation. I think 303 and I think individuals and public officials have taken an enlightened attitude toward 303 and attempt to implement it effectively and fairly - I think this situation is enhanced tremendously.

ASSEMBLYMAN GARIBALDI: Well, let me clarify my point. In your presentation you stated that the League

is considering strengthening that provision in the PERC law, Chapter 303 of 1968, to provide even stiffer penalties in the event public employees strike. That's what I construed.

MAYOR LUTHER: Agreed. The point being that, in other words, it's the opinion of many of us in municipal government that 303 was intended to improve the situation of the public employees and it was done in light of the fact that they were denied the right to strike. And I think, in other words, by extending 303, having it become a viable thing and beneficial to the employees, I think there is even more reason now to impose stiff penalties for the strike.

ASSEMBLYMAN GARIBALDI: And the League believes that this will resolve the problems that confront the State of New Jersey with regard to public employees.

MAYOR LUTHER: No, I don't think they would say that. When you say, the League, I think there are a number of different views within the League but those mayors and councilmen that I've spoken to feel very strongly that the right to strike should not be extended to public employees; that, if anything, the correct approach is to take 303, improve it as has been recommended by a number of bills before the Assembly, and that we would all be better off. But I haven't spoken to any elected officials on the local or county level who believe

that the situation will be enhanced by extending the right to strike to the public employees.

ASSEMBLYMAN GARIBALDI: But the point is still made in your presentation that you feel that Chapter 303 should be amended to provide even more strenuous restraints on public employees. That's the point I'm making.

MAYOR LUTHER: Sure, that's one portion of the statement. But there is also a further expression that there are ways in which 303 can be improved to benefit both the governmental agency and the employee.

ASSEMBLYMAN GARIBALDI: Do you have any recommendations at this point?

MAYOR LUTHER: Oh, sure. No, I'm certainly not that knowledgeable. I'm only a Mayor of a municipality who has a number of problems which our Assemblyman can tell you about extending from blizzards and floods, and the like. One of these problems which has been presented to us is now the matter of bargaining collectively. I've been Mayor of my municipality since 1966 and prior to the passage of 303 I bargained collectively with my employees because I thought that that was the proper thing to do both in the interest of the municipality and in the interest of the employees. So I didn't need 303 to move me in that direction. But with the passage of 303, I think the situation is sufficiently improved on a statewide level that my personal feelings against

strikes in the public sector have been strengthened.

ASSEMBLYMAN HAELIG: Mr. Vreeland, do you have any questions?

ASSEMBLYMAN VREELAND: No.

ASSEMBLYMAN HAELIG: One of the previous witnesses indicated that in her opinion strikes would end more quickly if public employees were given the right to strike. Would you address yourself to that subject?

MAYOR LUTHER: Yes. I don't believe that that is true at all. I think at the present time strikes, while they're illegal strikes, have extended for considerable periods of time. I don't see the logic which concludes that if the strike is now made legal it will end any quicker.

ASSEMBLYMAN HAELIG: Mayor Luther, thank you very much for testifying on behalf of the League.

MAYOR LUTHER: Thank you.

ASSEMBLYMAN HAELIG: I will now call Mr. Charles Marciante, representing the New Jersey State AFL-CIO.

C H A R L E S M A R C I A N T E: Mr. Chairman, I would like to thank you and the members of the Committee for giving us an opportunity to appear. I have with me the General Counsel of the New Jersey State AFL-CIO, Tom Parsonnet. Tom is most knowledgeable in labor law and, as you probably are well aware, served as a member of the PERC Commission. So he is a most informed

witness.

For myself, I would like to comment on A-810 and also to apprise you that the State AFL-CIO, through Senator Alex Matturri and representatives of other public employees, notably the NJEA, played a part in having Chapter 303 enacted into law.

We weren't able to get everything into 303 that we desired.

I would like to state for the record that the New Jersey AFL-CIO supports A-810 and we would also, as one of the previous speakers has mentioned, like to have this apply to State employees as well.

I played a part in the Newark Teachers' strike and feel that I am quite capable of expressing to you some views that I was able to witness. The law, while it does not specifically prohibit the right to strike, - it is necessary that this be changed, for these reasons, and it will answer one of your questions to one of the witnesses.

You have a situation with public employers, whether they be municipal, county or state, of complying with Chapter 303 and that they are sitting down with the employees endeavoring to negotiate a contract.

In the Newark situation, the AFT sat with the Board of Education for eight weeks prior to the strike endeavoring to negotiate a 100 point contract. Up until strike deadline, there was no real negotiation taking place at all, not one issue had been resolved.

I can very readily understand Assemblyman Garibaldi introducing A-810 because he was aware of what was happening and it was pretty well given a run in the daily press.

There was not one issue resolved in eight weeks period. You had a negotiator for the Board of Education who was being paid \$50.00 an hour, and that's an incentive - if you are of that type of mind - to sort of extend your negotiating. One of the first things that we requested, after the strike took place, was that the Mayor of the City of Newark become involved, which he did. He realized why there was no activity taking place because the representative for the Board of Education was not, we feel, truly endeavoring to resolve any issues but, in my own opinion, to prolong the strike.

The Attorney for the Board of Education was sort of shunted aside and the Mayor entered directly into negotiation, because he had an interest in his City. And within six days from the time he entered into negotiations that strike was resolved.

Your question to a number of witnesses was, why is it if you have a strike you feel the longer it exists the harm it's going to do to the children. The reason that the strikes exist for an extended period of time is because the public employers feel no real obligation to sit down and listen to the grievances of

the public employees. Historically, they have not had to be concerned with this issue. But, unfortunately for them, they are being subjected to this issue at this time. These people feel that they have the right to sit down and have their grievances adjusted.

I would like to just quote or read, for your information, a news piece that appeared in just last night's Newark News, it's by U. S. Secretary of Labor Shultz. It's a UPI dateline. "Labor Secretary George P. Shultz said today he believes government officials from city hall to the National Capitol are falling down on the job of dealing with their workers. 'Governments are not model employers by a long shot.' Shultz said. Not only the Federal Government but state and local governments have a lot to learn and a lot to do in this area. Shultz, who has a national reputation as an effective mediator appeared for the interview in shirt sleeves. He recalled, smilingly, that he thought he was escaping the turbulence of the campus for the quiet of Washington when he left the University of Chicago but found the Labor post a hot spot from the moment he arrived. He defended laws banning strikes by government workers but acknowledged the difficulty of enforcement. He brushed aside a suggestion that antistrike laws be limited to government employees involved in public safety. 'The closer I have gotten to the question in an operating sense, as distinct from an intellectual sense, in which

it has been talked about over the years, the more it seems to me important to hang on the notion that the public employee doesn't strike.' Shultz said. He said that Canada, which has legalized the right to strike on the part of some of the public employees recently had a fairly lengthy postal strike, and utter chaos in the City of Montreal when the police went on strike. 'It suggests the difficulties you get into when public employees are allowed or encouraged to strike.' Shultz said. However, Shultz emphasized that government workers must be offered improved collective bargaining procedures in exchange for lack of the right to strike. He suggested impartial determination of grievances as an answer."

This was mentioned by a previous speaker also. These questions are going to keep coming up. The presentation made by the previous speaker that there be stricter penalties will not stop public employees from striking regardless of the punitive measures that are put against them. And it is unfortunate because we have to have farsighted Legislators that are going to have to recognize the fact that these people do, as human beings, have the same rights as all other human beings.

I would recommend for the Committee's consideration that an impartial commission be established and that an in-depth study take place, not a study that

will take anywhere from three to four years, not even two years. We would like a legislative commission to come up with recommendations in trying to help resolve the issues and also give the public employees the status of first class citizens instead of second class.

I would, with the Committee's permission, like to present at this time our General Counsel, whom I gave a background on as a former member of the PERC Commission and who we will find most knowledgeable in the field of public employee relations.

ASSEMBLYMAN HAELIG: Before you do that, does anyone have any questions for Mr. Marciante? (No response)

One question. Assembly Bill 810 does not draw any distinction at all between public employees who are charged with protection of the public, in one way or another, and public employees who are in other categories. Would you draw any distinction between these two categories, such as police and firemen on the one hand and sanitation men on the other hand, and would you have any recommendations as to how they should be treated differently or whether or not they should be treated differently?

MR. MARCIANTE: The distinction of the two groups of employees, I believe, is spelled out fairly clear in Chapter 303, dealing with firemen and policemen - it applies to police only, I beg your pardon.

ASSEMBLYMAN HAELIG: Assembly 810, at least the way I read it, gives all public employees on the local level, or exclusive of the State level anyhow, in the State of New Jersey the right to strike. Now what I'm asking you, sir, is specifically do you believe that police and firemen ought to have the right to concerted economic action or strikes in connection with collective bargaining.

MR. MARCIANTE: Yes, I do, but I feel that this should be clarified. The procedures in processing grievances, we feel, must be further improved and I feel that by improving these procedures and having the employers truly negotiate, you will not, and this was mentioned by a number of other speakers, - this, in effect, will cut down on the number of strikes, but the police and firemen should have the same right as all other public employees.

ASSEMBLYMAN HAELIG: Assembly Bill 810 presumes that in certain situations you are going to reach the end of the rope where the parties are across the table from each other and cannot agree on a contract and, therefore, a strike takes place. Now how are you going to keep the cities from burning down if the firemen do go out on strike and won't put out fires?

MR. MARCIANTE: You will find that there will undoubtedly be skeleton crews of firemen that will be maintaining the public safety of the particular city or

whoever is affected by a strike.

ASSEMBLYMAN HAELIG: Well how would you provide for that in the law?

MR. MARCIANTE: Truthfully, I can't answer that question at this time.

ASSEMBLYMAN HAELIG: The PERC law was passed, I think, a couple of years ago by the Legislature and since then its provisions have created a situation where forms of collective bargaining have been taking place where presumably very little of this went on before. How well do you think this law has worked? And would you also address yourself, if you don't think it has worked very well, to the question of how much better it has worked or how much worse it has worked than what was the situation before that.

MR. MARCIANTE: Would you rather I comment on that or a member of the PERC Commission, our General Counsel?

ASSEMBLYMAN HAELIG: As you wish.

MR. MARCIANTE: I would prefer that he do it, because he played such an intricate part in it.

ASSEMBLYMAN HAELIG: Fine. That's all right.

ASSEMBLYMAN GARIBALDI: Before that, Mr. Marciante, with regard to the policemen being included in this particular bill, 810, I thought of this when I introduced the bill. But one thought that came to my mind was, what if we did have a legitimate grievance

confronting a particular governing body in a municipality and the police did in fact go on strike, who is going to put the policemen in jail, who is going to enforce the law if the policemen are out on strike?

MR. MARCIANTE: I assure you there will be people to do that.

ASSEMBLYMAN HAELIG: Would you state your name, please.

T H O M A S L. P A R S O N N E T: My name is Thomas L. Parsonnet. I am an Attorney in Newark. I am General Counsel to the State AFL-CIO.

All attention so far today has been given to 810. I should like to take a few minutes of your time, before I come to the question of 810, to discuss the other two bills, especially 542 with which I was so intimately connected when it was adopted.

Just let me give a little history of this, but first state something that is applicable both to 810 and to any legislation on labor.

So far as we have ever been able to discover, compulsory arbitration destroys collective bargaining and forces strikes. This is a basic axiom in labor relations, and for a very simple reason that when you know that compulsory arbitration is going to be the end of the line, you do not make concessions but you retain your original demand or your original offer and

stick to it, knowing that when it gets to arbitration you don't want to weaken your position by having made concessions in the meantime.

As a result, no concessions are made during the bargaining procedure and you go to arbitration with your original positions before the arbitrator.

Now how did this work with the public utility anti-strike law? We had a utility strike in 1922. We did not again have a utility strike until 1947. Not one in the State of New Jersey occurred during that period of time. There was a strike which was threatened in the fall of 1945 which came down to the last night before the strike and the Newark Evening News got scared to death and set up a clamor for Governor Edge to return from Georgia to try to settle the strike. Being thoroughly unacquainted with the ways in which the negotiations are held, the News thought that because it went down to the last night before the contract expired that there was trouble. But most negotiations come down to the wire and use the pressure of last minute negotiations before they're settled.

President Marciante, Charlie's father, and Secretary-Treasurer Murphy, at the time, got into the picture and it was settled without a strike on the last night of negotiations. Governor Edge became angry at having been called back and he demanded an anti-strike

bill for public utilities. It was adopted in 1946, without teeth because in public hearings, Walter VanRiper, who was then the Attorney General, recognized that the teeth he had put in the law were silly and he amended the bill to withdraw the teeth.

No strike occurred in 1946 but, when in 1947 the telephone strike was threatened, teeth were put into the measure the night before the strike took place. An interesting thing happened. It was a national telephone strike. The telephone strike nationally was settled in three to four weeks. The strike in New Jersey was settled in about 17 weeks because of the adoption of the anti-strike law.

From 1947 to 1953 there were 22 public utility strikes as against none in the previous 22 years or 23 years.

As a result, when Governor Meyner became Governor he appointed a commission, a tripartite commission, of three impartial experts, three representatives of management - there was the Telephone Company, Public Service, and one of the South Jersey electric companies, - and three representatives of Union to study the anti-strike law and determine what should be done with it. The very well know, nationally known, David Cole was Chairman of the Commission.

They held hearings and after some six months filed a very interesting formal report, which you can

find in the State Library, unanimously in agreement that the strikes in public utilities had been caused by the public utility anti-strike law, and recommended that it should not be enforced thereafter and should be repealed. This was a unanimous recommendation.

In the meantime two things happened. In 1950 the United States Supreme Court declared the Wisconsin Law, which was similar to ours, to be unconstitutional on the ground that it impinged on congressional sovereignty. In 1960 another such decision was made with respect to the Missouri Law indicating that the law is unconstitutional.

There is no question about the unconstitutionality but there is also no question about the fact that as long as the law was invoked strikes occurred. Following Governor Meyner's decision not to invoke it, since 1953 I think we've had two or three public utility strikes.

The fact is that compulsory arbitration necessitates strikes, it does not eliminate them.

That's so much for 542. I urgently request that it be repealed. It's a blot on the books of the New Jersey Legislature; it's wrong and it is unconstitutional, clearly. So that for both reasons it should be wiped off the books.

Assembly 544 has as its purpose the preservation of rights of employees who have had the right to bargain and to strike as private employees but who, because of one reason or another become employed by the State rather than a previous private employer.

Now the advice has gone out to all employees who are represented by unions that if the State or any other public agency attempts to take over a company which employs them, they must stop work before they become public employees. This will be carried out because as long as they do not have the right to bargain collectively and to strike they haven't the benefits, under public employment, that they do under private employment and they will refuse to become employed by the State or by any public agency unless they have those rights.

There is one union now that knows there is consideration of being taken over by an agency of the State. If that happens, that agency will have no employees to run the outfit.

I think both from the standpoint of establishing reasonable and fair treatment for employees who have enjoyed the right to bargain collectively and to strike and in order to have the public agency be able to operate efficiently, they ought to be guaranteed the right in public employment that they had as

employees of the private agency. I submit that that should be adopted to guarantee that the State will have no trouble if and when it takes over a private operation.

Coming now to 810, Assemblyman Vreeland asked a question - wouldn't it be helpful if public employers were required to bargain or negotiate in good faith? It would be helpful, but it is already required. 303 requires it. The difficulty is that there is no sanction for their failure to bargain in good faith. This is where we run up against a stone wall.

May I say, the Chairman asked a question - Has 303 worked? I say to you, sir, that it has worked magnificently well where there was good faith on both sides.

You will find that a strike has not occurred in any single place in this State which was not directly attributable to the fact that the public employer refused to bargain in good faith. This is where the problem has come in.

Yes, I do believe that there is one principal amendment that should be made to 303 and that is PERC should be permitted to go in as a mediator without waiting for an impasse to occur.

In Newark, PERC wasn't even involved until after the strike had started. They had no opportunity

to try to bring the parties together. They weren't called. There was no alleged impasse. They didn't get into it. Now, whether or not they could have helped is an open question. I think it could have helped greatly in getting the Mayor to come in earlier during the original negotiations if PERC had been able, itself, to come in, but it wasn't.

I do think it has helped but you do get the situations where public employers - and I have represented public employers, I have been Corporation Counsel of the City of Newark, I have seen it work -- public employers become arrogant and refuse to bargain because, they say, it's illegal for you to do anything about it, you can't strike so what are you going to do to me. I have heard those words used. What do you do?

I don't approve of strikes nor has the State AFL-CIO before today ever publicly taken a position of supporting the right to strike in public employment.

When we had hearings, looking toward the adoption of 303, I was speaking for the State AFL-CIO and refused to take a position on the legality or illegality of the strike, saying that that was irrelevant to the adoption of 303. I was hopeful that public employers, when they saw this Act, would recognize their obligation to bargain in good faith and would avoid what we are now faced with. It hasn't

happened in a few cases. They are isolated but they have become important because of the publicity given to them.

Yes, there has been a lot of publicity on it and we have a tendency to say that 303 has broken down because of the publicity. I don't think that's true. 303 I think has worked beautifully except in the few cases where public employers have refused to comply with their obligations under the law.

You've asked, how long does it take before a strike begins to affect the public. How long will it take if the National Teamsters Union goes on strike tomorrow for it to affect the public? It will affect the public immediately. How long it will take before it very damagingly affects the public is another question.

I don't know the answer to that and nobody does in any particular case. All I can say is that the disfavor of the public being lodged against employers, who are obviously at fault, will have the result of bringing a strike to an end far sooner than if we direct the courts to impose penalties upon workers who are being abused.

Today we are, in public employment, exactly where we were in 1872 in private employment. In New Jersey the Philadelphia Cordwainers' Case was still law. It was a criminal violation of law to belong to a labor

union. And as one of the famous AFL-CIO representatives once said, if we hadn't violated that law we wouldn't be here today. That law was adopted by the courts in 1805, was set aside in Massachusetts in 1842 but never set aside by our courts in New Jersey. We needed legislation; we got it in 1872.

Our courts here have been among the most conservative in the country with respect to recognizing the rights of workers. It has been the Legislature that has been progressive in New Jersey, not the courts. And I urge that the Legislature give this the kind of consideration that it gave in 1872 when by legislation it overruled the ruling of the courts to the effect that it was a criminal violation of law to belong to a union.

Today we say to you that the courts have been utterly ineffective in stopping strikes and the penalties being imposed by the courts are far more severe than would be imposed if we fouled up 303 by including a prohibition measure. So that any additional prohibition in that act would have only one effect, it would destroy the opportunity of PERC to act as an impartial, disinterested mediator; it would force PERC to take sides when a strike occurs. And to do that is to destroy the mediating efforts of the organization.

Please, for the sake of having a good Chapter

303, don't force PERC to take sides and to impose penalties on the basis of an anti-strike law one way or the other because to do so would be to destroy the confidence that the public - when I say "public", public employers and public employees - is developing in the impartiality of PERC and its attempt to reach good settlements.

I would very strongly suggest that 810 should be adopted.

One more limited question that was raised, the question of police and firemen. There are different situations with respect to them and I say to you that in the overwhelming majority of cases you will find no problem because they will, themselves, be self-restraining. I know of very, very few police or fire departments that are willing to allow the public to go unprotected. And if they do at any time, and it has been rare in this country that they've done it, it has been because of absolutely intolerable abuse.

I suggest to you that the study you will be making, if you adopt Mr. Marciante's suggestion, will long be completed before you are faced with any problem of police or fire stoppages. The adoption of 810 would not have any effect on that question.

Thank you.

ASSEMBLYMAN HAELIG: Are there any further questions? (No response)

I have a question I would like to ask and whichever one of you wants to address himself to it may do so.

Are there any other states that now permit public employees to strike?

MR. PARSONNET: Yes. California does. There is a limited right to strike in Michigan. There are, I think, one or two others, I'm not sure but I do know those.

ASSEMBLYMAN HAELIG: Does California have any limitations on the right to strike?

MR. PARSONNET: I don't want to make any representation on that, I'm not sure.

ASSEMBLYMAN HAELIG: Mr. Marciante, you alluded, I believe, to an article that quoted the Secretary of Labor in connection with a policemen's strike in Montreal, Canada, --

MR. MARCIANTE: Postal.

ASSEMBLYMAN HAELIG: Oh, postal. I'm sorry, I thought you said a police strike in Montreal. Well that relates to the Federal Government, anyhow, so that eliminates the need for the question.

Thank you very much, gentlemen.

I would like to call Mr. Frank P. Trocino, First Assistant City Attorney of Elizabeth, representing the Mayor of that City.

F R A N K P. T R O C I N O: Mr. Chairman, I wish to thank the Committee for inviting the Mayor and other representatives of the City of Elizabeth to appear here today and to voice our views.

I appear here on behalf of the Mayor and on behalf of the City of Elizabeth.

I have certain views myself with regard to 303 in particular. I know this hearing is not directed toward the law in general but I have heard comments today and questions from the Committee to other speakers with regard to the law. I have worked fairly intimately with this law. I have been the Counsellor to the City Council and Mayor with regard to its negotiations under this law and I am a member of the City of Elizabeth Negotiating Committee.

We are at the present time in the City of Elizabeth negotiating contracts with the various bargaining units and although no contracts have yet been signed we anticipate that they will be in short order.

I would be happy to comment with regard to any suggestions that I may have with regard to this law but my primary interest today is to comment on Assembly Bill 810. And I wish the record to show that the City of Elizabeth is unalterably opposed to Assembly Bill 810.

A reading of the proposed legislation amending P.L.

1968, Chapter 303, reveals that all public employees except those employed by the State of New Jersey would have the right to "joint or economic action" in support of their right to collectively bargain.

It is generally concluded that the phrase "joint or economic action" can have no other meaning than to be an outright grant to those covered by this act to strike against the public employer.

It is my opinion that this bill is ill conceived and would be a direct rebuff to the general public, the public employers and the local tax payers who already are forced to shoulder the unbalanced weight of our economy here in New Jersey. I wholeheartedly agree with the position taken by the New Jersey State League of Municipalities wherein it opposes this legislation inter alia on the ground that the door would open to an epidemic of disruptions of public service which could reach catastrophic proportions if this bill was enacted.

Aside from the foregoing, and in addition thereto, there are several other valid objections to this proposed law, any one of which, is sufficient reason for the legislature to deny passage of this measure. The first area deals with the constitutionality of the law. Article I, paragraph 19 of the 1947 Constitution deals with this question and provides:

"Persons in private employment shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing."

It is my opinion that the law as proposed is repugnant to the constitution and therefore invalid.

The State's highest court has recently dealt with this situation and has interpreted the general terms of the Constitution and has given more particular meaning to it. The most recent decision was the case of Lulle v. International Association of Fire Fighters, Local 1066, decided March 2, 1967, by the Supreme Court of New Jersey which held Chapter 303, P.L. 1968 to be constitutional. Our Supreme Court recognized that Article I, paragraph 10, gave less in the way of "rights" to public employees than to those employed in the private sector, and while it left to the legislature the enactment of future laws, in this area, it did so only on the condition that those future laws be compatible with the constitution. In commenting on the public sector the Supreme Court stated that the constitution neither authorizes nor bans strikes by public employees. However, the court has stated in the Lulle decision that the Commission Report in

reporting to the New Jersey Legislature on Chapter 302 that public employees were endowed with the right of collective "negotiation" but that it made no recommendation that the right to strike be given or recognized. The court felt that it was significant that the basic considerations in the report allowed public employees to present their grievance and proposals through representatives of their own choosing but that it stopped short of recognizing the right of the public employee to strike. The foregoing opinion by the Supreme Court is quite important since the plaintiff in that case had asserted that the statute had given implied consent to the right of the public employee to strike, and that the assertion by the plaintiff was not concurred in by the court.

Aside from the constitutional issue it is of paramount importance that the legislature act in the best interests of the public in general and that to permit public employees to strike against their employer would have the undesired result of depriving the public of those vital services historically performed by government for the benefit of all citizens. To allow such deprivation would unduly hamper government operations, adversely affect the public and leave in its wake chaotic conditions both unfair and unbearable.

That, sir, concludes my formal statement except to add that I am, of course, open to questions by the Committee and also to remind you, Mr. Chairman and the Committee, that I do have other suggestions with regard to 303 which do not deal with the right to strike but do deal with the very heart of the law, as I see it, and with the problems with which I have been faced, as an Attorney for a municipality and one of the larger municipalities with some of the greater problems which do exist.

ASSEMBLYMAN HAELIG: I might say to you, sir, that the Labor Relations Committee called this public hearing not because of any support for these measures within the Committee - I'm not making any representation one way or the other for the membership of the Labor Committee - but in order to accommodate a request by the sponsor of the bills to the Committee and, of course, we're addressing ourselves to these specific pieces of proposed legislation today. If, however, you have any proposals to make regarding alterations which ought to be made to the PERC Law we would be very happy to receive them if you would be willing to send them to the Labor Committee, to my attention, in written form, we would be most happy to look at them and it would be very helpful if you would do that.

But may I ask, are there any questions of this witness? Mr. Garibaldi.

ASSEMBLYMAN GARIBALDI: Mr. Trocino, the thrust of your objection on Assembly Bill 810 is on the question of constitutionality. Now, in that regard, setting aside the merits or demerits of the proposal itself, do you believe that the State Legislature, the legislative branch of government, upon vital questions such as this, affecting all of the people of the State of New Jersey, should be irrevocably fixed by the decisions of the Supreme Court?

MR. TORCINO: I believe, as I stated in my statement, that the Legislature must enact laws which are compatible with the Constitution, and I believe that is one of the purposes of the public hearing prior to any action by the Committee or the Legislature itself on a proposed piece of legislation; and that hearings give the opportunity to all interested parties to present their views. One view is the one which I have offered today that this piece of legislation is not in accordance with the terms of the New Jersey Constitution. The court, particularly the highest court of this State, has the function of interpreting our laws with respect to whether or not they are valid or invalid on a constitutional basis.

I have reported to you today what I feel the Supreme Court has said with respect to the PERC Law. And I feel the Legislature does have obligations to enact laws which it considers to be compatible with

the Constitution, the fundamental law of the State. Yes.

ASSEMBLYMAN GARIBALDI: Okeh. One other question.

With regard to the City of Elizabeth, in the event that the employees, the public employees within the City of Elizabeth, were to have a legitimate grievance and an impasse were to arrive between the public employees and the public employer, Mayor, Council, whatever other agency would be involved, how would you handle a situation with regard to that problem?

MR. TORCINO: Very similarly to the way we are handling it at the present time. And, of course, sir, you know that all municipalities are working under this law for the first time because of the newness and freshness of this piece of legislation.

We are bargaining in good faith. Previous speakers have shown that this law requires good faith bargaining on the part of the public employer. The City of Elizabeth has recognized this provision and is carrying it out. We are bargaining in good faith with all of the representatives who have been recognized as bargaining units for the various employee groups. If an impasse is reached, then we would follow the provisions of the law as it now exists for presenting the impasse to PERC and having mediations. And, after that, if an impasse is not broken after fact finding and mediation, the law does provide for permissive

arbitration if the parties agree.

I do not want to comment on that because it does involve another area of this law which I feel needs exploration by the Legislature and it should be gone into with thoroughness by this Committee and the Legislature as a whole.

But I would say that we would follow the provisions of the law, which we are willing to do, and attempt to break an impasse but short of strike because while I am personally in agreement with the right to strike in the private sector - I've always held that view and hold it today -- I feel that it is imperative that employees in the private sector have the right to strike but I feel just the opposite with regard to public employees because of the very nature of their employment, because they have, in my opinion, a higher duty to perform, a duty which they voluntarily assume at the time they make application to become a public employee. They are public servants. They are working in behalf of the public. And if they decide, because they have a right to strike, to invoke that right, then I say that chaos will develop and that the public will be deprived of the governmental services which they have been historically given and entitled to, and to do this would cause, as I have stated, a condition which would be unbearable.

ASSEMBLYMAN GARIBALDI: Then what you're saying is that a public employee is a completely different instrument than any other employee, whether it's second class, third class, it's still different. Is that what you're saying?

MR. TORCINO: What I am saying is a public employee is beyond a doubt a first class employee but I am saying that he performs a higher duty, that is a duty which is a public service, and that when he voluntarily takes that employment he does so knowing that he is to provide a service which the remainder of the citizens expect of him.

ASSEMBLYMAN HAELIG: Assemblyman Vreeland, have you any questions?

ASSEMBLYMAN VREELAND: No questions.

ASSEMBLYMAN HAELIG: I have no questions. We appreciate your testimony.

MR. TORCINO: Thank you very much.

ASSEMBLYMAN HAELIG: The next witness will be Thomas P. Cook, Counsel to the State Federation of District Boards of Education.

T H O M A S P. C O O K: Mr. Chairman and members of the Assembly Labor Relations Committee, I am Thomas P. Cook, Counsel to the State Federation of District Boards of Education in this State. We very much appreciate the opportunity of appearing before you to present our views concerning Assembly Bill No. 810.

I would also like to reserve, if I might, an opportunity to submit a memorandum to your Committee in regard to the other two bills on which you are holding a hearing today, as one of the other speakers has.

ASSEMBLYMAN HAELIG: All right.

MR. COOK: Now the State Federation, like some of the other speakers here this morning, is unalterably opposed to Assembly Bill No. 810 because, as we read it, it would authorize all public employees in this State, other than State employees, to strike, slowdown, or act in concert in other similar ways in order to compel government to accede to their demands. We condemn such a proposal as unsound in theory, harmful to the public in practice, and unnecessary to the welfare of the employees of counties, municipalities and school districts in this State. We also question the constitutionality of this proposed legislation, as was done by the previous speakers.

The main section of the Bill provides that groups of public employees other than those of the State "shall have the right of collective bargaining and the right to joint or concerted economic action in support thereof." This Bill thus places no limit on the right of the employees to strike or use other concerned economic action. In this respect, we think that the Bill violates Article I, paragraph 19 of the State Constitution as interpreted by our Supreme Court.

In Board of Education of Union Beach v. New Jersey Education Association, 53 N.J. 29 (1968), the Supreme Court declared that the Constitution did not prevent the Legislature from granting to public employees the right to strike "within certain areas and limits." However, the Court also said (53 N.J. at page 45): "It of course is essential to the constitutional promise of an ordered society that government shall be able to govern, and we may therefore assume the Legislature could not legislate the branch of government into idleness. Strikes do tend to bring government to a halt." The Bill now under consideration does not specify any areas or limits within which strikes might be tolerated; it would allow all municipal and school employees all over the State to strike at the same time. The Bill thus ignores the basic principle forbidding legislation which could allow local government to be brought to a stand-still.

Looking beyond constitutional and legal problems, however, we take our main stand on the political and social concerns which militate against the use of economic power by organizations of public employees in order to obtain their own ends.

In brief, we urge that the remedy against a public agency unresponsive to the needs of its employees is not to give the employees the power to take retaliatory action which disregards the needs of the public. The answer to employee grievances is not strikes, but orderly governmental procedures, improved if neces-

sary, by which the legitimate causes for strikes can be removed or settled. Economic warfare by those who have volunteered to serve the public can cause irreparable injury to innocent people, and it cannot be justified in principle. The answer lies in adequate legal remedies, not the use of force.

Let us now examine more specifically the several thrusts of our attack on A-810.

1. The public interest demands that governmental services not be disrupted, and that the proper self-interest of public employees be taken care of without harm to this overriding public interest.

Recent experience with strikes against the government, even of short duration, have shown the chaotic conditions resulting from such strikes, whatever form they may take. Last year's strike of teachers in New York City has irreparably retarded the education of hundreds of thousands of school children in that city. The same holds true of recent teachers' strikes in Newark, Jersey City and other school districts of this State, although to a lesser degree because the strikes were of shorter duration. We have also observed the imminence of disaster to the public health and safety from a protracted strike of garbage collectors, let alone policemen or firemen.

Even a short strike of postal employees, of air terminal controllers or of trainmen can cause a loss of millions of dollars to innocent members of the public, beside the inconvenience and hardship involved.

Our society has become so complex, and we are so dependent upon the continuation of essential services, that widespread and prolonged disruption of several essential services occurring at the same time could cause a complete breakdown the of/social fabric, leading quite probably to violence and destruction of life and property.

Perhaps the worst feature of strikes by governmental employees is that they do not hurt the employer (as they do in private enterprise); they hurt only the innocent citizens, many of whom may well sympathize with the goals of the strikers. For example, when teachers strike, it is not the board of education which is hurt in the pocketbook, but the education of the children which suffers. What we have said with regard to strikes pertains, of course, to all other forms of economic coercion, including the "sanctions" device which was outlawed in the Union Beach case above referred to.

For the foregoing reasons, our courts, together with the Legislature and courts of almost every other state and of the federal government, have held to a public policy prohibiting

strikes against the government. Thus, in In re Block, 50 N.J. 494, 499 (1967), the Supreme Court said: "When government undertakes itself to meet a need, it necessarily decides the public interest requires the service, and its employees cannot reverse or frustrate that decision by a concerted refusal to meet that need." Likewise, in the Union Beach case, the Supreme Court held illegal a concerted refusal by teachers to accept employment with a board of education, saying (53 N.J. at page 37):

"But the subject is the public service, and the distinctions defendants advance are irrelevant to it, however arguable they may be in the context of private employment. Unlike the private employer, a public agency may not retire. The public demand for services which makes illegal a strike against government inveighs against any other concerted action designed to deny government the necessary manpower, whether by terminating existing employments in any mode or by obstructing access to the labor market. Government may not be brought to a halt."

The contention that a prohibition against strikes by public employees violated their rights under the United States or New Jersey Constitutions was rejected by the Supreme Court in the Block case, supra, where the Court's opinion stated (50 N.J. at pages 499, 500):

"There is no issue of involuntary servitude under the Thirteenth Amendment; the individual teachers were free to quit but they could not strike in concert."

Now this is the difference. Nobody is making any individual work for the government but if he goes into the government he is then denied the right to act in concert with all other employees in his unit to use this kind of economic force against his governmental employer. And that's the difference, as the Supreme Court pointed out. And that's why their saying they're slaves to the government is perfectly ridiculous. Any individual can quit any time he wants to.

"Nor can the defendants" and I am continuing my quote from the Supreme Court here -- "Nor can the defendants claim a right to strike under the State Constitution upon the thesis that they are in private employment because teaching can be pursued under private auspices." ****

"The assertion that a differentiation in this area between a teacher in the public service and a teacher in a private school offends the equal-protection and the due-process clauses of the Fourteenth Amendment seems to us to be plainly frivolous."

Now that's what the Supreme Court thinks about the constitutional argument that some of the pro-strike people have raised.

This brings us to the argument that public employees should enjoy the same right to concerted action as now belongs to persons in private employment. I'll answer that one.

2. The fact that persons in private employment have a right to strike affords no reason for granting this right to persons in public employment, because of the essential differences between government and private enterprise.

Public employment differs from private in a number of crucial ways:

(a) A private enterprise, whether it be a tailor shop or General Motors, can stop doing business any time it desires; and if it feels that the demands of its employees' union are unreasonable, it can use its own economic power to cease operations until the union comes to terms. A public agency cannot do this; it has a legal duty to continue rendering the service for which it has been created. A school board, for example, cannot lock out the teachers if it believes their demands are exorbitant. If the board cannot close the schools, the teachers should not have the right to do so.

(b) In the private sector, the owners of the business are to some degree in competition with their employees for a division of the earnings of the business. This creates a tendency on the part of unscrupulous employers to exploit those who do the work and to claim a share of the profits which society in general may deem too large in comparison with the share which goes to rewarding the labor. Government

employers, on the other hand, have no interest or profit motive to deprive employees of adequate pay and working conditions. Government managers may be interested, of course, in (1) keeping taxes down and (2) getting reelected or reappointed. In these matters, however, the employees are generally interested as taxpayers themselves, and they are also able to vote for the individuals who will be responsible for determining the salaries and working conditions. They can foster their own interests by persuading the voters and their elected representatives to improve their compensation and other benefits. No such opportunity exists for persons in private employment.

And I might say right here that my friends in the New Jersey Education Association have done a remarkably good job with the Legislature of this State in improving the conditions of teachers in our schools. I mean, that is one obvious remedy for inadequate pay and working conditions for public employees, to come to see you gentlemen, just the way we are doing now.

My last point is this, in respect to the difference between public and private employment.

(c) Public officials do not pay wages out of their own pockets, but are trustees of funds belonging to all the people. Thus, if put under great

pressure by a strike, the public official will not have the same incentive to resist unreasonable demands by the public employees' union. At the same time he must try to meet the public need by keeping his service going; but, as I have already mentioned, he may not close down his governmental operation in the same manner that a private employer may do.

So for all these reasons, and especially the obligation of the government to keep on functioning, public employment relations must rest upon foundations wholly different from those between private employer and employee.

Now I would like to go into just a little bit of political philosophy and theory here because I think if you haven't got a sound philosophy about these things you can sooner or later end up in trouble. And I submit this to you gentlemen.

3. Strikes by public employees cannot be justified under the American elective form of government.

Democratic government in the United States is established for and run by all of the people through their elected representatives. This principle lies at the very foundation of our political system. Government rests upon the consent of the governed, as expressed through the ballot box. Representatives elected by the people and responsible to the people

are the only ones who are to exercise the compelling power of government, including taxation for its support.

As soon as one admits that any particular group of supposedly public servants has the right to engage in a power struggle with the elected government and to win such a struggle if the power of the faction is sufficient, one is admitting the legitimacy of government by special interest groups who are not answerable to the people as a whole. In other words, we lose to that extent government by the elected representatives of the people.

We respectfully submit that the power to make decisions in regard to compensation and other terms and conditions of public employment must rest with the people as a whole, through those whom the people have elected to exercise that power. This State should not and must not tolerate the use of direct economic pressure by public employees against a governmental agency as a means for achieving employee aims, however justified they may be. Grievances must be settled by legal procedures, not by force or duress.

4. The use of coercive measures by groups of public employees is not necessary to enable them to obtain their demands for fair compensation and good working conditions; the Employer-Employee Relations Act already provides ample machinery for the settlement of disputes concerning these matters; and if present procedures are not adequate, others can and should be devised for this purpose.

The argument which we most frequently hear in favor of allowing government employees to use coercive tactics is that on several occasions they have had to do this in order to obtain their just desserts. They maintain that the governmental machinery has worked too slowly, and that the families of the employees, (such as the postmen, for example) are enduring desperate circumstances while the government stalls in meeting their needs.

In answering this argument, we must start with the proposition that while some governmental agencies may at times be arbitrary or unreasonable in dealing with their employees, some employee groups may also be moved by undue self-interest or greed and may totally disregard the public welfare which they are supposed to serve. To err is human, and human beings

can err on either side of a labor dispute. Teachers, at times, can be unreasonable and so can Boards of Education. I don't think either side can maintain to be absolutely pure. And I think if the NJEA is honest they will admit that some of their organizations have at times made unreasonable or exorbitant demands.

If we were to concede the right to an employee group to use economic force where the governmental agency is unreasonable in the eyes of the employees, logic would grant the same right to the government to use force where the employee organization is deemed to be in the wrong. However, we have rejected the use of arbitrary power by governmental bodies in fixing terms and conditions of employment, and have substituted in its place, by Chapter 303, the processes of negotiation, mediation, fact-finding and sometimes arbitration of grievances. Employee organizations must reciprocate by giving up their claim to the use of force in favor of using legal processes for working out with the public employer their terms and conditions of employment.

Accordingly, the answer to the problem of recalcitrant public agencies seems to us to lie in improved legal procedures for bringing adequate and prompt relief to the public servants involved. For instance, the Legislature, or perhaps the Public Employment Relations Commission, could establish

a procedure for resolving an impasse by which each side would make what it believed to be a fair and final offer, - and I believe this was suggested by one of the speakers this morning - and then the authorized agency would then decide which of the two offers was the most fair and reasonable, and this decision would be final and mandatory on both the government and the employees. That's one suggestion.

Fairness, I think, would almost be guaranteed by this device.

As another possibility, the Legislature might consider establishing a special tribunal, similar to the Tax Court of the United States, which would arbitrate in binding fashion an impasse between any other governmental agency and its employees.

I heard Mr. Parsonnet testify that they think compulsory arbitration simply doesn't work, but I don't think it's maybe been given a fair chance. We think there has to be some alternative to plain warfare, and the civilized way to settle things is by an impartial tribunal which makes decisions and through its impartiality and a position removed from special interests, and so forth, such a tribunal, I think, should have the respect that it deserves and all people should abide by its decision. Well, that is another suggestion.

Now, the Federation is not prepared at this time to recommend one or more of such alternative procedures because it believes that the impasse machinery already provided by Chapter 303 can be made to work well.

Bear in mind, gentlemen, this is just in its infancy. We've been working with it less than two years and already I think everyone admits that most cases have been resolved, most boards of education have made contracts that are satisfactory to everybody; there have been a few cases where there has been difficulty. But we have arrived at these results in spite of the fact that we had no guidance as to, for instance, the meaning of the words "terms or conditions of employment". Boards took one position, the NJEA took another position, maybe the Teachers' Federation took another position. We've had a lot of problems to wrestle with in this first couple of years of negotiating under this Law but we think great progress is being made and that with decisions about to be made by the Public Employment Relations Commission and eventually by the Court a lot of these issues will be resolved, everyone will know where they stand, and I would think that when we've arrived at that posture and all these questions and disputes have been settled, the law will take care of most of the problems that now exist. And we think that mediation, fact-finding and other procedures now in the law should produce the desired results.

We must recognize, of course, that cities like Newark, and so on, are having a terrible time trying to find the money with which to take care of their employees and pay them good wages, and so forth. And we, of course, are working as hard as we can with the Legislature to provide greater financial aid to all needy school districts in order to make it possible for them to pay adequate compensation to their employees. And this is another thing that I think the Legislature has got to do.

Well, in conclusion, we submit that while the present bill does not prescribe a limited right to strike or particularize the area where such concerted action might be permissible, our reasoning leads to the conclusion that the door to economic pressure by public servants should not be opened even part way.

There has been testimony here this morning that, well, if a fellow is picking up trash out in the park and wants to strike, what harm is that going to do?

Well, where are you going to draw the line, gentlemen? If you allow some public employees to strike then the question immediately arises as to how far are you going to go. And a logical view was taken, I think, by some members of the AFL-CIO, you've got to give everybody the right to strike, policemen included. That's the only logical way you can do it because if you have the door opened part way then any group that hasn't

gotten the right to strike is going to have great difficulty in accepting any differentiation between it and some other employee group which has been given that right. The logical place to draw the distinction between those having the right to strike and those who do not is at the line between private and public employment, as I have already tried to show you.

So we urge the Legislature not to embark upon a sea of troubles by allowing economic warfare to replace due process of law, either in whole or in part. We recommend that the present impasse regulations of Chapter 303 and of the Public Employment Relations Commission be given a further reasonable period of time within which to solve public employment problems in this State; and we urge, above all, that if or when amendments in this area are considered, they take a form of improving the machinery for settlement of employee grievances rather than giving up the way of reason for the sword of battle against the people. And I remind you of what the bible says, those who take the sword can also perish by the sword.

Thank you.

ASSEMBLYMAN HAELIG: Thank you, Mr. Cook.

Mr. Garibaldi, do you have any questions?

ASSEMBLYMAN GARIBALDI: Mr. Cook, your attitude reflects the opinion, at least in my estimation, that

you apparently don't think there is a problem that exists throughout the State with regard to public employees, as we are confronted with right now, and that you feel that the law that exists right now should remain that way and, therefore, the problems will cease to exist. Am I right in that?

MR. COOK: What I said, sir, is I think Chapter 303 in its present form, with perhaps some amendments that could be made right now, but basically with its present mediation, fact-finding procedures, should be given a further chance to work as it is, and that if it doesn't alleviate a lot of problems within the next couple of years then perhaps some additional machinery should be provided, such as perhaps this final offer on each side and with an impartial agency to determine which offer shall be accepted and binding on the other. Now I think that was one of the alternatives that I suggested. I'm not an expert in labor relations, I don't pretend to be, but I think the basic principle is that we've got to have legal machinery to determine these disputes and not open the door to economic warfare by employees against their own government.

ASSEMBLYMAN GARIBALDI: All right. Further, you stated that a public employee has a great duty and responsibility to his employer, as a public employee, and to the public at large, for that matter, that perhaps isn't present in private industry. Now we all know what

a teacher, for example, has to go through to obtain that public duty - four years of college training, a great investment of time and money, before he or she obtains that public duty - but yet you believe that regardless of whatever economic stress is placed upon this individual the over-all duty to the employer and the public must remain first.

MR. COOK: Yes, sir.

ASSEMBLYMAN GARIBALDI: Okeh. Now we have this teacher who is now in jail because she believed that what she was fighting for was a legitimate grievance whereby the public employer refused or didn't even consider compromising the situation there and they invoked the law, the statute of the State of New Jersey, to jail that individual. Now, you believe that this should continue at all cost in order to maintain the stability that you feel we now have in the State of New Jersey?

MR. COOK: Sir, I think that any law has to have sanctions for its enforcement, otherwise we might just as well not have the law. There have to be appropriate penalties to deter people from violating the law. Now I'm not saying that putting a teacher in jail is necessarily the most appropriate penalty but I am saying that there must be sanctions and penalties for violations of this law against strikes by public employees just like any other laws which the Legislature in its wisdom has seen fit to pass.

ASSEMBLYMAN GARIBALDI: Well the laws that exist in the State of New Jersey prohibit public employees to strike or concerted economic action, which many have done. You've seen the rash of strikes as Counsel to the Federation and you certainly must be aware of the ~~situations~~ that exist throughout the State of New Jersey.

MR. COOK: Right.

ASSEMBLYMAN GARIBALDI: And you feel that if a reform were to come about, such as suggested here in Assembly Bill 810, that we would not have recourse whereby these problems can be resolved a lot sooner and in a lot better method than jailing and fining public employees whom you claim have great duty and responsibility to their public employer.

One thing I have to point out here is that teachers have to be considered the most educated sector of the people of the State of New Jersey and these, above all, should be the last ones to violate the law of the State since they are the ones who are going to be teaching the children of the State of New Jersey to uphold the law; yet we have these teachers striking, defying the law. I don't think they are doing this just because they are trying to have a demonstration or make a display, I think there are legitimate grievances between public employees and the public employer relationship is at fault here. And I believe that this instrument here might be the manner in which we can resolve the

situation.

That's all I have to say.

ASSEMBLYMAN HAELIG: Mr. Vreeland?

ASSEMBLYMAN VREELAND: One question. It has been stated in your presence that some boards of education have not acted in good faith, and I think specifically one was Newark, do you accept this statement or would you comment on that?

MR. COOK: Sir, I am not in a position to state, to my knowledge, whether there has been any board which has not negotiated in good faith as required by Chapter 303. I would say that if there have been any such boards there is a remedy under the law right now, as I understand it, and this has happened in a number of cases. The teacher organization has brought a charge against the board before PERC - in fact, I have just been through one of those in a hearing before PERC which involved charges of failure to negotiate certain proposed terms of the contract in good faith. Now when that case is decided and if it is decided that the board has not negotiated in good faith, as they should have, then PERC will enter an order that the board should do so and that can be immediately followed up, - if the board then still refuses to negotiate in good faith, it can be followed up by a court order which is still enforceable by contempt just the way a court order against strikes can be enforced by contempt proceedings. So I say there

is a remedy. Now it may be somewhat long and torturous, maybe there ought to be a more expeditious remedy. I have no particular thoughts on just exactly what the remedy should be but I think there is that legal remedy, at least, under the present law.

ASSEMBLYMAN VREELAND: Thank you very much.

MR. COOK: May I also say this. I simply cannot accede to the statement that was made here by one or two earlier witnesses that every single teacher strike in this State has resulted solely from arbitrary action by the board of education. From what I've heard of some of the teacher demands in Newark, for instance, I think almost any objective or fairminded person comparing those demands with what was generally being done and expected around the State would feel that some of those demands were quite unreasonable and that the Newark Board could hardly be blamed for not going along with some of those demands.

ASSEMBLYMAN HAELIG: I was going to ask this question before. How can you tell when a board of education isn't negotiating in good faith? What exactly does that term mean?

MR. COOK: Well, there have been many cases under the National Labor Relations Act, sir, that involve the question of whether there has been good faith bargaining - the word is "bargaining", of course, as you know, in the Federal Act. And you have to meet at

reasonable times, you have to make proposals and counter-proposals, and so forth, but there is nothing in any law that requires either the board or the teachers to agree to a particular proposition. I mean, this is what bargaining is all about, it's sort of a give and take process where finally down toward the end of the line you hope that both sides are going to be somewhat reasonable and will end up with a reasonably satisfactory contract. But you have to try to keep on acting as a reasonable person who is trying to reach an agreement for the other side. That's about the best definition I have.

ASSEMBLYMAN HAELIG: Thank you very much, Mr. Cook. We appreciate your testimony.

The next witness is Mr. Maurice M. Veneri, President of the New Jersey Industrial Union Council, AFL-CIO.

M A U R I C E M. V E N E R I: Chairman Haelig, Assemblyman Garibaldi and Assemblyman Vreeland, let me thank you for this opportunity to appear before you.

My name is Maurice M. Veneri. I am President of the New Jersey Industrial Union Council, AFL-CIO. I am here today to speak in support of Assembly Bills 542, 544 and 810.

Mr. Chairman and members of the New Jersey Assembly, my name is Maurice M. Veneri and I am President of the New Jersey Industrial Union Council. We

represent approximately 130,000 workers in the State of New Jersey, including several thousand in the public sector.

This hearing on A-542, A-544 and A-810 is an important one for it deals with legislation involving a large and growing sector of our work force, the public employee.

In the past year, our State and Nation has witnesses a series of strikes by public employees, including postal workers, teachers, garbage collectors, air traffic controllers, railroad shop craft mechanics, and others.

In each of these instances, these employees were subject to a ban on strikes, whether stated expressly in law, by interpretation of the State Constitution, or by injunction. Nevertheless, these employees, numbering hundreds of thousands, and their unions, were forced to resort to the strike weapon as a last resort for the resolution of their need for higher wages or the redress of their grievances.

It should be obvious that the existence of bans against such strikes have not prevented their widespread occurrence. Indeed, it is our opinion that the existence of such strike prohibitions of themselves contribute to the incidence of public employee strikes and should, therefore, be removed.

In the recent postal strike, the public became aware for the first time that postal workers are subsisting on wages which are far behind our greatly publicized American standard of living.

The Bureau of Labor Statistics tells us that a family of four, living in the major cities of New Jersey, needs at least \$11,000 a year to live moderately. Contrast this with the \$6,000 to \$8,000 pay scale of postal workers prior to the strike.

What brought on this emergency was the decision by the Nixon Administration to delay for a year the granting of postal pay increases. Now the Administration admits that the government was in error in failing to appropriate funds in the current budget for the mailmen's raises.

It took a strike to bring the plight of the postal worker to the attention of the American people, an action which incidentally brought great sympathy to their cause, instead of condemnation.

It took a strike also to bring genuine collective bargaining to the postal situation for the first time, a development which quickly brought the strike to a conclusion.

Commenting on the complex problem of strikes among public employees, Theodore W. Kheel, famed labor mediator, submitted a statement to the New York Assembly Committee on Governmental Employees on

December 30, 1969. He said:

"In the private sector of the economy, collective bargaining has demonstrated its effectiveness as a method of dispute settlement. In public employment it is gaining acceptance and improving its record for resolving disputes without a disruption of service. But, true collective bargaining depends on the possibility of a strike, although not the certainty or even probability of it. Indeed, the probability is reduced in our judgment, where the possibility of a strike exists."

In an earlier statement delivered in 1968 to the New York Governor's Conference on Public Employment Relations, Mr. Kheel made the following observations:

"I suggest...that there is no workable substitute for collective bargaining even in the government and that in improving the practice of bargaining lies our best chance to prevent strikes against the public interest. The experience of the last few months should demonstrate to us with dramatic clarity that strikes are not prevented by laws emphasizing complex procedures and penalties. The key to preventing strikes in the public no less than the private sector will be found only through improving the bargaining process and not by replacing it. For this purpose we should devote our energy, not toward devising new penalties and more intricate procedures, but toward the understanding and skill of bargaining participants. With skillful

and responsible negotiators, no machinery, no outsiders and no fixed rules are needed to settle disputes."

I would say amen to this and would add one small postscript - that with public employers knowing that there might be a strike among their employees, the incentive to bargain in good faith and not rely on the courts or jail sentences to browbeat the union and its members into submission, would be created once and for all.

It is important to note that the recent Newark Teachers' strike was finally resolved by collective bargaining and not by the arrest of 200 or more teachers. I was in close touch with the leadership and the rank and file of the Newark Teachers' Union during the strike and can tell you that the same agreement could have been reached without an interruption of teaching had the Newark Board of Education engaged in true negotiations prior to the strike.

However, someone in Newark counselled the Board of Education that the way to a cheap settlement would be to rely on injunctions in place of collective bargaining. But, 200 arrests later, the Board finally realized that this was bad advice and settled the strike once it resolved to negotiate in good faith.

And now for the legislation at hand. The IUC is in support of A-542 which would repeal the right of the State to seize and operate public utilities during

strikes, after which it is empowered to provide the machinery for compulsory arbitration and to invoke penalties and injunctive relief for violations of the law.

I believe that by giving the State this power, the members of management of the public utilities are given a green light to dodge their responsibilities to negotiate settlements with their union through collective bargaining. The Public Utilities Antistrike Law encourages a get tough posture in labor relations by the corporations.

The record shows that following passage of this law in 1946 there were 22 strikes in six years, whereas during the 24 years preceding the law's enactment there had been no strikes at all.

During the last public utilities strike, involving the Public Service Bus Drivers in 1964, Governor Hughes refused to invoke its provisions for seizure and compulsory arbitration on the grounds that the law was unconstitutional. This was also the considered opinion of the then Attorney General, Arthur Sills.

Indeed, in 1951 a U. S. Court ruled in a case involving the Electric Railway Employees and the Wisconsin Employment Relations Board that a similar act was invalid since it was in conflict with the National Labor Relations Act. A U. S. Court in Missouri ruled

that a similar statute in that State violated the federal supremacy clause, since it was also in conflict with the NLRA.

As far as compulsory arbitration itself, it is our judgment that it has no place in free collective bargaining relations and, coupled with laws involving bans on strikes is a violation of the 13th Amendment which prohibits involuntary servitude.

As far as the effectiveness of such arbitration, Theodore Kheel says it is "inconsistent with the aim of placing more responsibility with the parties themselves," in resolving labor disputes. Kheel also points out that "if arbitration lies automatically at the end of the line, the result is predictably to stifle any collective consideration or bargaining. It is the flexibility induced by uncertainty that is a spur to resolution by the parties themselves."

It is for these reasons that we favor repeal of the ban on strikes in public utilities and hope that a majority of the State Legislature will concur.

Next we come to A-544. This bill deals with the public acquisition of previously privately owned companies. It is the purpose of A-544 to continue the rights of employees in such circumstances to maintain their rights to collective bargaining and to resort to economic action in support of such bargaining, including strikes.

We support this bill, because we are concerned that the pay and benefits of employees who have worked under the terms of a union contract should not be undermined in a take-over of an industry by a public agency.

For all the reasons mentioned above, we believe that a policy which encourages collective bargaining and removes the reliance on penalties, is the path to good labor relations and to an improvement of the standards of living of the working people of our state, which I believe should be the objective of all of us in this room, whether we represent labor, government or industry.

Finally, I wish to voice our support for A-810 which amends the law creating PERC. It is the purpose of the bill to affirmatively extend the right to strike to all public employees, other than those employed by the State of New Jersey.

As stated above, we believe that such an action will create a climate on both sides to engage in collective bargaining whose end product is agreement and not strike.

The experience of my own union, the International Union of Electrical, Radio & Machine Workers shows that our members strike on an average of once every twenty years. In other words, 95% of our negotiations result in agreement rather than strike, because we have set up the machinery for effective collective bargaining, in

keeping with the National Labor Relations Act.

I believe that public employees, given the same guarantee of collective bargaining, minus a ban on strikes, will do far better in resolving disputes peacefully, for the overwhelming majority of public servants are imbued with a deep sense of public service and the resort to strike will become a distinct rarity.

That concludes my written statement, Mr. Chairman.

ASSEMBLYMAN HAELIG: Thank you very much, Mr.

Veneri.

Mr. Garibaldi, do you have any questions?

ASSEMBLYMAN GARIBALDI: No.

ASSEMBLYMAN HAELIG: Mr. Vreeland?

ASSEMBLYMAN VREELAND: No.

ASSEMBLYMAN HAELIG: Mr. Veneri, you alluded to a statement by Theodore Kheel who said, "With skillful and responsible negotiators, no machinery, no outsiders and no fixed rules are needed to settle disputes." Now I presume that you support that statement and that you believe in that statement, and I would like to know how you square this with the fact of the matter that in the private sector of the economy strikes have occurred which have lasted for months, and whether or not you would support this bill if you knew this was a possibility in the public sector; and, additionally, if it were passed how would you prevent strikes from lasting for months in the

public sector of the economy?

MR. VENERI: Well, you've asked me a couple of questions, how do I prevent strikes from lasting a long time. My aim would be to try to prevent a strike, the first thing. The second thing is that sometimes it just can't be helped. For instance, we deal with that small company, General Electric Company, and you know our 147,000 workers just came off a long strike. Of course, when you walk in four or five months before the contract expires and start negotiating, and after you get through making your proposals and explaining why the people deserve the better conditions, more money, and what not, and the company comes in one morning and hands you a few sheets of paper and says, here it is, there was no negotiating. In fact, while they were giving us this, back home in the plants around the country the management was calling the people in, all of the supervisors and all of the superintendents and what not, had copies, you know, and would be telling the people how good this was for them.

I think that every American should have the right to strike. And the point is this, we're living in a new age and people just seem to forget that we're in the 20th century today and all kinds of people are striking. I can remember years ago, as a kid, when they mentioned certain kind of people and said, "Strike? Are you kidding?" This was a white collar worker, a typist or something

like that. Today it's teachers, postal clerks and everyone else. And why not? They just don't pay attention to these people, and this is what it's all about.

Here we've had this postal strike and take a look-see, when you hear a postman getting home, you know, in order to reach the top he had to be there, I believe, 20 years. Some of these fellows walking home with \$90 and \$95 a week and a couple of kids. I mean, what kind of money is this today? And it might be simple for some people to say, well there must be other methods. Well they find people just don't go on strike that way. I'm sure, for instance, in the City of Newark when they sat down and really got down to brass tacks and wanted to do some - I know I've sat down with people, they sat on the other side of the table and some slept and snored, some just buzzed around reading newspapers, they didn't care what you were saying. And I can assure you this happens also with people representing public employees. There is no question in my mind. I honestly feel that all should have the right to strike.

ASSEMBLYMAN HAELIG: Well, you're on record with that opinion. It's the Legislature's responsibility to legislate in the public interest however the individual Legislator interprets that public interest. But what my question was addressed to was something that you alluded to there - let's suppose that you were completely

right and the employer was completely wrong and you had this long strike with General Electric, well this is part of the private sector of the economy, and you had a little war with the employer and it was settled after the strike had lasted for several months, I believe - now how do you keep the same situation from occurring in the public sector? What's the essential difference between the two situations, as you see it?

MR. VENERI: Well, as I see it, I think in the public sector it would be different because people are concerned. You see, the postal strike didn't last that long. And of course, here came the teacher strike - the citizens become aroused one way or the other and they start asking what is it all about. And a lot of people didn't know what it was all about.- the Newark Teacher strike, the other teacher strikes and the postmen - and when they find out public sentiment starts swaying in their direction and the politician who depends on votes starts to say to himself, you know what, maybe more people will vote that way than the other way. This is about what it amounts to. It's pressure. I think that if the union, the teacher union, for instance, if they were very unreasonable, you know, I'm quite certain that the citizens wouldn't be backing them up, the people in that community or in that area wouldn't be backing them up. I think there's a little difference there, you know.

ASSEMBLYMAN HAELIG: Do you think that the economic pressure or the pressure on the public employer, owing his responsibility to the public, is greater than the economic pressure on an employer who is losing profits during a strike, to settle the disagreement between the two parties?

MR. VENERI: Well, I'm not sure of that, where the pressure would be greater. The point I'm making is that they should have the right to strike. I'm not sitting here saying to you that people should just strike. But you know you pass laws, just like capital punishment and it hasn't prevented or stopped people from murdering one another. It's there, you know, and they'd want to kill them twice if that were possible. There would still be people killing one another. And I just think when you take a group, for instance we mentioned teachers, they're in negotiation and they do this for a couple of months, there just won't be a whole lot of stalling. They'll sit there knowing full well that it could turn out to be a strike. And I think this is the important thing. They will do something about it because too many people feel nothing can be done, you know, as long as they can't strike, they can't hurt us and it's a be damned attitude, they just don't care. And I honestly think that giving them the right to strike doesn't necessarily mean they will go on strike. I believe one of the earlier speakers mentioned

that - you know you could ask me a question about fireman, policemen and everybody else, I think there would be a lot of thought by their organizations before they would go out, before firemen would run out. But just because there is a lack of their right to strike, do you think it's right for them to be underpaid, for them to be neglected just because someone says, the Mayor or whoever it may be, well there is nothing they can do about it. This is the important thing. I feel very sure myself because I do know, going back many years, - I have been in this business with labor unions for many years and found that to be true. I remember a particular group which set up - and it looked like they had a pretty good contract, many years ago, and they said they would do this and they would go to the next step and they'd call each other names and finally the last line said, however, we agree that we will never strike. Well, they never got anything, you see, they never got anything and the company told them where to go, always, they couldn't get anywhere until finally someone told them where to go and be part of the real labor organization that will speak for you. And I don't see where this law has stopped people, teachers who are organizing, joining unions, postal clerks, - and again I just want to conclude. I keep making speeches, by saying we're having strikes galore with these laws. That's all.

ASSEMBLYMAN HAELIG: Thank you very much, Mr. Veneri, we appreciate your testimony.

MR. VENERI: And I want to thank you for allowing me to appear.

ASSEMBLYMAN HAELIG: It's our pleasure.

It's about five minutes to one,so I think we will recess until 2 o'clock at which time we will hear Dr. Kenneth Benson and Mr. Howard Parish as the first two witnesses after lunch.

(Recess for lunch)

[Afternoon session]

ASSEMBLYMAN HAELIG: The hearing will reconvene at this time.

Mr. Robert Decker, President of the Sayreville Education Association, has to leave immediately and he assured me that he only has a one or two-minute statement, so I would like to call him as a witness at this time.

R O B E R T D E C K E R: Unofficially and off the record, my wife delivered a seven-pound twelve-ounce baby girl last night. And what was I doing? Well, believe it or not, I was in court yesterday morning, subpoenaed by the Board of Education to testify against my own teachers.

My name is Robert Decker and I am President of the Sayreville Education Association. Mr. Chairman and Members of the Committee, I am speaking here today in favor of Assembly Bill 810.

Sayreville is probably a classic example of why this bill should be passed. We have gone through and utilized all of the machinery given to us by 303. We have not yet reached agreement. In Fact-Finding, the Sayreville Board of Education presented only two articles of evidence against almost an entire contract going into Fact-Finding. We presented 98.

The Fact-Finder's decision came out; we termed it fair. There were many things that we thought should

have been included. However, the teachers in Sayreville accepted this Fact-Finding Report. The Board of Education rejected it. A mediator from PERC asked the Board of Education to consider binding arbitration. They refused.

My question is here, what course of action is left to us now? Where do we go from here? Teachers need equal bargaining rights and we feel that we cannot have them unless we have the right to strike.

It was stated here before that boards of education cannot lock out its teachers. Well, I think that our Board of Education has done the next best thing. They are sending 212 of us to trial.

The question here of "Who is hurt by a strike?" is one that every educator, I think, considers very strongly before taking any such action. Is it better that a child may receive a misplaced - if I may say that - vacation or is it better that for months this child faces a teacher who is frustrated and cannot effectively do the job that he or she was hired to do? We are tired of being second-class citizens, and the Sayreville teachers would urge passage of this bill, A-810.

Thank you.

ASSEMBLYMAN HAELIG: Thank you very much, Mr. Decker. I don't think there are any questions. The congratulations of the Labor Committee are extended on the new member of your family.

Now we have a representative of the Association of New Jersey State College Faculties, Mr. Howard Parrish.

H O W A R D P A R I S H : Mr. Chairman, Members of the Committee, I am Howard Parish,, Jersey City State College, speaking as a member of the Board of Trustees of the Association of the New Jersey State College Faculties, an affiliate of the New Jersey Education Association, a legal bargaining agent for approximately 2300 State employees, college professors, at New Jersey's six State Colleges.

I speak in support of A-810, but amended to include State employees. We are the first group of State employees to gain recognition in an attempt to negotiate a contract with the State under Chapter 303. However, we have faced an endless series of delaying tactics from within the Executive Branch of government during both the former and present administration.

While there is at the moment the hope that a proposal can be brought back to our faculties shortly, a documented history of what has taken place during the past nine months would show that New Jersey college professors have been abused by the State and that good-faith negotiations carried on by our college administrators were repeatedly undermined by representatives of the Executive Branch. If, however, we as State employees had the legal right to strike, I believe a contract could have been signed at least five months ago.

Collective bargaining, as provided for in

statute law, cannot be successful when one of the negotiating parties - in this case the State - has absolute power over the other party. Such absolute power must be removed. We must shake off these chains of servitude.

Gentlemen, I submit to you our dilemma - how to bridge the century gap between the State and its employees. Without the right to strike, the road over which the State must travel as it moves from the Sixteenth to the Twentieth Century will be fraught with dangers of an academic reformation contrary to scholarly pursuits.

Many of us will lose our jobs; many more experienced faculty will leave voluntarily should we be made 'examples of' by this 'absolute power.'

We urge the Legislature to act to avoid such confrontations.

By the time each of the organizations representing community of interest groups of some 40,000 State employees have their chance to go through what we have been through, the recommendations of your Hearing Committee will have made the difference between the establishment of orderly and good-faith employee relations and unbridled discontent.

While the recently-publicized Hay Report respecting terms and conditions of employment of all State employees has not yet been completed in all aspects of New Jersey higher education, for example, NCE and Rutgers, the State, if it adopts this Report, will relinquish its ability to

carry on collective bargaining, as the report would be in effect their first, second, and final offers.

The right of State employees under 303 will become tokenary at best unless there is a new Hay Report every year. Illegal strikes could be provoked.

Our house is in order at the six State colleges. Our students are in order. As for the professors, well, if strikes, legal or illegal, become necessary there will be strikes, and illegal strikes only encourage contempt of the law.

On the college campuses where my learned colleagues preach and teach the rights of the individual in society, our words will become a mockery to our students if we, ourselves, are not afforded the same rights granted to other members of the society.

Today we are here to ask you to include State employees within the coverage of this bill just as you did with 303. Otherwise, the hand that gaveth will taketh away.

Thank you.

ASSEMBLYMAN HAELIG: Are there any questions?

[No questions]

Thank you very much for your testimony.

I would like to call Mr. Andrew Thorburn,
Newark Teachers Union.

A N D R E W T H O R B U R N: Gentlemen,
I would like to thank you for the opportunity to speak before the Committee today and I would like to examine a little more closely the status of public employees in the State of New Jersey today. I think we find ourselves, teachers and other public employees, in a situation very analogous to what Labor in general found itself in in the 1930's. There was a time in this country, as in other countries, when all strikes were considered illegal; when strikes in general were unthinkable; and it took a series of strikes and the shedding of a lot of blood and a lot of suffering on the part of the workingman in the United States to get to the place where they are today, where they have the highest standard of living of the working people anywhere in the world.

Public employees today are in the same position. They are beginning to strike regardless of the fact that the law has said it's illegal at this point. We actually find ourselves faced with an almost revolutionary situation. Municipal workers in San Francisco, municipal workers in Atlanta - there have been ten teacher strikes in New Jersey this year alone, including Newark and Jersey City, two of the largest cities in the State. And all of these strikes stem from the fact that public employees are trying to impress upon the public and the law-makers of the State that the distinction between

public employees and private employees is simply not valid.

All the people who have spoken in opposition to Assembly Bill 810 have rested their case on the distinction between public and private employees, and I submit to you, gentlemen, that there really is no such valid distinction. There is a distinction between people whose function is essential to the public safety and welfare but that distinction has nothing to do with public and private. Almost every single function that is fulfilled by public employees is also fulfilled by private employees. There are teachers in a city like Jersey City - nearly 40 per cent of the students in that city attend private schools and their teachers can close down 40 per cent of the pupil stations in that city with impunity. But the teachers who teach the other 60 per cent cannot. There are sanitation workers who work for municipal government who are not allowed to go out on strike, and yet every major city in the country and in New Jersey has a substantial amount of its garbage collection done by private sanitation workers employed by large corporations, sometimes large housing developments and large hospitals. These people have the right to go out on strike and the public sanitation workers do not. In addition, you have a whole host of private employees whose work is even more essential than the work of some of the public employees. You have

contractors for Lockheed or Boeing or Litton Industries who are performing functions which would certainly be considered vital to the defense of the nation. And these people have a right to go out on strike regardless of the fact that their work is essential.

The point that I am trying to impress on the gentlemen of this Committee and the Legislature as a whole is that the distinction between public and private employees is not a valid one and is really irrelevant in a discussion of this bill. We are not discussing a bill that would give the right to strike to all employees except those whose function is essential to the public health and safety. We are discussing a bill that is based on a distinction between public and private employees. I think that a distinction simply does not hold water, and that is what all these public employees' strikes are trying to tell you.

We find ourselves today in a position where public employees are fighting for a collective bargaining right, a right which we normally consider the basic right of working people but we continue to deny it to public employees. We find boards of education taking advantage of the fact that public employees - in this case teachers - cannot go out on strike. There has been a lot of talk here about the way in which teachers' strikes come about and the question has been asked, why would the passage of A-810 prevent strikes? Mr. Parsonnet and some of the other witnesses maintained, and I maintain, that the passage

of A 810 would prevent strikes and would shorten strikes when they occur. Perhaps this question has not been satisfactorily answered for you. I would like to take a try at it.

What happens when you do not have the right to strike is what happened in Newark and what happened in Passaic. The Board of Education simply refuses to make any counter proposals. We began negotiations in Newark in the month of December. We negotiated all through the month of December, all through the month of January, and we started out with a very high position and we kept coming down, and all the time we were coming down the Board never moved. They never offered us one counter proposal, they never made one offer on salary or class size until six hours before the strike deadline. So approximately six or eight weeks of negotiations were completely fruitless because the Board knew in the end that we could not strike. If we had not struck in violation of a court injunction, we would never have reached a settlement with the Newark Board of Education that gave any kind of education improvement to the city. The Board simply had no intention of negotiating; they didn't want to sign a contract regardless of what 303 said, and it's almost impossible to go into a court of law and prove that they weren't negotiating in good faith. They were willing to meet with us at all hours, they were willing to sit around the clock with us, but they would not make any really substantial counter proposals. They

would discuss issues like the size of the bulletin boards which would make it seem like they were negotiating some items but they would not negotiate anything substantive. So that when public employees are given the right to strike and the public employer knows that this is the ultimate weapon and that weapon will be used if necessary, there is some pressure on the public employer to consider the just grievances and just demands of the organizations. And the same thing holds true when a strike finally begins. What pressure is there to settle that strike when the Board of Education believes that they can break the strike by going to a judge. And this is what happened in the State of New Jersey today.

I think the whole State is disgraced and it should be ashamed of what happened in the State this year. In Jersey City you have about 16 teachers and some of them were sentenced to one month in jail. They will have to spend time in jail. In Newark, New Jersey, 200 teachers were given jail sentences; 200 teachers are going to have to go to the Essex County Penitentiary. Those people who were picked up picketing, which some of us believe is a constitutional right, were sentenced to ten days in the county penitentiary. Some of the leaders, including myself, were sentenced to 30 days in the county penitentiary and 7 people were sentenced to 90 days in the county penitentiary. In Passaic, New Jersey,

the judge is considwring a six-month jail sentence for teachers who went on strike there.

I don't believe the witnesses before this Committee have shown really the proper amount of emotion in regard to this issue. The fact that a total of three or four hundred professional employees in this State have been subjected to the indignity of arrest and subjected to the further indignity of jail sentences is inexcusable, and it's the position that the current law puts hundreds of thousands of workers in by not giving them any kind of viable alternative in collective bargaining negotiations.

In Newark we already have two people in jail, and this has been mentioned to the Committee previously that David Selton who is International President of the American Federation of Teachers is serving time in jail now and is due to get out about May 1st. And Mrs. Betty Rufolo, mother of three children, is also serving time in jail for her participation in a strike.

This is the situation we find ourselves in today. We find ourselves with public employees denied the right to strike striking anyway and being sent to jail. And so it's a very logical question to ask ourselves if this distinction is not really valid, where does it come from and why is it written into our judicial law and written into our common law procedures that public employees

can't strike. And this Committee has not been made aware of the fact that in the opinion of the American Civil Liberties Union and in the opinion of most law students who have studied the issue, prohibition against public employees dates from the fourteenth century. It dates from the concept ~~that~~ public employees are employees of the king and of the crown and that a strike against the crown, the ruling head of the State, the divine right, is unthinkable. And this fourteenth century doctrine is now the one which is putting New Jersey teachers and some other public employees in jail.

The question has also been asked about what is to prevent a public employees' strike from dragging on and getting to the point where it begins to damage or begins to cause great inconvenience. Well, what is to prevent it, as was mentioned I think by Mr. Veneri, is the fact that when the strike drags on the public will finally be aroused to put the proper pressure on the people who are running the Board of Education or running the municipal government to make them come to an equitable settlement with the striking employees, whether they be teachers or anyone else.

This Committee does have an opportunity to do something about the situation, and that would be to pass A 810 and lift employees from second-class citizenship and insure the fact that in the future our schools and

all of our public sector could progress in a much more orderly fashion.

Thank you.

ASSEMBLYMAN HAELIG: I have no further questions. Thank you very much for your testimony.

The next witness will be a representative of the New Jersey Federation of Teachers - I can't understand the name from the signature here. Frank Fiorito.

F R A N K F I O R I T O: Mr. Chairman and Members of the Committee, I am Frank A. Fiorito, Legislative Representative of the New Jersey State Federation of Teachers.

There is general agreement among practitioners and scholars in the field of labor relations that a new approach is required to achieve a viable negotiating relationship between public employees and public employers.

The State of New Jersey made a significant improvement in that area in 1968 with the passage of Chapter 303, the Employer-Employee Relations Act.

Orderly procedures were attained and, in the great majority of cases, satisfactory agreements have been concluded between employee groups and public employees. In the intervening period, several bitter strikes occurred which gave rise to the realization that the law was not entirely satisfactory since it did not completely eliminate the unpleasant prospect

of work stoppages by public employees. Some were quick to suggest severe penalties as a deterrent to strikes. No one who has any degree of expertise in the art of conflict resolution was among those who advocated punitive measures. As a matter of fact, those who are the most knowledgeable in this field have taken an entirely different view.

Basing their positions on the experience here and in other States, the current philosophy among labor relations experts is that the way to prevent or reduce the number of strikes in public employment is to create an atmosphere which will make such strikes unnecessary.

The 1969 Supplement to the Report of the Task Force on State and Local Government Labor Relations of the Committee on Manpower and Labor Relations of the National Governmental Conference recommended that legislation should be enacted to create a climate for viable collective bargaining. This Committee believes it is the best strike prevention device and that "legislation should be designed to authorize a variety of appropriate tools that can be used to find solutions in each case of an impasse. There is no one answer." No less an authority than Theodore Kheel, America's foremost labor mediator, has stated on many occasions that the answer to providing for meaningful

and fruitful negotiations lies in the removal of the ban on strikes by public employees.

Kheel stated recently that it is "evident that collective bargaining is the best way of composing differences between workers and their employees in a democratic society, even though there is much room for improvement in the process. So, if we believe public employees should have bargaining rights, we must accept the possibility of a strike and consider how best to guard against it."

The Governor's Commission to Revise the Public Employee Law of Pennsylvania has recommended, "Except for policemen and firemen, a limited right to strike should be recognized. . ." and that "the collective bargaining process will be strengthened if the qualified right to strike is recognized."

It is our contention that we should focus attention on improving impasse procedures rather than reinforcing the current inequitable and lopsided sanctions against public employees' strikes.

The experience of New Jersey and other States has been that the utilization of mediation and fact-finding has substantially diminished the tendency of public employee unions to take to the streets.

The 1969 Supplement to the Reports of the Task Force on State and Local Government Labor Relations states (on page 25) that "Fact finding has worked in

the public sector. One study has shown that in Wisconsin, out of 50 cases in which formal fact-finding reports had been issued, 90 per cent have been accepted in whole or in part. There were three strikes after fact-finding, one in which the Union rejected the report and, two in which management rejected it."

"In Michigan, 56 per cent of the cases going to fact-finding in 1967 were settled prior to any recommendation."

"Seventy per cent of the disputes in Massachusetts in a 2-year period were resolved prior to the issuance of recommendations; out of 200 cases, only four strikes were called."

The 1968 Supplement notes that "The only effective strike deterrent is the provision of conditions of employment and climate of labor relations that makes strikes unnecessary... There is no certitude on the way to achieve these conditions. Experience shows that, given the provocation to strike, employees will defy even the most punitive laws."

Experience here and elsewhere indicates that where employees are placed in the position that they must fight or crawl, a significant number are willing to fight. The courts of New Jersey have already created an inordinate number of martyrs to the cause

of public employees' rights.

We, therefore, urge that the Legislature act favorably on Assembly Bills 810, 542, and 544 and that every effort should be made to improve the climate for collective bargaining through the development of a code covering unfair labor practices, to provision for "cooling off" periods, determination on an ad hoc basis which strikes were justified and which strikes were clearly a menace to public health and safety; efforts to improve the skill and knowledge of the participants in the collective bargaining process so that impasses may be successfully avoided; encouraging public employers and public employee Unions to develop impass-resolving machinery; upgrading the mediation and fact-finding machinery provided by the State.

We believe, as do most others who are close to the bargaining scene, that no meaningful negotiations can take place unless both parties are under some compulsion to work toward an equitable settlement with a definite deadline in mind, and that to continue to allow school boards and city councils easy access to an injunction is to remove the incentive to negotiate in good faith efforts to reach an agreement.

The question then arises "Aren't strikes by public employees against the public interest?" To answer this question we must put the question of strikes

in its proper perspective. Strikes in the private sector represent one per cent of industrial lost time and in the public sector a much more insignificant amount of lost time.

Some will claim that public employees' strikes would paralyze government and endanger public health and safety. I maintain that this type of thinking is one of those myths that tend to paralyze rational thinking about serious problems.

Almost every government job, with possibly the exception of protective services, is duplicated in private employment. In view of this, it can readily be seen that most public employee strikes would leave little impact on the community and those that would result in hardships would be no greater in their impact than many major strikes in the private sector. I think it is important to draw a clear distinction between public services that are not essential, and essential services that would affect public health and safety.

What great harm occurs when the librarian at the public library withholds her services for a week or two? What great harm befalls the community if the gardener at City Hall fails to mow the lawn for a while? What harm is done when the employees at the municipal swimming pool close it in July rather than September?

In a report prepared for the New York State Legislature, Theodore Kheel argued that public sector strikes should be permitted except where the community would be in clear and present danger.

At this point in time, we in New Jersey have the advantage of reviewing the experiences of our own communities and those in other States as we consider improvements in our laws.

We have seen that the imposition of harsh penalties does not deter strikes. Indeed, it only creates martyrs. We have seen that the existence of lopsided power relationships has not prevented strikes but in many cases has caused them.

I am Executive Vice President of the Newark Teachers Union and I have just experienced the searing injustice of the Newark strike. David Seldon, President of the AFT, is now serving a 2-month sentence in the Essex County Penitentiary. Betty Rufolo, a Vice President of the NTU, is now serving a 3-month sentence in the same institution. Carol Graves, President of the Newark Teachers Union, faces a 3-month sentence. Andrew Thorburn, Legislative Representative of the Newark Teachers Union, who spoke just previously, faces a one-month sentence. James Merman, Edward Tuman, William Troublefield, Donald Nicholas, all officers of the Newark Teachers Union, face three-month sentences. Almost 200 of our members face sentences ranging from

10 to 20 days in jail. I, myself, speak to you faced with a three-month sentence in the Essex County Penitentiary.

The Newark Board of Education did not bargain in good faith until faced with the actual withdrawal of service. A contract was then negotiated during four and a half days and nights of around-the-clock negotiations. After three weeks of an actual strike, it is my firm and unshakeable belief that the Newark strike would not have occurred if the Newark Board of Education had known that the teachers have the right to strike and that an easily obtainable injunction was not to be had.

Armed with an injunction the Newark Board of Education has felt secure. The deterioration of the Newark system is widely known throughout the State. The Newark teachers wanted passionately to improve that system. They would not accept a token pay raise and no questions asked concerning the profound reforms the school system required. They were willing to defy an inequitable law and go to jail rather than see the system deteriorate further. Protected by the aegis of a too-readily obtainable injunction, a school board can allow a school system to die. It is time for the State of New Jersey to adopt an enlightened approach to public employee relations, to correct mistakes of the past and to follow the path of reason and economic justice with public employees.

ASSEMBLYMAN HAELIG: Thank you very much Mr. Fiorito. Do you have any questions, Assemblyman

Vreeland?

ASSEMBLYMAN VREELAND: No.

ASSEMBLYMAN HAELIG: I have no questions.

The next witness is Carol Glassman of 4 Lexington Street, Newark. He apparently is not here.

Ilona Mellor, representing the Fairlawn Teachers, Fairlawn, New Jersey.

I L O N A M E L L O R: Committee Members, my name is Ilona Mellor and I am Vice President of the Fairlawn Education Association.

The teachers of Fairlawn support Assembly Bill 810 with the following amendment - that the rights of this bill be extended to include the employees of the State of New Jersey.

To rectify an unfair system of collective bargaining in the State, this bill, A-810, must become law. The law will strengthen the negotiations process and will provide for a more equitable method of bargaining. Currently the laws permit boards of education to ignore impartial third-party mediators and fact-finders, leaving the teachers nowhere to turn. This bill will permit a greater balance of power between the employer and employee.

This year in Fairlawn the teachers have been at impasse since January. We called for mediation which did not result in a settlement. The teachers followed the next legal step and invoked fact-finding. The board

refused to accept the fact-finders' report and they publicly denounced the credibility of the fact-finders.

Presently we have been assigned a representative from PERC to resolve the dilemma. It still remains, however, that the board can enforce its autonomous power and reject this man's recommendations as well.

We are left no other recourse. We have followed all the legal steps possible and yet the board's decision is final. The fruitless hours and hours of negotiation once again terminate with frustration. If Assembly Bill 810 were law, the situation in Fairlawn would have been settled long ago. No one can negotiate fairly when one party has all the power. Teachers must have legislation which will equalize the power of both parties at the negotiating table.

ASSEMBLYMAN HAELIG: Thank you very much.

Are there any questions? [No questions]

I will call Mr. Anthony Guttadora.

Sir, would you tell us if you are representing any association, please.

A N T H O N Y G U T T A D O R A: My name is Anthony Guttadora and I am President of the Elizabeth Education Association.

Gentlemen, the bill under hearing today is controversial and one that requires prudent and thoughtful consideration before a final and decisive

disposition is made. The very few teachers' strikes that have occurred in New Jersey have produced much emotion and much rhetoric from public officials who feel that their authority is being challenged. I do not believe, however, that any teachers' strike has occurred to challenge the authority of any board of education or any municipal official. I do believe that strikes have occurred and will occur when the attitude of public officials toward education is one of contempt.

I think specifically of Jersey City where one municipality's approach to quality education was to close the public schools. The teachers in good conscience permit this to happen. May I also refer to my own city, Elizabeth, where our Mayor and City Council appealed a restoration of funds by Commissioner Carl Marburger only to lose to the State Supreme Court. And what was their reaction? - to accuse the Commissioner of upsetting the local school budget, which he did not, and to cry interference in local affairs. I can only say that when local officials refuse to abide by the determination of the State's highest authority on education, they are provoking teachers to desperate action.

If our local officials do not want Trenton to intervene in local affairs, then let those public

officials provide enough money for the thorough and efficient operation of the local school system. As long as boards of school estimates, and city councils reduce school budgets without just cause, they are provoking teachers to take extremes.

The bill under discussion today raises the fundamental question of whether teachers should be permitted the right to strike. My answer is yes. I believe teachers should be permitted to strike for other reasons also than the ones that I have cited above. We live in a democracy that strives to implement Thomas Jefferson's words that "all men are created equal." If we believe these words, as I believe you do, then it is only fair that we ^{consider} teachers equal to those employees in the private sector who have the right to strike. To deny teachers the right to strike is to impose a double standard contrary to fundamental democratic principles. I do not believe there will ever be true bargaining in good faith in education until the strike by teachers is sanctioned by law. Too often public managers provoke a strike in order to get themselves off the hook at the expense of innocent parties, in this case, teachers. The right to strike will make boards of education and other bodies face up to their responsibilities to the teachers and most of all to the communities. It will also remove what I consider to be the last remaining vestiges of collective begging.

The right to strike should be sanctioned because the current practice of fines and jail sentences has not proved effective. Teacher leaders who are jailed become martyrs. Fines enrich the courts but contribute little to improved education or to improved board-teacher relations.

Strikes should be sanctioned because experience has demonstrated that where fact-finding has been invoked and the fact-finder's report substantiates teachers' demands, it is the Board of Education that rejects the fact-finder's report, as was indicated a few moments ago in Sayreville.

The right to strike should be granted to teachers as a tactic to persuade local boards of education to make changes when the local board is unwilling to do so. I think immediately of Jersey City where the recent strike finally persuaded the local board of education to hire additional specialists in the special services field.

I would like to remind this committee that strikes and other forms of protest are the price that we pay to live in a democratic society. We have seen countries such as Spain, Poland, East Germany, countries that we could hardly call democracies, countries that have strikes occur - they occur because the people, enslaved in those countries, feel there is injustice and the machinery needed to correct those injustices is not

adequate.

Democracy and democratic society cannot tolerate punitive laws or laws that do not give full citizenship rights to all employees. This Committee and the Legislature now have the opportunity to restore full citizenship rights to all public employees. I urge that this Committee vote favorably on Assembly Bill 810 and that the State Legislature likewise follow your decision.

ASSEMBLYMAN HAELIG: Thank you very much, sir.

Are there any questions? (No questions)

Mr. Charles Hayne, representing a teachers group at Manasquan High School.

C H A R L E S D. H A Y N E: My name is Charles D. Hayne; I am Vice President of the Monmouth County Education Association and have been a teacher for 15 years in Manasquan.

The negotiations law for public employees and public employers was enacted by the Legislature over Governor Hughes' veto in 1968. Many of our legislators must then have seen the vital importance of such legislation mandating a negotiations process for the public sector in an attempt to avert serious conflict. In fact, Senator Beadleston, in a speech before the Monmouth County Association in 1969, hailed Chapter 303 and spoke emphatically about the need for such legislation when he said: "We have gotten to the point where employers were not negotiating in good faith and were depending on the

inability of public employees to strike. There was no answer other than the negotiations bill, although it is not popular with school boards and other public employers."

Unfortunately, public employers, and notably among them school boards, are strongly resisting what should be a cooperative project between boards of education and staffs of educators. In Monmouth County alone 12 school districts still have no negotiated salary guide or master contract covering other educational areas, even though negotiations started way back in September. In many cases, some of these boards have employed slow down or stalling techniques hoping that the teacher negotiators would panic at budget time and drop some of their proposals for education changes in order to make hasty salary agreements.

It has been pointed out before that we are living in the Twentieth Century and, of course, we have Twentieth Century problems. We've got to solve these problems. We can't help to solve them with our heads buried in the sand as in this past decade, nor can we solve them by approaching negotiations without a view toward reaching mutual agreement. To do this we have to use all the available tools and all the available techniques of the bargaining table art.

When mediation of disputes between public employers and their employees doesn't work, it becomes necessary to

demonstrate the importance of certain issues by invoking some type of concerted effort on the part of the employees. But concerted efforts of any type are prohibited to public employees, despite any kind of provocation.

Mr. Cook this morning mentioned the Union Beach dispute and the decision that came out of it. Part of that judicial decision in the Union Beach dispute even placed a ban on sanctions wherein teacher associations could tell other teacher associations that working conditions in that district were unsatisfactory. Are employees the only ones that should be punished when negotiations break down? This is a vital question. We must assume more equity, we must provide more equity to the negotiating party. As it is now, oftentimes boards will invoke the old managerial prerogative and will go back to Title 18A which, of course, pre-dates Chapter 303. A-810 would provide a means for teachers to confront uncompromising boards and yet remain within the area of legality. As the situation now stands, the only recourse open beyond fact-finding is an illegal action with all the concomitant penalties as we have seen in Newark, Jersey City and in other places.

That is my statement.

ASSEMBLYMAN HAELIG: Thank you very much, sir.

Are there any questions? (No questions)

I will call Mr. William Ostermann and Michael Shul. Are they here? (No response)

Marie Panos, President, Matawan Regional Teachers Association.

M A R I E P A N O S: Gentlemen, I am Marie Panos, President of the Matawan Regional Teachers Association, and I come to speak today in support of Assembly Bill 810. I feel that it is imperative that public employees be given the right to strike.

As public employees we have fallen far behind private employees not only in wages and working conditions but also in the means available to us to change those conditions. Chapter 303 of the Public Laws of 1968 was the first step. The second step must be to provide collective bargaining for public employees with the right to strike.

The way to prevent strikes by any employee group is to improve the negotiation process, not to inhibit it. Laws that prohibit strikes inhibit negotiations. Ruthless and bitter public employers hide behind such legislation. Knowing the penalties are great, the public employers stall and drive employees back against the wall and then relish the penalties that are meted out to the employees. A law that would allow public employees to strike would truly free negotiations. It would remove the shackles from the public employees

and allow them to come to the bargaining table as equals. Where do strikes occur? They do not occur in districts where boards of education care about the quality of education. In those districts good faith negotiations take place and acceptable settlements are arrived at. Teachers who strike, strike those districts where boards of education have been recalcitrant, where they have been negligent in their duty in allowing the educational system to deteriorate. Teachers will strike such a district, and a strike to raise the quality of education is in my opinion an improvement over the toleration of mediocre conditions over a period of years.

Laws prohibiting strikes will not stop them from occurring. The strikers are fighting for human dignity, - theirs as free citizens in a democratic state and student dignity and right to receive a quality education - not just any education.

The problem of employee strikes is growing. The public employees fall further behind in wages and working conditions and more and more of them turn to strikes. The solution is to place them at the bargaining table as equals. Give teachers the right to strike and recalcitrant boards of education will come to the table willing to negotiate in good faith.

I will speak now in a personal vein if I may. I am one of the local Association leaders in Monmouth County who has not yet reached an agreement with the

Board of Education in Matawan. The issues involved are issues concerning our dignity as human beings. We have been in negotiation for eight months in Matawan and to this day the Board of Education has refused to grant to the teachers of Matawan a duty-free lunch. It is perhaps a minor issue when one speaks of it abstractly, but if you were a teacher a duty-free lunch is an important issue.

The average starting salary in New Jersey is \$6600 for a starting teacher. That is \$600 below what the President of the United States has declared as poverty level. After 10 to 12 years of teaching, a teacher may make \$11,000, a level that the U.S. Department of Labor says is just a moderate standard of living. Teachers are fighting for better working conditions. They need books for their children; they need rooms for their classes to meet in. When we think of schools without books, schools without proper classroom facilities, we sometimes think of the big cities like Newark and Jersey City. It also occurs in smaller communities. We have 360 teachers in our district. It is certainly not a very large one compared to Newark and Jersey City but it is a sizeable one. Over 7,000 children are in our school district. Several hundred of them must attend classes in cellar classrooms. There are overcrowded classes. One of the issues we have raised with our

Board of Education is "just cause." Can employees be removed from their position without just cause? This Board of Education in Matawan has refused to grant it after eight months of negotiation. They have refused to grant anything for that matter.

I have heard earlier speakers talk about a nightmare that they envision if a law is passed granting teachers the right to strike. Strikes will not occur because there is a law saying that teachers or public employees can strike. They will occur in those districts where public employers and public employees do not negotiate in good faith. They will occur when one party at the negotiating table is at a psychological disadvantage. The present law prohibiting strikes in the State of New Jersey puts public employees at a psychological disadvantage.

I sat across a board of education that has been indifferent to our demands, has been indifferent to our grievances and our position, and has told us in so many words that if we don't like it, strike and see what you'll get.

The issues are clear and they are two. What are the needs of public employees? I specified some of them in terms of our own local district. Basically you can group them under human dignity - the right to comparable

wages and working conditions with private employees. What can we do to resolve them? Well, the first thing that the State of New Jersey has already done is to pass 303. It was a very important first step. The second thing that it can do is to pass A-810. It is vital if negotiations are to continue and settlements are to be arrived at, I am firmly convinced that if a law is passed to allow public employees to strike there will actually be fewer strikes because boards will no longer hide behind the law and will come to the table and negotiate.

ASSEMBLY HAEIG: Thank you very much.

Are there any question? (No questions)

Charles E. Goodhart, President, Middletown Township Education Association.

C H A R L E S E. G O O D H A R T: Mr. Chairman and Assemblyman Vreeland, I am Charles E. Goodhart, President of the Middletown Township Teachers Association, Monmouth County.

Sitting here today, I was shocked to find out from previous witnesses that when I signed a contract to teach in New Jersey, I automatically signed a waiver of some of my constitutional rights under the Constitution of the United States. I heard talk of incompatibility of this bill with the New Jersey Constitution. I detect there is a slight incompatibility between the New Jersey

Constitution and the U. S. Constitution on this particular issue, and I find also that when I chose to be a teacher I gave up this right to strike that I had when I was working as a carpenter. And this is regrettable and rather a revelation to me.

I also heard these tired terms of dedication still being used. In this day and age I don't find that this buys many teaching supplies, equips many teaching rooms, or gives teachers any better working conditions. Chapter 303 has opened the way to improve these terms and conditions of employment. However, when you put the limitation on collective bargaining of giving one side only the recourse to the courts for an immediate settlement of something like an injunction, this sort of slows down the bargaining process.

In our district we have negotiated a contract with a board that was reasonable. We were very fortunate. Miss Panos and some others from our county have found boards that are adamant about negotiating in good faith, and when they get to this point, where do they go? Under 303 they have gone to fact-finding and when the board rejects fact-finding, where is the next step? There is nowhere left to go. It comes into strike and facing jail. Teachers have done this in New Jersey. It is not just for salaries. People picture teachers as just looking for salaries. Jersey City had a

specialist. Many things are added to these contracts that are beneficial to the children, not just to the teachers.

I have also heard other witnesses allude to the chaos that would result from the passing of this bill. They seem to picture public employees standing at the door waiting to go out on strike as soon as it becomes legal. I feel that as an educator I wouldn't strike unless it were an extreme emergency, and I feel that public employees will use this very judiciously. The right to strike is our constitutional right. May I respectfully request this Committee to give us back our constitution right.

ASSEMBLYMAN HAELIG: Thank you, sir.

Mr. Stephen Stripp, Sr., President of the Essex County Vocational-Technical Teachers Association.

S T E P H E N S T R I P P, S R.: Gentlemen of the Standing Committee on Labor Relations, I am Stephen Stripp, Sr., teacher and President of the Essex County Vocational-technical Teachers Association. Incidentally our Association is affiliated with the Essex County Education Association and the New Jersey Education Association and the National Education Association. I am speaking here in behalf of the Assembly Bill 810 which is, I think, going to give public employees including teachers the right to withhold services if conditions are intolerable to them.

I would like to bring for your consideration the matter of the so-called "militancy" of teachers and school staffs and the apparent increase in disruptions and strikes in education.

"Why," some ask, "is there an increase in tensions between teachers and school boards, and disruptions and strikes, particularly in view of the fact that we now have a state Employer-Employee Relations Act.? Should this not serve to prevent or diminish such disruptions?"

The answer, gentlemen, would be yes if both sides concerned, the Boards of Education and the Teachers' Association, took the same position to resolve problems and to consider all suggestions for more effective education - mutually, as partners, in good faith.

However, this is not the way it is. The teachers and the professional staffs who are aware of the problems and the needs of education from their daily experiences and work in the classrooms and their duties in their schools, in their communities and their professional organizations, see the critical need for certain changes and adjustments. They want to take part in these and are making more and more demands upon their boards and their administrators to make these changes.

On the other hand, the boards are seeing these demands upon them and their administrators as a

"nibbling away" at their prerogatives and their power and are resisting these. Many of them are determined not to give up these options and these powers, no matter what the stated reasons are by the Teachers Associations.

Therein lies the core of the problem and the inequity in negotiations between the boards and the Associations.

The Boards have employed full-time administrators and office and clerical staffs.

- The teachers must work in "spare time" after school hours and other obligations are met. I am referring to negotiations.
- The Board uses public monies to carry on the work and any opposition they want to put up.
- The teachers pool their own earnings and limited resources to carry on a complex and costly effort.

The teachers use their powers of persuasion and constant appeals to prevail upon the public, the parents and the boards of education, but are often put off or even rejected. They are often in the unenviable position of listening to Nero fiddling while Rome is burning, and knowing that they will be blamed for the whole tragedy.

It should not be necessary for the teachers, who are the employees of the Board, to argue and bargain with the Boards, whose basic responsibility it is to have -

- 1 - sufficient, adequate and safe facilities for the children in the schools; or
- 2 - updated and sufficient textbooks, equipment and supplies, or
- 3 - an adequately-trained and sufficient and specialized staff to meet the special needs of our boys and girls, or
- 4 - to have adequate participation with the boards, the administration in the plans and the needed changes in the system and in their own welfare and security.

Yet it is precisely in these areas where the real frustrations have developed and strife has resulted, and not, as so many people have been led to believe, in the economic or salary areas. It is here and for these reasons that the professionals need the powers to censure those in charge for lack of movement to change and the right to joint or concerted action in support of their basic professional positions.

The boards at present can just sit back and refuse to take action for whatever reasons best serve them, or to give no reasons at all. The teachers have no real weapons to "push" the boards in their cause no matter how right or logical their positions are. Their recourse is often the courts, or now PERC, or other time-consuming and costly legal machinery which too often defeats them at the very inception. The boards

know this and often have said to our Associations,
"We will not give - go to PERC or to the State Department, or the courts if you want."

Now I would like to just make a couple of observations on our own experiences. I have been teaching for 13 years now. I have come out of business after 20 some years in business. I also have had some experience in the Labor movement. Now just let me give you an example of what happened last year. We had an unusual situation it is true in Essex County Vocational because there were many squabbles within the Board which were not of our making and which we had no control over. We wound up after 10 months of negotiation with no signed contract. During the summer the State Commissioner of Education enjoined the Board from any further action and the courts took action against the members of the Board, one of whom, the President of the Board, was removed from his position. Be that as it may, we did have agreement on 11 different conditions of work and a salary guide. As a result of all this fight that went on, four new members are now on the Board. Only one remains out of the five that we had. When the new Board came in, this was in September and October and November, the first thing they said to us was, "Yes, you have an agreement but some of these things you had agreement on were not adopted into the public minutes of the Board, therefore they are not actually binding. They haven't got a signature on them." We said, Yes, this is true.

In some cases we did not get the signatures because the courts came in, the Commissioner came in and enjoined them from any further action. But you know this was agreed to. Here it is all written out. It is in the minutes." We had taped recordings of these meetings. Well, it just so happened that on four of those issues the tape recordings were never found and to this day they have not been found. So the Board decided that four of the most important articles that we had in this agreement to this day have not been implemented. We went to PERC, we tried in September, October and November to work this out with the Board and even in December we weren't able to do it. We went to PERC and it is still in the hands of PERC. That was last year's agreement.

We then took up this year's agreement. It took us a couple of months to get just a position with the Board as to what we were going to do in negotiations. When we finally got the ground rules set, the Board hired an attorney now to do the negotiations for them. For two months now we have been sitting in negotiations and we have not even moved some of the last year's agreements including the one on recognition which we never were challenged on before.

The Committee-as-a-whole then made a statement and we said this - that we submit that this is due to the Board's negotiators predetermination not to explore

all of our proposals. For instance, he said, "You've got 110 pages of suggestions here. Forget about 60 pages of those. Let's just get into about 30 pages or so." Well, you know, which is more important than the other? Shall we cut out some of the children's special needs or will we need special teachers for them, remedial reading or something like that? Shall we cut out a guidance counsellor proposition; should we cut out special facilities that we have asked for? What do we start to cut out when everything seems to be important within the concept of our education?

We also charge that there is insufficient sensitivity to the problems and needs of the students, the teachers and the staff on the part of this negotiator who is a lawyer. We also charged there is a lack of proper understanding of the technological, social, community and educational changes which have taken place in our system in the past few years and, of course, this person therefore has an incomplete knowledge of our present system and our complex inter-relationships.

As of now, gentlemen, as of last night, the Board walked out, the negotiator and a few members of the Board and some of the members of the Committee, because we would not apologize about challenging the sincerity of the negotiator and the negotiations of the last two months.

Gentlemen, we have machines and equipment that are 30 or 40 years old or older. We have curriculum which has not been changed for decades. We have textbooks which are 8, 10 or 12 years old or older which have not been changed. We have to push the Board to get these things done which is the basic responsibility of the Board to do in the first place and, at the rate things are going, gentlemen, I do not believe in strikes for the teachers - I am a father of five children myself and I want them to be in the classroom; however, how much of this do you accept before you finally have to take the action that really counts. We are now getting to the stage where we might have to - not having any other options open - go out and call the public's attention to what is going on. And this is what it is all about, and this is what the teachers are trying to say and what other public employees are trying to say when they are frustrated by indifference, by apathy, by arrogance, and when all their legal options are severed or closed to them. And this is why we stand for this bill that has been introduced in the Assembly, 810.

Thank you, gentlemen, for the opportunity to be heard.

ASSEMBLYMAN HAELIG: Thank you very much, sir.

No questions.

Mr. R. Douglas Jordon and Mr. Walter Frey.

representing East Brunswick Education Association.

R. D O U G L A S J O R D O N: I'm afraid that probably I'll be slightly redundant since we talk about the same thing over and over. I wish to commend you on your durability in sitting here hour after hour.

It is often said "Where there's a will, there's a way." For a private employee that is satisfactorily gained through collective bargaining. Public employees just have not true collective bargaining which precludes that there is a balance in power. Now the Board must be willing to bargain in good faith and we must be able to share the responsibilities and have equal rights to do it. We should have it now, not a year from now. Of course, eventually I think it will come and there will be a time when public employees will have equal rights with those of private employees.

I am a member of the East Brunswick Education Association and I was in one of those Associations that held a work stoppage. This work stoppage occurred as we met with the Board that had already developed the budget, they had announced it to the public, and they had pre-set all their goals and yet they came in and they said they came in with an open mind, yet they had already publicized the budget to the public.

Now they have a professional negotiator to whom they pay \$6,000 a year, public funds. We are sort of

amateurs at this and, believe me, you learn a lot in a few years when you are on the negotiating team, and we worked at this to try to get the Board to move. We would sometimes be in negotiation at 12 o'clock at night and wait for return proposals and find out at five o'clock in the morning that the Board had gone home.

We did not get any movement. You must remember, as I am sure you do, that at one time the Board had the paternal right and when the group would come in before the Board they would look at the people and the members of the negotiating team and say, "Fine. This is nice. We will think about it and we'll let you know." This was prior to Public Law 303. The Public Law 303 gave the teachers and public employees the right to have collective bargaining. However, it did not go quite far enough. It did not give them that balance which is what is needed.

Finally the East Brunswick Education Association went on strike. They did this before salaries were discussed. They did this when the Board just refused to move, when the PERC mediator finally threw up his hands and walked out, not after he finished talking with us, but after he finished talking with the Board.

Also their negotiator sent in a replacement because he just got tired himself. Finally, when the Board realized that we meant business and wanted some movement, the Board began to renegotiate and to negotiate

in good faith. This time, long before the contract was signed, the teachers went back. In fact, in the court, Judge Demos made the statement that the courts had to uphold the law but the thing that teachers and public employees had to do was go to the Legislature and get them to change the law so that there would be equal justice on both sides.

As I said, we need to have collective bargaining. The Federated Boards mentioned that teachers should not act in concert against the government. Well, the Federated Boards do act in concert. They are very well organized; they in turn, I would say, make it difficult for some of the Associations to negotiate.

Our budget passed the first time in eight years after this work stoppage. It went up \$550,000 over what the Board had originally stated. It was the first time in eight years it passed, and why? Because the citizens of that community realized the situation. More people became concerned.

Now I believe that the last thing that should happen is a strike. I believe the communication between Boards and individuals, between the members of the community, is essential and, if a strike occurs, it is because there is a breakdown in that communication. But I believe it is essential to have A-810 in order

to make the Board realize there is equal footing and to make them get down to business and do some serious negotiating.

I would like to thank you for hearing these comments.

ASSEMBLYMAN HAELIG: Thank you very much, sir. There are no questions.

I will call Mr. Richard Varton, Lynhurst Teachers Association. (No response)

Mr. Sidney Gordon, President of the Union Township Teachers Association.

S I D N E Y G O R D O N: I want to thank this Committee for the opportunity of appearing before them and I want to state that the member of the Union Township Teachers Association support Assembly Bill 810 which gives the right to public employees to take action when negotiations break down.

Because it is illegal for teachers to engage in any concerted action to withhold services, the boards of education will not bargain in good faith. To put it plainly, we are trying to reach a settlement with a party who is holding a gun in his hand - "take what we are giving you, because there is nothing you can do about it. If you attempt to strike, then you violate the law."

Our Board of Education decides before negotiations begin what increases they will give the teachers.

They set aside an amount of money. This is done unilaterally and without consulting us. Then negotiations begin and they go through the motions. They will allocate a little bit more. If the teachers put on a little pressure they will extend it a little bit to make it look good. And what is left for us to do mutually with them is only to figure out the actual salary schedule, which this year was unsatisfactory to us.

To show you what actually happened was this: They set a certain amount of money - they set \$550,000 - and what happened out of this was this: We have teachers getting raises as low as \$700 - half the teachers getting that amount and half the teachers getting raises anywhere from \$1,000 to \$2,000, which was very bad because it caused a division in our Association.

Because the Boards have the power given them by the courts, they become arrogant and heavy handed in other matters, such as unilateral decisions on grievances and denial of reasonable requests by teachers with regard to necessary facilities needed for quality education.

Let me also cite an instance of what happened in our township when we didn't even vote a strike. We asked for a professional day. This is a practice as was done in other townships. Specifically we wanted a professional day to discuss the state of negotiations

with our teachers. There was an extra snow day on the school calendar and if that were not granted we were willing to lose a day's pay. It was necessary for us to spend a day to discuss negotiations with the teachers and where we stood at that moment. We received no answer to our request. When we proceeded to organize for this occasion, the Board immediately went to the court and they went to a court where they didn't have to go. They went to a court where they felt the judge would be heavy-handed himself. They could have gone to a court right in the area, but they chose a court in Newark because they knew that this judge was giving severe sentences to teachers. And they received a restraining order which prevented us from engaging in an activity that was granted teachers in other communities. As if that wasn't enough, they applied for a permanent injunction which was not granted, and we didn't even violate the law, and they wanted to permanently enjoin us.

When employees in the private sector, doing the same work and causing the same hardship to the public, strike, that's legal. It seems a contradiction then that the public employee is told he is causing undue hardship. Specifically, the Catholic school teachers in Essex County and in New York City were permitted to strike even though it is apparent that

the same hardship is caused, because they are not public employees. Yet their children were deprived of education. To assume that a strike deprives children an education, as stated in the judge's decision, is erroneous. There are 300 days from September 1 to June 30. Of these, 185 are usually scheduled as school days. They can be made up at any time.

In conclusion, we as teachers are supposed to teach children the virtues of democracy and individual freedom and the right to dissent. How can we do this when we, ourselves, are deprived of these rights? The right to strike is the right to dissent. To deprive somebody of it then, deprives them of this right.

I heard here the argument that you are striking against the public. This is the argument in Communist Russia. They say, "We don't need strikes in our country because this is the people's country." This is the same argument that was given by an attorney for the Board that you're striking against the public sector or the public good. This is also a depriving of minority rights.

Not to pass 810 would serve as a means of depriving other public employees of their civil rights and also I think would continue to endanger the civil rights of other citizens besides. Thank you very much.

Assemblyman Haelig: Thank you very much, sir. There are no questions.

Mr. Ralph Mazzocchi, W. Orange Education Ass'n.

R A L P H M A Z Z O C C H I: Mr. Chairman,
thank you for waiting so long to hear me. I will try
to make it brief so others can follow me.

On September 13, 1968 - I remember the date well
because that is when 303 was enacted. I have been a
teacher for 15 years and I have had experiences with
boards of education who have been arrogant, who have
been capricious, and who have even looked down on the
teaching profession, although they are supposed to look
for improvement in education. So I felt on that particu-
lar day that 303 was just like Abraham Lincoln declaring
the Emancipation Proclamation for public employees, and I
still feel that way. And I went to my Board of Education
with the designated unit and my first experience was that
they felt it was too premature to follow the requisites
in the law as stated. It was too premature because the
Commission wasn't appointed and the rules and regulations
weren't promulgated and they would like to wait until
that was taken care of. Well, since there was a law I
felt it was absolutely necessary that they grant us the
right of recognizing us as a bargaining unit.

As a result I had to hire an attorney and spend
the Association money to just gain recognition under a
law that was given to me on September 13th. This took
to January of 1969.

Now they have a budget problem and, as a result,

they were perfectly willing to recognize us provided that we negotiated the salary first and then come back to the contract items. Now we took them as good faith - much to our regret, because once they had taken care of their budget requirements they then proceeded to stall throughout the entire year over terms and conditions of employment. They have stalled for two years. I still do not have a contract.

In our particular district there are four units - the secretaries, the custodians, the administrators, and the teachers. Every one of those units have appealed to PERC mediation. All three units, the administrators, the secretaries and the teachers are still at an impasse because the board of education refuses to negotiate in good faith. Now at this present moment I can only say the only thing that I have left to me, outside of the few legal requirements of fact-finding, is to have a work stoppage. There doesn't seem to be any alternative. We have tried everything possible as far as public pressure is concerned, as far as publicity is concerned, and as far as legal matters are concerned, and, of course, we are at a standstill. We are hoping that within the next few weeks they will meet us again at the table to consummate a contract. But I don't predict that in the near future.

Therefore, I feel that this bill as presented here, A-810, is necessary for these instances where you have recalcitrant boards of education. As I say, on September 13th I felt emancipated but, much to my regret, I now feel that there is something else that is needed. Chapter 303 is like sending David out to meet Goliath. The only trouble is that David doesn't have a slingshot right now, and this is the slingshot that I would like to have to put us on an equal par with Goliath.

Thank you very much.

ASSEMBLYMAN HAELIG: Thank you, sir. There are no questions.

Mrs. Dorothy Krueger, Oradell Education Association.

D O R O T H Y K R U E G E R: Committee Members, it seems there is nothing but a cry for help today and I more or less join the crew in saying take me to your leader and see what you can do for us. I will be very brief.

I am Chairman of the Professional Committee of the Oradell Education Association. The Association supports A-810 with the following amendment: That the rights granted under this bill be extended to the employees of the State of New Jersey, thereby deleting "other than the State of New Jersey."

We have been through a period of endless negotiation since October and have utilized all the legal avenues and procedures. The teachers of Oradell feel that a great disparity exists between the power of the Board of Education and them. The Board of Education has refused to accept the fact-finder's report except where the recommendations were in the Board's favor. The teachers feel they are at a distinct disadvantage in these negotiation procedures.

If the Board of Education refuses to accept the recommendations of the Commission's representative, we would like to have additional recourse in resolving negotiation procedures. There should be no penalties imposed upon teachers as there are none placed upon the members of the Board of Education who refuse to negotiate in good faith.

ASSEMBLYMAN HAELIG: Thank you very much.

Mrs. Audrey Thalsheimer and Mr. Nicholas D'Agostino, of the Education Association of Passaic.

N I C H O L A S D ' A G O S T I N O: My name is Nicholas D'Agostino and this is Mr. Thalsheimer and we are from the City of Passaic. We are here today at the direction of over 500 educators of the City of Passaic who voted unanimously last week to send us here.

I have before me eleven pages of redundant notes. I think we have heard most of it, but I would like to bring out some points that were peculiar to the City of

Passaic during the past few months and may have some bearing on this meeting.

I picked up a news release this morning from the NJEA and it says that at present school boards can refuse to negotiate in good faith - can renege on promises and even taunt teachers into work stoppage. Even when a school board deliberately provokes a strike, the courts turn only on the teachers and punish them with fines and imprisonment. Evidently the gentleman who wrote this had the City of Passaic in mind.

I would like to review for a few moments some of the interesting facts that led to a strike in the City of Passaic this year.

The failure of the board to negotiate was perhaps the prime factor and another very important factor was the lack of negotiating know-how on the part of board members. We are working now with a nine-man elected board. Who are these board members? Our neighbors, our friends, relatives in some cases, people we've grown up with, parents of students we have in the classroom. What do they do while we attempt to negotiate? They put their feet on the desk; they eat their sandwiches; they read the newspaper; and the board attorney sleeps constantly. Only one board member is knowledgeable of the negotiating process. He is a negotiator for a large corporation in New York. He found it impossible to impress the entire board with the seriousness of the negotiations. The board only considered one aspect -

the almighty dollar, the city expense. They never bothered to consider the welfare of the teachers, the welfare of their students.

After our strike was concluded, this one knowledgeable board member revealed to me in private that he was the prime mover behind the strike, that he had forced the teachers into a position where they had to strike in order to impress the board with an understanding of fairness. We struck for one week, at the end of which we reached a settlement mainly through public pressure on the board and with the assistance of a State-appointed mediator. The settlement was reached late one Sunday night when an NJEA representative and a PERC mediator had a majority of the board members raise their right hand and pledge the adoption of a contract. This was an actual settlement. The teachers returned to work five hours later. They accepted the settlement and ratified it. The following day the entire board met in executive session and reaffirmed the vote of the previous night and had it so published in the local newspapers.

We worked then for three days and on the evening of the third day the board again met in a public meeting to publicly ratify the negotiated settlement. The first four affirmative votes were cast when the fifth reneged and changed his vote. There were still four members to vote, and any of these four could have saved the honor

of the board , the vow they made to their teachers - but no one did. The decisive vote was left to the President of the board. She refused to honor the board's promise. The public ratification failed. A bond had been broken between the teachers and the board. The teachers spontaneously refused to enter the schools for the next few days. A settlement was finally made the following Sunday evening over signatures of a majority of the board. Justice is blind - at least I've been told this many times. As a result of the strike there was a subsequent court action and when I entered the court building a couple of weeks ago, there was a statue of a woman on the roof blindfolded. I walked out of that court room. A week later I looked back up at the statute and I thought I saw the blindfold lifted on one side. She was peeping out that one eye for the Board of Education.

What is done to the board member who master-minded the strike. One board member master-minded the strike and forced the teachers into a position where they had to strike. What is done to him? What was done to the board member who reneged on his promise in front of the state-appointed mediator? What was done to the four board members who had a decisive vote and even the President of the Board who had the final vote? The President could have saved the dignity of the board but she did not. Nothing is done to any of these members.

They are protected by the court. There is some air of holiness around board members. They cannot be touched by the courts. What really happened in the courts? The court in our particular case stated that teachers must be deterred from the irresponsible, illegal acts. The court also stated that token sentences do not deter. They only make martyrs of teachers. The court saw no reason why we shouldn't be sentenced to the maximum under the law in New Jersey. Gentlemen, the maximum penalty for violating a court order in the State of New Jersey is six months in prison.

We were also told that we were particularly guilty under this law because we are educated people and we should know better. For the first time in my life, I have found there are degrees of guilt for a specific crime.

We were also told that since we are particularly guilty because we are educated people, it would be proper to sentence us to the maximum extent of the law on Law Day U.S.A., so our sentencing has been scheduled for May 1, 1970.

I really think that something has to be done. There is a definite inadequacy in the law. There is a real problem here. This court I spent the entire week sitting in represents the government of the United States, yet when the government of the United States three years ago told me to pick up a rifle and go to Vietnam and kill human beings with whom I had no quarrel, I didn't question

this. I said perhaps there's a higher authority. God knows they must know more than I do about this. I went; I took up arms; I served in Vietnam; I came back to an intolerable working situation, and I protested and now the same government is rewarding me by putting me in jail for six months. Something definitely must be done. I don't have the answers. I really don't agree with the court's interpretation of what has been done. As far as I see it, we have taken our Easter vacation and moved it from one month to another, but the court has declared us criminals to the 12th degree. "Irreparable harm," as the judge called it, "irreparable harm to the children of Passaic." I stopped and thought when he started talking about irreparable harm. I said I wonder if it was any greater than the harm that was inflicted on the children of Vietnam when I wiped out their fathers or to the harm that would have been done to my family had I been wiped out. What is this irreparable harm? Did the butter go rancid in the cafeteria? Did the Easter vacation get changed? - moved from April back to January or February? I think that it is about time that the State of New Jersey realized that this is 1970. Our laws haven't kept pace with the times. They are inadequate. They don't work as they exist. It is quite evident by the number of strikes we have had. All we are doing here today is seeking justice - not justice as geared by the local boards of education but justice that is known and

understood by the layman - the simple right to be equal to that of a truckdriver, an airplane pilot, some sanitation workers. It is our belief that sanctions should be imposed against boards of education and board members and not against teachers who, as in our case, were used as instruments of the board.

Thank you.

ASSEMBLYMAN HAELIG: Thank you very much.

Mr. Paul Lockett, Gloucester Township Education Association.

P A U L L A C K E T T: My name is Paul Lockett and I am the Negotiating Chairman and President-elect of Gloucester Township Education Association. I have been authorized by the 350 employees of our district to urge that Assembly Bill 310 be passed.

I won't bother, out of respect to the Committee, to repeat many of the arguments already brought for passage of this bill. I will attempt to relate just a personal experience I had with it.

While I was negotiating, the Chairman of the Board's negotiating team and member of the Board said to me, "Politics are a way of life, kid. There's nothing you can do about it. Accept it." Now to a person experienced in politics, that might seem like an innocent statement. Unfortunately, I view the thing as horribly truthful. Now what did this mean to myself and the other teachers concerning our recourse in collective bargaining? One,

the local papers were immediately used against us and the advice that was given to us by the NJEA was termed insidious evil. The public was told that the Board of Education had a gun at their heads, that we were arrogant, militant, and our real purpose was an attempt to take over the schools and to do away with boards of education. All issues were clouded that were brought before the public. I'm sure we are all aware that a budget is a public document. Yet the Board of Education, because of this political bloc, told us that we had no right to demand the budget be discussed, because we had found certain discrepancies. They even went so far as to say that even though we are public officials, we had no right to demand that they make known their positions on the issues facing education in our district.

Some might find it humorous that another consequence was that the Board Solicitor gave us some advice -"go ahead and strike. I get paid for serving an injunction." But the impression always given to the public was that these same men were loyal, public servants, but yet we bordered on being common criminals and the reason, whether the Federated Boards or the League of Municipalities will admit it or not, is that there is no recourse for teachers. You can face arrogant, uncompromising individuals; you can go through mediation; you can go through fact-finding and find you

have still not resolved the issues and there is just nowhere to go. We must have the legislation included in Assembly Bill 810 if teachers are to be given these essential rights.

One final note. Many opponents of the bill have commented that we are public employees. We knew what was in store for us; no one put a gun at our heads to take these positions, and no one is keeping us employed; we may leave. Now these esteemed students of democracy seem to forget one other fundamental premise of democracy. That is if you stay in the system, if you don't like it you try and change it; you fight to the best of your ability, hoping to bring about this change.

Again, I speak for the 350 members of Gloucester Township and I hope I speak for all teachers, saying that we will stay in, we will fight, and we hope that it will change.

Thank you.

ASSEMBLYMAN HAELIG: Thank you very much, sir.

Mrs. Ellen Shields, President of the Pennsauken Education Association.

E L L E N S H I E L D S: Thank you. I am Ellen Shields, President, Pennsauken Education Association, affiliated with the Camden County Education Association, the New Jersey Education Association, and the National Education Association.

I am speaking in support of Assembly Bill 810. Teachers across the entire State of New Jersey have been fighting constantly for quality education but in many instances this fight has been a futile one. The public seems convinced that teachers want only more money. This is not true. We want a better education for all students in New Jersey and we want the opportunity to help in bettering New Jersey's educational system.

Sometimes the only way a teachers' organization can bring about the needed changes is by pressure, economic pressure. By law it is the board's responsibility to provide an education for students. Many boards have fallen short of truly fulfilling this obligation. Teachers who are daily faced with the various inadequacies of education have taken up the banner for better education only to be thwarted time after time with politically-dominated school boards, apathetic citizens, stubborn school officials, and archaic laws. Teachers need the right to employ economic action against an employer so they can make the public aware of the dire needs in education today and the refusal of some employers to meet these needs.

P.L. 303 is helping to improve education but it is still not enough. Employers seem to feel that if they go through the motions of negotiating they are meeting the requirements of this law. They know that they do not

really have to accept the fact-finder's recommendation. When these recommendations are rejected by the employer what means is there whereby teachers can continue the fight to improve education. There is none. We are left with the frustrated, tormented knowledge that something must be done and nothing else that is legal can be done. Many school boards have been using stalling methods during negotiations. They have cancelled meetings, insisted on going over the same things time after time, lost notes on what has been negotiated before, or failed to mark these items down and spent an unusually long time in approving the contract.

In most districts where strikes have been called this year, and in past years for that matter, there have been better agreements negotiated and better education offered to the students in that district. I do not feel that strikes should go on indefinitely, as has been suggested here today, because public pressure on both parties, the boards and teachers' organizations, would force quick settlement.

I further feel that if public employees are given the right to employ economic action against their employer, there will be fewer strikes because then the employers will know that they will not only be required to negotiate but that they will also have to reach suitable agreement with their employee organizations,

Generally speaking most teachers are very conservative and against all forms of economic action by public employees, yet almost every teacher agrees that he would withhold services for just cause. And what better cause is there than providing the best education possible for every student in the State of New Jersey.

All we ask is that you give teachers and public employees a fair and even break. We want to go to the negotiating table as fair and equal partners in education. School boards have the legal responsibility to run the schools. Teachers have the knowledge and practical experience to conduct the educational programs in these schools. Please help us to do this. New Jersey's children need a better education. New Jersey's children need this law which is now Assembly Bill 810.

In closing I would like to call your attention to the statue in front of this hall with the State motto beneath it - Liberty and Prosperity. The teachers of New Jersey as second-class citizens have neither of these two things - liberty or prosperity.

ASSEMBLY HAEELIG: Thank you very much. No questions.

I will call Mr. Thomas Highton and Mr. Gerard Hagan of the Union County Education Association.

J O H N G A R D N E R: Sir, I am from Union County and am President but that is not my name. I am John Gardner.

ASSEMBLYMAN HAELIG: O.K., sir. We will hear you then in behalf of Union County. There are only two or three remaining witnesses and the hearing will be closed pretty soon. We will finish out the formal list. There is one witness after Mr. Gardner and there may be one or two people remaining whose names are on here but the writing I can't understand and then I have one or two statements I want to make and then we will close the hearing.

You may proceed.

MR. GARDNER: I am John Gardner , President of the Union County Conference of Teachers Associations. We are affiliated with NJEA and the National Education Association. There are a few over 5,000 of us from Union County who are members of the Conference and I have been authorized by the Executive Committee to speak here in support of A-810.

I had a fairly lengthy speech but you have heard it over and over again from those here in favor of A-810. So I have just a couple of comments.

The question was asked back a ways, don't you think strikes would hurt children? Every strike that we have had has not been completely or entirely for money or salary. Strikes have been for other things

that would help education of the children. Classrooms that have no basic textbooks have three or four or five different texts for one class. I'm a teacher. I would hate to teach an arithmetic lesson with four or five different texts and say "Open your books to page so and so." That would be quite difficult. If we had the 'right, boards would have to come along somehow or other.

Would it hurt the children? No, I think it would help them because they are not efficient at this point. If you said 50 per cent or 60 per cent or 70 per cent, I don't think that makes any difference. The number of years of going on below peak efficiency makes in effect the hurting of children - a short period of time of hurting the children concentrated would be better in my opinion than stretched over years of inadequate or poor grade education.

It was stated just a few moments ago that a strike by the teachers would certainly not last very long - in my opinion. The teachers would have the opportunity to acquaint the public with what was going on and the public pressure would be there for the board of education to negotiate in good faith, and shortly the teachers would be back.

I wish to thank you for putting in a long and strenuous day.

ASSEMBLYMAN HAELIG: Thank you very much, sir.

Laura Peters, Englewood Teachers Association.

Oh, I'm sorry. Mrs. Peters gave us a prepared statement which will be placed into the record.

That concludes the formal list. Is there anyone here who wishes to give additional testimony to the Committee?

Will you come up, sir, and take the stand.

A L D E N R I C H A R D S: Mr. Chairman and Members of the Committee, my name is Alden Richards and I am a teacher in the Middle Township School System which is in that small county down at the end of the State, Cape May, and I am also a member of the negotiating committee. My job is teaching kids, so, therefore, I am not too familiar with all these labor laws and the many ramifications I have heard today but I have listened with a great deal of interest.

It would be very repetitious for me to go into our situation. You have heard it many times today. As a matter of fact, maybe we're not as bad off down there as we thought we were after we have heard some of the stories up here. However, there is one point I would like to make and I am drawing on my own experience of the last two years, and that is that over the last two years the Middle Township Education Association has made more strides than they made in the past nine years. Public Law 303 opened the door for us, but what really made the gains for us was the idea when our Association

became united. As in most cases, when we went to negotiation we ran into a brick wall. Two years ago the same thing occurred. Only two years ago we decided that this was the time to be united and, after much soul searching, we decided - the entire Association decided that we were going to conduct a "sick day." So we called in and the schools were consequently closed for that day and the Board did indeed lock us out for two more days. However, in two more meetings we had the first contract that was ever negotiated in Middle Township and we were quite pleased.

This year was almost a repetition of last year. This year we followed another course. We went to impasse and PERC sent a mediator down and we went into marathon mediation sessions. It was the fourth one on Sunday afternoon that we went into our eleventh hour. There was only one board member left and he finally came in to make a final plea to the teachers, and he sat down between myself and another teacher and he made his plea and there was a pregnant silence and suddenly a light dawned on his face and he looked at me and said, "I know what you guys are going to do." And both myself and the other member of the negotiating team with me in unison said, "You'd better believe it, baby." He got on the phone and made a few personal visits and in three hours we had a contract which is probably, if not the best, next to the best in the entire county down there.

Now what is the point of this? Well, the point

is that both times - one time an action was taken and another time there was a threat of action, and until teachers are put in a position where they are placed on an equal basis with the board, which I sincerely believe that A-810 will do, you are going to have the same situation that you have right now all over the State, and I think it's going to be compounded. Once the board realizes that teachers are on an equal footing with them, they are going to be more willing to sit down and negotiate in good faith as they are now required to do. So I urge that passage of A-810 will be forthcoming so that we may get about the business for which we were trained, that of educating children.

Thank you very much.

ASSEMBLYMAN HAELIG: Thank you, sir. Is there anyone else who wishes to testify? Ladies first.

A N N E W H I T F O R D: My name is Anne Whitford and I am President of the Plainfield Education Association. Gentlemen, I will just say ditto to all the other things you have heard this afternoon and this morning about second-class citizenship and equal footing and keep my comments to the question of public interest right now and to the relationship of teachers to the public.

The name Plainfield is getting up there, I suppose, with Jersey City and Passaic for other reasons than teachers' strikes. But what I want to comment on

when we are talking students and the effect upon students - I would like the gentleman who raised this question to go talk to some of the students who came to their teachers and said, "Well, you said you were going to get this last year, baby. What happened?" Or go into the communities and you say to the community, "We are going to fight for more reading material for you. We are going to fight for more specialists for you." They said, "Yeah, you said that last year. Now what are you going to do?" because our community is not interested in the niceties of process. They've been through it. They understand where we are, as many communities understand where teachers and public employees are with the board, and they want to know if teachers and the rest of public employees have the guts to back some of their desires all the way when the board listens but it does not hear. Whether it listens all the way through mediation, fact-finding, or whatever, the community doesn't want to see its public employees on strike either, but they understand that there comes a point when it is action and no longer words that is necessary, and I think that they, no more than the teachers, want to see their public employees put in jail and fined or made to break the law in order to achieve for themselves and for the students things which they find are absolutely necessary in their very divided community.

Thank you for your time, gentlemen.

ASSEMBLYMAN HAELIG: Thank you very much.

A L L E N D A V E N P O R T: My name is Allen Davenport and I am the immediate Past President of the Essex County Education Association. I wish to thank the Committee for the privilege of testifying at this hearing. You have heard a great deal of testimony today in regard to the types of conditions which have led to illegal strikes on the part of teachers. Rather than further pursuing any of these causes of strikes, may I instead present to you the effects of the present status of illegality.

Whenever frustration is sufficient to cause the teachers within a system to decide upon withholding his services, the present law is bound to cause an inevitable contempt for the law itself on the part of the teachers. Either the teachers will accept the conditions which they really consider unacceptable, because the condition to go out on strike is a prohibitive one or they will go on strike and be labeled as in contempt of the law. In either case the children will be taught by teachers who feel that the laws of our State are unjust and inadequate or they will be taught by teachers who have broken the laws.

As surely as the future of our State is developing in the minds of the pupils now in our schools and as surely as one of the purposes of education is to teach a respect for the law, and as surely as teachers teach

most by example, the changes proposed in Assembly Bill 810 must be implemented.

ASSEMBLYMAN HAELIG: Thank you very much, sir.

Does the gentleman in the back have some testimony he wants to present?

Will there be anybody else after this gentleman? (No response) May I thank you, sir, for waiting around so long.

M I K E B O S C I A N O: Quite all right. It was a pleasure.

My name is Mike Bosciano, I am also a negotiating member and Past President of the Essex County Vocational and Technical Teachers Association. I have been on this negotiating team now for my sixteenth year so I bear a lot of bruises and what you, and I am still bleeding from bruises that we have been inflicted on us for the past couple of years. These are items - I don't want to go through the other because it would all be redundant but, in addition, we have not been treated as good citizens even.

I think short of the law of A-810 - I was wondering what sanctions or penalties are there for boards of education which do not do their job effectively or are apathetic or refuse to make changes or refuse to listen to pleas for help from those who are employed by them or refuse to bargain in good faith.

They walked out of our meeting last night and it

was all over an apology. They tried to put words in our mouth for an apology, and here we were trying to negotiate. Now this negotiation has been going on since September and these boards in my opinion ought to have members who first of all should be qualified to be a member. In other words, I think the bill A-810 is beautiful. It does give a certain amount of protection and I would like to see it passed immediately. However, I still think some action ought to be taken on these boards who deliberately stall, and I mean stall, and they use every trick in the book. They ask us most times to listen to them and they want us to feel they are dignified people, and yet they don't treat us one single bit with any dignity. They will walk out on us any time they want and they will leave the board in a position where they cannot vote. This has been going on and on.

That is all. Thank you.

ASSEMBLYMAN HAELIG: Fine. Thank you very much.

That concludes the formal part of the hearing and on behalf of the members of the Labor Relations Committee of the General Assembly, I would like to thank all of the witnesses who appeared here today to address themselves to these three pieces of legislation. I think there is no question but what we have been

given a clear insight into the problems that exist between employees and employers in the public sector. All of the witnesses gave us very rational and coherent statements on behalf of their particular point of view. It's apparent that our responsibility, of course, is the public interest, which includes everybody, and we will continue to address ourselves to these problems in our deliberations on the Committee and, of course, the Legislature as a whole will continue to take a look at all these problems.

I have dozens of letters that I have received as Chairman of the Committee from municipal officials throughout the State who couldn't be present at the hearing. I am not going to incorporate all of these letters into the public testimony but simply to reflect the flavor of what they have been saying I am going to incorporate four or five of them so when we have the transcript of the hearing it will be completely balanced. So with that, I would like to conclude the hearing. Thank all of you very much for being present.

HEARING CONCLUDED

* * *

Statement submitted by
LAURA PETERS, 101 Belmont Street
Englewood Teachers Association

I speak in support of Assembly Bill 810. I
would repeat the request made by the President of NJEA
to extend this bill to all public employees. If this
is done, there would be a balance of power between
teachers and Boards of Education. No longer would
Boards of Education wait until the last minute to
bargain with teachers.

* * * *

COMMUNICATIONS RECEIVED
AS FOLLOWS:



CITY OF CLIFTON
NEW JERSEY

07015

WILLIAM HOLSTER
CITY MANAGER

CITY HALL
ROOM 207-PHONE 473-2600

April 2, 1970

Honorable Robert K. Haelig, Jr.
Chairman
Assembly Committee on Labor
Relations
715 Beechwood Avenue
Middlesex, New Jersey
08846

Re: Assembly Bill No. 810

Dear Assemblyman Haelig:

I am advised that your committee is to conduct a hearing on the captioned legislation on April 7th next. In advance of that date, I desire to register with you and through you with your committee the vigorous opposition of the City of Clifton to the captioned bill.

We take it that a government paralyzed is no government, and that no government equates to a state of anarchy. The right to strike by public employees is, we submit, totally inconsistent with the whole concept of public service as it has been understood in this nation from the time of its foundation, and is squarely at variance with the overriding requirements of the public health, safety and welfare the protection of which we take to be the paramount consideration of sound public policy.

To quote our Supreme Court in its opinion in Board of Education, Borough of Union Beach v. New Jersey Education Association, 53 N. J. 29 at p. 45 (1968):

"It is, of course, essential to the constitutional premise of an ordered society that government shall be able to govern... Strikes do tend to bring government to a halt."

CITY OF CLIFTON
NEW JERSEY 07015



LAW DEPARTMENT

ARTHUR J. SULLIVAN, JR.
CITY COUNSEL

FRANK A. CARLET
FIRST LEGAL ASSISTANT

FRANK A. FERRANTE
SECOND LEGAL ASSISTANT

CITY HALL
PHONE 473-2600

Page Two.

We adhere to the belief and legal concept which has traditionally prevailed in this nation that in the public sector the right to strike is directly contrary to the overriding public interest because destructive of the sine qua non to the preservation of the rights of all - an orderly functioning of an organized government.

For the reasons expressed, we urge your committee and the legislature to oppose this legislation.

Very truly yours,

A handwritten signature in cursive script, reading "William Holster".

WILLIAM HOLSTER
CITY MANAGER

WH:bmc

CC: Hon. Peter P. Garibaldi
R.D. #1
Half Acre Road
Cranbury, New Jersey
08512



THE TOWNSHIP OF MILLBURN

COUNTY OF ESSEX, NEW JERSEY

OFFICE OF THE MAYOR

April 2, 1970

Honorable Robert K. Haelig, Jr.
715 Beechwood Avenue
Middlesex, New Jersey 08846

Dear Assemblyman:

As Mayor and chief executive of the Township of Millburn, I am totally opposed to the passage of Assembly 810, which proposes to amend P E R C to permit "concerted economic action" by public employees in support of collective bargaining. Adoption of this measure would be completely contrary to the public interest, exposing our citizens to the probability of paralyzing stoppages of vital services.

Withholding the right to strike from public employees is not felt to be a serious infringement of their employee rights, since most are the beneficiaries of job protection guarantees provided by the New Jersey Civil Service Commission, a security advantage which is denied employees in the private sector. At the present time, employees enter government service fully realizing the prohibition against work stoppages, but obviously discounting this restriction of employee rights for the advantages of said employment.

I urge that this bill be rejected.

Very truly yours,

Ralph F. Batch
Mayor

THE TOWNSHIP OF PENNSVILLE
SALEM COUNTY, NEW JERSEY 08070

OFFICE OF:
ROBERT E. JACK
MAYOR

90 N. BROADWAY
PENNSVILLE, NEW JERSEY 08070

4 April 1970

Assemblyman Robert K. Haelig Jr.
715 Beechwood Avenue
Middlesex, New Jersey 08846

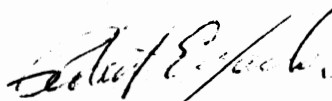
SUBJECT: Assembly Bill #810

Dear Sir:

Please be advised that the Township Committee, Township of Pennsville, is opposed to the passage of the proposed bill, which would under Paragraph 1, give public employees the right to strike in addition to being permitted collective bargaining.

We are not necessarily against the right of individuals insofar as collective bargaining is concerned, but the right to strike which is presently against the Constitution of the State of New Jersey, would not only place such groups in violation of the Constitution, but would also create undue hardship on the taxpayers of the State.

Respectfully submitted,



ROBERT E. JACK
Mayor

REJ/red

cc: Sen. J. White
Assy. K. Black
Assy. J. Enos



Telegram

343P EST APR 6 70 PB233

P PAA124 OB PDF WOODBRIDGE NJER 6 315P EST

ASSEMBLY ROBERT K HAELIG JR

LABOR RELATIONS COMMITTEE CHAIRMAN

STATE HOUSE TRENTON NJER

THIS IS TO COMMUNICATE TO YOU OUR VERY STRONG DISSATISFACTION
WITH ASSEMBLY BLL 810 THIS BILL DIRECTLY CONFLICTS WITH CONSTITUTIONAL
PROVISIONS AND CASE LAW WHICH HAVE HELD THE PUBLIC EMPLOYEE
DO NOT AND SHOULD NOT HAVE THE RIGHT TO STRIKE AGAINST THE
PUBLIC INTEREST WE VIGOROUSLY OPPOSE THIS ILL CONVEICEIVED
BILL WHICH PROTECTS THE STATE GOVERNMENT FROM PUBLIC STRIKES
BUT CONTRADICTORILY PERMITS SAME FOR MUNICIPALITIES WHICH IS
UTTERLY RIDICULOUS AND DISCRIMINATORY AGAINST MUNICIPAL GOVERNMENT

MAYOR RALPH P BARONE TOWNSHIP OF WOODBRIDGE NJ

(322).

Similar expressions of opposition to Assembly
Bill No. 810 were received from the following:

Wenonah Board of Education

Henry J. Witt, Mayor, Township of Mine Hill

Township Council, Township of Moorestown

John W. Stapleton, Mayor, Township of Washington, Bergen County

Eatontown Board of Education

Werner H. Schmid, Teaneck Township Manager

William Sharp, Mayor, Cinnaminson Township

Bayhead Board of Education, Ocean County

Cuyler W. Hasemann, Mayor, Borough of West Caldwell

Edison Board of Education

Walter E. Frohboese, Mayor, Borough of Glenridge

James C. Moran, Mayor, Town of Westfield

Clifton Board of Education

Walter J. Avis, Mayor, Bloomfield

Spotswood Board of Education

Herman G. Klein, Mayor, Guttenberg, N.J.

Middlesex Board of Education

Westfield Board of Education

Parsippany-Troy Hills Board of Education

New Providence Board of Education

Mountainside Board of Education

Wayne Township Board of Education

Expressions of opposition to Assembly Bill No. 810 (cont.)

North Warren Regional Board of Education

Harold Feinberg, Counsellor-at-Law, representing several municipalities and boards of education in both Monmouth and Ocean Counties

J. D. Clark, Borough Administrator, Borough of New Providence

William G. Nordling, Mayor, Borough of Madison

W. Elmer Johnson, Mayor, Township of Cedar Grove

Samuel E. Patullo, Mayor, Bound Brock

Borough of Watchung

Peter J. Rush, Mayor, South Amboy

Irving C. Evers, Counsel to ten Boards of Education in Bergen County

Borough of Prospect Park

Township of Stafford, Ocean County (Gilbert W. Garrison, Clerk)

Marriott G. Haines, Assessor, Vineland

Robert D. Wolf, Mayor, Borough of Rockaway

Frederick B. Whitehead, Acting Mayor, Borough of Florham Park

Paul L. McCauley, City Manager, City of Passaic

Harry C. Kates, City Clerk, Summit, New Jersey

William E. Conrad

May P. Brelsford, Borough Clerk, Borough of Flemington

John A. Rogge, Commissioner, City of Brigantine

Oradell Board of Education

Boonton Board of Education

Expressions of opposition to Assembly Bill No. 810 (cont.)

Kenneth Dollinger, Mayor, Township of Livingston

Harry W. Chenoweth, Mayor, Town of Nutley

Chatham Township Board of Education

Board of Education of the Matawan Regional School District

Caldwell-West Caldwell Board of Education (Mrs. Ronald Poole)

Caldwell-West Caldwell Board of Education (Adolf Poulsen)

Caldwell-West Caldwell Board of Education (J. Harvey Roberson)

Kinnelon Board of Education

Caldwell-West Caldwell Board of Education (Albert E. Evans)

William C. Haskett, Jr., Clerk, Alloway Township

Caldwell-West Caldwell Board of Education (Mrs. Charles Malovany)

James D. Westman, Township Manager, Franklin Township

Carl J. Schnoor, Mayor, Borough of Mountain Lakes

Board of Education of the Township of Ocean, Ocean County

Board of Education of North Brunswick

Board of Education of Spring Lake Heights, N.J.

Charles D. Sparks, Mayor, Upper Penns Neck Township

Hixon Spangenberg, Clerk, Township of Sandyston

Anthony J. Cavalier, Mayor, Town of Kearny

Southern Gloucester County Regional High School Board of
Education

John P. Davidson, Mayor, Borough of Chatham

Expressions of opposition to Assembly Bill No. 810 (cont.)

Louise J. Saffel, Borough Clerk, Borough of Hopatcong

Board of Education of Middlesex, N.J.

Board of Education of Hackettstown

Board of Education of North Caldwell (Mrs. Gerald Auerbach, member)

Board of Education of Waterford Township

Mrs. Stanley S. Brotman, member of Vineland Board of Education

Board of Education of the Township of Pennsauken

Edward McLean, Secretary, Vineland Board of Education

Board of Education of North Caldwell (Mrs. Melvin Decker, member)

Board of Education of North Caldwell (Morris R. Beard, member)

Board of Education of North Caldwell (Richard S. Lovis, member)

Cresskill Board of Education

Hillsdale Board of Education

Board of Education of Saddle River

Board of Education of North Caldwell (Richard W. Potts, member)

Pompton Lakes Board of Education

Mrs. Phyllis Sohn, President, Midland Park Board of Education

Alfred A. Reda, Clerk, Borough of West Paterson

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