

TE OF NEW YORK  
PUBLIC HEARING

before

NEW YORK STATE ASSEMBLY COMMITTEE ON CORPORATIONS,  
AUTHORITIES AND COMMISSIONS

and the

AUTONOMOUS AUTHORITIES STUDY COMMISSION OF THE  
NEW JERSEY STATE LEGISLATURE

Held:

March 5, 1971

New York City Bar Assn. Building  
New York, New York

PRESENT FROM NEW JERSEY:

Assemblyman Kenneth T. Wilson [Chairman]  
Senator Gerardo L. Del Tufo  
Senator William V. Musto  
Senator Matthew J. Rinaldo  
Assemblyman Michael P. Esposito  
Assemblyman Joseph P. Merlino  
Assemblyman Peter J. Russo  
Assemblyman Peter W. Thomas  
Monroe J. Lustbader, Esq., Counsel

PRESENT FROM NEW YORK:

Assemblyman Robert F. Kelly [Chairman]  
Assemblyman G. Oliver Koppell  
Assemblyman Arthur J. Kremer  
Assemblyman Irwin J. Landes  
Assemblyman Joseph M. Martuscello  
Assemblyman Joseph M. Reilly  
Assemblyman Leonard M. Simon  
Assemblyman Stanley Steingut  
Don Zimmerman for Senator Earl W. Brydges  
John Carlson, Esq., Counsel

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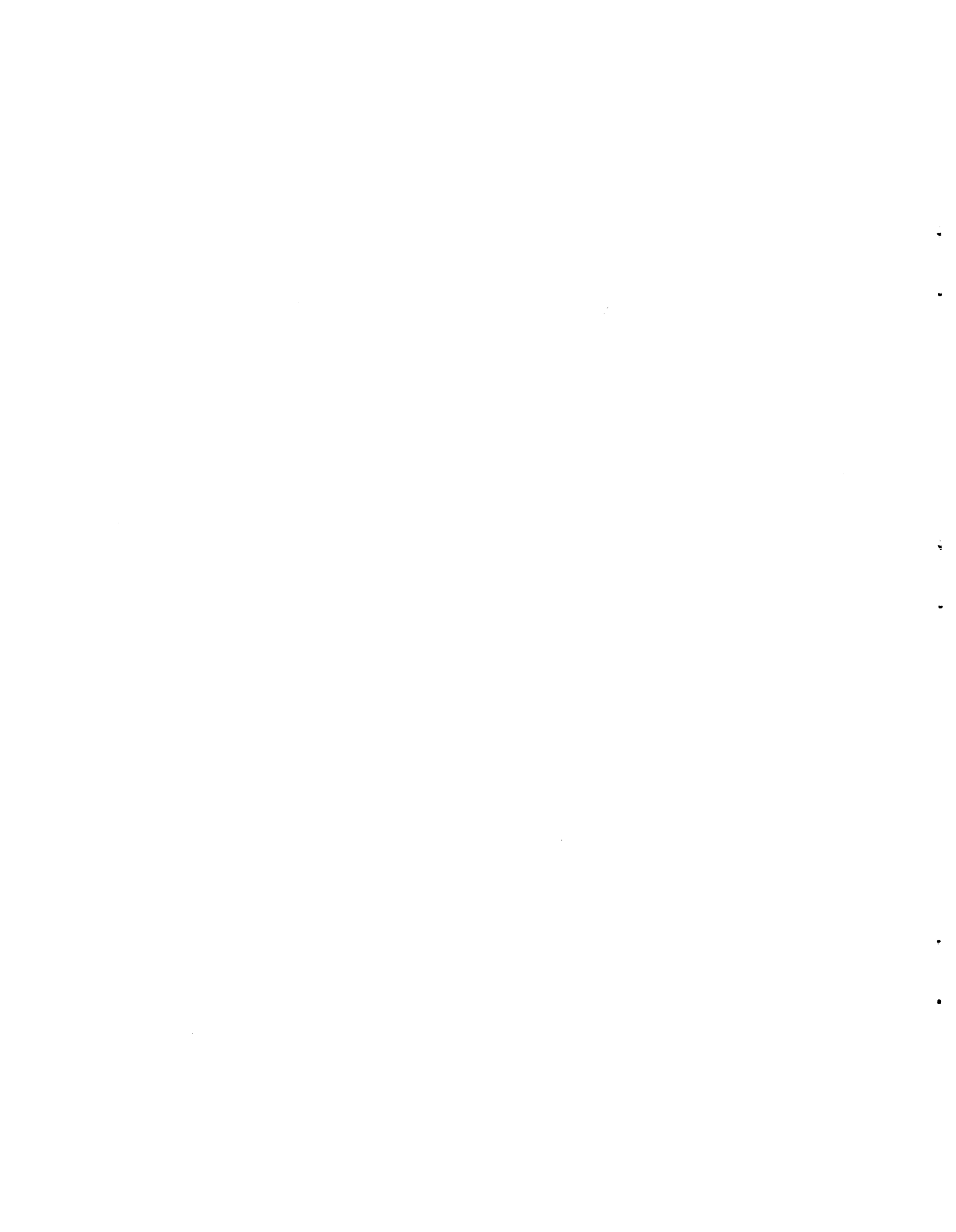
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CHAIRMAN KELLY: Ladies and gentlemen, may we proceed.

My name is Robert F. Kelly, and I am Chairman of the New York State Assembly Committee known as Corporations and Authorities and Commissions, and with me here today are the following members of my Committee: Assemblyman Koppell, Assemblyman Landes, Assemblyman Reilly, Assemblyman Kremer, and at the end is Don Zimmerman, who represents Senator Brydges. Next to him is our Minority Leader in the New York State Assembly, Assemblyman Stanley Steingut, and also our Counsel, John Carlson.

While we meet here today in New York City, this hearing is really a joint venture with the State of New Jersey, and the legislative group representing them is the Joint Legislative Autonomous Authority Study Commission. Its Chairman is Kenneth T. Wilson, who is seated on my right here, and next Friday at Newark, New Jersey, the second half of this public hearing will be held.

At the conclusion of my remarks I am going to ask Mr. Wilson to introduce the members of

his Commission, as well as make any statement that he may wish to make.

To my personal knowledge, this is the first time that the legislative representatives of the State of New York and New Jersey have joined together to conduct a public hearing on any particular subject. It is, of course, most appropriate in this instance, since the Port of New York Authority was created by these two States almost fifty years ago, with the consent of the Congress of the United States.

The purpose in establishing the Authority was to provide transportation, terminal and other facilities of commerce within the Port of New York district. Rather broad authority was given, including the power to purchase, construct, lease or operate any terminal or transportation facility within the district. These powers have, however, been amended by subsequent legislation, bond requirements, as well as an agreement or covenant made in 1962.

Most of us are aware of the facilities that this Authority presently operates. Perhaps the

best known is the Bus Terminal and Airport in the Manhattan area.

The latest undertaking is the World Trade Center which is to provide a centralized facility for the expansion of world trade, and which is scheduled to be in operation in 1973.

We meet here today for the specific purpose of attempting to evaluate the relationship of the Port of New York Authority to mass transportation. This is our primary inquiry, and our primary purpose. Mass transportation is a vast problem which is common to both of our states. We are seeking answers to this problem. To do this we must come to the experts in the field and seek their assistance and cooperation.

To that end Mr. Wilson and myself have attempted to invite the experts, persons who, while they may express different opinions, do so with the intent of affording the best possible solutions to the problem. We have invited persons who will be expressing varying viewpoints. We believe that in this way, the thoughts of all of our Committee members will be stimulated and enlightened.

As to the procedure to be followed, each person will be granted a reasonable amount of time to present his position. I would personally hope that each speaker might then answer any questions presented by the Committee members. The Chair reserves the right to limit the time of each speaker as well as to rule on the relevancy of any question made by a Committee member. I shall be as fair as possible in all areas. I will caution everyone, however, that this is a public hearing, and it is intended to help the work of these two Committees.

I will now ask Chairman Wilson to present his Commission to us and make any remarks he may wish, after which I will invite the first speaker to make his presentation.

CHAIRMAN WILSON: I would like to ask everyone to stand for a moment of silent prayer. Commissioner Engelhard recently died, and will be buried today at 2 o'clock.

(Those present rose and observed a moment of silent prayer.)

CHAIRMAN WILSON: First of all, I would like to thank Assemblyman Kelly for inviting the

members of the Joint Autonomous Authority Study Commission from the State of New Jersey to be present with us today, and it is composed of six Senators and six Assemblymen, and I would like to introduce the members of the Commission.

I am Kenneth Wilson, and I represent Essex County. The Vice Chairman is Senator Mathew Rinaldo, from Union County; next is Assemblyman Peter Thomas, from Morris County; next is Senator Gerardo Del Tuffo; and next is Assemblyman Peter Russo from Bergen County; behind him is Assemblyman Michael Esposito from Hudson County; and we also have Senator William Musto from Hudson County; and we also have Assemblyman Morlino, who I just saw come in, and Assemblyman, do you want to come up here with us?

We also have our legal Counsel, Monroe Lustbader.

I think, that as stressed by Assemblyman Kelly, that this is unique in the history of the Port of New York Authority, and above and beyond that I think it is unique for two State Legislatures to hold joint hearings. Very seldom do you

ever see Legislatures cooperate and hold joint hearings on any matter, but since the Port of New York Authority is a bi-State agency, I think that it is incumbent on the Legislatures of both New Jersey and New York to hold these hearings to ascertain correct facts and receive information.

There have been many statements made on both sides of the river, in New Jersey and New York, and we now have to analyze and obtain this information.

Let me say it is a pleasure to be here, and Assemblyman Kelly, if you will allow me, I would like to make an announcement that our next hearing in New Jersey will be on Friday, March 12, and it will be at 10:30 in the morning, and it will be at the New Jersey Bell Telephone Company, the public meeting room which is located at 540 Broad Street. We have quite an array of individuals that will speak and give testimony, and I now invite all of the members from Mr. Kelly's Committee to attend, and in fact, we have a little invitation here for you.

CHAIRMAN KELLY: Thank you very much. May we continue, then, and due to the fact that the next gentleman has to go about on State business, may I introduce to you and request that Arthur Levitt come forward at this time.

STATE COMPTROLLER ARTHUR LEVITT: Mr. Chairman, and members of the Joint Committees, Mr. Tobin, and ladies and gentlemen: The fact that I take this seat on the opposite side of the Port Authority is no indication of my feeling or the positions that I have. We have the greatest respect and admiration for this group, and their important activities.

I am grateful for this opportunity to appear at this important hearing concerning the relationship of the Port Authority to the mass transportation problems of the entire metropolitan area.

It is the first time in my experience, I believe, that I have appeared at a joint hearing conducted by legislative committees of two different States. To be sure, the Port Authority was created by a compact between New York and New Jersey but,

even so, today's hearing is reassuring that inter-State cooperation is a continuing and vital aspect of our mass transportation problems. I hope that the same spirit will extend to our other metropolitan problems.

My purpose today is not to testify as an expert on mass transportation, and that is an area that I must leave to others. But I do think it appropriate to give you an over-view of the Port Authority's financial operations, because its fiscal capacity is an essential factor in an analysis of the total problem.

As you know, the inter-State compact authorizes me, as well as the Comptroller of New Jersey, to audit the Port Authority. My office recently issued a report on the Port's finances, and I am pleased to provide you with a copy of this report and such additional copies as you may wish.

I shall also make available key members of my staff to help explain some of the nuances of the Port's financial operations, if you so desire.

The financial operations of the Port of New York Authority are fairly complex. My objective

is to give you a brief over-view rather than a detailed analysis. The disposition of the Authority's revenues is governed by statute and by bond agreements and, quite frankly, the agreements require careful study to obtain a full understanding of the Authority's rights and obligations.

First, let me cite a few general principles:

1) The Authority's revenues are pledged as security for its obligations. At December 31, 1970, the Authority had outstanding bonds of almost \$1.3 billion.

2) Beyond the scheduled debt service, remaining net revenues must be applied to maintain a general reserve fund at 10 percent of the outstanding bonded debt. At the close of the 1970 calendar year, the reserve fund balances totalled \$186 million.

There are additional limitations, which I shall not cover here, but which are discussed in the audit report.

Now, for some of the specific figures:  
The Authority's gross operating revenues, the amounts

collected as tolls, fees, and the like, more than doubled during the past ten years from \$123 million in 1961 to \$255 million in 1970.

The Authority's operating expenses, toll collections, maintenance costs, and so forth, increased at a somewhat more rapid rate. Nevertheless, the Authority's net revenues during this ten-year period increased from \$68 million to \$115 million.

The net operating revenues are available for debt service, for increasing the reserve funds, or for other purposes in accordance with the statute and the bond resolutions.

During the ten-year period, the amounts applied to interest on debt and scheduled long-term debt retirement, ranged from \$34 million to \$54 million a year. This means that relatively large amounts of funds were available beyond interest and scheduled principal repayments.

Over the ten-year period, approximately \$454 million was so available. During the last three years, approximately \$55 million to \$60 million a year was left.

How have these monies been used? A very large proportion -- almost \$360 million -- has been applied to capital construction through short-term borrowings. In other words, the Authority has financed about one-third of all its construction over the past ten years through operating revenues. Generally, the Authority has done this by borrowing certain amounts on a short-term basis at the beginning of each year, using the money for construction purposes, and then repaying the borrowings before the end of the year.

These net revenues might have been used in some other manner, provided, of course, that the alternatives were in accordance with bond agreements and had the necessary executive or legislative sanctions. The financial picture for the immediate future looks bright for the Authority, particularly since net revenues will be augmented by about \$36 million a year when the World Trade Center is fully occupied. It is scheduled for completion in 1973.

The Authority has the financial capacity to undertake substantial additional construction, or

to use its funds for other purposes. How they might be used depends upon a variety of factors -- legal, statutory and economic.

While our audit report is critical of certain fiscal policies, it can be seen that the Port of New York Authority is in excellent financial condition, with ample capacity for future expansion. Whether that expansion should be more closely integrated with other transportation agencies is an obvious major policy question before our two States. Whatever the solution, the obvious need is for coordinated long-range planning, not for this year, or this decade, but for generations to come.

Thank you very much.

CHAIRMAN KELLY: I have one question: The only problem that you seem to have with the Port Authority, according to your statement, is just a couple of questions about the way they audit their books, or how they do it in a different way?

COMPTROLLER LEVITT: I think that is a fair statement.

ASSEMBLYMAN STEINGUT: I think the Comptroller has other questions.

CHAIRMAN KELLY: Well, go ahead.

ASSEMBLYMAN STEINGUT: Mr. Comptroller, unless I am wrong, your prediction makes mention of the priorities that we have with the surpluses?

COMPTROLLER LEVITT: These are policy considerations, and it is not for me to pass judgment on. These are matters of high policy which, in the first instance, should be dealt with clearly by the Port Authority's own Board of Directors. But basically, and fundamentally, these are policy considerations which concern the Legislatures of the States, and the Governors of the two States. I thought I made that clear.

ASSEMBLYMAN REILLY: Mr. Levitt, do you have any recommendations on priority?

COMPTROLLER LEVITT: Well, I, like every other citizen, am deeply concerned with the problems of transportation, commuter transportation, and commuter transportation by definition is a deficit operation, and my worry is with the fiscal and economic well-being of the entire metropolitan area, embracing New Jersey and New York, and indeed, the other contiguous states, and I think that the Port

of New York Authority would be well advised to carefully consider its role in the solution of these problems, and I have no reason to think that they do not concern themselves seriously with it.

I do think that the Governors of our respective States should be active in the consideration of the overall problem, and more specifically, in the determination of the proper role of the Port of New York Authority, that they should bear, if any, in the solutions made to their problems.

CHAIRMAN WILSON: Mr. Levitt, to your knowledge, how many audits have been undertaken by the States of New York and New Jersey on the Port of New York Authority or on the Authority's books?

COMPTROLLER LEVITT: Under our law, we were permitted to accept an audit by a certified public accountant in lieu of conducting our own audit, and we have had such a report every year as far as I can recall, and examined it and used it, and commented on it, and the audit that I speak of, and a copy of which I supplied to the Joint Commissions, was conducted by my office, and we intend to continue the policy, ourselves.

CHAIRMAN WILSON: I have got some reports. Do you plan on having additional reports after that, or is this your final report?

COMPTROLLER LEVITT: We will have a series of reports from now on, as circumstances warrant, and the facilities of our office permit.

CHAIRMAN WILSON: I notice in your first report that you criticized the method of reporting, as far as to the Legislatures, in which the Authority does not show the profit and loss for each facility, and therefore the legislators of both States do not have an opportunity to see a clear picture of each facility. Would you comment on that, please?

COMPTROLLER LEVITT: We did comment in our earlier report that, basically, the fundamental responsibility of any report is to inform the public, and the public is not adequately informed in connection with the operations of the facilities, such as the operations of the Port Authority, unless they are adequately apprised of the operations of each facility. We recommend that the reports, henceforth, be made upon that basis.

As a matter of fact, in our report it was

constructed upon that theory. We have reported separately for each facility.

CHAIRMAN WILSON: As Comptroller of New York, were you surprised when you saw the results of your first report that stated that only five of the facilities showed a profit, and six a marginal profit, and 14 other facilities were in the red?

COMPTROLLER LEVITT: I suspected that this was so. I had no idea of the precise number of those operating at a profit, and those operating at a deficit, but I think that it is to be expected that an agency such as the Port of New York Authority which is, after all, in the final analysis, a service agency designed to serve the public, and not to make money for itself, that it would support deficit operations which they consider in the public interest, through the use of revenues derived from revenue-making activities.

CHAIRMAN KELLY: Does anyone else from New Jersey have a question? Mr. Koppell.

ASSEMBLYMAN KOPPELL: Mr. Levitt, in light of your comments in your report earlier that the Port Authority's financial statement was somewhat

lacking in detail, that they prevented intelligent mass transportation planning, is the word I think you used, and would you suggest to us, the Legislatures of the two States, that we mandate certain accounting practices on the part of the Port Authority? I know you have a manual of accounting practices for use by Authorities, and would you suggest that we take such a step?

COMPTROLLER LEVITT: I would like to say this: Unlike a certain other Authority, which I shall not name, the Port of New York Authority is extremely cooperative in connection with audit. It doesn't accept all of our audit conclusions, to be sure, but where it differs with us, it does so on a high level, with respect for my office, and for the people who work for me and serve me.

The Port of New York Authority has been responsive to our recommendations. I would want to know what they propose to do in regard to this kind of reporting before I go to the Legislature. I would rather expect that you would find them cooperative in that regard, as they have been in other respects.

MR. ZIMMERMAN: I seem to notice something apparently inconsistent in your statement, and you comment on the extent of the surplus that the agency has available after debt service, which you say has been expended on short-term finance, capital construction, but if the Authority had not followed that practice, and instead had issued long-term bonds, would that not have both reduced the available surplus, and indeed, in the long run, extended the cost of these projects, if presumably short-term financing is cheaper than long-term financing, and the total cost of retiring the debt and the interest over the period of the bonds?

COMPTROLLER LEVITT: If I understand you, that depends on the period that you are in. At the present time, you are exactly right on short-term financing, but if you proceed on the basis of short-term financing, you will never know when you come into a period in which the long-term cost of borrowing will strangle you.

If you are considering the construction of the type of facilities that are the concern of the Port Authority, I would expect that a great deal

more could be achieved through the use of long-term financing, especially when the needs of the metropolitan area are so vast in the area of capital construction.

MR. ZIMMERMAN: That is borrowing for future years to make immediately available cash, is it not?

COMPTROLLER LEVITT: You are dealing here, Mr. Zimmerman, with facilities that will serve not this generation, but generations yet unborn, and where this is so, I have supported the theory that the long-term financing, if done at appropriate times when interest rates are low, tends to level out the burden of cost over the uses of the facilities, rather than concentrating the whole of these costs upon the people who live and pay the taxes today.

MR. ZIMMERMAN: Well, of course, the Port Authority doesn't raise its funds from taxation?

COMPTROLLER LEVITT: No, but they borrow money.

ASSEMBLYMAN KREMER: Did you indicate that you project a \$36 million new source of revenue for

the World Trade Center in your audit?

COMPTROLLER LEVITT: That was the computation.

ASSEMBLYMAN KREMER: Is that 1973?

COMPTROLLER LEVITT: When it is completed, yes.

CHAIRMAN KELLY: Are there any other questions?

COMPTROLLER LEVITT: Mr. Zimmerman, may I clarify what I said earlier? In my discussion of the merits of the long-term financing, vis-a-vis short-term financing, it has a special force to financing that is made at public expense, and public borrowing, but the principle, the only principle of the long-term benefits is derived from long-term financing as against short-term, is equally applicable in this type of situation.

MR. ZIMMERMAN: We are all familiar with the position on this, when the Executive of this State had, at one time, a pay-as-you-go idea.

ASSEMBLYMAN LANDES: This \$16 million is from full occupancy, but if occupancy is only 90 percent, would that surplus disappear, or would

it still be effective?

COMPTROLLER LEVITT: I am not sure that that was based on the basis of 100 percent occupancy. I rather think it was the contemplation of some percentage of vacancies, but certainly if the situation continues to deteriorate or even continues at the current level, it will have a direct bearing.

ASSEMBLYMAN KOPPELL: In connection with your use of short-term and long-term financing, wasn't the point that you made in your original statement that by using short-term financing that it would, in fact, be constructing capital facilities with operating surplus, and that operating surplus could have been used to lower the tolls, or to supplement other facilities, or for a host of purposes, and that one can also financially construct totally from long-term borrowings?

COMPTROLLER LEVITT: Construction of capital facilities from current earnings, and this is the familiar principle of pay-as-you-go, and even in connection with State government, and constructing long-term facilities from current revenues, wholly from current revenues is a mistake, and I said so at

the time.

What we tried to achieve, hopefully, in government is to arrive at a balance between what you finance from your current revenues, and what you finance with long-term borrowing. I rather think that the same principle applies to this situation.

SENATOR DEL TUFO: Would you favor operations of the 1962 law, which states the Port Authority should not take part in any deficit spending on any project which would cause a deficit?

COMPTROLLER LEVITT: I am not familiar with that law, and I would have to reserve expressing any opinion.

ASSEMBLYMAN KREMER: Section 6606 of the Consolidated Law, with reference to the powers, states that when they involve them in any project, they have to be self-supporting in mass transportation. Of course, we don't know of such a thing in New York State, but do you feel that the Legislature, in its wisdom, in both States should consider changing that?

COMPTROLLER LEVITT: I would give careful

consideration to that. Mass transportation, as I said earlier, by its very definition, is a deficit operation.

SENATOR RINALDO: On the Port of New York Authority, I notice that on page 7, for example, you say that the detailed operating results by facilities are not shown in the reports rendered to the State Legislatures, and to the public, and I note further that on page 3, you state that, and I am quoting from your report, the second paragraph on page 8 where it says, "The tendency by management to limit public disclosures of results of operations by product line, and by operating device has recently subjected publicly-owned companies in private industries to criticism. These corporations have pleaded that such disclosure would make available to other companies selling similar items certain cost data which would affect their competitive position.

"However, there is increasing public and congressional pressure for such disclosure."

And further on you say that we suggest that on a government-created corporation, not engaged

in competitive marketing, should have no reason to limit disclosure of such data.

Then later on you state in the report --

COMPTROLLER LEVITT: What page?

SENATOR RINALDO: This is on page 32

where you say that you recommend that the Authority re-evaluate its reporting of amounts invested in facilities to identify costs applicable to unneeded or obsolete facilities, and to indicate the costs contributed by Federal, State and local governments, which I feel is of paramount importance.

Now, if you take your report in its entirety, and I know that we are here today to discuss mass transit, but I don't think we can properly discuss mass transit without, of necessity, a detailed inquiry into the Port of New York Authority's finances, and to my way of thinking, when I completed reading your report, I came to the conclusion, which seems to be substantiated by the press, that you were somewhat critical of the accounting practices of the Port of New York Authority.

For example, the Evening News in Newark,

New Jersey of October 27, 1969, in their lead editorial said that for 48 years the Port of New York Authority has kept the books as it sees fit.

Now, I think that this indicates, your report, and my reading and examination of it, and also my conversation with you at the time, that more frequent audits should be undertaken by the State of New York and New Jersey, and should be mandated by legislation so that we can have a complete idea of exactly what funds the Port of New York Authority has available, and good accounting practices, and practices that you feel should be corrected.

Are you in favor of mandating periodic audits?

COMPTROLLER LEVITT: I wouldn't oppose mandated periodic audits, but as far as I am concerned, that is not necessary. I propose to do this, and my office will do it, without the mandate.

SENATOR RINALDO: Your office will do it, but unfortunately, the State of New Jersey, to my knowledge, has never undertaken an audit of the Port of New York Authority.

CHAIRMAN WILSON: Just a minute --

COMPTROLLER LEVITT: Excuse me, sir, but may I venture a suggestion? Duplication of audits is not always a service, either to an agency being audited, or to the people who depend upon the results of the audit. I would be willing to work out some cooperative arrangement with the State of New Jersey, and the State Auditor, whereby we would do this audit with their cooperation, or for them, or any other way that you see.

SENATOR RINALDO: I would hope, and this is probably the first meaningful thing that has come out of the session so far, that this could take place, because certainly I don't think that the Governor of the State of New Jersey, nor the Legislature, has the financial tools at their disposal to properly evaluate the Port of New York Authority, to properly be in a position to discuss the mass transit problems, and what they expect the Port of New York Authority to do about it.

COMPTROLLER LEVITT: We frequently have situations in which we audit an activity in which the Federal government has an interest, where Federal funds are involved, and in many of these

instances the Federal government has asked us to perform the audit for the Federal government, and we do audit, and give them a report of our proposed audit report, and they make suggestions to us, and eventually our report becomes a report of the State of New York, and the report of the establishment.

We can do exactly the same thing for the State of New Jersey.

SENATOR RINALDO: I currently have a bill which is Senate Bill No. 144, which requires an audit of the Port of New York Authority at least every five years, and I would be willing to withdraw that bill, if a cooperative effort could be made, and it could be established that periodic audits would be taken by both States. Unfortunately, when the bill came up for discussion in the Senate, I was quite surprised that the Port of New York Authority not only lobbied against it, and sent out a press release against it, but actively opposed it on the floor of the Senate, and certainly I think that if a cooperative effort could be worked out between these two States, and the Port of New York Authority, it would obviate the need for such

legislation.

COMPTROLLER LEVITT: You are authorized to say to your Governor that I make that offer here and now.

SENATOR RINALDO: Thank you very much.

CHAIRMAN WILSON: First, we did receive a report since this Commission has been in existence for three years, and I have my accounting firm that represents the Commission go into it.

I had a bill in to ask the auditor of the State of New Jersey to conduct a similar audit, but in talking it over with the Appropriations Committee, we decided that it would be better, as you stated, and it is a duplication of almost the same words, and we then focused on your report, and I think it was a good point, and the fact of the cooperation between the two States. Many times in a bi-State agency, and it is not only the Port of New York Authority, and we could consider the Delaware River Authority, and we have a bi-State agency, and both States are not as active with that particular Authority, and it can go along its own course.

I would like to ask you this question: You issued this report, and this was back in 1969, was it not, or back in September or November of that year? It was September of 1969, and in which you were critical of the accounting procedures. Has the Port Authority ever approached you or ever given any indication to you that they accept your criticism, and that they would be interested in making changes, whether it may be in reporting techniques, or in turn, their accounting procedures? Have they ever indicated this to you?

COMPTROLLER LEVITT: Well, I know that the Port of New York Authority has differed with some of our audit recommendations, and expressed that difference. Whether they have, or have not acted upon them, I am not prepared to say. They are here, and I assume that they will tell you whether they have or not.

CHAIRMAN WILSON: They have not approached you to accept, shall we say, any of your constructive criticisms?

COMPTROLLER LEVITT: I don't think I can answer that question. My staff is in normal weekly

contact with the Port of New York Authority personnel, and maybe they could answer something that I am not prepared to answer at the moment.

CHAIRMAN WILSON: I would like to clarify one more point: In your second report you said that by the year 1973 you suspect the Port of New York Authority to have at least an additional \$1 billion bonding capacity?

COMPTROLLER LEVITT: I think the report said that, yes.

CHAIRMAN KELLY: If there are no further questions, next we will hear from Mr. Tobin. Thank you very much, Comptroller Levitt.

COMPTROLLER LEVITT: Thank you for inviting me here.

MR. AUSTIN TOBIN, EXECUTIVE DIRECTOR, PORT AUTHORITY: Mr. Chairman, before I start, may I have the opportunity of introducing two of our Commissioners who are here, and one of them is a former Senator, and that is Walter Jones of New Jersey, a distinguished member of the Legislature there, and former Majority Leader, and before that he was the Speaker of the House. Mr. Jones.

May I also have the privilege of introducing our Commissioner from New York, Sidney Hein.

Mr. Chairman, I will submit a report for the record which will be my full statement, but if you will permit me, I would like to leave out some large portions now as I go along that are in the record, but my official record will be available for the Committee and for its record, if that is all right, Mr. Chairman.

CHAIRMAN KELLY: Yes, please go ahead.

MR. TOBIN: I am Austin Tobin, Executive Director of the Port Authority, and it is a privilege to appear here today on behalf of the Port Authority.

Over the years, the Legislatures have conducted many inquiries into the functions and operations of the Authority, and they have always -- as we are duty-bound to do -- cooperated fully and answered all inquiries made of us.

Assemblyman Wilson will recall that he conducted such an inquiry just two years ago. A few years before that, a special New Jersey Senate Investigating Committee, constituted along bipartisan lines, completed an exhaustive inquiry over a

period of two years into all phases of the Authority's financing, program and policies. We used the firm of Peat, Marwick & Mitchell, throughout the course of that study, who made this separate and independent report to the Committee.

I would like to submit the report of that Committee for the information of the members of the two Committees, and I would like to submit that report for the record.

I realize that your primary interest lies in the Authority's role in mass transportation in the New Jersey and the New York district, and in the matters of payments made by the Port Authority to Port district municipalities. It is essential to any understanding of these two subjects that I summarize the means by which the Port Authority finances its programs, which is to say, the basis of the Port Authority's credit, and that I summarize also the executive and legislative controls that govern the program and work of that Authority.

The Port Compact which created the Authority was entered into by the two States just

50 years ago next month, and its creation was largely the work of two great Governors -- Alfred E. Smith of New York, and Walter E. Edge of New Jersey.

The Compact identifies the Port Authority as a body corporate and politic, consisting of twelve Commissioners, -- six from each State. They are appointed by the respective Governors with the advice and consent of the respective State Senates, and they serve six-year overlapping terms, receiving no compensation or fees whatsoever for their services. Throughout the years as a public service, former Governors, United States Senators and distinguished New York and New Jersey citizens from public agencies, and from the professions, and from the fields of business and finance, have served as Commissioners of the Port Authority.

The basic Port Compact of 1921 was written in general terms, authorizing and directing the work of the Authority in its assigned mission of continuing development of New York and New Jersey port and terminal facilities, and the promotion of its commerce with the world. It has, therefore, been necessary, and this was the intention of the two

States, that each major program for the Authority be reviewed and authorized in statutory detail by the two States' Legislatures. Accordingly, there has been proposed legislation relating to the Port Authority before the Legislatures of the two States in every year since its creation, and the programs have been thus subjected to constant legislative surveillance.

Every action of the Authority is subject to a veto by either of the two Governors. Each has ten days within which to exercise that veto. Very few Authorities are so completely subject to review by the elected representatives of the people. This is a complete answer to the alleged autonomy of the Port Authority, and yet it is cavalierly dismissed by critics simply because the Governors have rarely had occasion to exercise the veto.

The rarity of vetoes is not any evidence at all that this is an ineffective control. The existence of the power of veto makes it mandatory that there be continuous communication between the Port Authority and each Governor. The rarity of veto is a result of the consistent policy of Port

Authority pre-clearance with each Governor of each major action which involves, or might involve, a question of policy for either State. If either Governor has a problem with the program or proposal under consideration, the action is not taken and there is nothing to veto.

The few instances in which the veto occurred represent cases where the Port Authority misjudged the Governor's views and failed to properly consult the Governor in advance of the action taken.

The Port Compact requires an annual report by the Port Authority to be sent to the Legislatures, including operational data and financial statements. In addition, the Chief Fiscal Officer of each State is empowered, as the Comptroller has noted, to audit the books and accounts of the Port Authority, including all items referring to the Authority's financial standing, receipts and disbursements, as the Chief Fiscal Officer may deem proper. I would doubt that any public agency is more frequently audited than the Port Authority. I should note that Comptroller Levitt, over the last three years, has been conducting a complete audit of the Authority's books and

accounts, which was reported to you here this morning.

I have been informed that he will be so engaged, and he informed me that he will be so engaged for several years more.

The Port Authority records are regularly audited by other government agencies. In 1961, as I said, the New Jersey Senate Investigating Committee had the firm of Peat, Marwick & Mitchell conduct an audit in the course of the Committee's two-year investigation, and the Federal government and the City of New York also audit our accounts regularly in connection with the projects in which they have an interest.

At Governor Cahill's direction, the New Jersey State Treasurer is presently examining the financial accounts of PATH, the Port Authority's subsidiary for operation of its trans-Hudson commuter railway. It was recently asserted by Assemblyman Fiore of New Jersey that the Interstate Commerce Commission has discovered irregularities in the financial reports of PATH. The ICC immediately issued a public statement refuting this baseless assertion, and I am also submitting a letter from

the Commission to the same effect, and I will submit the ICC letter, Mr. Chairman.

While the Compact is the Port Authority's basic charter under which all activities and programs must proceed, the instances in which the Compact withholds power from the Port Authority are as important as those whereby it grants power to the Port Authority.

The Port Compact of 1921 was based on the finding by the two Legislatures that the public terminal, transportation and other facilities of commerce, which they expected the Port Authority to finance and construct, will require the expenditure of sums of money that have been indicated here this morning, and that they sought back 50 years ago, large sums of money and the cooperation of the two States, and this is the important matter basic to our discussion here this morning, the cooperation of the two States in the encouragement of the investment of private capital.

The Legislatures then authorized the Port Authority to proceed with the work of Port development as rapidly as may be economically practicable

and they vested the Port Authority with all necessary and appropriate powers to effectuate that, except the power to levy taxes or assessments, and they further provided that "it shall have no power to pledge the credit of either State or to impose any obligation upon either State, or upon any municipality."

Thus, the two fundamental precepts of the two States which have determined the development of the Port Authority have been, one, a pledge of cooperation between the States of New York and New Jersey, and, two, the development of vitally important public port projects of the two States without recourse to taxation. In other words, the two States limited the Port Authority to a program of public works that must be self-supporting.

Since 1921, some \$2.5 billion have been borrowed by the Port Authority from private sources to carry out the Port projects and public programs authorized by the two Legislatures under the terms of the Compact and subsequent legislation enacted through the years.

Since the two States withhold from the Authority the power to raise money by taxation, and

the power to pledge the State's credit, the Authority must finance these essential public projects with the sale of revenue bonds, which pledge anticipated revenues. All revenue bonds, whether issued by the Port Authority or any other public agency, must, by their very nature, contain covenants regulating the use of the revenues from the public facilities for which they are issued, and these covenants are -- and must be -- contracts protected by the Federal and State Constitutions against impairment. A revenue bond which did not contain such covenant could not be sold.

People and institutions who lend money to revenue bonds cannot call on the taxing power of the government for repayment. If the hopes and plans of the public agency to which they have loaned money are not realized, they will lose not only their interest but their capital.

The Authority, then, can finance its vital projects through the medium of revenue bonds only if it can convince the lending public that its money will ultimately be returned. The people and the institutions who are asked to lend their money must

be convinced that the Port Authority will remain a self-supporting agency, that its revenues will be sufficiently in excess of operating expenses to pay the interest and principal and that sufficient revenues will exist to protect them from downswings in the economy, and from technological changes in method of transportation over the long periods of time involved in the loan.

Those technological swings are of critical importance.

Furthermore, our Port Authority consolidated bonds are 'open-end' bonds. In such open-end bonds, there is no fixed dollar limit upon the quantity of new bonds which the Port Authority's program, as authorized and directed by the Legislatures, may require from time to time, those bonds which then share all the liens and pledges of previously outstanding consolidated bonds.

For these reasons, persons or institutions lending money to the Port Authority must have -- and they have received -- assurances in the bond covenants that the pledged revenues and reserves will not be diluted. Bond resolutions, therefore,

contain restrictions that the Legislatures have authorized and which are essential to the financing of the public projects which the two States have directed us to finance and construct. Although these restrictions and duly authorized contractual commitments do limit the Port Authority, as all contracts limit the freedom of action of the contracting parties, they are in reality necessary conditions to the fulfillment of the governmental purposes for which the States created the Port Authority, as their joint instrumentality.

I might repeat, such restrictions and commitments are necessary to the sale of all revenue bonds, of which some \$6 billion were issued last year in all parts of the United States.

The statutes of the two States governing Port Authority financing direct us to pool all revenues from the Authority's facilities in order to secure our bonds and other obligations.

The General Reserve Fund statutes which were enacted by the Legislatures in 1931, provide that after the deduction of current expenses for the operation and maintenance of the Port Authority

facilities, and the deduction of any amounts which the Authority is obligated to pay or to set aside for the benefit of the holders of its currently outstanding bonds, revenues from Port Authority facilities shall be pooled and deposited by the Port Authority in the General Reserve Fund.

It was entirely on the basis of the fundamental concepts of revenue bond financing, as distinguished from tax-supported financing, that the Compact of 1921 outlined the purpose and program of the two States in creating the Port Authority. They noted that that program of Port development would "require the expenditures of large sums of money, and the encouragement of the investment of capital." They concluded, to quote the Compact, that a comprehensive plan of Port development would "result in great economies, benefitting the nation, as well as the States of New York and New Jersey."

As a measure of the wisdom of the two States in establishing the Port Authority, as they did, I suggest that you consider the extent to which the Authority has contributed to the economy of the two States, in accordance with this basic directive of the

Compact, and in accordance with the extensive statutory implementation of the two Legislatures throughout the years, and the sale of revenue bonds:

(A) The commerce of the bi-State Port supports one out of every four people who live and work in this great Port district;

(B) In 1969 cargoes valued at \$25.5 billion moved across piers and docks and through the airports of the New York-New Jersey Port district, with some 70 percent of those cargoes being handled at Port Authority facilities;

(C) One out of five of all the people in airplanes at this moment throughout the United States either took off from or will land at airports operated by your Port agency;

(D) Of the 378 million trips made by rail, bus, and other vehicles between the States of New York and New Jersey in 1969, 96 percent utilized a facility provided by the Port Authority;

(E) Finally, in 1970, a total of 70,000 persons were employed at Kennedy, LaGuardia and Newark Airports and at the Port Authority's piers and docks in New York and New Jersey, with a total annual

payroll of approximately \$750 million.

These facilities were constructed largely in the days of the creation of the airports, and at the request of the two States, they share in all of the rentals.

Mr. Chairman, I would now skip over the next few pages, which outline in detail the bridges and tunnels, the airports, and also detail the revenues involved in the agreements in the cities in New York and New Jersey, and the piers and the docks, and they were built similarly in Newark, Hoboken and at the request of the two cities, and then I will pick up again on page 7 where I discuss the matters of mass transit directly, and the Port Authority's facilities and mass transit.

The two Legislatures authorized us in 1946 to undertake the financing and construction of the Port Authority Bus Terminal at 40th Street and 8th Avenue. At the time commuter busses had no central terminal and were unloaded and loaded all over the streets of the midtown area. The City of New York asked us to undertake the project, and the Legislatures authorized us to do so on a

self-supporting, revenue bond basis.

In 1956, again at the request of the City, the Legislatures authorized the Port Authority Bus Station at the George Washington Bridge, the uptown Bus Station. These two projects are the major commuter bus facilities in the region, and they involve an investment of \$73 million, and accommodate a million and a half bus departures annually. In addition to that \$73 million, there is \$80 million shortly to be added to that with the next extension of the Midtown Bus Terminal.

The Port Authority is now ready to start with that terminal, as I have said.

In 1962, the two States authorized us to acquire and to salvage the bankrupt and physically obsolete Hudson Tubes which operate between Newark, Jersey City, Hoboken and New York. At that time, the abandonment of all service on this trans-Hudson rail facility was a distinct possibility. Today, this system is known as PATH -- the Port Authority Trans-Hudson Corporation. It handles 140,000 passengers daily, 72.5 percent of the total number of commuters entering Manhattan from New Jersey by

rail. The Port Authority has already spent \$139 million on the acquisition of the railroad and in rehabilitating the entire system. 206 air-conditioned cars have been placed in service, and 46 more are on order. With these new cars, PATH became the first transit system in the world to operate with a complete fleet of air-conditioned cars. A new PATH terminal in Manhattan now is nearing completion to replace the old Hudson Terminal, and this, together with the construction of the new Journal Square Transportation Center in Jersey City, will enable the PATH system to handle longer trains, thus adding to the comfort and convenience of the passengers. The total investment of \$200 million is anticipated. The Journal Square facility, which will accommodate 35,000 rail passengers a day, also will include a major consolidated bus station to accommodate up to 60,000 daily commuters. This Transportation Center is seen by Jersey City as a vital factor in the redevelopment of the entire Journal Square area in Jersey City.

Thus, mass transportation is very much a part of the Port Authority's activities. Through the

PATH system and our bus handling facilities, the Port Authority serves 400,000 daily mass transportation passengers by rail or bus. These facilities alone will represent, when the scheduled improvements are completed, within a year or so, total borrowings and capital investment of nearly \$350 million.

The Port Authority is also participating in the New York State Commuter Railroad Car Program, which was authorized by the two State Legislatures in 1959. The Authority has financed the acquisition of almost 400 rail passenger cars and 8 locomotives which are now in use in commuter service on the Long Island and Penn Central Railroad. We are in the process of acquiring an additional 80 cars to be placed in commuter service on the Hudson and Harlem Line of the Penn Central before the end of the year. With the acquisition of these new Penn Central cars, the Authority will have issued more than \$106 million in bonds to acquire commuter cars for the Metropolitan Transit Authority.

The State of New Jersey has not exercised its option under the 1959 legislation to have the Port Authority carry out a commuter railroad car

program, for New Jersey commuter railroads. I think, Assemblyman Wilson, that that program is considered good and effective by the State of New York, in the terms of providing these cars, outside of the other State programs, and it has much to commend it to the State of New Jersey, and I would be pleased if you would consider introducing legislation that would permit that to go forward, and we would like to do the same program in New Jersey.

Of course, none of these facilities could have been provided without the active support, encouragement and involvement of the Legislatures and the Governors of the two States. Similarly, under your existing authorizations and directions to us, we will be continuing to make additional and significant investments in terminal, transportation and other facilities of commerce in New York and New Jersey.

I have mentioned our programs for extending the bus terminal, further improvements to PATH, redeveloping Newark Airport and making additional pier and dock improvements. I should like to note as well that, as announced by Mayor Lindsay on February 23rd, the Port Authority will also be working

with the City in the construction and operation by the Port Authority of a Consolidated Passenger Ship Terminal, involving total capital costs of nearly \$35 million. It will, for the first time in memory, provide decent, comfortable and convenient facilities for the 800,000 persons who pass through the Port of New York on passenger ships each year.

Now, for almost a decade, the Port Authority has been deeply involved in providing interstate mass transportation of passengers by rail, and for the past 20 years it has provided terminal facilities for interstate mass transportation by bus.

It is therefore pointless to debate whether in 1921, when the States of New York and New Jersey created the Port Authority, they intended the agency to provide mass rail transportation facilities. Or whether in the Comprehensive Plan of 1922, which the two Legislatures authorized us to carry out, they cast the Port Authority in that role of providing mass rail passenger service. The fact is, that they did not. Down through the years, the Legislatures have not cast it in that

role, except for the instances that I have indicated as to the bus terminals and PATH.

The point is that it is the Legislatures, and not the Port Authority, which decide the Port Authority's program, whether or not it is pursuant to, or an extension of, the State's original conception of the functions and duties of the Port Authority.

There are those in the private sector who find they can obtain extensive publicity through attacks on the Port Authority which feature emotion-charged words and name-calling. Some of these attacks have been scurrilous, irresponsible, misleading and utterly baseless. They would blame the whole mass transit problem in the City and throughout the region on alleged Port Authority indifference. This claim is patently contradicted by the Port Authority's obvious responsiveness to the legislative direction to rehabilitate the Hudson and Manhattan systems at a capital cost of over \$200 million and an accumulated and ever-increasing deficit of \$65 million.

Those who seek to blame the Port Authority for the problem of mass transportation are merely seeking a scapegoat for a critical problem plaguing

all of urban America today, a problem resulting from the citizen-chosen patterns of modern-day life and from efforts to avoid the fact that mass transportation cannot be provided by either private or public organizations on a self-supporting basis.

Let it be categorically stated at this point that when a constructive program for improving interstate mass transportation emerges from the detailed studies now under way, and it is approved by the two States, the Port Authority expects to do everything within its legal and fiscal capabilities to cooperate with the two States in the effectuation of that program.

Last year Governor Rockefeller and Governor Cahill organized what is known as the Inter-Agency Task Force. It consists of the Metropolitan Transportation Authority, the New Jersey Department of Transportation and the Port of New York Authority. The Task Force was organized to coordinate interstate transportation and to make recommendations to the two States. The Port Authority has already agreed to undertake a major portion of the study work.

Before any plan is adopted, it will, of course, be subjected to public review and comment, after which it will be up to the Legislatures to decide what directions to give and to whom.

In allocating the total program between the various agencies, two pertinent administrative and constitutional requirements will be operating as the Legislatures make their decisions: (1) Both States must agree on the allocation of fiscal and operational responsibility; and (2) Contract obligations already entered into by the Legislatures or under their authorization must be honored.

I have referred to the fact that in 1962 the Legislatures tackled the problem presented by the bankrupt wreckage of the H & M. Until then the Legislatures had never directed the Port Authority to enter into an area of public finance which could not be supported by the revenues which could be generated within the area, as in the case of the Municipal and Urban Rail Transit, and which could, therefore, be the State's agency down the road to bankruptcy and uselessness.

In 1959 and in 1960, the Port Authority

worked with the representatives of the States to devise a plan for salvaging the Hudson and Manhattan; but, of course, the Port Authority could do so only by borrowing the money through the sale of its revenue bonds. As the two States did face the problem they realized that if the Port Authority could be required to take on commuter railroad facilities, entailing tens of millions of dollars in annual deficits, then all of the resources of the Authority could be consumed by such deficits in short order, and the Authority made bankrupt in a few years, just as surely as had been the experience of most commuter railroads in the New York-New Jersey area.

And so when the States decided that the Port Authority was to take on responsibility for the H&M rail commuter deficit, the Governors and the Legislatures recognized that it was essential that prospective bondholders be convinced that the legislative directive to assume Hudson and Manhattan rail deficits was not just the first in an unending series of directions to assume unlimited deficits for other passenger railroads.

In my written statement, Mr. Chairman, I

have quoted the complete outline of this by the New Jersey Special Senate Investigating Committee, and they sum it up in this record, and I will skip all of this. This will be in my written statement which I assume you will include in the record.

The Committee, therefore, sponsored the 1962 statute in New Jersey, and when Governor Rockefeller signed the 1962 companion statute in New York, he expressed the identical policy, and he said, and I quote:

"To preserve the Port Authority's credit strength the bill includes a covenant by the two States that additional deficit financing of future railroad projects will only be undertaken within the financial limits set forth in the States' covenant."

It was not just a matter of keeping the Authority financially capable of borrowing the hundreds of millions of dollars which would still be required for the region's future piers, airports, bus terminals, and other facilities in commerce. It was even questionable whether prospective revenue bond purchasers would lend the very money needed to

finance the acquisition and rehabilitation of the Hudson and Manhattan itself if they were not given assurances against unlimited drains for unlimited passenger railroad deficits on any and all future railroad facilities.

The critical point is that the Governors proposed and the Legislatures enacted a limitation, and they did so in the only way which could accomplish their purpose, that is, they included in the authorizing statute the binding covenant of the two States themselves with the holders of Port Authority bonds. They covenanted that the Port Authority would not be permitted or directed to take on an additional passenger railroad facility beyond the basic Hudson and Manhattan system if the anticipated deficits of the new facility plus any Hudson and Manhattan deficit exceeded certain defined limits.

As a consequence, and only as a consequence of that statutory limitation, the Authority has been able to borrow \$1,700,000,000 since then to finance the reconstruction of PATH, and to fulfill its various other statutory responsibilities.

Whenever it is proposed that the Port

Authority finance any additional railroad facility, the statute requires a certain certified estimate of financial results of the proposed additional facility over the next ten years. Revenues must be estimated, and from revenues must be deducted the expense of operation and maintenance, and also the debt service which the Port Authority would incur on bonds for the additional facility. If it is estimated that the additional facility will be self-supporting, there is no limitation in the covenant against the Port Authority assuming responsibility for it.

But if the additional facility is a deficit facility, then PATH deficits must be similarly estimated and the average annual deficit of PATH must be added to the annual average deficits of the proposed new facility. If the sum of these deficits proves less than the statutory limits of "permitted deficits," then there is no limitation in the covenant against the Port Authority assuming responsibility for the additional rail facility.

If the combined deficits exceed the statutory limits, then the covenant makes it possible

for the Port Authority to assume the proposed additional railroad facility, if either or both States make up the difference by "adequate, secure and effective" provision for such deficits.

If the Port Authority is to take on a new railroad facility in conformity with the covenant, the statute provides that the estimates and calculations must also receive the written concurrence of both Governors. The fact is that whereas the "permitted deficits" under this covenant at the present time are about \$11 million, PATH deficits for the last year were considerably in excess of that figure, and any realistic estimate for the next ten years, as required by the statutory covenant, would show an annual average PATH deficit even larger than last year's deficit.

Nevertheless, we expect that the Port Authority will be able to do more in the field of mass transportation. At the moment, even without any State subsidies or guarantees we can assume responsibility for any self-supporting rail transit facility and the increasing availability of Federal financial assistance may permit the development of

some facility or facilities which meet this test. In addition, combinations of subsidy and self-supporting elements could stretch our capacity further. For example, a study of the proposed new 48th Street rail tunnel under the Hudson River might show that enough Federal grants-in-aid could be procured at a time of its construction to bring the debt service down to proportions which together with enough user charges could be anticipated to cover the remaining debt service plus operating expense, and we could do a job on that basis.

On that basis, the Port Authority could have a substantial role in such a project. Or, again, it is quite possible that the Port Authority could finance portions or elements of such a new trans-Hudson rail system, particularly in the areas of the interchange terminals that would be required, or indeed, the new New York Terminal itself, that is the new New York Terminal of the 48th Street system.

Again, in collaboration with the Metropolitan Transportation Authority and the airlines, we have been very hard at work over the past two years on planning and engineering work to provide rail

access to Kennedy Airport on a route beginning at Penn Station, using the existing Long Island Railroad tracks from Rego Park to a point near the Airport boundary where new trackage would connect that line to the passenger terminal area at Kennedy. The Port Authority Engineering Department is at work, and has been at work for several months, on definite engineering plans for the portion of that line within the boundaries of the Airport. Consultants to the Metropolitan Transportation Authority are preparing the plans for the portion of the line outside the Airport boundaries.

In addition, it should be noted that the "permitted deficits" of the statutory covenant are basically a percentage of the statutory General Reserve Fund, and that Fund, in turn, is a percentage of the principal amount of the bonds secured thereby. Therefore, as the Port Authority continues to be able to issue consolidated bonds to finance the expansion of the Bus Terminal, the enlargement and improvement of Port Newark, the Elizabeth Marine Terminal, Newark Airport, and Kennedy Airport, et cetera, its outstanding debt will continue to grow and the limit of

"permitted deficits" under the statute will grow also.

It has been suggested, and I suppose it will be suggested again at these hearings, that the Authority need only double the existing bridge and tunnel tolls to raise a fund to cover the City of New York's subway deficit.

The fact is, I should note, and my attention has been called to the fact that I skipped over a paragraph stating that certain things could be done in the way of getting the consent of the bondholders, but that is in the statute that I have submitted to you, and I will go on to the question of doubling the existing bridge and tunnel tolls in order to cover the subway deficit.

The fact is that when this scheme was suggested a year or more ago, municipalities throughout northern New Jersey adopted resolutions opposing it. You may recall also that Governor Cahill and Governor Rockefeller stated that they opposed such a plan. Doubling of the existing bridge and tunnel tolls would also be subject to review and approval of the Federal Department of Transportation, and, as a practical matter, it couldn't be done unless the tolls

of other Hudson River bridges such as the Tappan Zee Bridge of the New York State Thruway Authority were also doubled. Finally, any increased bridge and tunnel revenues would automatically flow under the statute and the indentures to the debt service and reserve accounts for the bondholders whose monies had paid for the construction of existing Port Authority facilities, including PATH.

You may also be told that the Port Authority presently has the capacity to borrow \$1 billion which could be used to subsidize further municipal and commuter rail deficit programs. Comptroller Levitt's report on a portion of his audit of the Port Authority's financial standing will be referred to as allegedly supporting this position. But the Comptroller is very careful to note in his report where he stated that we could borrow that money only for, and I quote, "authorized Port Authority facilities." It is a fact that, for those facilities presently authorized by the Legislatures and permitted by the Authority's bond indentures, we will have the capacity to, and we will have to, borrow nearly a billion dollars over

the next five or six years, and completion of construction programs now under way at the three airports, the Bus Terminal extension, and our pier and dock construction programs, and at Path, all of which are essential to the economy of New York and New Jersey, will continue to require huge capital investment. In the statement it was indicated by the Comptroller that we will have to do this, and we plan to do it under your legislative direction.

I might note in passing that the effect of those programs would be to increase, as I have said, the General Reserve Fund, and thereby increase the permitted amount of our railroad deficit undertakings.

For the two States to stop these essential self-supporting public works would be a tragedy. For the two States to direct us instead to raise a billion dollars through the sale of Port Authority bonds for deficit railroad facilities would be a direction that, with all due respect, we could not carry out, because it would violate the covenants made with the bondholders by the two States themselves, and of the new bonds, as a practical matter, they would be completely unsalable.

The City, and when I say this I am very clear, that the City and our region must go forward with the great programs for modernizing and supporting our urban and suburban mass rail transit systems that have been so required for so many years.

Now, I agree completely with the recent statement of the Citizens Budget Commission, which I am quoting in my text.

I thoroughly agree, also, with Dr. Ronan, Chairman of the Metropolitan Transportation Authority, who recently stated that we must have major commitments of public funds for the support of urban transit. The point is, as he stated it, that "the so-called transit deficit is no more a deficit than that of police, fire, water supply, or sanitation deficits." In other words, neither here in New York, nor in New Jersey, nor in any other part of the country, nor, for that matter, of the world, can the area's transit services be supported on a self-supporting revenue bond basis. Just in this area of New York and northern New Jersey the gap between revenues and operating and debt service charges of commuter rail and transit operations is

probably in the magnitude of \$300 million a year.

Fortunately, the two States have under way, with the overwhelming approval of the voters, what Dr. Ronan has referred to as "the nation's largest and most comprehensive mass transportation improvement and expansion program."

In Washington the Congress has moved to enact the first meaningful mass transportation legislation under which it is proposed to fund more than \$10 billion for mass transportation purposes.

On February 11th of this year, responding to Governor Cahill's request, the Board of Commissioners of the Port Authority directed the staff of the Port Authority to examine thoroughly the following proposals, and I quote them:

"A new rail tunnel under the Hudson River into a terminal in mid-Manhattan in the general vicinity of 48th Street;

"Rail access to Newark Airport;

"Acquisition and management of the Penn Central Railroad Station in Newark;

"STOLport planning for the Metropolitan

New Jersey-New York area."

Concerning acquisition and management of the Penn Central Railroad Station in Newark, you may or may not know, Assemblyman Wilson, that we need legislation if that can be worked out, which I would like to be talking to you about, and finally, something that is critically important in the broader scale, in the mass transportation idea, which is the Port plan for the area in New Jersey, and that would require additional legislation, probably in that.

I mentioned earlier that we have been working with the two States on interstate transportation planning over the past year. We have been doing so, as I noted, through the Inter-Agency Task Force established by the two Governors last March.

Accordingly, Commissioner Kohl of the New Jersey Department of Transportation, Dr. Ronan for the Metropolitan Transportation Authority, and I met just last week for the purpose of organizing the study and the planning for a Forty-eighth Street tunnel project through the pooled staff resources of the three agencies. I expect that the Inter-Agency Task Force report will be released to the

press during the week. We are all in accord on the text of the report, but the last minute clearance is all that is necessary.

On the financial side, we are working with the Commission created by the Governors of New York, New Jersey, and Connecticut, with the fiscal problems of mass transportation programs for the entire metropolitan region. This group is working under the Chairmanship of Mr. David Yunich, and the Port Authority staff is engaged in discussions with Mr. Yunich's staff.

I can assure you that we will continue to work with the fullest dedication and diligence in connection with these studies, and with the implementation of the projects themselves, to the limit of our fiscal and legal resources.

Now, as to payments, finally, to municipalities, which is also on the agenda of these hearings. Certain proposals recently made to subject the airports, docks and public terminals operated by the Port Authority to full real estate taxes or to a requirement that it pay to the City of New York a portion of terminal rental receipts in lieu of taxes,

would be destructive of the Port Authority's ability to carry out any of the programs we have discussed.

At the outset, I should state that under the Port Compact, the Authority has no power whatsoever to acquire municipally owned property and cannot connect its facilities with local streets, or even make curb cuts without the consent of the municipality. It is, therefore, mandatory that the Authority reach voluntary agreements with the municipalities before proceeding with the construction of its public projects. The two States in this way vested in the municipality concerned complete control of every Port Authority project. This relates very directly to the matter of in-lieu-of tax payments.

The States of New York and New Jersey have agreed again and again that in providing these public facilities the Authority is performing "essential government functions." The two States have, therefore, determined that the Port Authority shall not be required to pay full taxes or assessments upon the properties it devotes to these public purposes.

I have already pointed out that Newark,

LaGuardia and Kennedy Airports are owned by the cities of Newark and New York, and that prior to the time that they asked the Port Authority to take over the responsibility for the continuing financing and operation, they had been operated by the two cities at very large annual deficits which had to be supported by the taxpayer. I have also pointed out that they are operated under agreements between the Port Authority and the cities, under which they have received, in the case of the City of New York, some \$38 million over the past six years, and in the case of the City of Newark, almost \$10 million over the past five years.

With respect to the Port Authority's Marine and Bus Terminal property, the statutes authorize and empower the Port Authority to make payments in-lieu-of taxes to municipalities in the Port of New York district upon property acquired and used by the Port Authority for these purposes.

The Authority has also been aware that in the development of its terminal programs, there would be instances in which the balancing of interests would indicate that a municipality should be saved

harmless from any loss of its established tax revenues. As above noted, the Port Authority obtained authorization from the two States as early as 1931 to pay to municipalities in the Port district up to the amounts last paid as taxes on property acquired by the Port Authority for Marine and Bus Terminal purposes. The legislation was not intended, however, to ensure that municipalities would derive tax revenues from such public projects of the two States on the same basis as if they were purely private in purpose and operation.

Furthermore, these facilities -- docks and bus terminals -- are public facilities which, in other cities, are provided by the municipality itself, and which, far from becoming a source of tax return to the municipality are actually a tax drain.

The fact is that the Authority would not be able to carry out the programs for which the State has directed, if they had to do so in the face of full real estate taxes. A most dramatic illustration of this is provided by the construction of our modern docks along miles of the Brooklyn waterfront. Prior to 1956, most of these properties were owned by the New York Dock Company. They were occupied by 24

obsolete and dilapidated wooden piers, many of which were empty. The New York Dock Company was a prosperous concern, but it could not reconstruct the piers because no shipping companies or stevedores could possibly have afforded the rentals the company would have had to charge if the dock company had had to include full taxes on new or rebuilt piers in their rental rates. As a matter of fact, the rentals the Port Authority has to charge on these piers today to carry their capital costs are probably the highest rental charges of any piers in the world. The Authority purchased the piers from the New York Dock Company, tore down the old piers and constructed modern cargo-handling facilities. We pay the City the full amount of the taxes paid by the New York Dock Company on the old piers which is approximately \$1 million a year, and I might also note that the City has no tax equivalent way whatsoever in its rental charges for city piers.

In the case of Newark, Kennedy or LaGuardia Airports, I have already described the very substantial rental payments that the Port Authority makes to the cities of Newark and New York. You will recall

that the cities own the airports and that the Port Authority operates them under agreements that provide for a progressively increasing 50 percent, 60 percent and 75 percent sharing of net revenues, which larger proportions are going to the State.

New York and New Jersey's pier and dock and airport programs are unique in this country and the world from the standpoint that they produce substantial contributions to the treasuries of the Port district municipalities. The pattern elsewhere is that the municipalities are forced to provide annual supporting subsidies out of tax revenues to support their dock and airport capital and operating programs.

The public agencies of practically all other American ports and airports have to receive substantial subsidies from their State, city or county. Typically, the Port of Baltimore receives an annual subsidy of about \$6 million, paid by the taxpayers. The Ports of Hampton Roads, Virginia, are subsidized in the amount of over \$5 million a year; the Port of Philadelphia has to be subsidized by the taxpayers to the extent of \$1,200,000; and

the Port of New Orleans has to be provided with a \$1 million annual subsidy as well as a special outright State grant of \$31 million last year for new pier construction.

The Port of Rotterdam, although it is the world's busiest port, nevertheless for the period 1964-68 accumulated a \$20 million operating deficit which was absorbed by the municipality of Rotterdam.

Hamburg, the largest of the German ports, absorbs a \$14 million deficit annually. The Paris airports also have to be subsidized by the taxpayers, as indicated from their latest report, in the amount of \$3.8 million. Likewise, Dulles International and Washington National Airports incurred deficits totalling \$2.2 million in 1970, which were picked up by the Federal government.

In contrast to these municipal subsidies required by Ports and Airports across the country and around the world, I am enclosing a chart showing the payments made by the Port Authority to Port district municipalities, and that indicates the payments over the last six years, I think it is.

In the last six years, it is to the sum of

\$65 million. That is in very sharp contrast to the practice elsewhere in the country, and around the world.

In closing, I wish to reiterate that we will answer any questions, and I should like to note that whatever success that our agency has achieved, it is due in large measure to the caliber and dedication of the Commissioners who have served on its Board since its creation. It has been a great personal privilege for me, throughout a lifetime, to have served such distinguished public officials as a member of the staff.

Thank you, Mr. Chairman.

CHAIRMAN WILSON: Mr. Tobin, how long have you been Executive Director of the Port of New York Authority? How many years?

MR. TOBIN: About 28 years.

CHAIRMAN WILSON: Now, in this period of time, the Port of New York Authority has, I would say, has come under quite a bit of criticism?

MR. TOBIN: Yes.

CHAIRMAN WILSON: Why do you think that the Port of New York Authority has come under that

criticism from both the States of New York and New Jersey and newspapers and magazines?

MR. TOBIN: I can speculate. I have my own ideas, and I don't think they would be very enlightened, and they might not be very polite.

CHAIRMAN WILSON: I would like an answer to that, if you would, please.

MR. TOBIN: I couldn't give you an answer to that.

Senator Jones has said that every public agency that he has known through a lifetime of public work has been subject, in a democratic society, to all sorts of criticism.

CHAIRMAN WILSON: In your statement, it seems that there has been close cooperation between the States of New Jersey and New York, and the Port of New York Authority, along with the Governors. As you know, we were going to have a hearing, this Commission, in New Jersey, and it was in February of 1970, and that was postponed because we had the election of a new Governor, and it was Governor Cahill, and I decided to postpone the hearings because he wanted to have an opportunity to work

with the Commission.

Now, I am sure that you are familiar with the speech that the Commissioner -- that the Governor delivered in Washington, and I would just like to read this excerpt.

"It is against this background that I now direct my attention, and your attention, to the major untapped transportation resource of our State, the misnamed 'Port of New York Authority.' I have enjoyed a cordial and friendly relationship with the Commissioner and staff of this exceptional bi-State agency. I intend to continue this cordial relationship, and will always continue my cooperation and support of many of their laudatory objectives. This relationship, however, will have to be able to stand the strain of a much aggressive, determined and stubborn approach to the failure of the Port Authority to respond in the area of New Jersey's transportation crisis."

Now, the Governor served over a year in office in New Jersey, and if there is this cooperation, why would the Governor of the State of New Jersey have to issue a statement of that nature?

MR. TOBIN: I can only say that very shortly after the statement, as I have quoted in here on February 11th, the Commissioner and the Authority, the Commissioners adopted a program and directed the staff on that program to cooperate in every way with Governor Cahill in trying to reach all of the objectives that we could reach within the limit of our fiscal and legal powers.

CHAIRMAN WILSON: You would say that that was just coincidental, that you have now undertaken these projects, and the studies, and so forth, that you were planning to undertake these studies all along, and that this more or less much aggressive, and determined, stubborn policy by the State of New Jersey did not have anything to do with changing this attitude, or that you had planned more or less to undertake these studies on your own?

MR. TOBIN: As you will see from the Inter-Agency Task Force report that was released -- when it is released, I hope this week, many such projects were under very great consideration by the Inter-Agency Task Force since last March, since March a year ago, when the Task Force was named.

Dr. Conan, and Commissioner Kohl, and I have met regularly through the last year in the formulation of this program, and have actually met again last week, as a matter of fact, and so these general plans have been moving forward. They are not general plans but are taking effect over a long time.

I would guess that when the two States are able to work out the 48th Street tunnel project and things of that type, that we are talking about a \$1 billion to \$1.5 billion project, and the States way, way back planned on this, and discussed the fact of going through the Palisades, and we must solve the problems of maybe a tunnel under the Hudson, and it involves a new type of modern Pennsylvania terminal, and it is not a simple matter.

That type of project, and other projects, of the Inter-Agency Task Force, have been under study through the past years, and since Governor Cahill was elected, and there was a tremendous amount of work being put on it, and particularly on the staff of the Port Authority.

CHAIRMAN WILSON: Were you undertaking

studies before the election of Governor Cahill, as far as mass transportation?

MR. TOBIN: Yes, we were. We were very active on it.

CHAIRMAN WILSON: And as far as these studies were concerned, did you expect to release them to the public, and then begin to seek help from the States of New Jersey and New York, as far as developing these mass transportation plans?

MR. TOBIN: Yes, whenever they become definitive and real enough to do so. We just don't issue press releases for the purpose of issuing press releases. When we issue a project statement, you can be assured that there is something real about it.

CHAIRMAN WILSON: What bothers me as a legislator from New Jersey, and as Chairman of this Commission, is the fact that when it comes to mass transportation I don't think that the Port Authority is really that anxious to get involved, particularly, one, the covenant passed in 1962, and we will not go into details because I am sure we know the information concerning that, but it seems that there has to

always be a get-tough policy or an aggressive stand, or a little bit of a push to get the Port Authority involved in mass transportation, and as a legislator, this concerns me.

MR. TOBIN: We are handling today some 400,000 people a day in mass transportation, and we have put some \$250 million into it, and I don't think that that sounds like a stand-still policy, and you created a revenue bond agency who has no power in the world to do anything, except with the facilities that can be self-supporting, and it is an absolute contradiction in terms to talk about \$300 million in deficits from mass transportation, and then say put them on a self-supporting basis, and it can't be done by us or anybody else in the world.

The two States have approached it in an intelligent, realistic way that it has to be approached. It is just as necessary, as Dr. Ronan said, it is just as necessary a public service as police, and fire, and sanitation and education.

CHAIRMAN WILSON: As far as your revenues are concerned, 42 percent of your revenues back in

1967 came from your bridges and tunnels, which are bus-oriented?

MR. TOBIN: I don't remember the facilities but I am in complete accord.

CHAIRMAN WILSON: 42 percent, so that these tolls and so forth have been used to sustain the Port Authority, have they not?

MR. TOBIN: They have been used to sustain such deficit facilities as PATH.

CHAIRMAN WILSON: And also sustain facilities such as your World Trade Headquarters, and your various Trade Centers throughout the world? How many offices do you have as far as World Trade is concerned?

MR. TOBIN: Six or seven. We have offices in London, Tokyo, in promoting a flow of trade through the Port, and Zurich, and San Juan, Chicago, Cleveland, and Detroit -- Pittsburgh.

CHAIRMAN WILSON: Mr. Tobin, as Executive Director of the Port of New York Authority, what do you think is the role of the Port of New York Authority today, as far as the metropolitan area is concerned?

MR. TOBIN: To continue to provide, as they have over the past 50 years, public terminal transportation facilities that are basic and fundamental insofar as they can be presented, and developed and financed and constructed and operated on an overall self-supporting basis, and if the Legislatures wish to change the nature of the agency, give us the same type of State resources and back-up as the Metropolitan Transportation Authority has, and has to have, and we are ready to take on anything that you will give us the tools to work with, and be delighted. We will work within the public field, and it is just as much fun for us to run choo-choos as airports.

CHAIRMAN WILSON: As the Executive Director, where do you feel that the emphasis should be by your agency at this time, and in the future?

MR. TOBIN: Well, I think all of these things are important, extremely important. I think it is important that as well as a man must have a way to get to work, he must have work to

get it, and the docks and the piers and the airports just support people from New Jersey, and New York by the hundreds and hundreds of thousands, or millions, when you consider the way it applies to the whole economy.

There is nothing -- the docks are critically important to the area, and the airports are critically important to the economy of this area and the World Trade Center is critically important to the future of this area, and mass transit is important to the future of this area.

They all are interdependent, and some can be applied on a self-supporting basis, without asking the taxpayers to take any part in it, and some can't, and like fire and education and sanitation, and mass transit, you must have resources from the general taxpayers. They do all over the world.

CHAIRMAN WILSON: Well, I have just one little statement on that and I will let someone else ask another question.

Mr. Tobin, you and I have had several conversations and I will be quite frank that I have

stated that I am very confident that the Port of New York Authority, if they feel so moved, can run any operation effectively, and this I have to make as a public statement.

MR. TOBIN: Thank you.

CHAIRMAN WILSON: In turn, I hope that we can get you involved, maybe in an area that I think that all of the citizens in the metropolitan area are quite concerned with, and that is in mass transportation. The only thing is that this morning when I was riding over on PATH, it is the first time that I have been on it since you took it over.

MR. TOBIN: I hope you had a pleasant trip.

CHAIRMAN WILSON: When I asked how long it would take, they said 19 minutes, but it took me 39 minutes. It was the first time, but I was thinking as we rode over --

ASSEMBLYMAN STEINGUT: That is a good comparison between the Long Island Railroad.

CHAIRMAN WILSON: It would be wonderful if the Port Authority was more in this area, because

there is a tremendous gain. My legal counsel and I rode on that as youngsters, and it is apparently why we want to get involved with it, and I feel that the philosophy of a lot of people in New Jersey and other areas is the same.

MR. TOBIN: Just give us the resources and the tools, and we would be delighted.

CHAIRMAN KELLY: I understand that he was on the wrong train. Assemblyman Kremer?

ASSEMBLYMAN KREMER: Mr. Tobin, with respect to your remarks, I am trying to pose a practical question as a legislator: It seems that the way the law is structured today, that you are governed by, that no matter what the circumstance is, and no matter what the project you might be interested in taking over in mass transportation in the New York area, being things are really so bad in the New Jersey area, and the New York area that within the framework of that existing legislation, it appears that you can't get involved in any kind of the areas which I think would affect the good and welfare of a larger number of people, and wouldn't you say, sir, that from your standpoint,

first of all, do you endorse a need for change in the current legislation which you operate under to allow you to go into other areas, and do you visualize your functions in serving the people of both States to do that?

MR. TOBIN: No, I think if you tamper with that clause that you will destroy the complete usefulness of the Port Authority in mass transportation. That is the last bond that we will sell. On the other hand, I don't agree, with all due respect, Assemblyman, that there is not anything that we can do. There are many things that we can do, and are trying hard to do.

Typically, I said in the statement, that the 48th Street Terminal, for a self-supporting agency, would cost from a billion to a billion and a half, and it has been around a billion and a half, I am sure, and I would think that obviously that if you just take the thing and stop there, I don't see how any self-supporting agency can do it, but you don't have to stop there. We are moving into an area where there are tremendous Federal subsidies of sound projects needed by the area, and also

within the scope of that facility, we have to have terminals, very extensive terminals, and for the Erie-Lackawanna Railroad, and they come into the main tracks of the Pennsylvania, where they might come together, and we need that, and it is entirely possible that that terminal extension can be developed on a self-supporting basis.

It is entirely possible that the massive new terminal in New York and the use of the air rights and things like that, that we have done in order to make things that look like losers, to make them winners and turn them into do-able projects, and it is a thing between State assistance and Federal assistance, and there are sections that can be made to pay for themselves, and there can be user charges on the passengers that go through the tunnels, and there are such user charges some places.

There are in some commuter railroads in New Jersey, some can function, and there are all sorts of possibilities of things that can be done, and I am not defeating about this at all.

I have no doubt that a satisfactory arrangement can be worked out concerning the

Pennsylvania Railroad, and I see no impingement on that arrangement such as Governor Cahill's plan to take over the station and rehabilitate it, and it can be done.

I think that it is entirely possible to work out an arrangement under which the rail connections to Kennedy can be done.

In the first place, again, it is a very attractive project for the public support as the Federal bureaucrats look at those things, and furthermore, there are the resources of the State of New York bond issue, and then finally it is altogether possible that we see how far we can go on the basis of the revenues, and we have to consider the employees and the passengers who use that rail, and proper arrangements could be made, and it is entirely possible that we could do that on a self-supporting basis.

I will give you an example, and that example has been used here: Let us suppose that the revenue to be derived from that line, from the Pennsylvania rail to Kennedy Airport were pledged as first priority to the bondholders, and that was

done in 1963 and 1964 when they issued \$60 million or \$70 million of subway bonds, that the New York City Transit Authority bonds were used and they pledged the gross revenue back of the bonds, and they were salable, and it is entirely possible, and Dr. Ronan and I are working on that to pledge the gross revenues first to the bonds, and then you will have a salable bond.

That system, I should remind you, would cost something like -- in excess of \$250 million.

ASSEMBLYMAN KREMER: Are you committed, or is the Port of New York Authority committed to supporting that JFK rail link?

MR. TOBIN: No, only if it can be done on such a basis that I am outlining to you, that it is legally and fiscally do-able, but there are certain ways to approach it.

ASSEMBLYMAN KREMER: Do you foresee that the Legislature of both States mandate upon the Authority that they carry it out this year?

MR. TOBIN: No, that would be unconstitutional.

ASSEMBLYMAN KREMER: I find it inconsistent,

because here you are commenting about the statute and your impairment to the obligations of your bondholders, and if that restricts you, and the Legislature shouldn't tamper with it, then you talk about other projects and the feasibility of Federal subsidies, and other types of funds coming in to keep these projects going.

As a practical man, no matter what you get into in the future, which has to do with the good and welfare of all States, it is going to involve Federal subsidies but it is not going to fit within the framework of that particular statute, and I don't see how you can embark on anything of the nature that you are talking about, other than the limited projects that you talk about today, without going into that study which you refer to as inviolate?

MR. TOBIN: Well, the problem is what you can do, realistically, from the market standpoint with a revenue bond agency, which you don't pledge one cent of taxes to, and don't give one bit of State credit to, and you don't do the job that you do in the case of the Metropolitan Transit Authority, by recourse to State funds, and you -- I mean the

Legislatures over the years -- you have laid down the ground rules for a self-supporting agency, and these ground rules are what they can do as a self-supporting agency. In other words, what can they do and still sell bonds, and I am trying to tell you the type of thing that they can do, and when you ask me about something they don't do, and the two things, I think, are perfectly reconcilable, and realistic, and there are great things that the agency can do, and there are things it can't do, because it has to be a revenue bond agency.

Give us the power to call upon the two States, as the MTA has, and many other agencies have in New York, to pick up the deficits that we can't pick up, beyond the self-support, and we will have no problems.

I think we have the confidence and the municipalities know that the covenant permits that as a possibility. Give us the tools, and we will do the job, but don't tell us that we can operate a mass transit system with a \$300 million a year deficit on a self-supporting basis, and we can't, and God can't.

ASSEMBLYMAN KREMER: I think you cut this

down the middle and you are talking about the concept that the Port should take over everything, and I don't think that anybody has ever suggested that, and maybe that is the sum total of all public officials, but you keep -- you keep talking in terms of that.

I think, realistically, it is conceivable that you, with the tremendous financial wherewithal that the Port possesses, should consider on a slow, progressive basis, the acquisition or operation of certain functions within the State of Jersey, or the State of New York, which are not making money, but desperately need your expertise and capital, and all of the things that you can throw behind it. Forget about the \$300 million, but think about taking over something like that, and you can help both States.

MR. TOBIN: I have told you of the things that could be done, and in specificity, and there are also things that we can't do. I think we are talking about the same things. You are saying, "Will we try harder?" We are trying harder.

ASSEMBLYMAN KREMER: I would like to see the day come, and I am a neophyte as far as the Port is concerned, and we spent some of our time criticizing

the MTA and the Long Island Railroad, but in relationship to transportation in the two States you react, but you don't act. When the Governors of either State suggest, you are willing to consider, but I think that with the expertise that you have, and the financial ability that you have, you have reached a state of maturity where you can be innovative and do for the two States what other State agencies cannot do.

MR. TOBIN: I think we are trying to do that.

CHAIRMAN KELLY: Does it come down to the fact that in 1962, that PATH that was passed in 1962, that was within reason kept you out of mass transportation unless it is a paying proposition, is that it?

MR. TOBIN: No. If it is self-supporting, yes, Mr. Chairman, if that is what you meant, but there are other areas. If there are resources of Federal aid, or resources of State aid, or things like that.

CHAIRMAN KELLY: My question is: Supposing we take that same law of 1962, and we would amend it to put down the States of New Jersey and New York

behind that, in case we wanted you to take over something with a deficit, could that be done?

MR. TOBIN: Yes.

CHAIRMAN KELLY: But not under the present law?

MR. TOBIN: That is right. Give us the same power of the MTA, and we will bring to the job, with all undue modesty, expert help.

CHAIRMAN KELLY: Would you then bring in your department that would be willing to take over any phase of mass transportation?

MR. TOBIN: We would not only be willing, but delighted, and it would be a lot of fun.

SENATOR DEL TUFO : And you would not oppose any legislation to permit that change, or modify the 1962 statute? You would not oppose it?

MR. TOBIN: Oh, we would, Senator, we would have to. Without that clause you can't finance at all, and that is what the Legislature recognized, sir, in 1962. The Legislature was convinced, overwhelmingly, and the two Governors were convinced that it was utterly impossible to sell, remember, even the bonds for the Hudson and Manhattan, itself, without such a

clause.

SENATOR DEL TUFFO: How about the modification that the Assemblyman just suggested?

CHAIRMAN WILSON: We suggested a change in the 1962 law, and Senator Del Tuffo asked if you would go along.

SENATOR DEL TUFFO: And would you sit still for it?

MR. TOBIN: Would we support it?

CHAIRMAN KELLY: So there is no confusion, would you please ask your questions through the Chair, please.

ASSEMBLYMAN REILLY: Mr. Tobin, there has been a great deal of talk recently about airports. What is the airport going to do with reference to a jetport in the New York City area?

MR. TOBIN: We are pretty well stopped. We have tried awfully hard for the last eleven years, and we still have the same thinking, that it is absolutely essential for the economy, and it has to be built, and we have tried, but in a democratic society where people have stated that they didn't want to have the airport around their neighborhoods and

in the old phrase, "Everybody wants it, but nobody wants it there."

So, as you know, we have tried even to extend the runways at Kennedy into the Bay, and that would have not been a substitute for a fourth airport but it would have helped from the airport standpoint, and it was obviously unthinkable to go ahead with that, unless you could work out such runways in balance with recreational and environmental considerations, and so we got the most prestigious group of scientists that we could to study that, and it was important to do that, and if the study did come out that you could balance it, whether the public disagreed or didn't, it was an absolutely unbiased study, but they did come out with the answer that you couldn't do that which we hoped that you could be able to do, and that ended that.

There was nothing further to talk about, and so we go on, trying to increase the traffic capacity of the existing airports. We are putting -- well, we are a long way into putting a lot more money into Newark Airport, and more going into Kennedy, and we will have all sort sof noise rules and

regulations, which airlines sometimes don't like, and we just go on to try to maximize the traffic of those airports, and I can't stress enough that airports and air traffic is basic to the economy of this area, particularly an area such as this, where our local livelihood depends on it being an American center of management and finance, and the work of New York and northern New Jersey just requires people in the air, all across the United States, all of the time.

We are just as seriously being harmed in that respect, and flights are being diverted from here, and we have limitations on peak hour flights and we have the general aviation down as far as we think we can restrict them, and actually 75 percent of what is called general aviation, anyway, part of the passenger service is essential, and they use off-duty runways, so that they are not in the way of the traffic of the principals.

ASSEMBLYMAN REILLY: Have you ever considered building the fourth airport in Long Island Sound, off the shoals?

MR. TOBIN: Yes, we have considered it and

studied it and came up that it was not feasible, either fiscally or from an operational standpoint.

ASSEMBLYMAN REILLY: Was that in conjunction with a bridge spanning the Sound?

MR. TOBIN: Yes.

ASSEMBLYMAN REILLY: And does this report cover it?

MR. TOBIN: No, but I think it is available and I think we have sent that report out. I should say that, of course, and I mentioned it in my statement, that we are gung-ho -- well, we are trying to do everything to urge a fourth airport, and we are ready to go on that when the Legislature turns us loose to do so, and we think that the equipment is here, and we think that we can get proper STOLports developed here that will be able to bring tremendous business in the area, and it will help. It is a difficult situation, but we will continue to have such terrible congestion at Kennedy.

SENATOR RINALDO: I am somewhat confused. First, I thought you said in answer to a question that you didn't want the statute changed that would permit the expenditure of great funds for mass transportation,

and then it appeared that you said that you wouldn't actively oppose it or lobby against it?

MR. TOBIN: We would have to oppose, in the interest of the bondholders, anything that impaired that, but that is not what the Chairman asked. He proposed a type of statute that would not impair that clause at all, I think.

SENATOR RINALDO: I am personally in favor of impairing the clause, but I wanted to be clear on the question, and the answer that you had given.

I also noted that Assemblyman Wilson referred to Governor Cahill's criticism of the Port of New York Authority's involvement in mass transportation in Washington.

A few days later, I was surprised, but also pleasantly surprised, by your quick response in which you stated that you had directed the staff to conduct certain studies and you repeated the areas of study today in your testimony. You spoke about the new rail terminal under the Hudson River, and the rail access to New York airports, and acquisition and management of the Penn Central Railroad Station in Newark, and the STOLport planning, which is all very

good, but what I would like to know, as Executive Director could you give the Commission some target date for the completion of these studies?

MR. TOBIN: No, but I would say that having in mind their scope and size, that in the case of the 48th Street tunnel, if all of the forces are working on that as hard as they could, you could do it in two years.

SENATOR RINALDO: The reason I asked the question is that in some quarters there have been some accusations by certain people that perhaps the Port of New York Authority, because of the apparent reluctance to get into mass transportation, would exercise some foot-dragging, and I wouldn't want you to think that I felt that way, and I am glad that you said it would take two years.

I would hope, however, that because of studies taken in the past, and studies that are already on hand, which you said that you have already taken, that maybe we can just speed up this two-year target date.

MR. TOBIN: I am only talking about the 48th Street tunnel. I would have given you a much

faster period of time on some of the others.

SENATOR RINALDO: We can get closer on some of these?

MR. TOBIN: Not on the 48th Street tunnel. We have done intensive work for the past year on that, and if we hadn't been doing that work, I wouldn't have said two years, but longer.

Mr. Lucas, how long have you been working on that?

MR. LUCAS: About a year and a half.

SENATOR RINALDO: That is the 48th Street tunnel. How about the rail access to Kennedy Airport?

MR. TOBIN: We have been working on that, as Senator Del Tufo knows, for many years, and we have a concrete plan on that, that we are in the course of moving forward on. As a matter of fact, this last week we retained private enterprise to do the engineering consultant work on the hardware on the inter-terminal connector that would then go along through McClelland Street in Elizabeth to the main line of the Penn Central.

The track passage is already constructed in the building, and as far as we are concerned, we

are moving along those lines, at the same time keeping open what the Governor asked us to do, the possibility that there still might be some possibilities in a PATH extension in some way, or a Jersey Central extension. We are not optimistic on some of the PATH, we are not optimistic, and we think that the other way would do a better job, but that is in the process.

SENATOR RINALDO: That is in the process and you also brought into the area of payment in lieu of taxes to municipalities, and could you discuss that, and sometimes I feel very embarrassed, because you mentioned Newark, and New York, and I represent Union County, and you didn't mention the great City of Elizabeth.

MR. TOBIN: Mayor Dunn is here.

SENATOR RINALDO: I feel compelled, on that basis, to ask you a few questions about Elizabeth. I must say that Elizabeth, which has a great part of its land taken over by the Port, has land and buildings, for example, that the Port uses valued at over \$90 million in assessed valuation, which is 50 percent of true value. This is all located within

the confines of the City of Elizabeth.

Since 1959 it has been my understanding that the City of Elizabeth only receives \$36,217.07 in lieu of taxes, and payments in lieu of taxes for this.

Now, in view of the urban crisis, which I am sure that you are aware of, and in view of the problems that every large city has, and in view of the tax burden that the Port places upon all of the taxpayers within the City of Elizabeth, why cannot this be renegotiated on a more equitable and sensible basis?

MR. TOBIN: Well, it is a very -- I agree with you -- it is a very difficult situation, the Elizabeth situation, and it bothers us, as you might be surprised to hear, as much as it bothers you.

You started out with a totally different situation than the Newark situation. They had a port, and it was a wreck, but they had one. They had an airport, and that is in trouble, too, financially, but they had those facilities, and they put considerable millions of dollars into them.

So, we were able to work out an arrangement:

with them that had nothing to do with the in-lieu-of taxpayers at all, and it was a partnership arrangement for the development of the airport and the placing into that airport of what you now know as some \$400 million, in addition to what Newark had in there.

So you were able there to develop an agreement which was completely outside of the in-lieu-of-taxes.

Now, look at the situation in Elizabeth where we developed port areas where there was nothing. They were salt marshes, and most of them were flooded in high tide, and they had never been used by man, and they returned almost nothing to the City of Elizabeth, and I would say, and I don't know why, but the properties were under-assessed, and the limits to which we could build there, under that statute, were the limits of those types of taxpayers or assignments.

I pointed out the fact before that practically every great city in the world that wants ports or airports has to subsidize them. In effect, Elizabeth has gotten a great port area with all of

its economic benefits with employment and whatnot, without having it subsidized, and also where we bought acreage, and that marshland over there for \$3,000 an acre when we bought it, and I don't know if anybody from the Real Estate Department is here, and the last prices were up toward \$50,000 or \$60,000 an acre, and the acres all around it -- well, Elizabeth is benefitting by the increase in the tax ratable land available because of the fact that the port is there.

Now, we have worked with Mayor Dunn and we have enjoyed working with him, and he is a very reasonable fellow and he suffers from this problem, too, and we have tried to work out everything, and a fire house, and the building of roads, and everything that we can work out in this situation, and it was unsatisfactory, but there are, as I have indicated, there are bright and real sides to it, too, and it isn't all black, and the increase in your ratables and not just where the port is but in the entire area around there, since we started work in 1956, increases of from \$3,000 up to \$50,000 or \$60,000 in your tax ratables, and all sorts of areas around it and you

have a considerable benefit.

SENATOR RINALDO: It is also a joy to ask you a question because of the depth in which you go into it, and the answers are received, but you know, I personally feel that the City of Elizabeth does subsidize it to an extent. The City of Elizabeth, for example, provides police protection, and fire fighting protection, and the City of Elizabeth has to provide, perhaps, as a result of the expansion of the Port of New York Authority into the confines of the City of Elizabeth, another fire house, and access roads, and these are the taxpayers that are subsidizing this.

So, once again, to get back to my initial question: Are you, and this is an easy one, and you can answer it in a couple of words: Are you, or are you not, personally in favor of renegotiating that contract so that the City of Elizabeth and the taxpayers receive a more equitable return?

MR. TOBIN: We are always open to discussion of that contract, and I might say, incidentally, that I don't remember when the Police Department of the City of Elizabeth came on the

Port or other areas, because we have our own police department, and we have available our own fire department, too, but we are cooperative, and I suppose since 1956 there may have been two or three times, or more, when the fire department came on the premises, but we are always willing to discuss that with a municipality.

SENATOR RINALDO: What fire-fighting provisions have been made for the fuel storage depots in Elizabeth?

MR. TOBIN: Our emergency fire-fighting equipment at the airport was built, and designed around the protection of those drums.

SENATOR RINALDO: My final question: Would you be opposed to the payment of -- or I should refrain and strike that question. Do you not think that since the City of Elizabeth has, on occasion, and I am sure next week when Mayor Dunn's testimony comes up he will document it, provide fire protection, and I know that they have provided police protection, and we will document it, and I will leave it to the City officials of Elizabeth to document it next week, and don't you think it

would be fair for the Port of New York Authority to render some payment to the City of Elizabeth for these services?

MR. TOBIN: Senator, we are always willing to discuss it, and fairly, and we have discussed this same subject with Mayor Dunn and will have, and will continue to do it, and it will be discussed as fair as we can, with a deep understanding of his problems.

SENATOR RINALDO: One final step: I have introduced a bill to compel you to do that. Would your group actively oppose this bill, or would you support it?

MR. TOBIN: We would oppose it. We will negotiate it, and leave it that way.

SENATOR RINALDO: I feel so badly because you have opposed most of my bills.

CHAIRMAN KELLY: Next is Assemblyman Landes.

ASSEMBLYMAN LANDES: I have just a few brief technical questions. Apparently with respect to that general reserve fund, and I gather from what I hear it amounts to 10 percent of the bonded indebtedness, and I think if I understand correctly if what you said to me, that/you want to go to a mass

transportation acquisition you must have the deficit projected or estimated at above 10 percent of the general reserve fund which is then only 1 percent of your bonding indebtedness, is that correct?

MR. TOBIN: That is generally correct, yes.

ASSEMBLYMAN LANDES: Do you feel that in the light of the directives of the Port Authority and the way revenues are increasing, that 1 percent of the bonded indebtedness in today's cost of money is a reasonable limitation, not taking over, for example, the whole \$300 million of deficit, but don't you think that 2 or 3 percent of the bonded indebtedness might affect this other situation?

MR. TOBIN: That was not the judgment at the time, and I don't think it is the judgment today.

ASSEMBLYMAN LANDES: I don't know of any other institution that borrows money that would be troubled with so good a net profit that you have, over \$115 million a year, as I gather, with a minimum bonded indebtedness for a deficit operation that is as low as I gather may be \$15 million, or \$11 million. You could double that, or triple that, and still not create any deficit in your operation. Would you favor

such a thing?

MR. TOBIN: We are on our way to doing that, because the deficit in the past, last year it was \$13 million, and it is rising and it will continue to rise every year. It will go up into amounts that I hate to think about. We must support that deficit, and that is always in our thinking.

When you tell the public that you will add to that deficit, I think that the deficit will go up to \$30 million a year, and when you say to take over another deficit, that is where you get into serious trouble, and that is where you get into the people who you have to sell the bonds to, and they are the people that the Comptroller and I are talking about today.

ASSEMBLYMAN LANDES: But you have increased your bonded indebtedness less than you might have if you had long-term financing, and lessening your general reserve, and lessening your permitted deficit in mass transportation, and while on the one hand that you lessen it, even with the permitted deficit, within the permitted deficit in the past, your profit goes up every year, despite the fact that your deficit

is going up, your net profit is going up and when one relates the permitted deficit on the mass transportation to your operating profit, it would be possible to -- rather than to take your bonded indebtedness as it is, it would be possible for you to take on several things, as Mr. Kremer said, and it would be possible for you to take on several additional mass transportation ventures, and still, I think, be with a very conservative borrower.

When you went to borrow for the purpose of the Long Island Railroad, a subject dear to my heart, and I am from Long Island, actually what you did there, and you listed what you were involved in with mass transportation, and you borrowed on the full basis of the credit of the State.

MR. TOBIN: That is the only way you could do it.

ASSEMBLYMAN LANDES: If the State in giving you the full faith and credit behind the bonds that you sold, guaranteed the rentals to be paid by the railroads, or did they say that if the rentals are not paid and your revenues are insufficient, then and only then --

MR. TOBIN: Then and only then. We have never had to call that check.

ASSEMBLYMAN LANDES: But if the railroads do not pay their rentals, that despite the full faith and credit will be listed as a deficit -- listed as part of the deficit that would be the 1 percent of the bonded --

MR. TOBIN: No, there is no effect on that.

ASSEMBLYMAN LANDES: I see.

Just one final point, because I know that others have questions, too: This list that you have given me in payment in lieu of taxes, as I thought you said, in the amount of \$65 million, but it is here only \$17 million. The vast bulk is rentals, and not in lieu of anything else, and that is \$47 million, and rental and property that you didn't have to borrow money to buy.

MR. TOBIN: That is payment to the municipalities.

ASSEMBLYMAN LANDES: But not in lieu of taxes. Only a minor portion is in lieu of taxes, and most of them are rentals for property that you

didn't have to borrow to buy?

MR. TOBIN: No, we borrowed all of the money involved in this.

ASSEMBLYMAN LANDES: You are paying \$35 million for rental -- for the rental for LaGuardia and JFK?

MR. TOBIN: We borrowed all of the money, and the cities get half of the net revenues.

ASSEMBLYMAN LANDES: But they don't own that?

MR. TOBIN: They didn't put the money into it, we did.

ASSEMBLYMAN LANDES: You didn't have to buy the land?

MR. TOBIN: That is right, but the city has in those two airports, they have \$100 million, and we have put in since that time, \$650 million, and we have got \$200 million ahead of us, or more. So we put in all of the money, out of the \$700 million we put in all of the money, and the city put in \$100 million to our \$600 million, or \$700 million, and the city gets 50 percent of the net. I think that is a very reasonable deal.

ASSEMBLYMAN LANDES: Frankly, if you think of

it as a rental, not putting in just that money, but in all of the extra property --

MR. TOBIN: I counted that.

ASSEMBLYMAN LANDES: Do you believe that when you say that you were paying for the Port in Brooklyn in payment in lieu of taxes, that it was taxed at the level then paid in 1956, and do you believe that on the basis of an increment this year to reflect the decline of the value of the dollar in this inflationary services, considering the taxes paid?

MR. TOBIN: Well, in the Brooklyn piers, I think that is an eminently fair proposal. The city operates the piers and charges no rent, and there is no tax increment in it. On the contrary, here they have got new piers and the city and the port and people get brand new piers, and modern freight piers at a cost of \$110 million, something like that, and the city is not losing any of the taxes that it had, but as I said, Assemblyman, actually the amount that we paid the city on those piers, what it comes out to is \$25,000 a berth, and that is \$50,000 a pier, and they rent for \$400,000 or \$500,000 a year, and that is the highest rental, and they have to rent for

that, because that reflects their cost, but we have those taxes on those areas, and if they were to be built on the basis of those taxes, these piers would be empty.

ASSEMBLYMAN LANDES: But if you took the sum and added a sum each year reflecting that same dollar value, in other words, the fact that the dollar that you paid then is really 60 cents today, would that be, in your opinion, inequitable?

MR. TOBIN: You assume that the City piers would do the same thing, and put city taxes on the piers.

ASSEMBLYMAN LANDES: I don't think that you should be concerned with that. Your piers are superior, and maybe a little better located, and with the help of our user toll revenues on bridges --

MR. TOBIN: I know it is very important to the question that you are asking, but they are competitive, and while they are old piers, the City constantly reduces the rent, and they are competitive and we are getting along well, and trying to do the same job.

ASSEMBLYMAN LANDES: You touched for a

minute on doubling the tolls, and do you know what would happen to your revenue if you doubled the toll?

MR. TOBIN: I don't think they would go down much. I don't think we would lose many vehicles.

The Delaware River Bridge recently, they did, and I don't know if they doubled them, but they increased them, and the Federal government turned them back from the amounts that they wanted, and other deficits that the port had, and the report that I have would be that the operations were about the same.

My judgment is that you wouldn't, other than raising holy political hell, if you just looked at it from the traffic standpoint, it wouldn't affect much.

ASSEMBLYMAN LANDES: What kind of revenue would you get? If you doubled them, how much would you get?

MR. TOBIN: We are talking here between \$50 million and \$70 million, and that is what you want to know?

ASSEMBLYMAN LANDES: Thank you very much.

SENATOR DEL TUFO : Mr. Tobin, you have told me in my community, and you have been very cooperative--

MR. TOBIN: Thank you, Senator.

SENATOR DEL TUFO : But at times you have got to put a bombshell under the different agencies to keep doing the good work that they are doing. You stated to me, and the Committee, the Federal Inter-relations Committee, that PATH would not be a good extension to the airport, and now you mentioned that Governor Cahill and you stated that PATH would be considered, or repaired, and is that so, and if reconsidered, would you try and study the PATH connectors or not?

MR. TOBIN: The Governor knows what we are doing on that.

SENATOR DEL TUFO : I would like to know.

MR. TOBIN: I am telling you, Senator, and all that he has said to me, or Commissioner Kohl, is that he knows what we are doing on the connectors, and he knows how we are moving along on it, and he said that we keep the option of PATH open, and we are keeping it open.

SENATOR DEL TUFO : You have stated that PATH might not be considered, because the people who use it would be minuscule?

MR. TOBIN: That is right.

SENATOR DEL TUFO : Now, in a parking facility, if it were put near the airport where it could service all of the northern New Jersey and other parts of New Jersey, wouldn't that dispel the fact that the people that would use it are minuscule, and have you given that any consideration?

MR. TOBIN: The plans for extending the entire terminal connector over to the Pennsylvania Railroad main line include tremendous parking areas for just such purposes as you are mentioning, and we hope that the people from the whole area of New Jersey would drive in that far, and get the Penn Central train at that point.

SENATOR DEL TUFO : Through this line with a PATH connector?

MR. TOBIN: Yes, but it is a direct use parking area. Senator, you will remember I gave you those maps, and on them are great areas of land that is vacant today, that are intended for exactly the purpose that you have in mind.

SENATOR DEL TUFO : We disagreed, and my expert said it would cost \$20 million, and you said it would cost \$60 million.

MR. TOBEN: That was the extension of PATH. We figured that it would cost \$63 million.

SENATOR DEL TUFO: Let me ask you another question, and please, if you can, bring us up to date as to study, and I want to just elaborate on the question: I was told by your people who have been very cooperative, that if the State of New Jersey would give the priority, you would build an extension, and now, have you considered the statement made by Governor Cahill in Washington, as tantamount to stating that there is a priority for the extension?

MR. TOBEN: Well, I didn't at all -- what he wants, and what he is pressing for, is some type of rail connection from Newark Airport, and we are providing, and moving along toward providing that connection, and I didn't understand the Governor, no, Senator, and I don't think he meant that it had to be by an extension of PATH, or an extension of the Jersey Central Railroad.

SENATOR DEL TUFO: The project, between PATH or the Penn Central, you were waiting for an estimate as to priority, and would you take his statement in Washington as being tantamount to telling

you that that project is a priority?

MR. TOBIN: I take it that telling me that the rail connection to Newark Airport is a priority in his mind, and we are trying to provide it through the inter-terminal connection.

SENATOR DEL TUFO : Now, where do we stand now in as far as the building of the extension? Are we still in study?

MR. TOBIN: No, the route for that inter-terminal connection within the terminal area is in construction, and we have retained, just last week, the Kaiser Engineering Company of California to do the definitive studies on the cars, if you will, the trains and the track and the cars.

This is very well and also, Senator, we are in heavy discussion with the Pennsylvania Railroad about the station that we will need over there, which we assume that we will have to build.

SENATOR DEL TUFO : We are now ready to really enter fruition of this?

MR. TOBIN: Yes, we are going to hardware and construction.

ASSEMBLYMAN KOPPELL: I have some more

questions.

MR. PATRICK FALVEY: I would like to note for the record that Assemblyman Koppell is a plaintiff in a lawsuit which was filed against the Port Authority just yesterday, and he is here today and conducting a legislative inquiry, and I am wondering whether the questions on this, what is the disposition?

CHAIRMAN KELLY: Before he makes a statement, since he is involved with a lawsuit, I would think it would be smart if he would get the opinion from the Ethics Committee of the Assembly before he gets himself involved in a question and answer period on this particular subject.

With that in mind, Mr. Koppell.

MR. FALVEY: I wouldn't press on this as much, but we consider the lawsuit to be so frivolous.

ASSEMBLYMAN KOPPELL: I don't understand your ruling. The suit was brought yesterday by a number of people, including a Federal legislator, as well as other taxpayers and it was brought not in any sense in my own behalf, but it was brought in the public interest, and to advance some of the objectives that are the basis for the holding of this hearing

today.

Let me say simply that the question that I am going to ask, these questions, although they may be tangentially related to the subject of the lawsuit, will not dwell on the subject of the lawsuit at all. The questions I intend to ask today are fully pursuant to the mandate of this hearing, and they could, or they will, in no way, the answers will not be used in the lawsuit, and I think that the questions should be evaluated as they pertain to the purposes of this hearing, rather than as they pertain to whatever status I may have outside of this hearing this morning, or this afternoon.

MR. FALVEY: I have two comments: First, I might disagree as to whether the questions were tangentially related, and secondly, I wonder if the stipulation used elsewhere binds this co-plaintiff?

ASSEMBLYMAN LANDES: I understand that you must be familiar with the matter of the litigation, and I must say that as that litigation, I am not familiar with it, but I would accept Mr. Koppell's statement, and it doesn't involve a personal lawsuit for any personal damages, and it is not

necessary to raise an ethics question on the part of a legislator asking questions.

I think it is an attempt to prejudice the questions before he asks them. I resent the notion that we can't share in a taxpayers' suit, not for personal benefit, and then not prosecute questions in the legislative functions in a public agency.

CHAIRMAN KELLY: The only reason I raised the question, he is now questioning one of the party defendants in the stated lawsuit, and I don't want to get involved in this with any legislators.

I have made my thoughts known on the record, and now if you want to go ahead, go ahead, Mr. Koppell. Mr. Tobin can answer under advice of Counsel.

ASSEMBLYMAN KOPPELL: In evaluating highway monies of the Port Authority, would they be available for use in connection with mass transportation, and looking for a moment at that situation, that is the deficit of PATH is already substantial and growing, and is it not true that PATH is part of, and was authorized in connection with a broader authorization concerning the constructing of the

World Trade Center?

MR. TOBIN: No, that is not correct. It happens that the two projects, for purposes of passage only in the Legislatures, joined in one bill, but they are expressly within that statute, the two projects are physically, and in every legal way, separate facilities.

ASSEMBLYMAN KOPPELL: But they were authorized at the same time?

MR. TOBIN: Yes, at the same time. In the bill, you understand it says that they are not to be considered as joint facilities, and they are expressly separate facilities, particularly as concerns their finance.

ASSEMBLYMAN KOPPELL: But the public -- the statement of purposes for which the bill was passed has paragraphs 1, 2, 3, and 4, and those paragraphs relate both to the World Trade Center and to the PATH system, isn't that so?

MR. TOBIN: Yes. It doesn't derogate in any way from what I have said and the two things have nothing to do with those.

ASSEMBLYMAN KOPPELL: But they were passed

at the same time in the Legislature under a joint statement of public policy and it could be interpreted, could it not, that the Legislature viewed that the World Trade Center portion of the project, or the World Trade Center project, if you prefer, would provide sufficient revenues to cover the deficit of the PATH system?

MR. TOBIN: No, it could not. The legislation precisely says to the contrary.

ASSEMBLYMAN KOPPELL: I am not saying whether it does or it does not state whether they -- well, let me say it this way: Are you stating now that you have used monies derived from the World Trade Center for operations?

MR. TOBIN: I am saying that, yes, they flow into the General Reserve Fund of the Authority.

ASSEMBLYMAN KOPPELL: And after that is filled up, you can use excess funds --

MR. TOBIN: From all facilities.

ASSEMBLYMAN KOPPELL: So that money from the Port Authority -- from the World Trade Center could, indeed, flow into PATH through the Reserve fund, to be sure?

MR. TOBIN: As could money from bridges or

tunnels, or airports, or anything else.

ASSEMBLYMAN KOPPELL: And is it not possible that the Legislature when they, indeed, mandated that you take over a rail facility which deficits were projected, might have had in mind that they would, in a sense, cover these deficits, by giving you a very profitable facility to operate?

MR. TOBIN: That is not only completely speculative, but I am familiar with the passage of that legislation, and there was no thought of it at that time, and nobody would think of it on the basis of the figures that the Comptroller gave this morning.

The net before debt service which was \$35 million.

ASSEMBLYMAN KOPPELL: If we take what the Comptroller said this morning to be a fact, that the World Trade Center will throw off \$30 million or more --

MR. TOBIN: There is debt service before you say that, because it is a meaningless statement without it.

ASSEMBLYMAN KOPPELL: I am only taking what

the Comptroller said.

Let me turn from that for a moment, because I think I have established what I believe to be a point, but let me turn to a more general question of the covenant that is in your -- the States' covenant, and can you tell me of any other Authority that has such a covenant in legislation authorizing it to undertake projects, a covenant that states that it shall not engage in passenger rail facilities?

MR. TOBIN: When you get to that specificity, there are all sorts of limitations in the covenants and all Authorities concerning various things.

ASSEMBLYMAN KOPPELL: Do you know whether --

MR. TOBIN: That statute is dealing with that particular problem, and it was set up so that you could sell a bond, and without the covenant, I assure you, that that was the view that we just gave you, and you couldn't have sold a bond for the PATH system or anything else without that special limitation.

ASSEMBLYMAN KOPPELL: But there are many others that are broad -- well, public Authorities with broadly-stated purposes that could engage in mass

transportation?

MR. TOBIN: Yes, all of them supported by the taxing powers, all of them. The San Francisco Bay Authority, which is doing a magnificent job, is presently supported by the taxing power of the Bay area. The Metropolitan Transportation Authority is expressly supported by all of the taxing power of the State of New York.

The Transit Authority of the City of New York is supported by the taxing power of the State of New York. I don't know of one -- the Chicago one, and the Boston area, and I don't know of one single such agency that isn't either supported by the taxing power of the State -- well, give the Port Authority the backing of that power, and then you can eliminate any limitations, and still sell future bonds.

ASSEMBLYMAN KOPPELL: What do you mean supported by the taxing power? You don't mean the full faith and credit of the State?

MR. TOBIN: Yes, I do.

ASSEMBLYMAN KOPPELL: You mean the bonds are supported by the full faith and credit of the

State in all of those different areas?

MR. TOBIN: Yes, they are.

ASSEMBLYMAN KOPPELL: In every Authority except the Port Authority?

MR. TOBIN: That has to do with mass transportation, and has responsibility for mass transportation.

ASSEMBLYMAN KOPPELL: The Triborough Bridge and Tunnel Authority?

MR. TOBIN: No, the MTA.

ASSEMBLYMAN KOPPELL: But the Triborough Bridge and Tunnel Authority does a lot of bridges, and there was no faith and credit of the State?

MR. TOBIN: We do a lot of bridges, and docks and airports, all of which support themselves without any such limitation, and when you come down to the question of a mass transit system, neither here, or in New York, or the Port Authority, or in San Francisco, or Chicago, or Detroit, or in Montreal, or the Boston area, or any place that I know of can you build it without either a limitation such as this, or the taxing power of the State or the City in lack of it.

ASSEMBLYMAN KOPPELL: Mr. Tobin, the Triborough Bridge and Tunnel Authority was, until 1968, an independent agency which sold a lot of bonds, as far as I know, and there was no limitation in those bond covenants to my knowledge, preventing them from taking over any mass transit facilities if they were mandated by the Legislature.

MR. TOBIN: They weren't mandated by the Legislature, and they couldn't have taken over one, without some limitation concerning the taxing power of the State, and that is -- they are now part of the MTA.

ASSEMBLYMAN KOPPELL: I would suggest that if you didn't have the covenant at all, and if it were eliminated, or not there to begin with, and the State asked, or the suggestion came up that the Port Authority be mandated to take over a mass transportation facility, the State Legislatures and the Governors would be as concerned as you, that you be able to sell the bonds, and --

MR. TOBIN: They were, and expressly said so.

ASSEMBLYMAN KOPPELL: What I am pointing out

and what I am trying to arrive at, and I think we are arguing on something not at issue here, and I don't say that we would not be concerned, but the point is that the covenant is overly-restrictive, and whether it is properly keyed to the proper financial capacity, and that is what I am trying to arrive at here, and --

MR. TOBIN: Neither the Governors nor the Legislatures nor all of the investment bankers that considered that at that time, in considering this --

ASSEMBLYMAN KOPPELL: Just a minute. Let me assume that the Legislature mandated that all surplus funds, surplus funds in amounts in addition to those required for operating expenses, and debt service, and necessary reserves, that all such surplus funds be turned over to mass transportation, and --

MR. TOBIN: It would be unconstitutional.

ASSEMBLYMAN KOPPELL: Why would it be unconstitutional?

MR. TOBIN: Because the States of New York and New Jersey have pledged that they would not do that, and pledged directly to the bondholders.

ASSEMBLYMAN KOPPEL: If we provided that we would have safeguards and reserves for bondholders, why would such legislation be -- let us leave the point of unconstitutionality aside, and why would it not be to the public interest?

MR. TOBIN: Because historically you have sold Port Authority bonds on the basis of those pledges, and of the reserve fund, and other pledges that we have involved here.

ASSEMBLYMAN KOPPEL: The reserve fund we would maintain.

MR. TOBIN: And in 1962 on the pledges that we are talking about, and if you tried to derogate from that pledge at that time, I don't believe that you could sell another Port Authority bond.

ASSEMBLYMAN KOPPEL: Is it not true that a few years ago when the MTA was created that that is exactly what the Legislature of the State did, and maintained that all surplus funds from the priority bridge and tunnel Authority be turned over under certain conditions to the New York City Transit Authority?

MR. TOBIN: Yes, and they told them, the

MTA, that the whole resources of the State of New York and credit were back of those bonds.

ASSEMBLYMAN KOPPELL: Back of the Triborough bonds?

MR. TOBIN: Not back of the Triborough bonds but back of the MTA bonds, and the Triborough is just part of the MTA.

ASSEMBLYMAN KOPPELL: There are Triborough bonds outstanding, and what I am trying to say is that in 1966 legislation, the Triborough was told to transfer surplus funds in excess of the reserves --

MR. TOBIN: If they got the consent of the bondholders, and they --

MR. FAHEY: Just a minute, in this area --

CHAIRMAN WILSON: Excuse me, but let us have the questions and answers between the Assemblyman and Mr. Tobin, and in turn, you may have an opportunity to speak, and you are not on the witness stand and Mr. Tobin is. This is the procedure, and that is the way it should be run.

ASSEMBLYMAN KOPPELL: Thank you. Now, they got the consent of the bondholders, and they had to pay a quarter of a percent, and do you think that

they would have paid that if they felt their security was jeopardized?

MR. TOBIN: It was not jeopardized because the parent agency had the credit of the State of New York back of it.

ASSEMBLYMAN KOPPELL: But the parent agency was not liable for the bond.

MR. TOBIN: But they did have the pledge of all of the revenues of all of the Triborough Bridge facilities.

ASSEMBLYMAN KOPPELL: And if we provided that the surplus revenues in excess of those required for reasonable expenses be used for mass transportation, I am suggesting to you that the interest of the bondholders would not be prejudiced.

MR. TOBIN: And I am suggesting to you that it would be.

ASSEMBLYMAN KOPPELL: I think we have centered on the issue in that case.

Well, let me ask you two or three more questions. In a report issued by the First National City Bank, which probably owns a lot of your bonds, and which is not noted for its radicalism, they say

that one goal envisioned is to improve the mass transit and it involves a lot of passenger and public carriers, and they say that the transportation facilities suggest the appropriateness of imposing higher and economically more reasonable charges for the use of highways and river crossings, something like that. Although it may be expected that some diversions to mass transit occurs as a result of such action, its major impact probably would be the transfer of badly needed added revenues to mass transit use.

Now, as I see it, that statement has two major policy backgrounds, and there are two major policy questions under that.

The first is that we should try, in terms of total mass transportation planning, to divert passenger automobile traffic away from the bridges, and take those people out of those cars, and put them on mass transit facilities, and the second is that we should use our automobile facilities, the rubber facilities, to subsidize the rail facilities, and do you agree with those two underlying policy objectives?

MR. TOBIN: Well, I have covered them, I

think, rather completely in my statement. There is really a certain degree of traffic that comes into New York across our bridges and tunnels in the way of commuter traffic. Actually it is about 20 percent-- 80 percent of the commuters that come into the city come in over the City's bridges and the Triborough bridges.

ASSEMBLYMAN KOPPELL: I come down the West Side Highway, and it is mostly commuter cars.

MR. TOBIN: More people come from Manhattan, itself, into the central business district, than come from New Jersey, and I don't think that that is a problem there. I think that -- I can't accept the extremes that we don't need any more automobiles or trucks or other services. Actually three-quarters of the traffic on the streets of Manhattan are trucks and taxicabs.

I think that in the way of the Port Authority's facilities, and bringing this 140,000 people a day, and PATH bringing in 250,000 people by bus, and bringing in others by vehicles, I think that this is a very balanced system, and as I have indicated to you, that all of the revenues from all

of the other facilities are pooled.

They are in one system and if you want to paraphrase it, it is not the way it happens, but a reasonable paraphrase, the penny surpluses from the tunnels and bridges are picking up the immense deficits from PATH. We are doing, as far as balanced transportation goes, and I have made speeches on balanced transportation, itself, and we are doing just what the First National City Bank report said.

ASSEMBLYMAN KOPPELL: I will point out that the Bank points out specifically that tolls from it have been stable for thirty years, and the Port Authority's Hudson crossing was 50 cents at the time the subway fares were just a nickel, and now subway fares cost six times as much, while the tunnels or bridges are the same. Peak hour traffic is encouraged by a 50 percent reduction in price on commutation tickets.

Now, this is the point of the First National City Bank, and you, yourself, point out in answer to Mr. Landes' question that \$70 million would be raised by doubling the tolls, and that

would not substantially decrease traffic, and would provide a substantial pool of money, it seems to me, for mass transit or other facilities.

MR. TOBIN: I also pointed out that I have discussed it thoroughly, and I have pointed out that it is opposed by every public official that is in any way concerned with that traffic, and there are many opposed by the Governors of the two States, and the plain fact is that if you didn't double the tolls, it could not go under the law, the mass transit, anyway. So we are talking pretty far spun theory.

ASSEMBLYMAN KOPPELL: That is not completely true since you point out in your own statement that as far as deficits were covered, we could use those funds for the capital investment of these facilities?

MR. TOBIN: I never said that. It can't be.

ASSEMBLYMAN KOPPELL: Is that not so?

MR. TOBIN: We could use them for other facilities supported by the General Reserve Fund, but you could not, under the law and the constitution, use them for mass transit facilities.

ASSEMBLYMAN KOPPELL: Even if we said, as the Legislature, that we would make up the deficit?

MR. TOBIN: Even if you said you would make up those -- no, wait a minute, that is a totally different question.

ASSEMBLYMAN KOPPELL: But we could use those monies under certain circumstances even with the covenant, and that \$70 million theoretically -- well, the \$70 million that could be raised by doubling the tolls, and we could under certain circumstances, use that for mass transit facilities?

MR. TOBIN: The Chairman has said that if the Legislature would agree that the State of New York and New Jersey would pick up all Port Authority deficits, and there are a lot of them --

ASSEMBLYMAN KOPPELL: But turning to others, since we have this covenant facing us, which may or not be impregnable, I look for another thing related to the benefit of the City, and one of the things is that new passenger terminal on the Hudson, along with a proposed exhibition center.

Now, how much of the Port Authority's money is going to go into that terminal?

MR. TOBIN: \$9 million.

ASSEMBLYMAN KOPPELL: And how much is it

going to cost?

MR. TOBIN: \$35 million.

ASSEMBLYMAN KOPPELL: Well, why, with the City being in the financial straits it is, why couldn't the Port Authority finance the total cost?

MR. TOBIN: We are, in effect, doing that by entering into an agreement with the City in which we will repay this \$30 million over the 20 years.

ASSEMBLYMAN KOPPELL: But the City's capital budget is taxed because of the amount involved.

MR. TOBIN: They have an agreement to repay over 20 years, and it doesn't cost the City a dime.

ASSEMBLYMAN KOPPELL: Would you be willing to make a similar arrangement with respect to the Convention Center?

MR. TOBIN: Mayor Lindsay has never asked me to, and I would have serious problems in that with my superiors in the Legislature of the State of New Jersey if I ever thought to get into that, to say nothing of the Governor of New Jersey.

ASSEMBLYMAN KOPPELL: But --

ASSEMBLYMAN LANDES: The World Trade Center, which is located, and I am not sure that we would

have had that in New Jersey but is a project that is benefitting the State, and some other states.

I am from Bronx County, Mr. Tobin, and I am very interested in the developments of the Hunts Point Terminal Facility. Have you ever explored with the City the possibility of assisting in that endeavor?

MR. TOKIN: No, we did a lot of work with the City, and it finally led to the development of the Hunts Point Terminal in the way of economic research, and things like that. But the City also intended, with a purpose to go forward with that on their own, and that is what they did. They never asked us.

ASSEMBLYMAN KOPPELL: I would like to state that my questions and my participation in the lawsuit brought yesterday are intended in a constructive vein, and I think that the Port Authority has done a superb job on many of its facilities, and made a tremendous contribution to the metropolitan area on the Port district, but I think there has been a needless fear of getting involved in mass transportation, and excessive

conservatism in that regard.

Now, I think that the Port Authority should change its outlook, and rather than resisting, get involved in the mass transportation projects, and not just get involved in these other things, and bringing up all sorts of technical objections to such involvement and try to work in every way possible to free itself for meaningful and massive participation, because I think it has the capabilities in mass transportation projects, and this is what I hope will be the effort, and if it means changing the legislation, if it needs modifying the covenants, I think it should be you that is looking for ways to modify that covenant, consistent with the security of the bondholders, to be sure, rather than reject every suggestion for such modification.

I think that you should sit down in as short a time as possible, both with the legislators and representatives of the financial community to look into ways of modifying this covenant which you say does not permit the diversion of funds, and I point out the funds that Mr. Levitt said were available, and the \$70 million that could be raised

by the raising of the tolls.

Those are the funds that should go in the main for mass transportation, and I would hope that you would work with us, and then we wouldn't be forced in to a position of working against you, because I think you could make a unique contribution to mass transportation in the area.

ASSEMBLYMAN PETER THOMAS: I am just a poor country boy, and I don't understand all of this high finance.

MR. TOBIN: Sometimes I get a little lost, myself.

ASSEMBLYMAN THOMAS: Could you not, and when I say you, the Port Authority, could the Port Authority continue to add deficit facilities and still maintain a financial bond revenue position so long as the sum total of all that you do was profitable in nature?

MR. TOBIN: We are self-supporting.

ASSEMBLYMAN THOMAS: Yes, but could you not continue to add individual facilities that in themselves might be a deficit-type facility, so long as you maintain an overall service?

MR. TOBIN: Well, all of our projects, new projects, Assemblyman, many of them are marginal, and we hope we can make them go. They are not hopeless, in other words. The extension to the bus terminal, I would consider not only very marginal, but I think that it will lose money if considered by itself, but the point of your question is that it should not be considered by itself, and it is not being considered by itself.

ASSEMBLYMAN THOMAS: You don't reject considering a facility because it isn't going to make money?

MR. TOBIN: No, not at all.

ASSEMBLYMAN THOMAS: I gather from what has been said here today that not only has a decision been made to have a direct rail access to Newark airport, but it is under construction, is that correct?

MR. TOBIN: Part of it is under construction, but the decision has not been made, not to the extent that if Governor Cahill said to me, which he might say to us, "We don't like that particular approach to it," that would be the end

of it, and we would have to work with something else.

ASSEMBLYMAN THOMAS: That is where you lose me. Is there a rail connection from Newark Airport presently being built?

MR. TOBIN: There is the terminals -- the construction, the concrete construction going into a very large amount of hundreds and hundreds of thousands of dollars for the Stations in each one of the terminals of such a rail or other type inter-connection. The negotiations are going forward with the Penn Central Railroad for a new Station at Secaucus.

ASSEMBLYMAN THOMAS: I don't want to interrupt, and you are not answering what I want to know.

MR. TOBIN: The hardware is being designed.

ASSEMBLYMAN THOMAS: Once you make a decision, then you find out how to do it, and there may be several ways of accomplishing an end result. and have you made a decision to put a rail spur from Newark Airport into Newark?

MR. TOBIN: We made the strongest

recommendation to Commissioner Kohl and --

ASSEMBLYMAN THOMAS: That is not answering my question. Has a decision been made?

MR. TOBIN: It has not been built, except for the --

ASSEMBLYMAN THOMAS: Has the decision been made to build a railroad connection between the Airport and the City?

MR. TOBIN: The recommendation has been made that this is the way to do it, and we are moving forward on that basis until he stops us, and we will continue to move forward.

ASSEMBLYMAN THOMAS: Then the decision has not been made to erect or construct a rail access to Newark Airport? If I am wrong, can you tell me that I am wrong? Is that an incorrect statement or a correct one?

MR. TOBIN: We have recommended that that be done, and we are moving forward along that course. To that extent, Assemblyman, we have, in our judgment, that is the way to proceed. We are spending money along that line to do it, but our decision, if it is a decision, could be revoked at

any time by the Governor to whom we are responsible.

ASSEMBLYMAN THOMAS: Mr. Tobin, are you waiting on some person or group or agency to tell you to go ahead and build it?

MR. TOBIN: No, because we have power to do it.

ASSEMBLYMAN THOMAS: Who did you make the recommendation to, the Governor?

MR. TOBIN: Yes.

ASSEMBLYMAN THOMAS: Are you waiting for him to tell you to go ahead and buy it, is that all that is standing in the way?

MR. TOBIN: He hasn't told us not to.

ASSEMBLYMAN THOMAS: Have you gotten an affirmative decision -- you said you made a recommendation, and --

MR. TOBIN: Mr. Falvey raises a question as to whether or not we could actually connect it out McClelland Street without legislation, and we may be back to you for that.

ASSEMBLYMAN THOMAS: Again, that doesn't answer the question. If you made a decision to do something, you have to find out the ways to

accomplish it, and have you decided that you want to do it, and we will work out the ways to do it, and if you need legislative help, we will be delighted to do it?

MR. TOBIN: We may be calling on you, because I have recommended to the Board that we do it, and the Board is moving along in that direction.

ASSEMBLYMAN THOMAS: I grant you that you have made the recommendation for a rail connection to Newark Airport, to your Board?

MR. TOBIN: I have.

ASSEMBLYMAN THOMAS: And your Board has it under advisement?

MR. TOBIN: No, we have done more than that. They have implemented that recommendation in the case of the construction of the terminals, and retaining the Kaiser Company, and in the case of our negotiations with the Pennsylvania. In all three phases of this they are very intimately familiar, and we have discussed it at length at the Board meetings.

ASSEMBLYMAN THOMAS: Have they adopted what we understand are the famous minutes, the minutes which have to be sent to the Governor of each State,

and they have ten days to say aye or nay?

MR. TOBIN: No, they have adopted the resolution empowering the Kaiser Company, which is, for this purpose, -- just a second -- I guess I have a good fix on this now: The Kaiser resolution was, this has been recommended by our Committee to the Board, and if the Board concurs in the Committee recommendations, it will be adopted by the Board at the meeting next Thursday, and then will go to the Governor. It will be on the Governors' desks for ten days. If the Governors veto that, that is the end, and then the decision is no.

If the Governors don't veto it, then they have affirmatively concurred in it, but he has not stopped us up to this point.

ASSEMBLYMAN THOMAS: I gather that --

MR. TOBIN: You also remember that every step of this, I am talking to Commissioner Kohl, who is the Governor's specially designated liaison officer with the Port Authority.

ASSEMBLYMAN THOMAS: I gather that next week your Board is going to submit to the Governor a proposal of a way to effect a rail transportation

connection with Newark Airport, is that right?

MR. TOBIN: That is right.

ASSEMBLYMAN THOMAS: Is that a correct statement?

MR. TOBIN: Yes.

ASSEMBLYMAN THOMAS: He will have the option of not deciding the philosophical question of whether there should be one, but accepting or rejecting this particular proposal for a type of connection?

MR. TOBIN: That is correct.

ASSEMBLYMAN THOMAS: And when will it be given to the Governor? When is the Board's next meeting?

MR. TOBIN: Well, let's put it just the way it happens. The Board's Committee has recommended this to the Board, and some time in the early days of next week I will be discussing this with Commissioner Kohl, and I will say, "Joe, this item is going to be on the agenda. Is it raising any policy questions as far as the Governor is concerned?" If he says it does, the recommendation of the Committee will not even go to the Board. If he says

it does not, then it will go to the Board. So there will be no veto, because in either way, if the Department of Transportation of New Jersey says they are against it, the Board, obviously, would not act because it would be a useless thing to do.

ASSEMBLYMAN THOMAS: Suppose some Commissioner said that he didn't like this way of doing it, Mr. Tobin, and he said to do it X way?

MR. TOBIN: Then we will consider X way. We might agree or disagree, and we will discuss it with him.

ASSEMBLYMAN THOMAS: Is there any way that you can tell or we can tell you to do something affirmatively?

MR. TOBIN: You have, for 50 years.

ASSEMBLYMAN THOMAS: I noticed that that statement in here --

CHAIRMAN KELLY: When one of these gentlemen puts a bill in declaring that the route should be a certain way, and if it is passed and signed by the Governor, would you have to obey it?

MR. TOBIN: No, it would have to be signed by New York State and --

CHAIRMAN KELLY: Assuming both bodies did it?

MR. TOBIN: Also the Commissioners, if they decided that something was uneconomical and unsound, and utterly improper to do, they are under no compulsion to affirmatively do it.

CHAIRMAN KELLY: Commissioner Kohl, in any event, he can put the finger on that type of thing and it stops?

MR. TOBIN: That is the end of it.

CHAIRMAN KELLY: And if they want to go beyond it, and I am talking generally in this case now, and if one of these gentlemen wants to put in a bill, and if it passed both Houses, and then you say it must come to New York, and if we pass it and everybody signs it, that is the way it will be, is that right?

MR. TOBIN: No, the Commissioners of the Port Authority would have to affirmatively decide if they want to do it. If they decided that they should not do it, and it was an improper thing to do and an unsound thing to do, they must then take the risk of explaining themselves to the Governor.

They are responsible to the Governor.

CHAIRMAN KELLY: But if both States passed the bill and it was signed by the Governors, aren't you then required to go ahead and build that spur the way they want it?

MR. TOBIN: I think it is within the covenant that --

CHAIRMAN KELLY: Of course, we have the cost to consider.

CHAIRMAN WILSON: I would say that if the Governors of both States, if the Commissioners are appointed by the Governors, and if the Commission does not follow what the Governors wanted -- well, that would be something very odd.

CHAIRMAN KELLY: I have asked a question that was not completed.

MR. TOBIN: Then the Commissioner would say it is something that the Governor has asked them to do, and I don't know of anything in 50 years that the Governors have asked which is bad, and if the Commissioners felt, they felt it was unsound and uneconomic, they would not take the responsibility because they have a responsibility that any directive

of any public agencies or public officials would have, and they might --

ASSEMBLYMAN THOMAS: But the statement you made on page 10, the critical point is that it is the Legislatures, and it is not the Port Authority, which decides the Port Authority program is entirely incorrect?

MR. TOBIN: It is not incorrect, because they have no power to do anything that you haven't authorized. There is no power to do anything whatsoever that you haven't authorized.

SENATOR RINALDO: I want to expound on that. You are telling me, and your group has opposed many of my bills, you are saying that if the Legislature of the State of New Jersey, and the Legislature of the State of New York, both passed identical bills, and the bills are signed into law by the Governor, and they amended the very charter or the very law that you operate under, that your Board would defy that and say that you don't have to do it anyway?

MR. TOBIN: I am not saying that. But I will give you a concrete illustration of what you are talking about.

In 1922, the statutes were passed in both States, and the Legislature authorized us to go forward on something called an underground electric freight railway system between New York and New Jersey. As time moved along, year after year, after a couple of years, this thing which had been the brainchild of the Commission which preceded the Port Authority, became obviously uneconomic, and unsound, and absolutely no intelligent agency would have done it under those changing times, and they never did it, although it was the law of both States, and it is the law of both States today, and it has never been carried out.

ASSEMBLEMAN THOMAS: This map back in 1922 was filed with the Secretary of State in New York and New Jersey in which form really was the basis of the Port Authority's conception of a belt railroad system around the Port of New York, and it was felt not to be any longer feasible?

MR. TOBIN: That is right, at a certain time. Times change, and the trucks -- the automotive truck came into being at the end of the horse trade and the things became unsound and uneconomic, and

unworkable, and everybody forgot it.

ASSEMBLYMAN THOMAS: Well, it looks like we are back to that point again, and that is what we are talking about.

MR. TOBIN: And in the various reports that the Port Authority submitted to the Legislature over the succeeding years, it became uneconomic and that was said.

ASSEMBLYMAN THOMAS: Turning to a new subject for just a moment: Has a decision been made to construct a new underwater tunnel?

MR. TOBIN: No.

ASSEMBLYMAN THOMAS: What is being studied about that?

MR. TOBIN: Whether or not it is feasible and economic and sound, but whether or not the trade offices of the people who use it are sound, and every phase of a terrifically complicated subject has to be considered.

ASSEMBLYMAN THOMAS: But whether or not it is sound from a financial standpoint is not the criteria that says you will go ahead with it?

MR. TOBIN: No, financially sound

considering that it is a governmental facility and we have to consider the Federal and State funds and other support funds, and all of them together.

ASSEMBLYMAN THOMAS: Are you then telling me that you are going to consider it if there is enough outside funding to pay for it?

MR. TOBIN: If the project as a whole can be supported, including outside funding and the proper authority.

ASSEMBLYMAN THOMAS: Aren't you telling me in a different way that you are looking for it to make money?

MR. TOBIN: I am looking for it to be self-supporting.

ASSEMBLYMAN THOMAS: But that is not the criteria then that you told me earlier, upon which you decide to go ahead with a project?

MR. TOBIN: No, I told you earlier that self-support is not necessarily the only thing, but it must be brought in with the financial responsibility within the whole group, everything that the Port Authority has, and it must not impair the credit of the whole organization, and it must be

viable, financially viable, within that system.

ASSEMBLYMAN THOMAS: Then I take it that if your studies determine that a new tunnel will not be self-supporting, you will not go ahead with that project?

MR. TOBIN: If we find -- if the Federal government and the State government and the MTA and the Department of Transportation and the Port Authority decide that between Federal funds, State funds, and Port funds, that it can't be supported, I don't think we would go ahead with it, and included in that fund they might be back to both Legislatures and say that it will lose \$200 million a year, or \$100 million a year, or \$50 million, and do you, the Legislatures think you want to underwrite it, the States want to underwrite it, as you are doing with mass transit facilities in both States today.

ASSEMBLYMAN THOMAS: Then, the ultimate criteria will not be on whether it makes or loses money, but how much it will lose. The ultimate criteria will not be just whether it makes money or loses it, is that correct?

MR. TOBIN: Whether or not from all of the

sources it can pay for itself, or whether the Legislatures want to put further resources at the disposal of this agency that is going to be involved in it, to support it.

ASSEMBLYMAN THOMAS: I understood you to tell me in the first series of questions that even though a particular facility may be a deficit operation, your revenue bond situation would be attractive to the public as long as the overall, the overall Port Authority operation produced a surplus?

MR. TOBIN: That is correct.

ASSEMBLYMAN THOMAS: Then that same formula would apply to this tunnel?

MR. TOBIN: That is correct.

ASSEMBLYMAN THOMAS: Do you have some figures on what the railroad spur to the Airport would cost?

MR. TOBIN: Yes, we have given them to Senator Del Tuffo.

ASSEMBLYMAN THOMAS: He is asking the question through me. What is the figure? Is there some revised plan with new figures?

SENATOR DEL TUFO: The plan that you are submitting, what is that cost?

MR. TOBIN: The question is what is the cost of the connector, and that is about \$28 million.

Senator Jones has asked me in reply to the further development of this, and the answer to some of your questions, and he notes that in considering any proposal that could be forced by the Legislature, and the whole question becomes involved to the Board as to how it will affect the whole financial viability and the existence, the financial existence of the Authority, whether it is possible to do so without wrecking that financial structure, and to make the agency, if they did that, useless to the Legislatures of the two States.

ASSEMBLYMAN THOMAS: That I understood perfectly.

Again, a little different topic, but one which is dear to my heart: Are you, at the present time, actively considering a specific location for a fourth Jetport?

MR. TOBIN: No, no consideration is being given at all.

ASSEMBLYMAN THOMAS: Just one last question, or two questions: You indicated that the

Legislature does have -- you say the Legislature decides the Port Authority's program. Do you feel that the Legislatures of the respective States should have the type of permanent veto power over the Port Authority's programs, similar to that which the Governors exercise, and extend that beyond the Governors to the two Legislatures?

MR. TOBIN: Well, no, I think it would be unworkable for us to submit the minutes on veto surveillance to both Legislatures, and I think it would make the operation administratively impractical as a business operation.

You are not in session for many long parts of the year, and we meet three times a month, and the full Board meets once a month, and I don't think it would work, physically.

You have got the surveillance, the very active surveillance of review of the two Governors, and their entire staffs.

ASSEMBLYMAN THOMAS: Would you be willing, if the Legislature directed a question to the Port Authority as to the feasibility of a particular facility, willing to investigate the feasibility of

that suggestion?

MR. TOBIN: Always, and we always have.

ASSEMBLYMAN THOMAS: I seem to have very little contact with the Port Authority, except a nice booklet which I get each year.

MR. TOBIN: Don't you come on the annual inspection?

ASSEMBLYMAN THOMAS: I made that tour once.

One other question, and I assure you that this is the last question: How does the World Trade Center help mass transportation in the metropolitan area?

MR. TOBIN: I think the World Trade Center is fundamental to the future economy of the whole Port. I said before that you must have to find more than just a way for a fellow to get to work, and you must find work for him, and the fundamental work of this Port area is the cargoes that move through the Port, and employ, as I said, many of the working people in the Port.

Now, the whole purpose, the entire purpose and the single purpose of the Trade Center isto promote that economy, and to do all of the things

that being together in one great complex, with every type of modern communication, all of the great things, the custom brokers and the foreign departments of banks, and the transportation companies, to do everything we can to facilitate the great economy and commerce that moves across the docks, among other places, of Elizabeth and Newark. That is its function, and its entire function is to -- the basic and economic business of the Port, and typically in New Jersey, that ranks eighth in the number of the industries that are in foreign commerce. In New York, I think it ranks fifth, so you have tens of thousands of workers in New Jersey, and all over New Jersey dependent on the flow of foreign commerce through this Port.

Now, that is its function, as far as these people make money enough and pay fares enough, and taxes enough to get mass transit, that is the extension of the Trade Center with it.

ASSEMBLYMAN MARTUSCELLO: You stated you are not able to operate a mass transit system under the specific covenants that you are charged with?

MR. TOBIN: I said that we hoped that we will find ways.

ASSEMBLYMAN MARTUSCELLO: You said you are restricted?

MR. TOBIN: It is a limitation that speaks for itself, but our efforts have been outlined again and again.

ASSEMBLYMAN MARTUSCELLO: I believe that, and I am asking you, you are not now able to operate a mass transit system, is that correct?

MR. TOBIN: We handle mass transit facilities for 400,000 people going across the Hudson River every day. But you are asking about another and an additional one.

ASSEMBLYMAN MARTUSCELLO: Do you think it is a responsibility of an agency, a quasi-governmental agency to build this World Trade Center and develop 250,000 jobs, and dump them into an area where people have to rely on mass transit, coming and going, and put them into a system that is already overcrowded, and to force this on the system without knowing fully what is going to happen, and not knowing anything about it?

MR. TORRE: It didn't happen that way at all. The City Transit Commission and the Planning Commission went into the question of mass transit, and serving the Trade Center, and they both decided, the Planning Committee unanimously reported that there was no problem in handling the people that would work in the Trade Center on the City's mass transit system, and the Transit Authority went into it, and Mr. Scanlon, the Commissioner of the Transit Authority, wrote a report to the same effect. There is no area of all of New York that has such a convergence of all of the City's subway systems into that one place. We have two subways moving straight underneath the Trade Center, and the Hudson and Manhattan system under the Trade Center, and all of the other City subways within one block away, and it has fantastic service, and the answer is no, the City studied it, and we studied it.

ASSEMBLYMAN MARTUSCELLO: It is certainly a question of transportation, and physically you cannot run more than one train through an area at one time. I have been coming down here to work since I went to school, and you can't ride the subways from Brooklyn Heights, where I live, to the Bowling Green

Station without waiting for five or six trucks to pass before you can get on, and if you ever tried to get into Bowling Green, those reports are not worth anything. I don't know who made the reports but --

MR. TOBIN: The City Planning Commission and the Transit Authority. They didn't say it was any picnic, but it would not be any worse.

But you are saying that worse is pretty bad.

ASSEMBLYMAN MARTUSCELLO: It has got to get worse if you are going to bring in additional jobs. You are going to generate additional mobs in the MTA, and it will disturb the system, and it will contribute to a loss in the MTA.

ASSEMBLYMAN RUSSO: We are making a study of the harbors and rivers and bays in the entire State of New Jersey, and this is really a study by the Assemblymen and Senators, and I was wondering what the Port Authority could do to help us clean up this entire area, as far as debris, and everything that we could be concerned with?

MR. TOBIN: We have been working very hard

on that, and have done the brunt of the work with the Army Engineers. Mr. Gillman is here, and he has done that work, and he initiated it six or eight years ago. There are appropriations and considerations moving to the Congress on it, and there is the plan of the Army Engineers, and so a great deal is being done on it, and we keep plugging away under the present budgetary difficulties, and the funds for it are not flowing as rapidly as we would like to see them flow.

It is a tremendously important problem for the Port area, and our condition of debris up and down the Port is not only a disgrace, but a danger.

We are working hard, and have been for many years.

ASSEMBLYMAN RUSSO: We are going to have another hearing in South Jersey, and we would appreciate your cooperation.

MR. TOBIN: We will be glad to have Mr. Gillman go down there and relate what is being done in this area.

ASSEMBLYMAN KOPPELL: Do you have

available for us a list of the tenants who have signed up for the World Trade Center?

MR. TOBIN: I don't know what that has to do with mass transportation, and I don't know who wants the list. I will give you a list, and I have given the courts a list before, and if you ask me in the case, in the Examination before Trial, I will give you the same thing.

There have been various efforts made to get lists of tenants, and by various other interests, and I will give you the submitted list in the other lawsuit that preceded yours, that give the type of tenancy, and everything that we can, except the name of the tenant, which we don't think is proper to give.

ASSEMBLYMAN KOPPELL: I would suggest that you -- I would be willing to enter into a stipulation with you that I would use the list solely for legislative purposes. I wonder if under those circumstances you would be willing to give me a list with the names --

CHAIRMAN KELLY: Aren't we going into the lawsuit, and that is exactly what I --

ASSEMBLYMAN KOPPELL: It has nothing to do

with the lawsuit. It doesn't concern the World Trade Center.

ASSEMBLYMAN SIMON: Mr. Tobin, I think that we have been trying to give you additional duties all day, and I would like to make this observation, and I would say that it is a compliment, because I think we have been talking in terms of one of your other people, Mr. Roman, and I think that we sometimes discuss what duties we could take away from him, and today we have been discussing what we can give you and impose upon you.

I think it is a wonderful tribute to all who have come here for this two-State meeting.

MR. TOBIN: Thank you, and I am sure that the Commissioners thank you, too.

ASSEMBLYMAN SIMON: Now, I would agree with Mr. Koppell that that list is of the utmost importance to the Legislature in this regard: I wanted to know how many people are paying real estate taxes in the City of New York today that are going into that building and paying you rents and we will lose that?

MR. TOBIN: They pay full real estate tax, full and current real estate tax, and they are paid

by the tenants in the World Trade Center and our agreement is that.

ASSEMBLYMAN SIMON: I am pleased to hear that, and I am pleased to hear that you operate on a self-supporting basis, especially in light of the fact that in the City of New York we have a big deficit, and the State has a deficit, and so does the Federal government. I think it is fair that you should be self-supporting, by taking rents from people who have been formerly paying real estate tax to the City, while the City is in such a deficit, and my idea is that your assessed property valuation is \$1,100,000,000, which would give the State a total of \$60 million and in lieu of that, they only get \$2.5 million.

MR. TOBIN: That is on bridges and tunnels and all of the system.

ASSEMBLYMAN SIMON: I am talking about the assessed value that you have, and you pay \$2.5 million instead of the \$60 million that you would normally pay.

MR. TOBIN: And probably the facilities would not exist.

ASSEMBLYMAN SIMON: But what about a private corporation saying that you are taking our jobs away from us?

MR. TOBIN: The City couldn't build them. I gave you the idea of the Brooklyn docks.

ASSEMBLYMAN SIMON: But having built them, and having an urban crisis, and you are self-supporting, and the City is losing \$900 million a year, don't you think you ought to come to a reorganization of your tax posture and you don't think that the payment of the full taxes would affect your agency as being self-supporting?

MR. TOBIN: Yes, I do.

ASSEMBLYMAN SIMON: Self-supporting is a key concept concerning this?

MR. TOBIN: The public works that cannot be done by private interests, and that are essential ones, and if we don't do them, the airports and the docks, the City has to do them, and as I pointed out here, the cities doing them throughout the country lose money, and have to contribute taxes to them, and of that basis, they wouldn't exist.

ASSEMBLYMAN SIMON: I follow that concept,

but I follow this one today, and I think again I observe from the other questions that the term self-supporting may go as not a benefit to the State, but whereby you take the full loss of any loss in your bonds. For example, you have indicated that you can't go into various functions, that we want you to, because they are not self-supporting, and you can't pay full taxes to the localities that need the money because you would not be self-supporting, and I ask you if legislation went in there that would put the full credit of the State behind your bonds, and offering to subsidize you for possible losses, would this affect the efficiency of your agency?

MR. TOBIN: With no problem. We could take over the education system, and the fire and the police departments. No problem there.

ASSEMBLYMAN SIMON: Would you take over running the City of New York on a contract basis?

But in all seriousness, if we can free you of the need to be self-supporting, and the obligation of paying taxes, and then you can take the mass transit problems and other things we want to give you,

there would be no problem or fear of the bondholders?

MR. TOBIN: There only would be a fear of being broke, and being of no further use to you.

ASSEMBLYMAN SIMON: I will have a proposal that you will be freer and have a wider range of activities.

In regard to the World Trade Center, and I am glad to find that it is paying taxes, and I am pleased to find out that the City Planning Commission felt that there would be no transportation problems, and they are out of their heads, but I come in in my car, and I don't ride Joe's trains, and there is a back-up now without the place that I occupy, and have you made provisions for the proper parking facilities, and have you made provisions for proper ramps so that maybe that particular area can be by-passed?

MR. TOBIN: Yes, automobile ramps, and 2,000 areas for parking space. There is parking space for 2,000 cars, and ramps to get there, and all of the streets around the Trade Center are doubled in size.

ASSEMBLYMAN SIMON: And you feel 2,000 parking spots will accommodate and relieve the congestion

for all of these people?

MR. TOBIN: Well, not without some worry.

ASSEMBLYMAN SIMON: There is need for that many cars today.

ASSEMBLYMAN SIMON: The buildings are not being utilized right now and do you find any pressing governmental need for the full use of both towers at this time, if they were completed?

MR. TOBIN: Yes, we will be fully occupied when they are completed, and there will be people wanting to get in. We will not allow anyone in there, unless he is in World Trade. We have turned down tremendous leases.

ASSEMBLYMAN SIMON: Are you already up to full occupancy?

MR. TOBIN: No, we are not yet.

ASSEMBLYMAN SIMON: I am a sitting legislator, and we have crisis beyond transportation, and have you given any serious thought to the idea in the paper a week ago of temporarily using these shelters for people in need of housing, that are being relocated, and putting in some plumbing supplies and housing facilities for those people who

are being relocated? I know that is a funny question. My office is here, and maybe I have a vested interest but I ask you that question in all good faith.

MR. TOBIN: No, there is no thought on that.

ASSEMBLYMAN SIMON: And you don't intend to do this?

MR. TOBIN: Yes, that would be the correct answer.

CHAIRMAN WILSON: Mr. Tobin, I have another question. It seems that the only check that the State of New York and New Jersey had is through the Governors' veto powers. The way the law reads now the Governors of the States have ten days in which to study the minutes and to make the decisions.

Now, in some of your complex bond processes and so forth, if the minutes are delivered to the Governor on Friday, you have two weeks, or weekends involved, and then you have a legal holiday.

Now, would you be opposed, or would the Port of New York Authority be opposed if we were to pass legislation that says that the Governors of the States have ten days in which to view the minutes, excluding Saturdays and Sundays and holidays, so in

turn they can have a comprehensive look at the minutes?

MR. TOBIN: If the Governors wish that, yes, sir, whatever they wish.

CHAIRMAN WILSON: There would be no opposition?

MR. TOBIN: You get at some point where you freeze the action on that for a time, and you say from the public standpoint that might be good, and when we are doing things that you want us to do, this involves jobs, and the movement of commerce in an area, and they don't want to paralyze it for too long a period, but in that area if the Governors wish, that is the end of the discussion.

CHAIRMAN WILSON: If they wanted to return the minutes sooner approved, they can do so. If they wanted to approve your minutes within two days, do they have a right to do so?

MR. TOBIN: Yes. I will tell you what they do from time to time, Assemblyman: They will get in touch with me, and say, "I want further time to consider what you are doing, and would you hold up action on this important item and give us more

time," and we hold up action for whatever time the Governor says. If there is anything on it that the staff wants held up, we do it.

ASSEMBLYMAN MARTUSCELLO: I wanted to clarify something: You said the number of new jobs that may be coming into the World Trade Center may be 50,000, but the increased traffic flow that that facility creates will be 250,000 people a day, and that is what I was trying to bring out to you?

MR. TOBIN: I don't know. I can only give you the number of people that work there.

ASSEMBLYMAN MARTUSCELLO: If you are running a documenting service, you have that many more people.

MR. TOBIN: My guess is that in addition to the 50,000 that work there, you will have 3,000 people that will come there each day. We may be wrong, and you may be right. It may be easily 120,000 people.

CHAIRMAN KELLY: We will stop now for about 20 to 30 minutes for lunch and then go on into the afternoon session. If we do not come right

back, we will be here all night.

(Whereupon the session was recessed  
at 2:30 until 3:05 p.m.)

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AFTERNOON SESSION

CHAIRMAN KELLY: Before the next speaker starts, I would like to insert into the record a formal statement submitted by the Mayor of the City of New York, John V. Lindsay, and also a formal statement being submitted by the Comptroller of the City of New York, Abe Beame, and also a statement by Richard Lewisohn, who is the Finance Administrator of the City of New York.

These three statements will be included in the record of the day's proceedings.

(The following is the text of the statement of Mayor John V. Lindsay:)

Chairman Kelly, Chairman Wilson, Members of the Committees:

We are in the midst of a great national debate on the nation's needs. This hearing is a welcome indication that such questions are being raised at the local level, where government decisions most directly affect individuals. There is little argument as to the competence or the efficiency of what the Port Authority is doing. Our

question is not how, but why. Why don't we have a good regional mass transit system? Why has an agency which was created in 1921 to build bridges and tunnels, now given us the World Trade Center? Could the resources that have gone to build the Trade Center have been put to better use improving the mass transit?

There are critical questions. Just as one must ask how the SST can take precedence over other pressing national needs, one must ask how many Port Authority projects best serve the regional needs -- especially transportation needs -- of the Port district.

Ultimately, the public comes to ask who made these decisions. Sometimes they appear to be more the product of bond counsel than of the public.

The factual answer is that these policies were set by the legislatures of both states and developed at least with the tacit concurrence of the Governors of both states over a period of 50 years.

It is for this reason that I warily

welcome the cooperation of the present Governors of New York and New Jersey -- and indeed of these legislative committees -- in reevaluating our needs. I also welcome the willingness of the Port Authority -- like the truly professional organization it is -- to review and question its own course.

I hope that these encouraging trends will be made even more meaningful by going to the basic causes for the failure of the Port Authority to give the highest priority to the mass transit needs of the region. The causes lie not only in the financial and practical autonomy of the Authority, but in the fact that the Authority is not sufficiently rooted in the region. The Authority is, of course, responsive to Trenton and Albany, but not nearly responsive enough to the public that lives within the area it serves. Certainly the state capitals are concerned with the well-being of Newark, Elizabeth, Jersey City, and New York -- but equally certainly, these cities are even more concerned.

What the Port Authority needs, I

submit, is a reasonable dose of home rule -- not so much as to lose the regional, national, and international focus essential to sound economic development, but enough to give 8 million New Yorkers and several million New Jerseyites a voice in running an agency which so powerfully shapes their destiny.

I therefore strongly urge this committee to consider legislation making three of the six members from each state subject to appointment by the Governors on the respective recommendations of the city of New York and the appropriate New Jersey municipalities. Only in this manner can we begin to shape the goals of the Port Authority to meet the need of the public it serves.

There is no question in my mind that if there were local representation on the Port Authority, mass transit would be the agency's top priority in the decade of the seventies. And I am not only speaking of subways but of commuter rail service as well. If this region is to grow a balanced system must be developed. The role of the

region as a national and international center requires better service from all points to the urban center. There is no doubt that the Port Authority is the one agency in the best position to meet these needs.

Nonetheless, a greater cash commitment by the Authority to mass transit may be frustrated by obstacles created by the law establishing the Port Authority Trans-Hudson (PATH) subsidiary. We must have a joint strategy for dealing with these problems:

-- First, the Port Authority, New York, New Jersey, New York City, and the Tri-State Transportation Commission should fully explore the feasibility of the package of improvements proposed by Governor Cahill. These include a trans-Hudson rail tunnel in the vicinity of 48th Street, linked at one end to a Secaucus ~~stolport~~ and at the other to the MTA's proposed East Side terminal. Tied in to the city's west midtown development plan, convention center, and steamship passenger terminal, the proposed tunnel becomes a very exciting stimulus for the city and

the region's growth. Parenthetically, I wish to commend Austin Tobin and the Authority for their excellent cooperation in working out our plans for the new steamship terminal.

-- Second, if direct participation by the Port Authority is found to be unworkable, or these projects prove infeasible, we should explore the creation of a "Port district mass transit improvement fund." Comptroller Levitt estimates the average annual surplus revenue of the Authority at \$50 million. Such an amount, determined annually by both states, could be paid over into a bi-state trust fund. It could then be spent by each state within the Port district on mass transit projects according to a distribution formula yet to be established. That \$50 million may seem inadequate for our needs, but it represents \$500 million in borrowing capacity. As an example, such an amount could cover almost half the cost of this city's total subway expansion program. Or it could buy 2,000 new air-conditioned subway cars.

-- Finally, if there is no way in which the Port of New York Authority's revenues and management skill can be channeled into mass

transit, then the cities must be allowed to help themselves in providing mass transit. That means a more realistic basis for payments-in-lieu of taxes by the Port Authority. The cities cannot afford to subsidize the Port Authority surplus, when they themselves continue to face deficit after deficit.

Work should go ahead on all of these possibilities at once. We cannot afford to wait any longer in meeting the mass transit needs of this region.

I do not argue that mass transit should be the sole preoccupation of the Authority. On the contrary, we must not lose sight of the fact that the Authority represents one of the most powerful tools available to us for the economic development of the city. There is much to be done in this area. Every major eastern city is losing manufacturing employment. Often the reasons are related to the high cost of moving freight. The Authority must take steps immediately to speed rail cargo through the region.

Similarly, the vigor of the region in

world trade and commerce can be lost if air terminal facilities are not expanded and made rapidly accessible. A rail link to Kennedy Airport is especially essential, and the Port and the MTA should move rapidly ahead with it. A fourth jetport is equally vital, and the Port Authority should continue to make every effort to rally the support it deserves on this issue and to move ahead as quickly as possible.

Finally, port development -- projects such as the superliner terminal and South Brooklyn-- must continue to be a top priority. We must continue to seek now to keep the many men of the waterfront in both states fully employed.

In all of these efforts we will do well to remember that our two states have undertaken a massive cooperative effort in the creation of the Port Authority. We must remain united in our efforts to realize the great potential of the Port Authority. I offer the cooperation of the City of New York in this effort.

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(The following is the text of the statement presented to the Committee by City Comptroller Abraham D. Beame:)

Chairman Kelly, Chairman Wilson.

Thank you for inviting me to testify at this joint New York-New Jersey hearing on what the Port of New York Authority's relationship should be to mass transportation in the metropolitan area.

The recent announcements of rail improvements in the metropolitan area which would require participation by the Port Authority are most welcome.

Certainly, the proposed rail link between Newark Airport and Kennedy Airport through Pennsylvania Station in midtown Manhattan is a greatly needed improvement.

I agree with the Borough President of Brooklyn that the airport line should have a station stop for the convenience of Brooklynites. This would increase the usefulness of the airport line.

I support the efforts of Governors Rockefeller and Cahill to require Port Authority

financing of such a rail line, with but one reservation.

I have the same reservation with respect to my support for a new rail tunnel under the Hudson connecting New Jersey with West 43rd Street in Manhattan.

And, that reservation is this: I would not like to see these two projects absorb so much of the time, and energy, and funds of the Port Authority that it would have nothing left for New York City's rapid transit system.

Certainly, the people of New Jersey are entitled to consideration of their particular needs for mass transit, and I am not against making it easier for New Jersey residents to commute to Manhattan and make their living here.

But that should not be done at the expense of New York workers who also live in New York City.

The Port Authority must be part of any solution to New York City's mass transit problems.

That solution must take the form of

an equitable contribution to the City's own mass transit facilities which also serve commuters from New Jersey.

This contribution should be measured by the same standard which is required of all New York City's property owners -- the value of real estate holdings.

The Port Authority owns property in New York City which is tentatively assessed at more than \$900 million. Now, if it were a private corporation, the Port Authority would be paying \$54 million a year in real estate taxes. But, because of its status, the State Legislature has exempted it from paying real estate taxes, even though its property is richly revenue-producing.

By voluntary agreement, it pays the City sums in lieu of taxes. Last year, it paid only \$2,644,279 against the \$54 million revenue potential.

It does not require much reasoning and logic to see the inequity of this situation to the people of our City. This discretionary payment must be raised to more nearly approach the \$54 million tax value of the Authority's real estate.

During my first term as Comptroller, I worked with Austin Tobin, Executive Director of the Port Authority, on a renegotiation of the airport leases. It was a mutually voluntary act which increased the guaranteed minimum revenues to the City, over the remaining life of the lease, from \$15 million to \$81 million -- an increase of \$66 million.

I would like to see the same cooperative approach, benefiting our people, in the case of increased payments in lieu of real estate taxes.

I am aware that the City's Corporation Counsel has stated that the Port Authority Act contains provisions which, in effect, make them contracts between the bondholders and the taxing authorities which cannot be impaired retroactively.

Since the bonds, which have already been issued, contain the guarantee that the property and revenues of the Authority will be tax exempt until they are fully paid, existing projects cannot be subject to taxation by any legislative act. That is why the City can get revenues from

this source only by voluntary consent of the Authority to make such payment in lieu of taxes.

However, this mandatory tax exemption is not applicable to future projects, which are, of course, not included in the outstanding bond indentures. In those instances, the Legislature may require that such future projects be subject to real estate taxation.

Therefore, I propose that, in connection with all new projects, no surplus, after normal current operating expenses and debt service requirements are deducted from gross revenues, shall be used for any other purpose until full real estate taxes are paid on such new projects. This appears to me to be eminently fair and reasonable.

In conclusion, in view of the City's desperate need for funds to improve our mass transit system, and to provide fast and inexpensive transit facilities, the Port Authority should make a fair and proper voluntary contribution to New York City's transit operations.

In addition, there appears to be no valid reason why the Authority should not be

required to pay full real estate taxes on new projects, before the surpluses from such projects are used elsewhere.

Thank you for this opportunity to testify on this very important subject.

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(The following is the text of a news release from the Office of the Comptroller, City of New York, for Friday, March 5, 1971:)

The Port of New York Authority should be required to pay full real estate taxes on all its future projects, Comptroller Abraham D. Beame asserted today.

He said the revenues thus obtained by the City should be spent to improve New York City's mass transit operations.

The Comptroller made his remarks at a joint hearing held by Legislators of New York and New Jersey on mass transportation in the metropolitan area.

Mr. Beame also stated that the Port Authority should voluntarily increase its contribution to the City in lieu of taxes which it would be

paying on existing projects, if it were a private corporation.

He noted that Port Authority property in New York City is tentatively assessed at more than \$900 million which, in the hands of a private corporation, would yield \$54 million a year in real estate taxes. Against such a revenue potential, the Port Authority paid the City of New York last year only \$2,644,279.

Mr. Beame, in contrasting the actual payment with the potential, said, "It does not require much reasoning and logic to see the inequity of this situation to the people of our City."

He urged the Port Authority to increase its payments voluntarily in "the same cooperative approach" which existed during Mr. Beame's first term as Comptroller when he worked with Austin Tobin, the Port Authority's Executive Director, to renegotiate airport leases. The Tobin-Beame approach resulted in a \$66 million increase in revenue to the City over the remaining life of the leases. Instead of a guaranteed

minimum of \$15 million, the renegotiated leases will yield a guaranteed minimum of \$31 million.

In his testimony before the Legislators of the two states, Comptroller Beame said, "there appears to be no valid reason" why the Port Authority should not be required to pay full real estate taxes on all its future projects. He said such taxes should be paid out of surpluses netted from new projects, after normal current operating expenses and debt service requirements are deducted from gross revenues.

Mr. Beame said, "This appears to me to be eminently fair and reasonable."

Attached is a copy of Mr. Beame's testimony.

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(The following is the text of the statement submitted by Mr. Richard Lewisohn, Finance Administrator of the City of New York:)

Assemblyman Kelly, Assemblyman Wilson members of the Committee, I very much appreciate the opportunity you afford me today to appear before your Committee and to discuss with you certain

matters affecting The Port of New York Authority which are of deep and abiding concern to the City of New York.

As Finance Administrator of this City I am charged by law with the responsibility of assessing all real property in the City and collecting the taxes due thereon. The total real estate tax levy for the current fiscal year is \$2.1 billion. These taxes, together with other taxes, income and excise, imposed by the City and funds received from the State of New York and the Federal Government comprise, essentially, the revenues with which the City must meet its needs.

It is no secret today that the municipalities of this nation are in severe financial distress. As you know, the mayors and fiscal officers of localities throughout the country have been forced to confront the real possibility of severe cutbacks in personnel and service due to the lack of essential funds with which to carry out projected programs. In New York City, for the present fiscal year which ends June 30th, we estimate a gap of about \$300 million between

anticipated revenues and expenses. At this moment we are not in a position to predict our precise needs for the next fiscal year, but that the demands on our resources will be great no one can reasonably doubt.

Against this broad background it is appropriate, if indeed not imperative, that we review the fiscal relation of The Port of New York Authority to the municipalities of the port district. The history of recent years has made it all too clear that a relationship half a century old does not necessarily retain validity merely because of its age. When the Port Authority was established 50 years ago, in the era of the silent movie and the crystal radio, the times were somewhat different.

Nor is the status of the Port Authority immutable. No less a document than the Constitution has been amended 25 times -- with one amendment even being undone by a later amendment -- so that we cannot consider the status of the Port Authority under existing law as necessarily sacrosanct.

The time has come for the Port Authority to give responsible municipal officials the courtesy of equal dialogue as partners in an endeavor to better the City. The time has come to stop treating us in some Dickensonian fashion as the Municipal Oliver Twists who must come begging for more.

Half a century ago, the Port Authority was conceived as an instrument, essential for the proper development of the Port. The Authority, as a new creation, could look forward to a hopeful, but by no means certain, future. Although it was established as an entity separate from the states of New York and New Jersey, it was given some of the immunities, including tax immunities, which the sovereign states themselves enjoyed. This was done in order to protect the interests of the Authority and to promote the accomplishment of its aims.

Over the intervening years the Authority has manifestly served a considerable public function. I do, however, urge upon your Committee that you must very seriously consider whether the benefits and advantages conferred upon

the Authority 50 years ago, in different times and under other circumstances, continue to fulfill the great public interest of the people of the Port district.

The organic law under which the Port Authority operates in effect exempts the Authority from real estate taxes on its terminal and transportation facilities. The statute recognizes, however, that the localities in which the Authority owns property may suffer considerable loss of taxes because of the tax immunity of the Authority.

The act therefore provides that the Authority may make agreements with municipalities on both sides of the river to pay "a fair and reasonable sum" each year in connection with property owned by the Authority. This amount, however, can never exceed the sum last paid as taxes on the property before it was acquired by the Port Authority. Several agreements for the payment of amounts in lieu of real estate taxes lost have in fact been made between the Port Authority and the City of New York.

However, that there may be no misunderstanding about the nature of such arrangements, let me emphasize that under existing law: (1) the Port Authority need not make any agreement with any municipality; (2) the Port Authority is not bound to pay an amount equivalent to the taxes levied against the property while it was privately owned; (3) the Port Authority is prohibited from paying more than the amount due as taxes on the property in private ownership at the time the property was acquired by the Authority.

In the case of the World Trade Center, the 1962 law in fact acknowledges the existence of changed conditions and different circumstances. Here the act declares that after the property has been improved by the Port Authority with World Trade Center buildings having a greater value than those on the property at the time the property was acquired by the Authority, as to such value the Port Authority may agree to pay an additional sum in lieu of taxes. Even here, where the suggested formula is updated, it must be stressed that the Authority's obligation continues to be a moral and

not a legal one, because there is no compulsion of law upon the Authority to agree to pay any amount at all in lieu of taxes upon the increase in value.

To summarize, therefore, in every case an agreement by the Port Authority to pay any amount in lieu of taxes is made solely in its own discretion, it is a voluntary act -- a gratuitous one, if you will -- and any amount it will pay is entirely within its own judgment, and even then subject to a statutory ceiling.

What, in fact, does The Port of New York Authority pay to the City of New York each year as amounts in lieu of real estate taxes? At this time our records show that the aggregate payments attributable to properties of the Authority in New York City amount to but \$2.6 million a year. This total is paid on six projects. The largest is the property acquired for the World Trade Center upon which the "in lieu" payments amount to \$850,000, which is the amount paid as taxes by the preceding owners. The smallest "in lieu" payment is attributable to Inland Terminal Number 1 at West 15th Street and 8th Avenue upon which the Port Authority pays

\$60,000 a year. The latter amount, I should note, is the same as was paid as taxes in the 1930's by the private owners before the property was acquired by the Authority. The building on the site today was constructed by the Authority in the 1930's at a cost of \$16 million, and is assessed today at \$13.2 million. At current rates the tax on this property if privately owned and fully taxable, would amount to \$800,000, rather than the "in lieu" payment of \$60,000. Incidentally, at this site the Port Authority operates the terminal in the basement and the first floor; a substantial portion of the 15 floors above are largely rented to the public for factory, loft, or other private uses.

In addition to the payments I have mentioned, the Authority makes the following other "in lieu" payments: \$665,000 for piers in Brooklyn, \$210,000 for the Erie basin, \$710,000 for PATH, and \$140,000 for the motor bus terminal at 41st Street and 8th Avenue, which at this time is being enlarged.

In facilities operated by it, as I

have indicated, the Port Authority has leased out portions to private tenants, and those leases are productive of considerable revenues. Thus, in the bus terminal, leased facilities will be available for the accommodation of the public such as restaurants, barber shops, and the like. In the World Trade Center, those huge twin steel structures arising in the very sight of this Committee, there will likewise be an enormous use of the property for conventional business operations; however, in this case, the City has negotiated for additional in lieu payments based on these private profit-making activities. For the sake of accuracy and fairness, I must note that during the early days of the Authority, such revenue-producing activity was considered justifiable by the courts because it was determined that the erection of a freight terminal alone, for example, would not be feasible since the Authority would have been unable to borrow the funds needed and thus would have been unable to carry out the mandate of the compact and plan for improving the Port. However, the highest New York court pointed out over 30 years ago that the

construction of facilities by the Port Authority for revenue-producing purposes "might transcend the powers of the Authority if the erection of the freight terminal alone would have been feasible." (Bush Terminal Co. v. City of New York, 282 N.Y.306, 315 (1940)) I must also recall that a legislative commission appointed in 1925 to study the Port Authority's tax status declared that "the statesman-like handling of the problem of the taxation of Port Authority property should rest upon inescapable facts of economics and public opinion . . . . We are agreed that certain Port Authority property must be made taxable by the legislatures of the two states . . . and that certain types of property must be made tax free . . . ." (New York Legislative Documents, 149th Session, vol. 17, Document No. 90, p.9)

Today I recommend to your Committee that the time is here to handle the problem, as your predecessors urged many years ago, on the "inescapable facts of economics and public opinion." The financial straits of the localities of New York and New Jersey are evident. The need exists. The

Port of New York Authority is no longer the young, insecure organization of the 1920's and 1930's, in whose favor the legislatures of New York and New Jersey saw fit to confer the benefits of tax immunity. The Authority has matured; it has expanded; it has become prosperous.

A recent report by the New York State Comptroller with regard to the operations of the Port Authority states that during the 4-year period from 1966 to 1969 the Authority's net operating revenue and investment income, less interest and mandatory long-term debt retirement, averaged more than \$50 million a year. "The basic point," Comptroller Levitt said, "is that the Authority generates substantial net revenues beyond mandatory debt service. The purposes to which these revenues are applied involves questions of public policy and priority of such importance as to warrant the attention of the Executive and Legislative branches of the two states."

What specific recommendations do I make in order to bring into proper focus today the relationship between the Port Authority and the

localities of the Port district with respect to real estate taxes? I present a simple and realistic program which will not interfere with the proper operations of the Port Authority, and which will, at the same time result in a fair contribution being made by the Authority for the public benefit in those localities of the district in which it carries on its operations.

1. The fiction that the Port Authority may in its sole discretion decide whether to make payments in lieu of taxes ought to be abolished. It is unthinkable that the Authority may alone decide at any time, for any reason, that it will make no such payments; and, that the Authority has thus far agreed to make certain payments is simply irrelevant. The localities of the district, in my opinion, can be trusted to be fair in their dealings with the Port Authority. If they are not, state legislation can always be invoked to assure a fair arrangement. But the localities should not remain, as they are today, totally impotent in law. Thus, the first step is to establish the basic principle that the

Port Authority ought to, and therefore should, make agreements with the localities for payments in lieu of taxes.

2. A particular formula should be established to determine what is a fair and reasonable amount that should be paid in lieu of taxes in the case of terminal and transportation facilities. The present provision, which bars the Authority from paying more than the amount due as taxes decades ago, when the property was in most cases acquired by the Authority, is impractical and archaic. This must be so when a revenue-producing building such as the Inland Freight Terminal yields an "in lieu" payment of \$60,000 annually, when the same property privately owned would produce a tax several times that figure. My formula is a simple one. I would not disturb the tax immunity of the Port Authority on any portion of the facilities which are devoted directly and exclusively to its fundamental purpose of developing the Port, such as property used directly for terminal and transportation purposes. However, with regard to portions of the facilities which are

leased to private persons engaged in business for profit, and which are not indispensable to the primary function of the Port Authority, even though they might be considered desirable or convenient, such as the rental of stores, lofts, offices, stands, and other areas which are not directly related to transportation, an amount in lieu of tax should be applied. It simply does not make sense to exempt restaurants or other places of public accommodation which are used not only by travelers or those involved in transportation operations, but which may be and are in fact largely used by the general public. As to those portions of the Authority's facilities, for which the Authority collects rents, I would apply a value resulting from multiplying the annual gross rents by 8. This is a conventional and accepted method for capitalizing rents from real estate to determine value, and it is in fact used almost uniformly throughout the country today for corporate franchise tax purposes. The valuation yielded by capitalizing the rents from non-transportation facilities should be taxed.

3. Amounts payable in lieu of taxes should be paid not just once a year, but at the same times as taxes otherwise due to the localities are paid -- whether annually, semi-annually, quarterly, or otherwise. Such a system of payment will minimize the need of the localities in the port district to borrow money at considerable cost in anticipation of the receipt of funds, and thus will result in a considerable saving to the localities.

Under my proposals, it should be provided that in no case will the amounts payable by the Port Authority be less than the amounts payable under the current voluntary agreements, nor more than the taxes that would be payable if the property were subject to taxation.

May I conclude by reiterating that we are well past the time when the Port Authority needs the financial support it enjoys under existing legislation. It has developed transportation services which are now very lucrative. If there is any need today, and there is, it is on the part of the municipalities. In such case, it

is not only fair to shift the benefit where it properly belongs. It also makes sense to do this, because the further development of the Port of New York, which is the lawful responsibility of the Port Authority, is inextricably bound to the well-being and financial health of the localities of this district. It is thus also a matter of vital self-interest for the Port Authority that a realistic evaluation be made in 1971 of the validity of the contribution made by the Port Authority to sustain the municipal health and welfare of the localities in which it operates.

The plan I recommend will serve the total public interest. It will, in short, proportion the obligation to finance essential public needs, in a fair and just manner, among all elements of the communities.

I am gratified for the opportunity to appear before you today. Thank you very much.

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CHAIRMAN KELLY: Our first speaker for the afternoon will be Theodore W. Kheel.

MR. THEODORE W. KHEEL: Thank you, gentlemen, and members of the Commissions of the two states.

CHAIRMAN KELLY: First, Mr. Kheel, may I apologize for the delay.

MR. KHEEL: Thank you. I am pleased to be here because I believe that this is a most important hearing. I think that you are performing a great public service, and the record that has been made here today has substantially clarified many matters that have been left confusing in the public's mind, and in the minds of the legislatures of both states, I think, deliberately, on the part of the Port Authority.

I listened attentively to Mr. Tobin, and I would compliment him by saying he is one of the greatest broken field runners of all time. He should be captured by the New York Giants, and he could be a great help to them, even if he isn't able to do very much for mass transportation.

I would like to comment, first, on some of the things that he said, using his prepared statement as the point of departure.

I first would call your attention to page 1 of his statement, to a little Freudian slip on the part of the Executive Director.

In the last paragraph he purports to tell you what the Port compact of 1921 called upon the Port of New York Authority to do, and he said it was assigned the mission for the development of New York and New Jersey port and terminal facilities and the promotion of its commerce with the world.

Now, if you would look at the compact you will see that it calls for the development and coordination of terminal transportation facilities -- transportation and other facilities of commerce. The word "transportation" is omitted, perhaps inadvertently, but I wonder, and the word "world" as in "World Trade Center" is added.

The word "coordination" is likewise omitted.

I would call your attention next to page 3 in the second paragraph where Mr. Tobin purports to tell you that the two fundamental precepts of the two states in creating the Port

Authority was, one, of a pledge of cooperation, and two, the development of vitally important public Port projects without recourse to taxation.

Now, that wasn't the primary precept. The primary precept was the development and coordination of all terminal transportation and other facilities of commerce.

What the Port Authority has done is: It has taken a financial limitation, and an alleged financial limitation, and turned it into a policy determination. It says we can't help transportation because there is no money in it, it is not self-supporting, and because we don't have the taxing power, and therefore our mandate is not what the Legislature said, to help transportation, but to make money.

Now, this is the fundamental distortion that leads to all of the confusion that grows out of the dust that Mr. Tobin stirred up this morning.

The last sentence in that paragraph says, "In other words, the two states limited the Port Authority to a program of public works that

must be self-supporting."

That is not correct. There is not one word in the compact that says the Port Authority has to be self-supporting. That is an inference that it draws from the fact that it doesn't have taxing powers, but there are many agencies of government that do not have taxing powers. We have the School Board, the Sanitation Department, the Fire Department, and they do not have taxing powers. That doesn't mean that they have to be self-supporting.

This is, again, the kind of a distortion that the Port Authority has foisted upon the people of the Port district over the years.

I call your attention to page 3, and this is just in passing, and Mr. Tobin said that 80 percent of the World Trade Center was leased. The statement said 80 percent was under signed leases, or leases in process. I submit there might be a significant difference.

CHAIRMAN KELLY: Excuse me, Mr. Kheel, but do you have a prepared statement?

MR. KHEEL: I have one containing

certain facts with regard to 6606 that I would like to get to, but I am not obviously competent to speak on his statement because I have just seen it, and I am just speaking from this.

Now, Mr. Levitt today said the Port Authority will make \$36 million from the World Trade Center. If it only makes \$26 million it is a very poor administrator, because as the result of its ability to borrow in the tax-free market, it is able to build the World Trade Center with a debt service of something in the neighborhood of \$50 million less a year than the competitive groups it has in the office building field in New York. The arithmetic is very simple. The Port Authority borrows money, and has been borrowing money, and it says it has over \$400 million in the World Trade Center, at a cost which today in itself -- or at least as of December 31, 1969, the last report available, the interest cost on its bonded indebtedness, apart from the \$13 million it made by investing \$500 million that it borrowed in the United States Government securities market, its interest cost apart from that was 2 percent.

Now, I would like to know if there are any builders in the office building business in New York, and they have done a mighty good job in building all of the space we need, and perhaps a little extra, if they can build with such a cost, and if you figure it out different, the Port Authority only makes \$36 million, and you ought to have all of the Commissioners and Executive Directors fined for incompetence.

I would call your attention next to page 10 on a statement that an Assemblyman from New Jersey alluded to several times and quite correctly.

The last sentence of the first paragraph says, "The critical point is that it is the legislatures, and not the Port Authority, which decide the Port Authority's program, whether or not it is pursuant to, or an extension of, the State's original conception of the functions and duties of the Port Authority."

But you then heard Mr. Tobin tell you in response to a question that if the two legislatures passed a bill asking, or requiring the Port

Authority to help mass transit, would they carry it out, and he said, "no, they would not carry it out because it was unconstitutional," he said.

Now, why does he say it is unconstitutional to carry out a mandate of the Legislatures that created the Port Authority? It is unconstitutional because of 6606 and the companion law in the State of New Jersey which are very peculiar laws because they are not laws at all, they are covenants, covenants that you were persuaded to pass, and the Port Authority, Mr. Tobin would have you believe, that it was the states that wanted to do this, and covenants that regulate not the Port Authority, but regulate the states. You were untrustworthy. The Port Authority was fearful that you would do precisely what you asked Mr. Tobin if you could do, and that is to pass laws requiring them to help mass transportation. You were not to be trusted, so 6606 had to be passed to restrict New York and New Jersey, and they are in the form of covenants, but they are not covenants that you signed with the bondholders, they are covenants that the Port Authority puts into the covenants, into the bond

contracts which it sells.

Now, were those contracts in existence when you passed the legislation? No. They were contracts, they are contracts that the Port Authority enters into from time to time, according to Mr. Tobin, and they sold \$1,700,000,000 worth of bonds since 1962 on the basis of these covenants. They average about \$100 million or more a year.

Now, listen to this: Each time they put out a new bond issue it is for a longer term, usually 35 years. In 1962 when they sold bonds, the bonds were for 35 years, expiring in 1997. Two weeks ago they sold another issue which expires in 2006.

Mr. Tobin said to you this morning that it is unconstitutional for you not merely to require the Port Authority to do something for mass transportation, but that you cannot do that, you cannot repeal the law, you cannot repeal 6606 until 2006. You are bound, hand and foot, you are handcuffed, New York State and New Jersey, and you cannot change the law under Mr. Tobin's interpretation until 2006, and if the Port Authority goes out

tomorrow and sells bonds for a term of 100 years, you will not be able to legislate with regard to mass transportation, and the Port Authority, until 2061, and up to 71, and that is what Mr. Tobin said to you today, not merely that it was illegal for you under the existing law, and you would think that what you do you can undo, but that it is unconstitutional for you to change a law until 2006.

The reason is a very famous case in the history of the Supreme Court, the Dartmouth Case, which said over one hundred years ago that the states did not have the power to impair the obligations of contract, interpreting a provision of the Constitution, but there have been decisions since saying that the states cannot give up their power to, or their responsibility to protect the people, and we submit that any delegation of authority to the Port Authority to bind you for whatever term they want, to rushing around with a blank check, and to sign it with bondholders and unconstitutional delegation of your powers to the Port Authority, and cannot be allowed to stand.

It is an immoral law. You were elected by the people, and this is an agency, and Mr. Tobin has been Executive Director for 28 years and has never had to answer to the people, and yet they walk around with legislative powers, and the power to bind you in New York State and New Jersey until 2006, and beyond it at their election.

This is made clear, again, on page 10, next to the last paragraph where it says, "In allocating the total program between the various agencies, two pertinent administrative and constitutional requirements will be operating as the legislatures make their decisions: (1) Both states must agree on the allocation of fiscal and operational responsibility; and (2) Contract obligations already entered into by the legislatures or under their authorization must be honored."

That is when the Port Authority binds you, and the Dartmouth College case isn't even law today for obligations assumed by legislatures beyond their police powers, that the legislature knowingly assumes. It is sure not

authority for the proposition that a non-elected body can walk around with your power of attorney, and commit you indefinitely into the future without regard to what this legislature, now in existence, elected by the people, who are crying for help for mass transportation, that you cannot do a thing about it.

Now, on page 11, Mr. Tobin tells you that you were worried about their ability to sell bonds. He told you that you insisted on passing this law. Nonsense! This is a condition that the Port Authority made to take over the Hudson and Manhattan, and that is fully explained in a very interesting document that I am going to allude to now, that I really think should be put into the record, because it tells really what the Port Authority thinks about mass transportation, and what was the plan and the plot with regard to making it impossible for you to get the Port Authority to do anything about it. You will recall, also, and Mr. Tobin said today if 6606 and its companion law in New Jersey were repealed, that the Port Authority would not be able to sell any bonds, that it would

be impossible to go into the bond market, and get the money necessary to do the things that were required to do. And he said that bond Counsel, the Governors and everybody agreed with that, everybody except his general solicitor and Mr. Daniel Goldberg, and I will quote what he says as to how necessary 6606 was.

Mr. Goldberg made an extemporaneous talk before the Executive Staff of the Port of New York Authority on October 3, 1961 at a time when the World Trade Center and the Hudson and Manhattan legislation was being considered. Mr. Tobin thought so well of this document, of this extemporaneous talk, that he had it published in April of 1964, and I have a copy of it which I came by in a perfectly lawful and proper manner. It contains an introduction by Mr. Tobin in which he says that General Solicitor Daniel Goldberg is the architect of the legislation that has protected the Port Authority from going into mass transportation. And Mr. Goldberg gives a fascinating description of the Port Authority, the way its financial structure was developed.

I have quoted significant portions of this in my fact sheet that I have distributed, and if you have it before you I will call to your attention, first -- well, I have copies here and I think you will find it very fascinating.

Mr. Goldberg was talking, and I quote him on page 3 about the Port Authority's adoption of what is called "the consolidated bond resolution" and this is a resolution adopted in 1952 by the Port Authority under which they can borrow against all of their facilities for unlimited purposes.

In fact, he says that in the consolidated bond resolution the Port Authority found a way to use the proceeds for the bonds for unlimited purposes, and that is his quote. Nor was there any dollar amount which limits the amount of the bonds the Port Authority can issue.

But then, when they did that, unlimited purposes, they could use it for anything, and maybe even mass transportation. Mr. Goldberg said, "But as we came to draft the consolidated bond structure, we looked forward to the enormous post-war horizons that the Port Authority was facing up to. We needed

a new financial device where the purposes would be unlimited, where the dollars would be unlimited, and only legality and financial practicability would impose the limits."

But the Port Authority did not want to invest any of these funds in unprofitable enterprise such as mass transportation because they were afraid, and they were afraid that something in the legislature might require them, but Mr. Goldberg said on page 4 at the top, that, "The proposals that we be directed to take over railroad operation in both states would involve, without the New York Subway System, something like \$30 million of operating losses plus the debt service on bonds that we might have to issue to acquire the properties which produce this headache."

The Port Authority and mass transportation is a headache, and he said he would just as soon play around with choo-choos as airplanes, but Mr. Goldberg talked about it as if it were a headache.

"These proposals made us take a good look at our financial structure to see to what

extent, if at all, we were open to this kind of a financial raid."

If the legislature said, "Will you help mass transportation?" this is a financial raid.

"At the sacrifice of the security that our bondholders had bargained for when they had loaned us hundreds of millions of dollars --" and the bondholders are always the ones to be protected, and not the people that ride the subways or the commuter railroads, but are they really interested in the bondholders? No, that is the way they kept out of mass transportation.

"We actually found," said Mr. Goldberg, "as I have tried to indicate, that there was no hole in the structure, there was no pot of gold into which to dip."

Mr. Goldberg said that at the time the consolidated bond resolution was passed, he, the General Solicitor, that the bondholders were completely protected. There was no way in which a financial raid could be done by the legislature, assuming the legislature was silly enough to want to do that. They were fully protected. Mr. Tobin

said they couldn't sell their bonds without 6606. There was no 6606 in the period Mr. Goldberg is talking about, but they were fully protected.

"However," he says, "there still was a fear in the financial community that the Port Authority might somehow take into its general reserve fund family a group of deficit-ridden railroads and then, by having gotten the disease into our own financial body, be in a position legally to apply our monies to their operating and debt service deficits." You see, he says a disease, a disease, and transportation is a disease now. Also he says that they would apply our monies, and it is now their monies, and not public monies.

"We in the Law Department have always held the firm opinion that the Port Authority lacks the power so to dilute the security of its bondholders, and we have advised the Commissioners to that effect. It would be just as ludicrous, to us, to suggest that the Port Authority could accept the New York City public school system as a gift and then, it being in our

family of facilities, apply all of our revenues to paying teachers' salaries so there wouldn't be anything left to pay the principal and interest on our bonds. We know we couldn't do that."

Mr. Tobin tells you that transit deficits and school deficits and fire deficits, they are all the same, but where in the compact between the states is there any statement that the Port Authority should run the schools, or the Fire Department, or the Sanitation Department, but there is a word "transportation" and transportation facilities which Mr. Tobin forgot to mention to you in his opening statement.

"We know we couldn't do that. However, the fears of the financial community were real, and so we felt that this legal opinion which we have should be codified in a form that would be not only legal opinion, which could be disputed, but a firm written contract."

So they felt that their legal opinion that they couldn't be raided, should be codified in a form that would not only be a legal opinion which could be disputed, but a firm written

contract.

That was done, and first he said there was no pot of gold into which they could dip, but the financial community still had fears, so they put their legal opinion into the form of a contract, codified it, and now, says Mr. Goldberg, there is totally adequate protection. That was not enough -- not enough.

1962 they were faced with the prospect of being forced to take over the Hudson and Manhattan Railroad, and the Port Authority sought still more protection for its bondholders, and this is when it came to the legislatures, and Mr. Tobin asked Mr. Goldberg to tell the Executive Staff: "You might tell us more about the statutory assurances needed in any H & M legislation."

This was the assurances that they wanted, and not the assurances that you, Mr. Tobin would have you believe this morning, insisted upon.

Mr. Goldberg stated, "The assurances which we have suggested to be placed in the statutes which would authorize us to do the H & M job --" and now transportation is a job, and the

airplanes and playthings -- " -- as we propose them, in the form of an actual contract between the two states and the holders of our bonds. Contracts of this type can be made and cannot be breached by subsequent legislatures."

Do you hear that? 2005 is when you can next legislate.

"This is because the Constitution of the United States says that no state shall impair the obligations of a contract. It is our opinion, concurred in by our present bond Counsel and by his predecessor, and not challenged by anyone, that the contract we propose, if inserted in the legislation, would be binding and would constitute an unbreachable contract by the states."

That is the end of his quote. Why did they want that? I think the question was asked by Mr. Koppel this morning, and it revealed why they wanted that legislation. Their General Solicitor said your bondholders are completely protected, they are over-protected, and they are the most protected bondholders in the world, but what was the danger? The danger was what actually

happened to the Tri-Borough Bridge and Tunnel Authority. The time came when this agency, a very similar agency to the Port Authority, was piling up surpluses not needed for the protection of the bondholders, and the Transit System of New York City was deteriorating, and some politicians were seeking to raid the pot of gold and suggested that the surpluses might be used to help mass transportation.

Mr. Moses, at that time, said that that would be a breach of the contract with the bondholders. It is illegal, and unconstitutional, and immoral, and it is indecent.

There were studies made by constitutional lawyers, who reached the conclusion that there was no legal obstacle in putting the surpluses of the Tri-Borough Bridge & Tunnel Authority, and as Mr. Koppel brought out, they were not backed by the full faith and credit of the State of New York, and there was no obstacle into putting them, the surpluses, into the Transit Authority, but there was the opportunity of the bondholders to delay, through litigation, and

dilatory tactics the opportunity of the Transit Authority to get this money. And so what happened? A deal was made with the bondholders, and their consent was sought, and the consent was given and interestingly enough Mr. Tobin says that that is one of the things that can be done now. You can get the consent of the bondholders. The Transit Authority got it for a quarter of a percent interest.

In the case of the Tri-Borough Bridge & Tunnel Authority, and the Transit Authority of New York, that was the measure of difference between using the monies that come from the automobile, from the tolls of the automobile user, for the help of the mass transit rider. That was the measure of the difference in costs, a quarter of a percent more.

I don't know what the price of the bondholders of the Port Authority will be with 6606 but they got a lot of leverage. They have not only protection in the form of a belt to hold their pants up, but they have got a belt and suspenders, too. They have the utmost in protection, and so Mr. Tobin very blithely says, "You can get the

consent of the bondholders." At what price? That remains to be seen.

Now, I think it might be interesting, if I just took a few minutes more, because I am nearly complete or finished, to talk about the terms of the law, itself. As I say, this is not a law that you would normally pass to regulate the Port Authority; it is a law the Port Authority got you to pass to regulate you. It is in the form of a covenant with people that you didn't even know, they did not exist at the time. It is in the form of a blank check, a delegation of authority to the Port Authority to take your commitment and to bind you for as long as they want you to be bound, without any further vote by the Legislature.

This reads as follows, and I am now reading some of this, although I am omitting portions, directly from the statutes, and it is on page 6 of my statement.

"The two states covenant and agree with each other and with the holders of any affected bonds, as hereinafter defined, that so long as any

of such bonds remain outstanding and unpaid and the holders thereof shall not have given their consent . . . neither the states nor the Port Authority . . . will apply any of the rentals, tolls, fares, fees, charges, revenues or reserves . . . for any railroad purpose whatsoever other than permitted purposes hereinafter set forth."

If you turn to the next page, you will see what else you provided for in this law or covenant. It says:

"Affected bonds" are "bonds of the Port Authority issued or incurred by it from time to time." There is a question in my mind whether they intended to apply the covenants to the bonds that were already outstanding. However, that is relatively unimportant because they have now tied you up until 2006, and before you can think of what you want to do, they will have you tied up for a longer time.

"Permitted purposes" for which the Authority funds can be used under this law are four in number, and to what extent can the funds, fees, rentals, and tolls, either of the Port Authority be

used? They can be used for the Hudson and Manhattan Railroad, and that is an exception. They can be used for railroad freight transportation facilities or railroad terminal facilities. The word "freight" is inadvertently omitted there.

Now, get that. They said that the Legislatures cannot be trusted to be loose in the communities, or in the halls of the Legislatures, because they may do something so stupid as to require the Port Authority to help mass transportation. So they knocked out all transportation purposes whatsoever, but they put back in "railroad freight transportation." That is okay. They can lose money on railroad freight, but they cannot lose money on people, and I think, while this is not an important exception in the law, it is important because it reveals a philosophy and the thinking of this agency. It reveals their concern about making money, and profitability, and self-supported bondholders, and salability, and their unconcern about people. It makes no difference that the subways are deteriorating so fast that it is a crime to ask people to ride in them; that the

commuter railroads are bankrupt and impossible to perform their essential functions. The Port Authority will not help them if they carry people, but they will help if they carry freight.

They will also help put railroad tracks on vehicular bridges owned by the Port Authority. That is interesting, because when that was put in, the second deck of the George Washington Bridge had not been completed. Now, that second deck in the original plans of the Port Authority was intended for a commuter railroad. It was intended for a commuter railroad, and that was the plan for the second deck. But when they got around to it, what did they do? There is no money in commuter railroads and they are in the business of making money, so they built the second deck for automobiles.

Now, any other railroad facility established, acquired, constructed or otherwise effectuated by the Port Authority, or otherwise, and it comes within that formula. It was very interesting. One point in the questioning of Mr. Tobin, he was saying with regard to the things that

they were going to do for mass transportation, a link to Lincoln, and to Newark, and to tunnels under the Hudson, and feasibility studies for two years, and you were trying to get Mr. Tobin to say are you committed to this Newark Link. This was some great financing. What he wanted to make sure the record said in terms of his own protection is that he will do anything that Governor Cahill wants, if it doesn't cost the Port of New York Authority any money. He will do anything Governor Rockefeller wants if it doesn't cost the Port Authority any money. He doesn't care where the money comes from, it can come from the states, or come from the Federal government, and he would like you believe that it could come within a few minuscule degrees within this formula, that is Item No. 4, and roughly speaking 10 percent of the general reserve fund which is now \$120 million, and 10 percent is \$12 million, or 1 percent of the outstanding bonded indebtedness is the same figure, and in the 1969 report, and I think this morning, too, Mr. Tobin said that the Hudson and Manhattan is losing 12 or 13 million, by a sheer coincidence, and the Hudson and Manhattan is losing all of the money

that they can be permitted to lease for mass transportation. He told you, but as we go on with our building program, skyscrapers, and I thought it was a beautiful question: How does the World Trade Center help mass transportation? As they do that Center, they borrow money and then the general reserve fund will increase, and they will have 10 percent of a higher amount, like another \$5 million.

But then, he also told you that he thought, he expected that the Hudson and Manhattan will be losing \$30 million. He has got it made. There isn't a chance. You are absolutely licked.

Mr. Tobin made it as clear as a bell this morning that the Port of New York Authority has not changed its attitude toward mass transportation, and the statement that was put out on February 11th by the Port Authority, talking about studies, and saying they were responding to the demand of Governor Cahill, was dust in your eye, deliberately intended to mislead. They induced headlines in the papers to the effect that the Port Authority had changed its position on mass

~~transportation, and air transportation, and~~

Mr. Tobin was clear as could be this morning that there is no change, that there is no money available for mass transportation, that there is no money for the links to Kennedy and Newark, and there is no money for a tunnel under the Hudson, unless you supply it. If you want to supply it, they will be glad to play with your money.

The issues are finally drawn: 6606 is a piece of legislation that no other Authority in the world has. It was not needed according to the Port Authority's own Solicitor General, Daniel Goldberg, the architect of the financial structure that protected the Port Authority.

It was demanded of the Legislature by the Port Authority, and now Mr. Tobin tells you it is unconstitutional for you to get the Port Authority to do anything for mass transportation for those facilities that are self-supporting, and don't need help.

I said this morning that it is like the child, because that is what the Port Authority is, it is the child of New York and New Jersey, and it is

~~a long-term child, and it is the child saying to~~  
the father and mother, "Dear Father and Mother, we will help you in your old age, and we will help you with all of your problems, as long as you have enough cash to live on. But once it comes to a point where you don't have the money, forget about us, we can't help you then. We will help you if you don't need it."

Mr. Tobin said that at that point, the Authority existed to do the things that private industry cannot do, and you heard him say that, but then he said that we can only do things that are profitable, and that is what private industry is for, and that is why they went into the real estate business, it was the best business in New York City, and that is why so many buildings were going up, and the Port Authority saw an opportunity to make money, and it was \$36 million the Comptroller said. It has got to be over \$50 million with the tax benefits, and the interest benefits that they possess.

Now, Mr. Tobin may be right, and indeed, if 6606 is constitutionally right, and the Legislatures and the Governors are spinning wheels,

and they are wasting time, the Port Authority will give you studies, and it will give you compliments, and it will tell you how bad things are with mass transit, but so are they with schools and fire departments, and sanitation, but they will give millions for profitable ventures, but not one cent for mass transportation.

We have something to invalidate, and they certainly intend to invalidate them on the ground that they are unconstitutional, and they are unconstitutional delegations of the responsibilities of the State to protect the people from the powers of the State to legislate, and that they are invalid amendments of the compact, without the approval of the Congress.

The Port Authority says according to this morning's paper, that the pursuit is wholly without merit, and I thoroughly expect that we will be attacked as to our right to sue, as to the status that we possess, and we will be well represented, as they usually are in court, and they may win. I don't think they will, if our right to be in court is finally established. If they do win, I say to you,

any he, or that Mr. Cantilli may have, and I must say that I really admire the way in which he has dedicated himself to this cause, and to Governor Rockefeller who has likewise spoken of the need to get the Port Authority to help mass transportation, you are licked, and you are finished, and you are through, and there is no hope because you cannot repeal the law, and if you try, the Port Authority will say, "Well, you have only repealed it from 2006 on," and if you try to repudiate it because you should, and it is an immoral law at the very least, the Port Authority will say, "We challenge you," and if the Port Authority doesn't say it, the bondholders certainly will, because there is money in it for them.

The only way around it, as I see it, is to have the law declared unconstitutional, illegal, and unenforceable, which I sincerely believe.

Thank you very much.

CHAIRMAN KELLY: Was there anything in your lawsuit concerning the bonds perpetuating themselves, where it goes on and on? Is that part

of it?

MR. KNEEL: Yes, we alleged in our complaint that the Port Authority has assumed the power to bind you in, indefinitely into the future.

CHAIRMAN KELLY: Almost in perpetuity, or as long as the bonds continue?

MR. KNEEL: The last bonds were sold two weeks ago, and they expire in 2005. If you asked Mr. Tobia, he would have told you. I must say he was very responsive, and he confirmed that his position hasn't changed.

CHAIRMAN KELLY: Assuming again that you lose the lawsuit, and assume that; is it possible that we could pass legislation, in your opinion, where if we put, the full faith and credit of both states behind the outstanding bonds, that we could then get them into mass transportation?

MR. KNEEL: The full faith and credit behind the \$1,300,000,000 worth of bonds now outstanding? Well, the Port Authority's contention has to do mainly with their use of revenues and capital to make up --

CHAIRMAN KELLY: And continue with

what they are doing, until completion, and the point  
that they are doing, are done?

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MR. KHEEL: I think that what Mr. Tobin said, if I heard him correctly, the only way you can get the Port Authority to do anything for mass transit is to guarantee that you will make up the losses. If you guarantee to make up the losses, they have no problem.

CHAIRMAN KELLY: My final question: Would it be your opinion that if we created another Authority, like we did with the MTA, would that help?

MR. KHEEL: No, because Mr. Tobin would say it is unconstitutional for us, unlike the TFTA to turn over our surpluses to this new agency because of 6606. If 6606 is unconstitutional, that can be done, but if it is constitutional it cannot be done.

CHAIRMAN KELLY: Is there any way in your research, and I am taking advantage of some research that you did do, to do this under any other power?

MR. KHEEL: I have thought long and

hand about this, and I have thought that what  
they do, they could undo, and I thought it was  
like Houdini, and he put handcuffs on himself, and  
put himself in a box, and at the right moment he  
could get out of the box, but this structure that  
the Port Authority has built is the work of 25 years,  
and the work of 20 years, since Mr. Tobin became  
the Executive Director, and it is a formidable  
structure, and I regrettably say that in my opinion,  
and I hope I am wrong, except for a couple of bucks  
here or there, or some rationalizations about one  
project really not being mass transportation, but  
it would help mass transportation, some rationaliza-  
tion of that sort, that any positive, direct effort  
on your part to get the Port Authority to help mass  
transportation will prove unavailing unless 6606,  
and the companion law, are held unconstitutional.

CHAIRMAN WILSON: Mr. Keeel, are you  
familiar with Mr. Levitt's report?

MR. KEEEL: Yes, I am, both of them.

CHAIRMAN WILSON: What is your  
opinion of those reports?

MR. KEEEL: I think that they are

~~very good reports. In fact, I wrote an article on~~  
the last one. Mr. Levitt made some very telling observations in the second report. His first report, incidentally, was completely misconstrued by the press, and the misconception was not corrected by the Port Authority, and it was referred to here this morning. It was said that Mr. Levitt had found that the Port Authority was losing on all but five facilities. Now, that is completely untrue. The Port Authority may be losing on the Hudson and Manhattan, and I have no doubts about that. It claims to be losing on the bus terminal at George Washington Bridge, which is a very small operation.

But according to Mr. Levitt's report, properly construed, they were not losing at any other facilities.

Now, what Mr. Levitt had done, he had given various columns of figures to show how much they take in on each facility, and how much they spend, and so forth. In the next-to-the-last column he deducted debt service, and the last column had the amount less debt service. In the debt service he included interest on long and short-term

borrowings and amortization on long- and short-term  
borrowings.

Now, the amortization, the repayment, particularly of short-term borrowings under the accounting, is a proper item of expense to be deducted from your gross income because in the years of the audit in those very same years the Port Authority was borrowing short-term by almost the same amount as was repaid, and sometimes more. If you are going to charge the repayment of short-term debt as a loss, then you would have to report the borrowings as a gain. The Port Authority didn't say a word.

Page 1 of the New York Times said that the Port Authority was losing, and everybody said, "Isn't that a shame?" They are really cleaning up. If they were on the list of the 500 largest companies in the country that they put out, they would be right at the top, and they pay no taxes, either.

In the second report, Mr. Levitt made it crystal clear, and he went on to say that the Port Authority's financial condition is very

strong. He also deservedly criticized the tactics that the Port Authority used to make more money. They borrow in the bond market at a very reduced rate of interest, because the people that lend the money don't have to pay taxes. In 1968, as of December 31st, 1968, they were borrowing -- they had on hand in cash \$680 million, and \$341 million of that they had deposited -- they had invested in government securities, and \$339 million they had in banks. They had also in that year borrowed \$210 million from a consortium of 13 banks at 4-1/4 percent interest. They had the money invested, the Comptroller said, in United States government securities, and they also had C.D.'s with the same banks that they borrowed from at almost the same time at 6 percent, and they were making the spread.

Now, Mr. Tobin's explanation for that was that everybody does it, and all municipalities do that, but no municipalities go into it to the tune of \$500 million. They made, in 1969, \$13 million from the banking business, and I said that the name should be changed to the Real Estate and Banking Authority of the Port of New York, because

their biggest single investment was the World Trade Center which is nothing more than an office building, and all of this nonsense about helping world trade because you can go to the 110th floor of one tower to the 110th floor of another tower and talk to somebody in the world trade business, when you could get him on the telephone, and the telephones are now improved, and you could get him a lot more easily, and it is office space, and that is what it is in competition with the Uris business, and the Atlas business, and the other people that have been building office space in Manhattan, so much so that perhaps they over-built, but then on top of that comes this \$11-million square feet put up by a public agency, in this time with the cities of this country, and this area deteriorating, after all of the things that they could think of to do, with the \$650 million that would come within the scope of the mandate of terminal, transportation, and other facilities of commerce in the Port of New York, and the things that they could think of that we most needed was office space.

This is an indication of the distorted priorities of this agency that has gotten totally out of hand that, as a practical matter, is answerable to nobody, and I would like in that connection to talk for a moment about the so-called "veto".

Yes, the Governors can veto actions taken by the Port Authority. There is no way for them to veto inactions, if the Port Authority does not want to help mass transportation, and they call it a disease, and they speak of it as a headache, and if they tell you, as Mr. Tobin did today, that even if you pass a law he will defy it, if that is their attitude on mass transportation, how many years do you think that study of the tunnel under the Hudson is really going to take?

CHAIRMAN WELSON: I have another question. Mr. Kheel, you have also made a statement to the effect that you think there is a conflict of interest, as far as some of the Commissioners is concerned. I would like to know about that.

MR. KHEEL: Well, I didn't quite say

that. I did point out that over the years, the practices of the Governors of both states, up until the time of Mr. Cahill's election, was to name primarily people from the banking and brokering community. They were people, honorable people, and I am not suggesting for one moment that they, themselves, did anything wrong. They do represent a point of view, necessarily in light of their backgrounds. They were undoubtedly brought to the Governor's attention in order to help sell the bonds in the bond market by being able to say to the forthcoming bondholders, "Don't you worry, you have been fully protected with more protection than our general Counsel said you need, our Solicitor General, because our board is banker-broker-minded and we are oriented to the financial community."

Mr. Ronan is the only member that has had direct experience with mass transportation.

I have criticized the lack of people on the Board in addition to bankers and brokers, and I am in favor of the banking and brokering community getting representation, too, but I compiled a statistic on the number of bankers and brokers

since Mr. Tobin became Executive Director, and it is well over 50 percent, and well over half of the representation that comes from that limited community, and I don't think that that is right.

CHAIRMAN WILSON: On the same line, do you think that the average citizen that commutes between the states of New York and New Jersey has a fair representation as far as the Commissioners are concerned in the Port of New York Authority at the present time?

MR. KHEEL: They are beginning to have have in New Jersey.

CHAIRMAN WILSON: But you say that not in New York?

MR. KHEEL: Not as yet, except with regard to Mr. Ronan.

CHAIRMAN WILSON: That is one out of six?

MR. KHEEL: Yes.

SENATOR DEL TUFO: Mr. Chairman-- Mr. Kheel, your rendition was very interesting and very good. I have got a couple of questions here. Where it was mentioned that if the 1962 statute

was abolished, it would affect vested rights, and that would apply to already-existing projects, but as to any future projects, the revocation of that law would be effective?

MR. KHEEL: No, it wouldn't be, according to Mr. Tobin. It would not be, because it would not be revocable or repealable with regard to those bondholders who have bonds outstanding and unrepaid and there are such bonds out until 2006.

SENATOR DEL TUFO: If the Legislature for future projects wants to play under different rules which they can do, why wouldn't they be effective as to future projects?

MR. KHEEL: According to Mr. Tobin, you would be violating the Constitution.

SENATOR DEL TUFO: What is your opinion?

MR. KHEEL: If the laws are legal, he is right, but it is my opinion that they are unconstitutional laws. He says you are constitutionally prohibited from making the Port Authority do what it was set up to do.

I say that that prohibition is

unconstitutional.

SENATOR DEL TUFO: Well, I feel that the situation would affect future projects, and there would be a new ball game.

One more question, and I just want to touch one more thing. You made a statement which is very important to me, and I would like to see if we disagree on it, and I hope that I am not wrong, where you said that the Port Authority, on a question of the spurs, either Kennedy or the Newark spur, will not ~~cost~~ <sup>cost</sup> the Port Authority any money?

MR. KHEEL: No, I didn't say that. I said that the Port Authority won't do it if it does cost money.

SENATOR DEL TUFO: I thought I understood you to say that, No. 1, they have already -- I understood you to say that the spur will not be built with Port Authority money?

MR. KHEEL: No, I said that the Port Authority will not build the spur or the link if it will cost the Port Authority any money. They are waiting for Governor Cahill to say, "Go ahead,"

and then they will say, "Where is the cash? Come up with the cash and we will go ahead."

SENATOR DEL TUFO : Whose cash?

MR. KHEEL: Your cash; the people's cash.

SENATOR DEL TUFO : I am not asking this to argue with you, but he said that they had already built -- I don't know, but interchanges near the airport, and they had already built it, and wasn't that with their money?

MR. KHEEL: He said some work on it, but you can bet your boots that they have not gotten themselves too committed so that they will lose any money.

SENATOR DEL TUFO : He said that within a week he is going to submit a plan that they have. Now, are you saying that if that plan is approved by Governor Cahill, and New York State, it is not going to be what it would be with Port Authority money?

MR. KHEEL: Absolutely. I will bet dollars to doughnuts here and now that this plan that will be submitted to the Governors, for

approval, will make explicitly and implicitly clear that the Port Authority will not spend any money on the link, as a rail link, if it is going to result in the use of any of the funds for a deficit operation.

SENATOR DEL TUFO : In other words, there is \$200 million that is going to be spent on Kennedy Airport and that is not going to be Port Authority money?

MR. KHEEL: No, they will spend the 200 if they certify that in the succeeding ten years they are going to make back on their investment an amount sufficient to cover the interest, the amortization, and the reserve necessary for them to have, to be able to say that that facility is self-supporting.

SENATOR DEL TUFO : Assemblyman Rogers asked about the 28 million for the Newark Project. Is that going to be put out by the Port Authority?

MR. KHEEL: They will not put out a penny unless they can certify that they will not lose any money on the deal. That is what Mr. Tobin

said today, and it is as clear as a bell. He kept telling you that we will do all sorts of things for mass transportation within our legal and fiscal responsibilities, and then when you asked him about those, he said it is unconstitutional for you to ask us to do anything that is going to cost money.

ASSEMBLYMAN LANDIS: I just wanted to cover on one point, on the question that the Senator just said in which he said that he wanted to know about the future projects if they were covered by that limitation, and you said yes. If I put the question and said future bond issues and future bondholders applied by this in this covenant, does it appear in these specific indentures would you still answer yes?

MR. KNEEL: Well, you have got this problem to overcome, and possibly you can overcome it. I rather doubt it. They borrow under the Consolidated Bond Resolution, and all of their facilities now in existence, or hereafter created are pledged to the support of those bonds. I would rather doubt that under that legislation they could put out a bond issue for another \$100 million or

\$200 million, outside of the covenant, because such a bond issue could not be based on their existing facilities. It would have to be outside of it, and if it is outside of it, it has no support for salability of the bond market.

ASSEMBLYMAN LANDIS: I can see that problem, but I notice this, that they state in their prospectus that there is no limitation of the Authority's power to arrange on bonds in any series of the amount at or before maturity, except, and then it sets forth the Consolidated Bond Resolution which doesn't seem to have this covenant, and then theoretically at least they could refinance that gradually and eliminate this covenant if they were so minded to do so?

MR. KHEEL: They would have to refinance \$1,300,000,000 forthwith, because as long as one bond of one bondholder is out-standing, you are constitutionally prohibited from legislating, according to Mr. Tobin. If they could get up \$1,300,000,000, and recall all of the bonds, many of which are selling below par -- you can buy a Port Authority bond for \$64 today, or \$61, and the

bonds issued when the interest rate was lower, and they are lower because of the change in the interest rate, and those bondholders would be delighted to have the Port Authority recall their bonds and issue new ones. I don't think that that is a practical approach, but it is one.

CHAIRMAN KELLY: What would be the cost? Would the bonds go sky high?

MR. KHEEL: They would have to be called at face value, at 100 percent.

ASSEMBLYMAN KOPPEL: I don't think you meant what you just said. If we repeal the covenant tomorrow, as I recommend that we do, then people who buy those bonds from tomorrow on no longer can rely on that covenant?

MR. KHEEE: I agree.

ASSEMBLYMAN KOPPEL: And at least we would not compound, if we repealed the covenant, 6606, and I am not talking about past bonds, we could repeal it tomorrow, and then either we could wait until 2006, or we could start retiring bonds, and I would suggest that the Port Authority may well be able to buy bonds in the open market, in

addition to retiring them at par, so that then at least if we repeal 6606 in the Legislature this year, they cannot extend even further the guarantee.

MR. KHEEL: I think that that is right, and I think that because it is such an immoral law, it ought to be stricken from the books.

I think it should be repudiated so as to raise the issue of its legality, and not merely in the suit that I have brought, but by legislative action, and I think that that would be desirable.

But if you repeal it, you are freeing yourself up from 2006 on, and I hope we are all here then to reap the benefits, and you can retire bonds, but not until you have retired all that are outstanding, and I suppose you could start with the bonds that were issued last.

Now, there is a point that you make there, because there is \$1,700,000,000, according to Mr. Tobin, and I think that was his statement, \$1,700,000,000, and that is page 12, and he said that there was still the uncertainty among this concerning the Port Authority bonds, and they

accepted the formula as adequately protecting the investments. As a consequence, the Port Authority has been able to borrow \$1.7 billion since then.

Now, I think maybe you have something there. If \$1,700,000,000 of bonds were retired, I don't think that the Port Authority could successfully argue that the covenants that the Legislature intended to insert the covenants in that bond that had been bought by bondholders who were not relying on the covenants, and I think that that has possibilities. In other words, you would not have to retire \$1,300,000,000, but \$1,700,000,000, and it still would be difficult. It still would involve a windfall to some bondholders.

ASSEMBLYMAN KOPPEL: But we have to retire all of the bonds issued between '62 and '71?

MR. KHEEL: That is the billion 700 million. No, I am wrong, excuse me. I have my figures wrong. They have \$1,300,000,000 outstanding, and they have sold \$1,700,000,000, but they have retired some. I am wrong.

ASSEMBLYMAN KOPPEL: But how much since 1962?

MR. KNEEL: About \$1,700,000,000.

But there are some retired, and there is (\$1,000,000,000) one billion three outstanding.

ASSEMBLYMAN LANDIS: If you look at this schedule of debt, those are the highest rate bonds, the recent ones.

MR. KNEEL: Yes, they sold at par, and I don't know whether this was in anticipation of this hearing or not, but the bonds have been sold off a little bit since we have talked about this.

ASSEMBLYMAN KOPPEL: If the covenant is wrong, we ought to take it out forthwith?

MR. KNEEL: It should be removed from the books. It is a sad reflection on the Legislatures who were induced to enter into this, in the position that the bondholders are in, when the Solicitor General said that all of the protection they needed they had, and they are protected at the expense of the subway rider and the commuter.

ASSEMBLYMAN KOPPEL: Let me discuss what Mr. Kelly brought up, and I am not sure of that. I assume, let us assume that we instead of

repealing the covenant for the future, legislatively stated that in the exercise of our right to protect the people of the two states, we find that this covenant stands in the way of the proper development of mass transportation facilities, which is essential to the people's good and welfare. If we repealed the covenant not only for the future, but for the past, and if we could show that the security of the bondholders was not impaired to any material extent, could we not argue, as Mr. Kelly suggested, that we have that right under our police power?

MR. KHEEL: Yes, I think frankly that what you should legislate is not only the repeal and the repudiation of 6606, but you should mandate the Port Authority, you should do just what was suggested: the two Legislatures should pass legislation saying to the Port Authority that you build the spur or the link to Kennedy, and you build the link to Newark, and you build the tunnel, regardless of whether or not it comes within 6606.

Yes, protect your bondholders and give them reasonable protection, but not such protection that they can become the most protected

bondholders in the world. You should say, "We mandate that you do that."

Let Mr. Tobin tell you that he will defy your mandate, and let the bondholders, if they choose, bring the case to court, and get their pound of flesh in the form of a quarter of a percent.

CHAIRMAN KELLY: Assuming that we do that, couldn't we possibly keep mandating on them many items which would run, and I am just going to be arbitrary, keep mandating on these projects that would run a deficit, and wouldn't we then be --

MR. KNEEL: No, you can say to the Port Authority that we mandate you to spend on mass transportation all monies in excess of the amounts in your general reserve fund for the protection of the bondholders, and then, then you would have to say, "And we guarantee that after those surpluses have been used up, for mass transportation, New York State and New Jersey will make up any further deficits."

What the Port Authority would have

to do, is make up all deficits, regardless of this  
super-cushion, and as you were talking out, Mr.

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Assemblyman, this morning: 3 percent, or 4 percent,  
or whatever it is, surely the bondholders don't  
need all of that protection, and the way Mr. Tobin  
misleads you is that he says, "If we have to take  
over \$300 million of the deficit," he said, "we are  
ruined," and he is right, but who is saying that  
he should take over \$300 million? What we are  
saying is that they should take over what is surplus  
over and above a protection that the bondholders  
reasonably need. They are not entitled to so much  
protection that the mass transit riders get nothing.

ASSEMBLYMAN KOPPEL: Just one  
question, Mr. Chairman. In light of what you  
stated about the World Trade Center, and its lack  
of relationship to the mandate of the Port  
Authority, and its drain on the real estate market,  
would you recommend that the World Trade Center  
be sold by the Port Authority?

MR. KHEEL: I think that the Port  
Authority should not be in the office building  
field, and that it ought to get out of the office

building it as quickly as it can, prudently.

I wouldn't want it to throw it on the market, particularly, at this time when office space goes begging, where the Port Authority, if it has got 80 percent, as it says not merely signed up but in process, it must have been undercutting the market and it must have been competing unfairly because of its tax advantages and interest advantages, and I certainly believe that -- Mr. Tobin said that a public Authority should do what private industry cannot do, and private industry cannot supply office space, and the Port Authority should provide for mass transportation.

ASSEMBLYMAN LANDIS: On the World Trade Center, for a second, and my impression is, and maybe you can clarify it because I am confused concerning the testimony of Mr. Tobin, and with respect to the revenues on that. Mr. Levitt indicated that he thought it would net \$36 million. Mr. Tobin implied that that \$36 million was before debt service. If it is before debt service, and the investment is \$650 million, I get the impression that by a net, virtually, unless they are paying a

lot below 5 percent of their money, or much below that, they have to be losing money at full occupancy?

MR. KHEEL: Now, Mr. Tobin was throwing more dust in your eyes when he talked about that. The last report that the Port Authority made, and it reports once a year in April, so that there is a lag, and particularly now in March, where we are 15 months behind the last figures that the Port Authority put out, and this is something that they ought to put out monthly figures on so that we know what is happening from month to month, and not just an annual report.

As of December 31, 1969, the Port Authority had outstanding \$1,200,000,000 of bonds. It had a debt service -- well now, the way their reports are, it is terribly misleading because they include this debt service interest, amortization on the long-term debt, and repayment of short-term debts, and they give you a net figure after debt service, but there is no accountant in the world that will tell you if you want to find out how much money they really made that you would subtract

the repayment of short-term debt and not include fresh borrowings.

Now, at that time, their real debt service, even if you include long-term amortizations, and I don't think that should be included, was about \$62 million. They made \$13 million in interest on this other transaction, and \$5 million in New York securities, and that was \$39 million that was their debt service, and you have the figures there, and their net earnings after subtracting operating expenses was how much, Mr. Koppel?

MR. KHEEL: I think it was \$115 million.

ASSEMBLYMAN LANDIS: That was by Mr. Levitt.

MR. KHEEL: Yes, and you subtract \$39 million from that, and you have got what is really their profit at that time. Now, if you look, it is in Mr. Tobin's statement, and he says that the World Trade Center is going to cost \$650 million, they have already spent \$400 million, so that \$400 million is already their bonded indebtedness, you see, and clearly what the Comptroller meant was that the

\$36 million was on top of the figure that we have just worked out, clearly that is what he meant because the cost of the World Trade Center is being paid for out of short- and long-term borrowings, and going into their debt structure immediately, and \$400 million, according to Mr. Tobin's statement this morning, 406 is already in the debt structure. I say if they could only make \$36 million there is something wrong, because they borrowed at a net, and their net interest costs according to that report, after you subtract the \$13 million was 1 percent, 1 percent. If you don't subtract the \$13 million it is 2 percent. If you take it in 3 percent, you know, and you have had experience with building, and what does a builder have to pay for a mortgage, for a building loan, and equity money, and what do the builders who are building office space have to build, and they are competing with the Port Authority, plus the tax exemptions that they have to get, and plus paying taxes on what the value was before it was improved.

They have got to have a \$50 million

a year advantage over private builders.

In assuming that they merely -- the private builders are not paying anything, and if they aren't, where are they building all of these buildings at least up to the present time, and the situation is different at the moment. But when the Port Authority went into this business, it was with that acceptance, that they had a \$50 million a year advantage over the private builders, so they were protected. Either they cash in, or make \$50 million plus the same profit that the other builders make, or in order to be 100 percent rented, they cut the rate. There is no way of doing it other than that. It is one or the other.

So that \$36 million is, I think with all due respect to the Comptroller, and he is a very conservative fellow, and he said they will have a borrowing capacity of a billion dollars and grossly understated, I think, but at least you know it is a secure figure. \$36 million is grossly understated but at least that is a secure figure.

ASSEMBLYMAN RINALDO: I have one question, and I think your testimony was excellent,

but it appears to me that despite the statements by our Governor, and his very, very earnest efforts on behalf of mass transportation, it appears that both Governor Cahill and the Legislature of the State of New Jersey, from what you have said, and from what Mr. Tobin stated earlier, are being deluded that the Port of New York Authority is going to move ahead with any mass transit projects. Additionally, unless 6606 and the companion statute in New York are repealed, we are going to have difficulty even mandating them to spend money on mass transit?

MR. KHEEL: I think that if the two things that come through loud and clear from these hearings are stated, and they are very important in this respect because the Port Authority statement of February 11th is misleading people into believing they were now at long last going to do something for mass transportation, but if there is one thing that comes through with as much clarity as anything could, it is precisely what you have said. Governor Cahill is being deluded, and Governor Rockefeller is being deluded, and the

Legislature is being deluded, and the public is being deluded if they think the Port Authority has changed its position one iota on that they are going to spend one cent on mass transportation beyond the very limits set by 6606.

CHAIRMAN KELLY: Thank you very much.

The next speaker is Mr. Abraham Stein.

MR. ABRAHAM STEIN: I just want to point out -- first, my name is Abraham Stein, and I teach at Pace College, and I did some research, and I brought some very interesting information, but I doubt very much that I will be able to give you much information tonight. I don't think you could take it, and I don't think there is time. I would like to have an hour at least, but I do know this: That it is always good to have a variety of instruments, and it is always good to have different ways to solve problems.

If we can solve the problems about making the Port of New York Authority amenable, amenable to its masters, by repealing 6606, or voiding it through judicial process, fine, but if

we are unable to do that, and the future is always something you cannot tell about, the Port Authority can still do everything you want it to do right now. It does not hang on 6606, either way. That is an important point to make.

The second point that I would like to make is that the Port Authority has never lost a penny operating PATH. Where this statement that I made is a statement that was made for you to create policy, you are outside the Port Authority for policy-making purposes, and the Port Authority reports to you in a certain way, and when it reports in that way, that information is for you to use creatively for the entire metropolitan region.

I also think that if Governor Cahill, whom I have had the pleasure of helping a little bit, and Governor Rockefeller, whom I have not yet had the occasion to help, does want to help the municipal area, and the counties of northern New Jersey, and downstate New York, build a multi-network of mass transportation facilities, they should think in terms of a network, and they

should think in terms of assistance, and unless we understand the system approach, which the Port Authority has used to its own advantage all of these years, it made systems when it wants to, and it divides these into places and facilities and projects when it wants to.

I think we have to be very careful. Under no circumstances should we take one of the most forward-looking instrumentalities, a bi-State Authority, and make it vulnerable to destruction, either through taxation or anything else. We should have no taxation, and no castration.

The first thing to tell you, or show you, however, is in the words of the Port Authority, in the words of the instrument, that nothing is more important than the development of adequate suburban mass transportation. I have the citations, plenty of them.

I will also show you how the Port Authority has spent its own money trying to develop a mass transportation network. I have other things to show you, too. I keep trying to get back to the beginning.

First, in the beginning, I should say that I want to thank you for letting me come here.

Secondly, I should point out that I see an historical significance in this joint action of two states, that has good intentions at this point. The reason that we are all here together from both states is that we have one common problem, and we have to tackle it in one common process. And that common problem, and that common process makes us one system. The two Committees constitute one system.

Whatever comes out of this hearing will not be adequate. The system, the two Committees, should be thinking in terms of the continuing program of study, a program of study funded in the order of from ten to fifteen million. And the source of the program -- of the funds, is very simple. The Port of New York Authority. The Port of New York Authority has given millions of dollars away for various purposes, and they can give you millions. You need it, to do an adequate study from a cybernetic statement, and from the standpoint that in order for a system to have

adequate control, it must have not only internal controls, but it must also have expert external controls, and you must become the external control of the Port Authority. This is the approach today that I would take.

ASSEMBLYMAN LANDIS: You stated originally, and it sort of shocked me a little, and you have wandered off of it completely, but you began with the statement that despite the statute, there is no limit on the Port Authority's investing in mass transit, and could you explain to me precisely what you mean?

MR. STEIN: I want to thank you for helping me come to a focus. The law is here, and it is right in McKinney's. The 6606 is here in two versions. We have it in the current version, when they put it in the afterthoughts, about 1 percent of this, and 1 percent of that providing so forth and so forth and the original version was written by the Legislatures when they were thinking about it.

I am preparing a statement which I will publish next week, and I will read you a piece

of it.

It concerns the function that PATH is a deficit-ridden or loss operation, and a study of the deliberate failure of the Commissioners and principal officers of the Port of New York Authority who are also the Directors and principal officers of the Port Authority Hudson Corporations, to render a valid and adequate public reporting and financial accounting of their implementation of the 1962 Port Development Project Act of New Jersey and New York.

They have failed to account to you adequately. There is one way to account for that. A detailed examination, and the whole thing will run to about 30 pages.

It follows to support the view that it is false and misleading to assert that PATH is losing money, or to imply it by looking or juggling of the technical contracting terms in press releases or other communications prepared by non-accountants. It will gain added confidence by ridding the original legislation authorizing the development and operations of the joint

facilities of the Port Authority -- of the joint facilities of the Port Authority originally termed the Hudson and Manhattan and World Trade Center Project.

ASSEMBLYMAN LANDIS: Let me just ask you something --

MR. STEIN: If I can't do this in three or four words, instead of ten pages?

ASSEMBLYMAN LANDIS: Yes.

MR. STEIN: The only sound way, according to the law, and according to accounting principles, is to report the operations of PATH, is to combine them in consolidated accounts with all other operations of which PATH is merely a sub-system, because the legislation said that the Port Authority should go about assembling land and rebuilding the Hudson and Manhattan tubes, and building such incidental buildings as would help it make enough money to make sure that PATH didn't lose money.

ASSEMBLYMAN LANDIS: Are you saying that the reason that they say PATH is losing it from the World

Trade Center, and from the terminal buildings on the other side the things that make the money?

MR. STEIN: Yes, and in a fashion that is not allowed in financial accounting and reporting to the public. They did it from cost accounting figures, which are arbitrary and inadequate.

ASSEMBLYMAN LANDIS: Well, in doing the bookkeeping, do they include these various capital items?

MR. STEIN: It is irrelevant where these go, or whether they do everything right. The point is that it goes back to an earlier situation at 111 8th Avenue, the headquarters of the Port Authority now known as the Port Authority Building, originally built as a union freight terminal, No. 1, the first of a series of freight terminals. The ground floor, and the first floor were to be a freight dispatcher's terminal for the distribution of freight. The railroads didn't want it and the Port Authority wanted to build it, and they said to the railroads, "You come on in and handle freight at a dime a ton, and we will build 15 floors

above it, as loft and office building, and we will get money to support the entire project."

That was a question in the courts concerning the terminal, and the courts said that the 15 floors were incidental to a public purpose.

The same thing happened once again with the design of the World Trade Center. Now, when the Port Authority first proposed the World Trade Center to the two State Legislatures they composed these two projects as independent projects, and the Hudson tubes, where they start out, and the World Trade Center, it was proposed that it build a world trade center --

CHAIRMAN KELLY: You mean the Port Authority?

MR. STEIN: The Port Authority proposed that it build a World Trade Center on the East River, combining the stock exchanges, and the commodity exchange, and all other kinds of commerce, and the Hudson Tube rehabilitation project on the west side.

ASSEMBLYMAN LANDIS: What you are saying, and I don't want to keep you too long, but

what you are saying is that when Mr. Tobin said that the World Trade Center and PATH are in the same bill, but two separate sections, there was no intention that one would balance the other, and you are saying that good accounting requires that one does merge the two?

MR. STEIN: Not only am I saying that, but the Port Authority said exactly what I am saying, when they started. In the Courtesy Sandwich Shops versus the Port Authority, the Port Authority said in its defense of the operation that this is one integral process, and that the purpose of the World Trade Center, which was supposed to be a 30-story building, and a 70-story building, was to support the transportation process.

Now, the Port Authority did much more than that. That is what they said.

CHAIRMAN KELLY: Now, you are saying that they not only did that, but they made two 110-story buildings, but divided the two items?

MR. STEIN: Yes, and they have two 110-story buildings and --

CHAIRMAN KELLY: They divided the two items?

MR. STEIN: Yes, they have divided this in the minds of the public, and in the minds of the Legislature, and I have discussed it in a study --

CHAIRMAN KELLY: That is all right, thank you.

ASSEMBLYMAN LANDIS: If we accounted it differently, we might get another answer?

MR. STEIN: There is no question about the fact that they have never run a deficit from the standpoint of the outside community.

CHAIRMAN KELLY: Did you submit this to Mr. Kheel?

MR. STEIN: This went in a memorandum to Mr. Kheel about May 1, 1970.

ASSEMBLYMAN KOPPEL: Is it your suggestion that this is the way to get around 6606?

MR. STEIN: It is my suggestion that 6606 does not operate unless -- it does not operate to tie the hands of the Port Authority with regard to mass transportation unless they are losing money.

ASSEMBLYMAN KOPPEL: So that you

suggeste -- if we made them take over the New York City Subway System, for example, they might?

MR. STEIN: If you made them take over the New York City Subway System, you would have to do something different, and you would have to either build --

ASSEMBLYMAN KOPPEL: A mile-high?

MR. STEIN: You would have to do what they are doing at the bus terminal. The terminal is being doubled in size. They have a big chunk of land on the west side of 8th Avenue between 41st and 42nd Street and it is vacant land, and they will go into that piece of land with bridges and all of that sort of stuff, and have an 80-story building that is going up.

ASSEMBLYMAN LANDIS: For rental as office space?

MR. STEIN: Yes, and built by private industry, which rents the land on a 99-year lease.

ASSEMBLYMAN LANDIS: On the air rights?

MR. STEIN: Yes.

CHAIRMAN KELLY: If we tied that in with the subway, that would make money. We could

make them take over the subways?

MR. STEIN: There is a lot there. It is not only my theory, but that was the actual practice of the New Jersey State Legislature. This is what they did.

ASSEMBLYMAN LANDIS: That may have been the intention of the Legislature, although I was not there, in connection with the Hudson Tubes.

MR. STEIN: The Port Authority said let us build the World Trade Center along the East River, and we will take over the Hudson Tubes on the west side and New Jersey didn't trust them, and they put it together, and they didn't trust them when they created this, the PATH, and the Port Authority bought the land by condemnation, and they condemned the land, and much more land than in the original plan. The whole idea was to apply it to the mass transportation system.

Now, I have all kinds of information here, and for example, the tracks are there, that would carry the passengers from Manhattan to Newark. I said the tracks are there already. It isn't a matter of surveying and all of that. The tracks are

there. I went over them.

ASSEMBLYMAN LANDIS: And most of the tracks to Kennedy?

MR. STEIN: That is another very interesting thing. It would be easier to connect the independent subway, by going to Aqueduct, and dropping off, to connect that to Kennedy, than to do the more involved job that MTA -- and by the way, when you mention Mr. Ronan, you are mentioning both MTA and the Port Authority, don't forget that. You don't even have to use the Long Island Railroad tracks. There are other approaches to that.

The point is that I have done this research over a period of four years. I have started studying the Port Authority, the very first contact was when I was a student under Walter Hedden, who was the Director of the Port Development Planning for the Port Authority in 1946 at Columbia University, and I studied under him.

I have been very much involved with the Port Authority, and I have made an analysis of the 50 annual reports that they issue, and I have spotted exactly where they begin to cut out the

information. For example, on the following page 29 here --

CHAIRMAN KELLY: Do you have a copy of the report? Is that a copy of your report?

MR. STEIN: Yes, it is the only one that I have got.

CHAIRMAN KELLY: I have a copy, and I can have copies made.

MR. STEIN: In 1931 the Port Authority issued a balance sheet. It still does. It issued a profit and loss statement for the Consolidated Income Account. It stopped doing that and it has not been issuing an income account after 1938. It issued information on expenditures for construction of all bridges, the George Washington Bridge, and other bridges, and the Inland Terminal No. 1, detailed. It issued an income account, a profit and loss statement for the Holland Tunnel, for the George Washington Bridge, the other bridges, and the outer bridge, and the Bayonne Bridge, and it issued an operating expense so that you could figure out the net operating profit, and it gives you all of this information, and as of this week, a few days ago, I

put it in the hands of Comptroller Levitt's staff and they admitted they had never gone back into the history, that what they are requesting the Port Authority to do now, the Port Authority gladly did.

ASSEMBLYMAN LANDIS: You studied all of these statements, and there is one that I am a little confused about. I gather that accounting is different than it used to be, and they no longer separate out the facilities. One statement that they gave us is a statement of debt retired, and a statement that seems to be significant, because they have the right, evidently, to absorb the mass transit deficit not just up to 1 percent of the bonded indebtedness, but up to 1 percent of the total debt retirement income, and oddly enough, these are practically equal figures today.

MR. STEIN: It might be coincidental.

ASSEMBLYMAN LANDIS: Now, I want you to tell me whether, from your studies of the accounting statement, any income is being used for capital expenditure in preference to retirement of debt? When you studied these statements does it appear that if all of the income were used to retire debts that

they could handle a greater mass transit deficit?

MR. STEIN: First, let me try and answer your question your way, and then rephrase the question. Money is functional. As soon as the money comes into the pot, where it came from, you don't know, and then you pay it out. You see, some of the fact of it is that they took money from income, and here they have money from operations which is income, and profit, and here they have money from bond issues which is debt money coming in.

ASSEMBLYMAN LEWIS: That is just refinanced?

MR. STEIN: No, I make a \$100 million profit, and I issue \$100 million worth of bonds, and I now have \$200 million in cash. In the case of the Port Authority it is cash, real cash.

Now, what I am saying is that that money moves through the income account, and moves through the balance sheet, and you see, the money does not move through the profit and loss, it moves through the balance sheet, and that money is put into a pot, and now they have \$200 million, and what should they do with it? You see, I am trying to help you come to a conclusion, but in a very

interesting way.

Let me tell you what they do with that money. How much money do you think that the Port Authority Commissioners have to budget out, and have to plan to spend, when they meet on January 1st? \$1 billion. Every January 1st they make a program to distribute \$1 billion because they know that they have \$1 billion in cash in their hands.

ASSEMBLYMAN LANDIS: I would like to address you very specifically to the question: You understand that they retire debt two ways, by either refinancing, or paying it out of income. From the point of view of absorbing the mass transit deficit, evidently under this thing they have, the more of the debt that they retire from income, the more debts that they are allowed to undertake.

Now, are they not in this case retiring debt from income and refinancing the debt and using the income for capital expenditures, and that is all I want to know?

MR. STEIN: Thank you. They have about --particularly, they have about \$450 million,

conservatively \$350 million that they could use tomorrow to retire debt, so that they could increase, if they wanted to, they could increase the debt retired from income by \$350 million within 48 hours.

ASSEMBLYMAN LANDIS: But they are only retiring in the whole district of the Authority \$1 billion, and I have a figure here far in excess of that, and what I would like to say is that it seems that a great deal of income has been going into the creation of new capital facilities rather than financing them through debt, and by doing that, that they lessen the amount of transit deficit.

MR. STEIN: The increase in investment facilities in 1969 was \$200 million. In 1968 it was 202, and in 1967 it was 100 million, and in 1966 it was 80 million. So I have that figure. But I have something else which is extremely important. If you take away there from that \$1 billion that they dispose on January 1st, their operating money, after all, they have to spend this, which is \$150 million a year to operate the facilities. You take that away, and you take some other operating facilities away, and they have -- operating purposes, and take it out, and they

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\$826 million to play with.

Of that 826, -- well, I will be glad to put this into the record, and they did not need 68 percent for anything that they were doing for capital purposes, so let's say for calculating purposes 70 percent of 800-and-some million and it is 560 million that they did not need for building, or for servicing debt, or for reserves, or for anything. They could, tomorrow, sign contracts for \$450 million or \$500 million of construction contracts without getting below the two times ratio of having reserves on hand. There is a lot there.

CHAIRMAN KELLY: It is getting late, and that is all in your report, and you are also preparing another report?

MR. STEIN: Yes.

CHAIRMAN KELLY: What I would like to do, if it is okay with you, because of the hour, I will make duplicate copies of this and I have a copy and I will have copies made for the entire Committee.

I would also like to have a copy of

your proposed new report that you are going to make.

MR. STEIN: That will be a 30-page report.

CHAIRMAN KELLY: And I can see from what we have here, from what we have, and what probably takes place in New Jersey next week, that in all probability we will have additional hearings that will be necessary, even if we only do it on a concentration of one or two points, and we have some finer points than we have done today, and if for that reason if you don't mind, I would like to have these gentlemen digest what we have already, because your report, which you will submit, and then we will recall you at a later date --

MR. STEIN: I would prefer to do that, and be better prepared to give a better presentation relative to your purposes.

CHAIRMAN KELLY: Thank you very much. Is there anyone else that would like to be heard?

We have a statement from Martin Gallent.

ASSEMBLYMAN KOPPEL: I want to point

out that Mr. Stein's work has not only assisted Mr. Kheel and others, but it has been a great help to me.

(The following is the statement submitted by Mr. Martin Gallent:)

MR. GALLENT: My name is Martin Gallent, and I am a Commissioner of the City of New York and a member of the City Planning Commission. I do not speak for the Commission, but as an individual, however.

I would like to read to you a concurring statement that I made on the Fifth Avenue District, which we heard only on Wednesday about, and let me sympathize with you gentlemen, I just finished an 8 to 10-hour day sitting and listening, and I fully appreciate and I will make this very brief, but I have a salient point here and I am not going to deal in numbers and that will relieve your mind somewhat, but I want to get across to you an idea of what is happening in the future in the City mass transit system, and I delivered this in relation to the Fifth Avenue District which we are proposing and which we have passed and sent to the Board of Estimate.

ASSEMBLYMAN KOPPEL: Do we have copies

of the statement?

MR. GALLEN: I have copies.

ASSEMBLYMAN KOPPEL: I would like to apologize, and I have to leave in five minutes, so I might not get it all, and I will be sure, however, to read the statement in connection with this.

MR. GALLEN: (Statement follows)

The Fifth Avenue District as proposed by the Office of Midtown Planning and Development will direct the enormous energy and creativity of the private sector along the most productive and constructive lines providing substantial benefit to the City and all its people and the requisite profit to the private and public economy.

Fifth Avenue will, like other parts of Lower and Midtown Manhattan, enjoy substantial growth. More office, residential and retail space will be built and the density of the City will increase. This increase in density can be managed by providing the necessary infrastructure. The most important need is adequate mass transportation to get people quickly, efficiently and comfortably to and from their destination.

Authorities in urban studies have indicated that when density is built up to a critical mass a reaction occurs. Most of the time we can avoid the build-up of excessive density because the conditions are not acceptable. We avoid the critical mass by providing amenities and most of all ease of movement, a way out -- the street patterns become important, plazas, arcades, width of streets and sidewalks, but most important the ease and comfort of mass transportation.

The greatness of this City has been built upon our foresight, ability and willingness to provide mass transportation. From DeWitt Clinton to the creation of the Port Authority and the Metropolitan Transportation Authority we have demonstrated time and again that mass transportation is the magic that makes this City work.

The Metropolitan Transportation Authority, however, has failed to provide the vision -- to say nothing of the facilities to meet the needs of this City even to 1985. In the Metropolitan Transportation Authority's 1968 report to Governor Rockefeller called A Program for Action,

it was stated that:

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The measure of the MTA miscalculation of the Central Business District's growth is self-evident by looking at what has happened since 1968.

Approximately 31,300,000 square feet have been built between 1968 and 1970 and by 1972 about 39,500,000 more square feet will be completed. So by 1972 we will have an increase of 70,800,000 square feet, well before 1985. The implication is clear MTA's current plans are not sufficient to do the job that must be accomplished to move this City forward.

Another factor in transportation planning is the comfort factor, or how many people

can comfortably ride the standard subway car. In a report to the Mayor and the New York City Board of Estimate entitled, "Standards for Rapid Transit Expansion," dated August 14, 1968, the Transit Authority, City Planning Commission and the Bureau of the Budget settled on a comfort factor of 120 passengers per car in a standard IRT Lexington Avenue train.

120 passengers per car means every seat is occupied (40), every strap is utilized (56), two passengers holding on to every pole (12), and one person leaning up against each panel of the sliding doors (12). This all assumes, of course, a 100 percent distribution. The comfort factor in a Standard IND car is 160 passengers per car.

However, if this crowding weren't bad enough, the MTA has calculated the standard IRT car not at 120 but rather at 140 persons. This would put two more people at the end doors (2), two more on each of the poles (12), and six people leaning against other passengers.

The MTA and the City would be hard pressed to increase the capacity of the system by

building additional lines. But, the Port Authority could logically relieve the system by building a loop on the west side of Manhattan under the Hudson and along the Jersey coast.

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The Fifth Avenue District by emphasizing retailing, office and housing will help to some extent by spreading travel to the area over a greater part of the day when the subways are not as heavily utilized. Residential development in midtown clearly reduces peak-low transit demand.

While I applaud the Fifth Avenue concept, I want to underscore my belief that we must also take action on other fronts. Improved mass transit is one. Development of outlying regional centers in the other boroughs is another essential ingredient.

The City has adopted the concept of the Urban Centers in the Brooklyn Civic Center, Jamaica and Fordham Road. These centers can help provide non-competitive back office space for

Manhattan as well as cultural, educational, and civic complexes. Great strides are being made in the Brooklyn Civic Center and a substantial effort is being made in Jamaica. Fordham Road has just begun to look at the possible opportunities.

The imagination and effort that went into the Theatre District; the "G" District in Lower Manhattan and the Fifth Avenue District must be captured and developed for our sub-centers. We must develop Manhattan but we cannot put all our hopes, our people and our efforts into the Central Business District of Manhattan. We, I believe, stem the loss of the small business and the back offices to other parts of the region by making Jamaica, B Brooklyn Civic Center and the Fordham Road attractive and advantageous places to be. If we continue to take advantage of our opportunities and our natural resources, our sub-centers will complement and strengthen our position as a National Center. We must provide the public investment and strong unequivocal support.

In the sub-centers transportation is a major factor and high priority in the development

of transportation and other city services must be given to these areas.

The Fifth Avenue District is movement in the right direction; but it must be complemented by other actions which are crucial.

In addition, I would like to say that I think that Mr. Kheel has said, and Professor Stein has dealt with the mechanics of the Port Authority, but what you must not miss is that unless we provide mass transit for this City, and we must remember that the City is the focus for the entire region, unless we provide that, the City will get into that critical area, and adverse reactions will occur that Mr. Kheel mentioned, and we must remember that the City is a viable unit. If that happens, then those viable parts of New Jersey and Long Island and Connecticut and Westchester die with all of this.

All of this falls on us, and we have to have the imagination to do the job. We have the tools, and it is the Port Authority. I will leave the mechanics to you, and God help you all.

CHAIRMAN KELLY: Thank you, and I am sorry for delaying you and I thank you for being

patient.

That brings to a close this part of the hearing on the New York side, and to repeat, those that are interested next week, March 12th, in Newark, New Jersey, we will have a hearing for the Jersey people, and Assemblyman Wilson will be in charge, and we will participate and hear from the other statements over there, and I want to thank you all for appearing and coming here today.

(Whereupon the hearing was concluded.)

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The City has adopted the concept of the Urban Centers in the Brooklyn Civic Center, Jamaica and Fordham Road. These centers can help provide non-competitive back office space for

Manhattan as well as cultural, educational, and civic complexes. Great strides are being made in the Brooklyn Civic Center and a substantial effort is being made in Jamaica. Fordham Road has just begun to look at the possible opportunities.

The imagination and effort that went into the Theatre District, the "G" District in Lower Manhattan and the Fifth Avenue District must be captured and developed for our sub-centers. We must develop Manhattan but we cannot put all our hopes, our people and our efforts into the Central Business District of Manhattan. We, I believe, stem the loss of the small business and the back offices to other parts of the region by making Jamaica, B Brooklyn Civic Center and the Fordham Road attractive and advantageous places to be. If we continue to take advantage of our opportunities and our natural resources, our sub-centers will complement and strengthen our position as a National Center. We must provide the public investment and strong unequivocal support.

In the sub-centers transportation is a major factor and high priority in the development

of transportation and other city services must be given to these areas.

The Fifth Avenue District is movement in the right direction; but it must be complemented by other actions which are crucial.

In addition, I would like to say that I think that Mr. Kheel has said, and Professor Stein has dealt with the mechanics of the Port Authority, but what you must not miss is that unless we provide mass transit for this City, and we must remember that the City is the focus for the entire region, unless we provide that, the City will get into that critical area, and adverse reactions will occur that Mr. Kheel mentioned, and we must remember that the City is a viable unit. If that happens, then those viable parts of New Jersey and Long Island and Connecticut and Westchester die with all of this.

All of this falls on us, and we have to have the imagination to do the job. We have the tools, and it is the Port Authority. I will leave the mechanics to you, and God help you all.

CHAIRMAN KELLY: Thank you, and I am sorry for delaying you and I thank you for being

patient.

That brings to a close this part of the hearing on the New York side, and to repeat, those that are interested next week, March 12th, in Newark, New Jersey, we will have a hearing for the Jersey people, and Assemblyman Wilson will be in charge, and we will participate and hear from the other statements over there, and I want to thank you all for appearing and coming here today.

(Whereupon the hearing was concluded.)

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