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PUBLIC HEARING

before

SENATE JUDICIARY COMMITTEE

on

Nomination of Fred G. Burke as Commissioner of Education

Held:
March 19, 1979
State Museum Auditorium
Trenton, New Jersey

COMMITTEE MEMBERS PRESENT:

Senator Martin L. Greenberg (Chairman)
Senator William V. Musto (Vice Chairman)
Senator Steven P. Perskie
Senator Walter N. Sheil
Senator James S. Cafiero
Senator S. Thomas Gagliano
Senator James P. Vreeland, Jr.

ALSO:

John J. Tumulty, Research Associate
Office of Legislative Services
Aide, Senate Judiciary Committee

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SENATOR MARTIN L. GREENBERG (Chairman): The Senate Judiciary Committee will reconvene its hearings with regard to the confirmation question of Commissioner Burke.

The first scheduled witness that I announced at the conclusion of the hearing last week, Mayor Gibson, is unavailable today. So we will proceed with the next scheduled witness, Senator Matthew Feldman.

Good morning, Senator.

SENATOR MATTHEW FELDMAN: Good morning.

Mr. Chairman, Committee members, ladies and gentlemen, I appreciate this opportunity to speak today on behalf of the reappointment of Dr. Fred G. Burke to the office of State Commissioner of Education.

When Governor Byrne submitted Dr. Burke's name to the Senate for its consideration and - in its wisdom - approval, he made several points. He said that during the last four and a half years, that is, during Dr. Burke's term in office, we have been in a genuinely revolutionary period in education in this State. And Governor Byrne spoke of the need for continuity of leadership in the State's educational community, particularly during this extended period of change. I must agree. We have seen the beginning of a new system of public education in New Jersey. The changes now being developed here will touch every state in the Union. To be Commissioner of Education in such a time has not been easy and will not be easy.

Let's try to put things in perspective. When Fred Burke came to New Jersey in 1974, he arrived during a period of conflict. It was a time when the threat of change in the system of public school education was making many people, citizens as well as educators, uneasy.

Under Dr. Burke's leadership, the educational community has held together through the stress that the changes brought. While all groups have worked together to resist fragmentation, the key role was played by the Commissioner.

There are people in this State who would like to blame all the problems of education on Dr. Burke and give him none of the credit for the gains we have made.

Such a view is neither reasonable nor realistic. The decisions of a Commissioner of Education are never easy and it is never possible for the decision-maker to please everyone. In fact, to do so would be irresponsible. When a Commissioner is dealing with the decisions involved in establishing T & E, a system which keenly affects some million and a half children, their parents and tens of thousands of teachers, school administrators and school board members, we must expect he is going to get criticism.

However, it is important to note the nature of that criticism. It is not that the Commissioner is on the wrong track. The lament is that he has not gone far enough. It seems a matter of degree and that degree is determined by where the lamenter sits.

I believe the key question is whether there has been progress. My answer is, yes, a firm yes. There has been progress. The building of a system which started with a judge's decision in Robinson v. Cahill and has been designed by many architects in all branches of State government cannot be an immediate success. We cannot honestly expect it. There has been substantial progress and there is the promise of more ahead. We are getting a system of accountability. We are finding the children who are having problems with the basics and we are starting to do something about helping them. A procedure aimed at providing a remedy for reading and math failures has begun.

The Department of Education has taken some unprecedented steps towards helping districts. It is working cooperatively and, I understand, intensively with school officials in New Brunswick and it has taken other direct steps to help with problems in Newark.

In addition, through the T & E system, the State Department of Education is working more closely with local school districts. A system designed to monitor and assist them, using the offices of County Superintendents, is in place and working.

I might add that while putting this system in place, Fred Burke has used restraint in exercising the powers of his office. He has never lost sight of the fact that the first solution to a problem should always be with the local district. He has consistently sought to avoid needless regulation by the State.

Concerning the Commissioner's work in Trenton, it has been my experience that Commissioner Burke's relationship with the Legislature has been marked by professionalism and a willingness to cooperate. And, despite reports to the contrary, the Commissioner has shown initiative and come to us with suggestions and advice.

For example, the Department of Education initiated a study on the impact of the "Cap" law and then brought to the Senate Education Committee some technical changes that were necessary. Unfortunately, the Legislature has not acted on this yet. Education is constitutionally the Legislature's responsibility. I think this Legislature has done an outstanding job of meeting that responsibility and the Commissioner has played a prominent role in helping us. The resources of the Department have been accessible. There has been a sound working relationship.

The Commissioner and his staff have always been available for technical assistance. The Department worked very closely with me on my High School Graduation Standards Bill and offered many constructive changes.

When Fred Burke has disagreed with the Legislature, such as on minimum basic skills, he has been the thorough professional, giving us his reasons for disagreement, but then accepted the legislative judgment and does the best job possible to implement the law.

Dr. Burke has not only worked for change in the public school educational process, he has brought change to the State Department of Education itself. He has been innovative in de-centralizing the Department and starting a managerial system to put in effect a complex, new State Education Law.

And, through all this, through all of the pushing and pulling of the many forces which are part of the democratic decision-making process, Fred Burke has been the man in the middle. He has done his job. He has made the necessary adjustments to make things work and to keep many groups in a degree of harmony.

Everyone of us can point to problems, many of them, within our system of education. If Fred Burke were to leave, those problems would not go with him. He did not create these problems. They were not part of his baggage when he came here.

This is not the time, my colleagues, for finding a scapegoat.

It is time for all of us, teachers and school administrators and parents, as well as officials of government, to work together to get the best system of public education we possibly can. Let's settle this appointment and get on with the job of improving the quality of education for all of New Jersey's students, whether they reside in the cities of our State or suburbia. We are all part of New Jersey.

Thank you.

SENATOR GREENBERG: Thank you, Senator.

Senator Vreeland, any questions?

SENATOR VREELAND: No, Mr. Chairman. I just got here. Thank you.

SENATOR GREENBERG: Senator Gagliano.

SENATOR GAGLIANO: I have just one or two questions. Senator Feldman, your High School Standards Bill or Graduation Standards Bill - I forget the title of it - passed the Senate overwhelmingly, as I recall.

SENATOR FELDMAN: Yes.

SENATOR GAGLIANO: Is that bill now in the Assembly Education Committee or has it passed the Assembly?

SENATOR FELDMAN: No, it is in the Assembly Education Committee. A hearing on it was held about two weeks ago by the Assembly Education Committee.

SENATOR GAGLIANO: This bill was pretty much your idea, wasn't it?

SENATOR FELDMAN: Yes.

SENATOR GAGLIANO: Don't you think that it would have been appropriate for the Commissioner's Office to come up with something like that and either make a recommendation or somehow implement it as part of the educational process in New Jersey?

SENATOR FELDMAN: Well, they did have input into the bill. There are 27 states in the Nation that have similar bills. Ours is unique. It is different than any other state's. But we in the Legislature many times do things by legislation which could be done by regulation. I was triggered into this, yes - in direct answer to your question - because there was nothing of this nature coming out of the Department of Education. However, it is a continuity of the T&E. And one of the sponsors of T&E, Senator Wiley, is here. T&E calls for a basic skills testing. The Commissioner and the Department had a lot to do with that, as Senator Wiley perhaps will testify. My minimum standards bill is a continuation of the basic skills testing.

SENATOR GAGLIANO: Of course, I voted for it and I agree with it. Several people have expressed the concern that in very important matters, such as qualification to graduate from high school, the Commissioner has been silent or, in some cases, even negative until such time as there was a certain amount of political or other pressure, when he would then kind of go along. It gives one the impression sometimes that he vacillates. Others would say, well, he throws out ideas and then picks the best one. But some have said he vacillates. I just wondered about that. Do you feel that he does vacillate at times?

SENATOR FELDMAN: No. When I first discussed the Minimum Standards Bill with him, he has wholeheartedly and uncompromisingly behind its concept. He was concerned, as many were, about the effects it might have in the cities. But he gave me support and enthusiasm for the bill.

It is very difficult, as I said in my prepared statement, to be the Commissioner of Education in the State. I went through an agonizing period when Commissioner Marburger was here and he fell out of grace, so to speak, with some legislators and some officials in the State. A change was made. A search was conducted; Dr. Burke came in. Governor Byrne, in his wisdom, decided this was the man. Yet history does repeat itself. You cannot be all things to all people. Perhaps you want to be a peacemaker, trying to bring people together. But yet when he has to act with muscle, he has done so, such as he has in New Brunswick and Trenton. He has a lot of muscle in his office and his department, and I know it is being exercised today. If you can't do things by compromise and getting people to see the light of day, then you have to move in. And I think this is what Dr. Burke is doing now.

SENATOR GAGLIANO: One last question: Do you think that the Department of Education has approached the alleged drug problem in our schools forcefully?

SENATOR FELDMAN: Here again, when I used the word "scapegoat," I used it somewhat advisedly. How one individual can be blamed for the decline of morality in this nation is inconceivable to me. All of us have to share this responsibility. The Legislature just recently had a heated debate. There is the family. There are all of the churches of America. There are all the ethnical groups of America, the educational groups, and the law enforcement groups. All of us have to share this responsibility of the infiltration of drugs in the school systems of our State, which is an American microcosm. This is a fact of life. This is an American microcosm.

SAT scores have declined throughout the country as well as in New Jersey. We are trying to do something about it with minimum standards and with basic skills. We are concerned too about the college readiness courses that are being given today, spending money to prepare people for college who are in college. We have had a debate on that. We'll we having others. We passed a resolution encouraged by Dr. Burke. We ought to phase that out. But I can't blame any of the ills of our society on one individual. Collectively as Americans, all of us are to blame. But we should take steps not to blame, but share responsibility. We do have to take positive steps to rectify what is gnawing away at the vitals of this State of ours.

SENATOR GAGLIANO: But do you think that he has been forceful enough, considering the area within his jurisdiction? I realize that parents probably have the initial blame in this area and maybe society has the primary blame. But from the standpoint of the child who is in school from, let's say, 8:00 in the morning until 2:30 or 3:00 o'clock in the afternoon, all of that being under his jurisdiction, are you satisfied that his Department has worked hard enough and forcefully enough to cope with the alleged drug problems that we have in our schools?

SENATOR FELDMAN: If drugs - and we know they are - are in the school systems of New Jersey, law enforcement officers have to be called into play to stop the trafficking of drugs into the school system. A Superintendent of Schools cannot be a traffic cop or cannot be a law enforcement officer, an officer steeped and schooled in the traffic of narcotics. Any teacher, any supervisor, any school personnel that has been involved should be summarily dismissed, and fired, and the wrath of justice should be imposed upon that individual. If that has not been done where the facts warrant it should have been done, then I would say, yes, educators are at fault or the Commissioner is at fault if that evidence has reached him. But I don't believe in kangaroo courts. I believe we have law enforcement officers and they are the ones that should stop the traffic of narcotics. It can't be Commissioner Burke.

SENATOR GAGLIANO: Thank you very much.

SENATOR GREENBERG: Senator Perskie.

SENATOR PERSKIE: I have no questions.

SENATOR GREENBERG: Senator Sheil.

SENATOR SHEIL: No questions.

SENATOR GREENBERG: Senator, did you happen to notice the quite interesting article today in the New York Times on minimum standards nationally and their effect?

SENATOR FELDMAN: I have the article. I cut it out.

SENATOR GREENBERG: They don't seem to find a significant difference in the states where the program is in effect with remedial educational programs, following

initial testing. They don't seem to find any significant change after, in some instances, several years of the existence of the program. Children seem to be tutored for the purpose of passing certain tests and, after they pass the absolute minimum, they test exactly the same. I am wondering whether or not your Committee had that information or any information with regard to the national experience with minimum standards.

SENATOR FELDMAN: Some information that we have on the national experience is that after the remediation more and more students have passed the minimum standards test. With remediation, the important thing is not the testing, but the remediation.

SENATOR GREENBERG: The article indicates that while the percentage of those passing increases after the remediation, the testing thereafter of competency performance in the basics doesn't show any real difference. You increase the percentage of people who pass, but you don't accomplish very much, seems to be the thrust of the article. I would be interested in your reaction.

SENATOR FELDMAN: I will give you that after I have read the article. As you know, I left my abode up in sunny Bergen County at 7:30 this morning. So I really did not have the opportunity of reading this morning's paper. But I will have comment on that after I read that New York Times article.

SENATOR GREENBERG: You serve presently as Chairman of the Senate Education Committee, correct?

SENATOR FELDMAN: Yes.

SENATOR GREENBERG: Are you here in your capacity as Chairman of that Committee or as an individual legislator?

SENATOR FELDMAN: We did not take a vote. We did not poll the members of the Senate Education Committee. I am here as an individual who happens to be Chairman of the Committee. I feel that the great majority of the Committee would be in favor - but they can only speak for themselves - of the reappointment of Dr. Burke. On a number of occasions, he has shown full cooperation with this Committee. When we have asked him to testify on certain bills, he has come to the Committee on time, on schedule. We have met with him in his office jointly with the Assembly Education Committee and by ourselves. We have found him to be - and I speak for the Committee - most cooperative.

In direct answer to your question, Senator Greenberg, I am here as an individual who has worked closely with him this past 14 or 15 months.

SENATOR GREENBERG: All right. Thank you. Are there any other questions? If not, thank you very much.

Senator Wiley. Good morning, Senator.

MR. WILEY: Good morning, Mr. Chairman.

SENATOR GREENBERG: It is nice to see you back in Trenton where you belong, as the song goes.

MR. WILEY: Thank you. I am not here on my own behalf this morning, just in case there is any confusion.

SENATOR GREENBERG: If you have a prepared statement, we welcome it; if not, we would be happy to hear your thoughts concerning the very awesome responsibility of this Committee and the Senate, with regard to the nomination pending before us.

SENATOR PERSKIE: Senator, if I might, in view of Senator Wiley's record of not liking to speak too much about himself and in view of his comment here, I think the record should reflect - we all know, but I think the record should reflect - that he served as Senator Feldman's predecessor as Chairman of the Senate Education Committee

for, I think, four years

SENATOR GREENBERG: And in that regard was primarily responsible for the legislation which ultimately passed and is in place, commonly referred to as the T&E Law.

MR. WILEY: I was hoping no one would remember that, but now that you have said it ---

SENATOR GREENBERG: I tried not to mention it, but Senator Perskie has a way of reminding me.

S T E P H E N B. W I L E Y: Thank you, Mr. Chairman and members of the Committee. It is a pleasure to be with you. You do, indeed, have an awesome responsibility, but the responsibility is in the best of hands from my point of view. I have confidence that you are going to reach the right result, whatever that result may be.

I do not have intimate knowledge of recent events as they pertain to the Department of Education or education matters in the State. I am sure I cannot enlighten you in terms of facts. You have more than I do. Perhaps the most I could do would be to suggest some things out of the experience that I did have and perhaps bring a sense of perspective that you get from intimate involvement, combined with distant acquaintance with a situation.

I am aware that the Commissioner is an object of controversy, more, that there are those who will testify vigorously against him, as there are those who will testify vigorously for him; and, if it seems he is a controversial figure, the appearance is not different from reality. He is. However, from my point of view, for such value as that may have, I think he is a good Commissioner and I would urge, if it is appropriate to urge the Committee, that he be considered favorably for confirmation of his renomination.

A major thing that I would suggest is that I am old enough to remember times in education in New Jersey when Commissioners were not controversial. Indeed, it is hard to remember, if you go back 15 or 20 years, any that were controversial. Yet, that is not an attribute, at least by comparison, so much of the men or the people; it is rather of circumstances. It is perhaps coincidental, but nonetheless a fact, that education has gone through a high watermark, a 100-year or century high watermark of crisis, that has nothing to do with Fred Burke. It went through such a period 100 years before. There was a five-year period in the 1870's when they decided on big things like compulsory education and gratuitous education and "thorough and efficient" went into the Constitution. And that was a time of enormous crisis.

The last five years, the five years that Fred Burke has been in office, have been similar years, not because of him but because of circumstances. There was a Constitution-shattering decision in 1973, I think it was, that culminated in the problems that you and I and many of us have coped with over the years. He has been beset with crises not of his own making in four areas that I think of, all without recent precedent, all of the 100-year variety. So he has been on the spot. He has been the center of attention. He has been the center of tensions and pressures and counter-pressures. And he has been in that spot with the advantage of a very lively and spirited press that has kept an eye on him. I am sure if there are any things that he has done that are the basis for question, question has been raised and, likewise, anyone in public life who is conscious of what is going on in Trenton is well aware of the controversies that he has been forced to contend with.

I think that perspective may be useful. It is to me at least. Let me elaborate on it just this much. The dimension is so large that I think it is

perhaps worth stressing. And I recognize that I am telling you things that you know, but I presume to mention them just because of the perspective of distance that I perhaps have.

There has been a crisis in finance, there has been a crisis in educational process, there has been a crisis in the urban sector, and there has been a crisis in educational governance in Trenton, all without precedent for decades, if not indeed for a century in all cases. These are of mammoth proportions.

In finance, there is nothing I can add to your knowledge. We know. You are dealing with the biggest expenditure of public State and local funds for any purpose, more than 50 percent of every dollar. You have had an enormous shift from local tax sources to State tax sources. At the same time, there has been a concern about the cost, an accentuated concern because of State dollars. So you have been dealing with caps, something unprecedented in educational matters - a Trenton presence, a Trenton involvement, if you will, in the decisions of local school boards that has nothing in history to reflect it. And you are dealing with that kind of a situation in a State which treasures the values of home rule and treasures them in education. So the tensions and counter-pressures that arise from that crisis in finance of the last five or six years are truly extraordinary. If you had a Commissioner who was not the subject of controversy and about whom there need not be hearings before the Senate Judiciary Committee on his renomination, I would suggest you wouldn't have much of a Commissioner because he couldn't have contended with it; he would have had to hide from it in order to try to survive.

In process - and here is an important area, I think - one of the commands of that constitutional crisis, as well as a command to the people because of the dollars that were being spent, was there be some accountability - and that has been the theme - for these \$4 billion that are spent in education. So you have issues of evaluation and these are earth-shattering to some people: evaluation of tenured teachers; accountability of systems, evaluations of whole school systems. Paperwork is the complaint that we used to hear. I guess you probably still hear it to a degree because there was a requirement that there be some reports so that you in your positions of responsibility could know what it is that is being done with the public money that you have appropriated. All of this has had to be done in a time of unprecedented decline in school population year by year that puts new demands on an old system - new demands, things like caps.

So in finance and in process - I have mentioned finance and process - and in governance, the cities are the heart of much of the controversy, much of the problem, that the Commissioner of Education must deal with. When you talk about basic skills and the need for minimum standards, you are talking about a problem which has been exemplified, which has been brought to your attention and all of our attention, principally by the cities. The same thing is true, I think, of your discussion of graduation standards. And the State has begun to do some things with regard to the cities that were never done before. I don't recall a Commissioner of Education, if you go back more than two, that had any concern for the cities or knew where they were. Yet I know at that time, many cities in New Jersey were in desperate difficulty and were well down the slide towards their terribly deteriorated situation of today. Nothing much was done. A lot of things have been done in recent times and the Department of Education has been at the apex of those counter-pressures and has given a great deal of leadership to it.

The compensatory education program is brand new. It is something which we in the Legislature at that time gave to the Commissioner and worked out with him. But

he had the responsibility, and he still has the responsibility, of trying to implement this novel, difficult problem of how to compensate for extra programs for children who obviously were not performing the way they should be performing in basic skill areas. I think he is really the first Commissioner who has done a job in trying to move things along toward the solution of the problems of the cities. And some real progress has been made. Most of it is known about, not all of it is. I know. If Mayor Gibson were here, I am sure he would tell you. In Newark, for instance, an enormous amount of energy has gone into finding some solutions to the difficult problems of that city in the educational sphere. I have sat with Fred Burke many times in the early days of those concerns talking about how it could be handled. Out of those concerns came Walter Wechsler's visit to Newark and the recommendations in the various bills for the restructuring of the Newark school system, which was put into place and passed, and I think it has had a beneficial effect.

Out of those concerns came judgments as to how far you move and how fast in dealing with those problems of the City of Newark. I have seen Fred Burke sit in his living room and be given advice by eminent people, which, in retrospect, would have been disastrous had it been followed in dealing with problems of that kind, but he had the good sense and the good balance to pick a route that was both reasonable and effective to try to move things along. I think you will find if you probe into it that some very good things are happening in a very difficult situation. After all, we tell the Commissioner, now, you go solve that problem, while all of us know, of course, the problems of the cities are not just in the schools. The problems of the cities have a broader and a deeper base. The schools are a reflection of it and you can't simply take a child and make up for all the deficiencies, family and lack of cultural background and the like, by spending a few dollars. You are dealing with a detail in a way; but an important one, of course.

But recognizing the limitations of trying to solve the problem by that limited means, I think he has exercised on the whole good judgment, reliable judgment, and done things that have made you proud, at least in the long run. I, personally, am proud of what he has done in that area. I think he has begun to give New Jersey a focus that it has needed to pay attention to its urban problems. He is doing it now in New Brunswick. When our committee first went through the New Brunswick schools, it was a horrendous situation. There was an armed guard at every intersection of every corridor on every floor of that building. I tried to go in some school rooms to see what was going on and the doors were locked. You couldn't get in. We had to get the principal who was on the tour with us to open the door. It looked like a jail more than a school. Fred Burke didn't create that problem. He came here after we created it, the people of New Jersey. We let this thing happen. It isn't going to be solved overnight. It has to be dealt with carefully and wisely and I think he is giving that kind of attention to it. We all know there are problems in other cities too. You have them right here in Trenton. He is likewise coping with that, although I don't know the details of that nearly as well.

At the same time you have had these crises of historic proportions in finance, in process, and in the cities, you have had a very interesting change in the City of Trenton in terms of State government and the governance of education. The Legislature in the past has not had nearly the knowledge which all of you gentlemen have of education matters. Indeed, the State Board of Education, I would say without referring to any individuals, but going back far enough before the present individuals were there -- the State Board of Education has not had that much to do

with education really. There has been a dramatic shift. The Legislature has taken initiatives. You are in policy-making in education in a big way. Now the State Board, I think I can say since I am far enough away, is beginning to say, maybe we ought to take a little role here - maybe we ought to do a few things. And, indeed, they should. They ought to have a lively role.

In that process of shaking-out of jurisdiction, there are going to be conflicts. There are going to be differences of opinion. There should be and it is healthy. But I would simply suggest that we shouldn't be surprised if there are. That is a situation that we have created and it is not going to fall completely into place for another five or ten years probably, if then. So, again, it is the kind of 100-year watermark, the 100-year crisis, that he has had to contend with on our behalf here in New Jersey and I think he has done a pretty good job.

You have to consider, I am sure, in evaluating him, what his experience has been in terms of staffing, because he has a big appointive role. I don't know all of the answers. I was not completely satisfied with his choices. But as I reflected on it in thinking about my presentation to you today, I, on the whole, have been well satisfied - exceptions, yes --but well satisfied on the whole in his performance in a large responsibility. I am talking about the decentralization of the Department through the County Superintendents' offices, which have become a substantial presence. The educational improvement centers have been under his guidance. He has had to pick the people and get them moving. And, within his own Department, I think it is fair to say, without getting into names, there are a lot of very fine and able people that he has brought in there who are today doing a worthy job.

No one would quarrel, I think, about his level of intelligence. It is high. No one would quarrel, I think, about his commitment to the job; he works hard at it.

There is another element that is perhaps not so obvious that is worth mentioning. The Commissioner of Education historically before the Legislature got into the picture within the last five years had as his major power the power to decide controversies and disputes. He still has that power. He is the judge of all education matters. And, over the course of the last five years, I would dare say he has decided many hundreds of cases. I am not aware of much criticism as to the calibre of his decisions. On the other hand, I believe - you would know better -- but I believe that they have been well regarded. When you decide hundreds of cases in matters of intense and difficult controversy and come out without a great deal of criticism about that process, I think that says something about the validity and carefulness of the process.

Looking at the whole of it then, I think there is a man here, this Dr. Burke, who came to New Jersey from outside and from a different strata of life and had that as a disadvantage - he wasn't from the establishment of education, as former Commissioners almost universally had been before Marburger, and that has been a little uphill for him - he has had to introduce himself and get confidence --- he came at a time - probably in retrospect if he knew what he was getting into he wouldn't have come - of unprecedented period of crisis in many, many ways. He has been at the point of all of these pressures. No one doing his job would have come through that period of time with universal acclaim. But he comes through with a general sense of support among people I have talked to who are, I think, objective observers of the scene. He certainly does in my own observation of his work over these years. I, accordingly, for such value as it might be, would urge that you

consider him favorably. Thank you.

SENATOR GREENBERG: Thank you very much, Senator. We appreciate your coming down.

Senator Vreeland.

SENATOR VREELAND: Thank you, Mr. Chairman.

Senator Wiley, since you were the chief architect of the "Thorough and Efficient" Bill - and I think this is a fact of life - which the Department of Education to a large degree operates under, as well as Commissioner Burke, in your opinion do you think that the law, as you know it and the purpose for which you know it was intended, has been carried out as well as it could be by anyone and that the schools and the children of the State of New Jersey as a result of that and as a result of the Commissioner's actions are now getting a "thorough and efficient" education?

MR. WILEY: Senator Vreeland, I believe that the law has been carried out well. I said at the time that if the result of that law was to hold the values in education even and to give us a 1 percent increase over a period of five years in terms of general improvement, I would be pleased. I am well aware of the problems in dealing with this massive 600-district system of a million and a half children. Much as I thought we might hope to make striking changes, I was aware that you don't do that really.

I think he has done that and I think he has done better than that. I also think, however, that it is a little hard to prove now because he has only really been through two cycles, two funding years, of the process.

I may say that we gave him an imperfect product. I am well aware of that. It was a big piece of legislation. It was done rather rapidly. We put into it, because we knew it was being done rapidly, a provision that required that it be re-evaluated after five years, to see if we could, or if you could, make some changes to correct it.

Recognizing that we gave him an imperfect set of instruments to work with and that he doesn't have the powers he might want to to solve all the problems, I think he has done a good job.

SENATOR VREELAND: I have one other question. I think you have stated that Commissioner Burke has gotten along reasonably well - I think that is what you said, "reasonably". It is my understanding that he is not getting along so well with the State Board of Education. Do you have any thoughts on that?

MR. WILEY: Just this thought, Senator: I never have attended their meetings, so I have a newspaper reader's knowledge of the matter, largely of one or two conversations. I don't know what the personal feelings or differences may be. I think the only useful comment I could make is the one that I suggested, that in the past, in the distant past, the State Board of Education has not really done a great deal. They have never had any staff. I think maybe it was a little difficult for the State Board to see the Legislature begin to take such an active role in formulating educational policy. Had I been on the State Board, I think I would have been a little concerned about whether I was doing everything I should do - you know, just kind of a human thing. I think as a result of that and as a result of the stimulation of the change and all the issues that we have had in education, the State Board has begun to say, gee whiz, I wonder if we are doing what we should do. They have felt the need to kind of step out and make some policy themselves.

In addition to that, the T&E law confers a fair amount of power on the State Board. As you recall, we went through the matter of not trying to put too much in the law, but leaving it to the code, as it was described, with the intention, frankly, of giving the State Board a role in policy-making, which would be a step removed from the political process and maybe just a little better for education. I think we phrased it, "Let's get those folks to sit up on the edge of their chairs and begin to do their job." Well, I think they are doing it. I think they are beginning to sit up. If that creates friction, that is exactly what it really is designed to create. It is a check and balance. It was deliberately done so that one person would not be a completely dominant force, that you would have people looking over each other's shoulder. That was our idea for a guarantee of good government and good education.

So it would not surprise me at all to see a contest. It would surprise me indeed if there were not people on the State Board of Education who viewed things differently from the Commissioner. I would be very worried because I think they would be about the way they were twenty years ago when they weren't doing very much.

That doesn't answer your question on the particular controversies because I am not that familiar with them. But, in general, maybe that is not a bad thing.

SENATOR VREELAND: Thank you. Thank you, Mr. Chairman.

SENATOR GREENBERG: Senator Gagliano.

SENATOR GAGLIANO: No questions. Thank you, Senator.

SENATOR GREENBERG: Senator Musto.

SENATOR MUSTO: Thank you for coming.

SENATOR GREENBERG: Senator Perskie.

SENATOR PERSKIE: Nothing, Mr. Chairman.

SENATOR GREENBERG: Thank you very much, Senator.

MR. WILEY: Thank you, gentlemen.

SENATOR GREENBERG: Dr. Mustavo A. Mellander.

SENATOR PERSKIE: Mr. Chairman, with your approval, Doctor, before you commence your statement, there is an item that is of some concern to me, as a member of this Committee. I have seen a comment attributed to you which I would like to ask you about, from the Trenton newspaper under date of February 22nd, relating to the processes of this Committee. Did you, in fact, indicate or say that this Committee had not planned any hearings on the Commissioner's reappointment until lawyers representing several groups of educators threatened a civil suit to force the panel to schedule the hearings?

DR. MELLANDER: No, I did not say that. I remember seeing that statement and I wondered where it came from.

SENATOR PERSKIE: Did you make any kind of comment of any nature relating to that?

DR. MELLANDER: Is this in the Trenton Times that you saw it?

SENATOR PERSKIE: Any newspaper. This particular article is from the Trenton Evening Times of February 22nd.

DR. MELLANDER: I don't recall speaking with the Trenton Times. I may have talked with some local papers, to which I simply said that I had asked to testify and that I had been told that I could testify.

SENATOR PERSKIE: Had been or had not been?

DR. MELLANDER: Had.

SENATOR PERSKIE: You understand that this Committee --- I am very sensitive

to it because I have taken a great deal of interest, as have the other members of this Committee, in the last year and a half, on the processes of this Committee. We have sat through proceedings with respect to any number of nominations from the Governor, including several of cabinet level. At no time have we ever considered, particularly for a cabinet-level position or anything of that importance, any nomination without affording the public the right to be heard, number one. Number two, this Committee now has a rather intricate and detailed system of getting material in the form, among others, of a gubernatorial questionnaire from each nominee. Mr. Burke's questionnaire was not even submitted to this Committee until February --- it was signed on February 22nd. I don't know when thereafter it was submitted to this Committee.

I am very concerned there is an import or implication in these remarks that there was ever a question as to what the processes of this Committee would be. I simply want it on the record, Mr. Chairman, speaking on my own behalf, in defense of the processes of this Committee, that we are not doing today, nor did we last week, nor will we next week, anything procedurally at all other than what was originally intended and what we have done with respect to every cabinet-level appointment that is nominated by the Governor.

DR. MELLANDER: I am glad to hear that. As I told you earlier, I don't recall having made that comment and I would not know what the facts are.

SENATOR PERSKIE: Those are the facts, Doctor.

DR. MELLANDER: I am pleased to hear that, not knowing what the facts were. But I did not assume anything different. I did feel that some of the comments which I received when I called the Committee were somewhat strange such as: Are you going to speak pro or con because we are going to have one pro and one con? I was not the only one who received that message. I think that was a little bit unusual.

SENATOR PERSKIE: From where did that come?

DR. MELLANDER: From the office of the Committee, the telephone here in Trenton.

SENATOR PERSKIE: You mean to say that it was suggested to you that the public input would be limited to two people?

DR. MELLANDER: No. But they were going to space it, pro, con - pro, con - pro, con; and we were asked: Are you pro or are you con the appointment? I do recall that. I did not say that to the press. But since you are talking about this, I do recall that.

I also recall some strange phone calls just this last Friday when a friend of mine did call the Committee and he was told the hearings would end today at two o'clock and that there would not be any continuation of the hearings. I don't know whether that is true or not. I assume it is not true because that morning - Thursday - Senator Greenberg said that people who did want to testify would be allowed to testify. So I assume that is not true.

SENATOR PERSKIE: I will let Senator Greenberg respond for the Committee on that. I just want to make it clear so I understand and the Committee understands that you are not under any apprehension nor did you ever say that you were under any apprehension that this Committee had not intended to undertake this kind of process until something else intervened. I want to make it clear, at least to the extent that this article attributes that to you, that that is incorrect.

DR. MELLANDER: Well, my statement is that I would not have that information.

SENATOR PERSKIE: I am sorry. Your statement is what?

DR. MELLANDER: Is that I did not have the information that the Committee had not intended not to have hearings.

SENATOR PERSKIE: I got lost in the notes. The information you had was what?

DR. MELLANDER: I did not have any information that the Committee did not intend to have hearings.

SENATOR GREENBERG: I am sorry, but I didn't hear it.

SENATOR PERSKIE: He did not have any information that the Committee did not intend to have hearings.

SENATOR GAGLIANO: Say it in the affirmative.

DR. MELLANDER: That is my point. I don't have it in the affirmative, Senator. I don't have either negative or affirmative.

SENATOR PERSKIE: That was the purpose of my remarks, to give you and everybody else in the State that information.

DR. MELLANDER: I know, but I think you were quoting me in the affirmative, which was not true, because I didn't say that either, Senator.

SENATOR PERSKIE: I just read the article.

DR. MELLANDER: I don't care what you read, Senator. I told you I didn't say that. Have you ever been misquoted in the press?

SENATOR PERSKIE: Many times.

SENATOR GREENBERG: Well, there is a difference between being misquoted and having attributed to you a statement about which you offered no opinion. Just for my own information, because this is not the only newspaper in the State that carried an article attributing this comment to you, and in fairness to you and also in fairness to this Committee, let me put it directly to you if I might.

The article indicates: "If anyone believes there will be any attempt to prevent a pro and con discussion of this nomination, forget it, Greenberg said. But Gustavo A. Mellander, President of the Passaic County Community College, said the Committee had not planned any hearings on the Commissioner's reappointment until lawyers representing several groups of educators threatened a civil suit to force the panel to schedule the hearings." My question to you - and perhaps it has already been asked and answered - but I would like to ask it again if I might - is: Were you asked any question by any reporter concerning the general subject of whether or not this Committee would hold hearings and did you respond in any way?

DR. MELLANDER: I did not, sir, with the Trenton Times. As I said earlier, I did speak with some papers in the county. I certainly do not remember saying that hearings were not going to be held until the issue was forced.

SENATOR GREENBERG: You deny this statement attributed to you?

DR. MELLANDER: Yes.

SENATOR GREENBERG: You see there are approximately 50 people sitting in this room and there are literally tens of thousands of people who read the papers which purport to carry what occurs in this room and also comments such as this, for example, made out of the presence of the Senators in this room. And it is important for us to know - not only for us to know, but I think for the public to know - what factually and actually occurs with regard to what appears to be from someone's imagination, regardless of that person's motivation.

I think we have spent enough time on this subject. Unless you care to comment on it any further, I am prepared at this point to take your testimony.

DR. MELLANDER: I think we have spent enough time on that. I think we have spent more time than we should have. I thought my statement at the very beginning

was clear enough. I am a little bit surprised by the continuation of this one point.

SENATOR GREENBERG: You may be surprised by the continuation; but, speaking for myself, I think it is a very important subject because it goes to the heart and the integrity of the entire process. That is why Senator Perskie and I have been pursuing it. If you don't think it is that important, then I am sorry I disagree with you. But we are prepared at this point to take your testimony.

DR. MELLANDER: I didn't say that, Senator. I did not say it was unimportant. I said I thought it had been answered.

SENATOR GREENBERG: I didn't hear you.

DR. MELLANDER: I said I thought it had been answered.

SENATOR GREENBERG: I am satisfied that it has been answered and I am prepared to hear your testimony.

DR. MELLANDER: May I begin now?

SENATOR GREENBERG: Yes, sir.

G U S T A V O A. M E L L A N D E R: First of all, let me thank you for the invitation to be here this morning. I thank the Committee for the opportunity to be here. I was here Thursday. So the date on your cover sheet should be the 19th instead of the 15th. I thought I was going to be on the 15th.

As you know, my name is Gustavo A. Mellander. I am the President of the Passaic County Community College.

During the past four years, I have travelled throughout the State speaking to parents, students, teachers, administrators, Board of Education members and the general public. And time and time again, I have been told that in spite of millions of dollars being expended, the quality of education is deteriorating.

Students graduate from high school who can't read or write. We are plagued with social promotion, we are plagued with low academic standards and most of all we are plagued with a lack of courageous leadership from Trenton. Now I know that the problem which we face is a national problem, but the truth of the matter is that we live in New Jersey. Why can't New Jersey begin to turn this around? Why can't New Jersey be a leader? Why must we be a waffling straggler?

I am here today to ask you to join our crusade, a citizen crusade to save education in New Jersey. And it can only be saved if we have new leadership, new direction, and a new spirit. And we have not had that from the incumbent Commissioner.

A few nights ago, the President of the United States returned from an historic peace mission, a trip which may well prove to be the beginning of a new and great era. When he returned he said that he had been counseled not to undertake his mission because there was much risk involved. But the President decided to go anyway because he said, "Risk of failure should never deter us from a worthy goal." I repeat that sentence: "Risk of failure should never deter us from a worthy goal."

That is the way I feel. I realize that this is an uphill battle. I understand there are many political commitments. Many pressures, political and otherwise, are being brought to bear on people throughout the State.

I have personally seen some very strange events take place in the last few days. Last Sunday I was a guest with Assemblyman Harold Martin on a WPAT radio news program. I spoke out against the reappointment of the Commissioner. The next day three newspapers in my home county received anonymous telephone calls, telephone calls from people who were cowardly and unwilling to identify themselves, telephone calls with poison messages attempting to discredit our college: Passaic County College. This is what we are faced with.

I did not believe my friends over the past few weeks when they told me it would be professionally dangerous for me to undertake this citizen crusade to try to save education in our State.

I am also told that our citizen crusade is doomed to fail, doomed to fail because the forces which oppose us are powerful: politically powerful and financially powerful. I wish I had a nickle for every person who has told me over the past few weeks that he or she fully supports my position. They state that they are horribly dissatisfied with our educational system. I am not surprised to hear that. I have been hearing that all over this State for five years.

But I am surprised by their response when I ask them if they plan to testify and speak out. They tell me that they are afraid of retaliation. I have heard that from parents, teachers, administrators and the general public. All have indicated that they are fearful to speak out and many have warned me that I should not speak out.

I find this most disturbing. This is the heritage of the present administration.

But once again, I am strengthened by the remarks of our President, "Risk of failure should never deter us from a worthy goal."

And I ask you what more worthy goal can you be associated with than the goal of providing our young people with a sound and proper education? Not with a phony diploma, not with a tinsel certificate, not with social promotion, not with a drug-infested school atmosphere - but with a true education.

If we do not do that, yet another generation will be condemned to a life of frustration, to a life of not reaching their true potential. Down that mean road it is easy to see a life of misery, the necessity of living on welfare and perhaps even the possibility of drifting into a life of crime.

For without being able to read and write, one cannot reach their true potential in our highly technological age. If the leadership in Trenton does not identify, support and encourage high academic standards as one of its top priorities, then there is no doubt that we will cripple yet another generation.

My objections and criticisms of the incumbent emanate from his obvious lack of leadership, vision and courage - a lack of leadership, vision and courage.

Above all else, a Commissioner of Education should be a bold leader, speaking out time and time again in favor of establishing and maintaining high academic standards.

The incumbent has not done so; he has done the opposite. He ridiculed the back to basics movement fostered by parents and teachers who wanted their children to learn how to read and write. He distorted, confused and criticized that movement for three and one-half years. Only recently, with the changing political winds, do we hear him say that basics are indeed important.

True leadership does not mean to waiver back and forth. The Commissioner did on the evaluation of teachers. Leadership does not waffle on principles. The Commissioner did on testing and grading of bilingual teachers. Let me remind you we first tested our bilingual teachers. An outrageously high number failed. So what did the Commissioner do? He granted them temporary certificates. The blind leading the blind.

The following year, they took the examinations over again. History repeated itself. A disproportionately high number failed. So the Commissioner lowered the test scores to waive in those who had actually failed.

That that happened is nothing short of shocking. That a State Commissioner

of Education would carry out such an educationally unsound policy is but one of the many reasons that citizens throughout this State are saying enough is enough. It is time for a change, a change in leadership, a change in direction.

Under the present incumbent the State has suffered a monumental testing fraud. Hundreds of thousands of dollars have been wasted. And we were deceived and misled.

We had statewide tests in 1976-77 and again in 1977-78.

The tests the second year were easier than the previous year, easier in each of its three components: Mathematics, Vocabulary and Reading.

In Math, there was no Algebra the second year; there was the first. There were less decimal problems and they were easier the second year. There were no questions on factoring and ratios the second year, and on and on. In short, it was easier.

Vocabulary: In the first year words to be defined appeared by themselves. One had to really know what they meant to pick the appropriate synonym. In the second year, vocabulary words were placed within a sentence, within context. Obviously, that made it easier to identify their meaning, even to guess their meaning.

Reading: The length of the reading comprehension selections was drastically reduced the second year. They were shorter and therefore easier.

Now, shortly thereafter the scores were announced, the school administrators throughout the State began to brag that their scores were up. Even the Deputy Commissioner of Education bragged about the scores. I objected. I blew the whistle on that fraud. And the Department backed down and said the two tests could not be compared. So why were they taking credit for the improvement? Would they have stopped taking credit had I not exposed them? I think not.

I accuse them of trying to deceive the public. I have appended a few newsclips, including the Deputy Commissioner's statement for your perusal. (See newsclips, beginning on page 1X.)

How long - how long are New Jersey's children to wait to receive an education?

How long are parents supposed to stand by in utter frustration as their children lose their youthful enthusiasm to learn?

How long are teachers supposed to stand by bombarded by an insensitive bureaucracy with its unending requests for forms, more forms and yet more forms to be filled out?

I am not here today speaking for myself. I am not here today speaking for Passaic County College. I am here today speaking for the children of this State, and yes, indeed, for generations yet unborn.

I am tired of seeing young people crippled, crippled because they are unable to read and write, crippled because they are doomed to a life of frustration, a life of unfulfilled potential. That is the heritage of five years of cowardly mismanagement.

I am tired of this State granting phony diplomas and counterfeit degrees.

I am tired of social promotion.

I am tired of - not one, not hundreds - but of thousands of high school graduates entering college without being able to read, or write, or compute at the college level. Why did we graduate them? Does anyone really believe that we help them by giving them - and I emphasize the word "giving" - a high school diploma?

Do you know that people have graduated from our high schools, have been awarded diplomas and yet can't read a classified advertisement or a menu in a restaurant?

How long do we expect the people of this State to put up with this?

It is not that the Commissioner is an evil man because he is not. It is not that he is ignorant because he is not. It is simply that he has failed to mobilize and motivate the educational establishment of this State. He does not have our confidence.

Instead of motivating children, he has publicly stated that we should not expect too much of urban children. That statement and that philosophical mind-set borders on racism and the perpetuation of a caste system in this State. I oppose that and condemn the Commissioner for this position. He should motivate children; he should encourage teachers.

The Commissioner has failed to provide the leadership, courage or vision needed in this State. Education in New Jersey is worse off than it was five years ago. There is more confusion and more frustration. I see little support for the man among teachers, among parents, among students. Millions of dollars have been wasted. Teachers have been forced to become clerks instead of being allowed to teach.

Last Sunday night the Executive Director of the New Jersey Education Association, Mr. James Connerton, said that the Commissioner, "was not a strong leader", that he frequently "waffles" and "we wish we had a stronger leader for education." Let me repeat that last quote: "We wish we had a stronger leader for education."

He said his group was not opposing the reappointment because "there is not enough to oppose" him. That's an endorsement? It sounds like what the Governor said when he renominated him, that he hadn't gotten into too much trouble - another back-handed compliment.

It would seem to me that these are not the reasons why we should reappoint a Commissioner of Education to another five-year term. His record is a record of dismal failure and of disappointments - disappointments for the quality of education in this State.

If the record is so poor and so dismal that neither the Governor nor the School Boards Association or the NJEA can vigorously request, support or defend a second term, then why are we going to give him a second term. And I emphasize the word "give" because he has not earned it.

I don't believe there can be any doubt in anybody's mind that T&E has been a colossal failure. I would go one step further and I predict that within a year another law suit will be filed against the State alleging once again that our educational system is in conflict with the Constitution because we are not providing a thorough and efficient education for our children.

That lawsuit is coming and I fear that the record of the present Department is so dismal that the courts will have no other alternative than to once again find against the State.

How ludicrous it would be to have a Commissioner at the helm who was responsible for the disaster. Senators, that just doesn't make any sense.

This Department has more clouds over its head than a summer thunderstorm. They are always brewing. Ominously, another one is threatening. I hope we are not drifting into a New Jersey version of Watergate.

Here it might be known as Forsgate. There have been some ugly insinuations in the press as of late, insinuations about a scandal that hovers around the very doorstep of the Commissioner.

I do not know whether the charges are true or not. I hope they aren't. But I certainly feel they should be fully investigated before the Senate acts on this nomination.

If the press is wrong, they should be held accountable. And I pledge my support if that be the case. But if the press reports are correct, well, you know what has to be done.

In closing, let me say that I believe you are going to be surprised over the next few days of hearings with the widespread opposition the incumbent has generated. His performance has been most wanting. He has failed. He is not capable of leading us out of the wilderness. -- He is not capable of leading us out of the wilderness.

I ask you to vote against his reappointment. Thank you.

SENATOR GREENBERG: Thank you, Doctor.

Let me state for the record that I have been in touch with the Attorney General, both during the day of our last hearing and over this past weekend. And I have requested from the Attorney General a report on the matter to which you just made reference, the so-called Worthington matter. This Committee will not dispose of the nomination before it unless and until such a report is received. And until that time arrives, we will continue these hearings and continue with testimony, such as your own.

DR. MELLANDER: Let me thank you for that. This was written to be delivered on Thursday. It was clear to me from your comments that that would be your course of action.

SENATOR GREENBERG: Sometimes my comments do not make the press in the form in which I deliver them.

DR. MELLANDER: You must be very lucky, Senator. Sometimes my comments are misquoted.

SENATOR GREENBERG: Well, I don't know whether you are lucky or not, but I think you are in the majority. In any event, I thank you for your appearance and now I am going to see if there are any questions of you from the Senators.

Senator Vreeland.

SENATOR VREELAND: I don't have any questions, Mr. Chairman, except to compliment you on what you just said. This thing that the gentleman just referred to has been alluded to so many times that we should have some final disposition of the matter.

SENATOR GREENBERG: I have even gone further, frankly, than I have just announced. I indicated that I would like a representative of the Attorney General's Office to appear before this Committee in public and respond.

SENATOR VREELAND: Very good.

SENATOR GREENBERG: Senator Gagliano.

SENATOR GAGLIANO: I don't want to take a lot of time on this. I realize it is a very big question. On page 8 in your statement, you said: "I don't believe there can be doubt in anybody's mind that T&E has been a colossal failure." Can you give us a capsule summary of major categories where you say it is a colossal failure? We all realize that education is in trouble. T&E though was supposed to straighten this out. I would like to have it done quickly. Others have said it would be done over a period of time. I don't know if a first-grader can have that kind of time. But I would like to have you tell us in capsule summary exactly why you feel T&E has been a colossal failure and what, if anything, Commissioner Burke has had to do with this?

DR. MELLANDER: I think the legislation was very good legislation. It was a step in the right direction. It was more than a step in the right direction. It

was a giant leap forward. I am fearful that the Commissioner and the Department have not enforced those elements which would guarantee that education would indeed improve. Instead, I think they have waffled and have found excuses not to implement certain portions. I think the example of the bilingual teachers - the example of the problem of the statewide standards - although it is not part of it - is a continuation of T&E. I was surprised to hear Senator Feldman comment - I am sorry Senator Feldman is gone now - because I testified in favor of his legislation when it was first introduced before this Committee and the Department was there and testified against it. I am surprised now he feels that he is beholden to the Commissioner for assistance in that legislation.

In general, Senator, to answer your question, it just seems to me that we have moved into a bureaucratic management implementation of T&E and we have lost sight of the fact that its purpose is to provide better education. I just don't feel the push has been there. I think there is a great deal of disappointment among teachers and among administrators that although they have more work, it is not educational work. It is managerial and bureaucratic work. I think there is great disillusionment in the State with the promise of T&E.

SENATOR GAGLIANO: Thank you.

SENATOR GREENBERG: Senator Musto.

SENATOR MUSTO: That statement also intrigued me; "I don't believe there can be doubt in anybody's mind that T&E has been a colossal failure." I am very much impressed with your statement here today, Doctor. I was also impressed with Senator Wiley's statement. Did you hear Senator Wiley's statement?

DR. MELLANDER: Yes, I did.

SENATOR MUSTO: I thought he tried to give an explanation on T&E, releasing some of the schools, the Legislature and Commissioner Burke. Did you agree with that at all?

DR. MELLANDER: Senator Wiley is a polished elder statesman and I do not like to be in disagreement with him because he is more intelligent than I am. But I did not agree with his bottom line, which was that the Commissioner should be reappointed. I think many of the problems T&E has had is the lack of leadership which the Commissioner has brought to T&E. The legislation, as I said earlier, I think is very good and surely one which we can work towards implementing. It is more a matter of style.

I think, above all things, a Commissioner is a moral leader and he should speak out. He should say, "By gum, our students are going to read and write; and, by gum, we are going to overcome this." Although, as somebody said this morning, it is a societal problem, and that is true; but if the Commissioner says it over and over again, it sends out shock waves throughout the system. The parents are encouraged and the teachers are encouraged. And we are all encouraged to try and solve the problem. But I think it takes that type of visible leadership in support of high academic standards. We have not had that from the Commissioner. In fact, he said here on Thursday that he had purposely not taken a position on any of the issues, which I think is very bad for the Commissioner to say that. He should say, "By golly, we are going to learn to read and write; and, by golly, a high school diploma is going to mean something in this State." That is what he should say. Once a man in that position says that, it send the message to everybody. Then everybody can work together. As it is now, they are confused. They are confused on what it is that he is really pushing.

SENATOR MUSTO: No further questions.

SENATOR GREENBERG: Senator Perskie.

SENATOR PERSKIE: Doctor, on page 3 you make reference to changing political winds. I wonder if you would tell me what you mean by that.

DR. MELLANDER: Where is that on page 3?

SENATOR PERSKIE: At the sixth line from the bottom.

DR. MELLANDER: Yes, absolutely. The Commissioner went up to Paramus and ridiculed back to basics. He said that back to basics meant that we weren't going to teach Art or Philosophy of Music; we were just going to teach Reading, Writing and Arithmetic. About six months ago, he did address an NJEA convention in Atlantic City, as a matter of fact, in which he made a wonderful speech about how good back to basics was. I find that disturbing. Because if he really feels one way philosophically, I don't think he should change. And I perceived that, as he has changed with the caps. As he gets closer and closer to his renomination, he suddenly becomes more and more conservative and he returns to basics and to tried and proven systems of education. I find that very disturbing. I would rather he would tell me, "Mellander, you are crazy. I disagree with you," than six months later when NJEA and others are looking very favorably at back to basics, to say, "Oh, yes, back to basics."

SENATOR PERSKIE: You have raised another question that I want to talk to now. But let me first focus on my first question. By "changing political winds," you mean what?

DR. MELLANDER: I think back to basics is now becoming popular among parents, among teachers and among the political electorate. Therefore, I am assuming that now that he senses this, he is on that side of the bandwagon.

SENATOR PERSKIE: You didn't then, for example, mean to suggest any type of specific political interference or impact on the Commissioner in the determination of that particular question of policy, did you?

DR. MELLANDER: No, but I believe the Senate, particularly this Committee, has been salubrious in getting him to --- I think his statement here Thursday was a good statement. It is the first time I have heard him take a strong position on standards.

SENATOR PERSKIE: That gets me to the next question that you raised. I am having a little difficulty. You are indicating some areas of disagreement with the Commissioner from a policy point of view, which is certainly fine. But then, as I gather, one of the elements of your criticism is that, for whatever reason, whether it be because he perceives it to be popular or any other reason, he may be in the process of changing his thinking. Do I gather that that represents a problem as far as you are concerned?

DR. MELLANDER: It is a problem in two ways. First of all, I think he is on the wrong side of a number of issues. Then, I guess ---

SENATOR PERSKIE: Suppose he would then during the course of his tenure, for whatever reason - and let's assume the most satisfactory - to wit, that he has had an opportunity to examine into it and to examine the facts and has reached a conclusion that varies from what he started out - and, therefore, changes his position. Is that a problem?

DR. MELLANDER: It would not be a problem if I thought he had arrived at it in an intellectually honest fashion. I feel he is being motivated by what he believes people want to hear and what he believes the Senate wants to hear.

SENATOR PERSKIE: What evidence do you have for that conclusion?

DR. MELLANDER: I don't see how a man can prepare a position for his board, which takes three to six months, then suddenly be able to shift so quickly when he finds opposition. I guess I would rather he go down on an issue he really feels - that is the right issue. I just don't sense that.

SENATOR PERSKIE: Suppose he doesn't feel that that is the issue on which he wants to stand and fight even at the risk of going down. And I would agree with you that there are certain issues that I might think, as well as you are entitled to think, somebody should. But suppose he reaches the conclusion: "You know, Doctor, I really think that such and such is the way it ought to be. But I don't think that this is the particular issue that I ought to stand and make that fight on. And if I can't convince a majority of the Board or if the input that I am getting from a majority of the education component in this State, whether it be the PTA's or the School Boards or the teachers, or whatever, is to the opposite, even though I disagree, I am going to go with it." Is there something wrong with that?

DR. MELLANDER: I think he should stand for principle. Then his Board could overrule him and the Board could make policy. But I still think he should stand for principle.

SENATOR PERSKIE: So the gravamen of your objection, at least in this aspect of his tenure, is that there are certain elements of policy that you feel he has not sufficiently adhered to what his original policy was?

DR. MELLANDER: That is right, such as the evaluation of teachers, after being very strong for that, at the very end changing. If he had had a philosophical explanation of why he was changing, but basically he said what you said, "This won't fly; people don't want it" ---

SENATOR PERSKIE: Well, I didn't hear him say that because I had the misfortune of not being able to be here the other day, although I did read some of the accounts.

But on that question, if I had a position, as a member of this Legislature, for example, where I started out on the basis of my own experience and my own education, and what not, on a specific question of public policy and I came to feel as a result of my investigation into the matter that (a), for whatever its value, I was in the minority on that particular question and whatever impact you want to consider that that should have, but (b) that, as a practical matter, the philosophical or the policy ideals that I had, it was suggested to me by objective experience weren't working right, what should be my response as a Commissioner, forget as a legislator?

DR. MELLANDER: As a Commissioner, I still think he should stand for principle even if he is overruled by his board. Then, of course, he must carry out his board's policy. I don't think he has done that and that is my objection. I am not saying a man can never change his mind or cannot be convinced otherwise.

SENATOR PERSKIE: That is the point.

DR. MELLANDER: But you said (a) and (b). I have not seen that thought process: (a) and (b).

SENATOR PERSKIE: That is what I want to get at.

DR. MELLANDER: That is what I have not seen.

SENATOR PERSKIE: That is what I want to get at. You are suggesting that automatically he hasn't undergone that thought process and you are suggesting that his change in position is simply a reflection of what you choose to make of it. You may be right. But all I would like to know is what evidence you have of that?

DR. MELLANDER: I am basing it on his explanations when he does change his position. I do not see that thought process. I do not see that logical "being convinced" that he was wrong.

SENATOR PERSKIE: Have you ever sat down and discussed these issues with him, personally?

DR. MELLANDER: Yes, I have met with him several times.

SENATOR PERSKIE: On these specific points? On the question of why he has changed his approach from this to that on a given issue?

DR. MELLANDER: About a year or a year and a half ago, I met with him. We discussed that. I was just not convinced by him. I may have been wrong, but I was not convinced that he had gone through that thought process and that he really was now convinced that he had been wrong and now he is right.

SENATOR PERSKIE: Apart from the fact that that reads in your judgment indiscretion on that question, the thing that bothers me - and I am going to close with this because we are beginning to get a little repetitive --- the thing that bothers me is that I find something distressing about your insistence that he acknowledge error, rather than, for example, he take the position which I have taken in a legislative context on a number of occasions; that is, that I still think in the idealistic extreme that this is the way to approach it, but I can't convince a majority of my colleagues of that and I have been given empirical evidence which suggests to me the possibility that I might be wrong; and, therefore, I am going to go in this direction. I don't see anything philosophically wrong with that. That is where I think you and I might disagree.

DR. MELLANDER: I am not quite as obtuse as that, at least I hope I am not. I have great difficulty believing that somebody who originally believed that we can and should evaluate tenured teachers, which I believe myself, could then later flip-flop on that issue. And his explanation of why he did did not convince me that he had done so on philosophical grounds.

SENATOR PERSKIE: I haven't heard the substance of that discussion. It might not convince me either. I just am curious as to ----

DR. MELLANDER: Excuse me. I think it is different for you as a Senator to have the flexibility and, indeed, the prerogative to change because you also have to represent your constituents. I think his constituents are education. And I think there are some things there that you really cannot trade away.

SENATOR PERSKIE: What does he owe his constituents in the education community? Does he owe them his best considered judgment at any given point in time, or does he owe them the responsibility to articulate what he perceives to be their majority judgment on any given issue?

DR. MELLANDER: The first one.

SENATOR PERSKIE: I would tend to agree. Thank you, Mr. Chairman.

SENATOR GREENBERG: Senator Cafiero.

SENATOR CAFIERO: No questions.

SENATOR GREENBERG: Senator Sheil.

SENATOR SHEIL: Just a comment, I join with Senator Greenberg and Senator Musto in thanking you for coming here with your testimony.

SENATOR GREENBERG: Thank you very much, Doctor.

DR. MELLANDER: Thank you, Senators.

SENATOR GREENBERG: Senator Dumont. Welcome, Senator.

SENATOR WAYNE DUMONT, JR.: Thank you, Mr. Chairman and members of the Senate Judiciary Committee. I appreciate this opportunity to come before you to express thoughts about the existing problem before us, namely the renomination of Commissioner Fred Burke, as Commissioner of the Department of Education and what we should do about it, not only your Committee but also what we should do on the floor of the Senate in reference to the nomination if and when you decide to release it.

My own position is, on the basis of my numerous contacts - and they have been very numerous over the last five years, approximately - with Fred Burke in respect to education, and based on his education record, I am going to support his confirmation and his renomination for the job.

Now, first of all, I have many opportunities to be in contact with him because for most of the 26 years I have spent in the Senate, I have either been a member of or chairman of the Senate Education Committee, depending upon the political majority at the time. I have also served more recently, in recent years, as a member of the Joint Committee on Support of the Public Schools, ever since that was created under the State School Aid Act of 1975.

I have even more recently than that been chairman of the Task Force on Business Efficiency in the Public Schools. I am now a member of the commission set up by Assemblyman Newman to study and report back on how we should change the statutes and the regulations in respect to teacher preparation and teacher evaluation.

So, my contacts with Fred Burke have been many in the past five years. Based upon the things that I have observed about him and also on my knowledge of education generally in this State, I would have to think that his nomination should be supported.

Now, I don't believe, frankly, in taking positions on nominations of anyone in respect to partisanship. That should have nothing to do at any time with whether a person is confirmed or not confirmed.

I am not going to get into any debate, although I have strong feelings on it, on whether someone should be chosen from outside the state to head any department. The fact remains that he was and that Governor Byrne should be entitled, generally, to have the people around him that he wants. But aside from that, our function is not just a "me too" type of thing, or rubber stamping, when it comes to advise and consent; we also ought to examine carefully the merits and demerits of any nominee.

When I review the past five years, I cannot find, in the record, sufficient problems that have emanated directly from Fred Burke or his department - the department which he heads - that would cause me to vote against him. There have been some problems, that is true, but let's examine them a little bit.

First of all, when he came to New Jersey he was confronted with a state that has 611 school districts. There were a great variety of backgrounds and circumstances in those school districts. They range from very small to very large. It takes probably two or three years for someone outside the state to become acquainted with all those backgrounds and diversities of problems that exist.

In addition to that, in 1975 when he had not been here too long, a little over a year, we passed a State School Aid Act of 1975, which is very loosely - and I think erroneously - referred to as the T & E Act. T & E, or thorough and efficient, is a greatly overworked phrase in this State, probably a phrase which is as much abused as anything I can think of. If you ask 100 different people what their definition of T & E is, you would get 100 different answers. No one of us can

define it to the satisfaction of anybody else.

It was in the State Constitution, or first put in it, in 1875. Nobody paid any attention to the phrase until an action was started, known as Robinson v. Cahill, approximately in 1970 by some city districts, against the Governor and the Legislature - the then Governor - in an effort to try and interpret what thorough and efficient means. At one point I had even sponsored a resolution to remove, by vote of the people, those words from the State Constitution, but abandoned that idea not long thereafter because, first of all, if we wound up with no words at all, that would not be very meaningful, and if we chose another phrase, it would probably not have any more value than thorough and efficient does.

What it means really, I think, is being interpreted by the 611 school districts, pretty much as they operate their school systems. And, it doesn't really have a great amount of meaning to it. I would like to see more and more people involved in it, particularly among the citizenry. I think that is one of the functions of thorough and efficient, as I understand it, and that is gradually being accomplished by not only some guidance from the Department of Education, but also more people becoming interested at the local levels of government.

So, he has had these problems confronting him. There have been times when he has vacillated to some degree, probably on the question of teacher evaluation. As I said, we are working on that through a legislative and citizen commission, in an effort to strengthen our laws with respect to teacher preparation and teacher evaluation.

I don't think it is fair to blame him alone, as a Commissioner of Education, for any shortcomings we have in implementing whatever thorough and efficient means, or perhaps in trying to overcome the problems that we have in the school districts.

My response to some of the things that the previous speaker said is, after all, the question of getting away from the basics, reading, writing and mathematics did not happen under Fred Burke; it happened long before he ever came to New Jersey. It is the fault of all of us, not just him. And, it is going to have to be the responsibility of all of us to restore those fundamentals to the educational system and to do it quickly.

The questions that exist today with the lack of discipline in the public schools and vandalism are not the fault of the Commissioner alone. They are, for example, the fault of parents - for one thing - because discipline should start at home and it cannot be blamed solely on the few hours that the teachers and administrators and the Commissioner, in an abstract way, may have to deal with students.

We live in a troubled society, in a society where, for example, some people have nothing better to do than to sue somebody else in court and some attorneys don't have anything better to do than to represent the people that have nothing else to do except sue someone else. This is not the fault of the Commissioner; it is the fault of all of us. And, there are things that jointly, as well as individually, we have to try to overcome.

Now, you have to separate vacillation from the willingness on occasion to change our minds, something that Senator Perskie was referring to. The more I am in Trenton, the more convinced I am that consistency is not necessarily a virtue here, because we have all been inconsistent on occasion -- at least in the sense of changing our minds. I can name two very outstanding incidents in my own lifetime here: My change from the non-favorable position on an income tax to a favorable position on it, because I came to believe that my position originally was

not a sound one. I came to believe that also about my position with respect to selective sales tax some years earlier.

So, we have to, as conditions change, on occasion be willing to admit that we might have been wrong and that we should change our minds.

The previous speaker pointed out that statewide testing has not been a great success, in the implementation at least. Well, I voted against statewide testing and my recollection was that the Department, under Commissioner Burke's guidance, was not for statewide testing in the first place. It was forced upon the Department by the Legislature and by the Governor. I did not vote -- in fact, I voted against it. Rather than just say I didn't vote for it; I voted against the question of statewide standards for high school graduation. Only three of us did in the Senate. One of the reasons I did was because I don't think that at any time we should provide for a situation where two different types of diplomas can be issued. That is what we did in that bill, basically. And, unless and until the Assembly changes it, it will continue to provide for two different kinds of diplomas, one with a lesser degree of standards and the other one.

So, that I think if he has had a fault, it has been vacillation on occasion. Some of that may be attributed to the fact that he thought he had been wrong. Let me give you an instance. When he first came to New Jersey, he proposed that instead of having a County Superintendent in every county in the State, we should have the smaller counties combine superintendents. I told him frankly that I thought it was a lousy recommendation; that there should be a county superintendent of schools in every single county, regardless of the size and that an example of lack of staff, or no staff at all, was Essex County, the largest county in the state. At one time, in Essex County, you had only a county superintendent and a secretary, yet they have well over 100,000 students - in fact, they had way over 100,000 students - to educate in that one county.

I happen to think that the county superintendent's office is very valuable as a source of information and as a source of guidance to boards of education in those counties, and that every county should not only have a superintendent, but also they should have a staff commensurate with the needs of those counties. Commissioner Burke, to his credit, changed his mind on that score. Now, I don't think that represents vacillation, but rather a change in viewpoint. Therefore, if he has been weak on one or two occasions in the sense of vacillation - and I have said this to him so I say it not in derogation of him because he already knows that this is how I feel - as far as I am concerned, he has to stiffen his backbone in the event he gets a second term.

But, based upon the record thus far, and the fact that I think we all have to do better in education than we have been doing, I think that he deserves another term. I don't know anything about these allegations that are supposed to be checked out - or that are being checked out by the Attorney General. I might have a different opinion if I felt that there was any factual basis to what may only be rumors. All of us in government, or in politics, know that it is very easy to start a rumor. The important thing is to be able to back it up with proof, if there is any proof. So, my position, based upon his educational record and his background to date is that I am going to support his confirmation and I intend to vote in favor of it when and if it comes to the floor of the Senate because I do not think that by any stretch of the imagination he can possibly be compared with - and I know a number of Senators voted in favor of the renomination of this man - Carl Marburger. I did not vote for him. I voted

against his confirmation for a second term when a Republican Governor nominated him for a second term, although he came here under a Democratic administration in the beginning. I did so because his record was such that I could not support his confirmation. He was defeated by one vote.

I don't think there is any comparison between the record of Fred Burke and the record of Carl Marburger, therefore I shall vote for Commissioner Burke's confirmation for a second term.

SENATOR GREENBERG: Thank you very much. We do appreciate your coming here and giving us your views, Senator.

Senator Vreeland.

SENATOR VREELAND: I would just like to ask Senator Dumont one question. Since Senator Dumont has, as he said, 26 years of experience down here, he is very experienced - particularly in education. I don't think there is any question about that.

As you pointed out, Senator, the T & E bill in essence was the result of the law suit which I think was started in Jersey City between Robinson and Cahill. As I recall, you were one of those who did not vote for the T & E bill, along with a lot of other Senators; that T & E bill was the result of that court case and the income tax was passed, as I remember it, to finance thorough and efficient. Since we all agree, I think - most of us - that T & E has been a bust, has not done what it was supposed to do, and is not doing what it was supposed to do, my question to you is, who in your opinion - and I ask this in a nice way because I know you have that experience - should enforce T & E? Who is responsible among all the state agencies for the carrying out of the provisions of the T & E law?

SENATOR DUMONT: If I knew exactly what thorough and efficient means, and I don't - and I don't think anybody else does either, very frankly - I would have to say that I think the Commissioner of the Department of Education should provide guidance for it. But, at the same time, I don't think that he should necessarily direct its implementation.

I happen to believe very strongly in local boards of education and that this is where the educational process really should be. Nobody in Trenton or in Washington really understands the problems in a given school district nearly as well as the people that are elected to run that school district. They serve without any monetary compensation. They put in countless hours of time and effort, and usually their own resources as well. They deserve support, but they don't deserve dictation from either Trenton or from Washington, D.C.

I have to differ with you, respectfully, Senator Vreeland, that the income tax was passed to finance T & E; it was passed, as I always understood it - and I still believe it - to get the property taxes down because they were becoming the ruination of this state. They were the second highest, per person, of any state in the nation. Only Massachusetts was higher, and the way we were moving, we would ultimately have taken over first place from Massachusetts.

Now they are down. That was our purpose. That is why the revenues from the income tax were pledged, by Constitutional Amendment, by an overwhelming majority of the voters in supporting that Amendment, to local property tax relief, and nothing else. That is the only time we have ever dedicated any source of revenue, with the exception of the casino gambling revenues and the fish and game revenues. Otherwise, they all go into the general treasury.

So, while I think there ought to be some guidance from the Commissioner's office, if anybody tries to dictate to the boards of education as to how they should

operate, I will be the first one to oppose that. I don't think that is the way the school system should be run in this state. When we find that there are things wrong, as we found in the City of Newark, for example, we make changes through legislation to try to eliminate them - as we did with the tripartite situation that existed there.

While I don't happen to be just a unit rule type of individual, at the same time I think that dual control should be permitted to any board as an option and so should unit control, but not tripartite control.

SENATOR VREELAND: Thank you.

SENATOR GREENBERG: Senator Musto.

SENATOR MUSTO: Thank you for clearing up why we passed the income tax.

SENATOR GREENBERG: Thank you, Senator.

SENATOR DUMONT: Thanks to all of you.

MEMBER OF AUDIENCE: Senator Greenberg, you spoke on several occasions about the rules of your committee and we appreciate your fairness. However, many of us are parents and citizens who have been waiting on the list that was set up two weeks ago and we have been waiting patiently for our opportunity to testify. We wondered if you could foresee more clearly where we are on the schedule?

SENATOR GREENBERG: Yes, I would be happy to repeat what I said -- I think twice -- toward the conclusion of our last session, and that is that we will continue with the list, as Mr. Tumulty has it - and it is available for people to see - but I indicated this morning that I was going to take the legislators who wished to testify and the mayor who wished to testify first and then I would return to the list. Still to speak are Assemblywoman Mildred Barry Garvin, who is present. Thereafter, we will continue with the list and the first witness will be William Pascrell from Paterson. There are then another 30 or 40 people on the list.

MEMBER OF AUDIENCE: The second question, Senator, is, since the Committee met last on Thursday, the Board of Education in East Orange, facing a cut mandated by the City Council, gave notice to the press that it was going to file an appeal to the Department of Education for restoration of \$1.5 million of the school budget. Now, are there rules of your Committee, or are there rules of the Senate, which pertain to people coming forward and testifying in that kind of situation? I believe the Assemblywoman represents the City of East Orange. This is just a question of interpretation.

SENATOR GREENBERG: I don't understand your question.

MEMBER OF AUDIENCE: If the School Board and the City of East Orange is in the position of appealing to the Commissioner of Education for \$1.5 million, does this in any way get handled in the rules of your Judiciary Committee as to who and who not you hear testimony from?

SENATOR GREENBERG: Let me see if I can rephrase your question, if I understand it. Since Mildred Barry Garvin represents East Orange and East Orange's application is pending before the Commissioner, you question whether or not we have any rules concerning the propriety of her testimony?

MEMBER OF AUDIENCE: I should say I consider Mildred Barry Garvin a friend, but I am concerned about the rules of your Committee and the way it is run.

SENATOR GREENBERG: Yes. Assemblywoman, you certainly may say anything you like but--

MEMBER OF AUDIENCE: And, I have no idea what she is going to say.

SENATOR GREENBERG: (continuing) --I think the question, first, is whether or not we have rules which deal with the question of the propriety of

her testimony. The testimony to be accepted by this Committee has to do with the qualifications of the present Commissioner and nominee for the position of Commissioner. Under those circumstances, any testimony with regard to that subject, within the bounds of propriety, that is not scurrilous, and that is relevant - with the widest possible latitude - will be welcomed by this Committee.

I don't know what Mildred Barry Garvin has to say. But, if she intends to argue her case before the Commissioner or before this Committee, I think it would be inappropriate and I would so advise her, but it would be unfair of me to make that judgment before we hear her.

With regard to her ability to appear, I have no problem as to the propriety of that, regardless of the fact that the application is pending.

MEMBER OF AUDIENCE: On another day, could we, in the morning, by any chance get to the parents first so that they might have an opportunity to testify?

SENATOR GREENBERG: I would make the following suggestion: By the end of the day - the end of the time that we have allotted today, which will be until about 3:00 because this Committee has other business - I would make a suggestion to the people that are present, similar to the one that I have made to the people who have called me on the phone over the weekend - we will try to make arrangements for convenient times for people who have time problems and move this list around to try and accommodate them.

All right, Mildred Barry Garvin, Assemblywoman from the 26th District.
A S S E M B L Y W O M A N M I L D R E D B A R R Y G A R V I N: Mr. Chairman, my phone has been ringing ever since these hearings started. With respect to the parents that are here, I think in all fairness that I would ask the Committee not to hear me today and that you take the parents. I will check the legality of my position as a 15-year member of the East Orange Board of Education, very close to what you are considering here today. I will check out the legality of my testimony, based on my involvement in my home town and upon that decision I will then ask to be heard again. (applause)

SENATOR GREENBERG: Fine. Whenever you are ready, Assemblywoman, let us know.

ASSEMBLYWOMAN GARVIN: Fine. I will not state my position now because most of you who are accustomed to me - I am new in Trenton and to the legislative role - know that I have been very close to the education process in this state. And, so that my statement would be taken in the context of my speech, I would rather that I have the law on my side. Thank you, sir.

SENATOR GREENBERG: Thank you very much. William J. Pascrell. Mr. Pascrell, before you start, I have been requested by a member of the Committee, who was not present at our last hearing, to repeat again what I said then and I will do so. For those of you who wish to testify and have prepared statements, would you give them to us. I think yours is one. I think you are such an individual with a statement. I can advise you that these statements become a part of the record and that the Committee will be asked to read them. So, for the purposes of all of us who are here, including those who have not yet testified, I suggest to you, if you can, and to the extent that you wish to do so, that you highlight the contents of your statement so as not to read it verbatim. It would be appreciated by this Committee, if by doing so you do not lose the content of impact of that statement. In other words, please try and work with us and save as much time as possible so that people who want to be heard can be heard without the necessity

of repeating testimony given prior to yours. There is no necessity to read word for word, because we will read it in full. With that, we welcome you.

W I L L I A M J. P A S C R E L L, JR.: Senator, my name is William J. Pascrell, Jr. I am a member of the Paterson Board of Education and a member of the Board of Trustees of Passaic County Community College. And, I am Director of Policy Planning and Management for the City of Paterson, New Jersey.

I am here, Senator Greenberg and Committee, not so much to speak against the reappointment of Commissioner Burke, but to speak in behalf of the public school students of this state. I was a teacher for 12 years before involving myself in public service in government approximately 5 years ago.

I am basically here to tell the Committee what I am for. I am for the following: I am for an honest evaluation of the last four and one-half years of the Commissioner's and the Department of Education's record.

Secondly, I am for a candid analysis of whether there has been an improvement in the quality of education in this state during that period of time and judgment as to whether or not this Commissioner has implemented the intent of the 1975 Education Reform Act.

I personally am for upgrading the requirements for administrative and teacher certification; the back to basics philosophy; the evaluation of tenured administrators before any plan for evaluating tenured teachers is implemented; high academic standards for all of our students; a better way of educational governance in this state beyond the Governor's office; a proper accounting of the monies spent since 1974 by the state.

Finally, I am for basic honesty and courage in communicating exactly where our children stand as far as competency testing is concerned in this state.

Your judgment, Senators, undoubtedly will be based on the strength of the arguments you hear during these days - this being the second day of the hearings - rather than because of the popularity of the one who says it. This controversy must be settled by thinking adults. I am sure it will be.

In 1974 and '75, in the State Budget, the total appropriation for the State of New Jersey was \$2.7 billion. State education money that year amounted to \$.84 billion, which was 31% of the total state budget. Four years later the total state budget amounts to \$4.4 billion, an increase of 61% in four years. State education money in fiscal 1978 and '79 amounts to \$1.4 billion, a 39% increase in four years. Incidentally, educational bucks are still 31% of the total state appropriations - exactly the same as they were in 1974, the percentage that is.

State support for schools per pupil this year is down percentage-wise and local support is up, compared to last year. The state is paying 40% of each pupil's educational costs, which is still below the national average of 43%. There are 111,909 less students in the public schools now than there were in 1974. This represents a decrease of 7%.

If one wishes to go back to 1973, there has been a 93% total budget increase since then and a 116% increase in school aid. These figures are incredible to study. They provide a canvas, I believe, upon which our four and one-half year educational record can be illustrated. These cold numbers force one to ask: "Are the citizens of this state getting their money's worth in public expenditures and specifically education"?

Are you Senators convinced that these kinds of dollars having been spent over the last four years resulted in an improvement in the delivery of educational services? If yes, how? As of this morning, have you heard one shred of evidence, or

one specific fact that would impel you to answer yes? If not, why not? In either case what role has the present Commissioner played in determining your answer? In May of 1976, Commissioner Fred Burke discussed the implementation of thorough and efficient and he discussed local district responsibility in that process to measure the extent to which educational programs actually fulfill their expected purposes. Why, he asked? And, on page 11 of the "T & E" Primer, he wrote and his department put together - if I may quote the Commissioner, he said the following: "To establish credibility for those educational programs and activities identified as necessary for meeting accepted levels of achievement by supplying evidence that they work to accomplish what they were intended to accomplish. Through this process, the district is able to demonstrate to the community that expenditures and other inputs to education lead to beneficial outputs in the form of student achievement."

Yes, you did hear it correctly: "input," "output," the jargon of a technological world searching for meaning. What about the state's role in the evaluation process? Has the state demonstrated to the New Jersey community that its expenditures and other inputs - to use the Commissioner's words - to education have led to beneficial outputs - to use the Commissioner's words - in the form of quality education and student achievement? Do you believe that Fred Burke has established credibility in public education in the minds and hearts of our citizens? Are you confident in the Commissioner's credibility?

The subject of standards is a popular one to discuss in educational circles today. Usually consideration centers on student competency. This is putting the cart before the horse. What about the competency of staff, and what is basically required by statute to be a school administrator or a teacher in New Jersey? I said "administrator" - that is very correct. For, unless the State of New Jersey changes its requirements for certification of educational professionals, we will continue to read such discouraging findings as were made in the Transitional Report of December of 1977.

Let me quote from that Report: "The subcommittee believes that the school administrators are the weakest link in the chain of the education system." Commissioner Burke had some interesting things to say about reform of staff certification requirements in 1975. Since then, as in many matters, the Commissioner's record reflects a protective attitude towards educational pressure groups rather than making decisions which will benefit student's learning. His inability to show direction in four and one-half years in the area of certification has perpetuated the status quo as well as accentuating the cumbersome and strained relationship between higher education and the Department of Education. Think of it. In this state, only 6% of our teachers have secured a Masters Degree. While in and of itself certification, professional development, degrees, are hollow terms, they should reflect excellence, vigorous training and a desire to improve one's abilities and develop new skills. Automatic certification upon graduation from college must end in this state. At a time of declining enrollment, it is more than fitting to attack this issue. We have languished long enough. Leadership and courage is certainly needed.

In 1976, Commissioner Fred Burke proposed a system of evaluation for the state's tenured teachers. He skirted the issue of administrative evaluation - you play one group against the other - that's the trademark; that is the legacy of the Commissioner's tenure in office. There cannot be a credible system of evaluation unless it includes all staff, from top to bottom. If there ever was an issue where Fred Burke's indecisiveness prevailed it was "tenure evaluation."

The blatant sophistry, the sophistry, and specious explanations will be prime examples used in college logic classes years from now. Briefly, here is the box score of events:

In June of 1977, the Commissioner said pupil progress could be - should be - used for teacher evaluation -- I add, should be.

January of 1978, the Commissioner told the State Board of Education that research showed pupil progress could not be used as a factor in evaluation. When the State Board appeared angry, the Commissioner promised to reconsider and submit another plan.

Apparently the Commissioner and NJEA got their wires crossed between January of '78 and July of '78. In fact, the teachers' organization, on July 5, 1978, issued a rebuke of the Commissioner's lack of action on the subject. The NJEA statement read: "The board, public, and educators deserve a personal explanation from the Commissioner regarding his vacillating position. The Commissioner's recommendation to the Board for this meeting conflicts with his previous statements."

Now, if you will imagine, the NJEA had just discovered Commissioner Burke's inability to lead. The fact of the matter is that tenured teachers have become pawns in Trenton politics. Teachers have been made to look as if they are opposed to being evaluated. This is not true. Having been a public school teacher for 12 years, I believe that teachers would support a fair evaluation system if it encompassed all personnel and they would have a say in its formulation.

The big monkey wrench which fouled up any progress in establishing an evaluative system was "pupil achievement" as a factor in evaluation.

On January 22, 1978, Fred Burke said in discussing the relationship between teacher evaluation and pupil achievement: "It is clear that learning outcomes are the result of the services provided and the effort of pupils." That seems harmless enough, but he went on: "The programs offered in a school determine those services and can influence pupil motivation, but a program's success depends upon more than the teacher, it depends on curriculum, organization, facilities, support services, school climate, discipline and other factors within the school setting beyond the control of the teacher."

Pretend that you have just heard something excitingly new about teacher evaluation. The Commissioner researched, in his own words, in 1977 and concluded that teacher competency could be measured, and that is one of the earth-shaking conclusions he came to.

The teacher at the individual station is the lifeline of education and that is why so many kids who had the misfortune of living in a deprived climate have found their identities in the classroom and have developed into hard working students and citizens. If we stand around and wait for "conditions" to change, hell will freeze over.

The last piece of gobbledygook Fred Burke had for our ears was on January 26, 1978 and I quote him: "The analysis of the causes of 'poor results' is more a question of program evaluation encompassing evaluation of staff than it is of staff supervision and evaluation." This was shocking to hear and should have insulted every teacher in this State, and certainly every student.

The Administrative Code's loose language concerning minimum levels of competency and Commissioner Burke's response to the blight of urban pupils leave much to be desired, and I am glad that they have been spoken of, and addressed this morning.

The Commissioner's words about basic skill competency and graduation

standards reflects a patronizing attitude to those who fall below established competency levels. Education is a state responsibility. It is the state which is mandated to provide each child with a thorough and efficient education. Is not the state's obligation to define what skills every child should have mastered? This is not in conflict with the value of humanism at all, as has been suggested by some of the Commissioner's defenders. In fact, it is exactly the proper road to travel in appreciating and dealing with the difficult times in which we live.

Dr. Maurie Hillson, of Rutgers University, recently wrote - and if I can quote her, briefly: "The contention of this writer is that it is necessary, if we are to realize a thorough and efficient education for all children of New Jersey, to mandate a statewide system of operationally defined standards in at least the basic skill areas of the educational or schooling process. To deny the professional capability to do this is to deny a whole generation of research. Standards that deal with the acquisition of basic skills are extantable to be defined and described in operational terms. . . and measurable. Without a major focus on a program that defines. . . and monitors the implementation of. . . performance standards, the State will only support the already intolerable discrepant situation that occasioned Robinson v. Cahill and the court decision.

". . . to set standards and objectives to be attained and to contrive educational environments and teaching strategies to reach them, does not mean in any sense that a consideration of the humanistic views are faulted or disregarded. The converse could be and is more often true. The lack of standards. . . has been destructive of learners and wholly anti-humanistic. Love, purpose, the self-concept, self-determination, self-actualization, purposeful connectedness -- the whole affective domain as it is termed -- are inseparable and mutually involved in the realm of cognitive accomplishments. The argument that when teaching one to read with methods and strategies that involve the goal of reaching standards, you diminish the commitment to the affective area of growth is a spurious, and from all the present research, and unfounded one." And, she went on.

Compare these words, I ask you, to the performance of the Department of Education over the last four and one-half years. Compare these words to the New Jersey Education Association's denunciation of the graduation standards. I quote from their testimony before Senator Feldman's Committee on June 20, 1978:

"Back in 1976, when the current law on statewide minimum standards was being deliberated by the Legislature, the NJEA showed great concern over the issue. We feared then that the adoption of a statewide policy of standards would lead to the use of a single test to determine whether the child had met those standards. Comprehensive evaluation of children is an essential ingredient in educating children. We testified then that a single instrument of evaluation would place a burden and blame upon our urban children through an identification process that would actually exaggerate social separatism and diminish the state's efforts toward improved learning."

And, again, on that same day they testified:

"So that the record is straight, the NJEA believes there is a place for tests. The major use of tests should be to diagnose learning difficulties enabling the teacher to plan activities in response to those learning needs. Tests must not be used in any way to label and classify students, to determine educational programs, or to perpetuate an elitism."

And, finally, gentlemen, the crux of their position:

"The NJEA must ask the Committee to contemplate the responses to two

very fundamental questions. (1) What skills are so important to the state so as to coerce children into learning them"? That is what the NJEA said. "And, (2) what purpose is served in stigmatizing students by giving him a certificate of completion rather than a diploma"?

But, here is the rub, Senators, listen to the testimony of Commissioner Burke, presented that same day - not by him, since he was away - the following apologetic prose -- and I am quoting from the Commissioner's statement on that same day: "There may be a disproportionate number of minority youth among those who fail to pass the tests as there was in Florida. Unless alternatives are provided graduation standards could penalize youth who must struggle against economic deprivation and inadequate facilities, and the results may initially set back our efforts to improve our urban schools. If you were to ask why I expect such results, I would remind you that over four out of ten black children in this state are raised in poverty and that black adolescents can hardly be expected to be highly motivated when they face a 39% unemployment rate -- two and one-half times the rate for white teenagers. And, minority children, more than others, often attend school in old, crowded and unsafe facilities, facilities that do not contribute to an atmosphere of learning."

My response - and I was shocked that day to hear that testimony - to this egalitarianism mentality, I would call it, is this: That educational quality and the pursuit of excellence can only be achieved in an atmosphere where talent is respected, recognized and encouraged. Now, talent is frequently handicapped personified by a Durt Vonnegut novel or two. Alfred North Whitehead said over 60 years ago, "In the conditions of modern life, the rule is absolute, the race which does not value trained intelligence is doomed. Not all your heroism, not all your social charm, can move back the finger of fate. Today we maintain ourselves. Tomorrow, science will have moved forward yet one more step, and there will be no appeal from the judgment which will then be pronounced on the uneducated."

How refreshing, that same day, are the words of Dr. T. Edward Hollander on the subject of standards: "I believe that every student, regardless of specialisation, should be required to meet a common set of standards that define attained levels of reading comprehension and writing ability and mathematical skills. We must set our standards high enough so that those we recognize as high school graduates can function effectively when they graduate either in the work force or in continued collegiate study. If thorough and efficient is to be more than a slogan or a justification for more money, we must place meaning back into the high school diploma."

Or, put it another way: The position that argues against standards because many minorities are bound to fail may, in fact, be more firmly rooted in racism than the position that champions standards. A National School Board Association Report, last year, spoke to the issue directly and hit it on the head of the nail, I believe. The Report said this: "It must be recognized that lowered standards do no one a service, least of all those children who are left in the public schools because they have no other choice. Expecting less of minority children, passing them on year after year until they are issued a meaningless diploma is perhaps the most racist policy of all."

The Meissner Report of Remedial Education, September of 1978, was the straw that broke the camel's back, Senators. If you read that report carefully, it was the final straw. Things were getting worse instead of improving, Mister

Meissner in his report said. I believe I am being conservative in summarizing the report for you. This was a report card just as the Governor's Transitional Report on Education, December of 1977, was a report card. It had been a thorough evaluation of the Department of Education and the Commissioner. Do you know what that report said, Senators, about the Department of Education? Do you know what it said about the Commissioner who leads that Department?

If I may, in the spirit of Fred Burke's own statement and Assemblyman Newman's own statement about openness in this hearing, I am going to read from that transitional report.

This report was put together in December of 1977. There was a transitional report on every department in state government. It was a report which speaks to the issue, I believe. It was put together at the direction of Governor Byrne, who I voted for both times he ran. It said this:

"On the internal issues, the tone of the Department's line staff are frequently underchallenged and operating without direction from Assistant Commissioners. Work tends to be produced under an emergency or reactive basis, not as part of an overall divisional thrust or planned activity. There are frequent threats of firing by supervisors with no evidence of rational basis. The prevailing tone has not been one which encourages creativity or innovation. On the contrary. The Commissioner stated that since he took office the Department has been plagued by a series of events which have prevented it from taking place, from taking innovative action, or making waves. The don't make waves attitude was attributed to an expected preference of this office and has permeated to even the remotest levels of the Department. Creativity and innovation are not rewarded. Not disrupting the status quo is."

If I may, just for a second, state that every word is from that report. I am not including one comma or one word of my own. I practically memorized this whole thing, but to avoid any problem I am going to read exactly from the report.

"The Department is, for the most part, unrelated to the district except in specific areas, such as reporting or planning, rather than in areas such as pupil-teacher interaction, curriculum development, and educational techniques.

"The Department must redefine its mission in order to take new directions which better serve its constituents. It is important to secure the full confidence of the members of the educational community, many of whom feel the Department suffers because there are few educators on its staff.

"The subcommittee believes that the school administrators are the weakest link in the chain of the educational system. The county superintendent's offices, the district superintendents, and the principals are viewed as conduits of information whose chief role is to disseminate Department directives. Their role too should be redefined and strengthened to improve what actually happens in the classroom."

Gentlemen, if I may department from my statement, 15 months later, what has happened?

Going back to the report: "Although the county superintendents level was created with the intention of promoting diversity among school systems, in fact they are functioning to promote uniformity. If administrators made demands and set parameters of expectation, teachers would be responsive and perform accordingly. Whether this can be accomplished through extensive training of administrators is uncertain. To some extent, the teachers' union and the local

school board system promote administrators who do not make demands on teachers or become involved in what goes on in the classroom.

"Administrators should be evaluated based upon performance objectives, just as standards should be developed and applied for all levels of personnel within the system. Perhaps it will determine that their services should be redefined to deemphasize regulation and reemphasize program support."

To divert again, what the report had to say about the educational improvement centers and what we have heard on Thursday and this morning about those centers is totally contradictory. I will not bear upon your patience and read that.

On the subject of management, the report said this: "In order to avoid inconsistent directives to the local districts, all T & E related procedures must be cleared by the Deputy Commissioner. The style of management in the Department is one of crisis management. This may be attributed to the breadth of responsibility of the Deputy Commissioner."

On decision making - The decision making process of the Department is characterized as: "unsystematic, slow, and impulsive."

"The Department must develop and utilize a systematic procedure for decision making, devising a process which would apply to all levels of hierarchy. The Commissioner should be brought into the decision making process. His current role is one of a theoretician who defines very broad policy directions, but is removed from making even basic decisions about their implementation. The Commissioner is too far removed from the line staff."

"It was reported that most staff go for months without seeing or speaking to him. The general sentiment is that he does not know what is happening in the Department and that all the information is centralized in the Deputy Commissioner's office. The Commissioner is viewed as an intellectual figurehead. The Commissioner should make an effort to be more visible and accessible to all his staff members and not only his relationship to the Assistant Commissioners and bureau chiefs. If he wants to continue to delegate administrative responsibilities to the Deputy Commissioner, he must at least serve as a leader who is visible and an inspiration to the staff."

Affirmative action -- "The Department is one of the weakest in the state in this respect. No minority members at the senior staff level. Of the 21 county superintendents, most of whom are paid over \$38 thousand, one is a woman and one acting superintendent is black.

"The delivery of vocational education and manpower training services is fragmented and duplicated among several state agencies."

If I might just leave the report for a second, vocational education and remediation in higher education are two specific areas that not only indicate a lack of coordination between higher education and primary and secondary schooling in this state, but beyond that. The present system of governance is one which pushes community colleges, for example, as well as other state institutions, to provide an exorbitant amount - a great percentage - of their money to be put aside for remediation. Things are not getting better, gentlemen, over the past five years. In fact, look at the figures of those students - and these are the students that graduated from our institutions; we are not talking about the one out of six in urban areas who flunked out in junior or senior year - that graduate from high school and go on to state institutions -- that situation has not improved. Higher education has very little governance, very little to say, in fact, except to provide

a report as to how serious the particular situation is.

The report had something very interesting to say about the management of our urban schools and because it refers to a subject that we have heard in the last day and one-half, I read it for that reason. It speaks of Newark. You remember, this report was presented in December of 1977. "Some of the funding for educating our children is wasted by poor management. The Department should establish a mechanism where professional management teams would enter problem districts, set up systems of business-like management procedures, train administrators to take over these functions, leave a maintenance team to see that these systems are continued and periodically return to monitor the process. A system similar to this has been in process in Newark where the state has sent its auditor to act with full authority as administrative manager."

The report goes on to talk about teacher training, teacher preparation -- the report is a very interesting one. It is a report card, what it was supposed to be. I ask: Have these conditions been corrected?

There are many other issues upon which Commissioner Burke could have had a significant impact. Unfortunately, his leadership and persistence was not forthcoming. Individual student needs assessment, which was the very heart of thorough and efficient whether we talk about the legislation, or the guidelines, or the administrative code, was dismantled.

In education, in the classroom, it is the relationship between the teacher and the student which forms the integrity of the educational situation. The Commissioner, whoever he or she might be, needs to establish a relationship with the public, the same public that elects State Senators. Incidentally, good governance is good politics. Mismanagement is poor politics. Commissioner Burke is caught up in technique rather than intent and that is why his mouthing of "back to basics" slogans does not ring true, with me anyway.

I would be here for much longer explaining how the Commissioner's indecisiveness has led to serious repercussions within the City of Paterson. The vagueness of the T & E guidelines, coupled with the "old local control trick" - as Maxwell would say - has brought about much lower goals for Paterson's students than surrounding communities. Professional staff, and I don't fault them at all, are simply following the whim of Trenton in making goals "reasonable." It's distressing, but it is not hopeless.

In conclusion, I will cite just one more example which kind of mirrors the entire four and one-half years of Commissioner Burke's appointment. The debate last summer over whether or not there was an increase in aid for the handicapped was a classic example of chicanery. There was a 9% increase in aid that had to be spread over a 52% increase in the number of pupils expected to be in special education programs. Gentlemen, I wouldn't dignify this charade by the Commissioner by commenting any further.

There is a military aphorism which I quote many times and which I think fits so well in describing the last four and one-half years on the educational see-saw in New Jersey. It goes something like this: "In order to make an omelet you have to break some eggs." This present Commissioner should not be reappointed because he had been more concerned with not stepping on some feet and "staying out of trouble" than leading New Jersey out of its educational abyss. Thank you, gentlemen.

SENATOR GREENBERG: Thank you. Senator Gagliano.

SENATOR GAGLIANO: Mr. Pascrell, first of all, I personally feel that the Passaic County people - Passaic County, Paterson - are to be congratulated--

AUDIENCE: We can't hear you.

SENATOR GAGLIANO: I'm sorry. I just want to say that I personally feel that - I guess you are both Passaic County representatives - Mr. Mellander and yourself should be congratulated on your statements. Unfortunately, I think that for the State of New Jersey, they are in essence very strong and almost an indictment of the present Commissioner's tenure. It is very upsetting to me that we would have people come here on a confirmation process and have so much in terms of statistics in quotes and statements which are indicative of poor performance. I guess I am reminded that T & E has a logo. Some of the things that you were telling us made me remember when I first saw that T & E had a logo. I said: "Why would T & E have a logo"? If you are going to sell a product in a store or on television, you might have a logo. Do you know why T & E has a logo in the State Department of Education?

MR. PASCRELL: I do not, sir.

SENATOR GAGLIANO: Do you have any guess as to why that would be? Do you know what the logo looks like?

MR. PASCRELL: I recall looking at the front of many of the documents in '75 and '76, which were an explanation and a re-explanation of T & E guidelines. I saw it, but it is not fresh in my mind.

SENATOR GAGLIANO: As I recall, it has stars shooting off into the universe someplace. Maybe they were high hopes, but from what you have told us, we haven't attained that.

I don't have any questions. I just wanted to make the comment. I certainly appreciate your being here. I think you have pointed out some real weaknesses that we all have to go to work on.

MR. PASCRELL: Thank you, sir.

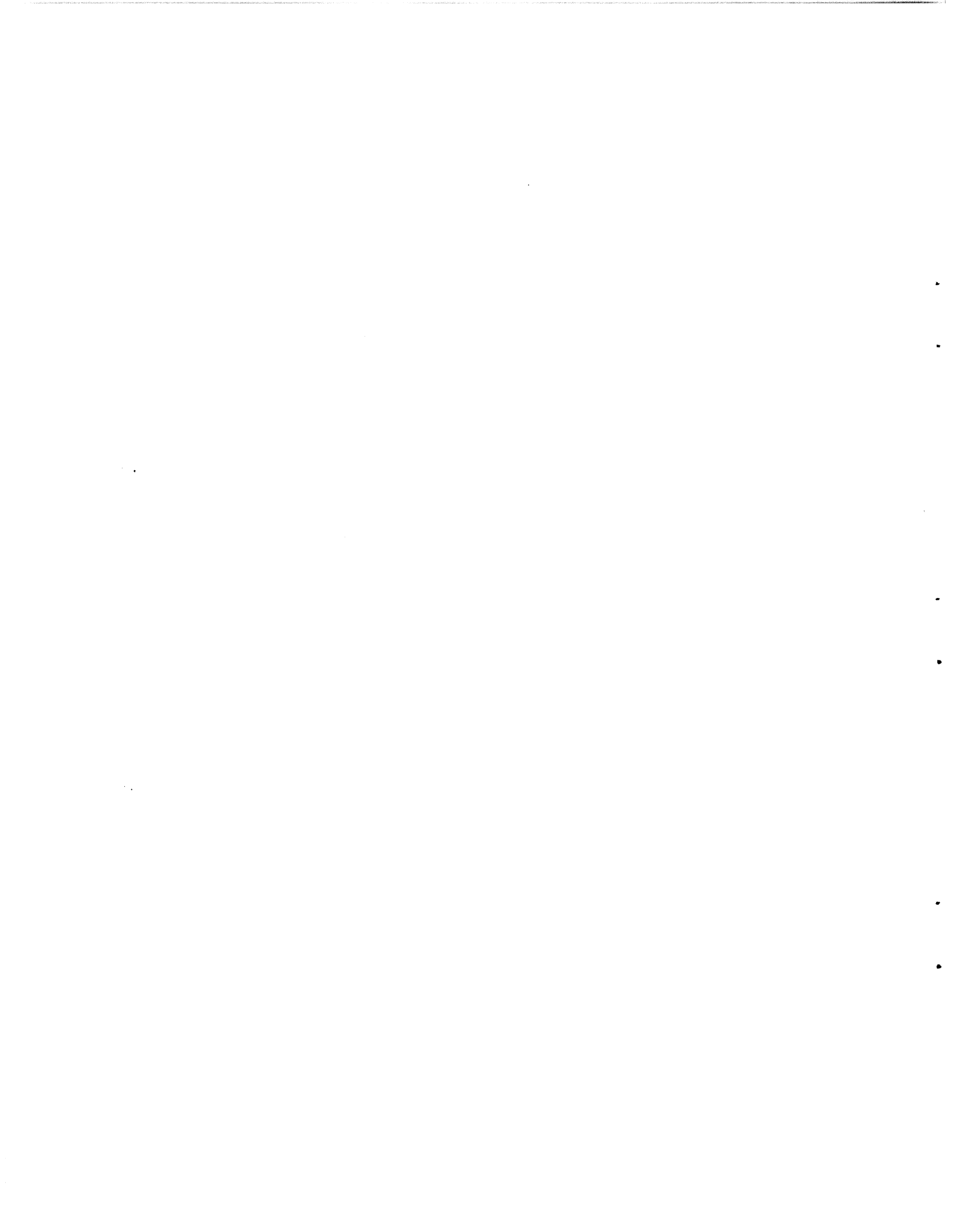
SENATOR GREENBERG: Senator Sheil.

SENATOR SHEIL: Just a comment to liven up the meeting a little. Statistics are like bikinis; what they reveal is startling, but what they hide is vital.

SENATOR GREENBERG: Thank you very much. Before you leave, it is five to one and the Committee will now break. The Committee members have a luncheon meeting that we wish to attend in order to prepare for our 4:00 meeting. We will be back here at 2:00 and on the agenda at that time is a Constitutional Amendment having nothing to do with this subject. We will take testimony concerning that. It will probably last, I understand, between 15 minutes and one-half hour, and then we will recommence and proceed as far as we can today, probably until 3:30 or 3:45, in order to permit us to get to the Supreme Court.

This meeting stands adjourned until 2 o'clock.

(lunch break)



AFTERNOON SESSION:

SENATOR GREENBERG: Before Mr. Vasquez starts, over the recess, the Committee considered the question of the problem, actually, of formalized statements being distributed and then read. I asked before the last witness that we try very hard to synopsise, if possible. I was unsuccessful. The last witness's testimony was very interesting, but he read it all. Not only did he read it all, but he even inserted material that was not in the statement. Perhaps I would have done better if I didn't make a statement about not reading statements. I am not being critical of him, because everyone who went before him did exactly the same thing. Our problem is, we have a very long list of proposed witnesses. I think what we are going to do is try to re-encourage future witnesses not to read their statements, but instead to synopsise them, since they will be available to members of the committee and also for the members of the Senate because they will be incorporated into the record.

I hope that it will not be necessary at some point in the future for us to impose a time limitation. We did discuss that, and we thought in terms of a five minute presentation. I will not make that a rule at this point in hopes that it will not be necessary. But, I will ask witnesses to please bear in mind our problems as well as your own and try to limit your testimony consistent with your need to discuss material that you think is important for us to know.

Mr. Vasquez.

J A I M E V A S Q U E Z: Senator Greenberg, the position paper that we have prepared is only about three pages long, which is basically a synopsis of testimony that has been given to date. I would like to read it, since it should not take more than two or three minutes to read, and then I would like to make a personal comment since I have been here observing since last Thursday, and I will try to limit myself to five minutes.

SENATOR GREENBERG: Thank you.

MR. VASQUEZ: My name is Jaime Vasquez. I am Chairman of the Puerto Rican Congress of New Jersey. I thank the Committee for inviting me to speak in support of Commissioner Burke's reappointment. Often it is much easier to criticize and speak against policies and the person who has created them rather than speak in favor of them, rather than look at the positive, rather than to highlight accomplishments.

We believe that Commissioner Burke, within the confines and limitations of an educational system that maintains strong local autonomy, has taken positive steps to improve the quality of education for New Jersey's school children. In the height of potentially volatile situations, he has provided leadership and direction. Most importantly, he has always demonstrated the willingness to listen and reflect upon the concerns brought up by New Jersey's concerned citizens.

We believe that among the actions he has taken, one which exemplifies his efforts to make the educational system more accountable to its constituents the students has been the reorganization of the County Superintendent's offices. It was Commissioner Burke who created a more viable and administratively sound role for the County Offices. The new direction provided to these offices, under the leadership of Commissioner Burke, has provided school districts the necessary assistance to implement the T & E process.

When the Hispanic community brought to Commissioner Burke's attention that the T & E skills accountability process was not impacting on linguistic minority students, he acted to rectify the situation. He allocated the necessary resources that enabled the development and establishment of performance standards for students in bilingual programs.

Because bilingual education is such an important issue to our community we have carefully monitored its implementation at the local and statewide level. May I make again the statement that bilingual education also did not come from the sky. It took a long time to develop and again it will take time to adequately establish in New Jersey.

Since the passage of the Bilingual Education Act, Commissioner Burke has taken strong steps to ensure the implementation of quality programs. Let me mention some examples:

The establishment of fully professionally staffed Bureau of Bilingual Education;

The establishment of strict certification standards for bilingual and English as a second language teachers;

The allocation of funds towards the development of innovative bilingual curriculum models;

Sponsorship of an annual conference on bilingual education;

Annual status reports on bilingual education;

Commissioner Burke's commitment to bilingual education, and more specifically to the educational needs of the Hispanic community, have not been lip service. While progressive steps have been taken, it is true, much more remains to be accomplished. I think Senator Musto mentioned this the other day, that not only Commissioner Burke has the responsibility for maintaining a competent and adequate education. It is the responsibility of the legislators, the mayors, the freeholders, myself, and all of the people involved in the community.

We believe that Commissioner Burke has the necessary interest, capability, and commitment to get us there. Commissioner Burke is not afraid to act when it is apparent that school districts are out of compliance. The Trenton School District case is an excellent example of his willingness to bring about compliance with state and federal regulations in the most expedient manner.

I said at the beginning that it is much easier to criticize and to discredit than to bestow praise. At times we have also voiced our dissatisfaction with the slowness of the system to change and adapt to new needs. I think it is on the record that the Puerto Rican Congress and the Commissioner have not seen eye to eye all the way down the line. I think that is the way it should be. I think it is a healthy relationship when you can openly criticize decisions and opinions. Yet, we must recognize that Fred Burke became Commissioner at a time when the New Jersey public school system was undergoing radical changes, certainly one of the most difficult periods in the education history of the State. In spite of controversy, budget cut-backs, and general public dissatisfaction with the educational system, and almost every other system that I can think of, Commissioner Burke has been able to initiate its reorganization and move it towards the goals of T & E.

We endorse and support Commissioner Burke's reappointment. In our judgement he has built a record of accomplishments and given the opportunity and the necessary support, he can make greater and significant contributions towards

the improvement of our system of public education. I would like to add that I sat through the hearings on Thursday, and I have been here all day today, and maybe it has been my interpretation, but the Commissioner has been blamed for everything from the high use of drugs in schools to the disintegration of the family. In 1972 I did an independent sample survey of 100 Puerto Rican high school students at a high school in Jersey City, Ferris High School, and it showed, before the Commissioner's time, 80% of the students that I interviewed using drugs, and 50% using three drugs or more. So, this precludes that they are using soft drugs. I can almost bet that the percentages have not changed that much, other than the decrease in the use of heroine in the schools, and that has been due to the low availability of heroine. There has been an increase in other drugs, angel dust and so forth, again, that is attributed to the low availability of the other drugs.

I think it is unfair and maybe on the point of absurdity to charge or to make allegations that the Commissioner is responsible for these conditions. Another thing I want to say, I am not here to make a political speech, and I am not a former employee, and I have no direct relationship to the Department of Education internally. As Chairman of the Puerto Rican Congress, I am in constant contact and debate with the Department of Education, and we are pro and con on certain issues, and we feel that over the past few years, the Commissioner has gone through a period where he has become sensitized to some of the problems. We would not like to see this process started all over again by having a new Commissioner come in. Thank you very much, gentlemen.

SENATOR GREENBERG: Thank you. I assume, Mr. Vasquez, that you are appearing here as the Chairman of the Puerto Rican Congress of New Jersey Board of Directors.

MR. VASQUEZ: Yes, sir.

SENATOR GREENBERG: So, therefore, these views represent that organization?

MR. VASQUEZ: Yes.

SENATOR GREENBERG: There being no questions, I thank you. Eileen Stabin,

E I L E E N S T A B I N: I am going to read one page, and I am sure it is not going to be more than three or four minutes.

SENATOR GREENBERG: If you like, and have copies, we can make it part of the record. Do you have copies?

MS. STABIN: Not with me, but I will get them. As a parent of four children, a concerned citizen, and representative of advocates for education, I strongly urge that you do not confirm the nomination of Dr. Fred Burke as Commissioner of Education. I object to the reappointment of Commissioner Burke because he has been unable to represent equally the interests of public education which should be his primary concern, and the interest of the New Jersey Teacher Association. By way of reasoning, I cite Commissioner Burke's inability to follow the reasoning and accept the findings of an eighteen month study by the State Board of Education regarding the use of pupil progress in evaluating teacher performance.

And, in a deliberate attempt to override the Board's position on teacher evaluation, he has distributed his own guidelines contrary to the directives of the Board. I object further to his reappointment because while publicly supporting T & E Commissioner Burke has refused to accept the responsibility of defining the simplest, but most important, T & E issue, that of citizen involvement.

In his letter to the Education Law Center, he said that citizen involvement is participation at public meetings and election of board members, and does not feel that any special measures are required. If this is so, citizen involvement remains as it was before T and E.

In summary, Commissioner Burke does not respond to the voice of the State Board of Education, nor does he give voice to the citizens. However, he does respond in word and deed to the New Jersey Teacher's Association. We ask that you strongly consider appointing a Commissioner with the courage and commitment needed to fulfill the mandate and the spirit of the T and E law, a Commissioner who is able to respond to the wisdom of the State Board, and a Commissioner who can make sound educational policy without fear of manipulation by the NJEA. Thank you.

SENATOR GREENBERG: Thank you. Harold Debnaun, Somerset County Taxpayer's Association for Public Education. (No response) Andrew Dale, Freehold Board of Education. (No response) Buster Soaries, President, New Jersey Leadership Institute. (No response) David Bixel. (No response) Joseph Gennello, Trenton School Board (No response) Richard Lloyd, Trenton School Board, (No response) Virginia Conti, Trenton School Board. (No response)

MS. POTKAY: Mr. Chairman, I think I am next on the list. My name is Barbara Potkay. I am from the Trenton School Board. I would like, if I may, to speak for myself and the other school board members. I am just back from vacation. I am not going to make a statement. I would like to know if we can forego our time to some of the people who sat here on Thursday and have not had the time to testify.

SENATOR GREENBERG: You want to testify subsequently?

MS. POTKAY: Yes, perhaps tomorrow, or next week, or whenever. But I think that those who have waited should be given an opportunity.

SENATOR GREENBERG: I just want to make sure that we have not missed anyone else. Incidentally, we are not meeting tomorrow, but I will announce today when the next meeting will be.

The name I am up to is Fred Meissner, Chairman of Minimum Skills Advisory Council. (No response.)

John Shipley. (No response)

Megan Golden. (No response)

Angela Perun. (No response)

Dr. James Dwyer, Superintendent of Schools, Somerville. (No response)

Betty Peterson, New Jersey Parent and Citizens Union.

B E T T Y P E T E R S O N: My name is Betty Peterson. I am a parent, and live in Passaic County, Paterson, New Jersey. I am a member of the New Jersey Parent and Citizen Union, and ACE, Association for Citizens in Education. I feel that the nomination of Commissioner Burke will be a total repeat of an unjust to our educational society. We need moral support and leadership. We do not feel this is being provided now. I think, in order for our children to get a better education, teachers should be strongly evaluated. I have seen the New Jersey Educational Association, the teacher's need assessment results in our Paterson public schools, and there are great discrepancies. I know from my own experience some teachers are absent two or three times a week. Classroom teachers are changed four or five times a year. This alone has a poor effect on our children.

There must be changes made and more parental involvement in determining whose hands our children's education lies in. Our parent union serves other

parents with advocacy services. We have accompanied mothers to school and given them our moral support in speaking with a teacher or principal in cases where they felt uncomfortable. We also informed them about their legal rights because the school system does not make an effort to inform them. We have visited different schools volunteering our services to different P. T. A.'s and other ways that we can be of use in our public school.

We held a public hearing recently on minimum basic skills and the media informing parents of the importance of these tests. All the above derive from Mr. Burke's lack of leadership. I feel somewhat contented knowing there is parental involvement at this meeting. Thank you very much for allowing me to speak.

SENATOR GREENBERG: Thank you. Evelyn Robinson, Citizens Union of Passaic.

EVELYN ROBINSON: I am a little bit nervous. My name is Evelyn Robinson. I am here as a parent and a member of the Passaic County Citizens Union for Public Schools. I also am here as a spokesperson for many Passaic High School students. I feel Commissioner Burke should not be appointed because of the lack of leadership and guidance on the local school board level. In the City of Passaic, the Education System has always been a problem to the local citizens. The administration has dragged their feet in affirmative action, social promotion, a realistic segregation plan, curriculum programs, et cetera, dealing with the diverse actions of the citizens.

This past September, the first day the students and parents had a school strike at the Passaic High School, and were able in a matter of one week and three days of marching to, one, sit Board of Ed. members, parents, community leaders and a few students down at a negotiating table with mediators from the Commissioner's office in Trenton to come up with agreeable ideas and solutions for all involved on the sixteen issues the students were talking about. Most of the issues were a long time in coming. They dealt with such basic things as an end to social promotion, affirmative action in hiring, a means for work study program to provide better job training for students, a suspension policy that would be adhered to by principals in charge, desegregation plans, and many others too many to list now.

The students knew the Commissioner had been in Passaic since his term began, but they thought there had not been any changes for the better once he left for home. This to us is a sure sign of the lack of firm leadership. The students after getting most of what they wanted at their own negotiation sessions with the administrators felt, what do we need him for. They feel that the State Department is already aware of some of Passaic's shortcomings, but they also felt that the State was letting them go their merry way. These students who were in high school stated that it was too late for them, but they felt they had to take such an unpopular stand to help the elementary children coming up. They worked very hard, and took a lot of verbal abuse from some parents, school staff, and the local press at first, and even some other students. If there had been the strong leadership needed badly, cities like Passaic would not have had so blatant a board who would take their time guaranteeing the best education possible. The students would not have to resort to such a drastic step to get the attention of the people who are supposed to be serving their best educational interests. Students should be getting all the education they can inside a school, and should not be out marching around trying to find out whether there is anyone in the State Department who

really knows what is going on in the State or even cares. Mr. Burke is only one man. He is the one the people in the community know as the man on top. He is the one we feel is responsible for overseeing the actions of local boards of education and county superintendent offices.

Throughout the last five months any gains we have had in the nature of education in our City, we feel is because of the actions and attitudes of parents, students, and our own board of education members working together. That at last is because of the steps described earlier. A firm stand by a leader in the past five years could have, we feel, prevented the strike and bad feelings that came about. I would like to thank the Committee for this opportunity to express the sincere opinions of so many concerned citizens of the City of Passaic.

SENATOR GREENBERG: Thank you very much. Are there any questions?

SENATOR PERSKIE: If I may, Mr. Chairman, just very briefly. Do I understand that the drift of your remarks is that the Commissioner should have taken what you consider a stronger position with respect to the School Board?

MS. ROBINSON: Well, as far as the school board, so many things are mandated by the State, and we feel that they have gone along with just--- You know, just slowly keep going and going. Why did it have to take all these students marching around--- It was not for anything trivial.

SENATOR PERSKIE: No, no, I didn't mean to suggest that. What I meant Ms. Robinson was, do you feel that--- I don't know too much about the local circumstances in Passaic, and I am really sorry about it in the abstract more, perhaps, than in particular. You indicated that you thought Commissioner Burke should have taken a stronger position. I am just curious as to whether you feel, or whether your organization feels ---

Let me ask you this way, what do you feel would be the proper role of the School Board? Do you think it is initially their responsibility or that of the administration in Trenton?

MS. ROBINSON: It is their responsibility on the local level. We understand that, but we seem to have the idea or the impression that there is no type of guidance coming down. The board does not act, the county does, and if they are not really following a pattern in all urban cities, okay. We feel like the Commissioner should be saying, I have a stand on this, or whatever, and they will be more willing to go along with whatever he feels.

SENATOR PERSKIE: Do you think that the local school boards are very responsive to that kind of direction from Trenton, or that they should be?

MS. ROBINSON: Ours always seems to be quoting this from Trenton and this is from Trenton, and we get the idea --- We feel if we get the strong leadership from Trenton, then they will be able to say definitely, this is from Trenton, and that is from Trenton.

SENATOR PERSKIE: I certainly don't mean to put you on the spot. We have heard from those who feel --- It is an interesting situation. We are getting some input that says that the Commissioner and the Department should exercise more of what is called a leadership role or a sense of direction over the affairs of the local school boards, and we hear from a number of other people that the local school boards want more autonomy and more control over their own destiny and less direction from Trenton. It just seems to me that there is a dicotomy that can't be easily bridged.

MS. ROBINSON: Yes, I understand that. I understand that local school

boards do what they are supposed to do on their own level, because they are more familiar with it. But, still in all if they are not--- With regard to the State test score levels, we are not happy with those. They are nothing to be proud of. We feel like if they are not doing things they are supposed to in areas of affirmative action, desegregation, and all of that, the people turn to the local school boards, and they are not doing their jobs, so we feel we have to go to someone higher up than they are, and if that higher level is not being dealt with, there is Trenton. We don't see that type of leadership coming from the top. You know, they feel that the local school board can do what they want to do, until you make them by marching and embarrassing them, and the whole bit. Why should we have a mediator coming in from Trenton and solve---

SENATOR PERSKIE: As opposed to having what, as opposed to having the Commissioner?

MS. ROBINSON: We need that guidance.

SENATOR PERSKIE: I just want to be sure I understand what you are talking about in terms of guidance. In your judgement the Commissioner rules the Department, and he is, of course, responsible for the Department, and he should have done what with respect to the Passaic school board?

MS. ROBINSON: Well, in all these years of not allowing them to go about their business at hand, just doing as they please. You know, accepting a desegregation plan, and sending it back, saying, oh, that's okay. We knew it wasn't working, and then having to go back and forth again. This is what we expect in urban schools.

SENATOR PERSKIE: Okay, without putting words in your mouth, the general drift of where I sense you are coming from is that the Department should exercise or should have exercised, or should be exercising somewhat more authority and direction over the authority and direction over the affairs of the school board.

MS. ROBINSON: Yes. (Applause)

SENATOR PERSKIE: I just wanted to make sure I understood what you said.

SENATOR GREENBERG: Thank you very much. Janet Edwards. (Applause) Please don't be nervous, Ms. Edwards. You are the first witness who has been applauded before you said a word.

J A N E T E D W A R D S: I did write a speech and that was for Thursday that I had really planned to talk. It was about the leadership that I felt as a parent should be exercised. I am a parent of five children that go through the Newark school system. I have one daughter left who is a senior in the high school now. To me, after all those years in the Newark school system, everybody came up and talked about all the things that were wrong with the Newark school system, what did happen, or what should have happened. Nobody knows the true story about what has taken place especially in the last three or four months, as far as the Newark school system.

Going back to one isolated incident, when you talked to Evelyn Robinson in reference to, do you feel that Burke should supersede the power of the local school board, and do as they feel, because of the situation that we have now in Newark is no longer a local school situation. The school situation is a disasterous situation which will not only be a state problem, but it will turn into a blood battle that will be a national problem, believe me.

Things are going on in the Newark school system that are unbelievable. Just last week we had forty-five teachers out in one school district in one school. Teachers are now fighting each other because of union reps. in the schools telling them that they are not doing what they should as far as the contract is concerned, and the teachers are now fighting. The State Department ordered the report, and the Newark Board of Education completely ignored it. It was stated to us at a public meeting that the Caputo report was only a witch hunt to deal with one particular person, namely, a past superintendent of schools, Mr. Stanley Taylor.

Okay, everybody is talking about environment and that kind of stuff. Parents do not create rats in the schools where children cannot eat lunch because the rats are sitting there ready to grab whatever they drop. Children are not responsible for teachers who do not teach. Parents are not responsible--- we have a responsibility to send our children to school and we are doing that. And there are other incidents where we wrote a letter dealing with teacher evaluation; we found out that there were teachers in our school, namely, Weequahic High School that we believed as parents were not doing what they should do. We went to the Board of Education, and we went first to the principal of the school who we thought was responsible for it. The principal of the school and the Department Chairman wrote up an evaluation, and somehow the Energy Commissioner got involved. He said to us, you know, that this was a good teacher. How would he know this was a good teacher. The decision was left up to Mr. Burke to send the record back down to Newark. This is a battle that we have fought for months and months with tenured teachers, and Mr. Burke failed to give a decision and then when he made a decision it was completely unfavorable to the parents and they did not consult with us at one time about these teachers and about this evaluation and why we felt that these teachers should not be teaching in our schools. Those are some of the isolated incidents that we feel are detrimental to the children in the City of Newark.

Believe me, if there is nothing done, as far as those children are concerned, and I mean done quickly.--- There has to be some things that are mandated, given to the Newark Board of Education. They are not listening to us as parents. We go to them, but we are not the solid citizenry of the Newark School System, obviously, because they don't pay any attention to us. So, what we are saying is, if we have to take our children out of those schools, we feel very well that maybe we should close the schools. There is no need for school in Newark because there is nothing going on. When you get a Senator to come before this Committee - I nearly died to hear somebody who is supposed to be representing children in Newark - and talk to us and say to you that Burke should be renominated--- She herself lives in the city that she is supposed to be representing, and if that is how she wants her city's education to be represented, then I feel sorry for Senator Lipman. I am hoping that Mayor Kenneth Gibson will come before this Committee, so that I can address myself to him. Because I feel if he is not concerned about the future generations in the City of Newark, then it is a sad day for Newark and it is also a sad day for Trenton, if you do not feel that the State Board of Education should have a person who is responsive to the needs of the children in the urban cities. (Applause)

SENATOR GREENBERG: Just let me see if there are any questions from any of the Senators.

SENATOR VREELAND: I have one, Mr. Chairman. From what you have said,

I will ask you the question, do you feel in your opinion, and the other parents who associate with your organization, that Commissioner Burke is more responsive to the teachers than he is to the parents?

MS. EDWARDS: Yes. I do feel--- Being that I have not had access to reports that everybody else who has come up here has had, since I am a parent, and not involved in the kinds of things where reports come down, and that kind of stuff, all of the information they have access to I do not have. Without even having access to that kind of information, I know from plain parent's intuition if somebody continues to tell me it is out of my hands, if something has to happen from some place else, I do know that to me that has shown me his lack of leadership. He does not care. I have heard repeatedly today - and I have read myself - that Mr. Burke is not concerned about urban children.

SENATOR VREELAND: But, Mr. Chairman, with your permission, have you contacted Commissioner Burke, or your organization, about these conditions that you are telling us about, and as a result of your contacting him, he did nothing. Is that what you are really saying?

MS. EDWARDS: Okay, Mr. Burke personally did nothing as far as our organization. We did not contact Mr. Burke, okay. But on occasions, I have. When I say "I" the Weequahic PTA has sent letters to Mr. Burke in reference to the tenured teacher situation in Weequahic High School. We got no response.

On another occasion, before the drug problem got to be what it is in Essex County, the solid citizenry of the suburban communities--- We did have teachers who were actually indicted in Newark's school system by being a part of the drug ring. There were administrators who were suspended until they had a fair hearing about their involvement possibly in drugs, nothing happened. We sent letters to Commissioner Burke, because we had a bar in our school district which openly sold drugs and there was gambling on the street. And, again, we got no response.

SENATOR VREELAND: Thank you, Mr. Chairman.

SENATOR GAGLIANO: One question. When you said you got no response, are you saying that you had individual people, or a group that was represented by you actually wrote letters to the Commissioner of Education of the State of New Jersey and he did not respond to your letters, not even to say that he acknowledged receipt of your letter, and he would look into it? Did you get anything from him?

MS. EDWARDS: In reference to the Weequahic High School, we got that. And that was it, and also the problems of the drugs that existed in the neighborhood.

SENATOR GAGLIANO: Was there any follow up in his office?

MS. EDWARDS: No, no.

SENATOR GAGLIANO: I have no further questions. I admire your statement.

SENATOR GREENBERG: Senator Perskie.

SENATOR PERSKIE: Thank you, Mr. Chairman. Ms. Edwards, I also wanted to ask essentially the same kind of question I asked the last witness. First of all, the Newark school Board, is that an appointed school board?

MS. EDWARDS: Yes.

SENATOR PERSKIE: Appointed by Mayor and Council?

MS. EDWARDS: Yes, Mayor Gibson.

SENATOR PERSKIE: In your judgement, as between the Department of Education and the School Board, who should be primarily responsible for addressing the problems that you have outlined here today?

MS. EDWARDS: Well, I feel like this: I don't think you should address that question to me, if you are polling. Because, obviously, what has happened is, as I said, I sat in the audience for two days now. I found that for everybody who was up here against the Commissioner you had someone who was for him--- (Applause)

SENATOR PERSKIE: I have no intention, speaking only for myself, of polling anybody, nor am I particularly concerned about numbers. I don't care if it is one on one or sixteen on three or whatever. I am more concerned with the substance of what comes out than I am with the numbers. But, the question that I have, and the area that I find myself in something of a quandary about - what I am hearing today, and what I have heard on other days in another context - essentially is that the Department should assume a greater role and assume a greater involvement in addressing these concerns which are all legitimate concerns, and yet in many of the other contexts, and in the area that I come from, there is a lot of opinion that says that the State Department of Education is asserting itself too much in the affairs of the local districts ---

SENATOR GREENBERG: Please, you will have to quiet down.

SENATOR PERSKIE: --- I apologize for that interruption, and that in some instances they should not be governing these affairs, but that should probably be left up to the local school boards.

What I am basically seeking from you and from anyone else who would care to address the question which is indirectly associated with this Commissioner and how he sees his job --- I am interested in how you see his responsibility and that of the Department.

MS. EDWARDS: Well, I feel that in any situation - and Newark is what I can speak for - in the past five years under the direction of Mr. Burke, it is clear that the Newark School System has been going down, down, down. It is now at the bottom. It is the pits. There is no further that this school system can go.

I do not feel that if a Commissioner wants to--- Like he said, "I believe I can do this." He did not say that he could do anything, or that he was committed to do anything. I am saying if I wanted to impress someone, I would use my squeakiest wheel that needs oiling to set up a model for all of the other school districts that I had to deal with, and if it was the Newark School Board who deems to be the culprit in what is going on in Newark, then it is his responsibility to sit at their neck and deal with that.

SENATOR PERSKIE: His, or ours in the Legislature?

MS. EDWARDS: It is his, yours, and everybody's involved. If the Board of Education cannot abide by directives that are sent down by the Commissioner of Education, the Commissioner of Education then should turn to the Legislature. Because, on occasions, the Legislature has done that. The legislature did that when there was a crisis in Newark. Nothing prevents them now from doing that again. Clearly, that is what is needed to be done.

SENATOR PERSKIE: And the failure to do that, I assume you are saying, is the Commissioner's responsibility as opposed to, for example, the Legislature's, or the local School Board's?

MS. EDWARDS: Yes.

SENATOR PERSKIE: Thank you.

SENATOR GREENBERG: Thank you very much. (Applause)

MEMBER OF AUDIENCE: Mr. Chairman, since Senator Perskie mentioned the question of polling, as a point of information, has the State Board been polled, as was stated on Thursday? It is now five days later, or four days later, and I would like to know if the State Board was polled through your direction.

SENATOR GREENBERG: Well, it is not really a point of order. It is a point of inquiry and information. But, I will be happy to respond. On Thursday Senator Musto requested, or suggested, that the Chairman of the Committee poll the members of the State Board. I did not comment one way or the other as to whether or not I would do that, as I think you recall.

I have not yet polled the members of the State Board, nor do I know whether I will. What I will do is meet with the Committee before these hearings are over, and request from the Committee its view and its direction as to whether they shall be polled, and I will abide by the view of the Committee.

SENATOR PERSKIE: For the record, Mr. Chairman, as long as my name was mentioned, I do want to make it clear, I did not comment or suggest any poll. I was responding to a comment of the last witness. I personally, as I said to her, don't attach a lot of significance to numbers. Whether we take a poll of each member of the Board, or whether we count how many people appear before us is of very little concern to me. I am much more concerned with the quality of whatever comes out.

SENATOR GREENBERG: Connie Shore, Metuchen. (No response) Jim Wilson, President, Metuchen Board of Education. (No response) June C. Herbert, Wall Township Board of Education.

J U N E C. H E R B E R T: I am President of the Wall Township Board of Education, and for those of you who may not know where Wall Township is, we are located near the shore in Monmouth County. I came here Thursday with what I considered to be a well prepared statement, and I was going to make a presentation with whatever eloquence I could muster. I still have the statement, and I still enter it on the record, but I would like to go away from that statement only to give you somewhat of a summary of its contents.

SENATOR GREENBERG: I appreciate that.

MS. HERBERT: I can summarize my statement by saying it is one that questions the ability of Dr. Burke to effectively lead the educational system of this State for another five years. We do not believe that Dr. Burke can offer the stability and continuity sought by his own supporters. Our concern is based on his past performance which has engendered the present climate, the climate you have brought before you by all the witnesses, the uncertainty, the confusion, and the controversy.

At this point I would like to read one paragraph from the statement: "In all fairness, we do think that the job of State Education Commissioner is one of the most difficult jobs in any state government and we do realize that the last five years in New Jersey have seen that job confronted with some real knotty problems. Perhaps, and I have to say only perhaps, on the bottom line Dr. Burke is simply guilty of being in the right place at the wrong time. But the fact remains he was here. He was the leader, and now he is identified with and associated with all that controversy, uncertainty and compromise of those troubled times, and all those negative happenings. With such an identification, can he ever hope if he stays in September, 1974, to reduce the attack by our educational system by restoring public faith in the public education in New Jersey. We sincerely believe he cannot."

Now I would like to refer to a remark made by Assemblyman Harold Martin when he addressed this meeting on Thursday. He indicated the Dr. Burke not only introduced the idea of evaluating tenured teachers, but worked to provide a system in which pupil problems could be used in equitable form. If this is an accurate assessment of Dr. Burke's position, why did Dr. Burke find it necessary to inject a disclaimer statement in his forward remarks contained in the guidelines to the evaluation of tenured teacher staff members dated October, 1978.

For those who may not be familiar with that statement, I will quote, "I have expressed previously my skepticism about the feasibility of using measures of pupil progress to evaluate the staff. I think it should be noted at this point that that particular set of guidelines were in such conflict with the intent of the Administrative Code adopted by the State Board of Education, that they were criticized at a December public meeting of the Board and subsequently revised in January, 1979." The revised, I might add, was that statement missing.

Other supporters of Dr. Burke have pointed to his strong leadership. Is it really leadership that only after the Essex County Grand Jury's report on drug use in Essex schools was brought to light at this Committee that Dr. Burke took action on this issue and indicated he would appoint a task force. Don't misunderstand me. I am not saying the problem of drugs in Essex County schools or any schools are Dr. Burke's fault or any individual's fault. It is everybody's fault; it is everybody's problem. The educational leadership is his job.

Let's look at graduation standards. Assemblyman Daniel Newman was somewhat critical of the lack of action by the local boards on this subject. He seemed, at least to me, to be blaming local boards for the fact that the Legislature was forced to consider standards. What about the State Department? What about the Commissioner?

The facts are that in either January or February of 1977 the State Board established a twenty-six member Committee on the high school graduation requirements. I don't have the exact date as to when that report was completed. But a full text of the report appeared in the August, 1978, issue of the New Jersey School Board Association Magazine, School Leader. The next to the last paragraph of that article states, "As of this writing, there has been no response given to the public regarding our recommendations, because they are being incorporated into a major State Department of Education plan to reform New Jersey's secondary education. This long awaited plan hopefully will be forthcoming shortly."

I don't know what shortly means. I only know there are too many critical educational matters that you, the Legislature, must act on, because the Commissioner does not. I can go on about the excessive demands on local districts perpetrated up by the State Department of Ed. in terms of paperwork, and time, and money to carry out P.L. 212. The Commissioner's inability to convey to the Legislature the financial need in terms of specific programs in special ed. and summer schools, or the Commissioner's most recent approach to cap waivers. The subject of cap waivers--- I can't believe the legislature ever intended that excellent districts become mediocre while waiting for poor districts to become mediocre, and, yet, that is in essence what the Commissioner said in his appearance before the Joint Appropriations Commission, and the issue of cap waivers as they are being handled this year.

We at the local level were so dependent upon leadership in the State, must have a leader who is strong, decisive, and above all an advocate for the child. The child's education must be paramount in decision making. We respectfully

request, therefore, that you reject the renomination.

SENATOR GREENBERG: Thank you.

SENATOR VREELAND: Just one question, Mr. Chairman. Do you feel then, and I guess you made the statement just now, that Commissioner Burke is not interested in the children of New Jersey and their education?

MS. HERBERT: I wouldn't put it in exactly those terms, but I would say that there are times in making a determination in the whole spectrum of the educational realm, so to speak, one that has come down with a decision which perhaps is more protective of the rights of teachers than the students. That would be a prime example, and I think I have seen evidence of that.

SENATOR VREELAND: That he is more interested in the teacher than the child.

MS. HERBERT: The whole subject of the tenured teacher evaluation--- My vice-president of the board and I are perhaps among the few board members in this State who ever attend State Board meetings. We were there through the entire process of the State Board discussing tenured teacher evaluations. It was quite obvious to us that the intent of the State Board was that they believed the N.J.E.A. slogan that says, teachers make a difference. And if you are going to improve pupil progress, one indicator of whether or not you have a good teacher is the progress of the pupils. And we watched a long, hard fought battle go on in which State Board members fought valiantly. I have to use that term, because it is a very difficult uphill fight for that, to retain some measure of pupil progress in the tenured teacher evaluation.

After hearings and many passionate pleas and many different statements trying to dissuade the State Board from including it, as being something difficult to do or unfair to teachers, et cetera, they maintain their position and the result is administrative code as it stands.

Of course, the next step in my statement was where I alluded to the guidelines coming out and the Commissioner saw fit to put a disclaimer in it. There were several other areas within the guidelines that were in direct conflict with the intent of the State Board. That, to me, is the primary thing, where I feel the intent of the State Board was to promote the educational welfare of the students. And the Commissioner's action even after their intention became part of the code were in opposition to that intent.

SENATOR VREELAND: Thank you, Mr. Chairman.

SENATOR GAGLIANO: It is good to see another fellow Monmouth County resident. On the question of continuity, you were here the other day, and there was a great deal made by several of what I would consider official dome of the State that they felt very strongly that there should be a continuity at this time, that we are in some sort of a crucial time, and that there should a continuity with respect to the Commissioner of Education, and therefore Dr. Burke should be continued in office five more years. How do you answer that?

MS. HERBERT: Continuity of what? Why consider what isn't good? (Applause)

SENATOR GAGLIANO: The next question is, I didn't realize that you attended so many State Board meetings.

MS. HERBERT: That's my thing. Other ladies play bridge. I go to meetings.

SENATOR GAGLIANO: A question of attendance came up with respect to someone else. What, in your recollection, was Dr. Burke's attendance report, so to speak? Does he attend all the meetings?

MS. HERBERT: He seemed to be missing when things were popping. You know, he is there, but there have been times --- Like at the time of criticism, he just happens to be missing. It could be just coincidental, but it does seem to occur at very opportune moments.

SENATOR GAGLIANO: For the entire meeting, or part of the meeting?

MS. HERBERT: The entire meeting. There are times when he is in and out of them. That is probably a very normal thing.

SENATOR GAGLIANO: Percentage-wise, how many meetings of the State Board out of 100%, say, in 1978, would you say he attended?

MS. HERBERT: I don't think the attendance record so much as the number of times missed has been a very big deal - maybe two times out of the year. But it is the particular times that he is missing that have impact on people's thinking.

On the tenure evaluation, the criticism that came on the guidelines, Dr. Littell sat there and answered the remarks being made.

SENATOR GAGLIANO: Thank you.

SENATOR BGREENBERG: Senator Perskie.

SENATOR PERSKIE: Mr. Chairman, thank you. Ms. Herbert, did I understand you to say you were the Chairman or a member of the Board of Education? I would be interested in your general reaction to the questions I have been asking of some of the other witnesses. Do you feel that the Department as an institution should be exercising a greater or a lesser or approximately the same degree of input and direction, as I will call it, without using such pejorative words as control, but direction and input, if you will, with respect to the local school boards. What should be the proper relationship between the jurisdiction of the local board and the jurisdiction of the Department?

MS. HERBERT: Well, it is not so much what I think but what is. If the State's guidelines are going to come down to us for implementation of T & E, based on administrative code and based on legislation, obviously they are there. Now, if a guideline says that a district should be mindful of the intent of the T & E law, if part of the intent was to improve the student's basic skills and it is discovered that they are not being improved in a district, then I think the State has to come in.

You know, I am not very happy with a lot of the recommendations. They are more than recommendations. They are mandates that are imposed upon us. Once they are imposed, someone up there who imposed them has to find out if that is indeed happening and if it isn't happening, then they should do something about it. (Applause)

SENATOR PERSKIE: Do you feel that the local board has any meaningful role to play in both the interpretation and the implementation of the directions, or mandates, let's call them whatever they are, that come down from Trenton? Or, do you feel that that process, the process of interpretation and implementation should be left essentially to the direction of the State Department?

MS. HERBERT: No, they have to be implemented at the local level, and they have to be broad enough to allow local levels--- After all, I am from Wall Township and those ladies are from Newark, and there is nothing similar about our districts. But there is a similarity in our feelings. I am saying what I need. And you know I would love to say, leave me alone, I can run Wall Township, but that is not real. Broad, broad statements that say this is what we want of

education in all the communities of the State, some point of measure to find out if it is happening---

SENATOR PERSKIE: Has that happened?

MS. HERBERT: And if it is happening, leave us alone, but if it is not happening, go in there and help it happen.

SENATOR PERSKIE: All right let me take that apart for you. First of all, the promulgation of what you call broad statements that would be generally applicable across the State, has that occurred under this Department?

MS. HERBERT: In some areas, yes.

SENATOR PERSKIE: Incidentally, by and large to the implementation of the 1975 Chapter 212 legislation?

MS. HERBERT: Oh, a good deal of that has been so detailed it has become so cumbersome; it's a waste. You have heard it all before.

SENATOR PERSKIE: Well, I have not heard everything. How long a period of time, just for my own information, have you served on the board?

MS. HERBERT: Eleven years with a four-year break in between.

SENATOR PERSKIE: So you have had the opportunity to serve before T & E, good, so you have a basis to compare the system as we now have it with whatever was happening, which I think is an advantage for you, I mean.

MS. HERBERT: Thank you.

SENATOR PERSKIE: And it is also good for us and presumably for the people of Wall Township.

MS. HERBERT: Are you willing to come make a speech? I am running for re-election?

SENATOR PERSKIE: I have enough trouble dealing with what I have at home. My point is, you start off by saying, there should be broad statements of goal or policy and then it should be left to the local board to implement and to interpret.

I guess what I am asking is where you would draw the fine line between the prerogatives and the responsibilities which in my perceptions have always been jealously guarded by the local school boards throughout the State and what I gather you are suggesting is the obligation of the State to step into a local situation, be it in Newark, be it in Wall Township, Atlantic City, or anywhere else, when who determines that those things are not being met, the local board based upon his interpretation, or the State determines it? Where would you draw that line?

MS. HERBERT: No, once the State has determined that they are going to tell a local board, in however --- However sweeping the term is, once they determine they are going to ask the local board to do something, something like T & E which is built in with a monitoring procedure and is built in with action that may be taken if things are not going right, then they happen to have a mechanism to follow through on it.

SENATOR PERSKIE: If you follow that argument through, doesn't that in essence mean that for all practical purposes strip the local board of the greatest measure of its discretion of autonomy?

MS. HERBERT: I can't agree with you more. The local board has been stripped and stripped and stripped, from the time I have been there. I can remember a fellow board member when we first started who said, in ten years we won't exist. He is a little bit wrong. I am still hanging in there.

SENATOR PERSKIE: Is that a good thing or a bad thing, the stripping of the local boards?

MS. HERBERT: If you want a black and white answer, it's bad.

SENATOR PERSKIE: And I think frankly that answer is probably more representative of the majority of the opinion of the local school boards around the State than it is not. But, if it is a bad thing, and if the Legislature - and I ask you to accept the fact that the Legislature is consistently being told that most of the local units whether they be municipalities, school boards or whatever, want to retain as much of that discretion as they can, and that is what we are being told - is being told consistently that most of the local units want to retain as much of that discretion as they can, if that is the case, shouldn't the Department of Education be reluctant to interpose itself in a situation involving discretionary action of the local board?

MS. HERBERT: Well, you know, you are basing your statement on something that happened already. We already have T & E. It is already mandated in the system and it demands monitoring. Your whole discussion has a take off base in response to what has been pestering these ladies from Newark. There are bad conditions and they have come to light; it is obviously that the local board--- All local boards are not going to do everything they are supposed to do, ever. And some are not going to do anything they are supposed to do, and when a situation is out of hand, somebody has to step in.

SENATOR PERSKIE: I don't disagree with that, and I want to make it clear that I am not referring just to the comments of the people who were here from Newark today. I am sensitive to that situation. I supported that bill at the time that came up, and I don't have any inherent problem with the concept of the State stepping in. I am having a problem from where I sit in that I am being told consistently throughout these hearings, and in some other contexts, that the State Department isn't doing enough to fulfill the commitments that we all made, even those of us who decided to vote against the T & E bill for various reasons, that the State Department isn't doing enough in that respect when at the same time I am told in comparable contexts, as you said before, go away, leave us alone, and let us do it. I am having difficulty in my own mind trying to draw those kinds of lines, and I am simply seeking help from those who are here.

MS. HERBERT: They both exist, and I think it depends on from whence you come.

SENATOR PERSKIE: Thank you.

SENATOR GREENBERG: Senator Cafiero.

SENATOR CAFIERO: Mrs. Herbert certainly doesn't need any help, and I am not saying that Evelyn Robinson and Janet Edwards did. But, I think basically what they are saying is they subscribe to the right to home rule, but I think that all three of them are saying that their right to exercise in discretion to the school board is not the right to ignore and I don't mean to speak for them, but tell me if I am saying it right.

Maybe they are not too thrilled with what the State has mandated to them, but those folks as parents are at the bottom of the ladder. We have mandated to local school boards to do certain things whether they like it or whether they don't. They are saying that the requests they put to their local school boards were ignored. They are asking for a stronger hand to make sure their school board does what we told them they had to do--- (Applause)

MS. HERBERT: Thank you.

MS. EDWARDS: I would like to make a comment, Senator.

SENATOR GREENBERG: I would like to see if any member of the Committee has a further question of the witness, first. Senator Sheil.

SENATOR SHEIL: No questions.

SENATOR GREENBERG: Okay, is this directed at the witness?

MS. EDWARDS: No, this is not directed to the witness, this is to the Committee. You were talking about a Commissioner who has 611 school districts and all of them are different school districts, by and large, and being that Newark and the urban areas are such large school districts, there is no way---

I can understand very well where a school district that only has three schools can say, okay, you sent us a mandate and we don't understand it, please come and help us. But when you talk about a school district the size of Newark, there is no way that you are going to allow people who are sitting on school boards who are not educated, but are politically appointed, and they come in and you give us a mandate, and then allow them not to carry out mandates.

SENATOR GREENBERG: I appreciate very much your remarks and the fact that you abbreviated them. The fact that Senator Perskie did not abbreviate his remarks is not your problem. That is our problem.

The Judiciary Committee must meet in fifteen minutes in the State House Annex, so we are going to terminate our hearings as a result of our obligation at this moment, for today. The next time the Committee will meet will be on Friday of this week in this room. And, for the purposes of those who are present and have a desire to testify and have not yet signed up, and for others who hopefully will read the notices that we will be publishing in the State House, and hopefully in the press, the list of witnesses will be closed by the end of this week. I think everybody who has a desire to testify probably knows of these hearings by now, but we will give them another several days. Those who do not sign up by the end of Friday will be foreclosed from testifying only simply because there must be an end to the notice sent to the people to come forward and be heard.

SENATOR GAGLIANO: Mr. Chairman, I would like to say that I can't be here on Friday. I apologize for not being able to be here. There are time problems, but I have asked the Chairman to go on with the hearings anyway. I will certainly review the transcripts, thank you.

SENATOR PERSKIE: Mr. Chairman, I won't be here on Friday, but I join with Senator Gagliano in that I will review the transcripts also.

SENATOR GREENBERG: Thank you very much.

(Hearing adjourned)



