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

before

SENATE RULES AND ORDER COMMITTEE

on

1974 SENATE RULES

Held:
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Senate Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Frank J. Dodd (Chairman)
Senator Matthew Feldman
Senator John J. Horn
Senator Stephen B. Wiley

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SENATOR FRANK J. DODD (Chairman): Good morning, ladies and gentlemen. I would like to introduce myself. I am Senator Dodd from Essex County, Chairman of the Rules Committee. On my right is Senator Wiley, a member of the Committee.

First, my apologies for the late start. We have just come from an emergency meeting with the Governor and that is where Senator Feldman, who is a member of the Committee, is. He will be joining us shortly. So will you please forgive us for the late start.

We will attempt today for the first time to have public input into the working rules of the Senate. For the sake of brevity, since we have quite a list of people and organizations that would like to testify, I would ask those of you who have printed statements to file the statements with us and summarize your statement when called upon.

I would first like to call Senator Schluter of Mercer County to testify.

W I L L I A M E. S C H L U T E R: Thank you very much, Senator. I should qualify your introduction of me as ex-Senator.

If it is all right, with your permission, I would like to read this statement. Having sat on that side of the rostrum from time to time in the past, I know it is very easy sometimes when the members follow their copies of the statement. It would be quite difficult for me to paraphrase it. So with your permission I would like to read the statement.

SENATOR DODD: You may proceed in that way.

SENATOR SCHLUTER: Allow me to commend you, gentlemen, for your candor and forthrightness in holding this public forum on one of the most important of governmental structures -- the rules of a legislative body. During my tenure in the legislature consisting of 4 years in the Assembly followed by 2 years, recently concluded, in the Senate,

there were many steps taken in the direction of legislative reform. The "Beadleston Commission" of 1971 produced a number of dramatic improvements in the committee system and in open government procedures. It is gratifying to see that the present legislature is continuing this trend.

We have witnessed in recent years -- even in recent months -- that the political institutions of yesterday are no longer acceptable to the American public. Thomas Jefferson once said: "When a man assumes a public trust, he should consider himself as public property." To my mind, this means open government, and I would urge that the Senate Rules Committee do everything possible to allow all facets of your legislative operations to be as visible as possible, thereby restoring some of the faith that the people have lost in their governmental institutions.

There are three specific areas in the Senate rules to which I wish to address my remarks. The first involves confirmation of appointments by the Governor -- the power of advice and consent or, colloquially, "senatorial courtesy". The Senate derives this power through the New Jersey Constitution, and its proper exercise is part of our basic fabric of governmental checks and balances. As practiced in New Jersey, however, advice and consent has been subject to gross distortions. Here, we have nothing more than a "black ball" system. We do not see or hear of many rejections of nominees by home-county senators. But the threat of these

rejections has a profound effect not only on appointments but on the entire legislative system.

Any governor together with his counsel is very sensitive to the delicacy as well as explosiveness of this situation. He can look very bad in a political sense if his nominee is rejected -- i.e., dies by attrition. And so, a governor more often than not is compelled to settle any differences before the nomination is made.

The public, of course, is kept in the dark. Does this settlement involve future commitments on legislation by either the governor or the senator? Who knows? Is it any wonder that the public becomes suspicious and loses confidence.

Several recent developments have added to the confusion on this subject. The 1971 legislative apportionment created several individual member senate districts. The "understanding" was that the senator in such a district held complete veto power over appointments from within that district.

But many appointments, such as prosecutor, are made on a countywide basis even though two or more senators might represent that county. If these two senators represent opposing political parties, try to imagine the mental gymnastics that a governor must go through in selecting a nominee from that county representing his and one senator's political party. What happens if the best possible candidate for a position resides in that portion of the

county comprising the district of a senator representing the other political party. Will the governor nominate and/or will the senator reject? Do these influences produce the best results in representative government? My answer is NO -- primarily because of the threat of the senatorial black-ball.

The present system involving review by the Senate Judiciary Committee, in my opinion, is a farce. During the last session, I understand that the interview schedule by this committee ran as high as 40 nominees in two hours. Did this review produce any rejections -- or was it just "window dressing". By the time a nominee for judicial appointment was invited to appear before this committee, his or her name had already cleared the advice and consent stricture. Confirmation followed automatically.

Why not have a nominee reviewed in public by the Judiciary Committee or any other committee where the appointment is relevant. And then have the committee members vote -- in public -- for release of the nomination. We have seen this procedure work at the federal level.

"Senatorial courtesy" as practiced in New Jersey, therefore, is evil because

-- the public is kept in the dark as to the real reasons for rejection. Moreover, the public does not receive the benefit of any open scrutiny of the qualifications of a candidate.
-- the threat of this practice distorts the original selection by

allowing the possibility of "political mischief" on the part of either the chief executive or the home-county senator.

What is the answer? I firmly believe that the 60 day rule would strike the proper balance between the power of the executive to appoint and the power of the senate to exercise its intended function of advice and consent. Simply stated, the 60 day rule would require the Judiciary Committee to release the name of a nominee to the full senate within 60 days. The release of such nominee could be on a favorable, unfavorable, or without recommendation basis. It would be the responsibility of the full senate to vote its acceptance or rejection.

Such a procedure would not prohibit "senatorial courtesy". It is entirely possible that all senators would honor the objections of the home-county senator on the floor of the senate. And in cases of appointments of a "political" nature, such actions might be justified. If a senator tried to invoke senatorial courtesy in an arbitrary or unreasonable manner, I do not believe that he would be successful on too many occasions with the glare of the public spotlight focusing on him and his colleagues. Naturally, it would be every senator's right to attempt to influence the Judiciary Committee as to whether a name is released favorably or unfavorably. The full extension of this concept, I believe, would be more public review of nominees by the Judiciary Committee.

A good example of the salutory effect of such a positive release feature can be seen in the Marburger confirmation attempt

in 1973. The Judiciary Committee released the nomination to the full Senate without recommendation. Regardless of one's feelings about Dr. Marburger, I am convinced that the public of New Jersey was well served by having part of the confirmation process take place in full public view.

In passing, it should be noted that seven senators objected to the 1972 rules when they were adopted on January 24, 1972 by a 27-7 vote. The objection of these seven senators was an expression of dissatisfaction that the rules did not include the 60-day provision. Similarly, the 1973 Senate rules were adopted on February 5, 1973 with six negative votes again objecting to the absence of the 60 day provision.

One final word about senatorial courtesy... I believe that the 60 day rule should be written into the New Jersey Constitution so that no future legislature can tamper with this provision. Your committee may refer to SCR-2040 of 1973 for the exact wording of such a constitutional change.

The second area of concern with the Senate rules involves the conduct of party caucuses. I favor a new rule which will insure that any "formal" action taken in a caucus session will be made public as to the results of such action and the voting of the participants. The exact wording of such a rule follows:

> Whenever a number of senators constituting a majority of the members of a political party shall meet for the purpose of ascertaining the sentiments of said senators as to whether or not any bill or resolution

or bills or resolutions should be given third and final reading and a vote is taken to determine these sentiments, such vote shall be by a calling of the roll and shall be recorded, and a copy thereof, in duplicate, shall be filed with the Secretary of the Senate. Said roll call vote filed with the Secretary shall be a public record.

Let me point out that I fully support the right of groups, large or small, to meet in closed session. Of course, they do this at their own peril. But when such a group is doing the public's business, the public has a right to know what goes on. And when the result of any closed caucus session is to approve, reject, modify, or in any way directly affect the status of pending legislation, the public must have the right to know the action taken by elected officials at such a caucus.

It is no secret that both parties in recent years -- majority and minority -- have had printed caucus lists indicating the voting position of members on various bills. The effect of such votes is to over-ride any committee action on a bill. As a sidelight, I am quite certain that the cost of printing such caucus lists is paid out of public taxes.

At the very least, the results of caucus votes, as long as they have a binding effect on any bill, should be made public. After all, committee votes are made public even though the committee session might be closed.

Some legislators appreciate the anonymity afforded by the caucus on certain tough issues. For example, a senator or assemblyman can feel very comfortable in favoring a police pension bill in

public -- he can even be a co-sponsor -- as long as this legislator can help "kill" the measure in the secret caucus because he knows that it is bad legislation. Adoption of this proposed rule might even discourage the introduction of some bad bills whose sponsors never had any intention of passing them into law.

Others will say that caucus discussions are very informative in allowing a legislator to hear all sides of an issue. I agree. There is nothing wrong with such discussions until the caucus members hold a binding vote on a bill which is in the public domain.

I really would have no objections in allowing a caucus of the majority to over-ride a committee -- as long as the public knows what their elected representative did on the issue.

The secret caucus is one of the last vestiges of closed government at the state level. Your committee can do much for the future of the legislative process as well as public confidence by adopting this rule.

Finally, I believe that committee meetings should be open whenever possible. This end would be served best by adopting a rule similar to the one in use by the United States House of Representatives which provides in essence:

-- All committee meetings are open to the public unless the committee votes to close a meeting or a portion of a meeting.

-- A vote to close a committee meeting must be a public vote.

-- The precise reasons for a closed session must be clearly stated.

-- Under no circumstance can a committee meeting be closed if any non-committee witnesses or experts are testifying and/or participating.

Such a rule would obviously provide much more visibility to committee action. I think we all can agree that committees will perform their assigned functions more effectively when they know that they have greater responsibility and that this responsibility cannot be shirked.

By the same token, I would caution your committee against allowing a sponsor too much ease in bringing a bill directly to the floor for a vote. Such a change (and I think this concept was embodied in some rules changes proposed, but not adopted on February 5, 1973) would have the effect of weakening the committees. If the situation warrants, any bill can be brought to the floor by majority action of the Senate.

In conclusion, I want to thank this committee for the opportunity to give expression to some very essential legislative reforms. You are to be commended for your commitment to open government. Thank you.

SENATOR DODD: Thank you, Senator Schluter.

May I introduce Senator John Horn who joined us.

Senator Wiley, do you have any comments or observations?

SENATOR WILEY: One question, Mr. Chairman. My question deals with the effectiveness of the proposal as a remedy for the secret caucus. As I understand it, it is a proposal that there be a record made and publicly disclosed of any votes that would be taken in an otherwise secret caucus.

MR. SCHLUTER: Correct.

SENATOR WILEY: I have heard the proposal made and my initial reaction to it was: Might that create a system or permit a system where votes were taken routinely in

secret in a caucus on bills legitimately by reason of a rule of the Senate with the public excluded, as long as thereafter there was a listing given out of the votes that were taken? And, if that were so, wouldn't it tend to formalize and legitimatize kind of a secret Senate so that anything that happened out here on the floor thereafter would be merely window-dressing and this would be all right - this would be in keeping with the rules, if there were a rule to that effect? Don't misunderstand me, I, like you, want to see it abolished. My question is the method and I respect the motives behind it. My concern at first blush is this: I wonder if we would be writing into the rules something that might come back and haunt us.

MR. SCHLUTER: Senator, that is a very legitimate concern. I am trying to design a rules change which I think is practical and would work under the circumstances. I think you will note that this rules change only refers to a meeting where a majority of a particular party gets together.

I believe on the contrary that if this is adopted and if it works, it would tend to further open any type of caucus. There are other procedures in the caucus which are subject to serious challenge and I would be one to challenge them, such as the right, if it is practiced as it has been in the past -- the right of certain leaders to assign certain bills for caucus consideration and the unwritten understanding, as it were, that the caucus controls and can override committees, and the fact that committee members when considering a bill that has been approved or rejected by the caucus have to be bound by the caucus vote.

But I think this is a step in the right direction. I happen to believe in evolution more on a gradual basis than going the whole hog. Because if you were to go the whole hog and all of a sudden the one House or both

Houses of the Legislature found that they had a lot of these bills that really we all should recognize are not good legislation and sometimes get voted on and approved, you don't have any backstop. For too long the caucus has been a backstop for bad legislation. Really you shouldn't have to have a backstop because responsible legislators should not be introducing legislation which is basically unsound or the committee system should be so strengthened as to take the brunt.

In summary, Senator, I would say I think it is an important first step and I think that the trend, if successful - and I think it would be successful - would be for more openness in any party meetings.

SENATOR WILEY: Thank you, Senator. I might just ask one more question. I presume you would agree and as a matter of fact I think you said ultimately the answer lies not so much in the mechanics but rather in developing a sense of responsibility on the part of individual legislators, (1) in introducing bills, and (2) a sense of responsibility on the part of committees in considering bills so they don't vote out a bill if it doesn't deserve to be voted out.

That seems to leave one area that I have become conscious of where there is a financial implication in the bill, and the sponsor may do a very deliberate job in drawing the bill, and yet may not see the total picture. I have wondered whether perhaps the reason for the existence of the caucus in substantial part may not have been to have a forum in which the total picture could be looked at financially and the million dollars proposed to be spent by that bill could be weighed against other similar proposals and weighed against the budget as a whole.

To the degree that that is so - to the degree that that is a reason for the existence of a caucus practice - I look for an alternative and suggested in a proposal that

I have made that money bills go to the Appropriation Committee after they have come out of the regular reference committees so that there would be a deliberate, duly-constituted forum where they could be looked at in the total spectrum of the financial needs of the State and revenue.

I am not sure that is the total answer. I am sure it isn't the total answer because there are some non-financial bills that similarly have been subjected to the caucus practice in the past, I presume. I would be interested in your observations on that.

MR. SCHLUTER: First of all, as I say in my testimony, I see nothing wrong with a party meeting to have a full discussion on an issue and to be able to let their hair down in private if they so desire. And if a party caucus wants to meet on certain financial priorities for an understanding of the financial impact of bills, I see nothing wrong with this. But the minute that the caucus in some formalized structure expresses a position which has an effect of advancing or killing or rejecting or modifying a piece of legislation, this is the public's business being done in private and this is what I say is wrong.

To go one step further, I think a more structured approach, if the committee systems are going to be strengthened and improved, as you suggest, Senator, where money bills go to the committee where the functional responsibility lies first and then back to the Appropriation Committee, might work very satisfactorily. One of the keys is picking out a bill which is strictly a money bill and a bill which has some sort of other sideline implications.

SENATOR WILEY: Thank you, Senator.

SENATOR DODD: Senator Horn, do you have any comments?

SENATOR HORN: Yes. I had the privilege, Senator, of serving with you in the Assembly for some four years and know of your concerns and also had the privilege to serve in the

Assembly as its leader for some four years in the Democratic Party. Unfortunately, on our side of the aisle we were not privileged to caucuses. I also served on the Beadleston Commission that you make reference to in trying to reform the Legislature and make it more open to the public. I have always followed, as my record will show as leader of the Assembly, open meetings, and am fully in favor of not only the open meetings but of the open voting. While we were the minority in the Assembly, we did have some of those closed-door sessions that you spoke about. I am happy to report while there might have been closed-door sessions, there were no votes taken and there was an open discussion.

I am concerned, and I would like to rely on a bit of your experience as a Senator because I know of your concerns in the opposition to senatorial courtesy. Something comes to mind that happened during your term of office and I thought perhaps you might be able to provide us with some information whereby we may be able to correct some of the problems, and I refer specifically to one of my former colleagues who was mentioned as a Judge in Mercer County, I believe in your area, by the name of Charles Farrington. For some reason or other that never came to be. Was that because of senatorial courtesy or the caucus system? Is there anything you might be able to suggest to us whereby we could correct that type of situation in the future?

MR. SCHLUTER: Senator, to the best of my recollection -- maybe I can paint a little picture here using an individual's name whom you brought into the discussion to illustrate the potential evils of senatorial courtesy as it is practiced now.

You say you served with Assemblyman Farrington.

SENATOR HORN: Nine years ago, yes.

MR. SCHLUTER: I think he was in the Legislature for some ten years. This is a delicate situation because you will have to appreciate that I still want to respect

the confidences and so on that I was subjected to last year and the year before.

At that time, the Senator had complete sway over his or her district. I had a district in which Mr. Farrington resided. When I was asked by the Governor's Office for my comments -- Excuse me. I should say there was an opening for a County Court Judge of the Democratic Party. At the same time, there were openings, as I recall, for County Court Judge for a Republican. As a delicate nomination is -- this was very sensitive because Mr. Farrington is a Freeholder and some people could have criticized, for example, a Republican approval of a Democratic Freeholder, making a vacancy in the Freeholder Board so that the Republicans have an opportunity to get an advantage there in an election.

His name was advanced and I approved it. Somewhere a little down the line, however, there was a leak and the information came out in the press that he was being considered.

Shortly thereafter, another name was considered from the same district. I can explain this and describe this as far as the evils of the system best by saying if I had gone to the Governor or a Governor and said, "I want my selection for this particular job accepted by you before I will give in to this selection for another job for County Court Judge," this would be horse-trading of the kind that I think is bad, particularly in judicial appointments. Because of the combination of the premature leak and another name coming into the picture at the time - I was declared on record with the administration as not being one who would invoke the black-ball system - the administration for reasons best known went with the other nomination. And this person being completely qualified, I was not going to object to his qualifications.

I am trying to just paint a little picture here, Senator, that there is great leverage if improperly used

and even if improperly used only five per cent of the time, I think the public has some serious questions as long as that particular system is in operation.

Did I answer your question?

SENATOR HORN: Well, yes. Really the purpose of my question was to try to gain from you some input as to a method whereby we could still improve upon the system.

I, personally, as everyone knows and as I said before, am on record for open meetings, open committee meetings, and for votes on bills. I think most of the people around this House and the organizations which they represent know that, and that's the way I stand.

I appreciate your remarks and thank you for your comments relative to my question.

SENATOR DODD: Senator Feldman, any questions?

SENATOR FELDMAN: No questions. I came in late. I can't comment.

SENATOR DODD: Thank you very much, Senator.

MR. SCHLUTER: Thank you.

SENATOR DODD: Senator Joseph Merlino of Mercer County will be our next witness.

Ladies and gentlemen, there will be a published report of this hearing. We have our stenographers here. A transcript will be made which will be available to the public as soon as possible.

J O S E P H P. M E R L I N O: Thank you, Senator Dodd, and I wish to thank my fellow Senators for affording me this opportunity to participate in this public hearing. For those of you who are new to the Senate, you are going to hear my proposals perhaps for the first time, but those who are not new will recall they have been made before over the past several years both as a member of the General Assembly and as a member of the Senate the past two years.

I would like to make the following recommendations

for changes in our rules:

First, a proposal that the list of bills posted on the board in any given legislative day be limited in number. I suggest a number of 25. But, of course, that would be within the discretion of the President of the Senate. Listing 25 major bills would probably be too much for any one day. But the idea is to put some limitation on the number of bills on the board. That would then preclude any hysterical run-away sessions or marathon sessions of the Senate on any given day, particularly on what is commonly known as get-away day when the "choice" pieces of legislation - and I put the word "choice" in quotations - somehow manage to get on the board and passed perhaps to the regret of even those who may have voted for them, not having been fully informed as to what the bills are. Some limitation must be placed on the activity that goes on in any one day as far as voting on bills.

We in the Senate have already announced some major changes and have already begun operating under what you might term a set of rules regarding committee meetings and reports. But I think this should be implemented by placing them in the rules. The committee meetings are open to the public by announcement of various committee chairmen, myself being one, and the committee votes for the past two years have been a matter of public record in the Senate.

I would ask that the rules be amended to the effect that committee votes should be recorded in the Senate Journal, not just tucked away conveniently in the committee meeting room or with the committee staff or with the committee chairman, and that votes on amendments to bills in the committee should also be recorded. Perhaps many times, more so than often, the votes on the amendments to any legislation in committee are unanimous. But I think it

should be so recorded that the members did in fact so vote and recorded in the Senate Journal as a regular committee vote on a particular piece of legislation.

Sponsors should be required to attach a statement to all bills explaining their intent. At least the sponsor's intent should be demonstrated and appended to every bill. You may find in some cases that what is provided in the body of the legislation perhaps doesn't agree with or coincide with that which the sponsor intended it to be. I feel no bill should be filed or given a number or placed on first reading without first having had a statement of the sponsor's intent. By way of example, we have 9 bills scheduled for consideration on Monday, the 28th of January, in the Senate Revenue, Finance and Appropriations Committee. Not one of these bills has a statement. On several of these bills we are unable to really figure out what the sponsor had in mind or the need that the bill was designed to meet. I am attempting to set a policy within my own committee that no bill will be released until the sponsor provides us with a statement of the intent of the bill. I think this would be helpful to not just the Senate but the entire Legislature and the public in general to know when they pick up a copy of the bill in the Bill Room the sponsor's intent.

Another recommendation -- and I do have several copies of the suggestions which I will make available to the committee -- is that standing committees should be required to make a preliminary review of the respective departments' budgets, primarily to oversee program effectiveness and to make a report to the Appropriations Committee. And I have a proposed rule to that effect which I will distribute to the Committee.

The purpose of this is to establish the tools of real legislative supervision and control and to evaluate programs. Since the standing committees are called upon

to pass on legislation about the various departments in State government, they ought to know what really goes on in these departments and have some control over them. Since the Legislature is called upon to raise the money to finance the operation of State government, I think the Legislature should also know how the money is being used.

Another suggestion I have is one which I made several times while a member of the Assembly and again two years running in the Senate. It was a good idea then and I still think it is a good idea. Unfortunately the then majority in the Assembly and in the Senate saw fit to deny the implementation of this rule, and that is that every bill requested by its sponsor must be considered by the committee to which it has been referred and be given a recorded vote within 60 days.

That doesn't mean that every bill must be given a recorded vote to come out on the floor to be voted upon. The purpose of the committee system is to go through the bills and study them and evaluate them and either recommend that they be voted out of committee for a floor vote or recommend that they be amended or recommend that they not even see the light of day, whatever the situation may be. But under this proposed rule the commitee must act on a bill if the sponsors so request and it must be acted upon within 60 days. Failure of the committee to act on the sponsor's request, that bill would automatically be given second reading and then at the sponsor's request, the President would be required to give it third reading.

It was suggested, and I think rather ridiculously so, perhaps in the air of being facetious, that the rule as suggested was fine up to the point where it gave the President of the Senate the right to either put it on the board or not. To me,this seems rather ridiculous because what we would be doing would be just advancing it one more step to the ridiculous where the President of the Senate could

arbitrarily just keep it off the board. Then it was suggested perhaps by a majority vote of the Senate a bill could be considered. Well, if it got that far, the majority vote would be enough to pass the bill.

This suggestion is that at the sponsor's request within 60 days the bill be given automatically second reading, and again at the request of the sponsor the President would give it third reading and put it up for a vote. As to the argument against a rule such as this that there would be too many perhaps ridiculous bills, I think that would only have to happen once to a Senator. If he found out his bill was ridiculous perhaps he wouldn't be so hasty the next time to make such a request. And, hopefully, we might cut down on the volume of legislation which is being dumped into the hopper. At the beginning of a session you can read and go through the bills, at least you could until this year. Usually you can read the bills in the beginning of a session as they come off the press, but this year you couldn't begin to do it. And I see the same bills being dropped in year after year after year. I have to think the sponsors are putting them in only to log some time in the sponsorship of bills. I think they would be the last ones to want to see them come up for a vote.

I think the committee system as it is now operating, coupled with this proposed rule, would start separating meaningful legislation from that which is merely put in the hopper to establish a record for the particular legislator.

As I prefaced my remarks, we do have the open committee system now. It has taken a long time to accomplish. Whatever rule may be necessary to put this in a more permanent effect, I think should be considered by this committee.

Thank you, gentlemen.

SENATOR DODD: Thank you very much, Senator Merlino.

SENATOR MERLINO: I will answer any questions that any of you may have.

SENATOR DODD: I have one question and it is in the form of a suggestion to you as Chairman of the Joint Appropriations Committee. There are various legislatures throughout the nation that have their Appropriations Committees broken up into subdivisions where they will match up the membership of both Houses to areas of expertise. This system involves every member of the Legislature. I would ask your committee and you as chairman to look into this proposal.

SENATOR MERLINO: I welcome the suggestion. Hopefully, I have initiated that perhaps through another means. I have asked the chairmen of each of the standing committees in the Senate, and have also forwarded the same request to the Assembly, to operate in a fiscal sort of way to check the programs and the expenditures in the departments which fall within the working of their committees. This may be just another form of that which you have suggested.

One further suggestion with committees, if I may -- I don't have this written in my proposals -- in keeping with the openness and public nature of the committees, I think a printed agenda at least a week in advance of those bills which are to be considered by the standing committees should be posted on the bulletin board in the hall of the State House so that the public and the public-interest groups at least would be apprised of the particular bills that are to be considered by each of the standing committees. I think this would lead to perhaps more public attendance at the committee meetings and give interested people or groups an opportunity to let their feelings be known to the committee. I don't mean at this point that we have a wide open, town-meeting style of committee hearing at every committee meeting date. I don't think we are ready for that yet physically. But at least if an interested

person or group would like to make a written suggestion to the committee, they would have ample opportunity to do so and they would at least have been apprised of what is going to happen at the meeting the next week.

SENATOR DODD: This has been proposed and it is an excellent idea. We will encourage each committee chairman to do that, to publish a week in advance written notice.

I couldn't miss the opportunity to comment on our lack of staff. We have 9 full-time staffers to staff 23 standing committees. I don't know how Legislative Services does it as it is. They are to be complimented. But in the immediate future we will gear up to the point where we are staffed properly and then function in the way that we are meant to.

Senator Wiley?

SENATOR WILEY: Thank you, Mr. Chairman.

Senator Merlino, I will just repeat in public what I have said to others in private, that I respect and applaud what I understand to be your approach to legislative activity and improvements in the procedures of this body, and I wish you well in the achievement of those objectives and I will help as I can.

Just to be clear on one of your proposals, which I noted as number 5, the 60-day reporting out from committee on request of the sponsors. As I understand the rules at the present, a 60-day notice now will cause a committee to act and unless it defeats the bill - that is to say, if it does act affirmatively or if it doesn't act at all - then it must come out. What you are proposing is that in addition to that it go automatically on second reading?

SENATOR MERLINO: Yes, sir.

SENATOR WILEY: Would this apply to sponsors of other bills that had been reported out of committee without the use of the 60-day rule; that is to say, that a sponsor could cause a bill to get second reading?

SENATOR MERLINO: I think there is another provision in the rules for that. I think that too should be amended so that it would have some meaning to it. Merely to make a request for a bill requires at this time a motion on the floor and the motion would then have to be passed by a majority of the membership in order to move a bill before the body for a vote. It is all according to who makes the motion. If it is a bill which is contrary to the will of the majority, you would never get a majority vote on the floor on the motion to release it from the committee or to release it from the Secretary's desk to put it up for a vote. We have to have in the rules something that is meaningful so if there is a sufficient number of legislators concerned and interested in the bill, it be put up for a vote, and not a charade by way of motion which for all practical purposes is defeated before it is even made.

SENATOR WILEY: Your particular proposal then is directed to the one rule, 83D, on 60-day ---

SENATOR MERLINO: From committee.

SENATOR WILEY: -- to relieve the committee and get it on second reading?

SENATOR MERLINO: Yes, sir. Further, that again at the sponsor's request, the President would be required to give it third reading at the next session of the Legislature, which means it be put up for a vote.

SENATOR WILEY: On the sponsor's request without a vote of the majority or any kind in the Senate?

SENATOR MERLINO: Yes.

SENATOR WILEY: This would give a sponsor an unusual power to move a bill to third reading if the committee had procrastinated.

SENATOR MERLINO: Yes. A bill could very well be killed in committee and that is the end of it.

SENATOR FELDMAN: Senator, would this defeat the maximum of 25 bills you want up on the board for a vote?

SENATOR MERLINO: Perhaps some day this might make a 26th bill or perhaps even a 27th. I don't think that would really defeat the thought of keeping the board bill down to a reasonable number.

SENATOR WILEY: Senator, the proposal has been mentioned before of having money bills involving State expenditures, although not necessarily appropriating money, which come out of a standing reference committee, say, Transportation and Communications, be referred to the Appropriations Committee as a kind of second reference, where they could be viewed from the financial point of view and put in perspective. Cut-offs have been suggested of $50,000 or $100,000, etc.

As Chairman of the Appropriations Committee, I would be interested in having your comments on the feasibility of that procedure?

SENATOR MERLINO: Absolutely I am very much in favor of such a proposal. I think again this will put the Legislature in the position in which I think it belongs in the control of expenditures for State government and I think it would also give the Legislature a better insight as to just how the bureaucracy works. It has been suggested that this might be an undue burden on the members of the Appropriations Committee. I don't know of any request for resignation from a committee because of overwork that has ever been denied by this President of the Senate or any other President of the Senate.

I welcome it. In fact, I strongly urge that the ceiling not be too high. If we get enough $25,000, $30,000 and $50,000 requests in bills, they soon add up to millions of dollars. I think the Appropriations Committee, actually it is the Senate Revenue, Finance and Appropriations Committee should have a look-see into any bill which proposes the expenditure of money. It is no more than what is being done in the Federal Congress. The leadership, either the Speaker or the President of the Senate, can

refer a bill to another standing committee as a dual reference there wherever it is necessary. I think this is a very sound way to operate the Legislature. I am looking forward to it and I welcome it.

SENATOR WILEY: Thank you. One other short question. I am taking a lot of time here. I apologize. Would it be feasible from your point of view to have a rule that would say that any money bill, any spending bill, when before the Appropriations Committee, would be given a public hearing? I believe I sense from what you said before, you are conceding that any bill before a committee, the public certainly ought to have the opportunity to come into the meeting and be aware of what is going on.

If it were feasible, I would suggest that there be a requirement of an opportunity for a public hearing on any bill that spends money or indicates the expenditure of money at the State level. In order to begin to develop some public confidence about the proceedings in the Legislature, if the day is going to come when we are going to have to get into substantial new spending programs, it seems to me that that is a necessary prerequisite. My question is from the point of view of feasibility. Is that an impractical kind of requirement?

SENATOR MERLINO: I think at this time it would be impractical for almost automatic public hearing on bills that require the expenditure of money.

First of all, we are not geared up physically, spacewise, and we are not geared up staffwise to have public hearings on every bill or most bills that require the expenditure of money.

We do have a public hearing on the budget in the spring of the year. This year the public hearings on the State budget for '74-'75 fiscal year will be held in the Auditorium of the State Museum which seats 400 people. Hopefully, we will have some public attendance at the budget hearings. But at this time, as you see here, this

public hearing is right in the Senate Chamber. The Assembly Chamber is also a public hearing room. Beyond that, we just don't have the physical facilities for it.

But I think the posting of the bills for the regular committee hearings should generate sufficient interest. Hopefully it will generate sufficient interest at this time for public participation. I don't mean in a wide-open, town-meeting type of affair, but at least those who might be interested could write in their comments and questions and hopefully when they attend the meeting they will hear their questions asked and answered at the committee meeting. But public hearing, I think, is the vehicle by which the public would be aware of the operation of their government and I think also to restore confidence that the government should have from the public in general.

SENATOR WILEY: Thank you, Senator.

SENATOR DODD: Senator Horn?

SENATOR HORN: No questions.

SENATOR DODD: Senator Feldman?

SENATOR FELDMAN: One brief comment: In the days of the energy crisis, I am really amazed at the inexhaustible energy of Senator Merlino. His committee is one of the most overburdened committees and yet he is looking for more work and more work and more work, and I commend him very, very strongly. He has been a great asset to us in the leadership of the Senate this year.

SENATOR MERLINO: Well, I am not plugged into Public Service or Exxon. I am plugged into the chief source of energy hopefully that is still upstairs watching us.

SENATOR DODD: Thank you, Senator.

As you have obviously ascertained, every committee will be open this year, with the option of going into executive session at the chairman's discretion. You will see that we are woefully inadequate as far as space is concerned.

The proposal has been made that if someone wishes to have input into a committee, he may contact the chairman a week in advance asking for the opportunity to be heard before the committee on a specific measure. You can see if the public were to be allowed to participate at random in the meeting, it would turn into a town meeting. This is one of the proposals that we are considering.

I would like to call Mr. Ray Kohler, New Jersey Common Cause.

W. R A Y K O H L E R: Mr. President and distinguished Senators: New Jersey Common Cause that I represent has about 13,000 members in the State and we would like to compliment you on holding open hearings for rules. We believe that this is a move in the proper direction for democracy. We are committed to a program of openness, of responsiveness, and of accountability for legislators and all public bodies in general.

We have submitted a statement to you. I will try to summarize that statement as best I can.

I would like to begin with the Senate caucus system. It is our feeling that there is no excuse for a purely partisan segment of a bi-partisan public body to decide in an undemocratic fashion which bills will be recommended for passage and which bills will be killed. We have not gone on record as calling for an end to the caucus. We have gone on record, however, as calling for an end to the undemocratic nature of it, for the overt partisanship of it sometimes, and for the fact that it has control over bringing bills often to the floor for final consideration.

We believe that on occasion the caucus system has tended to politicize issues that may need not be politicized. We believe also that the caucus system is very undemocratic in that a majority of the majority party can keep legislation from coming to the floor when that might be a minority of the total Senate. And we feel that that is undemocratic

and should not be permitted.

We suggest this as a reform or an alternative: either a complete elimination of the caucus - but we do not say that that has to happen - or the caucus, first of all, should not be the determinant for the flow of legislation to the floor. That should be done by the standing reference committees.

Secondly, we would suggest that caucus meetings be held in public, open to the public and press, with recorded votes. Now I know that the suggestion is often made - well, sometimes we don't reach a vote - we just have a consensus. But that consensus can just as much affect public policy as a formal vote, and we believe that if it affects or has any way of affecting public policy, it should be open to the public so that they can know what is happening.

We would like the votes recorded not only on the final determinant of the legislation, but also on any amendments or motions that are made to that legislation, and that those votes be given to the Secretary of the Senate and, as we will state later, be published as part of the Journal.

Maybe you will say, with all those restrictions it might be better to get rid of the caucus. We cannot disagree with that. We, in fact, think that that might be best. But we do believe that there might be some minor occasions when a party needs to get together and discuss things. So we are not calling totally for the abolition.

In reference to this, I might add that in the Beadleston Commission Study there was a questionnaire made of interested legislators. I guess it was of all the Legislature at that time. Seventy-five per cent of those who responded to that questionnaire went on record as suggesting that standing reference committees should be the avenue to get bills to the floor instead of the majority party caucus.

The next area is senatorial courtesy. We would like to see the practice of senatorial courtesy abolished. We don't want it just changed. We want it abolished. We, first of all, believe that if such a veto over appointments had been intended, it would be specifically stated in the Constitution. We don't find that. We find that the Senate is to give its advice and consent.

Secondly, we feel that it is used generally for judicial appointments and we feel that the Judiciary is the one branch of the government that should be least politicized. That is generally why they are not elected. And, if we are going to introduce it into the political process by giving the Senator from whether it is the district or the county a veto, we feel that it tends to politicize it.

Also we feel it is very undemocratic, that a vast majority of the Senate might be very much in favor of the appointment. But if just one person is not, that tends to kill it.

Finally, we believe that it can be a source for potential conflict of interest. Since the legislators are not full-time legislators and since many of them are lawyers, these lawyers might appear on behalf of a client before a judge who will be coming up for reappointment and the judge might decide in favor of the legislator's client and even if he had no intent might be charged with a conflict. Or it might be in the back of his mind, "Gee, I don't want to be shafted by this person later. I had better watch what happens here." We think that that is the kind of conflict that should not take place and we would be for abolishing senatorial courtesy.

The next area is open meetings, open committee meetings. You mentioned that they will be open. We applaud you in that stand. We would like, however, to have something in the rules saying that they will be open.

Secondly, we would like the full committee and not just the chairman to determine that they will be open. We admit that there are times when maybe a committee should meet in executive session. For instance, we feel that, if the security of the State were involved or possibly if there was some kind of damage to a person's reputation, that would not necessarily need to be public, that those would be two times when executive session would maybe be a responsible method for approaching the situation. We do not, however, believe that the chairman should be able to decide when those two instances arise, that, in fact, the full committee should decide that and the vote in the full committee should be a public vote and a statement given as to the reason for going into executive session.

We feel that even though there might be a consensus of the committee chairmen that in this session of the Legislature all meetings will be open, we are not sure that that will always happen in the future and we would like to see that it be in the rules that they have to be open unless some kind of other situation develops as I have just mentioned.

The next area is committee responsibility. There are a number of suggestions we have here. For instance, we are very pleased to see Rules 83A and B that I assume were just recently added to the rules. We think they go a long way toward helping with what we want. But as part of 83B it says, "A Statement explaining the provisions and purposes of an Assembly Bill or resolution" should be submitted. We would like that also to include a statement of pros and cons as developed by the committee on the legislation. Just knowing what the purpose of the legislation is does not always give us enough information or the legislators enough information to know how they should vote on it. Maybe the purpose is really not going to be served by passage of the legislation if it is poorly-drawn legislation. So we feel for the public as well as for the legislators,

themselves, that the statement of pros and cons as developed by the committee and maybe any other statistical information or supplemental information that might be available could be added to that statement. We feel that would strengthen Rule 83B.

In the Beadleston Commission Study that I mentioned a minute ago, another of the questions that was asked of the legislators was: Should all bills reported out of committee be accompanied by a brief written statement and recommendation of the committee? Ninety-two per cent of those who responded said "yes." Only eight per cent said "no." We are not so sure that we agree it should be brief unless all the questions can be asked. I might suggest that if you are interested in this that the Hawaii Legislature seems to have a very good system, a format which includes,when a bill is released from committee, a history of the legislation, the findings of the committee, a report on any public hearings, a record of the decisions in the committee, including any decisions on amendments, and an explanation of the bill. We feel that that would be a good guideline for the New Jersey Legislature to follow.

We would also like, as has been already suggested this morning, that committees consider all bills that are presented to them. I know that a response can be made, "Well, will we have time?" I think it has already been stated that there are a lot of bills that are submitted that no one takes seriously, maybe not even the sponsor. Maybe they are done as a way of reminding someone back home that the legislator is doing something in their interest or maybe it is something that the legislator can say in the future, "I sponsored so many pieces of legislation or so many bills."

We think that this might cut down on the volume of bills, at least those that aren't necessary. And, on the

other hand, it will have the committees doing what they are expected to do, not to just avoid legislation, but to act on it.

Furthermore, it will help in this area: There have been situations in the past where committees have refused to take a stand on legislation because it was controversial. This would require that they take a position on legislation. They would realize the responsibility and, therefore, it is likely that after they became accustomed to it, it would not seem the burden that maybe it originally did.

We also believe, as Rule 83A says, that date, attendance and votes should be taken. We would like to see votes and recorded votes on all motions and amendments in committee as well as the final votes to bring the legislation to the floor. Often we can determine the intent of our legislator better by the votes he has taken on a proposed amendment or a motion than maybe the vote he has taken on final floor action. We feel since it concerns the public that it is the right of the public to have this. We would like these votes also to be recorded with the Secretary of the Senate for inclusion in the Journal.

The next area is one that was touched on. It is what we would call a discharge petition. We would recommend if no action has been taken on a bill after 90 calendar days after it is submitted, that the bill be discharged from the committee to the floor through a petition signed by one-fifth of the entire Senate membership.

We realize that there is a rule that says that if the sponsor of legislation asks that the bill be submitted and no action is taken after 60 days, it will be brought to the floor. We believe, however, this would be a more positive way to bring it. It would show increased support over just the sponsor of the legislation because we are asking that one-fifth. We don't feel that it necessarily

contradicts that other rule and we find that it is a way for the minority - and we believe the rights of the minority must always be upheld in a legislative body - to bring legislation out. Sometimes the 90-day waiting period might be a shorter period than the other period since if the other period wasn't implemented until after a 30-day period, it would then end up being longer. So we would suggest that change. We don't feel that the other rule needs necessarily to be changed or is in contradiction with it.

The next area is advanced public notice. We would like to see a change in Rule 120, which now requires only one calendar day advance notice between the second and third reading of a bill. As I mentioned at the beginning, one of the things we are very much concerned with is responsiveness and accountability. It is very difficult for the public, the press or even other legislators sometimes to be aware of the contents of a bill if they get that bill only maybe a day after it has come from committee. Sometimes I think - and I am sure you could probably substantiate this - legislators receive the final version of a bill the morning they are to vote on it. We don't feel that is really responsive and accountable legislation.

We would suggest a 7-day interval between the second and third reading. That would give the public a chance to be informed. It would give the press a chance to explain the issues. And it would give the legislators, themselves, a chance to read that statement where we have suggested that pros and cons be attached to a bill coming to the floor after it is released from committee. We think it would give better consideration.

Now there is another part of the rule that says that in an emergency situation, three-fourths of the entire membership can designate such an emergency and the 7-day rule could be waived. We would think that that should

still be continued since there could be emergency situations, but we would hope that everything didn't become an emergency just for expediency, especially at the end of a session or something like that.

In fact, another of the responses in the Beadleston Commission -- The question was asked: Should a calendar of bills for floor votes be made known to the legislators and to the public a week or more in advance of the session? And 98 per cent of those responding said "yes" they thought that such a procedure should be used. So we strongly urge that seven days intervene between second and third reading unless there is an emergency.

The next area - we would like to see an improved Senate Journal. We do not find that just posting a notice of a committee meeting on a bulletin board that most of us don't get a chance to see very often is an adequate way to inform everyone of the procedures and status of bills. So we are suggesting that for the better information of the legislators, themselves, the public, the press and everyone who is interested in legislation, the Journal should include these things: It should include the status of legislation. That would be all bills introduced that day with their sponsors, all bills ready for second reading, all bills ready for third reading, all bills awaiting the Governor's action, and all veto-override bills. We would then like to see some committee information there - all committees that are meeting the following week. We would like to see those meetings included. We would like to see attendance records and vote records of committees that have happened during the preceding week. We would also like to see all roll-call votes included and all attendance records kept in the Journal. We feel that that would be one place to conveniently keep this information and make it more readily available to everyone that is concerned.

It is rather interesting to me since I have used

the questions from the Commission Report that one of the questions asked was: Should Assembly minutes and Senate Journal be changed in any way? Only 30 per cent said "yes." I am not sure whether they think it is as good as it could be. I hope that that isn't their feeling. I have a feeling that no suggestions or alternatives were offered at the time the question was asked and they really didn't know what it meant so they just responded that way. We would hope that this Legislature would be agreeable to making some changes.

Another thing that we would like is to have a formal transcript of Senate proceedings. We are not technical experts and we are not well enough aware of the various devices that could be used to keep these. We do not necessarily feel that they have to be printed and distributed. We would think that at least one copy should be made available to, say, the State Library and those who had use for them could get the copy from the Library, maybe even at their own expense if expense is the big issue, and I think the Beadleston Commission said that expense was the issue. I am reluctant to suggest that it could be taped. That seems to run into some problems once in a while. But that is another alternative that probably would not be as costly and then those tapes could be stored, say, in the State Library.

SENATOR DODD: We'd have to store them in a vault.

MR. KOHLER: Another area is roll-call votes. As we have said, we would like roll-call votes not only of just resolutions and bills, but we would also like roll-call votes of amendments and motions, both in committees and on the floor. With the electronic voting system, we don't think that would take an unnecessary amount of time. There is a way of processing those votes or of recording them. So there is no real problem there. We believe that it would add to the accountability factor

and we think that it is good for the public record. It helps in the openness that the Legislature seems to have committed itself to.

Another area - and this one is an area that already has a rule, but I am not sure that the rule is always used - and that is restriction of lobbyists. First of all, we are not opposed to lobbyists. In fact, Common Cause has termed itself "the people's lobby." So we don't think "lobby" is a bad term or that those who engage in it are nasty people, etc. We do feel though that if the seven-day notice between the second and third reading is adhered to and accepted, the lobbyists will have ample time to make their wishes known to the legislators and, therefore, there would be no occasion when a lobbyist would necessarily have to be in, say, the anteroom of the Chamber and call someone back and inform him at the time of floor action on a bill as to his opinion. We believe that there would be ample opportunity for that to be done ahead of time.

So we think that lobbyists should be restricted from the floor of the Chamber as well as the anterooms and any other place where they can be easily accessible to the Legislature during final consideration of legislation. We want lobbyists to act on rational responsive procedures, not on strong-arm tactics. We feel that this might be in the public interest to have this done.

I think that I have probably taken my share of the time. I will try to answer any questions that you might have.

SENATOR DODD: Senator Wiley?

SENATOR WILEY: Mr. Kohler, just to clarify my understanding of two or three points. You refer to the ability of the committee to go into executive session upon a vote of the committee.

MR. KOHLER: For just two reasons.

SENATOR WILEY: Pardon me?

MR. KOHLER: For just two reasons, as we see it.

SENATOR WILEY: Would you refresh me on those?

MR. KOHLER: Yes. The one is if the security of the State is involved or if the reputation of some person would be damaged by making the information public and is not necessarily information the public would need to appraise a situation.

SENATOR WILEY: In discussing the caucus, your principal remedy for that was not to attempt to prohibit it, but rather to require that it be open in all cases?

MR. KOHLER: Yes, and that it deal almost totally with just partisan considerations, not generally public considerations.

SENATOR WILEY: Would you apply any similar rule to the caucus as you are applying to committees, that is, permitting it to go into executive session in any circumstance?

MR. KOHLER: I am reluctant to because it is unlikely that the caucus would be considering the security of the State. I suppose if the caucus met the other provision where someone's reputation might be damaged, that could be, but generally not just for situations where letting down one's hair is the best way. We are not generally in favor of that kind of thing.

SENATOR WILEY: You mentioned the provisions of the rules of another state on committee reports. I forget the name of the state. What was it?

MR. KOHLER: Hawaii.

SENATOR WILEY: You conceive of a Journal which is rather different, I think, from what we have now in substantial ways. We now see the Journal, if other people have the same experience I do - we now see the Journal some considerable period of time after the events. It is printed up about four times a year as I recall. We see it several months later.

MR. KOHLER: We would like it weekly at least.

SENATOR WILEY: You would like to see something on a contemporary basis, giving you committee status. With that in mind, it would almost have, to be serviceable, to be available two or three days after the event, wouldn't it?

MR. KOHLER: Probably.

SENATOR DODD: We do have the Legislative Index which follows the bills and the votes.

MR. KOHLER: I think one of the problems is that to get the information you have to go to so many scattered sources. You spend much of your time just tracking down the sources of the information. If it could be somehow neatly packaged in one thing such as the Journal, it would, I think, help everyone concerned.

SENATOR WILEY: You are looking for an official status sheet, reporting the events of the last day and giving the status of bills that may be coming up at one stage or another the following week?

MR. KOHLER: Yes. I might say I was surprised. I happen to teach Political Science and I invited an Assemblyman in to talk to my class one time. One of the students asked him: How do you find out about legislation that you will be voting on? And he said: Well, sometimes I get a telegram a day ahead of time and it will list maybe 40 bills that I will be voting on. He said, to be perfectly honest, there is no way I could read all those 40 bills overnight if I am not already familiar with them. Well, the students were a little amazed at his forthrightness on it. I think this might help eliminate that kind of a problem.

SENATOR DODD: Are you familiar with the Legislative Index?

MR. KOHLER: Yes. I have read it. I am not familiar with its total format.

SENATOR DODD: Do you know how to find out what

bill is in what committee, when it passed which House, by what vote?

MR. KOHLER: Yes.

SENATOR DODD: I think that is about the closest we can come.

MR. KOHLER: But that does not have any recorded votes in it.

SENATOR DODD: Not by individual, no.

MR. KOHLER: And we feel that it would be good to have those as well.

SENATOR DODD: It would be good, but there is a very physical problem, time and space. We would be publishing a book every three or four days when we are meeting on a two-day-a-week basis.

MR. KOHLER: I agree that it probably would incur added expense, but I think it might be in the public interest to consider it.

SENATOR DODD: If it can physically be done. This is an area that we will certainly look into.

Senator Horn?

SENATOR HORN: I would just like to, Mr. Kohler, touch on the last subject that was raised by the President of the Senate, Mr. Dodd, dealing with expense. You know in this day and age expense and taxes are foremost in everyone's mind. While we can appreciate that your organization is a very concerned organization, and I might say I believe in a lot of your goals, which I have indicated, but I think rather than - and I think you may agree to this and I think you have touched upon it - rather than try to go to the great expense of revising the Legislative Index to not only include the total vote or the position of a bill,but each individual's vote on a bill, which would be exorbitant in cost -- and, as has been said, I think there were 1600 prefiled bills this year, which would really make this at atlas volume -- I think what you

are looking for is a place somewhere in this State House where this information could be available to you pretty readily rather than do it in such a broad sense. We might be able to do it in that fashion.

MR. KOHLER: We were hopeful that if it were available in a form such as we suggested, the newspapers would be more disposed to print some of the recorded votes.

SENATOR HORN: Following the national situation where they record Congressmen's votes and Senators' votes?

MR. KOHLER: I think the League of Women Voters has a vote service, but apparently not all newspapers avail themselves of it, even though, I guess, they can do it at no expense.

SENATOR HORN: I am chairman of one of the large committees that intends to operate openly. I am concerned at this point in time - and I am sure the rules will provide it - that everyone is put on notice that this is not going to be any carnival-type session, that we will schedule bills well in advance so people will know which bills are going to be considered by committees, and that if they desire to make comments before a committee, they notify the chairman of that committee or the staff representative, and, if possible, their remarks could be in writing, because, number one, of the limited physical space that we have; number two, the limited staff that we have, which we hope to beef up; and, number three, to give the most people an opportunity to be heard by that committee. That is the way our committee will operate and I am sure we will have the cooperation of most people. But I wouldn't want anybody to have the idea that it is going to be an open meeting and that on any given Monday at a given hour you can walk into the Transportation Committee and holler about a hole in Route 33. We don't intend to operate that way and I don't think you would want us to.

MR. KOHLER: No, I am not suggesting that. But

we would like it open so that someone who has a concern could at least come in and, at least, listen to what is happening.

SENATOR HORN: They will have that right.

SENATOR DODD: Senator Horn, thank you.

Senator Feldman?

SENATOR FELDMAN: I am one of the 12,000 members of Common Cause. I hope there is no conflict of interest when I try to work out the rules with my committee members.

Mr. Kohler, just a question and comment on a few of the things you have mentioned. I agree that the caucus or the executive committee - perhaps that's a better word - should not be used for obstruction, but can be a useful vehicle for debate of the merits of the bill and to convince others to vote or to support a particular measure. The place for the vote in my opinion is on the floor. You have asked for the votes to be recorded at these executive sessions. But I think what is more germane is how the people vote on the floor after honest debate within the executive committee or the caucus or whatever terminology you want to use.

MR. KOHLER: Could I interject for a minute?

SENATOR FELDMAN: Yes.

MR. KOHLER: But I think the public is also concerned as to why the decision was made. Maybe if they understand the issues that were debated, they will better understand the legislation. And if that is kept secret, they might not understand it and might feel it is for some other reason. We feel that openness is just necessary to that process.

SENATOR FELDMAN: Common Cause also recommends that a transcript of the proceedings of each House of the Legislature should be kept and made available to the public in a timely fashion, and there has been comment on this. There has been an innovation. President Dodd has instituted a procedure and today is the first day it is in operation. I would like to have your comment on it. With the cooperation

of Legislative Services we do have today a toll-free number that people can call who are interested and they can find out the status of a particular bill - whether it is in committee, whether it is out of committee, whether it is going to be up on the board. This is on an experimental basis, I believe, of 90 days and it is an innovation. I am just hoping that people will take advantage of the service that we are offering to better government in New Jersey to make the public more informed as to what the Senate is doing.

MR. KOHLER: I heard a radio announcement about that yesterday and they gave the telephone number. I didn't get a chance to call yet, but I will try it.

The only problem with that as we see it-- and we think that is good - it is certainly a step in the right direction and we compliment you on it -- but there might be some legislation that people would be interested in if they knew about it. But often people know about legislation, but don't know its number. If they just call and say, "I have an interest in some legislation on nursing. Could you help me," you can imagine the person on the telephone is probably going to have some problems with that kind of thing. We feel if more of it were published in the newspaper that it could reach a greater segment of the public.

SENATOR FELDMAN: It is all in the experimental stage. If answers cannot be given immediately, the caller will receive a return call from Legislative Services.

MR. KOHLER: That's good.

SENATOR DODD: Senator Wiley?

SENATOR WILEY: Mr. Kohler, not directly on the point that you made but rather as an implication of all of them, to what degree in your judgment from observing the operations of the Legislature are there financial and, in particular, physical implications of what you are saying so far as the quarters and the staffing of the Legislature are concerned?

Have you given that any thought?

MR. KOHLER: I think that the Legislature is definitely understaffed. I think almost every study, the Eagleton Institute Study of '69, I believe it was, the Beadleston Commission Study -- I don't know whether you are aware that there was a conference of citizens - I think it is called a Citizens Conference on State Legislatures - that analyzed all 50 state legislatures in 1970 that said it was understaffed. I don't think there is any disagreement about that. Probably also there needs to be more physical space for committee hearings and things such as this. However, we have not done any in-depth study of that. I have no way to assess the amount that would be required to cover added space and things like that. I don't know what other buildings are available in the area that might be purchased for this kind of use. But I would think those things should be explored.

SENATOR WILEY: Might Common Cause put that on its agenda for future meetings?

MR. KOHLER: I can't say definitely they would, but I can suggest to them that they do.

SENATOR WILEY: Just to give you a Senator's point of view and a Committee Chairman's point of view - I am Chairman of the Education Committee - we have substantial responsibilities to perform. We have one room which we share with the Assembly and we have one staff person whom we share with the Assembly. So we have one-half. Fortunately he is of high quality, but the quantity is rather limited. And as I understand it, he has half the time of one secretary and we have difficulty getting minutes out or having the agenda typed out. I find it challenging to say the least, putting it in a nice way, to conduct a committee in a deliberate way with that kind of limitation.

MR. KOHLER: I can sympathize with you and agree with you.

SENATOR WILEY: We would be interested in your

consideration.

MR. KOHLER: Fine.

SENATOR DODD: Thank you, Mr. Kohler.

Senator John Fay from Middlesex County.

J O H N J. F A Y, J R.: Thank you, Mr. President.

What I would like to do is base my recommendations to this Rules Committee on the six traumatic years I have just spent in the Assembly as a member of the minority, four of which years we did serve under, in more ways than one, a secret caucus. As a history teacher, this was always something that I pointed out in text books and pointed out in lectures. But after observing the secret caucus for four years, it made the "star chamber" look democratic. I can't think of anything more damaging to a democratic state, especially now. I think maybe four years ago there wouldn't be the great urgency and need for great commitment to the responsibility that we have, that the Democratic Party has as a party, and certainly people like myself who have made a career out of preaching and speaking out against a secret caucus have.

As a person who has been in government in politics for thirteen years - and I don't mean this as a lecture - I understand the need of conferences or caucuses. But I am also absolutely insistent that when I feel strongly enough about a bill, whether I am at a party conference or acting as a member of a committee, I have the right to vote "yes" or vote "no" and do that in a public manner and to explain that vote.

Even out of the debacle of two years ago in the Assembly, there came a marked improvement in the General Assembly of New Jersey. With all its weaknesses, there was a major reform in the Assembly when for the first time we did get away from the secret caucus. Too often have I been told you needed 30 votes in the secret caucus to get a bill on the floor and have counted heads and have gone to people and asked them how they were going to vote and had 35 votes.

I reported this to individuals who were down about a bill, only to find out an hour or three hours later that the bill did not come out of caucus and that it received 15 votes or 18 votes, as the case may have been.

It is this deceit, I think, that strikes at the very heart of what we are talking about. There is just this great opportunity to vote "no" in secret. Then you can tell the public or whatever group you are before that you voted "yes" and that unfortunately the other people defeated you.

I don't know of any other way of getting away from this or destroying this once and for all than by insisting upon public recorded votes. This does not stop discussion. This does not stop debate. This does not stop one from having a full open and deep discussion and debate on any controversial bill. But the fact of the matter is, at least for the last 100 years in the history of New Jersey, if anything has struck at our credibility and if anything has hurt us in dealing with the public, it is the fact that the people don't know how their Senators or Assemblymen voted on a particular subject. Unfortunately, too often, these are the bills that never get to the floor where you can have a public debate. Unfortunately, these are the bills that are destroyed and destroyed in secrecy, which leads to hypocrisy.

In the last two years in the Assembly, one of the improvements I was talking about was the taking of attendance at committee meetings. There was a marked improvement in the attendance at committee meetings when we started taking attendance. There was a marked improvement in the openness of the committees when we started to record "aye" and "no" votes on bills. I do accept the fact we are deluged with bills. I am one of those who put in quite a few bills, but they have been piling up for six years and the fact of the matter is that Senator Horn and myself can't wait to have a bill passed in both Houses after six years.

I would recommend strongly something that started to work and unfortunately broke down in the Assembly in the last two years, but I feel that it should work with the cooperation of both parties and the leadership of both parties, and that is a consent calendar. There are many bills that don't call for debate. There are many bills that just might be important to one district or one county where there has to be, by the way, a general approval and general consent. If any Senator or any Assemblyman does not agree to a particular bill going on the consent calendar, that bill would not go on the consent calendar. But there are states in the Union as of this moment that are using this and finding it very productive and very effective. This would be in line with Senator Merlino's recommendations for a maximum of 25 major bills or bills that are controversial enough to call for debate. You could get rid of 25 other bills with a consent calendar.

The need of staff is another area that is important. Two areas where I feel staffing should have the top priority are the Office of Fiscal Affairs and the Appropriations Committee. The valid point has been made with regard to bills requiring expenditures that run into millions of dollars - flood control, for one, in our State is a multi-million dollar issue - that it would be irresponsible to rush through bills of this magnitude without the financial wherewithal to back them up.

I think the Legislature last year exhibited great wisdom when they put the money back in the budget that Governor Cahill for reasons I still can't understand took away from the Office of Fiscal Affairs. This was the department that pointed out the $200 to $300 million surplus when the Governor's Office was telling us that we were going to have $20 or $30 million in surplus.

So when we are talking about staffing, if any department should have priority, I would say it should be the Office of Fiscal Affairs and the Appropriations Committee. They

tell the leadership of the Legislature approximately how much money there is and what bills could not be passed because of insufficient money.

In the last two sessions, I feel we took a minor step with our rule on lobbyists. I think as a matter of credibility one badly-needed rule to go along with the lobbyists declaring themselves is a requirement of a financial accounting from them. All we get is these books coming in just with their names. For my sake, for the public's sake and for the information of everyone involved, this should be a matter of public record, how much money is being spent on any one bill, or quarterly just how much money is being spent by the lobbyists in their operations down here. It has become a cliche, but it doesn't stop it from being frighteningly true, that all too often the public at large does not have a lobbyist. By the way, other states in the Union have done this and found it quite revealing when they see large sums being spent on one or two or three different pieces of legislation.

On the matter of public votes that I mentioned before with the committees, I would suggest to the Rules Committee that they recommend to the media, particularly to statewide newspapers, what the New York Times does with Congress and the Federal Senate. There are published "aye," "nay," and "abstain" votes.

Another thing that leaves a gap in the public's right to know is the qualification between an abstension and an absence. I think too often we have found the public having a very difficult time knowing just who is here. A person can be here at roll call and then disappear for nine hours and be marked down with 40 abstensions, when the fact of the matter is the Senator or Assemblyman is not on the floor and is not voting. I found this one of the abuses in my last six years.

These are the general and specific recommendations that

I want to make. I think the point was made last year that we held the only important election in the country. I think we have a terrible and a great responsibility to make this kind of a break-through. Thank you.

SENATOR DODD: Thank you very much, Senator Fay. Senator Feldman?

SENATOR FELDMAN: One question, Senator Fay: Would you give the Senate President the authority to remove one from a committee if he was absent from, say, four or five consecutive committee meetings without legitimate excuses?

SENATOR FAY: Yes, I would.

SENATOR HORN: I just want to touch on one thing that the Senator has said. I brought it up in meetings. He has enlightened everyone here of one of the weaknesses of that board up there. As he has indicated, it is not always necessarily the fact when one marks himself present that he is actually there to start off with. But the board only records a roll call; on a quorum, it records whether or not you are voting for or against the bill. It does not record an absence or a "not voting." It has been used by some people unscrupulously in campaigns. I think a more specific and exact system of recording those votes on that board ought to be made, and I agree with that comment 1000 per cent.

SENATOR DODD: Thank you, Senator Fay.

I would like to thank the New Jersey Council of Churches for relinquishing their time. Instead of oral testimony, they are submitting a written statement, which will be entered in the record. As I said previously, the transcript of this hearing will be published as soon as possible.

I would ask the people who will be testifying the rest of the day to keep their remarks brief. Their written statements will be printed in their entirety. It would be helpful if you could refer to previous speakers on points on which you agree or disagree.

I would like to acknowledge the presence of Former Speaker, Assemblyman Tom Kean's presence in the chamber and I would now like to call on Joel R. Jacobson, Director of Community

Relations, International Union, United Automobile, Aerospace & Agricultural Implement Workers of America- UAW. Joel, that's quite a title.

J O E L R. J A C O B S O N: After repeating the name of our union, will I still have time to testify, Senator?

SENATOR DODD: By the way, Joel, before you start, we will be taking a break at 1:00 for lunch and we will be reconvening at 1:45 promptly.

MR. JACOBSON: Thank you very much. I promise to be as brief as I can.

I have no desire to prejudice this committee in appraising the testimony I am about to present, but I must tell you with a high degree of immodesty that the UAW generally has excellent political taste and the evidence that I offer is the fact that you four gentlemen who are sitting here were supported by us in the past, most-recent election and therefore you should listen very carefully to what I say because we are generally right.

SENATOR DODD: No commercials, Joel.

MR. JACOBSON: In all seriousness, I want to commend this committee for setting the example of open hearings. In the context of the national scandal which is afflicting us, which, at best, in the most kind way can only be described as a tyranny of mediocrity, I think actions, such as your committee is taking, will do a great deal to restore the hope and confidence that people do have in our government. I think you are doing a noble thing and in all seriousness I want to commend you for it. Not to sound like a Boy Scout, perhaps more accurately as a student in Senator Fay's history class, we have always been under the impression that the basis of democracy that makes our nation so successful is the fact that we have representative government. You are elected to represent a constituency and we are urging the adoption of rules that will permit that constituency, by your responsiveness to their demonstrated needs, as expressed to you, and by their awareness of your public performance.

I think all of this is preparatory to the point that I want to make, to buttress the argument made by everybody before me at the microphone, that the secret caucus, of course, must be abolished.

May I tell you about two experiences that I had with the secret caucus, in the old days of the Senate, when there were 21 members present? Lobbying for the then CIO, we had a bill introducted to increase unemployment compensation benefits at a time when they were woefully inadequate and an increase was sorely needed. There were 15 members of the majority party at that time and 6 of the minority and according to the rules of the secret caucus it required 8 votes in the caucus to bring this bill out on the floor for a vote. I carefully polled every member of the majority and received eight definite, firm, blood commitments that they would support the bill in the caucus. Of course, the bill never came out and I found out since then that there was at least one member of the Senate whose devotion to the truth was questionable.

Subsequent to that we had a bill to establish rent control at a time when there was a great housing shortage and this need was also required. And in the caucus there were six votes for it and I believed them because each one of these gentlemen said so publicly. There were six members of the minority who would vote for the bill had it reached the floor and according to my calculations six and six equal twelve, or a majority, and the bill would have passed with a twelve to nine vote, had it reached the floor. Of course, only having six votes in the caucus it couldn't reach the floor unless the will of the people, as evidenced by majority rule and the rules of constitutional government, were thwarted.

My point in emphasizing the evils of the caucus is that this really constitutes the caucus as a rules committee controlling the flow of legislation, which is not the purpose for which it was established - for political

party members to confer with each other - or should not be the purpose. Secondly, it acted as a shield behind which less hearty Senators could hide their votes on controversial issues, and in either case my point is that this was representative government as I would have learned in Senator Fay's history course. It frustrates the democratic process; it witholds performance from the view of the constituency; it is an incentive for duplicity, it makes people lie on occasion and in addition to being - as Senator Schluter said - a backstop for bad legislation, it often becomes an impenetrable obstacle for good legislation.

Senator Beadleston has often made the statement that he doesn't want to see the caucus abolished. I think Senator Beadleston begs the question when he makes this statement because we are not talking about abolishing a system whereby you can confer with your fellow Senators on political issues. You have a perfect right to do so here in the State House and if this was banned here, you could probably meet at each other's house to do the same thing. What we are talking about is the right to hold a meeting and take binding votes that will frustrate the democratic process; that is the issue we are talking about and we are opposed to a system whereby Senators meet in a private room, wherever it may be, and take actions which are unseen, unheard, unreported and what we sometimes are led to believe, unbelievable.

I think one way in which this can be eliminated is the strengthening of the committee system. I must share your complete frustration at the lack of adequate staff that you have as Senators. I find that my role as a lobbyist is a peculiar one. More often than not I am stopped by a Senator who will ask me a question of fact concerning information in a labor law. Now when you have 2,000 bills to consider you can't possibly be an expert on every subject. You are inadequately staffed with people

who would normally provide you with such information and I find that my role - my most constructive role - is to provide you with information as to what is contained in the law of which I have some knowledge. That is fine and as a personal rule I am very circumspect about never violating the confidence because I want the men to believe me when I talk to them but I would submit that the role of a lobbyist is not necessarily exposition but, rather, advocacy and I urge you take whatever steps you must take, and support you in whatever you must take, to see that the Senate is adequately staffed so that the burdens of research which you cannot possibly perform by yourself are made available to you by qualified staff people.

Another point that I would like to discuss is the revision of Rule 83D, as I would like to see it. I recognize full well that any number of Senators, or Assemblymen, introduce legislation for frivolous reasons, perhaps grandstanding for the folks back home, but there are on occasion,many times, important bills which are kept in committee and which should be brought out for a vote. 83D provides a mechanism which is rather burdensome and rather a lumbering procedure. I would like to suggest a system that is used in the Congress of the United States - the discharge petition. To pick an arbitrary number, say if 20%, or 8 members of the Senate, were to sign a petition that a particular bill should be relieved from committee consideration and brought to the floor of the Senate for a vote, then it should be done. I would submit that if 8 Senators in this body can agree on anything it certainly is important enough for the people of the State to know how the other 32 feel about it.

Another point I would like to make deals with the recorded votes. We would support any system you would devise whereby there would be immediate availability to the public knowledge as to how each individual Senator

voted on an issue. I would also urge the Senate President, Senator Dodd, to avail himself of a rule - I would even hope that the rule would be changed to make it compulsory because the next Senate President might not be so amenable - that any Senator who is present and refuses to vote be recorded as "no" because, in fact, it is a no vote. When you require a majority of the House to vote "aye" on a bill before it is passed, any abstention is a no vote and should be recorded as a no vote. It should not have the respectability of somebody saying, "I abstain," when, in fact, it is not an abstention.

Another point I would like to urge - and you will see how noble I am when I say it - is that by all means there should be stricter accounting of lobbyists. The present lobbying law is a charade. Every three months I write my name on a piece of paper and I list four or five bills that I want considered and four or five Senators or Assemblymen who I might have discussed them with and I send it into Trenton with five bucks and that is it. I don't know what that is intended to show but I would urge that you do require of lobbyists an accounting of all the money they spend in support of their legislative program, so that if I take you to Lorenzo's for a steak I am required to say so and then anybody can make a judgement about how influential or persuasive my entreaties are as a result of that.

SENATOR DODD: Excuse me, Joel; I believe that is required now.

MR. JACOBSON: Not on the information sheet that I receive; there is no requirement to say how much money I spent in support of lobbying. I think there should be. All it says is I must tell you who I spoke to, not how much money I spent,and I think that would be a wise addition to the present lobbying law.

Another point regarding lobbyists is, the truth is I don't belong on the floor of this Senate when you are

considering legislation. I, as most other lobbyists have done, have violated this and I have sat here or sometimes peeked through the door. In fact, if I haven't been able to convince you to support my bill before the moment of voting, my presence on the floor is futile anyhow. And while it is nice to sit here - and on occasion there are questions of fact which are asked of me - I am just as readily available out in the lobby or up in the balcony rather than sitting here. All I ask is that if you have an application of a rule barring lobbyists here that you make it universal and throw everybody out and not just me, and that means primarily the representatives of business who, on occasion, disagree with my viewpoint.

The last point I would like to make deals with one that is apparently a dead horse but I would like to make it anyhow, the question of Senatorial courtesy. If a nominee of the Governor for any position is a crook, a moral leper, an incipient fascist, a flaming communist or any other similar characteristic of that nature, a Senator who opposes his nomination should have the guts to stand up on the floor of the Senate and say so publicly. If that were to be the rule, I don't believe there would be the problem that results from the present senatorial courtesy list where political hanky-panky results.

Now we all know about the need for political horse trading and I am not above the process of political horse trading but I don't believe that the Senate of the State of New Jersey should lower itself or demean its character to participate in that through its unwritten law. I would hope that when men are nominated for public office that their value is appraised by the Senate on the basis of their merit, not on the political consequences that may result if they are or are not appointed. This last statement I am sure I would have heard in Senator Fay's history class. This nation was built by very courageous

men and the Revolution - if you continue to read about the Revolution - required great sacrifices of physical, moral and financial courage and I would hope that the Senators of the State of New Jersey will extricate us from the morass that has afflicted us nationally and have the courage to institute rules here that would enable them to stand on the floor of the Senate, to have the courage of their convictions and to have the confidence of the people restored in the type of government that we have so that we can all enjoy, truly, that nebulous phrase of democracy and representative government. Thank you.

SENATOR WILEY: Do you have any particular proposal, Mr. Jacobson, on the abolition of senatorial courtesy? How do you suggest we do it? Recognizing the practice of senatorial courtesy is not embodied in the rules, how do we abolish it?

MR. JACOBSON: Well, Senator, I am not a lawyer. How do you legislate against something which doesn't exist? I don't know.

SENATOR WILEY: It exists; there is no problem about that.

MR. JACOBSON: How can you abolish something which is not written?

SENATOR WILEY: But it is a function of how people make up their minds. A given Senator has within himself the right to cast a vote "yes" or "no" or not vote at all and senatorial courtesy really goes to the issue of what makes up his mind. Does he make it up on the merits, or on the basis of a hearing, or does he make it up on the basis that the Senator from the home county has asked him to vote no?

MR. JACOBSON: Well, we would hope he would make it up on the basis of the merits.

SENATOR WILEY: Yes, but that is what senatorial courtesy deals with, the basis on which a Senator makes up his mind. If I agree to a practice of senatorial courtesy,

I am saying that for 39/40ths of the Senate, I would yield to the Senator from the home county. If he is against the person reported, I will vote "no".

MR. JACOBSON: My judgment would be that I would vote "no" if he were to stand on the floor of this Senate and convince me that the appointment would be bad; then I would vote no. But to tell me that the man is persona non grata with the political leader in his county, for whatever reason - generally something which has nothing to do with his conduct in office - I think is evil.

SENATOR WILEY: I couldn't agree with you more. My concern is how we remedy the situation. The proposal - that is the only proposal I am aware of - is one that would not go to the question of how you make your mind up but rather would require that you express yourself in public - that is the 60 day rule. Senatorial courtesy would still be practiced but it would have to be practiced on the floor. Do you have any other ideas?

MR. JACOBSON: If I were a Senator and I opposed a nominee-- Let me put it another way, if I were a Senator and I wanted a nominee approved and he was being black-balled by one Senator, I would go to the 39 other Senators and appeal to them. I don't know whether this works or not, apparently it doesn't. But I honestly can't see how they can justify this system where there are no facts to be considered as to the man's worth.

SENATOR WILEY: Thank you.

SENATOR DODD: Thank you, Mr. Jacobson.

Dinah Stevens, Legislative Director of the American Civil Liberties Union of New Jersey.

D I N A H S T E V E N S: I am glad to be here. I echo Joel's commendation of having public hearings. I'd like to point out to the Senators and Joel that the country was founded by courageous men and women.

SENATOR DODD: I'll leave that alone.

MS. STEVENS: New Jersey prides itself on having

the strongest executive branch in the nation. In a government based on checks and balances, this requires that we also have the strongest legislative branch. Unfortunately we do not: we don't for a lot of reasons. Two of the main ones have been mentioned, or at least one of the main ones has been mentioned several times, and that is the need for staff. Many legislators in the past have shied away from adequate staff because it appears to the public that they are in some way pampering or indulging themselves. I would encourage them not to take that attitude. I think the public, as well as the legislature, are ill served by the overworked but excellent staff that now exists.

The other of the two items would require an allocation of funds or some other arrangement. This would make for space. As you discovered the other day at your press conference, open meetings in small rooms are very difficult and I think that the Senate should face both of these things head on.

A change in procedure that is very important with the ACLU is some sort of recording of legislative history and intent. This can be done under Rule 83B, which requires that Senate bills, coming out of the Senate standing committee, have some sort of statement. The statement, at this point, is not always as adequate as it should be and the Rule does not require that the statement be either printed before the vote or read to the Senate before the vote, so that Senators may not be aware of the statement that the committee comes up with as a description of what it sees the bill doing. We would like to see the statement either printed or read to the full house when the bill is being considered, and signed as part of the committee report.

The other areas of great importance to us are the open access to the procedures of the Senate. I am not going to go into the whole thing, about the caucus

and senatorial courtesy again. We feel very strongly that they should both be abolished. As they now exist, the caucus is a roadblock to legislation and senatorial courtesy is a roadblock to nominations, frequently without real consideration of the person's qualifications but because he may have crossed somebody in political wars at some other time.

We also feel that it is important that the open procedures be more comprehensible to the general public and that it be easier to find out what procedures and proceedings are going on. The 800 telephone installation - telephone number - is a very exciting development but it doesn't help the people who come to Trenton to petition the legislature when a bill of interest to them is pending. And the same kind of open, accessible information center for people who come down because they are concerned about a senior citizens bill or, frequently, a one-shot or two-shot visit to the legislature, is another service, along with information to members of the legislature, that is needed. Lobbyists who are caught in the halls, wearing red badges, are frequently tour guides for people who are not here as often and I think that it would be useful to have a way for those people to find out what is going on and who is who and what it really is all about - a place to go to ask questions for their information.

I would also like to propose that the telegram be available on a subscription basis in the same way that the Index and News are, with a certain number of complimentary subscriptions available to members of the legislature so that the general public can find out before each meeting exactly what is expected to come up, frequently several hundred bills, that could be voted on at any given session, some of them of particular interest to members of the public. It is hard to tell when bills are going to come up or to know exactly what is going to

come up in any session until you get down here, without the telegram. I think that would be a very useful service that you could provide in terms of general information.

SENATOR DODD: I believe, now, each Assemblyman and Senator is allowed 20 complimentary copies of the Legislative Index which we provide to various civic groups for informational purposes. We now have committee statements on printed bills.

MS. STEVENS: Senator, I am not sure but I think that they are not always reprinted with the statement.

SENATOR DODD: It is between the second and third reading when the statement would accompany the committee report. I couldn't agree with you more on the statement attached to a bill. As a matter of fact I can't think of anything less exciting than reading through a technical bill; it is equal only to watching paint dry for excitement. We concur with you on that.

MS. STEVENS: I would like to disagree with Joel Jacobson on one point and that is that Senators and Assemblymen who are not in the Chamber to vote on a bill be recorded as abstaining, not as voting "no". I think if they do not want to vote or do not wish to be recorded on a vote, that is relevant and that should be allowed but it should be made very clear. The present and not-voting situation should be made as clear as possible.

SENATOR WILEY: You said that telegrams should be made available on a subscription basis, Ms. Steven. You were referring to a telegram that would go out listing the bills to be considered at the next meeting?

MS. STEVENS: Right.

SENATOR WILEY: Just as a point of clarification, I believe the rules presently require, or the practice at least is that where a statement is issued by a committee it is to be printed with the bill, am I wrong on that?

MS. STEVENS: As I read the rule, it was not a requirement that it be printed on the bill if the bill was not-- if there was not some other reason for reprinting the bill.

SENATOR WILEY: As a matter of practice, have you examined that to see whether last year statements were in fact printed?

MS. STEVENS: Well, I think that most bills that we ran into did have some sort of a statement. In the case of the campaign finance bill, we are preparing a suit to challenge a part of that bill and the statement on it was not sufficiently clear for us to go into court with a statement of the true intent of the Legislature on that issue. So it is not only the matter of having a statement and having the full Legislature aware of the intent of the bill, but having a quality of statement that would provide a standard of legislative history and intent.

SENATOR WILEY: The statements now are very skimpy?

MS. STEVENS: Frequently.

SENATOR WILEY: The Rule, as I see it on page 21, Rule 83B, says "The Chairman of each Standing Reference Committee...shall cause a Statement in duplicate...to be filed with the Secretary of the Senate, one copy of which shall be delivered to the Supervisor of Bills for printing, if required."

MS. STEVENS: That's the way I read it.

SENATOR WILEY: You are suggesting to me that it may not always be required?

MS. STEVENS: Yes.

SENATOR WILEY: Thank you.

SENATOR DODD: Thank you very much.

MS. STEVENS: Thank you.

(full statement on page 24 A)

SENATOR DODD: The League of Women Voters, Anne Levine or Selma Rosen.

S E L M A R O S E N: Senator Dodd and Senator Wiley, we certainly appreciate the opportunity to be here. I'd like to make a little aside before we start our formal testimony. We are very sympathetic - the League of Women Voters - to your request and need, obviously, for more space and for more staff but I must say I hope the day never comes when you have so much space that you don't hold hearings in this Chamber because I have personally enjoyed an opportunity to sit in a Senator's seat and I think that many people who come to public hearings might get used to how comfortable they are and think of this as something that they ought to look into more.

To get back to our testimony, we have presented a statement and I will just comment very briefly and read small parts of it that, perhaps, have not completely been discussed yet.

I am Selma Rosen, Legislative Reform Chairman of the League of Women Voters of New Jersey. The League, of course, has been very deeply involved and interested in this subject since 1967, when its 10,000 members elected to study the structure and operation of the New Jersey Legislature. One of the first things that our group, as a result of this study, concluded was that we should have continuity of leadership. Now we are glad that there has been a change in the past two years in this direction. We think that you should continue to elect your leadership for a two-year period and, hopefully, this should be formalized and included in the Rules.

As to advance notice, we want more public information in advance of legislative proceedings. We recommend a calendar service, something that would either be free or could be provided at a very nominal fee, so that we would know what bills are going to be voted on, what hearings are going to be held and what is happening here.

Now this "hotline" seems to us to be a marvelous suggestion. However, for people who are not following a

specific bill, or who are only interested in a specific hearing but who want some general information, we would like to know in advance what is going to happen when we come down here. Very often we find that there is a bill that we wish that we had had time to do more research on and get more information and it isn't until we are here that we find it is going to be voted on. So we hope that we will have information and information in advance, particularly.

If we are going to do all of these things, or if we are going to ask you to do all of these things, we suggest that maybe there should be more frequent meetings of the Legislature. A typical day -- if we are going to include time for party meetings, for leadership meetings and for regular sessions, and, in addition, hope to do all the things that have been suggested here to strengthen the committee system - more public hearings, more public input into what happens at committee hearings - it would seem to us that you will have to face the possibility of having more days to meet, perhaps more sessions or perhaps more days for committees to meet on non-session days.

Other procedures that we think might help the flow of legislation is some sort of a consent calendar and, perhaps, a time limit on the introduction of bills so that we would not have the log-jam of bills at the end of the session.

We also support the idea of recording a debate. We don't propose that all of the debates should be printed; we know that there is a cost factor. I would like to submit to you, and I think that we have as part of our statement, a little survey that the League has made as to what other states do. It is possible at a smaller cost than has been suggested in the State of New Jersey to make some sort of recording of the debate with, if not all of it actually transcribed, some sort of system whereby

at either a nominal cost or no cost at all, citizens could get some sort of transcription of parts of testimony, or parts of proceedings that are of interest to them. Other states do this. Some do it in very complete, expensive ways and some do it in a lesser fashion,but we would think that as a start, we could hope that we would have at least a recording of the sessions and that this would not be a very, very expensive item.

Committee meetings - we are delighted to hear that all of the committee meetings are going to be open. We hope that this will be formalized in the Rules. If it is necessary for there to be executive sessions, we would hope, though, that we would hear the reason why and that the rules would be stiff enough so that there would not be too many of these closed executive sessions and that we would know for what reasons they are being held.

Now in the case of the Judiciary Committee, we understand that there might be some individuals who would desire that these meetings be closed. However, if the purpose of closing the meeting is to protect an individual's reputation, if that individual requests an open meeting - because just the fact of a closed meeting might, at times, be more damaging to his reputation than anything that could come out at an open meeting - if he personally - or she - requests an open meeting, we think that the meeting should be open.

As far as the caucus system is concerned, quite a bit has already been said about it. We think that rules should be adopted that would prevent the minority of either house from blocking legislation from reaching the floor. We think there should be accountability and that is really the key word in this situation. We want to know who is for what and it is our suggestion that one possibility would be some sort of a conference committee, similar to what existed in the Assembly, whereby the flow of legislation could be controlled in an open fashion.

Now if something of this sort doesn't come out of this hearing and isn't put into the rules, we would hope that, as a start, at least this committee would urge that caucus votes be made public.

As far as nominations, we are very concerned, of course, about senatorial courtesy. We would hope that as a start that something like the 60 day Rule could be adopted so that all nominations would, after a certain amount of time, come out on the floor. We are for a full public debate and discussion of all nominations and we think that this whole process of passing on nominations should be done within the system and we want to strengthen the legislative branch of government by bringing this procedure within the system and we don't want it to be something that happens outside the legislative process.

On public hearings, we recommend very strongly that public hearings be held on all proposed bond issues in the same way that the State Constitution requires a public hearing on proposed constitutional amendments be held. We think that it has been unfortunate that in the past there have been, at times, proposed bond issues on which there have been no public hearings held at all.

Another matter which hasn't been discussed here yet today is the question of the legislative code of ethics. Now that is included - I don't know if you consider that to be included in the Rules, but it is included in your Book of Rules and we know that this Code of Ethics was adopted by Concurrent Resolution and that you will have to do this again. What we are concerned about is that the guidelines in the law be implemented in the code. Now, all that the law requires is that the legislative code follow its guidelines. We hope that you will spell them out very strictly and, perhaps, even more strictly than you have in the past, and that they be interpreted very, very narrowly.

We are particularly concerned about the lack of

any rules on financial disclosure for legislators. But in general we are pleased with the clear intention of many leaders and members of the Legislature to have a truly open, responsive and accountable body, and the fact that this is the very first time that we know of that a public hearing has been held prior to the adoption of the rules, is a sign that you intend to carry through on your proposals.

We would like to stress the importance of institutionalizing the new procedures through their embodiment in the rules, through new statutes, when necessary, and through the provision of funds to allow you to do the best job for the people of New Jersey.

SENATOR DODD: Very nice closing.

A N N E L E V I N E: I'd just like to add something that I think is important and that is the question of legislative vacancies. We recommend an addition to the rules to provide that this House issue writs for special elections to fill vacancies in your membership promptly. In the past, you know, too many New Jersey citizens have been without representation in the Senate for extended periods of time and we think this is particularly important now that we have single-member senate districts.

The League of Women Voters will be working for a constitutional amendment permitting temporary appointments to be made to fill vacancies, but until such time, we recommend this addition be put in the rules. There is no time limit in the present law and it seems to me that a good way to take care of this problem quickly would be to set a set limit, as soon as a vacancy occurs, saying that you would issue a writ within 10 days or 30 days, or something to that effect, so that the lack of representation would exist for the shortest possible time.

Another point that has concerned us, and should be of interest to this hearing, is the question of the printing of public transcripts of public hearings. Last

year some of these hearing transcripts were not available until six months, or more, after the hearing and long after the bill which they were concerned with had been voted upon. We would even go so far as to suggest a rule that a bill on which a hearing has been held be calendared for third reading if the transcript is not available to the legislators who are considering it. Thank you.

SENATOR DODD: Thank you very much. Senator Wiley?

SENATOR WILEY: Thank you, Mr. Chairman. On the second point that you made about a calendar service on bills, have you, or could you write up a sample of what you have in mind that would satisfy your desire for information so that we might have a particularized example of it and focus on it?

MS. LEVINE: We'd be glad to do so and I am sure some of the other organizations that have suggested this will do so also. May I suggest, we gave you an example of some research we did about practices in other states regarding verbatim recording. We did it through writing to our sister Leagues in other states. It is much easier and you will get much quicker information back if the legislature uses its facilities to communicate with the legislatures of other states, or uses such organizations as the Council of State Governments or the Citizens Conference on State Legislatures, to get this sort of information. I think it would be much quicker for you and it is much quicker for us too. Thank you.

SENATOR WILEY: I don't believe you commented on the question of staff sufficiency; do you have a point of view on that?

MS. ROSEN: Yes. We did shorten our statement in the interest of time but it is included. We do think that there is a shortage of staff and space and that if it is going to be used in the method we have outlined, we would certainly support the necessary funds to make this possible.

MS. LEVINE: I might also add I am aware there has been a definite proposal to provide a supplementary appropriation for additional committee staff and I believe we would be prepared to support that. Some of you may be aware of - I believe I sent a copy to Senate President Dodd - the formation of a rather informal coalition or working arrangement between many organizations in the State, including the League and some others who have testified here today, that is going to attempt to provide the kind of citizen support and public support for upgrading your working conditions, provided it is done in the best possible way.

SENATOR DODD: We certainly welcome that support and the League of Women Voters, along with many other groups that are represented here today, has been in the fore in our defense whenever we attempt to beef up our staff and I believe your group has always in the past, along with justifiable criticism, come to our aid and I certainly ask every group here that has any dealings with the legislature to please come to our defense because I am not going to be bashful when it comes to staffing this legislature.

MS. ROSEN: Many thanks. (full statement on p. 27 A)

SENATOR DODD: I think we would have time for Mr. Walter O'Brien of the New Jersey Education Association. Is he in the Chamber? If not, Mr. Frank Haines, Executive Director of the New Jersey Taxpayers' Association.

By the way, after lunch, at 1:45, we will begin with Joseph Shanahan, South Hunterdon Taxpayers' Association; J.G. Manzer, citizen; Howard Stern, representing the New Jersey State Bar Association; Peter Allen, New Jersey Retail Merchants Association. That will be the afternoon schedule and if time permits, any other interested citizen may testify. Mr. Haines?

F R A N K H A I N E S: Thank you, Senator. Senator Wiley. I am Frank W. Haines, the Executive Director of

the New Jersey Taxpayers' Association, which is a non-profit, non-partisan, governmental research organization incorporated in 1930. Our offices are at 104 North Broad Street, Trenton.

I will try to cut through our text, which I think you have a copy of. I just indicated that our interest in legislative reform at least spans over the twenty years in which I have been working with the Association and with legislatures in New Jersey.

I wish to add to others the plaudits deserving to you for scheduling this very unique hearing in New Jersey legislative history today. We certainly hope that this session will result in Rule changes which will be for the betterment of both the legislature and the general public.

I understood that we are to address ourselves primarily to the Rules and so I have sort of arranged our talk right down through those that we would like to comment on and try to concentrate, primarily, on the procedural items which appear to be practical and possible with implementation. I think that as you get further down the roster of those testifying that you tend to get some repetition and agreement.

On Rule 53, on the record of proceedings, we have also felt the need to have some record that can be referred to, other than the present practice and, again, our suggestion is a type of verbatim recording of the daily activities of the Senate. This record, and I suggested possibly tape, would constitute public information which could be available for listening by the public or any legislator or legislative officer or employee under appropriate supervision at any time during office hours. This suggestion does not mean that there be a transcript or a printing, but I think at the outset at least an experiment with a recording, which is adequately indexed, might be of some help. I have seen transcripts

from other legislatures, some of which are available and distributed. I was in Maine this summer and the Maine Legislature has a copy which is printed and available but is not given widespread distribution.

Now we have a specific reason for this proposal. One is to give officials who have been assigned statutory responsibility for evaluation of programs, especially the Office of Fiscal Affairs, an opportunity to review debated discussion in connection with legislation so as to determine legislative intent and, secondly, of course, to give members of the general public, the press, or any other interested persons an opportunity to study the official record of arguments set forth by proponents and opponents of a measure.

Rule 76, on the committee meeting schedule, I can only say that your earlier announcement that committee meetings will be open is certainly good news. We thus suggest that you formalize this by amending this Rule to add something to the effect of "in open session", thus insuring that any interested citizen will have an opportunity to attend committee meetings. We certainly recognize that the committee chairmen should have some discretion to hold executive sessions.

We also would urge and are in agreement with Senator Merlino in this case, as he testified earlier, that agenda of meetings, particularly the bills by number scheduled for review, be posted as far in advance as possible of the meeting. We have suggested in our testimony, seven days notice would be especially helpful in terms of planning any input that we would like to - or anyone would like to make into a committee meeting.

Ideally, at some point we would like to see a system in which every bill referred to a committee is placed on the agenda at some time for consideration and scheduled for hearing, as is done in a number of states. This is not intended to imply necessity for public hearings in

the Assembly Chamber or the Senate Chamber or any other large room, but in many instances regular committee meetings could be planned so that interested citizens would be given an opportunity to speak on legislation on the agenda.

It is regrettable that so few bills considered by the New Jersey Legislature in the past have been the subject of public hearings. Our view of the hearing process is that it is a means of mutual education for both legislators and the public who participate in hearings.

Rule 78 on committee reports - we find the Rule doesn't clearly define any type of committee report other than a favorable report - the word is quote, favorable, unquote. It says "otherwise" but, presumably that could mean "unfavorably" or "without recommendation", but such alternatives are not mentioned in the rules of this legislature.

Rule 80 mentions adverse committee reports, but other than the use of "adverse", as I have indicated in connection with Rule 78, there is no provision in the rules for a committee to report a bill either "unfavorably" or "without recommendation", with the possibility that the bill might be given subsequent opportunity for consideration on the floor of the Senate. We find it difficult to understand how a majority of a five-member committee can continually reflect the judgment of a far greater number, thereby keeping a bill from being reported out of committee and thus from consideration by the entire Legislature. While we recognize that Rule 83D outlines the procedure for removing a bill from committee, it seems that in the past this Rule has rarely been utilized successfully.

Rule 83A, Written Reports of Standing Committees - this rule has desirable provisions which allow interested public citizens to discern what has transpired at a committee meeting and this is certainly a commendable rule. It does, however, lack a deadline, a guidance

deadline, on the filing of a committee report. It may be the practice to register the reports within a limited time period but we suggest that you consider the desirability of placing a deadline in the rule so that any citizen reading it will understand how long he has to wait until he may inspect the committee record: possibly 24 hours is a reasonable limitation unless there is some unwritten limitation on filing those committee reports now that isn't publicly known.

Rule 83B, Statement on a Bill Reported Out of Committee - present practice in the Senate is that the committee may add a statement, or require a statement to be added. We think that, perhaps, printing costs might be reduced somewhat and you will have a broader understanding if the statement were required on all bills on introduction and therefore no statement would be required of the committee unless the bill is amended or the original explanatory statement proves to be unsatisfactory to the committee. Again, then, we are in agreement with Senator Merlino's earlier suggestion in connection with this, that Rule 102A be amended to change "may" to "shall" so that statements will appear initially on all bills. In connection with this, it seems regrettable that a large piece of paper comes out with about five lines on it, as the bill comes out of committee, and many times there is room on the bottom of a bill to add the descriptive statement. Now this may involve additional staff at the outset. This was considered, I know, in 1971. But it would appear that if you are going to print those statements at the outset, when the bill is introduced, it would be a much better time.

Rule 83E - Reference of Money Bills to the Appropriations Committee - this relatively new rule embodies the principle of dual reference which the Association has advocated for a number of years. As written, the rule does not appear to accomplish the purpose we think is

desirable. It does not clarify the rule of the Revenue, Finance and Appropriations Committee on receipt from a standing committee of a bill with an appropriation, such as the committee approving or rejecting the standing committee's bill within a specific time period.

It is our opinion that the Revenue, Finance and Appropriations Committee should be granted authority, not only to review the policy recommended by the standing committee but the other fiscal implications as well and to report the measure within a fixed time period, possibly seven or ten days or if that is impractical, a longer number of days.

Here is a situation where an "unfavorable" report or "no recommendation" could be significant. Since the Revenue, Finance and Appropriations Committee is a larger committee and is served by a large capable professional staff, it would appear that its importance should be recognized in the manner we have recommended.

In addition, we urge that the rules provide that no bill with an appropriation, nor any bill with cost implications, as reflected in a fiscal note, be allowed to come to the floor without prior consideration by the Revenue, Finance and Appropriations Committee.

I might add, because it isn't in our original statement, that when I testified back in 1971 before the commission studying legislative reform at that time, we urged then, in addition, that no supplemental appropriation measures be enacted if the principal appropriations bill and the major supplemental appropriations bill had not been introduced and that the amounts in separate appropriation measures that were being considered, let's say, by the Appropriations Committee for approval, not be reported out separately but incorporated into those major appropriation bills, thereby, let's say, complying more closely with the constitutional intent that there be, as close as possible, a single annual appropriations measure.

Certainly there could be some provision for emergency situations but it would appear there are very few situations when money is required that wouldn't wait a few weeks for the regular supplemental appropriations bill.

Rule 112 - this hasn't been brought up by anyone today. This deals with consideration of bills without printed copies being available. We find that it is difficult to really understand what paragraph #2 of this rule means and we have to inquire does it "permit" consideration of a motion to advance a measure to third reading without a printed copy in hand, if requested by one-fifth, or does it, in fact, prohibit a bill from being considered on third reading if not printed if requested by one-fifth of the members?

I asked several people to review that. I didn't consult with your legal staff. An ordinary citizen reading that couldn't tell me what he thought it meant. But regardless of that intent, it seems logical that no measure should be allowed for consideration on third reading unless a printed copy is available to both legislators and the public.

Now it may be important to limit such situations. Therefore, it is our recommendation-- We feel it important to limit such situations. It is our recommendation that the vote required for consideration of a measure without printed copies being available should be the same as that for an emergency resolution - three-fourths of the entire membership. You might provide some minor exception in this rule, such as special legislation petitioned by municipal governments - which has very limited application - or validating acts - which are very special and have limited application by nature. But we don't feel that,in the rush and so on, major bills should be passed without the public having an opportunity to see - and even you as legislators having the opportunity to have a copy right in front of you to see what you are voting on.

Fiscal Notes - Rule 137 et seq. - Our long-time interest and support of this tool leads us to urge that the fiscal note process be strengthened primarily by enforcement of the existing rules which prohibits a bill from being reported on second reading without a fiscal note, if one is required. Compliance with this provision would permit elimination of Rule No. 140, which is a permissive method of avoiding the note requirement.

The last paragraph of Rule 142 prohibits the Office of Fiscal Affairs from accepting new data for fiscal notes on the day that the bill is calendared for action in either house. I don't recall a situation where this has come up but the intent appears to discourage withholding of significant data until the last minute, so to speak - that is,the day on which the bill is to be considered. We cannot agree that withholding of important information on fiscal impact should be condoned, and therefore we feel that all information regarding a specific piece of legislation should be available to the lawmakers prior to voting, even if it comes in at the last minute.

Among the pre-filed bills this session is one to prohibit any bill with fiscal ramifications from being calendared for third reading and final passage by either house unless a fiscal note has been attached. We would endorse such a statutory restriction if the existing rules are not going to be complied with,but we favor requirement of the fiscal note at the earliest stage in the legislative process, that is, on second reading.

Rule 154 - Public Hearings - we have commented on the desirability of more public hearings on legislation. We would like to see some statement in the rules encouraging committees to conduct public hearings on at least major legislation, if there is some way of defining "major". But if the language is not appropriate for the rules, perhaps you, as President of the Senate, would favorably consider a statement urging committee chairmen to pursue

a policy of scheduling more frequent public committee meetings.

We have determined that there are several state legislatures whose members receive even lower salaries than those in New Jersey, yet meet in session many more days and spend much more time in committee meetings than New Jersey lawmakers. Public hearings on nearly every bill referred to committees is a practice in a number of states, as I have indicated, but many would undoubtedly agree that New Jersey legislators are not quite ready for that type of a working schedule, particularly at their present rate of pay.

I must again comment on the side that in passing through the State of Maine this summer, in June, the Maine Legislature was then meeting, on June 9th, in its 90th day of session. They meet four or five times a week and consider publicly almost all of the bills in session. I recognize that this hasn't been the New Jersey practice but I must also comment that this is one way to have very well informed legislators on matters that are reflected in legislation.

Joint Rule No. 9 - on Prefiling - the prefiling procedure, we recognize, is an innovation and is made possible for committee work to begin much earlier in the session. We share the concern of others, including legislators, over the tremendous volume of prefiled bills in the current session, particularly perennial carry-overs which have had no favorable consideration for many years. We urge consideration be given to imposing some reasonable limit on the number of bills a sponsor can introduce in a year but, at this point, we have no specific magic number that we can suggest to you.

On a related matter, we would like to see a deadline for introduction of bills established and observed sometime during the session. Certain provisions, again, for exceptions could be clearly stated and strictly adhered

to, particularly bills that might be committee substitutes coming out of committee as a result of extensive study.

Our final recommendation is not related to any specific rule. We could find no mention of it. It appears to be a custom, long standing, in the legislature for the sponsor of a bill and the representative from his district in the opposite house to have priority on the moving of bills on the floor for consideration on third reading and final passage.

Such a custom does not always result in the most knowledgeable legislator leading the discussion of the bill on the floor and the legislator from the same district in the opposite house is often placed in a rather embarrassing situation of trying to answer questions from his fellow legislators and having only limited information available.

With the increasing development of the committee system which, if successful, should produce better informed legislators on a whole variety of subjects, it is our suggestion that the precedent and current practice for moving bills be revised to give the chairman of the committee which has considered and reported out the bill an active role in the passage of legislation, particularly measures of major importance.

Introduction of this practice might result in more reliable, factual information being introduced in floor discussion to the benefit of both legislators and the public who are observers.

I can cite you a specific example of this and that was last November when the bill to modify the school aid formula was on the floor in the Assembly, particularly, - no reflection on the sponsors of the bill at all, this was a very complex fiscal situation and a situation where the chairman of the committee and also members of the Committee on Public School Support, who had spent many hours studying school formulas and impact, etc., sat back

and let the sponsors of the bills carry the load, so to speak, when I am positive that they would have been able, I think reluctantly so under the situation, to provide constructive input or just additional information for the benefit of all the legislators who were there and many of whom just did not understand the ramifications.

That concludes our testimony, gentlemen. I again wish to express our deep appreciation for this opportunity today to present our views. As others have indicated, we are very enthusiastic about the opportunity of having a great improvement and a greater opening of the legislative process to the benefit of all of the citizens of the State.

SENATOR DODD: Thank you very much.

Frank, your group, the Taxpayers' Association is unofficially the watchdog of fiscal spending in the legislature. I note that almost all of the items you make reference to, with a few exceptions, will cost additional money - through Legislative Services, additional staffing, fiscal notes from Fiscal Affairs, could I ask what your position will be when we put in for the appropriations? I intend to do it--

MR. HAINES: Let me say this, that's really putting me on the spot. We have, for many years, endorsed the maximum utilization of capable, efficient staff for the legislature. I won't try to dredge up the record but I think that for many years we endorsed the strengthening of what was then the staff of the Office of Legislative Finance and we were very concerned that the best professionals all along the line weren't being brought in and added to that staff.

As long as it is kept within reasonable limits and within proportion, we are not going to object. It has not gotten out of proportion, as we see it, yet. There has to be a proper balance and I think the public is going to recognize the intense interest and sincerity in trying to do an adequate job. There may not be the recognition

on the part of the general public of the role and this will take some education and we are prepared to try to help do whatever educational job necessary, within our limited means. But I think that Senator Merlino's testimony here this morning is extremely encouraging, to hear that more than just a limited number of the public is going to be able to sit in and observe the operations of the joint legislative committee is encouraging - again, the mention of the work of a joint committee which has not been mentioned very much here--

We recognize the necessity of the legislature having its independent fiscal staff. I have commented many times about the dilemma that legislators face between the principle of party responsibility and the desire to be an independent branch of government. I don't think we have solved that dilemma but I think that we are gradually on the road to doing it. Having those independent fiscal officials there to aid you is certainly, really, evidence of great progress.

There is one thing that is going to be important and that is the ability of that staff to have - or to have access to - current public information and that means revenues and the status of spending. I might say, with no reflection on anyone, just as a general principle, that I don't think that has been possible completely in recent months - or in recent years - but I hope that with the new administration and with the whole general tenor of things that that's going to change and that there will be no question that current, accurate, meaningful fiscal information is going to be available, not only to the legislature but to the whole public.

SENATOR DODD: We could possibly expand through our "LISN" "800" number and to include staff in that. That is why we are using this on an experimental basis. If we could make this a public information office through future expansion, I feel that would be the best dollars

we have ever spent.

Senator Wiley?

SENATOR WILEY: Thank you very much, Mr. Chairman.

One question, following up on the Chairman's question, your response was directed largely to the question of fiscal staff. Do you have a point of view on the desirability of further expenditures for non-fiscal staff for the legislature, that is to say, for instance, in the case of my own committee, the committee on education. Do you think it would be worthwhile through expenditure of public funds to provide for more staff for these other standing committees?

MR. HAINES: I think the decision on the desirability will be made by you gentlemen, the committee chairmen, and I can see already where one staff person with maybe a consultant assigned to the education committees of both houses, in light of the tremendous fiscal problem facing us in terms of "thorough and efficient" and a new method of financing education,may call for additional staff.

The fact that you recognize,and it is announced publicly as reflected in budget requests,that the existing staff is overworked and cannot cope with the workload under the present operating system will have to be, I think,accepted as budget justification for the funds that would be included in the budget.

SENATOR DODD: That's only part of our problem. We have directed Legislative Services and Bill Drafting to immediately search and hire qualified people, which comes to a more basic problem, where do we put them?

With that,we will adjourn for lunch.

MR. HAINES: Thank you for not asking me to answer that.

(recess for lunch)

Afternoon Session

SENATOR DODD: Ladies and gentlemen, I declare this session open. Is Mr. Walter O'Brien from the New Jersey Education Association in the chambers? (Not present)

Is Mr. Joseph F. Shanahan from the South Hunterdon Taxpayers' Association?

J O S E P H F. S H A N A H A N: Mr. Chairman, members of the Committee, I am Joseph F. Shanahan of Lambertville, New Jersey, representing the South Hunterdon Taxpayers Association, a non-partisan organization of taxpayers in Hunterdon County. We are grateful for your kindness in holding this unprecedented public hearing and affording us the opportunity to offer our viewpoint which we will do in the form of two suggestions. Both of them have to do with the matter of holding Committee public hearings as part of the legislative process and we feel would improve communication between the Senate and its taxpaying constituents in the interim periods between elections.

The first suggestion pertains to the notice given public hearings to the general public; that is, that they should be advertised as a public notice in at least three major daily newspapers throughout the State. In this way interested persons and organizations would have a sure and regular channel for obtaining knowledge of which committees were holding hearings and where.

In particular, we have reference to Rule 76 of the 1973 Rules which states in part,

> "..., and all committee public hearings shall be announced in open session and advertised by posting a notice thereof in a conspicuous place in the Senate Chamber and also at some prominent point in the main corridor of the State House."

We recommend amending that final sentence by adding the following:

> ", and also by publishing in the public notice sections,

of at least three daily newspapers serving the northern, central and southern portions of the State, respectively, at least 15 days in advance of such hearing."

Our second suggestion is that this Committee give serious consideration to the inclusion of some public hearings in the legislative process on a mandatory basis. The instances we have in mind are whenever large sums of money would have to be collected or disbursed as a result of the proposed legislation.

It is common knowledge that public hearings at the State level encourage widespread participation by interested citizens and knowledgeable experts thereby affording a new source of fresh and differing ideas to the committee holding the hearing. And as a secondary benefit it is always possible that some of the viewpoints given may encourage a minority of the committee to be more aggressive in expressing their opinion than they otherwise might have been. And debate in committee is essential to the democratic process, for how else can full consideration be given to all opinions?

And as an organization of taxpayers we are deeply concerned about finances and what will happen when public school financing as a state responsibility becomes a reality in the near future. Since local school financing includes the right of public participation by the holding of public hearings on the budget, will that right be protected in the new mechanics? We hope so.

Therefore, we propose the following paragraph be added to Rule 142A:

"Whenever the Executive Director of the Office of Fiscal Affairs has determined that the effect of any bill so submitted, if enacted, would be to increase or decrease State revenues or to increase State expenditures by $50,000.00 or more or to require the appropriation of State funds of like amounts, he shall cause to have prepared and certified a statement to the Chairman of the Committee

as to the exact amount involved and no such bill shall be reported out of Committee until a public hearing has been held on it."

If I could depart from the text for a minute and comment on the answer of Senator Merlino in the opening of the hearing to one of the questions - Senator Wiley, I think, asked the question. Senator Merlino said - I'm happy that he sounded very open-minded about it - that he didn't think it feasible, and I gather that he meant because of an enormous crowd that might come or something of that nature. So, I would suggest that Senator Merlino's committee might be the proper vehicle to determine if that would happen. Several people have said that New Jersey is not ready for it but maybe it is. We might see. It sounds as though Senator Merlino might be cooperative about it.

In conclusion, we believe that the adoption of these suggestions will be mutually beneficial to both the State Senate, who may add to their sources of information, and to the taxpaying public who will be reassured that they can get the attention of their Senators on improtant fiscal matters. We hope that this session will prove fruitful to you and wish to thank you for your courtesy and open-mindedness in allowing us to speak.

SENATOR DODD: Thank you, Mr. Shanahan. Gentlemen, do you have any questions? (No response)

Senator Feldman and I have to leave for fifteen minutes, but the hearing will go on and will be conducted by Senator Wiley and Senator Horn.

SENATOR WILEY: Is Mr. O'Brien present? (Not present)

Mr. J. G. Manzer?

J. G. M A N Z E R: My name is J. G. Manzer. I live in Trenton, New Jersey. I speak for myself alone. I have made an attempt to condense my remarks, but since they take less than a minute, I was not very successful.

I support my Senator in his efforts to end senatorial courtesy, so called. It is not reasonable or right or even

constitutional to give to individual Senators a veto power that belongs to all the Senators as a group, and the undesirable possibilities are obvious. Along with secrecy in government and large campaign contributions, senatorial courtesy is a relic of the kind of politics that has condemned itself. Thank you.

SENATOR WILEY: Thank you very much, Mr. Manzer. It was condensed indeed. We appreciate it.

Mr. Howard Stern?

I see we have a statement from Harold Ruvoldt which has been submitted to the Committee and it will be incorporated as part of the record, however, Mr. Ruvoldt will not be speaking.

(Statement of Harold J. Ruvoldt, Sr., President of the New Jersey State Bar Association, on Senatorial Courtesy may be found on page 43 A)

You are Mr. Howard Stern of Paterson?

H O W A R D S T E R N: Yes, I am sir. I speak on behalf of the New Jersey State Bar Association.

SENATOR WILEY: Welcome.

MR. STERN: First, we wish to commend the Senate, this Committee in particular, for conducting this hearing, and thank you for the opportunity to be here.

I shall address myself to a subject which was just approached in a most eloquent fashion by Mr. Manzer. I hope I will, in slightly longer time, speak to the subject as eloquently as Mr. Manzer just did.

The Bar Association has determined on this occasion to address itself to one subject only. It will, in the future, hopefully take advantage of these public hearings to address itself to a broader range of subjects.

SENATOR WILEY: Excellent.

MR. STERN: The New Jersey State Bar Association has been concerned with, worked on, in addressing itself to the problem of senatorial courtesy for what has now unfortunately

become many years.

At an earlier time in these hearings I heard Mr. Jacobson, Joel Jacobson, approach the subject with perhaps some pessimism, first, addressing it as a dead horse, and we would hope that the horse is not completely dead and may be revived. Certainly we agree with his comments when he says that unless the Senator believes a nominee, whether for judicial office or other office requiring the action, the advice and consent of the Senate, unless he is a crook or a moral leper --

SENATOR WILEY: Or incipient fascist or a flaming communist.

MR. STERN: Exactly. But we ought to give him certainly greater consideration in public than we have been giving to him.

The question was raised during Mr. Jacobson's remarks: What do we do about it? It isn't a rule. Specifically, it was said that it is not a practice that is embodied in the rules. In fact, there are several kinds of senatorial courtesy and it has operated over the years in several ways, and in our view, it now operates in its deadliest form. I'm sure it is well known to the Senators that we did have a rule, the revival of which was briefly suggested by the representative of the League of Women Voters, Mrs. Levine, the 60-day rule. Now, in its present form in which the name simply never comes out of committee, the rules, specifically Rule 149, accommodate that situation in which senatorial courtesy is perpetuated.

In 1965, then Governor Hughes, now Chief Justice, made the following remarks describing senatorial courtesy in the following - and I think that perhaps he is a much more authoritative source than I could be - all of this is quoted: "Here is how it works. A vacancy occurs and a new judgeship is created --" by the way, I'll say that he was speaking to a Bar Association, addressing himself to judgeships in this context. The remarks are equally applicable

to other high office.

I continue with the quote: "The Governor, after exhaustive consultation and careful consideration, sends to the Senate the name of the individual he deems most qualified by temperament and professional ability to occupy that judgeship. The nomination is referred to the Judiciary Committee for study and evaluation. The nominee's home-county Senator, who may or may not be a member of the Committee, then announces that he will not move the appointment and thereby, under the tradition of senatorial courtesy, forecloses, indefinitely, any consideration by the Committee on the merits of the nomination." Now, continuing, he refers to the old days in which it did have the 60-day rule: "In the old days, when passions perhaps ran higher, senatorial courtesy usually was asserted for the most forthright if dubious of reasons. If the Senator found the nominee 'personally obnoxious,' he made no bones about invoking courtesy to force the Governor to withdraw the nomination and pulled no punches in his denunciation of the nominee. Today, however, the Senator is more gracious. He takes pains to stress that he has nothing against the Governor's nominee and regularly admits that the nominee is qualified to fill the designated judgeship"- and I'll add, in other high office.

Continuing the quote: "The problem is that the Senator considers some other individual more acceptable for political reasons or otherwise and feels that his constitutional duty of advice and consent constrains him to insist on the appointment of that person instead, or, if more than one judicial vacancy exists in the county and the Governor is amenable, the Senator might agree to a package deal for the appointment of his own candidate along with that of the Governor's nominee. In other words, 'one for you and one for me.' This current technique may be more refined than the older practice of arbitrarily declaring a nominee unacceptable for personal or political reasons,but to me, it is far more invidious. It is bad enough that a Senator may say for no

valid reason who shall not be a judge. It is inexcusable that a Senator should attempt to dictate who the judge shall be."

Now, we recommend to the Committee that as a first step in solving the problem - and there's no question in our minds that it is problem and a serious one - that the rules be amended so as to require the Judiciary Committee to report out either a recommendation of confimration or recommendation of rejection within 60 days, or such other appropriate period as your Committee may see fit to recommend to the full Senate; that thereupon the Senate vote upon the nomination. Now, why do we think that the 60-day rule would be more effective today than it was in the "good old days" when the Senator stood up in this chamber and with his, then, twenty brethren said that the nominee was personally obnoxious. We think that things have changed to this extent: When the New Jersey Bar Association attempted, in the Judicial Branch, to have senatorial courtesy declared to be unconstitutional, the Supreme Court of this State said that at that time and in that context, the question was not - I'll paraphrase - right or appropriate for consideration by it. However, the lower court opinion of Justice Mountain, then Judge Mountain, and indeed the remarks of, then, Chief Justice Weintraub from the bench, made it clear that they looked to the public ultimately to, in actuality and with effectiveness, declare senatorial courtesy to be a concept which was due for fine burial.

Today we think that with the system of judicial screening, for example, to which the present Governor has indicated, with respect to which the present Governor has indicated -- he will cooperate, and with respect to which the most recent past Governors have cooperated, that if you had a 60-day rule, the public would then be in the following position: When the nomination was reported out of the Judiciary Committee and if it were favorably reported, it would be a very simple matter to make totally clear to the public the fact that the individual Senator, who declared

that the nominee to be personally obnoxious, was making such declaration with respect to a nominee whose qualifications for office had been determined at the highest levels and with the greatest of efficiency by appropriate bodies. Secondly, we feel that it will not be with such alacrity that the remaining members of the Senate will be able to simply vote no with unanimity when such a declaration is made. We feel that the Senate must operate, as such a body must, and that the present situation, in which in effect, the executive privilege, the executive obligation of making nominations, is being exercised by Senators or others, will and must then come to an end; but in terms of these rules with which this Committee is concerned, we suggest to you - more strongly than suggest - we tell you that you are, in fact, not in a position to say that it is not a rule and we cannot amend it, that it is an unwritten rule, that so long as you permit the rules to stay in their present form, in which anonymously, secretly, a nomination may be allowed to die in the Judiciary Committee, that you will then not have done your job. We point out one further fact, we don't really know whether anyone really knows what the ground rules for this unwritten rule of senatorial courtesy are at this point. Certainly, since "one man, one vote" we are no longer dealing with one Senator from each county. Are we going to modify the unwritten rule by rewriting it? Are we going to say that senatorial courtesy applies to a senatorial district? Does it apply to a county? We think, gentlemen, that it is indeed time to put it at rest, to bury it.

I have one further note. It is not set forth in our remarks here. The long resolution by which the Senate does not adjourn sine die but continues in session when not in session is, of course, a rule which lends itself to the concept of senatorial courtesy. We have had the spectacle in this State of counties with numbers of vacancies on the bench and elsewhere for as long as two years. I might say

that the litigation to which I made reference resulted only after in a populist county in this State no civil cases could be heard for almost a year because there were no judges and because there was a deadlock based upon senatorial courtesy. We don't believe that the public is ready to continue to accept this concept. We don't believe that they have given this power to individual Senators, and in the strongest terms, we would press upon you and urge you that you amend the rules so as to take that first step and provide for the mandatory 60-day rule in the Committee. Thank you very much.

SENATOR WILEY: Thank you, Mr. Stern. I have one or two questions I'd like to ask. Your reference to long resolution is the reference to that thing that I find in the journal in the past before I was a Senator--

MR. STERN: The resolution which says that we determine now to adjourn from "A" to "B" to "C" to "D" to "E" to "F" to "G" to "H".

SENATOR WILEY: This is the resolution that was printed up in May and talked about what happened in August.

MR. STERN: That's right. There is a constitutional provision in this State which provides for interim appointments by the Governor when the legislative body has adjourned; and with what effectiveness that constitutional provision can be used, I'm not prepared to say, but I do know that not only are appointments killed in the Judiciary Committee but any possibility of interim appointments is then also killed because the Senate simply does not adjourn.

SENATOR WILEY: To what degree is that long resolution, as you understand it from your research, attributable to the fact that the Constitution provides that the Senate or either House cannot adjourn for more than three days without consent of the other?

MR. STERN: I don't know, sir. I know only of this impact. Actually, the long resolution may have utility. What I am suggesting to the Committee is that taken together with senatorial courtesy, the result is that you have vacancies

and important positions throughout the State for such aggravated periods of time that it becomes intolerable.

SENATOR WILEY: My recollection is that that has been used in the past as a means of foreclosing the possibility of interim appointments where there has been antagonism between the Senate and the Governor's office.

MR. STERN: That is my understanding.

SENATOR WILEY: On the other hand that has been maintained when there has been harmony between the Governor's office and Senate, and I've assumed that it was attributable to the provision that I refer to.

MR. STERN: I'm just suggesting one of the evil by-products.

SENATOR WILEY: If you would care to suggest something, I would be interested to have it, that would solve the one problem and not create problems on the other hand.

MR. STERN: Solve the --

SENATOR WILEY: Solve the problem of interim appointments without making it unduly difficult to --

MR. STERN: It would apparently take a constitutional convention in order to change the interim appointment provision.

SENATOR WILEY: If there is anything short of that that you could think of --

MR. STERN: We'd be happy to study it.

SENATOR WILEY: Your proposal is that we have a 60-day rule that there be a mandatory report by the Judiciary Committee, --

MR. STERN: Yes, sir.

SENATOR WILEY: -- yes or no, recommending favorably or unfavorably and that that be brought to a vote on the floor.

MR. STERN: Exactly. We then feel that it would be appropriate, not only for our organization but for others, if necessary, to go to the public with the situation because there it would be out in the open.

SENATOR WILEY: Senatorial courtesy could be practiced but it would be in the open.

MR. STERN: Exactly. We are not here for negotiated settlement. We oppose senatorial courtesy, but we are saying that you can't solve it until you take that first step.

SENATOR WILEY: Right. When you refer to our duty to propose a rule that would abolish it, the rule that you are speaking of is really the 60-day rule which would not necessarily abolish it, which would make it possible for it to be brought out in the daylight.

MR. STERN: It would still make it possible for a Senator to stand on the floor of this chamber and say the nominee is personally obnoxious or use any other terminology he wants, and if thereupon there was a vote and all Senators voted "nay," that in our view would be perfectly constitutional and thereupon becomes a political matter in which, in the ordinary sense, the public may be apprised that the entire Senate voted nay on a person, who in some people's view, is the best qualified for the position. It is as simple as that. We don't want to impair the right of the Senate to advise and consent or the right of Senators to vote in a fashion that we don't approve of. If they all vote no, they all vote no.

SENATOR WILEY: I take it from your comments that you may have participated in that case involving the Passaic County Judge?

MR. STERN: Yes, I was counsel in that case.

SENATOR WILEY: Does the existence of this hearing and the testimony, with regard to the practice, have any implications for the effectiveness of a similar case in the future? Was one of the questions whether such a practice, in fact, existed? Would the record of this hearing have anything to do with it?

MR. STERN: There is no question of the existence of the fact of the practice; indeed, some of the materials that

I read to you from, then, Governor Hughes's comments, were incorporated in the opinion. There is no question of the recognition of the fact that the practice exists. The result was based largely upon the hesitancy of the Judicial Branch to intervene in the activities of the Legislative Branch with the question - what action does the Judicial Branch take if the Legislative Branch simply doesn't comply? - and the practical problems of enforcement.

SENATOR WILEY: It said that it was non-judiciable on that record, but it suggested to me, as I reread the case recently, that perhaps in the presence of a record that articulated the practice somewhat better, there might be--

MR. STERN: In my statement, perhaps optimistically in the statement, I believe it has been filed with you, I suggest the possibility that the Judicial Branch might act differently in the future.

SENATOR WILEY: You may be going back to court.

MR. STERN: We would hope not. I might say, as a reward for his comments opposing judicial senatorial courtesy, Governor Hughes was a defendant in the suit because, at that time, there was a severe deadlock.

SENATOR WILEY: Fine. Thank you very much.

MR. STERN: Thank you sir. (Statement found on page 45 A)

SENATOR WILEY: Mr. Peter Allen of the New Jersey Retail Merchants' Association.

P E T E R A L L E N: Senator Wiley, Senator Horn, first I would like to commend the leadership for holding this open hearing on the rules changes and for providing citizens, such as myself, the opportunity to participate in the democratic process by doing so.

SENATOR WILEY: Senator Dodd isn't here to hear the comments. Your thanks should be directed to him. He is the one who proposed it and brought it into being.

MR. ALLEN: I shall direct that then to Senator Dodd.

Many proposals for improvements have been offered

today, and they have been articulated quite clearly and quite well by the previous speakers. I won't attempt to repeat all of them, but I certainly, in representing my organization, agree with all of them. I would, however, like for the record to support one of the proposals offered today and that is the one concerning a schedule of bills to be considered by committees be prepared ahead of time and made available to the public within a reasonable period of time before the committee meetings. For example, I have a list here of bills to be considered by the Assembly Committees for this week and this is a list of 76 bills. It prevents a very clear and organized way for any citizen, any member of the general public or a member of an interest group or even other legislators from organizing his time to appear before any of these committees when the particular bill he is interested in--

Briefly, then, in concluding, I would certainly urge that this proposal be made either a rule or part of a rule that would be concerning the open committee meetings. Thank you.

SENATOR HORN: Mr. Allen, you just made reference to these 76 bills in the next committee session. Do you have-- Now this is going to be a heavy work load as you can understand, the great number of the prefiled bills that have gone to both Houses and have subsequently been followed up with many more hundreds of bills. I heard some discussion this morning on hearing of bills. I heard Senator Merlino, and I don't intend to hide from the fact that the only way a bill is going to be heard, in my committee-, and I hope some day maybe to be able to change that, maybe we can in these rules, is that the sponsor must request that bill to be heard. Otherwise that bill is not going to be heard. I would suggest, respectfully, in order to stop some of these bills being filed - I'm sure Steve would agree to this - for publicity purposes only to clutter the calendar, that maybe after a waiting period of time, those bills ought to be called to be heard and maybe be released to see how far in favor some of these Assemblymen and

Senators are in some of these public relations bills that they file. It is going to be a difficult problem for, I would suppose, some people who try to cover all committees. Fortunately, we have reduced the size of the committees now in the Senate to 10, two years ago. The Assembly Committees have now been reduced to 13. I don't really think it is going to be that much of a problem, for instance, for a person like yourself who represents a given group, or the League of Women Voters, who may have a greater problem than you do because they cover the whole facet, and they may have a little more help than you have to assign certain people to those committees. My recommendation to you would be to follow the procedures that I intend to follow - when it is advertised that a bill is going to be heard in a week in advance, you get on the agenda to be heard before that committee. As to the request for attendance, the program, the agenda, will be set in that fashion. I don't know of any other way. You may know a way that we'll be able to handle these bills so that you can hear all of them or most of them, because I would anticipate in this session, I say this without fear of contradiction, better than five thousand pieces of legislation will be placed in the hopper. You have 46 new Assemblymen in the Assembly, and I'm sure they are going to be anxious to get their names on legislation. And they have some new ones over here. I realize the problem. Do you have any ideas you might be able to forward to us to try and correct that problem? We are willing to hear it.

MR. ALLEN: I would agree with what you said, Senator. I think we are pretty much saying the same thing. I would take up and agree with the modification that you just suggested; that is, a bill not be considered before a committee unless the sponsor ask for it to be done so in that case, I would then suggest that this same schedule of bills to be heard for a committee be prepared ahead of time but only include those bills where the sponsor has gone to the Chair-

man and requested that the bill be considered and then, at that time, the Chairman makes out his schedule. It doesn't make any difference whether the Chairman prepares this schedule based on the bills he wants to bring up or whether the sponsor asks for the bills to be brought up. The main point here is that a list of bills to be considered in a given week before a given committee be prepared and available for the public so they can see what bills will be discussed so they can appear before the appropriate committees.

SENATOR HORN: I agree with that publication.

SENATOR WILEY: I think that's the sentiment of the people I have spoken with, and the committees, preliminarily; definitely there should be a notice and ample notice. What the mechanics are going to be is exactly not yet determined. As I envisioned, there would be notices published on the bulletin board outside well in advance by the committee of the next meeting, the time and place of the meeting, and the public should be invited and encouraged to come and take part. We trust that that can be implemented. We appreciate your comments. They were helpful to us.

MR. ALLEN: Thank you.

SENATOR WILEY: Is Mr. Walter O'Brien here?

MR. O'BRIEN: (No response)

SENATOR WILEY: He did file a statement and we will make that part of the record.

(Mr. O'Brien's statement can be found on page 48 A)

Does anyone else care to be heard before this Committee today? (No response)

If there are no other witnesses and no other statements to be submitted - Senator Horn do you have anything further to say?

SENATOR HORN: I just want to thank everybody. Unfortunately all the Senators are not here to hear this. I believe that it was a well-attended hearing. I think that

the idea of bringing the hearings to the public, if there is any indication or any need to find out that this is what the public wants, it was surely expressed here today and it ought to be continued.

SENATOR WILEY: Thank you, Senator. I would share that view. It certainly has been worthwhile from my point of view and the other members of the Committee. I hope it has been worthwhile from yours, and I hope it is a harbinger of things to come in the life of this State Senate.

Thank you very much. The hearing will be adjourned.

(Hearing Concluded)

common cause NEW JERSEY

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PREPARED STATEMENT ON SENATE RULES CHANGES
TO THE NEW JERSEY STATE SENATE COMMITTEE ON RULES AND ORDER

by

W. Ray Kohler
for NEW JERSEY COMMON CAUSE

State House, Trenton, N.J.
January 24, 1974

There may seem to be no absolute connection between legislative reform and legislative results -- between open and responsible procedures and "sound" legislation. But the argument for democracy is not that it will always insure the "right" decisions, rather a democracy enables us to make those decisions more freely and more fairly than any other system. Open, responsive and accountable procedure is the essence of democracy for democracy is and must be as much concerned with "means" as it is with "ends".

Openness, responsiveness and accountability are widely recognized as necessary ingredients to insure democracy's survival. Unfortunately, these ingredients have ceased to be the guidelines behind the rules of most of America's legislative bodies. Instead they have been supplanted by secrecy, parliamentary trickery and sometimes even arrogant contempt.

A study conducted by the Citizens Conference on State Legislatures (1970) ranked the New Jersey State Legislature as 42nd out of 50 in accountability and 35th out of 50 in responsiveness. That study added, however, "New Jersey's greatest strength lies in its enormous potential to achieve excellence. There are no constitutional encumberances upon the future development or current

operation of the Legislature."

New Jersey Common Cause believes that the citizens of New Jersey deserve and expect legislative reform that will eliminate the causes of such low rankings and that will help to achieve the potential to which the study alludes. It is because of this desire for excellence and our strong belief in democracy that New Jersey Common Cause recommends implementation of the following changes in the Rules of the New Jersey State Senate.

1. Senate Caucus System

Misuse of the Senate Caucus System has been one of the most serious encumberances to the democratic goals of openness, responisveness and accountability. The Caucus System is found desperately wanting in each of these three areas, and there can be no justification for permitting a purely partisan segment of a bipartisan public body to decide in an undemocratic fashion which bills will be recommended for passage and which bills will be killed.

Although we do not demand complete elimination of party caucuses, such elimination would not disappoint us and might well be the most effective step toward reform. If, however, elimination does not take place, then New Jersey Common Cause believes that the caucus must limit itself to purely partisan matters and should not be used as a method to screen legislation or to directly influence public policy.

The Commission to Study the Legislature (1971) recommended " ... that most of the basic responsibility for the review of bills and their release to the floor be vested in the standing reference committees themselves ..." (22) A strong and viable standing committee system is unlikely to develop so long as the majority party caucus goes unreformed.

If the Senate decides that the Caucus System must be maintained, the least that the public can accept is completely open meetings (open to the public and press), with recorded votes on all bills, resolutions and/or amendments. The recorded votes must be filed with the Secretary of the Senate and must also be available to the public and press.

2. Open Committee Meetings

Since we support the strengthening of the standing reference committees, we believe that such strengthening should be accompanied with a rule requiring that all meetings be held in open session and be accessible to the public and press. It is our belief that public business should be conducted in public and that those who conduct it should not hide behind locked doors or false partitions i.e. "Executive Session". So far as we can determine, private committee sessions could only be authorized if the matter under consideration concerned the security of the State or would severely damage the reputation of individuals in personnel matters. Furthermore, we would want the full committee, not just the chairman, to make the final decision about private sessions in these two areas.

To accompany this request for openness, New Jersey Common Cause believes that the rule should include a provision requiring that a record of attendance and that a record of all votes on bills, resolutions, motions and/or amendments be submitted to the Secretary of the Senate and be available to the public and press.

We see a rule requiring open committee meetings as merely a preliminary, but necessary, step toward a comprehensive open meeting law that would require openness of all public bodies at all levels of state, municipal and special district government.

3. Committee Responsibility

A complete record of all committee meetings should be filed with the Secretary of the Senate and as mentioned in the previous section, that record shall be available to the public and press.

A necessary step toward increased committee responsibility was made with the inclusion of Senate Rule #83 A-D, but additional information is desirable from the committee. In addition to the "statement explaining the provisions and purposes of the bill or resolution", a statement of "pros" and "cons" on the issue (as developed by the committee), and any other statistical or evaluative material (such as a careful analysis of it in terms of background and impact), should be included.

This report should be made at the same time that the bill is released from committee (2nd Reading) and therefore would be available for scrutiny by the entire Senate membership as well as by the public and press in advance of final floor consideration of the bill.

Furthermore, all committees should be required to report favorably or unfavorably on every bill referred to it. This in no way impairs the committee's right to act unfavorably on legislation but it does demand that such an unfavorable response result from action instead of inaction. Through this process the public can be guaranteed that adequate consideration is being given to all proposed legislation.

4. Discharge Petition

In order to insure committee accountability and fair consideration for all bills, New Jersey Common Cause proposes a rules change to provide that if a bill has not received final action in committee and therefore has not been released for a floor vote in the Senate within 90 days after it has been introduced, it can be discharged to the floor upon the submission of a petition signed by 1/5 of the total Senate membership.

Such a rule would eliminate the practice of indefinite postponement or the practice of postponing until such a time when chances of passage are minimal. We believe that this could help to safeguard against autocratic behavior by committee chairmen who wish to prevent action on certain legislation.

5. Advance Public Notice

To foster accountability and responsiveness, New Jersey Common Cause proposes adoption of a rule to require a 7 day interval between the 2nd and 3rd readings of any bill or resolution. The rule should also include a provision that public notification be given at the beginning of the 7 day interval to help insure public awareness.

We believe that a shorter interval does not provide enough time to adequately study amendments to a bill made on second reading. Furthermore, a shorter time interval is insufficient for the press to inform the public and for the public to make its wishes known to the legislators. In fact, the very mechanics of bill printing are often complicated by the lack of such an interval. It is not uncommon for amendments to a bill to be distributed to the Senator on the very day he or she is expected to cast an informed vote for or against the entire bill.

Although this is a very specific provision, we would support a rule change that would provide for timely and widely distributed notification in advance of all legislative proceedings. We believe that our next proposal may aid in such an effort.

6. Improve Senate Journal

In an effort to better inform and at the same time provide a more convenient and systematic procedure for disseminating information, we believe that the Senate Journal should be improved to include more specific and

detailed information and that this improved Journal should be more readily available to the public.

We agree with the 1970 Eagleton Institute Study which suggested inclusion of the following:

A. Status

- All bills introduced that day with sponsors
- All bills ready for Second Reading
- All bills ready for Third Reading
- All bills awaiting the Governor's Action
- All veto override bills

B. Committees

- All meetings for the following week
- Attendance at each committee meeting since the last session.
- Action taken on bills.
- All recorded committee votes

C. Roll Call Votes (Bills, Resolutions, Motions & Amendments)

D. Attendance

7. Transcript of Senate Proceedings

In an effort to further inform the public, and as an accurate record for the future, we feel that a transcript of the proceedings of the Senate should be maintained and made available to the public.

We have not studied the mechanics of this implementation but believe that the State Library might be the depository for such a transcript and through the Library it could be made available to the public.

We understand that the maintenance of such a transcript will incur added expense but we believe the value of the information will outweigh the cost of its recording.

8. Roll Call Votes

We believe that it would be in the public interest to have recorded roll call votes on all motions and especially on amendments in addition to the votes that are currently required on final passage of bills or resolutions. Positions taken on amendments are often as revealing in evaluating a legislator's performance as his or her vote on final passage of a bill.

A record of these votes could be included in an improved Senate Journal and thus be made available to the public.

9. Lobbyist Reform

We request a change in Senate Rule #57 to specifically exclude lobbyists from the floor and rear of the Senate Chamber while consideration of legislation is taking place on the floor.

We feel that lobbyists have a proper function in our legislative process, in fact Common Cause has styled itself "The Peoples' Lobby", but we believe that the lobbyist should seek to aid, inform and rationally persuade. Such service should come before and not during floor consideration of the bill, motinn, resolution or amendment. If advance public notice is given on legislative calendaring, the lobbyist should have ample time to make his point and will remove him or her from direct contact with the legislators as they perform their elected function.

AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY
45 ACADEMY STREET, NEWARK, N.J. 07102
201-642-2084

Testimony before the New Jersey Senate Rules Committee
24 January 1974
Dinah Stevens

New Jersey prides itself on having the strongest executive branch in the nation. In a government based on checks and balances, this requires that we also have the strongest legislative branch. Unfortunately we do not. Every effort should be made to strengthen the legislature so that it can fulfill its proper role.

I'm sure it will come as no surprise to the members of this committee that as I thought about what I wanted to say here, I came back time and again to the overwhelming lack of staff and space necessary to make significant change.

I believe from my experience with the Legislative Services staff that it is excellent. They are highly qualified, interested and willing people. They are also overworked.

Legislatures in the past have shied away from spending money on themselves. This concern for public reaction does not serve the public well. I open with a strong plea for a generous increase in Legislative Services staff because additional burdens on the current staff would be a disservice to the legislature and the public.

One change in procedure that is highly important to the American Civil

Liberties Union of New Jersey is a clear system of establishing legislative intent. Rule 83B requires Senate Standing Reference Committees to prepare a statement explaining the provisions and purposes of each bill considered by the committee. It does not require that this statement be printed or even read to the whole house before it votes.. Legislative history and intent is an important part of the record when an aspect of a law is questioned during litigation. In New Jersey we must depend on newspaper accounts of debate or the affidavit of a sponsor to indicate what the legislature meant to do when it passed the law. These are not always available and tend to be highly inadequate sources. There should be clear records of what the committee understood the bill to intend which would be part of the signed record and would be clear to every member of the house when the legislation was debated. These should be prepared to constitute a record of history and intent of the legislation.

Another area of change that is a high priority to the ACLU is that the legislature commit itself to open, accessible, comprehensible procedures. All committee meetings should be open for the public to witness. As Senator Dodd discovered at his press conference the other day this will require more space.

Open, accessible, comprehensible procedures do not include a party caucus which prevents legislation from reaching the floor for a vote. We adamantly oppose continuation of the caucus. We also adamantly oppose continuing Senatorial courtesy. If either of these practices is continued the vote in the caucus and the reason for blocking the nomination should be part of the public record.

Opening the process to public scrutiny is only half the story.

Information about the procedures and proceedings of the legislature should be more readily available to the public. The 800 phone number is a good beginning. The same kind of information service in a visible, accessible place for those who come to Trenton to petition the legislature.

Additionally I would like to see the telegram made available to the public on a subscription basis with a small number of complimentary subscriptions available to members of the legislature.

LV LEAGUE OF WOMEN VOTERS OF NEW JERSEY
460 BLOOMFIELD AVENUE, MONTCLAIR, NEW JERSEY 07042 TELEPHONE 746-1465 AREA CODE 201

TESTIMONY PRESENTED TO THE SENATE RULES COMMITTEE
CONCERNING ADOPTION OF RULES FOR 1974 by the
LEAGUE OF WOMEN VOTERS OF NEW JERSEY
January 24, 1974

I am Selma Rosen, Legislative Reform Chairman of the League of Women Voters of New Jersey. Thank you for this opportunity to testify before the Rules Committee which is today considering the vital subject of legislative procedures. The League has been deeply involved and interested in this subject since 1967 when its 10,000 members elected to study the structure and operation of the New Jersey Legislature.

The theme that emerged from this examination of our legislative processes was "openness" -- openness as a means of achieving efficient, effective and responsive government. In keeping with our consensus for a Legislature that is open, the League of Women Voters urges the adoption of certain changes and additions to the Senate Rules at the start of the 1974 session.

1. Continuity of leadership. The League supports continuity of legislative leadership. This applies to presiding officers, party leadership, committee chairmanships and, as far as possible, committee membership. Strong, experienced leadership is needed to strengthen the legislative branch of government in New Jersey. To help achieve this we believe you should formalize in your rules the election and appointment of your leadership structure for the full two-year life of each legislature.

2. Advance Notice. Arrangements should be made for providing more public information in advance about legislative proceedings. We recommend a "calendar service," a weekly or twice weekly mailing available to any member of the public free or at nominal cost giving advance notice of what bills are coming up for a floor vote or for discussion at committee meetings, upcoming public hearings, and other relevant information. This assumes that nothing other than matters of a true emergency nature will be brought up unless notice has been given by means of this calendar. Suitable provision in the rules should be made to institute such a system. The calendar could also include bills reported out of committee and the votes and attendance records of committee members.

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We were pleased to hear of the creation of the Legislative Hot Line, which could well become the nucleus of a Legislative Public Information Office, the setting up of which we have often recommended in the past.

3. Time problems. We believe there should be more frequent meetings of the Legislature and regular scheduling of committee meetings in recess periods and on non-session days. The present crowded session day, with its leadership meetings, party conferences and floor sessions does not permit sufficient time for the kind of deliberative committee meetings that we all agree ought to take place. Requiring that attendance records be kept would be one way to encourage regular attendance at committee meetings as well as sessions. Other procedures to regulate the flow of legislation, such as use of consent calendars and time limits on introduction of bills would help reduce the usual log jam at the end of the session.

We also suggest that an attempt be made to define in the rules what is properly an emergency measure in an effort to curtail the use of that procedure often abused.

4. Recording Debate. Debate on the floor of the Senate should be recorded verbatim and be available to the public. We do not propose printing it all.(Copy of a report on other states' procedures is attached.) Further, permission should routinely be granted to bona-fide radio and TV personnel to broadcast live or taped parts of session. If we hope to encourage wide interest in state government, our citizens need more exposure to legislative discussion and debate.

5. Committee Meetings. We are delighted to hear statements by the leadership that almost all committee meetings will be open in this session. This should be formalized in your new rules. Any provision for executive sessions of committees should be strictly limited and provision for reporting the reason for the executive session and some kind of report of what occurred should be required.

In the case of the Judiciary Committee when considering nominations, you might well consider opening up these sessions if the nominee concerned requests it. In addition to requiring that minutes, attendance records, and all votes on amendments, procedures, and reporting bills be made public, we recommend that written committee reports on all bills voted out or rejected be required, before legislators are asked to vote on the final passage of such legislation. We recognize that this would require additional committee staff, professional and clerical, and we will support provisions of funds for such purposes.

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6. Bringing bills to the floor. Rules should be adopted to prevent a minority of either house from blocking legislation (desired by the majority) from reaching the floor without accountability. Party caucuses or conferences should not be allowed to secretly control the flow of legislation from committee to the Senate floor. A conference committee with minority representation could be created to control this functi in an open manner. If the Senate should continue to depend on the majority caucus to determine which proposed legislation should be acted upon by the Senate, then the individual votes in the caucus should be made public. Decisions upon what is to be voted on are as important as the final vote. While this procedure has never been a formal part of the rules of this house, we believe it would be possible to draft a rule that specifically declares such procedures against the rules that could be used to effectively block attempts to reinstitute the practice in the future.

7. Legislative vacancies. We recommend an addition to the rules to provide that this house issue writs for special elections to fill vacancies in your membership promptly. In the past too many New Jersey citizens have been without representation in the Senate for extended periods of time. This is particularly important now that we have single member Senate districts. The League of Women Voters will work for a constitutional amendment permitting temporary appointments to be made to fill vacancie but until such time we recommend this addition to the rules.

8. Nominations The Senate rule pertaining to the processing of nominations should be strengthened to eliminate the practice of senatorial courtesy. A reasonable time limit should be established, such as the sixty day rule, to assure that nominations reach the Senate floor. Then after full public discussion and debate, the Senate can vote on these nominations and the public can hear the reasons for their votes. It is reform of the rules of the system, within the system, that will strengthen the legislative branch of government, not covert action outside the legislative process.

9. Public hearings. We recommend a rule requiring public hearings on proposed bond issues in the same way that the state constitution requires public hearings on proposed constitutional amendments that appear on the ballot.
There ought generally to be more public hearings on major legislation and more prompt publication of the transcripts. We suggest you consider a rule that no bill on which a hearing has been held be calendared for third reading if the transcript of the hearing is not available to the legislators considering it.

(More)

10. Ethics. Although not part of the rules, you do publish the Legislative Code of Ethics in the same book as the rule. Since the Legislative Code of Ethics was adopted by means of passage of a concurrent resolution (SCR 28, 1972), which expresses the will of the particular Legislature adopting it (in this case the 1972-73 Legislature), it would seem necessary that this new Legislature must propose and adopt its own code under the terms of the Conflict of Interest law. We would like to comment on this. When questions of possible conflict of interest came up last year, they seem to have been resolved within the very narrow definitions of the law and the code that Legislature adopted, rather than with regard to the overall intent and purpose of the law which is to insure that public officials avoid conduct which is in violation of their public trust or which creates an impression among the public that such trust is being violated. In implementing the Conflicts law by adopting a code of ethics, the previous Legislature seems to have tied the hands of the Joint Committee on Legislative Ethics. According to the law, the standards for codes of ethics which must be adopted by various state agencies, and to which the code of ethics for members of the Legislature "shall conform . . . as nearly as may be possible," contains two standards which are not included in the legislative code. These are "that no state officer or employee should undertake any employment or service whether compensated or not, which might reasonably be expected to impair his objectivity and independance of judgment in the exercise of his official duties;" and "that no state officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a state officer or employee." Omission of such provisions in the legislative code means the Joint Commission on Legislative Ethics is not the public safeguard of the Legislature's reputation one would think it should be.

We would also like to point out the lack of any law, provision in the code of ethics, or in the Rules for financial disclosure by legislators.

In general we are very pleased at the declared intentions of many leaders and members of the Legislature to have a truly open, responsive and accountable body. The fact that this is the first time we know of that a public hearing has been held prior to the adoption of the rules is a sign that you intend to carry through on your proposals. We would like to stress the importance of institutionalizing the new procedures through their embodiment in the rules, new statutes where necessary, and the provision of funds to allow you to do the very best job you can for the people of New Jersey.

League of Women Voters of New Jersey
460 Bloomfield Avenue, Montclair 07042

October, 1970
Price 20¢

TO: Presidents (DPM pass to Legislative Procedures Chairman)
FROM: Mrs. Howard Levine, State Legislative Procedures Chairman

REPORT ON VERBATIM RECORDING OF PROCEEDINGS IN STATE LEGISLATURES

As part of a general consensus supporting improvements in New Jersey's legislative operations, the League of Women Voters of New Jersey recommended that the Legislature institute verbatim recording of debate, especially that occurring on final passage of bills. The main reasons for this recommendation were to provide a permanent record that could be easi checked on what legislators actually said about particular bills, more meaningful than an "aye" or "nay" vote, and to provide courts, should the occasion arise, with some better guide to legislative intent than a legislator's memory, or accounts in the press. The chi objection to such recording is, of course, the question of cost. The Division of Legislat Information and Research of the New Jersey Legislature has estimated that to provide compl printed, verbatim recording of all proceedings would cost in the neighborhood of $500,000 per year.

The League's main concern is that some record be kept, and that it be available to the pub lic. We had not contemplated printing the entire proceedings, but thought that at the ver least tape recordings could be made and only transcribed when called for. To get some ide of the possibilities, we decided to make a survey of those states which did record debate in their legislative bodies, how they did it, and if possible, what it cost and to whom such records were distributed or made available.

Accordingly we wrote to our sister Leagues in those states which, according to the Council of State Government's publication American State Legislatures: Their Structures and Procedures, as revised in March, 1970, recorded proceedings verbatim. We received replies from all those states except Connecticut (which is listed as keeping a typescript only of its proceedings). Louisiana, though listed as maintaining verbatim records in part, follows the practice of New Jersey, in that its Journals record only official actions, such as reporting of bills from committee, passing motions and resolutions, making appoint ments, passing bills and recording the vote of each member, and does not include any of the discussion and debate on the floor accompanying such actions.

A summary of the replies we received follows. It can be seen that no two states follow the same procedures, and that cost data was not readily accessible to the Leagues, althoug many promised this data later.

MAINE

Full debate is printed daily during the session on a large sheet of newsprint known familiarly as the "horseblanket." It is available for reference in the law library of the stat house.

There is also a publication, Maine Legislator, published weekly, which carries roll call votes, committee reports and comments from the press.

Source - League of Women Voters of Maine

NEBRASKA

Since 1961, the Nebraska Legislature has all floor debate recorded by machine. This is available to anyone upon request at 10¢ a mimeographed sheet.

There is also a Legislative Journal published daily during session which is free to those who request it.

Source - League of Women Voters of Nebraska

(over)

NEVADA

Both houses record all proceedings with mechanical recorders. However, the only verbatim record maintained are those audio records on dictaphone belts. No printed verbatim record of proceedings is normally published. Belts are identified and retained in order, following a log book, which is kept by the legislative employee charged with the use of the recording equipment. Belts are available to the public with permission of the Director of Legislative Counsel Bureau, although they are deemed to be more internal legislative records than public records. The belts are used to clarify issues, votes, and other elements of the proceedings that might be called into question. Only one copy of the proceedings is kept, and that, basically, is not in any kind of circulation.

Recordings are made whenever the houses are in session and include all business in complete audio records. The only costs involved are the initial cost of the equipment, the cost of the belts (minimal), and the expense of the logger or clerk operating the machine, along with a $50 to $100 annual upkeep fee.

Source - James T. Havel, Deputy Director of Research
Nevada Legislative Counsel Bureau

NEW HAMPSHIRE

A Journal, one for the House and one for the Senate proceedings, is published for each day either chamber is in session. The Journal contains all floor action (votes), committee reports and roll-call votes. Verbatim debate is included only when requested by a member before debate starts. Members may request inserts. Two secretaries present at all sessions take the notes.

No figure on cost of production was available, but it is thought including complete floor debate would triple the expense. The Legislative Services section suggested that to extend the Journal to that extent would also make it most difficult for the printer to have the copies ready by the time they are needed.

Source - League of Women Voters of New Hampshire

NEW YORK

Although it is true that two stenotypists do sit in the well of the Legislature and record everything that goes on, this information is not available for public inspection. It is understood that this material is transcribed and "kept somewhere."

The Constitution of New York requires that a "Journal" of proceedings be kept and made available to the public. This is apparently interpreted to mean the record of votes on bills, etc. The verbatim procedures are not published and are not available.

Source - League of Women Voters of New York

PENNSYLVANIA

The Pennsylvania Legislature records their proceedings daily and verbatim by stenographers. The records are then printed as Legislative Journals, one Senate and one House. Any interested citizen of Pennsylvania can obtain a copy by request.

There is no separate breakdown of expenses for the Journals. The General Assembly has budgeted to the Senate $525,000 for printing and expenses; the House $650,000. The Legislative Data Processing Center, "which expedites the collection, compilation and dissemination of information required in the exercise of the General Assembly, functions and sometimes renders services to other state agencies" has a budget of $670,000.

Source - League of Women Voters of Pennsylvania

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TENNESSEE

The proceedings of the Tennessee House and Senate are recorded on discs. The mechanics of the system are quite simple: Two linked machines are used in both the House and Senate. When one record has been filled (30 minutes) an automatic switchover device turns off one machine and turns on the other simultaneously. These machines are plugged into the public address system. During the recording time, one person in each house (an employee of the Tennessee State Library and Archives) records the name of the speaker and the number of the bill being discussed minute by minute, on an index sheet which has 30 lines. The discs are then stored in an envelope on which the above information has been typed.

These machines are obsolete, but still work satisfactorily, according to those who operate them. The cost of recording an average legislative day (3 hours) is approximately $20.

This recorded material is neither published nor duplicated, much less distributed. It sits in the Tennessee State Library and Archives. Apparently, in the early years of the legislative recording system's operation, the legislators were inhibited by their awareness of the recording process, and they were protective of the recordings. In fact, in order to gain access to a specific recorded debate, written permission had to be obtained from each legislator involved. Today, anyone may listen to the records, upon request, and take rough notes if he wishes. However, in order to take verbatim notes or to tape record from the discs, written permission must be obtained from the present speaker of the house in question. Permission has never been denied.

Lawyers use the transcripts most frequently, primarily seeking to prove the intent of specific legislation. Legislators listen to themselves and to debates from previous sessions, especially on pet legislation. Students, especially law students, listen in the process of doing research. Newspaper correspondents use the discs and one or two of the general public a month (this "probably because very few people know of it").

This system is also used to record any committee meetings held in the House or Senate chamber.

Journals of the House and Senate are published. They are prepared by the chief clerks of both houses and contain only the bare parliamentary facts (bills introduced, motions made, bills passed, record votes, etc.).

Source - League of Women Voters of Tennessee

WASHINGTON

After checking and editing by the Secretary of the Senate and the Chief Clerk of the House, the Journal Clerk copies into the Journal a transcript of the minutes of each day's session which are taken by the Minute Clerk. The original Journal is bound and delivered as soon as completed after the close of the session to the Secretary of State as the official record of the Legislature. A copy of the Journals of both the Senate and House goes to the state printer for typesetting so that printing may progress while the Legislature is still in session. Upon adjournment, other material such as indexes, rosters, special reports, veto messages, and summaries are compiled and included in order that the final printed edition of the official Journals will contain all practical information for a permanent record of proceedings.

In addition to, or as a backup to, the Journal, a tape recording is made. This is an unofficial procedure, but it would seem that the proceedings of both houses are taped verbatim. The secretary in the Senate says that the tape was stopped during debate, since the tape was only used as a backup or reference for the Journal, and once the information for the Journal was verified the tape was erased.

(over)

WASHINGTON - cont'd.
On the other hand, the secretary in the House advised that the tapes were kept and could be used provided the permission of all involved is obtained. In her opinion, the tapes were kept to show legislative intent and in her memory only four or five such requests had been made since the taping began in 1967.

Much of the "lively" debate on the more controversial issues is televised.

Source - League of Women Voters of Washington

UTAH
The Utah State Legislature does record its session. However, the tapes are basically only available to the legislators. Other officials may ask to hear them. They are not available to the public.

Source - League of Women Voters of Utah

WEST VIRGINIA
In each house of the Legislature a court reporter records all proceedings and remarks verbatim into a tape recorder. No estimate of recording costs is available but after the initial expense of purchasing the machines, it would consist of the salary of a court reporter and the cost of approximately six long-play tapes for each house during a 60 day session.

The Journal of each house is printed daily and the contents taken from the tapes. Joint Rules of the Senate and the House of Delegates require that the Journals include all official transactions, etc. Individual houses may allow a member to explain his vote after results of the voting has been announced and permits the member's explanation to be printed in the Journal at his request. The inclusion of any other remarks in the Journal requires a suspension of the Joint Rules. The suspension is usually only sought when a member has spoken on an issue of particular interest to his own constituents or when he is seeking to insert information which might establish constitutional grounds for future litigation on the bill in question. The daily Journals are widely distributed. They are available to the public at the Capitol during the legislative sessions and will be mailed to citizens regularly upon request at no expense to the receiver. After the end of the legislative session, the daily Journals of each house are compiled into a volume which has an appendix. A legislator may have any of his remarks printed in the appendix, with the consent of his House.

After the above uses are made of the tapes, the tapes are permanently filed. All of the tapes used since verbatim recording began in 1951 are on file. No total transcriptions are made of the tapes but a member of the Legislature may have a transcription of his own remarks on a specific day upon request even though the remarks were not printed. If a private citizen wishes to have a copy of the unprinted remarks of a legislator, he must secure the written permission of the legislator who made the remarks. The exchange of remarks during a debate requires the written permission of all parties to the debate. Otherwise the transcription will contain only the remarks of the consenting participants. No charge is made for these transcriptions.

Source - League of Women Voters of West Virginia

NJTA

NEW JERSEY TAXPAYERS ASSOCIATION INC. ● 104 NORTH BROAD STREET ● TRENTON, N.J. 08608 ● TELEPHONE: AREA CODE 609-394-3116

TESTIMONY OF FRANK W. HAINES, EXECUTIVE DIRECTOR
NEW JERSEY TAXPAYERS ASSOCIATION, INC.
BEFORE
STATE SENATE RULES COMMITTEE
SENATE CHAMBER
STATE HOUSE, TRENTON, N.J.
JANUARY 24, 1974

Senator Dodd, Members of the Senate Rules Committee:

My name is Frank W. Haines. I am the Executive Director of the New Jersey Taxpayers Association, a non-profit, non-partisan, governmental research organization incorporated in 1930, at 104 North Broad Street, Trenton.

For many years the Association has been interested in, urged and supported a variety of reforms in the legislative process. Reduction in number of legislative committees, increased staffing of those committees, strengthening the Office of Fiscal Affairs and legislative price tagging, are but a few examples of legislative improvements we have actively urged and supported.

I had the privilege of presenting comments on legislative reform on November 8, 1971 to the Legislative Commission created by SCR No. 2030. We are cognizant of and appreciative of the several changes made as a result of the subsequent study report -- "Improving the New Jersey Legislature."

We wish to commend you for scheduling this hearing today which appears to be unique in New Jersey legislative history. It is our hope this session will result in rule changes which will be for the betterment of both the Legislature and the general public.

It is my understanding that testimony today should be related specifically to the 1973 Senate rules. I trust that I will not be out of order if I comment on one or two items of which we find no mention in the book of regulations.

I shall try to concentrate my comments on procedural matters which appear to be practical and possible of implementation.

Rule 53

This rule requires that "the Journal Clerk shall keep a record of the entire proceedings at each session . . ."

The Journal of the Senate contains no record of debate or discussion on legislation, nor extracts from statements which appear on some bills when they are introduced, nor special statements prepared when bills are reported out of Senate committees.

It is suggested that there be initiated a verbatim recording of the daily activities of this body. Such a record would constitute public information and be available for listening by the public or any legislator or legislative officer or employee under appropriate supervision at any time during regular office hours. This suggestion does not mean that there be a transcription made from the tape or a printing of the detailed minutes, but just some type of recording which is adequately indexed.

Reason for this proposal is (1) to give those officials who have been assigned statutory responsibility for evaluation of programs,especially the Office of Fiscal Affairs, opportunity to review debate or discussion in connection with legislation so as to determine legislative intent, and (2) to give members of the general public, press, or interested officials an opportunity to study the official record of arguments set forth by proponents and opponents of a measure.

Rule 76

This rule requires all reference committees to meet at least once each week, with certain stated exceptions.

It is suggested that this rule be amended to add "in open session" thus insuring any interested citizen an opportunity to attend committee meetings. We recognize that a committee chairman should have some discretion to hold Executive sessions.

We also urge that the agenda of the meetings, that is, the number bills scheduled for review, be posted as far in advance of the meeting as possible. Seven days' notice would be especially helpful. Ideally, we would like to see a system in which every bill referred to a committee is placed on the agenda at some time for consideration and scheduled for public hearing as is done in a number of states. This is not intended to imply necessity for public hearings in the Assembly or Senate chamber or in some other large room. In many instances, the regular committee meetings could be planned so that interested citizens are given an opportunity to speak on legislation on the agenda. It is regrettable that so few bills considered by the New Jersey Legislature are the subject of public hearings. We view the hearing process as means for mutual education of both legislators and the public who participate in the hearing.

Rule 78

This rule does not mention any type of committee report other than "favorably." "Otherwise" presumably could mean "unfavorably" or "without recommendation", but such alternatives / do not appear recognized in the written rules. (See related comments on Rule 80.)

Rule 80

It is surprising there is no specific provision in the rules for a bill to be reported by a legislative committee "unfavorably" or "without recommendation" with the possibility that a bill might be given subsequent opportunity for consideration on the floor of the Senate. It is difficult to understand how the majority of a five member committee can continually reflect the judgment of a far greater number, thereby keeping / a bill from being reported out of committee,

and thus from consideration by the entire Legislature. While Rule 83D outlines a procedure for removing a bill from committee, it seems the process is rarely utilized.

Rule 83A

This rule has desirable provisions which allow interested public to discern what has transpired in a committee. The rule, however, lacks a deadline on the filing of such committee reports. Although it may be the practice to register such reports within a limited time period, it is suggested you consider the desirability of placing a deadline in the rule so that the citizen reading the rule will understand how long he will have to wait until he may inspect the committee record. It would appear that not more than 24 hours would be a reasonable limitation.

Rule 83B -- Statement on bill reported out of Committee.

While a committee statement on a bill reported out of committee is helpful in many respects, perhaps printing costs might be reduced somewhat and a broader understanding of bills engendered if a statement were required on all bills on introduction and no statement be required of the committee unless the bill is amended or the original explanatory statement is unsatisfactory to the committee. (See Rule 102)

Rule 83E

This rule embodies the principle of dual reference which NJTA has advocated for a number of years. As written, the rule does not appear to accomplish the purpose we feel is desirable. It fails to clarify the role of the Revenue, Finance and Appropriations Committee on receipt from a standing committee of a bill with an appropriation, such as approval or rejection within a specific time period.

It is our opinion the Revenue, Finance and Appropriations Committee should be granted authority, not only to review the policy recommended by the other standing committee, but the fiscal implications as well, and to report the measure within a fixed time period such as seven or ten days.

Here is a situation where an "unfavorable" report or "no recommendation" could be significant. Since the Revenue, Finance and Appropriations Committee is a larger committee and is served by a large capable professional staff, it would appear that its importance should be recognized in the manner we have recommended.

In addition, we urge that the rules provide that no bill with an appropriation, nor any bill with cost implications as reflected in a fiscal note, be allowed to come to the floor without prior consideration by the Revenue, Finance and Appropriations Committee.

Rule 102A

It is this rule that we suggest should be amended to change "may" to "shall" so that statements must initially appear on all bills.

Rule 112

Paragraph two of this rule is somewhat confusing. It prompts us to inquire "Does it permit consideration of a motion to advance a measure to third reading without having a printed copy in hand, if requested by one-fifth of the members, or does it in fact, prohibit a bill from being considered on third reading if not printed if requested by one-fifth of the members?" Regardless of the intent, it would seem logical no measure be allowed for consideration on third reading unless a printed copy is available to both legislators and the public.

It is important to limit such situations. Therefore, it is our recommendation that the vote required for consideration of a measure without printed copies being available should be the same as that for an emergency resolution -- three-fourths of the total membership.

Minor exceptions to this rule might include special legislation petitioned by municipal governments and validating acts.

Rule 137 et seq.-Fiscal Notes

The Association's long-time interest and support of this information tool leads us to urge that the fiscal note process be strengthened primarily by enforcing the existing rule prohibiting a bill from being reported on second reading without a fiscal note if one is required. Compliance with this provision would permit elimination of Rule No. 140, a permissive method of avoiding the note requirement.

The last paragraph of Rule 142 prohibits the Office of Fiscal Affairs from accepting new data for fiscal not on the day the bill is calendared for action in either house. The intent appears to discourage withholding of significant data until the last minute, so to speak -- the day on which the bill is to be considered. We cannot agree that withholding of important information on fiscal impact should be condoned, and feel all information regarding a specific piece of legislation should be available to the lawmakers prior to voting.

Among the many prefiled bills this session is one to prohibit any bill with fiscal ramifications from being calendared for third reading and final passage by either house unless a fiscal note has been attached. We endorse the statutory restriction if the existing rules are not complied with; however, we favor requirement of the fiscal note at the earliest stage in the legislative process, that is, before second reading.

Rule 154—Public Hearings

We have already commented on the desirability of more public hearings on legislation. We would like to see some statement in the rules encouraging committees to conduct public hearings on major legislation, if there is some way of defining "major". If such language is not appropriate for the rules, perhaps the President of the Senate would favorably consider a statement urging committee chairmen to pursue a policy of scheduling more frequent public committee hearings.

We have determined there are several State Legislatures whose members receive lower salaries than New Jersey legislators, yet meet in session many more days and spend much more time in committee meetings than New Jersey lawmakers. Public hearings on nearly every bill referred to committees is a practice in a number of states, but many would undoubtedly agree that New Jersey legislators are not quite ready for that type of a working schedule, particularly at their present rate of pay.

Joint Rule No. 9.—Prefiling

The prefiling procedure is an innovation which has made it possible for committee work to begin much earlier in the session. We share the concern of others, including legislators, over the volume of prefiled bills in the current session, particularly perennial carry-overs which have had no favorable consideration for many years. We urge consideration be given to imposing some reasonable limit on a number of bills a sponsor can introduce in a year, but have no specific number to suggest at this time.

On a realted matter, we would like to see a deadline for introduction of bills established and observed sometime during the session. Certain provisions for exceptions should be clearly stated and strictly adhered to.

Concluding Recommendation

There is a final recommendation we wish to advance, although we could not find a specific rule to which it relates.

Apparently, it has long been a custom of the New Jersey Legislature for the sponsor of a bill and the representative from his district in the opposite house to have priority on the moving of bills on the floor for consideration on third reading and final passage.

Such a custom does not always result in the most knowledgeable legislator leading the discussion of the bill on the floor, and the legislator from the same district in the opposite house is often placed in an embarrassing situation of trying to answer questions with limited information.

With the increasing development of the committee system which, if successful, should produce better informed legislators on various subjects, it is our suggestion that the precedent & current practice for moving bills be revised to give the chairman of the committee which has considered and reported out the bill, an active role in the passage of legislation, particularly measures of major importance.

Introduction of this practice might result in more reliable factual information introduced in floor discussion to the benefit of both legislators and the public who are observers.

* * *

In conclusion, I wish to express our deep appreciation for allowing us this opportunity today to present our views.

STATEMENT OF HAROLD J. RUVOLDT, SR., PRESIDENT OF THE NEW JERSEY STATE BAR ASSOCIATION, ON SENATORIAL COURTESY

Abolition of "senatorial courtesy" is one of the most urgent legislative reforms. Retention of this outdated concept will be a disservice to the people of our state. Senatorial courtesy has caused our legislative process to degenerate, and it must be uprooted if full integrity and confidence in our state government are to be restored.

The absurdity of the doctrine is even more obvious now, since senatorial districts cross county lines.

The New Jersey State Bar Association will continue to press for its elimination, as the Association has for many years.

I firmly believe that a senator has the right to object to any nominee for gubernatorial appointment. The objection should be open, however. Let the other senators and the citizens of New Jersey hear the evidence, and let the issue be settled by Senate vote. It makes a mockery of the Senate of New Jersey--supposedly a deliberative body--when its members escape their obligations to their constitutents by hiding behind this "privilege of office."

The New Jersey State Bar Association acts in an advisory capacity to New Jersey's Chief Executive via its Judicial and County Prosecutor Appointments Committee in reviewing the qualifications and character of judicial prospects. The arrangement has been a good one, we think, and one that has benefited all the people of the state. Yet the prodigious amounts of time and effort which are expended on this judicial screening process become meaningless when the senatorial courtesy doctrine is invoked at confirmation

time.

It is reported that Governor Brendan T. Byrne has expressed opposition to senatorial courtesy. We applaud this position and hope that he will continue to fight for it. Meanwhile, in contrast to last year's utterances of a state senator who said, "Let the Senate do its business and the New Jersey State Bar take care of its business," the New Jersey State Bar Association will not surrender its right and professional obligation to continue its drive to eradicate senatorial courtesy from the chamber of the Senate of New Jersey. The Senate's business is the public's business.

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Statement of Howard Stern, Esq., Paterson, on behalf of the New Jersey State Bar Association at the Senate Rules Committee public hearing January 25, 1974

The New Jersey State Bar Association has long supported the proposition that the proper maintenance of the judicial branch as well as the other branches of government requires that the Senate meet its responsibility to advise and consent in a proper and appropriate fashion; and that to distort that constitutional obligation, interpreting it as vesting in each senator a personal power of executive appointment or veto, is unconstitutional, immoral, irresponsible, and destructive of fundamental institutions.

Our position, plainly stated, is that the day when governors may be required to ransome critical legislation by bartering critical appointments should never have been, but in any event has long since passed. A responsible legislative body as well as a responsible executive cannot tolerate such a system.

The President of the New Jersey State Bar Association, Harold J. Ruvoldt, Sr., of Jersey City, and his predecessors have reflected the views of the organized bar in this respect. Governor Byrne and each of his modern-day predecessors have damned the concept as a distortion of constitutional checks and balances.

In 1965, Governor, now Chief Justice, Richard J. Hughes, said, "It is enough to consider what 'advice and consent' does not mean, and I say to you it does not mean that any senator can[redacted]t tell the governor whom to appoint to the bench." The day that happens, he went on to conclude, the corruption of the bench begins.

The Judicial branch has acted with appropriate restraint, and upon being presented with the issue has called upon the Legislature to finally act responsibly in meeting its obligation to set its own house in order. Certainly the day may not be far off when the judicial branch, faced with destruction or impairment, may feel compelled to intervene.

The public, the final appellate forum, when made aware of the situation as is already happening, will insist that senators act like senators and permit their duly elected governor to exercise appropriately the power they have vested in him. They have not vested that power in single senators, nor have they vested such power in those to whom individual senators may owe allegiance.

Let it be clear, We do not attack the right and obligation of the Senate to advise and consent. We do not attack the power of that body to advise the Governor that a prospective nomination is in its view not appropriate. But we do insist that the people of this state have an absolute right to have the Senate of New Jersey vote in a timely manner upon each and every nomination.

We urge upon you the adoption of a rule requiring that all nominations be reported out of the Senate Judiciary Committee no later than sixty days after the receipt of such nomination from the Governor. We urge upon you a rule requiring the Senate to

vote on such nomination when it is reported out. If in voting the Senate binds itself to any rule, custom, or ritual of defeating a nomination because the nominee is personally obnoxious to a single senator, we leave it to the voters of New Jersey to judge the adequacy of the consideration given by the Senate to executive nominations.

Finally, we point out to you that "one man, one vote" and the multiplying of the number of senators has multiplied the problem of senatorial courtesy and destroyed whatever rationale it might have had.

NEW JERSEY EDUCATION ASSOCIATION
180 West State Street • Trenton, N. J. 08608 • Tel: (609) 599-4561

STATEMENT by Walter J. O'Brien, NJEA Director of Government Relations, representing the New Jersey Education Association, before the New Jersey Senate Rules Committee, Senate Chamber, State House, Trenton, N.J., Thursday, January 24, 1974.

The New Jersey Education Association appreciates this opportunity to share its viewpoint on N. J. Senate procedures with members of the Rules Committee.

In August 1971 the Citizens Conference on State Legislatures published a report entitled The Sometime Governments, A Critical Study of the 50 American Legislatures.

The report ranked the 50 legislatures on five points with the New Jersey Legislature ranking as follows:

Functional:	14
Accountable:	42
Informed:	18
Independent:	31
Representative:	35
Overall:	32

We are optimistic that New Jersey can and will do better. There are two basic reasons: Nothing is stopping us and there is pervasive desire to improve the way the N. J. Legislature does business. This open meeting of the Senate Rules Committee is an expression of (1) your own initiative action for improvement, and (2) your responsiveness to a public calling for "a better way."

The NJEA is working with other groups in a Coalition for Legislative Reform. While we do not agree on every point with each of the other groups, we do agree on the following needs with respect to this hearing:

1. Additional committee staff and research facilities;
2. Establishment of a Legislative Public Information Office;
3. Open committee meetings (more on this later);
4. Prompt special elections to fill legislative vacancies;
5. Improved use of a consent calendar to break log jams.

In addition to the above, NJEA supports:

A. Holding sessions in a pattern which allows more concentrated and longer periods of work;
B. The accompanying of committee reports with bills reported out;
C. Establishing reasonably uniform committee rules;
D. Providing more staff and facilities for the Senate and Assembly Committees, at least;
E. Establishing reasonable bill deadlines for action by committees;
F. Providing offices for Senate and Assembly members;
G. Creating as few commissions as are necessary.

We must note, here, our commendation of the N. J. Senate Education Committee working procedure announced by Senator Stephen B. Wiley. The Education Committee, as we understand it, plans to meet on a regular, open basis. Appropriate agencies, interested persons, lobbying groups, etc. will be notified in advance of bills to be considered. Advance statements to the Committee from interested persons and parties will be reproduced for Committee members. The Committee will issue a statement and report to the N. J. Senate when a bill is reported out.

NJEA will give every cooperation to such a procedure. We welcome it.

* * * * * *

Year after year student groups from our schools visit the Legislature to "see how government works." These trips have some value. The day would be more impressive and enduring if the students would receive a brief written statement of "The Way Your N. J. Senate Works" signed by the Senate President and the Majority and Minority Leaders. Materials of this kind could be obtained by schools in advance of their trips.

The way the N. J. Senate works is important to all citizens. State Legislatures are the center of our governmental system. The N. J. Legislature needs to be strengthened, modernized, and made more responsive to millions of New Jersey citizens who depend on it.

In the array of public problems you face, one of the most formidable will be the determination of what is a "thorough and efficient" education for our children and how will we pay for it. We close by urging that the procedures in which the Senate meets this test of creativity, independence, dedication and endurance will reflect some of the recommendations we have supported or advanced.

Thank you.

1/24/74:cz

NEW JERSEY SENATE

RAYMOND H. BATEMAN
PRESIDENT PRO TEM
SENATOR-SOMERSET COUNTY
21 EAST HIGH STREET
SOMERVILLE, NEW JERSEY 08876

January 18, 1974

Senate President Frank Dodd
Chairman, Senate Rules Committee
Senate Chamber
State House
Trenton, New Jersey 08625

Dear Pat:

Enclosed for consideration by the Senate Rules Committee are some suggestions for new or amended rules for the 1974 session. These thoughts are based on my observations and experience during my 15 years in the Legislature.

1. First, I suggest two important rules changes regarding our procedure in considering significant nominations from the Governor. The Senate Judiciary Committee should be required to hold a public hearing on every nomination to a cabinet position or the Supreme Court. Such hearings probably should include public questioning of the nominee by the Committee, but also should not preclude testimony and interviewing in executive session. Secondly, the rules should require that at least 14 days must elapse between submission of a nomination and Senate confirmation for all nominations to the Supreme Court and to all cabinet positions, except the Attorney General and Secretary of State where the State Constitution does not provide for any holdover provision.

These important changes will help to ensure that these important nominations are given more open, judicious, and careful consideration than heretofore.They will help to give real meaning to the constitutional requirement of Senate confirmation. We have seen similar procedures operate successfully at the Federal level in recent years. There is no reason why they cannot be similarly successful in New Jersey.

NEW JERSEY SENATE

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2. The rules should require that the vote on lost bills should be recorded by means of the voting machine and entered in the Senate Journal. In recent years, the Assembly discarded the practice of not recording such votes; it is time for the Senate to do likewise. The public has a right to know how every senator votes on every bill brought to a vote on the Senate floor. Too often in the past votes on important bills, such as the citizen's right to sue to correct environmental pollution, have not been recorded.

3. The rules should require that within 30 days after a Senate session the Senate Journal for that session should be printed and made available to the public. Too often in the past inordinate delays in printing and publishing the Journal have made public awareness of Senate action difficult. Thirty days should be a reasonable time to prepare and publish this important public record.

4. I also suggest two other small, but significant, changes in the Senate Journal. First, in the listing of Senate votes, a new category of "not voting" should be added to "yea" and "nay" and those senators not voting on the measure listed opposite it. Second, in the index to the Journal the page number for the vote on third reading of a bill should be shown in italics or otherwise separately indicated. These two changes will greatly facilitate the process of looking up votes in the Senate Journal. It will thereby make it a much more useful and efficient research tool for those interested in its contents. These changes may require only a change in practice rather than in the Senate rules.

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5. A slight change in the form of bills which contain both sections amending existing law and new sections will eliminate a source of confusion. The words "NEW SECTION" should be printed (preferably in heavy bold type and underlined) immediately preceding the number of any new section. This change, which should require only a minor alteration in the printing procedure, will make easier the task of reading bills which are sometimes very complicated. It may require only a change in procedure rather than an amendment to the rules. A copy of the bill of the House of Representatives of the State of Washington, which employs this procedure, is enclosed as an example.

I hope that the Rules Committee will give serious consideration to these suggestions. Thank you for the opportunity to present them.

Respectfully,

Raymond H. Bateman

Enclosure

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. This 1973 amendatory act shall be known and may be cited as "the basic program of education financial equalization act of 1973".

NEW SECTION. Sec. 2. It is the intent of this 1973 amendatory act to:

(1) Assure the citizens of this state that adequate and equalized financial aid for education will result without the reliance on high property taxes resulting from annual special excess levies for operating and maintenance purposes;

(2) Assure the citizens and school districts of this state that the per pupil support level for a basic program of education as defined in section 17 of this 1973 amendatory act will not be reduced as a consequence of the passage of House Joint Resolution No. 37.

Sec. 3. Section 2, chapter 46, Laws of 1973 as amended by section 137, chapter 195, Laws of 1973 1st ex. sess. and RCW 28A.41.130 are each amended to read as follows:

From those funds made available by the legislature for the current use of the common schools, ((other than the proceeds of the state property tax,)) the superintendent of public instruction shall distribute annually as provided in RCW 28A.48.010 as now or hereafter amended to each school district of the state operating a program ((approved)) in conformance with law and with minimum standards established by the state board of education an amount which, when combined with the following revenues, will constitute ((an equal guarantee in dollars for each weighted pupil enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full school year may be ninety days as provided by RCW 28A.58.400)) financial equalization for the common schools of the state:

(1) ((Eighty-five percent of the amount of revenues which would be produced by a levy of seven mills on the assessed valuation of taxable property within the school district adjusted to fifty

TO: Rules & Order Committee

FROM: Senator Wiley

RE: Proposed Amendments to 1973 Senate Rules

I

Committee Reports

Amend the first paragraph of Rule 83B as follows:

"83B. The Chairman of each Standing Reference Committee, in reporting a bill or resolution, shall cause a Statement in duplicate, explaining the provisions and purposes of the bill or resolution, including any amendment thereto recommended by the Committee, summarizing relevant information and opinions received by the Committee concerning the bill or resolution, evaluating the desireability and potential effects of enactment of the bill or resolution, and recommending adoption or rejection of the bill or resolution by the Senate, to be filed with the Secretary of the Senate, one copy of which shall be delivered to the Supervisor of Bills for printing, if required."

Consistent with the concept of more comprehensive Committee activity, the purpose of this amendment is to provide relevant information upon proposed legislation for those who must vote upon it as well as for those who may at some future time be required to interpret or implement its provisions.

Increased professional staffing for Committees is a logical companion subject for consideration.

II.

Fiscal Review

Amend Rule 83E as follows:

"83E. (1) The Chairman of a standing reference committee shall cause at least one week's notice to be given to the Chairman of the Revenue, Finance and Apporpriations Committee of his committee's intention to report any bill which would appropriate State funds, or which would require the appropriation of State funds not set forth in dollars therein, or which would otherwise require or appear by its terms to require expenditure of [$50,000 or more of] State funds. [This rule is not applicable when the committee report is accompanied by a motion that the bill be accorded second reading by special order.]

(2) In addition, any bill of the type referred to in (1), above, which involves an actual or potential appropriation or expenditure of $50,000 or more of State funds shall, upon being reported by the committee and prior to its consideration by the Senate, be referred to the Revenue, Finance and Appropriations Committee for further fiscal study, evaluation and report.

(3) The Revenue, Finance and Appropriations Committee shall, prior to reporting for consideration by the Senate any bill referred to it purusant to (2), above, hold a public hearing in connection with the bill on such notice as shall be determined by the Committee at which

time all interested parties shall have an opportunity to be heard. Any such hearing may be conducted by and before a Subcommittee of the Committee consisting of a minimum of three (3) members thereof.

The primary purpose of this amendment is to demonstrate and foster fiscal responsibility by permitting every money bill of consequence involving State funds to be reviewed by the Revenue, Finance and Appropriations Committee. Present Rule 83F is modified to require notice to be given to the Committee when any money bill is reported but to require referral only for money bills of $50,000 or more. The recommendations of the Appropriations Committee, which is best qualified to place the bill in fiscal perspective with the entire budget, will be helpful to the Senate in reaching a judgment on the merits. Part 2 of the proposed amendment provides for a public hearing on such bills before the Committee or before subcommittees composed of at least three of its members. Quite simply, the thought is that the public should have an opportunity to be heard before expenditures are authorized. This right is available where acts of political subdivisions are concerned; it should certainly also be available at the State level.

III

Fiscal Notes - Political Subdivisions

Amend the first paragraph of Rule 142A as follows:

"142A. Whenever any member of the Senate shall desire to introduce any bill, which if enacted, would increase or decrease county, municipal, school or special district revenues or require an increase in expenditures by any thereof, he [may] shall request, in writing, [the preparation and certification] the office of Fiscal affairs to prepare and certify to him a fiscal note containing an estimate in dollars of the amount by which county, municipal, school or special district revenues or expenditures would be increased or decreased. Such a request for a fiscal note shall be processed in the manner prescribed by Rules 137 through 142."

The suggested amendment renders mandatory, rather than optional, the preparation of a fiscal note for bills affecting revenues of, or requiring expenditures by, political subdivisions of the State.

IV

Action on Bills, Joint Resolutions and Concurrent Resolutions

Amend Rule 123 as follows:

"123 (a) Any bill, joint resolution, concurrent resolution, or resolution may be made the order of

a particular day, on which day it shall be taken up, whether or not it is upon the Calendar for said day, in preference to any others whether or not they are on the Calendar.

(b) On the recommendation of the President, the Senate may, by resolution, limit its consideration of bills or resolutions at its next succeeding session exclusively to those bills and resolutions which are listed in the recommendation.

(c) At any given session, the total number of bills, joint resolutions and concurrent resolutions which may be considered for final passage shall not exceed twenty (20)."

The purpose of (b) and (c) is to provide an opportunity for due deliberation on pending matters either by limiting, or providing the mechanism for limiting, the number of items to be considered at a given session. Amendment (b), viewed alone, is primarily designed to avoid both the landslide of bills at the final, scheduled session and the concern that the avalanche would only increase should additional sessions be scheduled by the influx of new bills. As it states, (b) permits the Senate, on the President's recommendation, to limit its consideration of legislation at a succeeding session to a pre-determined list.

THE NEW JERSEY COUNCIL OF CHURCHES

NJCC

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January 24, 1974

TESTIMONY ON SENATE RULES

The New Jersey Council of Churches offers this comment on proposed Senate rules improvements in the general view that all proceedings of the state Senate should be as public as possible. Every practical step should be taken at once to offer incentive to the public to be informed on the Senate's business and to be in ready position to express view to the Senators.

Here are some detailed improvements that should be made in Senate rules for 1974 and beyond:

1. Chapter II, rule 8 regarding absense and admotions.-
   New language should be added to improve the attention of members to the business of budget study during the annual recess for shuch review. Presently, many Legislators are traveling in this period raising a serious question as to the depth of study being given to the State budget.

2. Chapter IV, rule 22.-
   Language should be improved to square with use of electronic voting machine.

3. Chapter V, rule 35.-
   Add,"Posting shall be in a conspicuous place in certain State public buildings for the purpose of public information."

4. Chapter V, rule 37.- Add, "and provide a public record open to copying by and for the general public."

5. ChapterXI, rule 83.- Add a new section "Committee votes shall be public information."

6. Chapter XI.- Add a new section "Senate Committees shall hold open public meetings except for executive sessions for single meetings granted only by vote of the Senate for a given meeting."

7. Chapter XII,- Add rule 89-"A vote taken and entered in the Journal shall be available as public information, open to copying by the public, on the same day as the vote is taken."

8. Chapter XX.- Add a new section- "In all cases, nominations shall be approved in committee and in the Senate only by majority vote, and under no circumstance shall

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8.(con't) the opinion, expression, or vote of a minority be allowed to circumvent the will of the majority."

NJCC notes with pleasure the expression of President Dodd to make the Senate into an activist body for the people. We feel strongly that bringing the public closer to the Senate would be a historic acheivement for the 1974 body. Our eight modifications are offered to that end.

We further suggest that the Senators reflect on their present style of business and be prepared to institute a verbatim public record of proceedings offering the best elements seen in the Congressional Record, but without the abuses such as "revision and extension of remarks." Such a public record could be provided at reasonable cost in limited edition each week. Limited editions would be open to public copying.

Constructive rules changes soon, will provide the New Jersey Senate with just expansion of pride in its proceedural style and ability to do the people's business in a just and representative manner.

AUG 14 1985