

PUBLIC HEARING

before

AUTONOMOUS AUTHORITIES STUDY COMMISSION

[Created under Assembly Concurrent Resolution No. 9, 1968,  
and reconstituted under Assembly Concurrent Resolution  
No. 15 of 1969.]

Held:  
April 16, 1969  
Assembly Chamber  
State House  
Trenton, New Jersey

MEMBERS OF COMMISSION PRESENT:

Assemblyman Kenneth T. Wilson [Chairman]  
Assemblyman Francis J. Coury  
Assemblyman John J. Fekety  
Senator Richard J. Coffee

Also:

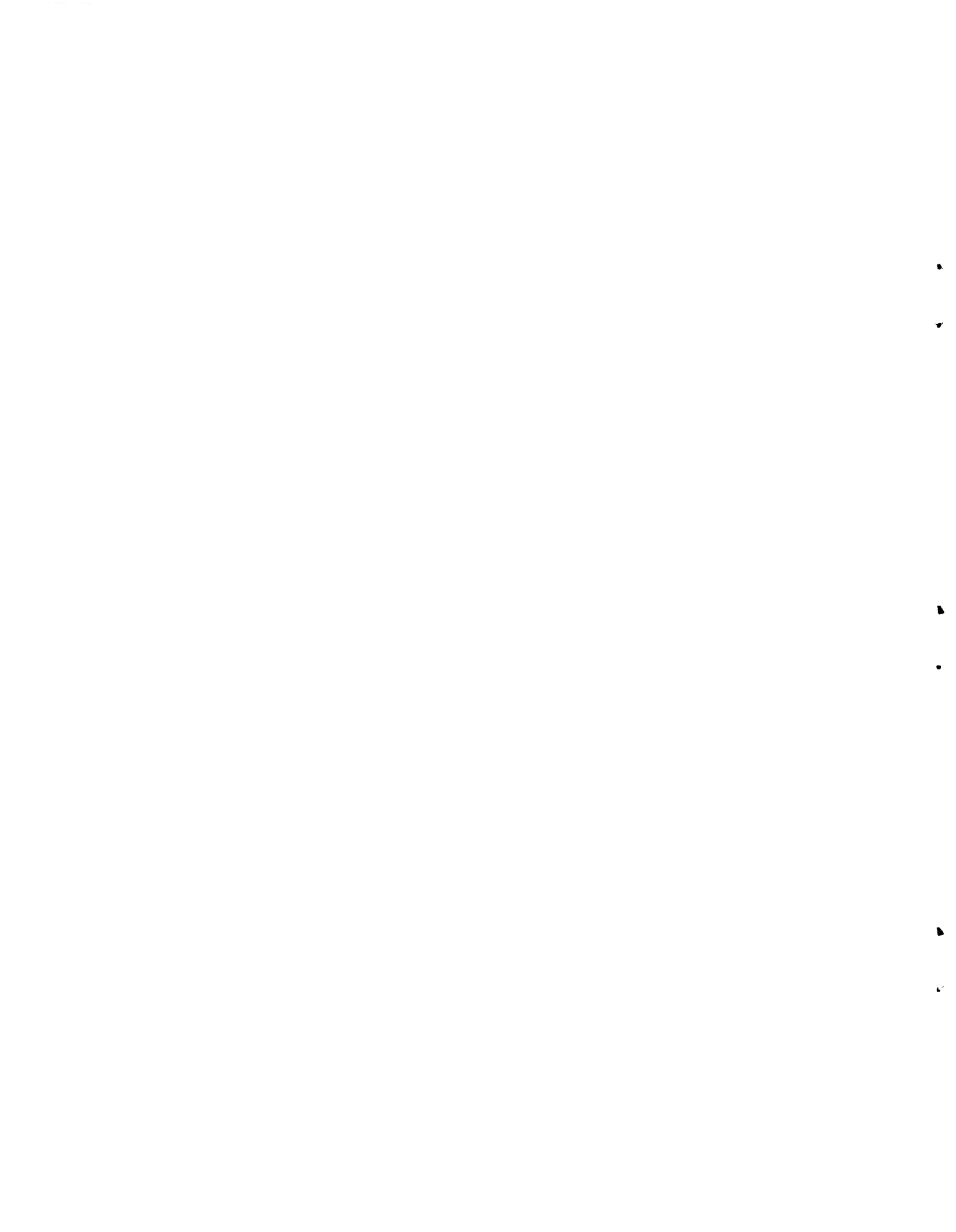
Monroe Lustbader, Esq.,  
Counsel to the Commission



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ASSEMBLYMAN KENNETH T. WILSON (Chairman): The hearing before the Autonomous Authorities Commission, created under Assembly Concurrent Resolution No. 9, 1968, and reconstituted under ACR 15 of 1969, will now commence, involving the Port of New York Authority and various groups which have a complaint relating to the Port of New York Authority.

The first witness I would like to call would be Edward Meskin, Business Manager of the Architectural and Engineering Guild, Local 66 of the American Federation of Technical Engineers.

Before Mr. Meskin presents his testimony, I would like to show in attendance, Assemblyman Frank Coury, Assemblyman John Fekety from Hudson County, and Monroe Lustbader, Legal Counsel to the Commission.

Mr. Meskin, we have been swearing in all of the witnesses that have been appearing before the Commission, do you have any objection to being sworn in?

MR. MESKIN: No, sir.

E D W A R D M E S K I N, called as a witness, is duly sworn.

ASSEMBLYMAN WILSON: Will you proceed, please. State your name and your position.

MR. MESKIN: My name is Edward Meskin. I am Business Manager of the Architectural and Engineering Guild, Local 66 of the American Federation of Technical Engineers, AFL-CIO. Our office is located at 317 W. 45th Street in New York City.

I want to thank the Commission for this opportunity to appear before it and present the views of our organization on a very serious matter that has developed at the Port of New York

Authority concerning the removal of tenure from approximately 2,000 professional and managerial employees.

As you know, the Authority is a bi-state agency created by the Legislatures of New Jersey and New York. We consider it fitting that serious violations of public policy should be brought to the attention of the Legislatures and appreciate this opportunity.

We have prepared a statement of fact, with supporting documents, including a chronological history of tenure of office of the Port of New York Authority dating back to September 25, 1941 - over 27 years ago.

(Statement referred to follows immediately)

ARCHITECTURAL AND ENGINEERING GUILD  
Local 66, A. F. T. E., AFL/CIO

T E N U R E

at

PORT OF NEW YORK AUTHORITY

- A. On September 25, 1941, the Board of Commissioners adopted a Resolution which was cited as a "Declaration of Policy of Tenure of Office" and provided that:

"Each permanent employee shall be deemed to be employed under the condition that he shall not be removed from the particular office or position held by him, except for good and sufficient cause or reason..only after a hearing."

"Any dismissal, demotion, or transfer of an employee, or the abolition of a particular office or position, for any other or hidden motives shall be regarded as violative of the spirit under which the resolution is adopted."

- B. On October 1, 1942, the Executive Director caused to be published General Circular #67 (revised April 16, 1946) which stated:

"The following types of disciplinary action shall not be taken with respect to any permanent employee having a classified position except pursuant to written charges, and a hearing before a Port Authority Trial Board in accordance with Part III hereof (unless such employee shall waive the filing of such charges or the holding of such hearing):

"Dismissal; demotion; transfer; temporary reduction in pay in an amount greater...than the equivalent of three days' pay; compulsory leave of absence without pay for a period longer...than three days; loss of seniority; forfeiture of more than three days' vacation..."

"No disciplinary action shall be taken with respect to any permanent employees having a non-classified position, except pursuant to a hearing in accordance with Part V hereof..."

- C. On December 18, 1958, the Executive Director caused to be published PAI 20-1.08 entitled "Employee's Right To A Hearing" which stated:

"No permanent employee shall be removed from the particular office or position held by him for other than the reasons set forth in the TENURE OF OFFICE resolution, GENERAL CIRCULAR #67, April 16, 1947, or PAI 20-1.09...except pursuant to hearing in accordance herewith, unless such hearing is waived."

- D. On February 13, 1969, the Board of Commissioners adopted a Resolution "in lieu of and instead of the Declaration of Policy of Tenure of Office adopted September 25, 1941."

Tenure at Port of New York Authority

- (1) In the Minutes of the Meeting (Page 100), the Tenure of Office change is introduced as follows:

"The Committee on Operations recommended that the Declaration of Policy of Tenure of Office adopted on September 25, 1941, be modified only with respect to unclassified, PROFESSIONAL and managerial employees, by providing that such employees are SUBJECT TO DISCRETIONARY REMOVAL from the Port Authority service WITHOUT THE NEED FOR A FORMAL HEARING."

- (2) Section 1(a), for the first time in reference to Tenure, introduces the term "classified" and provides tenure for these employees. Excluded from the term in Section 3(h) are "Professional and managerial employees," who, under the previous Section 3(g),

"shall mean all employees occupying positions to be specifically designated on a list to be promulgated by the Executive Director and filed with the Committee on Operations and the Secretary, and which shall, in general, include employees occupying positions which REQUIRE A HIGH DEGREE OF FORMAL EDUCATION OR SPECIALIZED TRAINING, those holding supervisory or managerial positions or positions of a confidential nature."

(In connection with this, the Executive Director submitted a list containing approximately 640 job titles.)

- (3) Section 2 of the February 1969 Resolution states that these employees may be removed

"FOR ANY CAUSE OR REASON under procedures established by the Executive Director and filed with the Committee on Operations.

(In connection with this, the Executive Director submitted a Procedure under which an employee may receive ON REQUEST, " AN INTERVIEW with the Personnel Director or other Department Head" at which time the basis for the action "SHALL BE EXPLAINED."

- E. The withdrawal of Tenure from Professional career employees came as a result of a Recommendation from the Committee on Operations which reported?

"As to those employees, the revision proposed is that, AS IS USUAL IN COMPARABLE POSITIONS IN PRIVATE INDUSTRY AND IN EXEMPT CLASSES OF PUBLIC SERVICE, they be subject to removal from Port Authority service by the Executive Director without the need for a formal hearing.

"The proposed revisions would not in any way affect the existing rights of permanent classified employees, who would continue to be entitled to retain their positions subject to good behavior and the proper performance of their duties or the possible reorganization or reduction in personnel. They would continue to be entitled to written charges and a hearing before they could be removed, dismissed, or transferred to a different position or demoted."

Tenure at Port of New York Authority

THE ISSUE

We would point out that what is at issue is the indisputable fact that the Port of New York Authority, after 27 years, withdrew a valued right of its Professional employees, that is, their Tenure of Office.

INCONSISTENT WITH PUBLIC POLICY

Apologists for the action state that the revision is consistent with comparable positions in private industry and in exempt classes of public Service.

Overlooked is the fact that Professional employees are not in exempt classes in public service. In state service, both in New Jersey and New York, they are protected by Civil Service Law, requiring written charges and hearings. The same is true in the City of New York where the main body of the Authority is located. Similarly, Teachers in the City and both states enjoy the protection of Tenure.

MUTUAL TRUST & CONFIDENCE

Authority representatives have indicated that Tenure is "demeaning" to Professional employees and destructive of "mutual trust and confidence."

By removing the Tenure of Office, the Authority has, in fact, destroyed that confidence which a Professional needs to be able to perform adequately. It is well established that Professional employees must be able to disagree on a Professional basis as their duties involve substantial exercise of independent judgment.

Withdrawal of Tenure inhibits the free-flow of Professional engagement in disagreements and reduces any exchange between him and his supervision significantly. Tenure of Office protects the Professional from adverse reaction to the exercise of his Professional function.

"NOTHING HAS BEEN CHANGED"

Authority representatives have put forth the notion that "nothing has been changed" and that the difference between the Tenure of Office Resolution of September 1941 and the Revision of February 1969 is "more technical than real." They offer in evidence the fact that the Executive Director must submit and has submitted a Procedure for removal of Professional employees.

A comparison is in order:

1. The Tenure Resolution states:

"1.(a) Each permanent employee shall be deemed to be employed upon the condition that he shall not be removed from the particular office or position held by him, except for good and sufficient cause or reason; and in the illustration cited in subdivisions i to iv of subparagraph 'b' hereof (or analogous cases) only after a hearing under such rules and regulations of the Port of New York Authority as may then be in effect.

Tenure at Port of New York Authority

The Revision states:

"Unclassified, professional and managerial employees may be removed by the Executive Director with the approval of the Chairman of the Committee on Operations, for any cause or reason under procedures established by the Executive Director and filed with the Committee on Operations.

2. Application of the Tenure Resolution is found in General Circular No. 67 and PAI 20-1.08 (December 1958)

Application of the Revision is found in a new Procedure filed with the Committee on Operations entitled "Procedure Governing 'Unclassified' and 'Professional and Managerial' Employees."

The language of PAI 20-1.08 and the new Procedure is similar in the first three phases in that they both:

- a. Require that the initiative for action begin with the Department Head
- b. Require the Executive Director to either forward the recommendation to the Personnel Director for processing or return it to the initiating Department Head with a disapproval, and
- c. Require the Personnel Director to notify the employee of the recommendation with respect to his position.

However, in the third phase, the PAI requires the Personnel Director to inform the employee of his right to request a HEARING; the new Procedure requires that the employee be "advised that he may request an INTERVIEW."

HEARING VS. INTERVIEW

The fourth phase of PAI 20-1.08, under the Tenure Resolution, states:

"In the event that the employee request a hearing such hearing shall be before a Committee on Investigation appointed by the Executive Director and consisting of three or more members."

The fourth phase of the new Procedure under the Revision states:

"In the event that the employee requests an interview, the basis for the action with respect to his position shall be explained to him thereat."

Certainly, there is a substantial difference between an "exit interview" and a hearing. Whereas the new Procedure ends at this point, the PAI establishes lengthy rules of procedure for the Committee of Investigation:

"It shall be the duty of such Committee of Investigation to inquire into the facts and recommend whether the employee shall be removed from his particular office or position for the reason stated, and to report its findings

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and submit its recommendations to the Executive Director. The findings and recommendations of the Committee shall not, however, be binding upon the Executive Director but may be reversed or modified by him.

"In the course of and as part of its investigation, the Committee shall AFFORD THE EMPLOYEE AN OPPORTUNITY TO APPEAR BEFORE IT IN PERSON OR BY REPRESENTATIVE, TO MAKE A STATEMENT AND TO PRODUCE TESTIMONY, WITNESSES AND OTHER PERTINENT DATA."

COMMISSIONERS VS. COMMITTEE

Under Paragraph G, PAI 20-108, a removal based on the Tenure of Office "shall not be effective until approved by the Operations Committee and concurred in by the Board of Commissioners."

The Revision of February 1969 provides for terminations to be "subject to the approval of the Chairman of the Committee on Operations."

CHANGE IS SIGNIFICANT

We are especially disturbed that, in the face of these obvious and substantial changes, the Port Authority would represent that there has been "no change" or that the change "is more technical than real." It is, in fact, devastating.

Numbers Involved

Nor are we impressed by Authority representations that "only a very few employees holding professional or managerial positions have asserted a right to a hearing." The essential point is that the number of employees affected approximate 2,000 in 640 job titles. They had a right to a hearing and this, in itself, may have reduced the possibility of unjust removals.

Further, Port Officials have indicated that few Professional employees have been discharged and that would explain why few have asserted a right to a hearing. On the other hand, if so few have been involved, why was it necessary to revise the Tenure resolution?

FUTURE VS. PAST

Representatives of the Authority emphasize that few Professionals have availed themselves of the right to a hearing. Therefore, we see no reason for their having eliminated that right for the few who, in the future, may seek a hearing. Unless, of course, their future intentions toward their Professional employees are not going to follow their actions of the past! This is the real significance of the Revision as seen by the employees.

NO JUSTIFICATION

Over and over again, we have considered the representations of the Authority and, from any point of view, must conclude that there is no justification.

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TENURE "DEMEANING!"

In its effort to defend an indefensible position, the Authority submits that the new Procedure has "been worked out to the mutual benefit of the agency and the employee without resorting to contentious and demeaning written charges and formal hearings."

Everyone in management connected with a discharge under the new Procedure is just as well apprised of the "contentious and demeaning charges" as in the past. The initial action of the Department Head is in writing, "setting forth the recommended action and the Department Head's basis for the recommendation." Only the employee is unaware - until he is advised that he is dismissed by the Personnel Director.

In other words, the decision is reached and finalized before the employee is advised. There is absolutely no provision for rebuttal of the written charges, including the many protections provided by the original Tenure. Thus, under the new Procedure, the process is more demeaning since everyone in authority involved in a discharge is guided by unrefuted charges, untempered by the employees' defense.

AUTHORITY'S POSITION RIDICULOUS?

Isn't it, in fact, somewhat ridiculous (and uncomplimentary to the Professional staff) for the Port Authority to take a position that the protection of Tenure is a detriment to the employee and that its absence is an aid?

RESPONSIBLE TO THE PUBLIC

While the Port of New York Authority is an independent, autonomous Authority, it is, nevertheless, subject to Public review. As a creature of the states, it has a Public responsibility. In the matter of Tenure, it obviously went beyond the Public Policy for no apparent reason.

The Board of Commissioners, unresponsive to the direct pleadings of representatives of the affected employees, should be urged to rescind their action of February 13, 1969 and, in the event they do not respond, be compelled, in the Public interest, to reestablish the protection of Tenure.

Thank you, Mr. Chairman.

ASSEMBLYMAN WILSON: I would like the record to show that Senator Coffee of Mercer County is also in attendance.

Mr. Meskin, have you ever met with the Commissioners of the Port of New York Authority to explain your displeasure, and so forth?

MR. MESKIN: Yes, sir.

ASSEMBLYMAN WILSON: And what was the result of that hearing?

MR. MESKIN: Yes, sir, we did. They meet once a month and at the meeting following February 13, 1969, which was on March 13, 1969, we went to their meeting. We informed them ahead of time that we were coming, by letter, and stating our position, and we did get the floor and we did present our views. We were told that we should take this up with the Administration of the Port and such a meeting had already been scheduled just before the Commission meeting, and we, of course agreed to go to that meeting and we did go to it. But nothing has happened since that time. And we attended the second meeting of the Commission since then, namely on April - last Thursday which would be April 10th, I believe, and at this time we also had written to the Commissioners ahead of time and we did ask for the floor. We got the floor and we were able to hold it very, very briefly and were told that we should take it up with the Personnel Department and that was sort of that. That's the only honest answer I can give you.

ASSEMBLYMAN WILSON: How many employees that work for the Port of New York Authority are members of your union or Guild?

MR. MESKIN: As you can understand, Mr. Wilson, we are in an organizing situation there and we have not been publishing these figures. We represent several hundred people and, if you care to, we can certainly prove it to you. The Port Authority has insisted in a certain way of our indicating our representation. For certain reasons, which I can go into, if you wish, we haven't been willing to use that method. We have been willing to use other methods and suggested them. They have not been acceptable. I think in due time this will be worked out, but we do, at the present time, represent several hundred.

ASSEMBLYMAN WILSON: Well, could you elaborate on this method of organization? I think the Commission would be interested in that.

MR. MESKIN: Well, I don't think it's of the greatest moment but there is a problem. Normally the Port Authority asks that organizations display their representation position through the use of dues deduction authorizations. This is how they do it for the other organizations that they have relationships with.

In our case, particularly because these are professional people, there was a certain hesitation by these people to let management know, to put it very bluntly, at this time or in the past months, that they were in fact members of the union.

On the other hand, every time we've met with the Personnel Department or the Deputy Director, Mr. Lukens, we have had three employees of the Authority with us at all times,

and these included two professional engineers and one technical employee.

We have suggested to the Personnel Department that we use a method that is used in labor industry relations and that is in the form of a card check where an impartial third party might view our authorization card and check the signature with a W2 form or anything else, application for employment, to verify their genuineness. This, of course, they were not ready to accept.

Now they say in due time this will work itself out. We have been trying to assure the employees that the Port does not discriminate against people who belong to unions, they say so in print, they say employees have a right to join organizations. They have said so to us and we have been trying to convince our members that they should believe this position and sign the dues authorization. And we do believe that we will, in time, be able to do it in this manner.

MR. LUSTBADER: Mr. Meskin, what precipitated this change, if you know?

MR. MESKIN: You mean on tenure, sir?

MR. LUSTBADER: Yes.

MR. MESKIN: I'll tell you, this is one of the questions we have not been able to really answer. At all of our meetings this question is debated and there are several schools of thought. There is the pessimistic school of thought that says, well they're doing this so that they can have a freer hand in cutting off a lot of heads. And I guess you would expect that there would be this kind of a school of thought

to react to this.

There are some people who believe that this is not so, that this was simply done because perhaps some people didn't think it out clearly enough and thought they would have a nice neat situation with everything pigeonholed in its place and there was no real necessity, even from the Port's viewpoint, of doing this thing.

Certainly it is true that they did not anticipate the Pandora's box that they opened up.

MR. LUSTBADER: What do you believe?

MR. MESKIN: I'll be honest with you, I just don't know. I am an optimist by nature. Until it's proven otherwise, I'll probably just string along a little bit with the second school, but I really don't know.

ASSEMBLYMAN WILSON: Do any members of the Commission have any questions?

ASSEMBLYMAN FEKETY: Mr. Meskin, to rephrase the Chairman's question, can you tell me at this time how many people you represent?

MR. MESKIN: Well, I think the answer I gave the Chairman - I have brought with me and if the Chairman or the Committee wants me to, I will put down on your desk a pile of authorization cards if you want to look at them. They are confidential and we have promised confidentiality to the signers. If the Committee wants to look at them, that's all right with me. Does the Committee wish to look at them?

MR. FEKETY: No, all I'm looking for is the number, sir.

MR. MESKIN: Well, as I say, sir, we are in a situation

where, you know, we are organizing and the Port Authority representatives are here. Until such time as we do give them authorization slips - dues deduction authorization, or such a time as they agree with our method of doing it through what is called a card check, I would just rather not divulge the number, but I do have the cards, sir.

ASSEMBLYMAN WILSON: Well, I would like to see them and I'll give them back to you. I'm curious myself.

(Cards given to Chairman)

ASSEMBLYMAN FEKETY: Then am I to assume, sir, that your answer at this time is that you cannot give this information, you cannot give me this answer?

MR. MESKIN: Well I've given you the cards, sir. They can be counted by the Committee members.

ASSEMBLYMAN FEKETY: I'm asking for an outright answer.

MR. MESKIN: We represent several hundred people of the Port Authority. I said this in my original answer to Assemblyman Wilson's question; I supplied the Committee with the cards; it will take only a minute to count them; and I think this is confidential information and I hope the Committee will understand that it does not change the validity of anything else that has been said here today.

ASSEMBLYMAN WILSON: Well, let the record show, along this point, that I received approximately a hundred letters from employees thanking me, as Chairman, for allowing Mr. Meskin to appear before the Commission and also backing ACR 72 which I introduced and am not planning to act on it one way or the other until after the testimony has been presented

before the Commission. So this might be an indication, Assemblyman Fekety.

ASSEMBLYMAN FEKETY: I just want to bring out one point here. Are we delving into confidential information at this time?

MR. MESKIN: Well, I can only repeat what I said, sir. I said before that we represent several hundred employees, I might say represented in terms of cards, authorization cards. I believe that on this issue that is before us this morning we represent all the people that are affected by tenure and we have gotten many, many such indications. As I said, the confidentiality of it has to do with the fact that the people signed these cards with the understanding that they would be kept confidential by our office and this is why we have to maintain that confidentiality. You understand that, sir.

ASSEMBLYMAN FEKETY: Thank you.

ASSEMBLYMAN COURY: Mr. Meskin, can you tell me, when was the Guild first formed?

MR. MESKIN: Oh, the Guild has been in existence since 1937.

ASSEMBLYMAN COURY: I had somewhat of a feeling that it was a new guild, a new organization of professional men.

MR. MESKIN: Oh, no. As a matter of fact it has been around over 30 years and this is a campaign to organize the engineering people of the Port Authority which is part of our jurisdiction.

ASSEMBLYMAN COURY: Apparently I'm not familiar with the procedures. You said you are still organizing and that's why the hesitancy in presenting the total number in the organization.

You made a comment that it's being organized. Now what does that mean?

MR. MESKIN: Well, let me put it this way. The same as in any other industrial establishment that we may have under contract with the Guild, and there are a number of them, some large ones in the State of New Jersey like the Foster-Wheeler Corporation in Livingston, the Lummus Company in Bloomfield. The process of organization means that you approach the employees in one way or another, by letter, by circular, and tell them the advantages of having an organization. And then you seek from them their support, first by asking them to authorize you to represent them, at least on general questions, and then, depending on each situation, in private industry you might petition for an election before the National Labor Relations Board. But the Port Authority is not covered by the NRLB and the only way that recognition is secured at the Port Authority is through showing through dues deduction authorizations that people have asked the organization to represent them.

Now that's another matter. We've had some talk about that too, but that's sort of off the point for this morning. So this process that we're going through is continuing. The professional employees, I think as everybody knows, have not been the first in this Country to organize; we're among the last. And there are many that have to learn about the need for working together for common purposes. So it is taking time. But this happened to come along, which we did not ask for and did not seek, and there it was - I mean, the tenure question.

ASSEMBLYMAN COURY: Would you say then that the tenure question is the spark in encouraging the enrollment into the Guild or is there another good reason for it?

MR. MESKIN: No, not at all. We have been organizing at the Port Authority for over a year by the time this tenure resolution was passed by the Commissioners. It was sort of a slow slogging kind of battle and we knew that it would be and we were prepared to see it through. We have discussed many issues. We have had many meetings with the Personnel Department before this thing ever happened, on various issues. We have taken up individual grievances with the Personnel Department for some people; we have taken up general questions. I think we have even been helpful in bringing this to their attention because it is a large organization and we've brought some things to their attention that they didn't know about and they were grateful that we did. So it was that kind of a situation. This thing had nothing to do with starting it or anything else, it came along just February 13 of this year. I think I gave out our first circular to the Port Authority somewhere around Lincoln's Birthday of 1968.

ASSEMBLYMAN COURY: Thank you.

ASSEMBLYMAN WILSON: Are there any other questions?

Thank you Mr. Meskin.

I would like to call the Deputy Executive Director, Mr. Lukens.

Mr. Meskin, will you stand by a while, we may have some other questions to ask you.

MR. MESKIN: Sure.

ASSEMBLYMAN WILSON: Mr. Lukens, do you have any objection to being sworn in?

MR. LUKENS: By no means.

M A T T H I A S E. L U K E N S, called as a witness, is duly sworn.

ASSEMBLYMAN WILSON: Do you have a prepared statement?

MR. LUKENS: I have a prepared statement that I would like to present which pretty well responds to the points that Mr. Meskin covered.

(prepared statement follows)

STATEMENT  
OF  
MATTHIAS E. LUKENS  
DEPUTY EXECUTIVE DIRECTOR  
OF THE PORT OF NEW YORK AUTHORITY  
BEFORE THE  
AUTONOMOUS STUDY AUTHORITIES COMMISSION  
OF THE NEW JERSEY LEGISLATURE  
WEDNESDAY, APRIL 16, 1969

Mr. Chairman and Honorable Members of this Commission:

For this the second of your Commission's public hearings in connection with its inquiry into the affairs of The Port of New York Authority, we have, at your request, come prepared to discuss the matter of tenure in connection with Port Authority employees.

As you are aware from Commissioner Clancy's statement and discussions with your Commission at your hearing in March, the Port Authority is a bi-State agency which was created in 1921 by an interstate compact between the States of New York and New Jersey to which the Congress gave consent. The impetus for its creation stemmed from the fact that the Port of New York, while shared as a matter of jurisdiction by the two States, is geographically, economically and commercially a single unit. A long history of bitter, destructive and ruinous competition between the two States for port business led them to create the Port Authority as the single corporate instrumentality for both States in the promotion, development and protection of the commerce of the Port of New York.

Basic to this decision by the two States to create the Port Authority, was their conviction that the Port's development must be carried forward under the auspices of a non-partisan, non-political, efficient and business-like government agency. A different organizational and operating structure would have been ineffective because the two States withheld from the Port Authority the power to pledge the credit of either State and the power to levy taxes, thereby mandating that Port Authority programs would have to be financed by the Port Authority out of its own resources.

Apart from some advances made by the States in the early years, all of which have been totally repaid by the Port Authority, the Port Authority has, therefore, relied solely on the revenues derived from its facilities in financing, constructing and operating the twenty-four terminal, transportation and other facilities of commerce which have been created by the Port Authority.

As Commissioner Clancy advised you, the Port Authority's ability to provide these facilities and to continue to plan the additional facilities required for the development of the Port, has been attributable in large measure to the policy of the two States under which the Port Authority is able to administer its affairs flexibly, effectively and efficiently. I will not detail again the controls which the two States have agreed shall nevertheless apply to Port Authority activities, such as the gubernatorial veto power, the fiscal audit power and the need for implementing legislation for virtually every Port Authority project. Commissioner Clancy's testimony elaborated on

the appropriateness of these controls as a matter of sound public administration, as well as our experience that they have still permitted the flexibility of administration required in this agency.

What should be underscored, however, is that the two States have never deemed it prudent or desirable to shackle the twelve Commissioners of the Port Authority with mandated procedures on internal administration because this would defeat the very objectives established for the Port Authority by the Legislatures themselves.

By the Compact of 1921, the two States reposed in the Commissioners of the Port Authority, the power to "elect from its number a chairman, vice chairman and (to) appoint such officers and employees as it may require for the performance of its duties and (to) fix and determine the qualifications and duties." (Article XIV). But the Compact did not subject the Commissioners in the discharge of their personnel functions to the Civil Service Laws or commissions then in existence in the two States.

In the forty-eight years of its existence, neither State has proposed any change in the powers of the Board of Commissioners of the Port Authority to select, promote and compensate its staff outside the framework of the Civil Service Laws and Commissions of the respective States.

The Port Authority Commissioners, as you know, receive no compensation for their services. The two States are fortunate in that, throughout the history of the Port Authority, the Governors of each State have appointed outstanding citizens who are leaders in their profession or businesses, who have brought to the work of the Port Authority tremendous experience and competence. These Commissioners have recognized the need for a competent full-time staff to execute their policies. In his testimony before you on March 3, 1969 Commissioner Clancy stated:

"The flexibility I have mentioned is essential for the Port Authority to carry out its work since it permits the application, in a public agency setting, of the best methods and techniques of modern American business management. As just one example, the Compact vests in the Commissioners the power to appoint a staff and to fix and determine their qualifications and duties. The Commissioners of the Port Authority have always insisted on recruiting and developing a well-qualified and well-compensated career staff, whose selection and advancement is determined by the Board solely on the basis of ability and achievement. It has been a deliberate policy of the Board to pay salaries comparable to the highest salaries paid by public agencies in the United States, but then to demand the same degree of competence from the staff as the Commissioners expect in their own private businesses."

As a member of the Port Authority staff for over twenty years, I am proud to say that our Commissioners have established a sound personnel program and policy which has encouraged the development of a staff possessing outstanding qualifications, abilities and competence and dedicated to serve in the public work of the Port Authority. A few years ago, the New York State Temporary

Commission on Coordination of Staff Activities issued a staff report following a two-year study of public authorities. Its conclusion with regard to the Port Authority's personnel programs and policies were as follows:

"The Port of New York Authority has a deserved reputation as a progressive employer":

"It is interesting to note that organizations like the Tennessee Valley Authority in the Federal Government and The Port of New York Authority have made some of the most significant contributions to modern personnel administration."

In their work entitled "The Administration of Interstate Compact," Richard H. Leach and Redding S. Sugg, Jr. observed:

"(The Port Authority) has developed a comprehensive formal personnel system which has come to be regarded over the years as a model system for governmental agencies."

It should be emphasized that the Port Authority's responsibilities are heavily oriented toward planning, constructing and leasing, rather than operating. For example, the Authority surveys the need for new marine terminals, plans their development and, when authorized, supervises their construction. It then leases facilities to steamship lines and other marine tenants who take over much of the operations functions of the terminal, with the Authority responsible for certain maintenance functions. In the same manner, the Port Authority does not operate buses or airplanes, but it does plan and build facilities for tenants that do, and it does develop rules and plans to assure adequate service of the public at its terminal and transportation facilities. This results in an organization structure with a relatively large proportion of professional and managerial personnel, as opposed to operating (and typically "classified") personnel.

Thus the Port Authority has placed a heavy emphasis on professionalization of its staff members. Its management and professional staff are encouraged to join and become active in professional organizations. Over the years, Port Authority personnel, representing the various professional specialities, have held top offices in almost every related professional society in this country.

The nature of much of the Port Authority's revenue-raising activities also creates the need for personnel who are entrepreneurially-oriented. For example, Port Authority properties representatives must negotiate hundreds of complex arrangements and agreements with their counterparts representing our airline, steamship, busline, trucking and other tenants. In our planning, design and construction work there are unusual requirements for our professional people to innovate and to challenge, continuously the two key factors of function and cost. Also, because of the overall requirement for self-support, Port Authority management personnel must be as heavily concerned with the performance of their units, including cost, revenue production and work production, as their counterparts in private enterprise.

With its special needs, the Port Authority has placed great importance on the development of its personnel. In a recent evaluation of our executive development program, the National Academy of Public Administration has said:

"The Authority (has) a broad reputation as one of the most competent and best managed institutions in the United States with an enlightened personnel program and an impressive executive development and training program."

The key to the entire program of personnel development is the relationship between the supervisor and the person he supervises. Growth results from the resultant interplay. It is the responsibility of each supervisor to coach, guide, and develop each employee for whom he has responsibility, because the Authority recognizes its employees as its most important asset. In the development of these assets, the supervisor must determine which employees should be given great challenges immediately, which should receive further training, which have reached the peak of their probable development, and which are not doing as well in the Port Authority as they might do elsewhere. Among professional and managerial personnel, the process is one of counseling and assistance. The Port Authority reimburses all its employees for any educational course taken by him or her that would enhance their capability to serve the Port Authority. It also provides a wide variety of instruction and special training programs throughout the year. Last year, The Port Authority spent over a million dollars on training.

The turnover rate at the Port Authority has been, for many years, at about the 7% mark, which is one-third of the average in the federal government, and one-seventh of the level in national manufacturing. Because of increasing labor shortages and mobility, turnover in the Port Authority has risen to about 12% in the last two years. It is still far below that of the federal government or of national manufacturing. This low turnover is not the result of accident, but of design. Recognizing the high cost of turnover and the human toll resulting from job disruptions, the Authority decades ago focused on effective recruitment as the key to job satisfaction, productivity, and low turnover. The entering level of professional and managerial job applicants is found on the college campus. Each year, Port Authority recruiters interview over 1,000 applicants in the leading colleges. Intensive tests are administered to the most qualified candidates and after an exhaustive screening process, the most highly qualified ones are selected for a career in the organization.

If the selection process has been satisfactory, and it usually is, the trainee is promoted to higher levels of responsibilities based upon demonstrated aptitude and competence. Thus, last year there were over 900 promotions in the Port Authority. The mood of the organization is characterized by a high degree of internal mobility. Personnel are frequently shifted for one year assignments in order to provide them greater exposure and new and different tasks with greater opportunities for self betterment and promotion. Transfers from one department to another department are encouraged and benefit the individual and the organization. With the heavy emphasis on the challenge of the job, motivation becomes one of the major concerns of Port Authority management. When an employee is no longer highly motivated, the time has come for a mutual agreement to try something different. This is the environment that has existed in the Port Authority for the past several decades, and the large proportion of its managerial and professional staff would not want it any other way.

At present there are approximately 7600 employees working for the Port Authority and its subsidiary, the Port Authority Trans-Hudson Corporation. In general terms, these employees are distributed to two principal groups: the

classified group which includes police, maintenance, operating and office services forces; and the professional and managerial class which is comprised of employees who hold high-level administrative and supervisory positions, or who perform professional services in connection typically with the legal, financial and engineering affairs of the Port Authority.

I should note that the Port Authority maintains a full-time career professional staff as opposed to the pattern in some organizations handling major construction where engineering, law and accounting firms are hired on a consultancy basis.

The Port Authority has, over the years, developed a system of competition for positions and promotions which is considered a model of objectivity in initial selection and advancement of its employees. This has been accomplished we believe, with careful consideration for the rights and aspirations of the individual employee, but with due regard for the fact that the supervisor must retain flexibility in the management of his responsibilities.

In the case of the classified group, promotions result from examinations which include written, oral and performance tests as a result of which eligible lists are compiled and the vacancies are filled from these lists.

The compensation structure applied to employees in the classified group corresponds closely to the usual Civil Service practice. The positions are graded and a salary range with periodic step increases is established. In the recent past, the compensation and other benefits paid to these employees have been determined following discussions with labor organizations with which many of these employees have affiliated. In the case of our Police, these discussions have taken place with the Port Authority Police Benevolent Association, as to our Maintenance force, the discussions have been had with the Building Trades Council, and many of our other classified employees are represented by the Transport Workers Union. PATH employees are represented by fourteen unions which include the railroad brotherhoods.

All of the classified employees have tenure under a 1941 resolution of the Board of Commissioners. This 1941 policy assures classified employees that subject to reductions in force, they cannot be removed or demoted from their positions except for cause. Furthermore, such removal or demotion can take place only after a hearing has been held on written charges specifying the alleged misconduct. The 3-member hearing board makes findings of fact and a recommendation after the hearing, and submits them to the Executive Director who acts as a reviewing officer. Should the reviewing officer recommend demotion or dismissal then his action cannot be final without approval of the Committee on Operations of the Board of Commissioners.

Port Authority employees in the professional and managerial group are recruited and promoted under a career plan which is designed to promote maximum development of a career professional and management staff. Selection for a particular position is based on an extensive review of each candidate's background and experience, his education, his particular skills, and quality of his performance in other Port Authority positions and his potential for growth in the future. Opportunity exists whereby clerical, maintenance force and police employees may advance to entry positions in the management and professional fields. This program in part involves a written qualification examination and the establishment of three broad management groups - junior management, middle management and executive.

The task of selecting and advancing professional and managerial employees is among the most difficult and important functions in the Port Authority. Under our standards these positions require a high order of ability, experience, education and expertise as well as the essential ingredient of good judgment. Competence is the sole criterion governing an individual's retention and advancement in such positions and the evaluation of the managerial and professional qualities is subjective. Many intangibles enter into the type of professional and managerial performance which is immediately recognizable as superior and wholly competent. While the absence of these intangibles is acknowledged to be a critical deficiency, it is for all practical purposes impossible in most instances to demonstrate that a particular employee lacks these intangible qualities, except through a gradual deterioration of work product.

As a result, down through the years in the personnel administration of the Port Authority where dissatisfaction has arisen with regard to the performance level of professional and managerial employees, they have been worked out informally to the mutual benefit of the agency and the employee. Through a wide variety of contacts, the employee is aided in a relocation which results in an overall improvement for his or her individual careers. Out of the many thousands of employees who have held professional and managerial positions in only one case has it been necessary to resort to contentious and demeaning charges and a formal hearing on the sensitive question of the competence of an employee in a professional post.

I might point there, since Mr. Meskin commented on that, that in this one instance we had discussions for almost a year with this employee trying to make him adjust, help him adjust, and meet his particular problems before any charges were filed. Similarly in a case which is now pending. We have been discussing this man's problems with him for a substantial period of time, like 8 or 9 months, and only now will any charges be filed in that instance. So this is a question, as Mr. Meskin said, that the employee doesn't even know what the problem is until he reads the written charges that are handed to him. That just doesn't work that way. But then Mr. Meskin really isn't very close to how our organization operates so I can understand his misunderstanding of that situation.

I submit that this record amply demonstrates that the Port Authority has prudently administered its career plan for professional and managerial employees. In regard to the matter of tenure, I submit further that our professional and managerial employees have over the years exercised good judgment in working out informally any problems which may have existed in regard to the level of their performance.

"Tenure" has never been regarded as an essential employment condition by our professional and managerial staff. Indeed, these personnel have always understood that their continued employment was based on performance and that termination procedures, if necessary, would not involve formal hearings. For example, in literature which has been distributed to Port Authority employees over the past twenty years, it has been stated in regard to professional and managerial employees:

"If a department head is considering disciplinary action against a Service B employee, he will give the employee a full opportunity to be heard in the matter. If, following such a hearing and any further investigation that may be indicated, the department head believes that disciplinary action is called for, he submits a written report with recommendations to the Executive Director.

"The Executive Director then takes whatever action he thinks appropriate, and informs the Personnel Director who notifies those interested.

"If disciplinary action should be warranted and this action is dismissal, demotion, or transfer, the employee is given an opportunity to discuss the matter with the Executive Director."

Now that has been given to all employees for all practical purposes for a long number of years. So certainly the employees generally have known about this situation.

These procedures are similar to those provided for professional and managerial employees in the Resolution of the Board of Commissioners in February 1969. Thus, it should not be surprising that only a few of our present professional and managerial staff have expressed concern regarding that action by our Board which confirms our long-established and well-understood informal approach to evaluating performance in connection with any question as to their retention in that service.

The Commissioners have, of course, required the adoption of procedures for handling such questions with respect to professional and managerial performance which will insure that no particular supervisor will be able to act arbitrarily or capriciously with regard to the retention or demotion of a professional or managerial employee. The procedure, which now applies, entails careful review of each proposed action significantly affecting the status of a professional and managerial employee by the Executive Director, who is the chief administrative officer of the Port Authority. Should the Executive Director concur in a recommendation by an employee's Department Head, the employee may then request an interview at which the basis for the action will be explained to him. No removal from a professional or managerial position can be final without the approval of the Chairman of the Committee on Operations of the Board of Commissioners, which handles personnel matters generally.

As you know, the Architectural and Engineering Guild has been publicly protesting the February 13th resolution of our Board of Commissioners. This union has been attempting for almost a year - I think Mr. Meskin said over a year - to organize employees in certain professional positions on the Port Authority staff. As a matter of fact, days on days they stand down at the elevators where our employees enter the building and they keep on handing out handouts to our employees, and they have done this many, many times over a year and a half to try to organize a number of our engineering and professional employees. To date the Guild has presented no check-off cards to us to verify its claim to represent any of our employees. As a matter of fact, we have agreements or memorandums of understanding with some 20 different

unions which are nationally affiliated, most of them with the AFL-CIO, for example, and in all cases we have check-off cards, dues check offs, so we don't understand the reluctance of this organization to comply with normal procedure that other unions follow. They have advised us that three of our employees have affiliated with the Guild. That's all they have ever told us. They brought three of those men to my office and that's all that we officially know belong to this union. Of these three, one is not affected by the February 13th action by our Board since his position is included in the "classified" category. Another has a signed check-off card on file with us indicating membership in another employee organization, of these three.

Nevertheless, the Architectural and Engineering Guild was invited to meet - incidentally, I might say, the Port Authority for 25 years has always had the position that any organization, reputable organization, that wished to try to organize our employees was free to do so as long as they did not interfere with the Port Authority operations or the work of the employees. So for over 25 years we have had an open door to any organization and any union that wished to organize our employees. In fact, only in the last six or seven years has any nationally affiliated organization organized any number of our employees.

Nevertheless, the Architectural and Engineering Guild was invited to meet with representatives of our Personnel Department on February 19, 1969. At that time the revision in the tenure of office resolution was made available to them and discussed in detail with them. This is like six days after the Board had acted. As you also know, these discussions took place within the 10-day period which each Governor could have disapproved this action by our Board.

I regret that a representative of the Guild has misled members of the Legislature by claiming in material distributed to the Legislature that there was no discussion of the matter with the Port Authority before it became fully effective. That just is not so. I am informed also that representatives of the Guild have stated to members of the Legislature that at least two permanent employees in the service of the Port Authority, in this group that they're trying to organize, have been dismissed by the Port Authority since the action of the Board on February 13th. This is absolutely false. No such dismissals have occurred.

Nor has the Guild acknowledged in its representations to the Legislature that our Board of Commissioners after hearing its representative at their March 13, 1969 meeting, directed the staff to review the matter. Accordingly, on March 20th, I met with representatives of the Guild and advised them that a review had already been undertaken and that we would very carefully evaluate the proper distribution of each job either to the professional and managerial or to the larger class of employees who will continue to receive written charges and a formal hearing incident to discipline. Such a review is nearing completion.

Finally, I wish to note that the February 13th action by our Board is consistent with the policies of many other public agencies. Professional and managerial employees serve at the pleasure of the New Jersey Turnpike Authority; individuals in positions in the unclassified service in New Jersey, for example, including attorneys in state and local service, employees of the New Jersey Turnpike Authority, engineering, professional and other employees of the South Jersey Port Commission, legislative employees and many employees in the State and local confidential positions are not covered by the general tenure protection of the pertinent New Jersey statutes. In the federal service as well there are many so-called Schedule C positions involving policy and judgemental decisions, which are not protected by tenure.

That completes my statement, Mr. Chairman and members of the Commission and, of course, we will be pleased to answer any and all questions which you have at this time or to provide any additional information.

ASSEMBLYMAN WILSON: I would like some questions on the points submitted in Mr. Meskin's statement. For example, he states that in PAI 20 - this is on page 4. Do you have a copy of his statement?

MR. LUKENS: I do not, no. But that's all right. What does he say.

ASSEMBLYMAN WILSON: Well it will be easier that way. Mr. Meskin do you have a copy of your statement that I could give to Mr. Lukens?

(Statement given to Mr. Lukens.)

ASSEMBLYMAN WILSON: At the bottom of page 4, hearing vs. interview. It says that "In the event that the employee requests a hearing such hearing shall be before a Committee on investigation appointed by the Executive Director and consisting of three or more members." This was in your PAI 20-1.08.

MR. LUKENS: Right.

ASSEMBLYMAN WILSON: Now your new resolution, passed February of 1969, changed this phase of the procedure and it

says, "In the event that the employee requests an interview," - of course, to me an interview is not a hearing as far as terminology is concerned, "the basis for the action with respect to his position shall be explained to him thereat."

Now, to me, it doesn't look like there is any investigation whatsoever and that there really is no hearing whatsoever as far as an employee is concerned.

MR. LUKENS: Mr. Chairman, the difference is a formal hearing vs. an informal hearing. In the case of the formal hearing applied to the so-called classified service, you do have a formal hearing, you have a stenographic record, you generally have lawyers present and this goes on for an extended period of time.

In the case of the informal review that is provided for in the so-called unclassified service, the reviewing officer would be designated by the Executive Director and there is nothing to prevent him from getting any facts, as a matter of fact he would usually get additional facts that might bear on the particular case at hand. But a stenographic record will not be kept. That is not the intention, and never has been in these instances.

See, as I explained in my testimony, Mr. Chairman, this is nothing new, this is exactly the way we have handled this for the past some 20 years as to the relationship and procedure that we have had with regard to tenure and on professional and managerial personnel.

In only one case, and now another one pending, has the question arisen as to whether or not an unclassified

employee has a right to a hearing. And in all other instances there have been no formal hearings and nobody has requested a formal hearing in the professional and managerial classes.

MR. LUSTBADER: Mr. Lukens, the fact that nobody has requested it and that it's customary to grant it, I would assume is much more different than an absolute right to a hearing. I think if I read Mr. Meskin correctly, he indicated that as a matter of principle he wanted to protect the rights of any employee who insisted upon a hearing and was denied it because the regulation or the directive did not give him this right as a matter of right. This is what I am concerned with.

MR. LUKENS: Well, Counsel, I tried to outline the fact that in the Port Authority we do such a different job than normal governmental bodies of trying to create an atmosphere and a psychology in our managerial and professional personnel. We believe that because of our requirements to be self-supporting, because of the kind of work we do, because we are required to negotiate with some very able people in private industry, and hundreds and thousands of agreements and arrangements all the time, we believe we need the kind of person that can hold his own with them. So we have sought excellence in our professional and managerial personnel. Similarly in terms of our work in the area that they're concerned with.

I can't tell you the hours and the effort that we make from the Engineer 1 to the top personnel in the organization to try to evolve the most functional, the least costly, the best and most efficient facility starting with

transit sheds or warehouses or at Port Newark or Port Elizabeth, our container facilities, or at the airport, that can possibly be developed. We've led in this field in the entire world in what we have accomplished.

So we are trying to get an atmosphere of a man, as an engineer, who is interested in the challenge of this job and who isn't worrying about job security, except for his performance, not on the basis that he can sit there forevermore and be protected with the right that whatever he does or however he does his job he can just sit there with the protection without regard to his performance.

So that the whole atmosphere of our organization is just absolutely and completely different from what you would find in a normal civil service setup.

Now to the very specific point you raise, as to the right. Well, for 20 years we have been preaching this gospel to our people. I personally have been in the engineering department and made speeches - I don't know how many - to our young engineers. We try to recruit the most competent young men out of college that we can in the engineering field and management field and imbue them with this spirit of innovation and challenge and opportunity. So there is a completely opposite attitude that they have to the point where they are worrying about their rights and their job security, in terms of nobody can dismiss them or fire them, come what may.

So here we have for 20 years or more a record of preachment and literature that has said this to these people

and no one has ever really thought about the right. The three men who accompanied Mr. Meskin in my office admitted that they weren't aware that such a right existed themselves until this issue was raised at the time of the Board action and I guess it was raised mostly by the Guild. And I must regretfully say to you that these men have been for over a year trying to organize our employees and, quite candidly, I don't criticize them for it, I think they're using this as an issue to try to organize our employees. They raised the issue and now these three men, and there may be some others, we have no evidence of it, have now felt they have had a right taken away from them. But the fact is, nobody ever thought they had the right to begin with. So it's a more technical issue, I really and sincerely believe, than one that's of any importance, really.

MR. LUSTBADER: Well, you're saying in effect, trust me, we'll take care of you, we've always done the right thing. But apparently others take the view that this change was made for a reason and, since you saw fit to take that right away, either legislatively or by directive, and therefore you must have had an intent eventually to administer it somehow and, in effect, as Mr. Meskin points out, create this as an exit interview, sometime maybe some bureaucratic individual will interpret it thus and all of your paternal approach would be out the window. Isn't that the problem?

MR. LUKENS: Well, it isn't a problem. The problem arose because of this one case that came up and the man asserted himself that he have a hearing - incidentally, that man has been dismissed after a Board trial because of

incompetence. Our Law Department reviewed the whole history of this picture after this long period of time when we thought otherwise and they advised management in fact in their opinion the 1941 resolution applied to all permanent employees. It was that that triggered the question in management's mind that because of the reasons I've explained to you we should recommend to the Board that the Board should consider making a change in that resolution so far as the unclassified employees, mainly because of the psychology and the atmosphere and the deadening effect it would have on these people that we rely on for our management to bring exceptional qualities and approaches to our responsibilities.

SENATOR COFFEE: Mr. Lukens, can you tell us how many unions have representation within the Port Authority?

MR. LUKENS: Yes, sir. Twenty, and they are a full spectrum of AFL-CIO unions and a couple of independent unions.

SENATOR COFFEE: Does the Port Authority enter into contracts or agreements with various unions?

MR. LUKENS: We enter into PATH unions because that was permitted in the legislation that this Legislature passed. However, our Law Department has advised us that we may not enter into contracts with Port Authority employees but rather the ruling law, so far as our other Port Authority employees are concerned, is the New Jersey Constitution. And so we follow the New Jersey Constitution in that respect and we do not hold negotiations because we are advised the Constitution doesn't permit that. We hold "discussions" with all of these organizations and in addition we enter into memorandums of

"understanding" which I don't think you would be able to differentiate between a contract and a memorandum except maybe one small clause.

SENATOR COFFEE: That would have been my next question.

How many employees actually come within these 20 unions?

MR. LUKENS: Our Personnel Director is saying to me that roughly between PATH and the Port Authority employees it runs something over 3,000. But then you have the PBA and the PBA is, as you know, nationally and anywhere you have it, and you have it in practically all police jurisdictions, is not considered a union, it is not affiliated nationally with any national labor organization, but that includes another like 1100 Port Authority policemen. So somewhere around 4,000 or 4,100 people, something like that.

SENATOR COFFEE: Does the Port Authority recognize the check-off system?

MR. LUKENS: In every instance there is check-off. And we have never had any problems about that, nor have the unions.

SENATOR COFFEE: Do you agree that there are approximately 2,000 professional and managerial employees within the Port Authority?

MR. LUKENS: We differ with that slightly. Our figures would indicate there are something like about 1700 of which maybe one-half would be classified as management personnel and the other half would be classified as professional personnel but professionals then would include not only engineering type personnel but lawyers, accountants

and others.

Now, incidentally, I would like to make a point that has not been involved here and I think it's an important point and that is that the Port Authority does employ 7,762, as of this week, permanent employees. We, as well, have like 502 so-called temporary or annual employees. These are no different than you find in New York State, New York City, New Jersey State, and other public bodies. These, generally speaking, are in the engineering fields or related engineering, including survey crews, draftsmen, and what-not. The reason these are annuals, they personally enjoy all the benefits of a permanent employee but they are not members of the retirement system. They would not and have never been considered to come under the tenure of office resolution. And the reason why they are hired is that basically they are for peak requirements - like when the State designed the Round Valley Reservoir and the Spruce Run Reservoir and things like that, they go out and hire a hundred engineers or engineer designers or what-have-you, survey crews and what-not, for that project, so they do not feel it desirable for a variety of reasons to come in and make them a permanent member of the civil service. As a matter of fact, in their procedures they probably couldn't get them in time enough to have them on the payroll to do the job but the State does have a large number of those people and this is characteristic of most governmental bodies and we do have 500 of these temporary employees and ninety-some percent of them have been with us three years and less because they are on projects. Those who work longer than three years are

generally men who work - like on the Newark Development Project, we have a large number over there, which has been over a stretch of a three year span. When that finishes, if we have another project and they'd like to work on it and we're happy with their performance, we might very well offer them another job on another project. So sometimes they stay beyond that.

Now, Mr. Meskin, when he talks figures and when he gives you cards and when he sends out a duplicated letter to several hundreds of our employees, like 800 of our employees, with duplicated cards to send to you, Mr. Chairman, indicating their support of this tenure of office resolution, there is no way of knowing in God's green world, unless you examine those, as to whether they include these temporary or annual employees because these people, although they are used to this kind of an existence, you know, who wouldn't like to become a permanent employee if that's possible. But the fact of life is that many of these people wouldn't qualify as a permanent employee, either here or in the State of New Jersey, for example, because of age, because of medical restrictions, because of language problems, because of even qualifications, for example, so the annual is a completely different person in our framework and in any other governmental framework. But Mr. Meskin keeps mixing them up in this picture, so there are 500 on top of the 7600 that sometimes he refers to and may very well be involved in the cards you've gotten and in this card file he gave you. We have no way of knowing how many of those people are of the annual type of personnel but there are 500 of them and they may well represent a majority of those cards.

Let me say one other thing --

ASSEMBLYMAN WILSON: I would just like to interrupt you to welcome the people in the gallery.

This is a joint commission of Senators and Assemblymen studying autonomous authorities and the individual who is giving testimony is Mr. Lukens, Deputy Executive Director of the Port of New York Authority. We welcome you to the Assembly Chambers and the Commission hearing. Where are the children from?

MEMBER OF GROUP: From the 10th Senatorial District, Morris County.

MR. LUKENS: May I also welcome the young people in the gallery. I might say they are more attentive and quieter than the last audience I had when I was here, Mr. Chairman, because I testified on the fact that the Port Authority believes that Solberg is the place for the 4th airport. The gallery was filled with many well-meaning citizens from that area.

ASSEMBLYMAN WILSON: Didn't you also make a statement that the Great Swamp was the first choice, in Morris County?

MR. LUKENS: Oh, I did say that and there were a number of Morris County people in the audience as well, including the teachers, I see, that are up there.

ASSEMBLYMAN WILSON: All right, let's continue.

MR. LUKENS: I had one more thought on the annuals but I lost it at this point, Mr. Chairman.

SENATOR COFFEE: At what point along the way does the Port Authority decide to recognize a union? What criteria has it established? A certain number of employees signed up?

MR. LUKENS: This gets to be a very difficult matter, Senator, under the New Jersey Constitution because there are

no ground rules laid in the New Jersey Constitution.

Literally, anybody who comes in and says, I represent Joe Jones, we must recognize and we must deal with him and, in fact, we have done so. On the other hand, in order to have some order out of a possibly chaotic situation, we have attempted to establish bargaining units, homogeneous families of occupations and we have tried to persuade the organizations that try to represent that group. In the other field, you see, because of the competition between the unions, like the automotive vs. the maintenance group, the AFL unions have readily accepted the kind of jurisdiction and units that we have suggested, although there has been some disagreement, we have been able to amicably settle that and I guess they have held -- have they held elections? - no, but they come in with check-off cards, you see, which indicate that they represent a majority of the unit, like the automotive mechanics has generally been an unhappy kind of lot for one reason -- well, I shan't say that and I won't but their supervision has not been of the best. They were one of the first to organize and they quickly recognized that they were a bargaining unit and we proposed that they confine themselves to that bargaining unit and not go over into the maintenance group, and the maintenance group - the AFL was organizing them, so they agreed that they would accept what we proposed. So up to now it has been a kind of discussion with the union organizations and they generally agreed with our proposals.

SENATOR COFFEE: One last question to better crystalize the situation that we are discussing here this

morning. Can you give us, in your opinion, the position where you are now at - I mean the Port Authority - with the Architectural and Engineering Guild, Local 66?

MR. LUKENS: Well, we don't know specifically, since we have never been furnished evidence of who and how many they represent except the three men that appeared in my office. Our Personnel Director, I think if they accepted it, has a date to meet with them on April 21. This is one of a series of meetings, as Mr. Meskin has indicated, that have gone on for many months. But what has happened there as well is that in addition to the tenure of office now, in the last letter they wrote to us, like April 3, they raised a whole host of other questions which would indicate that we are going to have a continuing dialogue like we've had for a number of months in the past. They've raised the question of salaries, they've raised the question of certain grievances, they've raised the question of certain classifications, they've raised innumerable issues, and perfectly properly so - I don't mean to be critical of it but this is not a simple one-issue matter where you can say, here's the answer and let's be done with it. This is the way it looks, that there's going to be a continuing "discussion", although it would be a negotiation in any other framework, that's going to go on for some period of time, and I would think that at some period of time we will reach some kind of an understanding, which shouldn't be hard to do, as to who they represent, to give us some evidence of who they represent. When they present that -- this causes us no problem, absolutely none.

ASSEMBLYMAN COURY: Mr. Lukens, this problem of procedure leading to an employee's dismissal and perhaps, incidentally, job promotions, we recognize is not unique with the New York Port Authority, but this problem has been a topic with many professionals, I think.

MR. LUKENS: It's a very difficult one in the professional field.

ASSEMBLYMAN COURY: And, consequently, many companies have developed programs of regular employee-employer interviews to determine the status of the employee within the organization. Do you have such a program within your organization?

MR. LUKENS: Individual interviews?

ASSEMBLYMAN COURY: Yes, interviews with employees on a regular basis to alert them as to their professional standing within the organization.

MR. LUKENS: Yes, we do that - as a matter of fact, we do that with our supervisors, we do this without fail with the supervisors and we keep records on the supervisors at least yearly, not for the purpose of saying this man is no good or this is a weak spot and he shouldn't be promoted, but rather - in my paper I stress this whole approach development. I quoted to you the National Academy of Administration, which is the top organization in its field on administration and management in government, which said we have one of the best systems of personnel systems, policies and executive development, they have found anywhere in the Country. What we do with that is, we use that to say how can we help this man

improve? So, as I said, we spend a million dollars in training a year. So we use this as a means to transfer people to other assignments; to broaden their scope; to give them a different supervisor, if they have problems with the supervisor, maybe the chemical reaction isn't right. We also encourage them to consider going to a school that will upgrade their abilities in the field, either professionally or as a matter of management. So we have any number of people out all the time that are going to - any school, you name it, they've been there in terms of people who can improve their professional competence - like we send people to Stevens in the data processing field, we send men to universities to get better structural background, we send men to the Harvard Business School, we send men to Bethel, Maine, for the kind of training they give up there to make them better supervisors. We understand the fact that we have an investment in these people and it is our job to improve and capitalize on that investment, which is kind of a selfish way to look at it but this redounds to the benefit of the individual. And, as I say, in an organization of our size we have 900 promotions a year which is a fantastic number of promotions. This does not include transfers. We have at any one time 25 people who are on mobility assignments. If you took an engineer at, say, grade 6 or 7 in Port Authority you would find he worked in five or six departments of the Port Authority, generally speaking, because promotions are because of our encouragement for them to broaden their experience.

ASSEMBLYMAN COURY: Well, the record of promotions is

commendable.

Now in the area of dismissal, would the employee prior to his interview - would this be supported by some documents regarding his most recent --

MR. LUKENS: Yes, sir. It must be written.

ASSEMBLYMAN COURY: Would there be a back-up - I mean, would there be a back-up of a history of perhaps several occurrences of poor operation?

MR. LUKENS: Yes. I have one in my bag, in case you had the name of this person that we've worked with for a year to try to persuade him that it's in his best interest to go get another job and we would help him get another job. The poor fellow. We recruited him and we put him in a planning and analytical department under Roger Gilman, who just got our Howard Coleman distinguished service medal, an outstanding public servant who lives in Plainfield, New Jersey, - this poor fellow is just not an analyst, he's not a planner, he's an operating man, a man who understands traffic management and truck operations, and after a year and a half it is obvious this is not his meat. So we have been trying to encourage him that we would get him a job with several organizations where he could apply this expertise which he has but, for some reason, he has got the bone in his teeth and he decides, no, I want to stick it out and fight it out. And he has just requested a hearing. This is the second case. He wants a hearing. And since the case started before February 13, we are going to have a hearing. This is going to have a devastating effect on his career, he's going to have a file that thick (indicating)

with what people are going to say in criticism of his inability. Now I have a file that thick (indicating) from the three supervisors he worked with in the Port Authority which says what are his inabilities and what is his limitation. He has seen that, it's been discussed - I've discussed it with him. His name is Gaeta. You know, we don't take these things lightly.

ASSEMBLYMAN COURY: Thank you, Mr. Lukens.

One last question. Then you do have a formalized procedure for reviewing employees.

MR. LUKENS: We certainly do. As a matter of fact, one other point you should know - the police - the police have always, traditionally, had a departmental hearing. Under this present procedure that we're talking about, - the sergeants, of course, are just like they were before; the lieutenants and the captains are the ones who now would be entitled to an informal hearing. They still are entitled to a departmental hearing in just the same way we did it before.

ASSEMBLYMAN COURY: Thank you.

MR. LUKENS: Yes, sir. Our whole approach in personnel is an accent on the positive and not the negative, and I think we have been very successful.

ASSEMBLYMAN WILSON: All right. Thank you very much.

We'll call you later on another problem.

Mr. Meskin or Mr. Lukens, you have both heard the testimony and we don't have time for rebuttal, and so forth, so what we would like you to do is send a letter to the Commission in rebuttal which we can enter into the next hearing

that we do have. If you will send it to me, I will have copies made and sent to all members of the Commission.

MR. LUKENS: Thank you very much.

ASSEMBLYMAN WILSON: It's voluntary, it is not required.

I would like to read into the record a letter from Joseph Solimine, who is Secretary of the Essex County Board of Taxation, concerning payment in lieu of taxes. Instead of reading the letter, to get the hearing under way, I will just have this entered into the record. (See p. 52 A)

I would also like to give the Port of New York Authority a copy of this.

I believe before we call our next witness, Mr. Biunno, who is Business Administrator, City of Newark, the Legal Counsel of the Port of New York Authority has a brief statement he would like to make.

Will you state your name and position, please, for the record?

S I D N E Y G O L D S T E I N: I am Sidney Goldstein, General Counsel to the Port of New York Authority.

Prior to Mr. Buinno's testimony, we have a statement for the record.

The Agenda for today's hearing lists as the first witness - the order has been changed since I drafted this - Ferdinand Biunno, Business Administrator of the City of Newark, and indicates he will testify on payments in lieu of taxes and further indicates that officials of the Port Authority will be expected to testify on that subject.

We, of course, have no idea exactly what Mr. Biunno

will say here today. We do know, however, and have heretofore called to the attention of your Counsel, Mr. Lustbader, the fact that next Tuesday, April 22nd, the Supreme Court of New Jersey will hear oral argument in a case now pending before it, to which the City and the Port Authority are parties, involving the taxability of certain properties at Port Newark which are under lease to the Port Authority.

Mr. Francis A. Mulhern, who sits in the section just alongside of me, is our New Jersey Solicitor, and he will be presenting the Port Authority's case to the Court on Wednesday.

This particular case is the aftermath of a long-standing dispute between the City and the Port Authority dating back to at least 1961 and involving broadly all aspects of the relationship between the City and the Port Authority. In the pending action, the City and the Port Authority have taken adverse positions.

We feel that there is a real likelihood that the Supreme Court may, in the course of the oral argument before it next Tuesday, inquire broadly into the relationships between the City and the Port Authority.

For this reason, we respectfully suggested to your counsel that this subject be dropped from today's agenda. We do not believe it is proper to discuss these matters in this public forum prior to the argument in the Supreme Court of New Jersey or while the matter is still pending there unresolved. We, therefore, renew our request, Mr. Chairman and members of the Commission, that you direct that this particular matter be deleted from today's agenda and held in

abeyance until the Supreme Court has decided the pending case.

ASSEMBLYMAN WILSON: Mr. Goldstein, I was advised by my Counsel and the reasons we are going on with the hearing are many. First of all, in our setup, as far as State Government is concerned, we have a division among the executive, judicial and legislative branches. This is a legislative commission. We are interested in maybe pending legislation that may be introduced in regard to payment in lieu of taxes. We are not familiar with the case that is going to be discussed next week and we are not going to wait as a legislative body, until the Court renders a decision which may be two months away.

This is the reason why you have a separation of the various branches of government, a system of checks and balances. And as far as continuing with the testimony from Mr. Buinno, we have decided to hear his testimony.

MR. GOLDBERG: Well, Mr. Chairman, I'm sorry that you make that ruling. We are all perfectly aware of the separation of powers under the State and Federal Constitutions, but we are also aware of our professional responsibility as well as the jealous guarding by each branch of government not to interfere with the operations of the other. And, as I tried to make clear in the statement presented to you this morning, it is the discussion of those issues which the Supreme Court will be commanding be heard before it on Tuesday, which I think involves a clash between your procedure and the hearing before the Court.

Now I suggest to you, sir, that you still discharge your legislative responsibility by merely putting this part of your agenda over until the Court has come down with its decision.

There is nothing, that I see, that needs to be accomplished today and which might very well offend the practices before the Court. And I appeal to you to reconsider that decision of yours and to put this thing over for what should be a relatively short time.

ASSEMBLYMAN WILSON: Well you are saying to me, then, to wait until the judicial branch has rendered a decision which may take a two month period, to hold off legislative process. To me, I think this is a conflict among the branches of government and we have been duly commissioned by the State Legislature to investigate autonomous authorities and I don't think that will have any bearing on your case.

MR. GOLDSTEIN: Well, I am merely suggesting to you, sir, that the open discussion of the issues which are going to be heard by the Supreme Court may be conflicting with the role of the Supreme Court in this case.

MR. LUSTBADER: Counsel, I think it should be pointed out that both you and I are speculating as to the scope of the decision of the Supreme Court. They may or they may not pass upon the issues that you think they will pass upon. They may, for other reasons, consider other issues. I don't know the import of the case and at this point I think the Chairman has stated that he feels it is his duty to proceed to take whatever testimony is necessary to resolve his legislative responsibility, and I think it should be pointed out that discussions of a public nature have gone on irrespective of the case, both in the newspapers and otherwise, and I think the Courts of New Jersey have handled this matter before and

certainly the Supreme Court is well equipped to deal with and sift out from its mind, so to speak, any influence which such a thing as a legislative inquiry would have. I don't see, personally, the danger of which you speak, especially since we don't know just what the Court is going to rule on officially, only unofficially through your statement. And for that reason I so advise the Chairman and he has made the decision.

MR. GOLDSTEIN: Well, Mr. Lustbader, I don't want to prolong this. I can merely anticipate that the discussion which Mr. Buinno will be conducting here will telescope and involve discussions that are going to be had before the Court. The subject matter is before the Court. And it is in that context that I suggest to you that I think this is an encroachment in the area.

ASSEMBLYMAN WILSON: Thank you, Mr. Goldstein.

SENATOR COFFEE: Mr. Chairman, I would like to move that we recess just for a brief moment to go into executive session.

ASSEMBLYMAN FEKETY: I second that motion.

ASSEMBLYMAN WILSON: All right. We will recess for five minutes.

(Recess)

ASSEMBLYMAN WILSON: The hearing will come to order. Mr. Buinno. Do you have a prepared statement?

MR. BUINNO: I do.

MR. GOLDSTEIN: May I interrupt the proceedings for one second and ask the Commission to read, in executive

session, in advance of the reading of the statement, the statement itself. I've read it, and that statement supports the argument before you. Would you not take the time to read that statement in executive session before it is read here?

ASSEMBLYMAN FEKETY: Will the Chair ask Mr. Buinno if he has released this statement to the press?

ASSEMBLYMAN WILSON: Yes.

MR. BUIINNO: No. I had originally given one to Mr. Resnick, which I called back and I have it in my possession. I have given a copy to Mr. Mulhern, Mr. Goldstein and the other gentleman's name, I believe, is Mr. Kubeck, for their examination. I have five more copies, if you desire to examine this before you make a determination.

ASSEMBLYMAN FEKETY: Mr. Chairman, I so move that we review this.

ASSEMBLYMAN WILSON: All right, fine.

We will recess for lunch and meet back here at a quarter of two.

(Recess)



Afternoon Session

ASSEMBLYMAN WILSON: The hearing will now resume. The Commission has decided in executive session to hear the testimony by Mr. Biunno, Business Administrator of Newark. In executive session we decided we will hear his testimony and not ask any questions, just hear the testimony that he will present. Mr. Biunno.

MR. BIUNNO: Thank you, Mr. Chairman.

ASSEMBLYMAN WILSON: Do you mind being sworn in?

MR. BIUNNO: Not at all.

F E R D I N A N D J. B I U N N O, being duly sworn,  
testified as follows:

Mr. Chairman, before reading the prepared statement into the record, I would like to have the record indicate that this statement had been distributed to Mr. Goldstein and Mr. Mulhern prior to the presentation to the Commission for their examination so that they could make their own determination with respect to its contents, and then I have supplied copies, together with a copy of the decision of Judge Larner in a case, which I understand is a case which is presently on appeal --

I would also like the record to indicate so far as I am concerned, I have advised Mr. Goldstein at the time I discussed the matter with him, as well as Mr. Mulhern, that I did not and I do not agree with their contention that my statement touches upon any issues that are presently before the Supreme Court of the State of New Jersey for determination. I think that will be clear from the statement itself.

ASSEMBLYMAN WILSON: Mr. Biunno, this is what the Commission felt in their executive session. This is why we are letting you testify and present your statement.

MR. BIUNNO: I will read the statement into your record.

I am appearing on behalf of Mayor Hugh J. Addonizio of the City of Newark in order to set forth the city's position and recommendations with respect to the Port of New York Authority.

It is our opinion, and we take the position, that the Port of New York Authority and all other authorities should be compelled to carry their fair share of the tax burdens of the municipalities wherein they operate and whose lands they remove by exemption from the municipal tax rolls. Our position in this respect is most emphatic for the City of Newark, which has been decimated and quasi-destroyed by both the generosity and the inactivity exhibited on a state level.

Illustrative of the generosity of the State of New Jersey and the impact of such a generous attitude with respect to the City of Newark are the exempt classifications set forth in the attached schedule, and there is attached a schedule of exempt classifications, which indicate the grand total taxable value of \$568,187,500 and a tax dollar loss of \$47,933,854. This schedule indicates the cost in dollars to Newark's taxpayers resulting from the exemptions created. It is noted that all of these items, although created by the State, are not subsidized by the State, but are at the cost and expense of Newark's taxpayers alone.

To illustrate the inaction aspect referred to, let me

point to the alacrity with which the Legislature moved to repeal the provisions of R. S. 40:14B-63 which would have saved the City of Newark \$700,000 in taxes on its water lands. Compare such rapidity of action with the legislative course of inactive conduct with respect to Newark's requests for items such as (a) State aid to increase police and fire salaries; (b) changes in school aid formula; (c) head tax; (d) payroll tax; (e) assumption by State of operating costs for library and museum and other like items advanced in the Mayor's 14-point Tax Program to alleviate Newark's tax burden.

I desire to put into the record, specifically with respect to the tax exempt status of the Port of New York Authority, the tremendous impact upon the taxpayers of our city, together with our recommendations as to action which should be taken in fairness to those of our people who maintain businesses, industries or homes in our city.

This agency now occupies approximately 3,075 acres or 20 per cent of our land area, upon which exempt lands are erected many buildings and other facilities of a minimum value of at least \$56,387,000 which should bring in to the municipal coffers at least \$4,680,121 in tax revenue, or the equivalent of 36 points in our tax rate. In place thereof, the city receives \$1,000,000 per year, a sum extracted from the Authority only recently after protracted negotiation.

During the 22 years that the Authority has operated within the City of Newark, our city has received a total of \$10,294,701 in revenue and should have received by contrast thereto a total of \$100,768,525 if the lands, buildings and

improvements had been taxed at the current rate for all other taxpayers in the city.

As can be seen from the schedule which is annexed hereto, the city has been compelled to subsidize the operations of the Port Authority over a period of years to the tune of \$90,473,823.

The important question placed before all of us at the present time is to determine what action should be taken in order to ameliorate the position not only of the City of Newark, but of every other municipality which is affected by the operations of the Authority. I would assume from the activity of this Committee that there is a desire on the state level to take appropriate action.

I make the following recommendations with respect to the matter for and on behalf of our city, namely:

1. I would recommend that a complete revaluation be made of all Port Authority property in the City of Newark. The revaluation should be conducted by a firm of outside experts who would be employed by the State of New Jersey at its expense. The function of the experts would be to fix the present market value of all of the lands and buildings owned or operated by the Port of New York Authority in our city and, as well, the actual use to which such lands and buildings are presently being put.

2. I would further recommend that such type of revaluation be conducted periodically by the State at seven year intervals so as to keep the valuation figures in a current status.

3. In order to avoid further protracted litigation with

the Port of New York Authority, I would also recommend that the Legislature of this State enact new laws which would strictly define the exempt classes of airport and marine terminal uses, so that there would be no question (or the questions would be reduced to a minimum), as to what is or is not exempt property. The study should be comprehensive enough to define the same exempt classifications in all other areas of Port Authority operations.

4. As to all Port Authority operations which fall outside of the scope of the definition to be prescribed by the Legislature, it is my recommendation that the Legislature mandate the Port Authority to pay to the municipality full taxes on the land and improvements thereon at the current tax rate applicable for the year.

5. As to all operations of the Port Authority which may fall within the exempt classification as airport or marine terminal properties and uses, I would recommend that the State, which has created the exempt classification, shall pay to the municipality the amount which would be realized by applying the current local property tax rate to the valuation of such exempt property less any payments received by the municipality from the Port Authority in lieu of taxes.

I do not believe that there is any other method which will deal fairly and justly with the problem either in the City of Newark or in any other town or city which is compelled to bear the brunt of the agency's operations.

It is my own personal belief, having lived through seven years of municipal governmental activity in the City of Newark,

that the present situation is absolutely unfair and unjust treatment in that it places upon the shoulders of the 45,849 taxpayers of the City of Newark, the burden of sustaining this multi-billion dollar agency while nothing constructive is done on a State level to help the city or its taxpayers.

I cannot but emphasize this point and to call to your attention that these taxpayers are as much entitled to equitable and fair treatment and quick action as any railroad which is presently being subsidized to the tune of millions of dollars by the State.

Now there are attached, of course, to the statement the schedule of the Port Authority property resume with the computed assessments, taxes and dollar losses, together with the list of classes and totals of valuations of Newark exempt properties and a list of the payments received from the Port Authority from the year 1947 down to, and we have included, the year 1969 for which the city will receive if it has not already received the sum of \$1,000,000, which makes the total of \$10,294,701.28 referred to in the statement.

[The exhibits attached to Mr. Biunno's statement can be found starting on page 55 A of this statement.]

I would like, if I may, just to supplement the statement with the following, because it was my original understanding that the appearance would deal solely with the Port Authority and not with all autonomous authorities or agencies in general.

I have made a statement in the past before the Committee which studied tax exempt properties. I would like to incorporate some of that statement in this presentation today if I may with

your permission.

ASSEMBLYMAN WILSON: All right.

MR. BIUNNO: Now if you will refer, Mr. Chairman and members of the Commission, to the schedule of exempt properties in the City of Newark which is attached to the statement, you will see delineated thereon the matter of the item of Federal Housing, which shows a taxable value of \$158,272,300 and a tax dollar loss of \$13,136,601, and in my appearance before the other Commission on tax exempt property, we had at that time suggested again that the State for the purpose of alleviating and assisting the City of Newark make payment to the local municipalities for tax losses sustained on public housing projects to the extent of the difference between the amount presently being paid and the amount which would be realizable in taxes if the same were subject to full local taxation. And this is in line with our statement here wherein we say that all other authorities should be compelled to carry their fair share of the tax burdens of the municipalities wherein they operate. That is the official position that we take with respect to this.

These exempt property classifications again, as I point out, were created by the State. We, of course, as local jurisdictions have no power to do away with any of them. We have compiled statistical data. Again, I will submit this to you. It was presented to the other Commission. It shows the property exempt from taxation during the year 1968 in the County of Essex and it will show you that there is a total of \$1,069,128,790 in total exempt property in the County of Essex and of that total the City of Newark carries 51 per cent of the total in the county.

We have set forth what each municipality has in each particular category. May I submit these to you?

ASSEMBLYMAN WILSON: Yes.

MR. BIUNNO: I want to thank the Commission for the opportunity to appear.

ASSEMBLYMAN WILSON: Mr. Biunno, we want to thank you and maybe at a later date, we will have you in again. We think that your testimony will help us evaluate all autonomous authorities, not just the Port of New York Authority.

MR. BIUNNO: Thank you.

ASSEMBLYMAN WILSON: Mr. Manning.

MR. LUKENS: May I have a chance to respond to that?

ASSEMBLYMAN WILSON: Well, I understood from your counsel, you didn't want to rebut at all.

MR. LUKENS: My counsel advised me not to as a matter of policy. Mr. Tobin and I feel if you would give us the opportunity, we would like to make a response to that.

ASSEMBLYMAN WILSON: All right. Sure.

M A T T H I A S E. L U K E N S: Mr. Chairman and members of the Commission, since you referred to a letter of Mr. Joseph Solimine who is Secretary of the Essex County Board of Taxation, I would like very much, therefore, to place in the record, a letter which was received by Mr. Mulhern, our attorney, from Mr. Solimine's bosses, the entire Board, the Commissioners of Taxation of Essex County, and this is dated November 20, 1968, and it says:

"Dear Sir:

"The above matter having come on to be heard by the Board on its own motion, and it appearing to

the Board that payments in lieu of taxes are being regularly made to the City of Newark by the Port of New York Authority pursuant to the agreement entered into between the parties, the Board has concluded that there is no legal basis for placing the assessment of this property in the non-exempt status." [That is the Truck Terminal they are referring to.]

"Respectfully,  
Herman Gering, President  
Essex County Board of Taxation"

And he sent that on behalf of the entire Board.

ASSEMBLYMAN WILSON: Would you enter that into the record, please.

[Mr. Lukens submits copy of letter to Commission.]

MR. LUKENS: At the outset I would like to say that the Port Authority is not unsympathetic to the fiscal problems of the City of Newark. They are grievous problems. They are problems, however, that are shared by most of the municipalities, regardless of what state they are in.

I would like to read something here just as a matter of interest. This is a quote: "Local governments face a grave problem because their activities have greatly expanded through public demands for additional governmental services and governmental subsidies. Yet the money to support local governments has not been provided in proportion to their new responsibilities." This is directed mostly to state and federal finances. "Consequently if the demand for services and contributions are to be satisfied, if local governments are to survive, then some balance must be established between their financial resources and the maintenance of public services." Then I will leave out a sentence or two.

"It is our hope that this work will bring the financial problems of local government into clear relief and offer some constructive means for their solution."

I thought the Committee might be interested to know that I wrote that 30 years ago as a document of the Municipal Finance Officers Association which is there and outlined exactly the kind of problem you are wrestling with here today, which is the problem that the cities have inadequate fiscal resources and that they are limited in large measure to the property tax as the major resource for their financial resources and they are limited as to their taxing powers and yet the demands for their services, both by virtue of their own action and by virtue of the demands of the people and by State imposition and Federal imposition of responsibilities on them, have grown out of all proportion to their own resources. The problem is a fundamental one and the solution must be a fundamental one. It cannot be solved by a single act or a single source of revenue of the nature we are talking about here today, but must be done on a very broad scale at the State and Federal levels.

I call your attention to the recent message of President Nixon which was in the papers this week, which for the first time recognized at that level that the Federal government realizes that this is so and that they are going to approach the question of trying to share some of the Federal tax resources with the localities who have this tremendous fiscal burden.

I say that only to put this, I think, in the proper

framework of the problem you are wrestling with because the City of Newark deserves nothing but sympathy and understanding of their problems and help for their problems. But the help they need is of great magnitude.

With that, then I would like to comment further on several points in Mr. Biunno's statement which either from the standpoint of different facts or accuracy or different points of view, I think the Commission might appreciate having.

He does say in his statement on the first page, "We take the position that the Port of New York Authority . . . should be compelled to carry their fair share of the tax burdens of the municipalities wherein they operate and whose lands they remove by exemption from the municipal tax rolls." Now I think the record should show that by far the major portion of property which the Port Authority operates in the City of Newark are the Airport and Seaport and that the Port Authority never removed these facilities from the tax rolls. On the contrary, these are city lands and have been city lands for many years and the city requested us to undertake the burden of developing those facilities and rehabilitating them because they were in a very sad state of repair in 1947 when they approached us about this possibility and they beseeched us and requested us to take on this burden of redeveloping what they then considered these essential facilities that have contributed so much to the economy of the City of Newark.

In evidence of the problem, they had a firm, Bartholomew and Associates, make a study of the airport and seaport in the middle 1940's that led them to the contact with the Port Authority,

seeking to have us undertake the redevelopment and reconstruction of these facilities and in that report it shows that the City of Newark as of 1944 had a deficit that the taxpayers of the City of Newark had borne at those two facilities of \$18 million from the time they began their development. And this is one of the reasons why they requested the Port of New York Authority to consider undertaking the redevelopment of those two facilities. I don't know whether you remember - you probably would not, Mr. Chairman, in view of your age, your young age - what the condition of those facilities were. But in World War II those facilities were used up to the point where they were unusable for commercial purposes. The runways were totally used up, depreciated. They were cracked. They were broken up. They needed replacement. And the same way with Port Newark, itself, where out of a total potential of some 30 odd berths, they may have had 5 or 6 that were operable and the rest had great big signs, "Danger - Do not trespass."

So this was the picture in 1947 when the city came to us and said, "We own these facilities. We have lost \$18 million on them, according to the Bartholomew Report. Could you please take them on and spend untold billions of dollars in redeveloping them?" So in terms of what Mr. Biunno said today, I think you should have a feeling of how the Port Authority was brought into this act, at the request of the city, and that we don't own these facilities but on the contrary we undertook a burden that the city was unable to bear to redevelop these facilities. Today we have an investment in Newark Airport of \$108 million. We have a redevelopment program that contemplates spending

\$200 million more that otherwise the city either would have had to have financed themselves somehow or they could have said, "No, we don't care to do so and closed up Newark Airport."

The same way with Port Newark. We have spent \$105 million in Port Newark to make it a modern marine terminal, one of the most modern in the world. And we have another \$75 million program in the next 6 years to redevelop that facility. So you have \$180 million in that facility that we have put in or will put in. Again the City of Newark has not had to do that job and everything we do there, the title of anything we build, automatically goes over to the City of Newark and is part of their property.

He talks in here about the assessed value of these facilities and he mentions the figure of \$56,387,000, and I think the record should show that every cent of that assessed value relates to city-owned property. The Port Authority doesn't own any of it and it does relate to these facilities which I just described. Also in the perspective of the problems of the City of Newark, the City of Newark has total assessed value of properties of \$1,770,000,000. Even if you take this assessed value of properties that the Port operates, but the city owns, this is 2.6 per cent of the total assessed value of properties in the City of Newark, which in the over-all picture does not bulk that large in terms of the fundamental issue we are looking at.

Mr. Biunno also has discussed the rental rates that we are now paying the City of Newark of \$1 million a year. One point there that I think should be mentioned is that this minimum rent is being paid and it is a minimum and there is provision at

such time as these facilities earn more net than would produce this million dollars, then the city shares in 50 per cent of that net up to a certain date - I think it is 1975 - and from there, 65 per cent, and at another cut-off date, 75 per cent. So the city should look forward and should be able to get more than the minimum rent when those two facilities earn those moneys.

Again in the context of the two facilities that we are talking about, I don't know anywhere else in the world - there may be a few places - where this kind of a facility contributes to the taxation of the locality.

Let me give you as an example Port Newark and Port Elizabeth. These two facilities today are the prime port on the eastern coast. They are handling together something like 7 million tons of cargo. It is estimated that for every ship that comes in, each day that ship spends \$100,000 in terms of crews and supplies and the other things that benefit the economy of that port area. Some of the other ports recognize this. Our competitive ports are Boston, Baltimore, Philadelphia, Norfolk, in some respects Miami. These are the ports that are seeking to get cargo that otherwise would go to Port Newark and Port Elizabeth.

Now let me tell you what they do down there. In the City of Baltimore, the Port of Baltimore doesn't pay any taxes. On the contrary they get \$2,700,000 of subsidy a year from the state of tax revenues. In the Port of Miami, they get \$2,000,000 of tax revenues from the State. In Norfolk, they get \$2,000,000 of tax revenues from the State and/or the locality. In Philadelphia, they get \$1,200,000 from the state and the localities in that area.

Now this is a port that is trying to take cargo out of your backyard, gentlemen. The State of Pennsylvania has authorized a bond issue of some very large sum of money to build new facilities down there with state subsidy in order to compete and take traffic away from Port Newark and Port Elizabeth.

This is the framework in which you gentlemen are sitting here talking about Port Newark and Port Elizabeth on the contrary to make payments in lieu of taxes. Our rental rates obviously are very directly related to what these other ports are able to offer to these steamship lines. And these steamship lines do look at costs and do look at rental rates and there is competition between ports. But this is the kind of competition that we are facing and this is what is happening on the other side of the coin in our competitive ports.

Now the airports don't compete in the same sense. But again I only want to mention that there are very few places where any airport provides any revenue for the locality or the state. In some instances there is a personal property tax that the state levies on the tenants or the airplanes, but not on the operation by the airport authority. On the contrary, over the years the picture has generally been that the locality or the state has issued general obligation bonds to develop their airports and in a lot of instances those bonds have been subsidized because the airport has not produced sufficient revenue to pay off their debt service.

That is the picture in terms of these two facilities you are talking about and you are considering in the framework of what Mr. Biunno has had to say.

A couple of other points: He has used the figure in here that these properties ought to be producing \$100,768,525 over the period of the time we have had them in our hands. Obviously what he has done is to take since 1947 if you had a private person in there operating these for private gain and if you had the present assessment and the assessment probably was raised - this is probably what it would produce. That is, I believe, a completely unreal presentation of the problem.

Also he says here that the city has been compelled to subsidize the operation of the Port Authority over the years to the tune of \$90,473.823. You know, this is a numbers game and all he has done is to add up the tax rate and apply it to the assessed values and say, this is what we should have been paid. But I am saying for the record that this is not what happens in the other ports and the other airports. Under the law, these properties have been tax exempt and more importantly from the standpoint of the City of Newark, this airport and seaport have contributed tremendously to the City of Newark and the County of Essex and northern New Jersey if not all of New Jersey.

Again let me give you an example or two. Today, for example, there are 15,000 people that earn their livelihood at these facilities. I forget the figures, but it is something close to 50 per cent or even more that live in Essex County, for example, and a number of those people do live in Newark. We have gone out of our way when they have had new people to hire at these facilities to try to get the people from Newark, the unemployed, to go down there and get jobs at Newark. As a matter of fact, we have even offered the City of Newark to help set up

a training program for some of their hard-core unemployed so that in fact they might be able to go down and get jobs at the airport and seaport. We have offered that over a couple of years without that offer having been accepted. But this is an employment center that definitely employs people in the Newark and the Essex County area and definitely contributes to the economy of the area.

I have indicated to you that there are several studies that indicate that a normal ship that comes into a port like Port Newark, for example, contributes something like \$100,000 a day to the economy of that area every day it is in port in terms of purchases and supplies and gasoline and crews' wages which are spent ashore and other things like that. Beyond that, it is incalculable what this service means to the area where, for example, 85 per cent of the products manufactured in the State of New Jersey go out of the state - 85 per cent. You are an exporting state. And an awful lot of that goes out of the state either through Port Newark and Port Elizabeth or through the airport. They perform a vital function for the manufacturing industry of this state in that regard.

There was a study of the Port of Houston by a very respected university down there. The Port of Houston as you may realize is not anywhere near the size of Port Newark and Port Elizabeth. They are a bulk port generally. They don't handle the kind of containerized and bulk cargoes that we handle at Port Newark and Port Elizabeth. They determined that directly and indirectly around the port the activities that are related to that port contribute \$14 million in taxes which might otherwise not

be there. They are there because of the port. We have not made such a study, but this was a reputable university making the study because they are concerned about their port as to the contribution that port makes to the economy of the area. So that is another thing that you have to consider, that the port has a direct impact on the tax rolls of this area in terms of a positive contribution.

The only other comment I would like to make, and I guess I have talked too long already, is that Mr. Biunno does make some recommendations and he does make a suggestion that this committee and the Legislature consider new laws which would strictly define the exempt classes of airport and marine terminal purposes so that there would be no questions or the questions would be reduced to the minimum as to what is or what is not exempt property. I would merely like to record for the record that that is the exact issue before the Supreme Court in the case now there involving properties at the airport and seaport. Therefore, I am under compulsion not to comment further on that. Thank you.

ASSEMBLYMAN WILSON: Thank you.

Mr. Manning. Mr. Manning, do you have any objection to being sworn in?

MR. MANNING: No, sir.

J A M E S E. M A N N I N G, being duly sworn, testified as follows:

Mr. Chairman and honorable members of the Commission: My name is James E. Manning. I am the President of the Newark Airport Taxi Management Association. This is an association of taxicab

drivers that was formed roughly about two years ago actually to better conditions for the drivers and for the public in general that utilize this service. Of course, the Association was formed because more or less we found ourselves in a position that we were being practically put out of business by limousines that were operating out of Newark Airport and we felt were operating illegally or without any licensing or without any franchises to operate.

Before I proceed, I don't have a prepared statement directed to the Commission, but I have some statements here that I think are relevant and have a bearing on this. One is a statement that we made to the Public Utilities Commission and I will leave these with the Commission.

ASSEMBLYMAN WILSON: Just give them to the Secretary there and she will enter them into the record as exhibits.

[The exhibits submitted by Mr. Manning can be found starting on page 59 A of this transcript.]

I have some photostatic copies of some State statutes that I think will have a definite bearing on what I am about to say. One statute here that we have pertains to the right of any person operating a public utility to petition the PUC for some type of redress or help and aid when he feels that an auto-bus is operating and cutting into your franchise area. This is a photostatic copy of that.

[Copies of statutes submitted by Mr. Manning can be found starting on page 65 A of this transcript.]

I also have quite a multitude of equipment here. I don't want to hold the Commission up. That's why I don't have a

prepared statement.

I have numerous photographs here of Newark taxicabs that are lined up here in the back of the airport. Of course, we say they are lined up like sheep waiting for rides to get out of the airport. This will show you that these vehicles are there to service the public, that they are all franchised with a license, duly licensed to operate and function as a public utility.

I also have here a series of photographs of all these different limousines that are operating out of the airport and I can state for the record that none of these vehicles are licensed, none of them have franchises to operate. They have an exclusive ability within the terminal to operate from an advantaged position because they have a counter that is situated right next to the baggage counter from which they have access to the passenger before he can get outside to the taxicabs.

All of these limousines here are operating at the airport. I have another copy here also - another photostat - of a State statute that says each one of these vehicles are obliged to pay franchise tax to the City of Newark or to pay an excise tax to the State of New Jersey based upon uses of the roads in the State of New Jersey. None of these vehicles pay any taxes whatsoever. As a matter of fact, what they are actually doing is being subsidized because they don't have to pay any taxes. They don't have any franchise. A taxicab operator has to spend \$13,000 to get into business before he can get on the road. He must have a license. These vehicles have no initial investment such as a franchise. So what do they do? They buy a car which is a limousine - station wagon, as these photographs will show you. And

they put this car on the road which costs them maybe \$3,000 to get in business. This gives them another form of subsidy because we can't compete with this competition because we must invest \$13,000 in each vehicle that we operate. They are investing \$3,000 and they have an inside base of operation with a radio system so they can reach their vehicles on the road. Sometimes they have their vehicles parked outside of the airport grounds and when they get a load of passengers, they will call over the radio and the vehicle will pull into the front of the terminal and load up with people and take them out of the airport. In the meantime Newark's taxicabs which are legally licensed to operate are standing in the back of the line waiting for the ghetto rider.

These two statutes here - I went down to the Public Library and checked up on them - not only do these statutes state that these vehicles are supposed to pay this tax, but the statute also states that these vehicles are supposed to be registered with the Director of Motor Vehicles, each vehicle that they have, and it also says that the Director of Motor Vehicles has a right to enforce the payment of this tax that is due to the State or is due to the city. None of these vehicles are paying any taxes.

I would like to have these entered into the record.

ASSEMBLYMAN WILSON: All right.

MR. MANNING: I will also enter these photographs.

ASSEMBLYMAN WILSON: They are not going to put those in the record. You had better give those to me.

MR. MANNING: To really get to the crux of what our

problem here is, I have some more statutes here. Each one of these statutes refers to the right of a municipality to license these vehicles. Of course, we have been through a procedure. I have written to the Governor. I have written to the Attorney General. I have written to the PUC. I have appeared before the PUC. I have appeared before other bodies. I have been in contact with Mr. Goldberg, the Commissioner of Transportation, and discussed this whole matter. We can't seem to get anybody to give us any assistance to support our right to operate with a franchise. This has an effect on the Newark taxicab driver to the point where he has to work 12 and 14 hours a day 6 and 7 days a week in order to earn a living and take home a minimum of \$100 a week salary to support his family.

We have 1500 cab drivers that operate out of the City of Newark and I know personally from my own personal experience because I am there all the time, some of these drivers spend a day and a half or two days at the airport waiting for rides so they can meet their obligations. This includes leasing the cab and I will have to admit that the fee for leasing these cabs is out of line too. But the basic point that I am trying to raise here is: How is it that these vehicles are allowed to continue to keep operating when there are laws on the books which say they should abide by the laws? They ask us to abide by the laws. We have to respect the laws. If we don't, we are punished. What I am asking this Commission or anybody who is in position to give us some assistance is: How do these vehicles continue to keep operating? Nobody is interested enough to

regulate them. Nobody wants to check their records. Nobody knows who owns them. Nobody knows who gave them the right to operate except that they operate on Port Authority property and we realize the Port Authority is tax exempt because it runs the airport. But these vehicles are not tax exempt. And how do they continue to keep operating without somebody regulating them? This is the crux of our whole point and the reason I am here.

ASSEMBLYMAN WILSON: First of all, let me explain our position. This is a Commission to Study Autonomous Authorities. When you asked to appear, I didn't know exactly on what area you were going to appear and since these limousines do operate on an autonomous authority property, this may be one reason they are not licensed. I believe Mr. Lukens is going to appear after you to more or less rebut your testimony so we will have a clear picture of exactly what is going on.

First of all, just to clarify my mind, you say that the average cab driver has an investment of \$13,000?

MR. MANNING: Yes, sir.

ASSEMBLYMAN WILSON: It has nothing to do with autonomous authorities, but to understand the problem I would like to know what is involved in that \$13,000.

MR. MANNING: See, we have 600 franchises in Newark. The books are closed. You can't get a taxi unless you buy somebody's franchise out. This means to get into business as a taxicab owner, you have to pay \$9,000 for the permit and it cost you \$3,000 for the vehicle. When you get through buying a radio, a meter and other equipment, it comes to \$13,000. This is for the owner.

Now we have drivers that operate these vehicles who lease them from the owner and this driver has so many different sets of figures that he pays - some of them pay as high as \$19 a day to operate the vehicle. When this driver comes out to earn a living - say he has a 12-hour tour of duty - some of them work 14 hours because they keep the car 24 hours - now this man gets five rides or six rides out of the airport. If he gets two or three rides that go to Newark, he can't meet his daily overhead, much less take-home pay for himself. If he gets three rides to Newark, that's \$6. If he comes back and he gets two more rides to Union or some place like that, he winds up booking \$30 a day and his expenses are \$20 to \$25.

The thing that I am so very curious about is if we have taxis lined up here in a line waiting to service the public, I can't understand what the necessity is for all these additional vehicles that are operating and functioning as taxicabs and I have their schedules here. They have their prices listed. One of them has this building here that it operates out of on Port Authority grounds, Building 56. They have a garage in the back. They have gas pumps where they gas up their vehicles. They have in the back a whole area where they have sometimes 35 and 40 vehicles parked back in the back there. As they need them, they call them up. In the meantime the taxicab operators are restricted to operating from one place. He has a stand outside the center entrance of the building. He must remain there in order to get a fare. These people have parking space at the east end of the building, parking space at the west end of the building and then they have a garage and a whole area down on a

private road in the back. Their vehicles can just operate more or less where they want to operate. They also utilize the rear exit out of the building. What it really is - they sneak people out of the side of the building to take these particular fares out.

At this counter which they have inside, which I have a photograph of here, and which is situated next to the baggage counter, one of their agents or their chauffeurs or whoever it is that is representing them there, if a man approaches him and says, "I want to go to Newark," he will tell the man to go outside and take one of the taxis. If a man wants to go to Morristown, he will take him to Morristown because it is a profitable ride and all the overlapping, non-profitable rides, these come to the taxicab operators outside. Plus, in addition to this, these people have schedules here where they charge people \$6 per person. Say, for instance, they had six of them that they were taking to Madison, they would charge them whatever their going rate is here, \$4.50 per person. So that is six people at \$4.50 per person and it runs into the area of \$27, somewhere in that area. A Newark taxicab driver has to take five people to the same destination for \$11 which is the rate because these people are not regulated. There is nobody sets their price. Nobody tells them anything at all. They just operate as they want to operate.

ASSEMBLYMAN WILSON: This Newark Airport Taxi Management Association, does it derive its dues from its members?

MR. MANNING: Actually what it is, we were in such a predicament, a crucial situation, that two years ago we formed

this Association and we asked our members to contribute voluntarily a portion of their earnings for us to institute legal action against the City of Newark and against the Port Authority to sort of relieve this predicament we were in. Most of our drivers now when they come to the airport, they voluntarily contribute a quarter of the ride they get in order to keep this Association going. This brings us the sum of somewhere around \$3600 a month. But in line with this - and I'll have to say this is through the cooperation of the Port Authority - we have put up a little booth outside which is situated in a corner by the center doors in a position where it is not so advantageous. And what happens is that when one of our drivers gets a ride from that area, he gives a quarter to the starter. The starter is paid by the Association. Our expenses from operating this in the last 12-month period has been approximately, I'd say, about \$50,000 that was paid for by our Association in order to furnish this service for the public because it is a necessity, you see. The reason I say it is a necessity is that we have had different problems at the airport with some drivers because of the pressure that they were under and because maybe they were a little weak themselves and they couldn't meet their obligations and when a passenger came out and said he wanted to go to Newark or a local ride, this driver refused to take him or he would abuse him. We formed this Association to correct this and we have had a very good correction on this.

ASSEMBLYMAN WILSON: Since your organization has been operation?

MR. MANNING: Yes.

ASSEMBLYMAN WILSON: I read in the paper just recently that you are saying that this Association may be disbanded.

MR. MANNING: Yes. Not the Association - what we are planning on doing - within our own taxicab members, we had a dissident group that were trying to form a union. They were trying to unionize the drivers. Of course, they advised some drivers not to contribute to us. So we had about 18 or 20 drivers that refused to give the quarter. We felt the effect of this non-contribution and we wouldn't be able to meet our expenses if we continued.

ASSEMBLYMAN WILSON: How many members do you have now in your Association?

MR. MANNING: We have about 400 members, but we have about 200 members that play the airport steady and these men, most of them, contribute a quarter. This brings us in our income. Of course, we have administrative costs, we have income tax and social security. It runs us up around \$3600 a month to operate.

ASSEMBLYMAN WILSON: Senator, do you have any questions?

SENATOR COFFEE: No.

ASSEMBLYMAN WILSON: Assemblyman Coury?

ASSEMBLYMAN COURY: I think the question was answered, but I am not sure. I think you said the reason you are here is that you believe the New York Port Authority has a service to the people arriving at Newark Airport and leaving and they are operating it to some advantage over the taxicab service.

MR. MANNING: We feel that we are operating under actual restraint of trade. We feel we don't have a competitive base

from which to operate. We feel these people have a base, an inside booth, and they have first access to the passengers. When a passenger comes out, say he is going to West Point - this ride is about \$28 - he never gets to us because they intercept him. They have signs up there that advertise that they go to these difference places. They intercept him. He stops there and takes one of their vehicles. In other words, what we get - the majority of our rides - I would say 70 per cent of the rides we get now are rides between the \$2 ride and the \$5 ride and we can't continue to function.

ASSEMBLYMAN COURY: Are these limousines permitted to pick passengers up and bring them to Newark Airport?

MR. MANNING: They do. You see this is another factor. When this man comes from Bergen County -- I know for a fact that the Marriott Motor Lodge in Saddle Brook started out two years ago with a vehicle to bring people down for free. When they started coming down, passengers coming out of the terminal would see this vehicle parked and say, "Are you going up by Hackensack, by Teterboro?" The guy would say, "Yeah, jump in." Then they started in the business. They actually created a business because every passenger that comes into Newark Airport, he is a captive passenger because he has to utilize some transportation to get home. So what they did, they found out it was profitable for them and they didn't need a license, they didn't need a franchise, so they put themselves up in business and they switched over from carrying people for free to carrying them for charge and this affects our business. We feel ourselves, because this is clearly written in here, and my interpretation under the

Public Utility statutes is that if we feel our business is being affected by this, we have a right to appeal to the PUC for some type of remedy.

ASSEMBLYMAN COURY: Well, I can understand, let's say, an advantageous position on the part of certain services. This is part of business. But I just question seriously the fact that limousines are able to operate as taxicabs and pick up passengers to bring them to the airport and you are saying they do not pay a tax or obtain permits. This is something I think we should consider.

MR. MANNING: No, they are not paying for it.

ASSEMBLYMAN COURY: Thank you.

MR. LUSTBADER: Mr. Manning, you testified that one of the original purposes for your forming the organization was to institute the necessary legal action to clarify your position. Was this done?

MR. MANNING: Yes, sir.

MR. LUSTBADER: Is it pending?

MR. MANNING: Actually what has happened was this - it became such an involved thing because the Port Authority's position - I assume this is what their position is - was because this is Port Authority property they have a right to do what they want to do on it. Our position is that this is not true under the statute. But this case went to the Superior Court and during this period the Port Authority intervened in the case on the side of the limousine operators and the PUC came into the case and actually what they asked the judge to do - I was right there - they asked the judge to delay proceeding with the case

because the PUC was going to rule on whether they had the right to regulate these vehicles. In the meantime, we had a PUC ruling on this in which the PUC ruled two to one that the city had no right to regulate the vehicles, that it was the PUC's right to regulate the vehicles. In the meantime, nobody is regulating them. They are still operating. And when they come into the airport and pick up these people and take them to an outside destination and then they pick them up from that location and bring them back again - as a taxicab operator if I were to take a person anywhere in Bergen County, to Teterboro or Hackensack, and if I got caught picking up there, I would have to pay a \$50 fine for the first offense. The second offense, they would put me out of business because I have no right to operate in anybody's else's franchise area.

ASSEMBLYMAN WILSON: Thank you, Mr. Manning. I just want you to know that this is not only information given to the Autonomous Authorities Commission; I also happen to be Vice-Chairman of Transportation and I am Sub-Committee Chairman of Communications and Pipelines in the State of New Jersey and this also involves public utilities. Thank you.

MR. MANNING: Thank you very much.

ASSEMBLYMAN WILSON: Mr. Lukens.

M A T T H I A S E. L U K E N S: Mr. Chairman and gentlemen, this is Vince Carson who is the General Manager of the New Jersey Airports and who has lived with this problem and who knows more about it than anybody else.

ASSEMBLYMAN WILSON: Is he going to testify?

MR. LUKENS: I am going to testify, but he is available

for any questions. Either way, we will do our best to give you all the answers you would like to have.

Let me say at the outset about Mr. Manning, that he has been a very constructive force at the airport. He has done a very fine job. Our relations with Mr. Manning have been excellent and we have worked with him since he has been there as head of the Association and with his assistance, working with him, conditions have certainly improved in the taxicab situation at Newark. Much of the credit, I think, goes to him and his associates in the Association. So I should say that at the outset before I make my formal remarks.

For nearly 7 million air passengers each year, Newark Airport is the gateway to the City of Newark, to the important business and industrial areas of northeastern New Jersey, and, indeed to the entire State of New Jersey. To New Jersey residents and to out-of-state visitors and businessmen, arrival at the Airport is not the end of the trip. Each of them must continue their travel to a final destination, be it home, plant, or a hotel lobby. Consequently, ground transportation is an integral and very important part of the services we, as an airport operator, must make available to the public.

We believe it essential that a full range of services be available to the traveler so that he will be able to choose the type of ground transportation which best meets his needs and his pocketbook. Our objective has always been to assure that the passenger can make his choice without coercion and find the service at the expected location.

Since we undertook operation of the Airport, the available

services at the Airport since 1947 have included taxicabs, limousine and public bus service. The number of services and the number of operators have changed to be sure. And to some extent, because the traveler's needs have not remained static, the nature and scope of each of the services have changed. The total number of passengers using Newark Airport has increased rapidly. Passenger traffic at the Airport has increased from a little over 4 million in 1963 to nearly 7 million last year, an increase of 63 per cent in a little over five years. The pattern of travel destinations has also changed. As a result of growing suburban population and of the great growth of business and industry in the suburban areas of northern New Jersey, the number of passengers traveling from the Airport to the central-city points -- downtown Newark and New York City -- has grown at a much slower rate than the number of passengers going to a wide variety of suburban New Jersey destinations.

The result is that the number of passengers seeking public transportation to suburban New Jersey destinations has increased at a fast rate. Because of the limited number of bus services, only a taxi or a limousine can provide public transportation to the great majority of these destinations. I will address myself specifically to the subject of limousine service in a few moments, but first, I'd like to discuss taxicab operations.

The taxicab drivers at Newark Airport should be enjoying the fruits that business growth brings, and remember I said it has grown 63 per cent in the last five years, but the fact seems to be that his economic situation may be worse now than it was five

years ago. This appears to be due to the rather unusual relationship between the taxi owner and the taxi driver in the City of Newark which is called "Horse-Hire." Under it, the taxi owner, or an association of owners, rents a cab to a driver on a day-to-day basis. We understand that the current rental rate is from \$18 to \$20 per day for a cab and from \$12 to \$14 for a half day and that the driver must then in addition buy gasoline at prices in excess of those charged at service stations, like 45 to 46 cents a gallon.

This arrangement contrasts to most other cities where municipal regulations provide for taxicab operations under which the owner and the driver share in the gross fares shown on the meter. In this method, even if the cab has a very slow day, at least the driver goes home with some money in his pocket.

Under the system provided for by the City of Newark ordinances, however, it is entirely possible for a cab driver to work all day and actually lose money. The taxi owner on the other hand can't lose; he is paid from the moment the vehicles leave the garage.

Thus in Newark, before the driver makes a nickel for himself, he must recoup the \$20 or more and the cost of gasoline in addition. The driver's first thought is to go to the airport where the best chance in the city exists for him to get an excellent fare. The first action of many drivers is to cruise slowly by or stop at the public bus station at the airport where he might be able to solicit a negotiated fare from the many servicemen and others who wait there for a bus to Fort Dix, Central New Jersey or New York City. Since there is no official cab line

there, if he succeeds his day could be made.

ASSEMBLYMAN WILSON: Mr. Lukens, could you do me a favor and enter this as testimony.

MR. LUKENS: Surely.

ASSEMBLYMAN WILSON: It is getting late for all of us. We can glance over it and if we have any questions on this, we will ask them.

[Following is the portion of Mr. Luken's statement which was submitted, but not read.]

If he does not, he must get on the official line and begin the wait for a fare. He may wait hours. It is no wonder then that he is distressed to find when his turn comes that his fare will be only a few dollars. It also helps to explain why some drivers overcharge their air travelers at every opportunity.

We believe this "Horse-Hire" system and its economic pressure on the drivers to be the primary cause of the abuses which have given Newark Airport taxi cab service a nationwide black-eye. Most of the reported problems stem from drivers' reluctance or refusal to take passengers to nearby destinations -- the so-called "short-hauls." And it is significant that, where "short-haul" once meant the \$1.75 or \$2 trip to downtown Newark, as the "horse-hire" rates have increased, it now includes a trip to West Orange (published fare \$8) or to Glen Ridge (published fare \$8).

The economic problem has persisted as long as we have been operating the airport. There was a "closed line" from 1948 to 1961 under which the 20th Century Taxicab Association (of taxi owners) had the exclusive right to provide Airport taxi service. The Association provided a Starter at the Terminal to quote fares, assist passengers and to supervise the service. Though the drivers operated under "Horse-Hire," the total number of cabs at the Airport was limited by 20th Century, reducing the length of time a driver would have to wait.

While this provided generally satisfactory service for the incoming air passengers, taxis from outside this association were reluctant to bring passengers from Newark to the Airport because they would then have to "dead-head" back to the City.

In 1961, 20th Century informed the Port Authority that it would not continue to provide service to the airport on an exclusive basis. The Port Authority then discussed the possibility of operating a "closed line" with several other associations, but none had a sufficient number of cabs and drivers to provide the volume of service that growing air traffic demanded. Because of this, and at the urging of the city government, an "open line" was created at Newark Airport. Under this system, all taxis and drivers licensed by the City of Newark under its taxi ordinance may operate at the airport.

The open line immediately attracted an excess number of cabs to the airport and competition for a spot in the line became, to say the least, fierce. To preserve some order the Port Authority erected a fenced-in chute and assigned additional police to monitor the taxicab operation.

But taxi service deteriorated rapidly to the worst in the Airport's history. In order to obtain a taxi for a "short-haul" it was necessary for a passenger to summon a Police Officer to enforce the taxi regulations. These instances gave us cause for real concern, for although the short-haul passenger was in a cab and on his way, there was no control over what happened to the passenger after leaving the airport.

In December, 1963, after innumerable meetings with taxicab drivers, owners and representatives of the City of Newark, we responded to the requests of several groups of drivers and the City to establish a separate taxi boarding spot for "short-haul" passengers. "Short-haul" was defined as a fare of up to \$2.00, sufficient for a ride to most destinations in the City of Newark. A driver who chose not to wait in the long line could more quickly and more frequently get a fare in the "short-haul" line.

It didn't work. Passengers wanting to go to downtown Newark were shunted by the "short-haul" drivers to the bus stop at the other side of the parking lot. There the passenger could take the Public Service bus to the city or "negotiate" a fare with other cabbies who cruise the vicinity. And in the "long-haul" line, fares of \$7 and \$8 were shunted to the "short-haul" line by the drivers who wanted only the \$10 and \$15 and higher fares. The net result was that taxi cab service at the airport was practically unavailable, if the fare would be less than \$7 or \$8.

In an effort to provide some convenient service to downtown Newark, its hotels and railroad stations, a small company, called Terrill, Inc., came forward in 1963 and began a shuttle bus service between the Airport and the City on a regular schedule at a \$1 fare. We hoped that this would meet the demand for "short-haul" service which the cabs did not wish to provide. So we were astounded when, apparently as a result of pressures of the taxi owners and drivers, the City of Newark began to issue summonses to the drivers charging that the operation was illegal because it was in violation of the city bus ordinance. After an adverse court decision, on October 18, 1964, the operator went out of business.

Taxicab service and the demeanor of many drivers deteriorated rapidly during this period and the volume of public complaints mounted proportionately. Very frequently the aggrieved passenger expressed his ire directly to Governor Hughes. His opinions on the matter are summed up in the following paragraphs from his letter of October 13, 1967 to Mr. Manning:

"I should tell you that I am also very much concerned about comments, which have been repeated to me so often as to be almost deafening, of people who arrive at Newark Airport and wishing to be taken by taxi into the city or into the Newark suburbs, are subjected to a stream of abuse from various cab drivers, which constitute nothing less than a disgrace to the State. These complaints have come to me so often that I have become quite concerned about this conduct reflecting very seriously upon the reputation of the City of Newark.

It is, of course, recognized that this may involve only a minority of drivers, but, in any case, it must be stopped at once.

I have informed Mayor Addonizio that this pattern of conduct must be ended and that if the City of Newark is unable to cope with the situation, corrective legislation on a State basis will have to be initiated."

As public complaints mounted, the Port Authority, since March 1965, has stationed a Police Officer at the head of the cab line. His sole duties are to preserve order, prevent drivers' refusal of short-haul passengers and in other ways enforce the taxi ordinances of the City of Newark. This brought order to the front of the terminal, but as the following excerpts from letters of complaint indicate, our fears for what happens outside the airport are well founded.

The Superintendent of Operations of a major steamship company:

"The most blatant incident occurred last week when one of our ships officers reported the following:

1. Initial outright refusal of a cab to take him from the Airport to his vessel at Port Newark was overcome through intercession of Port Authority Policeman on duty.
2. Upon his request for flag to be lowered to allow a metered cab payment instead of the exorbitant \$5.00 flat rate charge, the cab driver engaged in threats and abuse, and took him on a wild ride that ended in dumping him on Route 1 near the Skyway."

A man from Upper Montclair, New Jersey:

"The driver told me, as we pulled away from the loading platform, that the fare would be \$10. When I protested that I had never previously paid that much for a trip I make frequently, he flashed a rate book which I was unable to read and reported that it showed the fare to Upper Montclair to be \$10. When I asked him to turn on his ceiling light so that I might read his cab and driver's number more clearly, he halted the cab in the middle of the highway, thus endangering my life as well as his own, and proceeded to shout that he was going to take me back to the terminal. I insisted that he go to the destination and told him that if the fare he quoted was correct, he had nothing to fear. After some further shouting on his part, while we continued to be endangered by passing vehicles, he proceeded to the destination."

A North Bergen, New Jersey businessman:

". . . I inquired about the rate and was told there was a flat rate of \$10.00 from the Newark Airport to North Bergen, New Jersey. This seems to be an exorbitantly high rate, and I am wondering whether this is the correct rate. Unfortunately, I know of no alternative of taking a bus or any other transportation from the Newark Airport to get to North Bergen."

The following letter from a Houston, Texas traveler was printed in the Newark News on April 7, 1969:

"The last time I was up in New Jersey I read an editorial in The Evening News about improving the limousine service from Newark Airport into Newark.

"I was glad to read this, as something should be done. I fly into Newark Airport quite often and most generally have to go to Penn Station in Newark. I know a Public Service bus makes this run but this is not practical when you are traveling with suitcases.

"After I get in and we get under way, the driver wants to know where I am going from Penn Station. No matter where it is, he wants to make a deal with me and take me there instead of my using the train.

"When I refuse the offer, they very often get downright nasty and increase the fare. I find using the taxi from Penn Station to the airport usually costs from \$1.60 to \$2. depending on traffic. However, when going from the airport to the station I have been charged as high as \$4.

At this point I would like to introduce in the record a copy of some of the letters of complaint we have received from air travelers about unpleasant and unhappy experiences they have suffered at the hands of taxicab drivers operating from Newark Airport.

Throughout these difficult years our Police have found it necessary to issue hundreds of formal complaints to taxi drivers for violations of the City of Newark's taxi ordinances. However, the penalties meted out by the City's License Commissioner have been so light as to fail as a deterrant to the hard-core of willful violators who cause most of the trouble. The penalty is often no more than a suspension of the driver's right to work at the airport for a few days. Reprimands, suspended sentences and "no decision" are the rule. Unless and until realistic penalties are given, we see little hope of the kind of improvement that could erase the commonly accepted reputation of the Newark taxi industry.

No one challenges the fact that the conduct of the drivers which has given the taxi service at the Airport its infamous reputation is completely in violation of the City ordinance under which they obtain the privilege of conducting their business. Certainly, in the light of our obligations to the public, we cannot condone it. But except to the extent of policing at the Airport and, perhaps, exclusion from the Airport of repeated offenders, we are powerless to control it. Consequently, when in the summer of 1967, the group, headed by Mr. Manning, now known as The Airport Taxi Management Association, advised us that they wanted to create a new image for the Newark cab drivers, we were delighted. They proposed, among other things, to provide a taxi supervisor at the head of the line to assist the passenger. The rules they published for their members, if followed faithfully, promised exemplary service. In return, they requested our assistance in improving the taxi's competitive position and a measure of recognition of their status as spokesman for the taxi drivers operating at the Airport.

We undertook to cooperate in every way we possibly could. The principal complaint related to an alleged unfair competitive advantage granted to suburban limousine service operators in that these operators have counter space inside the Terminal Building while taxicabs are obliged to wait for patrons in a cab stand outside the main entrance to the Terminal Building. We did not and do not agree that the limousine service operators have an unfair competitive advantage over the taxicab. Each of the services has its advantages and disadvantages. They are and should be complementary rather than competitive.

However, in our efforts to cooperate with the new group, and despite the fact that there were numerous signs posted throughout the Terminal Building directing persons to the taxi stand, we accepted the group's suggestion that more information to potential cab riders was required. We, therefore, had taxi information phones installed in each of the baggage claim areas -- we placed additional taxi signs in front of the Terminal -- we provided a heated booth for the taxi supervisor adjacent to the cab stand to which the Information phones are all connected.

It is notable that for the last year and one half taxi service at the Airport has been better than it has been for many years. We still, however, receive complaints such as the one I read earlier that was published in The Newark News and one which came to us on January 2. I would like to read part of this to you.

"Upon loading the taxi, the trunk was slightly ajar, having been tied with string. The driver was told to proceed directly to a town fifteen miles south of the airport, but instead over repeated objections and finally orders, forced us to accompany him to a dimly lit factory area in Newark, ostensibly to obtain another piece of

string. My children and wife was hysterical realizing that this either drunk, drugged or unresponsive moron mentality was driving us to some location of his choosing for some purpose. He finally stopped by a bar which in a violet neon sign said: V.F.W. Post. . . . He left us at the curb on this practically deserted street, either waiting for us to abandon our luggage on this freezing night, or perhaps leave the cab so that we might be prey for his pre-arranged associates. Only through the kindness of a passing motorist were we able to escape this frightening situation."

Because membership in and compliance with the principles of the ATMA is on a voluntary basis we have no way of knowing whether the driver in these most recent occurrences were ATMA men or not. We hope not. But because extreme situations such as this still occur, though with far less frequency than in past years, we feel obliged to keep a cautious eye on the operation.

As I have said, we believe that the suburban limousine service and taxi service are and should be complementary. As the letters I've quoted from indicate, many passengers who want to or must use a taxi to their suburban New Jersey destination consider the taxi fares to be exorbitant. We do not believe that they should be forced to use taxis if they do not wish to pay those fares. Nor do we believe they should be forced to use private cars to avoid them. Apparently, persons using the Airport share these views since there has been an increasing demand for the type of service offered by the suburban limousines. These operators provide, to persons willing to wait a reasonable period of time for service, transportation to fixed suburban points at individual fares much less than cab fares. For example, the suburban limousine fare to Asbury Park is \$6.50. The taxi fare, according to the current taxi rate book, is \$30.00. The service is nowhere near as fast as a taxi because the passengers must wait until the limousine departure time. In addition, a secondary means of transportation is required when the limousine reaches the route destination -- this is not door-to-door service. In our view, the traveler who wants the no-wait service direct to his final destination that only a taxi can offer, and is willing to pay the legitimate fare, should have it with all the civility of air travel. If he is willing to share the vehicle with others, wait perhaps a half-hour for departure and accept the inconvenience of a secondary transportation to his final destination in order to avoid the higher taxi fare, he should, we believe, be able to do just that.

Limousine service, in one form or another, has operated to and from Newark Airport at least since 1947 and apparently for some time prior to 1947. Originally, these services were typical "livery" services. The patron hired the vehicle and driver for service to any destination he selected. The vehicle usually was a luxury type sedan which carried up to 6 passengers. Over the years since 1947 as demand increased for some form of service as an alternative to taxi cabs, the operation began to change. The operators continued the "livery" service but also undertook to carry persons on a "per head" basis to fixed points in destination areas where demand was greatest as, for example, the New Jersey Shore, Morris County and Bergen County.

The largest vehicles used are similar to those used for airline crew transportation, being so-called "stretched" cars which carry a driver and 11 passengers, or station wagons. In some cases, standard luxury type sedan cars continue to be used. The service is point-to-point without intermediate stops and no guaranteed schedules are operated, the service being basically a demand type service. It is interesting to note that by reason of the Court decision in the Terrill case mentioned above, no service of this type is available between the Airport and points in the City of Newark.

When the limousine operators began to advertise their services, the point-to-point and on-call features remained. While it was announced that service would be available from particular points at stated hours, the service would not be operated unless reservations were made in advance. Because of the demand nature of the service, vehicles were not stationed at the curb as are taxi cabs. There was a consequent need for a reservations desk at the Airport and the operators sought counter space in the Airport Terminal Building for which they pay rent. In addition, they pay rent for parking spaces for their vehicles and a percentage fee for the privilege of conducting their business on the Airport. While the 20th Century Association paid a fee for the "exclusive" they had at the Airport, no fees have been paid by any taxi cab since the "open" line was established.

The contractual arrangements between the Port Authority and the limousine operators permit the booking of reservations at the counter, but prohibit personal solicitation of incoming air passengers. The prohibition is part of our policy that passengers not be coerced to use one or another form of transportation. We do not believe they are.

The availability of taxi cab service and the location of the cab line is prominently and repeatedly advertised to the passenger starting in each baggage claim area and outward to the street in front of the Terminal Building. Save for the Airline Bus to the West Side Airlines Terminal in Manhattan, no other public transportation service is accorded this special notice. On the other hand, visible evidence of the existence of limousine service is confined to one location, near the baggage claim area in the

east side of the Terminal. Fully half of the total passengers (arriving on United, American, TWA, and Mohawk) who arrive at the airport, those who enter the west half of the Terminal, are in no way informed of the existence of suburban limousine service.

We believe we have an obligation to the traveling millions of people to continue to maintain a variety of ground services. Limousine service exists because of public demand for such a service arising, primarily, from the public need for an alternative to the higher cost taxi service. We believe the demand for this type of service will continue to grow. We cannot deny these services to the air traveler and we do not believe that the air traveler should be coerced to use taxi cabs under the guise of helping the taxi driver when the real result would be to perpetuate the existing "Horse-Hire" system in which the driver is always at the mercy of the owner of the licensed cab he must rent to ply his trade.

We also believe it our obligation to continue to do everything in our power to work toward the standard of taxi service that the traveler has every right to expect. But we do not believe it will be possible to achieve such an acceptable standard until the City of Newark substantially increases the penalties for violation of its own taxi ordinance, and until the City of Newark eliminates the "Horse-Hire" system of taxicab operations. Such action by the City of Newark is long overdue, in the interest of the many Newark taxicab drivers and of the many, many thousands of the public who must use taxicabs and who have suffered so long as a result of the oppressive "Horse-Hire" system.

XXX

MR. LUKENS: Mr. Chairman, this is a most complete story of a long and difficult and sad tale and I urge each member of the Commission to read it since you have interested yourselves in this subject because it is one that really should concern you and it has concerned the Governor. Just let me, for instance, read you one little thing that the Governor has written not too long ago on this subject, to give you a kind of flavor of what this problem is like. It is a very difficult problem that needs some attention by someone with the public interest at heart.

The Governor said recently to Mr. Manning a little over a year ago:

"I should tell you that I am also very much concerned about comments, which have been repeated to me so often as to be almost deafening, of people who arrive at Newark Airport and wishing to be taken by taxi into the city or into the Newark suburbs, are subjected to a stream of abuse from various cab drivers, which constitute nothing less than a disgrace to the State. These complaints have come to me so often that I have become quite concerned about this conduct reflecting very seriously upon the reputation of the City of Newark.

"It is, of course, recognized that this may involve only a minority of drivers, but, in any case, it must be stopped at once.

"I have informed Mayor Addonizio that this pattern of conduct must be ended and that if the City of Newark is unable to cope with the situation, corrective legislation on a State basis will have to be initiated."

Now here is the Governor of this State who has personally been involved in this issue and here is his judgment of what the problem is.

ASSEMBLYMAN WILSON: Have conditions improved though since the organization of this Taxi Management Association?

MR. LUKENS: From the time Mr. Manning appeared on the

scene, they have improved. This is the last two or three years. But the Governor was writing in the middle of that. He still is getting direct complaints. And as a matter of fact, I would like to introduce in the record recent, not too old, letters, just a random sampling of letters we have gotten from our files from people who have ridden taxicabs out of the airport and the complaints they make to us. This is a very difficult, sore subject and something needs to be done about it.

I would like to read the conclusion paragraph because this sums up what our basic position is, which is that we believe we have an obligation to the traveling millions of people to continue to maintain a variety of ground services. Limousine service exists because of public demand for such a service arising, primarily, from the public need for an alternative to the high-cost taxi service. We believe the demand for this type of service will continue to grow. Incidentally, it has in every other airport in the country of a major size. We cannot deny these services to the air traveler and we do not believe that the air traveler should be coerced to use taxicabs under the guise of helping the taxi driver when the real result would be to perpetuate the existing "Horse-Hire" system in which the driver is always at the mercy of the owner of the licensed cab he must rent to ply his trade.

We also believe it is our obligation to continue to do everything in our power to work toward the standard of taxi service that the traveler has every right to expect. But we do not believe it will be possible to achieve such an acceptable standard until the City of Newark substantially increases the

penalties for violation of its own taxi ordinance, and until the City of Newark eliminates the "Horse-Hire" system of taxicab operations. Such action by the City of Newark is long overdue in the interest of the many Newark taxicab drivers and of the many, many thousands of the public who must use taxicabs and who have suffered so long as a result of the oppressive "Horse-Hire" system.

That is our view in terms of the fundamental crux of this problem. The whole history and background and some of the points related to Mr. Manning's testimony are also covered in here.

I would like just for the Commission's information not only to submit these letters, but I'd like to submit for the record sample comparative taxi and limousine rates to New Jersey destinations which indicates the wide disparity in terms of taxicab rates to certain communities vis-a-viz the limousine. If you are willing to wait a half an hour for a limousine and make an advanced reservation, then you can get to these points at a substantial ---

ASSEMBLYMAN WILSON: Do you have both rates on that?

MR. LUKEN: Both rates are on that list. I think the Committee ought to have that in its records.

Also in the record I would like to place the fact regarding the counter to which Mr. Manning referred. There is one counter in the airport where the limousines are allowed to have a man and that is policed. As a matter of fact, we have thrown out a limousine operator because he did not abide by the rules and was soliciting passengers. They are not allowed to do that except at the counter,

itself, and answer questions of people that come there. As to the location of that counter, as a matter of fact, it is in the east end of the building. So all the passengers who come in the west end from American, United, TWA and some other important airlines are not even exposed to this counter. Also an interesting fact is that the largest operator by far there is the Airport Limousine Service. Eighty-five per cent of their business is reservation or crew business. The non-reservation is a very small portion of their business and I think that is another fact that you should know.

Also in terms of the competitive aspect that Mr. Manning dwelt on in terms of our treatment of the cabs versus the limousines, we have some photographs here showing by virtue of suggestions made by Mr. Manning and others signs that we have put up all over the Terminal Building, more than you find in a normal terminal building, directing people to the taxicabs from every location, including the baggage claim area; as you walk along in the arcades, as you come to the outer parts of the terminal building, there are signs which say "Taxi Stand" and, of course, the taxi stand is right in the center of the terminal building where it ought to be. Again this has some bearing on the competitive aspects of the problem and with that, I will stop talking.

[Exhibits submitted by Mr. Lukens can be found starting on page 68 A of this transcript.]

ASSEMBLYMAN WILSON: Assemblyman Coury.

ASSEMBLYMAN COURY: I would like to ask a question. Who is liable for anything that may happen to a passenger in a

limousine, the Port Authority or the limousine driver?

MR. LUKENS: Who is liable?

ASSEMBLYMAN COURY: Yes.

MR. LUKENS: Mr. Mulhern is our New Jersey counsel and he has handled all the cases that have involved the taxicabs and the limousine operators. He points out that the limousine operator would be responsible, that the Port Authority has little to do with the limousine operators in terms of regulations, that this is a PUC matter. And incidentally, prior to 1963, these limousine companies - there have been limousine companies in existence since '47 - they used to go down to the City of Newark and file an insurance form, I think it was, and they assumed that that was acquiescence from the City of Newark for their operation. There was a case in Newark of a limousine operator to downtown Newark that the City of Newark prosecuted because he did not have a City of Newark license and permission to the Council, that is, --

ASSEMBLYMAN COURY: The Newark Council?

MR. LUKENS: The Newark Council -- and the court found that that was in fact so and, therefore, he ceased business. But at that point then the question was raised: Well, who does have jurisdiction? And the PUC has asserted jurisdiction over certain aspects of their business and, in fact, one of the companies has now applied for license from the PUC.

ASSEMBLYMAN COURY: The reason I raised that question, I wondered how this compared with the "Horse-Hire" system of the taxicabs. This comes as a little bit of a shock to me that this sort of thing exists.

MR. LUKENS: Yes, sir.

ASSEMBLYMAN COURY: So if a person is subjected to some wrong-doing, is the cab driver responsible or is the person who rents out the cab responsible for what happens in his cab?

MR. LUKENS: The cab driver is regulated by the City of Newark and they issue him a license.

May Mr. Mulhern speak to that?

ASSEMBLYMAN COURY: Yes.

ASSEMBLYMAN WILSON: Will you identify yourself, please.

MR. MULHERN: I am Francis A. Mulhern. I am the New Jersey solicitor for the Port of New York Authority. There is a whole series of litigation and decided cases in New Jersey concerning the relationship between the taxi driver and the cab company or the owner from whom he rents the cab. Basically, in the "Horse-Hire" arrangement, insurance is on the taxicab for the protection of the owner and presumably, under agency theory, the driver operating for the owner. The insurance company is responsible for damages.

The other aspects of the "Horse-Hire" system that have been the subject of litigation are whether or not the driver is entitled to workmen's compensation if he is injured. Now there is a decision in New Jersey that says that they are entitled to workmen's compensation. Those elements have been litigated and there are decided cases in New Jersey dealing with them. But on the primary issue of liability, the cabs are insured in accordance with the Newark ordinance requirements.

ASSEMBLYMAN COURY: Thank you.

ASSEMBLYMAN WILSON: On these taxi rates versus limousine

rates, \$19 - \$11, that's for one person for the same trip, like for example, Basking Ridge?

MR. LUKENS: Yes. Mr. Chairman, pardon me. Those are the rates carried in the schedule.

ASSEMBLYMAN WILSON: What would be the rate, for example, for four persons? Would it be \$44 for the limousine and four times \$19 would be, what?

MR. LUKENS: May Mr. Carson answer that question? He has lived with this.

MR. CARSON: For the taxicab rate to Basking Ridge, the \$19 would be for one to possibly four people, the number of people that could be carried in that cab. Nineteen dollars would be the full cost, say if four people rode or if only one rode.

MR. LUKENS: That is according to the schedule if they charged the schedule. But you will find in my testimony in many instances - there are many, many instances in those letters - where the men did not follow the schedule but demanded additional money and in fact, there were instances where they put people out on Route 1 and other inaccessible places.

ASSEMBLYMAN WILSON: What about the limousine rate - what does that represent?

MR. CARSON: Well, in the case of the \$11, if one person was riding in the limousine, the rate would be \$11. Anything beyond one person would be on a negotiable basis between the limousine company and the passenger.

ASSEMBLYMAN WILSON: So they don't have any established rate then?

MR. CARSON: They have a basic established rate of \$11.

ASSEMBLYMAN WILSON: -- for one person, but for more than one, it could be determined by the law of supply and demand and how fast that person wants to get to where he is going.

MR. CARSON: There could be an extra charge of \$2.50 or \$3.00 for that second person. It would be in that area.

ASSEMBLYMAN WILSON: Any other questions?

ASSEMBLYMAN FEKETY: Just one quick question. Some of these complaints you receive in the mail, what do you do with those letters?

MR. LUKENS: We answer them as best we can. We also send copies to the License Commissioner in the City of Newark.

ASSEMBLYMAN FEKETY: How about the Public Utilities Commission?

MR. LUKENS: Mr. Mulhern reminds me they have nothing to do with taxicabs. And one of the problems that I have outlined in my statement is that today under Mr. Manning's influence a very large majority of the taxicab drivers do a very creditable job, but there are still a number that do not. And again you must appreciate that this poor man may have paid out \$20 to \$22 and then is going to have to buy gasoline at 46 cents a gallon and he may go and sit in that line from four to five hours. Then all of a sudden he picks up Senator Coffee who says, "Take me to downtown Newark to the Essex House," and this man at this point is outraged because he has a real problem. So when we still get a number of those complaints, we send them to the License Commissioner in the City of Newark and whenever we have the number of the man and the cab number, of course, that helps.

Then it is up to the License Commissioner to hold a hearing or decide to discipline the man. One of the problems, as we see it, is that the discipline that is meted out by the License Commissioner has not been severe enough frankly.

ASSEMBLYMAN FEKETY: Thank you.

ASSEMBLYMAN WILSON: Mr. Manning, if you would like to rebut any of his statements, you may do so by letter because what is going to happen, we could just keep rebutting one another the whole hearing. So if you will send a letter to me as Chairman of the Commission, I will make sure copies are sent to the other members of the Commission if you wish to rebut the testimony of Mr. Lukens.

MR. MANNING: Actually I wasn't too interested in rebuttal. What I was interested in was I wanted to concur with Mr. Lukens on some of the points he made with respect to horse-hiring and also that some taxicab drivers are not psychologically fit to be operating these cabs and they should be weeded out of the industry because what they do reflects on the majority and these are the fellows who get the brunt of everything. Some people are not adjusted to serving the public and they shouldn't be in the business.

MR. LUKENS: Mr. Chairman, you even have the situation today, which I know Mr. Manning will agree with, you get up to 50 per cent more cabs than you ever need at the airport because they are not going to go in the City of Newark and run the risk of picking up small fares there. They all are attracted by the possibility of getting a \$15 to \$20 fare to New York a couple of times a day in the hope of making a living. So the net result is that we have during the week several times 50 per cent more cabs

than will ever be needed there. Another problem of regulation is exactly that problem that there are too many cabs that come to the airport that are never needed. And this is a grievous problem. We have great sympathy for the men and you can understand how some of these men feel.

ASSEMBLYMAN WILSON: Fine. I think we will now declare the hearing adjourned.

[Hearing Adjourned]



## ESSEX COUNTY BOARD OF TAXATION

110 SOUTH GROVE STREET  
EAST ORANGE, N. J. 07018

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(AREA CODE 201)  
673.2344-5-6

April 2, 1969

Hon. Kenneth T. Wilson  
Assemblyman, Essex County  
5 Marshall Street  
West Orange, New Jersey 07052

My dear Assemblyman:

I want to express my thanks to you for inviting me to testify before your Committee on April 18, but as I told you I will be leaving on the 14th for a short vacation.

As you know, this business of the exemptions to autonomous bodies has been troubling the Essex County Board of Taxation for a good many years and we have tried as best we can, as an administrative body, to test these laws wherever practical. I have fought hard for years on the truck terminal at Delancy Street which is owned by the Port of New York Authority. This problem goes back to the days when I was in the Legislature and I refused to release the Bill that had been assigned to my Committee. The Port of New York Authority used all kinds of methods and I was finally forced to release the Bill which was subsequently enacted into law. The truck terminal was built and never opened for the purposes for which it was intended. Here is a building which is worth over six million dollars, for which the City receives \$4800.00 in lieu of taxes and ten per cent of that, as I recall, goes to the County for County costs. This building is almost ninety-five per cent occupied by outside business firms not related to the Port of New York Authority and the amount that they pay is not even sufficient to pay for the sewage that is emitted from this complex.

These "in lieu of tax" payments, if continued, should be approved by the County Board of Taxation after a study of the value and the services rendered by the community.

I understand that the Port of New York Authority case on properties which we put on the tax rolls, is now before the Supreme Court for its judgment and decision. If per chance the Supreme Court should reverse Judge Lerner who held that these properties are not exempt, then legislation ought to be passed to tax these properties if they are not being used for marine purposes, and if they are used for marine purposes some formula ought to be worked out where they would at least pay for local and county services, deleting therefrom the school rate as I do not believe they contribute to school costs. The questions before the County Board at the present time are, for example: Is a gift shop or a wearing apparel shop, or a bookshop, such an enterprise that it becomes necessary to the operation of an airport facility? Is a restaurant like the Newarker, a deluxe one, necessary for an airport operation, and shouldn't that be taxed?

The question has already arisen with us with the Parkway Authority and again the courts have overruled us. Take for example, the Howard Johnson rest area in Bloomfield. If this facility was being used solely for Parkway riders perhaps we would have no quarrel, but they have service roads from the outside leading to the service area and they advertise that the restaurant is open to the non-users of the Parkway. Here again the municipality is forced to contribute all kinds of services and yet they receive absolutely no return and the local taxpayers have to absorb the burden, to say nothing about competition with local businessmen who are obliged to carry the full brunt of taxation.

These are only a few of the examples. I could cite the Housing Authority of the City of Newark as an agency created by the City of Newark who pays its creator, the City of Newark, a sum of money in lieu of taxes, a study of which will indicate to be very ridiculous, and yet no accounting is made of their budget to the general public. Yet, if you study County records, you will observe that almost eighty per cent of welfare, if not more, and eighty per cent of the population of the jail, penitentiary, tuberculosis institution, Overbrook Hospital, SoHo Hospital, are people from these facilities, and the County receives not a penny from the Newark Housing Authority and this amount has to be absorbed by the other twenty-one municipalities in the County.

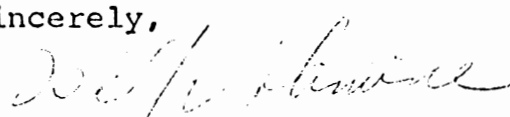
Hon. Kenneth T. Wilson

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I will be available after May 17, and if your Committee feels that additional testimony ought to be taken, I will be most happy to go into more specifics on the question of these exemptions and "in lieu of tax" payments.

Sincerely,

  
Joseph Solimine, Secretary  
Essex County Board of Taxation

JS:eb

Exhibits submitted by Mr. Biunno:

Schedule Part of New York Authority Property  
Resume of Computed Assessments- Taxes- Dollar Losses

<u>YEAR</u>	<u>TOTAL ASSM'T.</u>	<u>RATE</u>	<u>DUE TAXES</u>	<u>YEARLY PAYMENT RECEIVED</u>	<u>DIFFERENCE LOSS</u>
1969	107,991,500.	\$8.30	8,963,294.	1,000,000.	7,963,294.
1968	105,589,100.	7.90	8,341,539.	1,000,000.	7,341,539.
1967	96,990,200.	7.76	7,526,439.	1,000,000.	6,526,439.
1966	97,081,800.	5.97	5,795,783.	5,128,000.	667,783.
1965	92,661,400.	6.47	5,995,192.	128,000.	5,867,192.
1964	86,389,700.	6.60	5,701,720.	128,000.	5,573,720.
1963	91,982,500.	5.80	5,334,985.	128,000.	5,206,985.
1962	47,703,400.	10.74	5,123,345.	128,000.	4,995,345.
1961	44,357,300.	10.11	4,484,523.	128,000.	4,356,523.
1960	49,076,600.	10.25	5,030,351.	128,000.	4,902,351.
1959	44,075,500.	10.25	4,517,738.	128,000.	4,389,738.
1958	43,547,700.	9.62	4,189,288.	100,000.	4,089,288.
1957	43,527,300.	8.93	3,886,987.	100,000.	3,786,987.
1956	43,527,300.	8.43	3,669,351.	100,000.	3,569,351.
1955	43,527,300.	8.47	3,686,762.	99,226.	3,587,535.
1954	43,527,300.	8.55	3,721,584.	99,376.	3,622,207.
1953	43,527,300.	7.79	3,390,776.	100,000.	3,290,776.
1952	28,837,400.	7.56	2,180,107.	100,000.	2,080,107.
1951	34,298,200.	6.92	2,373,435.	50,752.	2,322,682.
1950	26,298,200.	6.84	1,798,796.	96,696.	1,702,099.
1949	26,246,800.	6.76	1,774,283.	64,649.	1,709,633.
1948	26,303,900.	6.50	1,709,753.	200,000.	1,509,753.
1947	26,295,900.	5.98	1,572,494.	160,000.	1,412,494.
			<u>\$100,768,525.</u>	<u>\$10,294,701.</u>	<u>\$90,473,823.</u>

4/15/69

CITY OF NEWARK EXEMPTIONS FOR THE YEAR 1969 - FINAL RATE 8.30

<u>NO. OF ITEMS</u>		<u>TAXABLE VALUE</u>	<u>TAX DOLLAR LOSS</u>
808	Federal Housing	158,272,300.	13,136,601.
1300	<u>Public Properties:</u>		
	1. U.S.A.	17,231,300.	1,430,198.
	2. State of New Jersey	5,461,300.	453,288.
	3. County of Essex	37,461,200.	3,109,280.
	4. City of Newark	84,379,600.	7,003,507.
	5. Port Authority	56,387,000.	4,680,121.
163	Public Schools	90,997,800.	7,552,817.
55	All Other Schools		
	1. Parochial	9,719,100.	806,685.
	2. Private	463,000.	38,429.
	3. Colleges	16,234,300.	1,347,447.
678	<u>Churches &amp; Charties:</u>		
	1. Charities	10,546,000	875,318.
	2. Hospitals	22,919,900.	1,902,352.
	3. Churches	50,819,700.	4,218,035.
124	Cemeteries & Graveyards	<u>7,295,000.</u>	<u>605,485.</u>
	Grand Total	568,187,500.	<u>\$47,159,563.</u>
4852	Senior Citizens	X\$80.	388,160.
5619	Veterans	X\$50.	280,950.
8	Paraplegics ( etc. )	140,000.	11,648.
106	Parsonage Exemptions	1,124,200.	<u>93,533.</u>
			<u>\$47,933,854.</u>

	Initials	Date
Prepared By		
Approved By		

# PORT OF NEW YORK AUTHORITY PORT NEWARK LEASE

1	2	3	4	5	6	7
1	1946					1
2	1947				1600000 (1)	2
3	1948				2000000 (2)	3
4	1949				6464951	4
5	1950				9669664	5
6	1951				5075241	6
7	1952				10000000	7
8	1953				10000000	8
9	1954				9937630	9
10	1955				9922642	10
11	1956				10000000	11
12	1957				10000000	12
13	1958				10000000	13
14	1959				12800000	14
15	1960				12800000	15
16	1961				12800000	16
17	1962				12800000	17
18	1963				12800000	18
19	1964				12800000	19
20	1965				12800000	20
21	1966				512800000	21
22	1967				100000000	22
23	1968				100000000	23
24						24
25				TOTAL	\$ 929470128	25
26	1969				1000000	26
27					1029470128	27
28						28

PROPERTY EXEMPT FROM TAXATION - 1968  
IN COUNTY OF ESSEX

	<u>Public School Property</u>		<u>Other School Property</u>		<u>Public Property</u>		<u>Church and Charitable Property</u>		<u>Cemeteries and Graveyards</u>		<u>Other Exemptions Real</u>		<u>Other Exemptions Personal</u>		<u>Total Exempt Property</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>
Belleville	7,377,900	3.0	1,043,800	1.3	11,203,100	3.4	7,662,200	3.5	270,500	2.2	314,900	.2	-0-		27,872,400	2.6
Bloomfield	16,244,500	6.5	2,446,400	3.0	6,521,500	2.0	6,107,700	2.8	634,200	5.3	2,979,900	1.7	-0-		34,934,200	3.1
Caldwell	3,643,400	1.5	4,377,300	5.5	1,450,800	.4	2,429,500	1.1	146,700	1.2	151,000	.1	-0-		12,198,700	1.1
Cedar Grove	4,045,000	1.6	360,000	.4	18,275,200	11.5	1,803,800	.8	5,000	.1	189,500	.1	-0-		44,678,500	4.1
East Orange	12,203,800	4.9	7,053,200	8.9	9,989,200	3.0	33,130,200	15.3	1,034,800	8.6	69,200	.0	-0-		63,480,400	5.9
Essex Falls	878,900	.4	370,500	.4	2,844,900	.8	1,054,900	.5	-0-	.0	-0-	.0	-0-		5,149,200	.5
Fairfield	1,921,200	.8	676,000	.8	789,900	.2	189,700	.1	9,600	.1	40,100	.0	-0-		3,626,500	.3
Glen Ridge	1,954,300	.8	54,000	.1	1,117,500	.3	4,680,000	2.2	157,400	1.3	59,600	.0	-0-		8,022,800	.8
Irvington	12,978,100	5.2	-0-	.0	6,127,100	1.9	7,882,200	3.6	230,300	2.0	8,034,800	4.5	-0-		35,252,500	3.2
Livingston	10,952,300	4.4	2,425,000	3.1	4,006,750	1.2	3,933,500	1.8	-0-	.0	2,598,000	1.4	-0-		23,915,550	2.2
Mapelewood	9,236,800	3.7	482,400	.6	8,699,500	2.6	7,369,100	3.4	-0-	.0	-0-	.0	-0-		25,787,800	2.4
Millburn	10,639,100	4.3	1,918,000	2.5	11,431,400	3.5	3,904,200	1.8	225,500	1.9	103,200	.1	-0-		28,221,400	2.6
Montclair	18,435,200	7.4	4,990,500	6.4	8,253,200	2.5	15,415,200	7.0	778,300	6.5	78,700	.0	-0-		47,951,100	4.5
Newark	90,140,300	36.2	26,477,600	33.5	192,365,600	58.1	83,338,400	38.3	7,295,000	60.9	150,014,200	83.2	-0-		549,631,100	51.4
North Caldwell	6,319,500	2.5	-0-	.0	5,433,000	1.7	936,400	.4	-0-	.0	31,200	.0	-0-		12,780,100	1.2
Nutley	8,360,000	3.3	1,567,500	1.9	5,138,100	1.7	5,339,400	2.5	107,200	.9	1,785,400	1.0	-0-		22,297,600	2.0
Orange	6,188,000	2.5	1,318,900	1.6	5,472,900	1.7	12,583,700	5.8	404,700	3.4	304,400	.2	-0-		26,272,500	2.4
Roseland	880,000	.3	-0-	.0	173,500	.1	871,500	.4	5,000	.1	403,100	.2	-0-		2,333,100	.2
South Orange	7,767,600	3.1	14,337,400	18.2	3,335,800	1.0	7,114,500	3.3	58,200	.5	27,900	.0	-0-		32,441,400	3.0
Verona	5,671,000	2.2	752,800	.9	2,436,900	.7	2,536,200	1.1	-0-	.0	5,608,800	3.1	-0-		17,005,700	1.6
West Caldwell	1,047,900	.4	7,304,100	9.3	1,873,900	.6	741,200	.3	-0-	.0	862,800	.5	-0-		11,829,900	1.1
West Orange	<u>12,428,100</u>	<u>5.0</u>	<u>1,323,000</u>	<u>1.6</u>	<u>3,799,600</u>	<u>1.2</u>	<u>8,528,500</u>	<u>4.0</u>	<u>588,300</u>	<u>5.0</u>	<u>6,676,300</u>	<u>3.7</u>	<u>160,500</u>	<u>100.0</u>	<u>33,506,300</u>	<u>3.1</u>
Totals	\$ 249,112,900	100.0	\$ 79,278,300	100.0	\$ 330,739,350	100.0	\$ 217,552,000	100.0	\$ 11,950,700	100.0	\$ 180,333,040	100.0	\$ 162,500	100.0	\$ 1,069,188,790	100.0

TO ALL WHOM IT MAY CONCERN:

GENERAL PUBLIC  
NEWS MEDIA

ELECTED OFFICIALS OF THE STATE OF NEW JERSEY AND THE CITY OF NEWARK  
APPOINTED OFFICIALS (PUBLIC UTILITIES COMMISSION - PORT AUTHORITY)  
BUSINESS GROUPS (CHAMBER OF COMMERCE - NEWARK URBAN COALITION, ETC.)  
CANDIDATES FOR OFFICE (GOVERNOR, STATE LEGISLATURE, MAYOR, COUNCIL)  
ORGANIZATIONS DEDICATED TO FAIRNESS AND HONOR FOR THOSE WILLING TO  
WORK AND SUPPORT THEIR FAMILIES.

FOR THE RECORD:

This taxi association was formed to improve the economic and working conditions of all men working in the industry, primarily by giving better service to the public. Our focal point is the airport, but all taxi operators in the city are necessarily included.

Against great business, political and conspiratorial publicity obstacles we have managed an 80% improvement. We still have some house cleaning to do, and we are determined to get on with it in order to survive.

The Port of New York Authority, controlling one third of the land in the city of Newark and contributing nothing comparable in return, must be made to realize that its attitude adds harshly to the problems of the community in which it operates. A vivid example is the taxi problem. Apparently it is the adamant position of the Port Authority, based solely upon a mercenary criterion, to solve its responsibility in this area by means most profitable to the Port Authority. Accordingly, this quasi-state agency fosters and extends preferential treatment to private, non-contributory transportation groups in return for a portion of their earnings. Newark's taxis are relegated to secondary competitive status, although we give the most comprehensive and essential service to the public. This is the basis of our criticism and our battle.

To evaluate our position objectively, it must be borne in mind that not only are Newark's 600 taxi franchises affected but also the livelihood of 1,500 drivers. These men must work 6 or 7 days a week, 12 hours a day, to take home a salary that is modest by any scale. In plain arithmetic this is what it means: there are 200 drivers who work out of the airport steadily, and each man must earn a gross of \$12,495.00 per year to take home a pay of \$100.00 per week. The figures break down as follows:

Taxi lease	\$15.00 per day @ 365 days	\$1820.00
Gasoline	\$5.00 per day @ 365 days	\$5475.00
Salary	\$100.00 per week @ 52 weeks	<u>\$5200.00</u>
		\$12,495.00

This represents a total of \$2,499,000.00

If one considers that it takes a two and a half million dollar per year taxi business at the airport to support 200 men and their families, and that these men are being systematically deprived of their right to protect this business, it becomes clear that our criticism is just and is based on solid economic and sociological grounds. Our competitors are given an exclusive right to skim the cream off the transportation business. Our competitors meanwhile have little investment, no franchise and no license to operate, but many of the taxi operators have \$13,000 invested in a franchise required by the city.

To close: the have-nots must have a license to operate a shoe shine parlor at the airport, issued by the city of Newark, but the limousine operator is allowed to do business without one.

James E. Manning, President,  
Newark Airport Taxi Management  
Association

Newark Airport Taxi Management  
Association  
20 University Ave.  
Newark, New Jersey

April 29, 1968

PUBLIC UTILITIES COMMISSION  
DIRECTOR OR PRESIDENT  
COMMISSIONERS  
HEARING EXAMINERS

THE FOLLOWING IS A STATEMENT OF NEWARK TAXICAB DRIVERS WITH REGARD  
TO LIMOUSINE OPERATION AT NEWARK AIRPORT

It may not be irrelevant at the outset to point out that taxicabs, as well as the drivers, are licensed to operate by the city government at a considerable fee. A cab is a common carrier in the most literal sense. It services the entire range of the public, from a ride of several blocks to one of many miles, from city to city. This latter type of ride is in considerable demand at the airports, and constitutes an important share of the total taxi operation. Business and professional men with advance appointments in cities other than Newark require instant service on landing at the airport, and this service is provided in a matter of seconds by the line of waiting taxis. For those going to a local destination, of course, the service is equally prompt. No other form of ground transportation is at all equipped to furnish this kind of service. Every taxidriver is familiar with this style of remark from the passenger at the end of the ride: "Well, thank you very much. I'm certainly on time for my appointment."

Being legally licensed subjects the taxicab operation to a great number of regulations, in the public interest, which are thoroughly enforced by the municipality. Fares, both local and long distance, are fixed by city ordinances. The safety of the vehicle is assured by quarterly inspections carried out by city authorities. Every driver is checked yearly, also by the city, for traffic violations and for arrests for any cause. The point of these regulations is obviously and correctly to determine as far as is possible that the taxi passenger is driven in a safe car by a competent and responsible driver.

The holder of a taxi franchise must invest approximately \$13,000.00, including the cost of the vehicle. The number of franchises in Newark is limited to 600. Experience has shown that this number is more than adequate. There is no way for a newcomer to the taxi industry to obtain a franchise other than by transferring (purchasing). Men have invested their life savings for a franchise in order to secure a steady means of earning a livelihood, or have worked inhumanly long hours for years to pay it off on time. Is such an investment of time and labor made by those who are struggling to secure an economic foothold in society not to be safeguarded by society as well as the involved individual?

As for the driver who is not the holder of a franchise, but is simply a licensed taxi driver, every regulation cited above applies equally to him. The case we have made for the equity of the franchise holder applies equally for the driver, and perhaps with greater force. A study of the Newark taxi driver reveals that he is

in the average over 40 years old, a member of a minority group, sometimes with a physical disability, and, if not for his determination to work and his sense of responsibility to his family, would be a possible member of the hard-core unemployed due to deprivation of education and lack of training in more complex skills.

The income of the taxi operator not only supports his family; the industry is a substantial element in the whole local economy. The 1500 operators are consumers in the community; the 600 cabs require servicing from gas stations, mechanics, body and fender repair men. The replacement of cabs every three or four years is certainly of considerable benefit to local automobile dealers.

We are citing these facts, we are pointing out the important role of the taxi industry with regard to the economy of the community not to secure special favors, but as an obvious bargaining factor to secure just a fair and equal opportunity against our competitors whose significance as an economic force is far less than ours.

We maintain that our competition, the limousine-station wagon operators, and the privileged position given them at the airport is the direct cause of the taxi drivers' inability to make a living within the nationally accepted 40 hour work week. We are concerned that in this time of supposed affluence the taxi operator must work 72 and more hours per week to sustain our families. We would like to suggest that the taxi operator, like the truck and bus driver, be given the support of regulatory bodies in positions of authority in his fight to earn a living without pushing himself past the point of physical endurance.

Limousine-station wagons are operating illegal within the franchised area of Newark. Since the airport is the heart of the taxi operation in Newark, whatever conditions obtain there have a direct and immediate effect on the industry in the whole city.

In the past 6 years the limousine business has increased nearly 1,000 per cent, while the taxis have gained nothing. We maintain this is for two basic reasons:

1) The fact that these limousines pay the Port Authority 10% of their gross take. For this they are given the exclusive use of the east door of the terminal, with loading outlets east and west. A key advantage even greater than this is a counter inside the terminal next to the baggage counter where their advertisements are in full view of arriving passengers, where their personnel may transact business directly. Taxis are not located at the east end of the terminal, either inside or outside. When taxis are concealed from half the passengers using the airlines, what happens to the public's opportunity to choose the most efficient and convenient form of transportation?

2) They (limousines) are allowed to operate a radio call system on airport grounds, which enables them to dispatch vehicles from inside the terminal to points all over the state. This preferential treatment reduces the taxi industry to a secondary competitive basis.


3

When one examines this from a small businessman's position, one is led to ask: can it really be the stiff policy of a quasi-governmental agency to pre-empt the right of a municipality to determine the range and amount of public transportation in the municipality's franchised area? And if the preferential treatment given by the Port Authority to one transportation group at the expense of another creates economic conflict and an inflationary condition in ground transportation, is the justification to be the 10% of the gross received by the quasi-governmental agency? If it is asserted that the one group is being promoted because it can offer better or cheaper service, let us state for the record that we will match any effort to give the public better and more economical service. If a sincere attempt was made to give the public more and least costly service (and we bring up this point just as an example) it would have to include the use of Public Service busses which make the run to New York from the adjacent highway at less than half the price of the bus line now operating from Port Authority bases. Yet the Public Service busses are barred from entering the airport, depriving a large portion of the public of any free choice of bus service.

In closing, we would like the record to show that the inability of the taxi industry to grow in proportion to the increase in air travel, which will be 100% in the next three years, is shrinking an area of employment for Newark men to maintain their position as heads of families, but is in direct opposition to the stated policy of federal, state and local government with regard to opening up work opportunities for all within the wide range of the underprivileged.

May we further add that it is the accepted unwritten law of this industry, enforced by state statutes and municipal ordinances nationwide, that one transportation service does not poach in the franchised area of another. The hidden crux of this whole argument for allowing such encroachment is that Newark airport is now, and will be much more so in the near future an open invitation to some who would start with nothing (no initial investment), and at the expense of others (the taxi operator) reap a financial bonanza.

Respectfully submitted,

  
James E. Manning, President  
Newark Airport Taxi Mgmt. Assn.  
(Representing Newark Taxi Operators)

NEWARK AIRPORT TAXI MANAGEMENT ASSOCIATION  
TAXI SUPERVISOR BOOTH  
NEWARK AIRPORT

April 7, 1969

TO: TAXI PASSENGERS AT NEWARK AIRPORT  
SUBJECT: DISCONTINUANCE OF TAXI SUPERVISOR SERVICE

Dear Patron:

Due to the inability of our members to sustain the cost of staffing the taxi supervisor booth we must regretfully discontinue this service. (Effective May 1st 1969)

In the past year our members voluntarily contributed over \$50,000.00 to finance this starter booth to see that persons desiring transportation from the airport received improved service with a minimum of discomfort. Now we can no longer ask our members to carry this financial burden because:

- 1- Our members feel the economic squeeze of approximately \$20.00 expenses before taking home a days pay. (Some days we don't take home any pay)
- 2- Restraint of trade, inability to compete with outlaw limousine operators given preferential treatment in east arcade of airport terminal. This inside operator unlicensed and non-franchised is taking majority of profitable rides and leaving the least profitable for the taxi operator who must remain outside terminal.
- 3- Unwillingness of the people in decision-making positions to cooperate in effecting a change in policy that would give the taxi operator fair competitive status. This includes the following who have been appealed to for assistance:  
Governor of the State of New Jersey  
Elected officials of Newark Port of New York Authority  
Superior Court of New Jersey Attorney General, New Jersey  
Public Utilities Commission of New Jersey

Now out of desperation we ask you, the riding public <sup>paying</sup> for these public facilities to understand us as family men trying to earn a living and being subjected to unreasonable obstacles in the pursuit of same to bear with us and continue utilizing our service. We shall continue to explore the possibility of awakening the conscience of someone in an official capacity who will not be politically motivated to closing his eyes to problems faced by his constituents, and perhaps who will be dedicated to seeing that the public is also served properly.

James E. Manning, President  
Newark Airport Taxi Mgmt.

## 48:4-6

## PUBLIC UTILITIES

### 48:4-6. Transfer of consent; liability for outstanding debts due board

Any such municipal consent for the operation of an autobus heretofore granted and now in effect or hereafter granted and in effect may be transferred by the holder thereof upon obtaining the approval of the Board of Public Utility Commissioners upon application to it by either the transferor or the transferee.

The transferor and the transferee shall be jointly and severally liable for any outstanding debt due the board at the time of the transfer. As amended L.1962, c. 198, § 66.

Effective date see § 48:2-2 note.

#### 1. Construction and application

Upon notice that a holder of municipal consents for autobuses over a route would no longer furnish such service, Board of Public Utility Commissioners had no right to authorize or permit another person to provide such service pending his obtaining the necessary permits. In re Board of Public Utility Com'rs Investigation of Bus Service by Strang Bus Lines, Inc., 67 N.J.Super. 1, 169 A.2d 698 (1961).

Under this section concurrence of city was not prerequisite to approval of transfer of consents by Board of Public Utility Commissioners, despite contract between city and bus company providing that bus transportation could be discontinued, but unless trolley service was restored, city reserved right to revoke consent to operate buses. Public Service Coordinated Transport v. State Dept. of Public Utilities, Bd. of Public Utility Com'rs, 26 N.J.Super. 576, 98 A.2d 607.

### 48:4-7. Revocation of consent

#### 1. Construction and application

Board of Public Utility Commissioners had no status to appeal from Supreme Court's judgment on certiorari holding that revocation of bus line permit by borough, on ground that it had not been approved by the board, as provided by statute, was invalid. Public Service Interstate Transp. Co. v. Board of Public Utility Commissioners, 129 N.J.L. 94, 28 A.2d 199, dismissing appeal 127 N.J.L. 29, 21 A.2d 308.

The revocation by a borough of its consent to operate busses on certain borough streets before transportation company made application to the Board of Public Utility Commissioners for approval of the consent given was ineffective. Public Service Interstate Transp. Co. v. Board of Public Utility Com'rs, 127 N.J.L. 29, 21 A.2d 308, appeal dismissed 129 N.J.L. 94, 28 A.2d 199.

### 48:4-9. Special or occasional trips

The holder of a municipal consent for the operation of an autobus may use such autobus for special or occasional trips off its regular route whenever the autobus is not required for the operation of the schedule on its regular route.

No special or occasional trip shall be operated in competition with any autobus route or a street railway line. The provisions of this paragraph shall apply to operators of special or occasional trips whether or not they hold municipal consents. As amended L.1962, c. 198, § 67.

Effective date see § 48:2-2 note.

### 48:4-11. Penalty and enforcement

Any person who shall operate an autobus in the streets of a municipality without complying with the provisions of this article shall be adjudged a disorderly person.

The Board of Public Utility Commissioners shall proceed at law or in equity to prevent any person from operating an autobus in violation of the provisions of this article or otherwise violating any provisions thereof.

Proceedings to prevent a person from operating an autobus without a valid municipal consent may be instituted by any public utility, the business or revenues of which are adversely affected thereby. As amended L.1962, c. 198, § 68.

Effective date see § 48:2-2 note.

#### 1. Construction and application

Upon notice that a holder of municipal consents for autobuses over a route would no longer furnish such service, Board of Public Utility Commissioners had no right to authorize or permit another person to provide such service pending his obtaining the necessary permits. In re Board of Public Utility Com'rs Investigation of Bus Service by Strang Bus Lines, Inc., 67 N.J.Super. 1, 169 A.2d 698 (1961).

This section is not applicable to street railways operating under § 48:15-41. Public Service Coordinated Transport v. Newark-Elizabeth Independent Bus Owners Ass'n, 3 N.J. 118, 69 A.2d 22.

Persons who owned and operated buses in competition with street railway company were adversely affected by order of Board of Public Utility Commissioners permitting street railway company to substitute auto buses

had no power to require such carrier to comply with insurance regulations imposed pursuant to state statute. Penn-

sylvania Greyhound Lines v. Board of Public Utility Com'rs, D.C., 107 F.Supp. 521.

### B. EXCISE TAX

#### 48:4-20. One-half cent per mile tax; exception

Every person owning or operating an autobus which is operated over any highway in this State for the purpose of carrying passengers from a point outside the State to another point outside the State, or from a point outside the State to a point within the State, or from a point within the State to a point outside the State shall pay to the Director of the Division of Motor Vehicles, as an excise for the use of such highway,  $\frac{1}{2}$  cent for each mile or fraction thereof such autobus shall have been operated over the highways of this State, except that no excise shall be payable for the mileage traversed in any municipality to which such owner or operator has paid a monthly franchise tax for the use of its streets under the provisions of section 48:4-14 of this Title. As amended L.1962, c. 198, § 71.

Effective date see § 48:2-2 note.

#### Supplementary Index to Notes

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Interstate commerce 5  
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#### 2. Construction and application

Amount of charges and method of collection of road use tax are primarily for State's determination and will not constitute burden on interstate commerce if reasonable and fixed according to such uniform, fair, and practical standard. *Safeway Trails, Inc. v. Furman*, 41 N.J. 467, 197 A.2d 366 (1964), appeal dismissed and certiorari denied 85 S.Ct. 144, 379 U.S. 14, 13 L.Ed.2d 81.

Term "highway" in this section includes New Jersey Turnpike and Garden State Parkway, and, therefore, tax applied to mileage traveled by interstate buses on Turnpike and Parkway. *Id.*

Fact that use of turnpike or parkway may be less burdensome financially to State, aside from expenses of turnpike or parkway authorities, than other highways in State will not destroy validity of measure of mileage tax if result of tax is fair compensation to State. *Id.*

Formula used in imposing road use tax is not measure of constitutionality so long as it may be deemed a reasonable exercise of legislative judgment. *Id.*

Tax for use of highways need not bear any specific relationship to extent of road use. *Id.*

A bus company was not ineligible for intrastate business merely because it was also engaged in interstate business. *Hudson Bus Transp. Co. v. Board of Public Utility Com'rs*, 131 N.J. L. 576, 37 A.2d 636.

#### 3. Turnpikes

The measure of excise tax of one-half cent per mile which must be paid by owners or operators of autobuses, transporting passengers for hire interstate over the streets and highways of the state includes mileage traveled over the New Jersey Turnpike. F.O.1960, No. 11, overruling F.O.1950, No. 78.

The Turnpike Act contemplates the imposition of tolls for the use of a turnpike project, and such project is not a highway, and consequently interstate carriers of persons using such project

will not be subject to one-half cent a mile excise tax provided by this section for use of highways maintained by public. *Op. Atty. Gen.*, Nov. 14, 1960, No. 78.

#### 4. Refunds

Where imposition of tax in connection with carriers' travel on highways other than New Jersey Turnpike and Garden State Parkway was not contested imposition of tax based on mileage traveled over those roads could be considered in nature of "overassessment," as opposed to illegal or invalid tax, and refund to carriers after court upheld their contention could be characterized as an "abatement," and carriers were not entitled to interest on amounts refunded. *Safeway Trails, Inc. v. Furman*, 77 N.J.Super. 26, 185 A.2d 245 (1962).

#### 5. Interstate commerce

Compensation for privilege of road use constituted valid purpose for imposing mileage tax on interstate autobuses. *Safeway Trails, Inc. v. Furman*, 41 N.J. 467, 197 A.2d 366 (1964), appeal dismissed and certiorari denied 85 S.Ct. 144, 379 U.S. 14, 13 L.Ed.2d 81.

Measurement of road use tax due from interstate bus users by miles traveled over all roads in State was a reasonable exercise of legislative judgment. *Id.*

State excise tax imposed on interstate autobuses was not imposed for privilege of doing interstate business and did not exceed fair compensation, where imposed on basis of mileage traveled in State at rate of one-half cent per mile. *Id.*

In absence of evidence that road use tax imposed on mileage basis on interstate carriers resulted in heavier financial burden than gross receipt tax imposed on intrastate carriers, tax levied on interstate carriers would not be discriminatory merely because it differed in form or adopted a different measure or method of assessment. *Id.*

One-half cent per mile state excise tax imposed on interstate autobuses did not violate commerce clause or deny equal protection, where intrastate carriers were subject to three per cent gross receipts tax, and mileage tax was not imposed for privilege of doing interstate business, was inapplicable to mileage subject to gross receipts tax, and did not exceed fair compensation. *Id.*

**48:4-21. Monthly report of mileage; payment of tax**

Every such owner or operator shall file with the Director of the Division of Motor Vehicles on or before the twenty-fifth day of each month a report, under oath, on such form as the director shall prescribe, which report shall disclose the number of miles such autobus shall have been so operated over the highways of this State during the preceding calendar month, together with the registration number of such vehicle and such other information as the director may require.

Every such person shall pay to the director upon the filing of such report the amount of tax due from such person as disclosed in the report. As amended L.1958, c. 171, p. 710, § 1.

Effective Feb. 9, 1959.

**Library references**

Automobiles  $\approx$  100.

C.J.S. Motor Vehicles §§ 142, 145.

**48:4-22. Report of schedule of operations; contents; subsequent changes**

On or before May 7, 1931, every such owner or operator shall file with the Director of the Division of Motor Vehicles a report of schedule of operations setting forth the routes traveled, their termini, the number of miles traveled daily in this State, the names of municipalities to which monthly franchise tax is payable and the miles traveled therein and the registration numbers of autobusses operated and such other information as the director may require.

Every such owner or operator shall give to the director immediate report in writing of any subsequent change in such schedule, or routes, or number of miles traveled daily, or autobusses, except that no notice need be given in case of the operation of an autobus which is temporarily used to supplement a fixed schedule of operation. As amended L.1962, c. 198, § 72.

Effective date see § 48:2-2 note.

**48:4-23. Revenues used for highway purposes**

All moneys derived from the excise hereby imposed shall be paid over monthly by the Director of the Division of Motor Vehicles to the State Treasurer and such revenues are hereby appropriated to the State Highway Department for use by it for the construction and maintenance of highways. As amended L.1962, c. 198, § 73.

**1. Construction and application**

One-half cent per mile State excise tax imposed on interstate autobuses did not violate commerce clause or deny equal protection, where intrastate carriers were subject to three per cent gross receipts tax, and mileage tax was not imposed for privilege of doing inter-

state business, was inapplicable to mileage subject to gross receipts tax, and did not exceed fair compensation. *Safeway Trails, Inc. v. Furman*, 41 N.J. 467, 197 A.2d 366 (1964), appeal dismissed and certiorari denied 85 S.Ct. 144, 379 U.S. 14, 13 L.Ed.2d 84.

**48:4-24. Enforcement; bond**

The Director of the Division of Motor Vehicles shall enforce the payment of the excise hereby imposed and for such purpose make and enforce such rules and regulations as he may deem necessary. He may require a bond or other surety for the payment of excise and penalties imposed by and payable pursuant to sections 48:4-20 to 48:4-34 of this Title and for compliance with the provisions of said sections and the rules and regulations made by him pursuant hereto. As amended L.1962, c. 198, § 74.

**48:4-25. Examination of records of owners or operators; oaths**

The Director of the Division of Motor Vehicles shall have power, whenever he deems it expedient, to make or cause to be made by deputy, auditor or investigator, an examination or investigation of the books, records, papers, vouchers, accounts and documents of every such owner or operator for the purpose of administering the provisions of sections 48:4-20 to 48:4-34 of this Title.

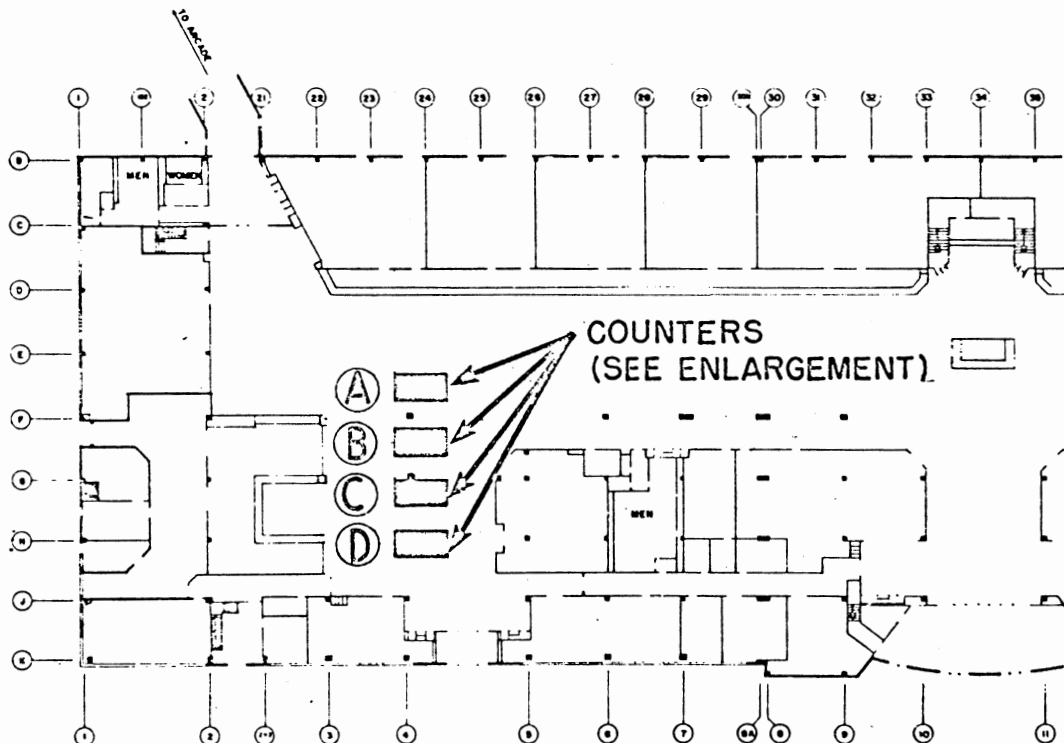
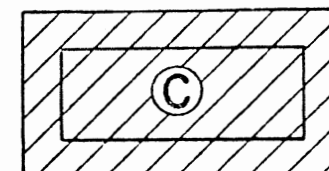
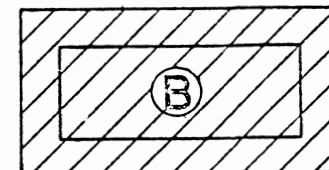
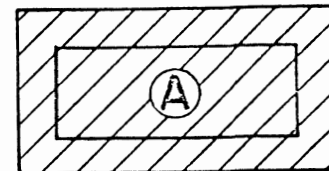
It shall be the duty of every such owner or operator and of every director, officer, agent or employee thereof to exhibit to the director, his deputy, auditor or investigator all of the books, records, papers, vouchers, accounts

The following exhibits were submitted by Mr. Lukens:

COMPARATIVE TAXI AND LIMOUSINE RATES TO NEW JERSEY DESTINATIONS

<u>Terminal</u>	<u>Taxi Rate/1/</u>	<u>Limousine Rate /2/</u>	
Basking Ridge	\$19.00	\$11.00	
Bell Labs (Whippany)	14.00	6.00	
Berkeley Heights	12.00	6.00	
Bernardsville	21.00	11.00	
Brookside	18.00	10.00	
Cedar Knolls	15.00	8.00	
Chatham Boro	10.00	5.50	
Chatham Township	10.00	6.50	
Clark	8.00	7.50	/1 Official taxicab rates of the City of Newark. August, 1968
Convent Station	12.00	6.75	
Cranford	7.00	6.00	
Denville	18.00	11.00	
Dover	21.00	12.00	
Dunnellen	16.00	10.00	
Fanwood	11.00	7.50	/2 Published by Airport Limousine Suburban Service and Asbury Red Bank Limousine Service.
Florham Park	13.00	7.00	
Garwood	8.00	6.00	
Gillette	14.00	8.00	
Hanover	12.00	8.00	
Kenilworth	7.00	6.00	
Livingston	11.00	7.00	
Madison	11.00	6.50	
Mendham	18.00	11.00	
Millington	17.00	10.00	
Morris Plains	16.00	8.00	
Morristown (Gov. Morris Inn)	14.00	6.00	
Morristown	14.00	7.00	
Morris Township		8.00	
Mountain Lakes	18.00	10.00	
Mountainside	8.00	5.50	
Murray Hill	11.00	5.75	
New Providence	12.00	5.75	
Parsippany	16.00	9.00	
Plainfield	12.00	8.00	
North Plainfield	12.00	9.00	
Rockaway	20.00	12.00	
Scotch Plains	10.00	7.50	
Short Hills	9.00	4.75	
Springfield	7.00	4.50	
Sterling	17.00	9.00	
Summit (Suburban Hotel or RR Station)		3.75	
Summit	9.00	4.75	
Union	5.00	4.25	
Westfield	9.00	6.00	
Whippany	14.00	8.00	
Asbury Park-Long Branch	30.00	6.50	
Eatontown-Red Bank	24.00	6.50	
Middletown Hazlet-Keyport	22.00	6.00	
Woodbridge	10.00	5.50	

COUNTERS A B C & D  
ENLARGED



COUNTERS  
(SEE ENLARGEMENT)

LOCATION PLAN

PART FIRST FLOOR PLAN

PASSENGER TERMINAL BLDG. 88



ALS

THE PORT OF NEW YORK AUTHORITY  
NEWARK AIRPORT

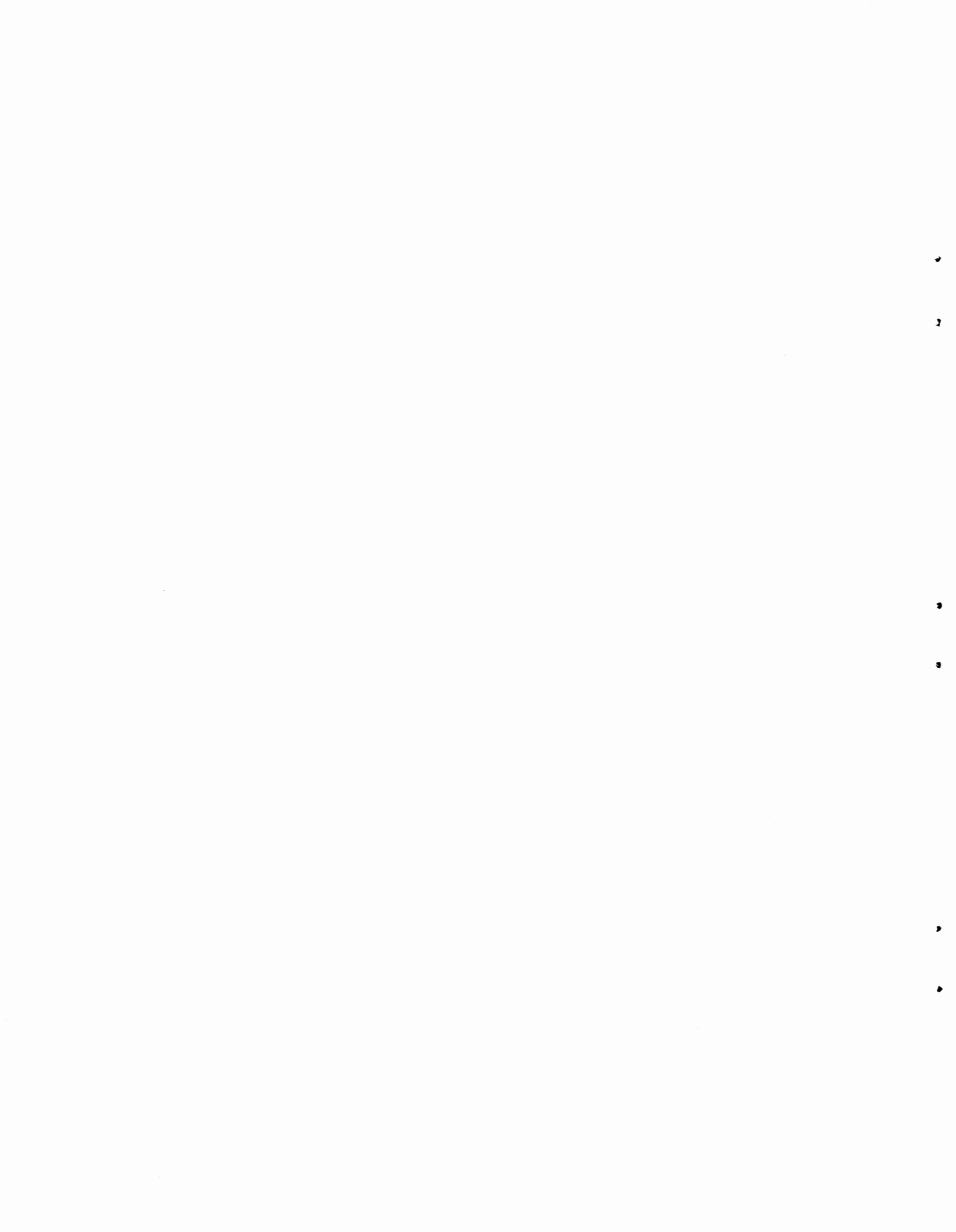
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FOR THE PORT AUTHORITY

CVUDIT

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