

90
R973
1956

R973
1956
do

PUBLIC HEARING
Senate Committee on Education
on
Senate Committee Substitute for
Senate Bill No. 167
(Reorganization - Rutgers University)

Held:
State House, Trenton
May 23, 1956

Present:

Senator Malcolm S. Forbes (Chairman)
Senator John A. Lynch

Senator Albert McCay, Majority Leader

New Jersey State Library

I N D E X

	Page
Lansing P. Shield, Chairman Special Committee on Rutgers Reorganization	2 - 70
Earl Silvers (Statement of Carrol Shanks)	10
Wm. P. Watson, Secretary New Jersey Farm Bureau	12
Joel R. Jacobson, Exec. Vice President N. J. State CIO Council	15
Richard Scudder Newark Evening News	19
Dr. Frederick L. Hipp, Executive Secretary New Jersey Education Association	20
William Faherty Rutgers Alumni Association	21
Anita Marlay, Student Douglass College	22
Lloyd Wescott Member, State Board of Agriculture and Governor's Rural Advisory Committee	24
Mrs. Alice Turnbull, President Douglass College Alumnae	25
Mrs. Wm. R. Leonard, Jr. Acting President, N. J. Congress of Parents and Teachers	26
Chester Wenczel, President Ceramic Association of New Jersey	27
Arnold Voight, Past President N. J. Pharmaceutical Assoc.	27
John J. Rafferty, Executive Secretary New Jersey Catholic Council	31 - 80
Stanley Lavine, Executive Vice Chariman Americans for Democratic Action	60
John A. Hurley, Student Rutgers University	61
Mrs. Harriet Burdick, President N. J. Library Association	69
Dr. Lewis W. Jones, President Rutgers University	72

THE CHAIRMAN: We will call the hearing to order and get under way. It's the hope that everybody who wants to be heard will be heard and that we can wind up by six o'clock. If this doesn't prove possible, we will continue the hearing on another day, possibly Friday.

The hearing, as you know, is on Senate Bill #167 and, following the usual procedure in public hearings, the proponents of the Bill under consideration will be called on first, to be followed by the opponents. We thought it might be more equitable, if we were aiming at a six o'clock adjournment, if that proved possible and all had been heard who wanted to be, to devote the first hour to proponents, the second hour to opponents, and then maybe divide the last half hour any way that would seem equitable, either by way of rebuttal or additional speakers. If that is agreeable, or if there is any objection to that procedure, we will just follow right on through in the normal course.

Now, if you have prepared statements it would help if you would hand them in. Now when you speak if you would utilize one of the microphones in the front row it would also help with the transcription.

I will call first on Mr. Lansing Shield who is Chairman of the Special Committee on the Rutgers Reorganization. This bill that is under consideration is the one that results from his Committee's findings and recommendations. Mr. Shield, would you take over.

MR. LANSING P. SHIELD: Mr. Chairman and Members of the Committee --

THE CHAIRMAN: Excuse me just one minute, please. I forgot to say that the Senate Education Committee consists of Senator John Lynch from Middlesex, who is on my right; Senator Frank Shershin is not here, he has another hearing in another part of the State on another committee; We hope Senator Hannold will be able to be with us later. In addition, the Majority Leader, Senator McCay, who is not on the Committee, hopes to sit in on the hearings as they progress.

Thank you, Mr. Shield.

MR. SHIELD: I should like to testify on behalf of the Committee Substitute for Bill No. 167, not as a Trustee of Rutgers nor as Chairman of the Special Committee on Reorganization, but rather as a citizen of the State of New Jersey. In this way I believe that I may speak more objectively regarding the reasons why this bill should be adopted.

While I am sure that everyone is interested in furthering the cause of higher education in New Jersey, I doubt if most of our citizens realize the serious situation which higher education faces in our State. While New Jersey has done a commendable job at the elementary and high school level, our State now lags far behind almost every other state in the Union in terms of ^{public} higher education at the college level. New Jersey ranking second in family income, ranks 44th out of 48 states in the amount of money spent for higher education in relation to per capita income. Only one-fifth of the young people of the State are actually going to college and

of these young people who do go to college, 54 percent go out of our State to get a college education. And I believe that is the highest percentage of any state.

But today's situation is almost favorable compared to what we may expect in the future. Whereas today there are 49,000 New Jersey students attending college either in or out of the State, there will be at least double this number seeking a college education within the next ten years.

As colleges and universities in other states find their facilities inadequate because of greatly increased enrollments, students from New Jersey will have to look increasingly toward their own state university for admission. Thus, there will be a double impact upon the State University.

I would like to quote from an article in the Education in Review section in last Sunday's edition of the New York Times, entitled "Stiffer Screening for College Aspirants as Applications Outpace Vacancies", and here's the quotation: "The State University of New Jersey, Rutgers, points out that last year it had 3600 applications and admitted 875 or 25 percent. This year some 5,500 applied of which 925 are to be admitted, or only 20 percent. About 300 who would have been accepted in other years were turned down because of lack of facilities. Here is a disturbing item for future students. Rutgers estimates that the number of applicants will double in 8 years and will probably go as high as 12,000. The facilities will not double. What then will happen to the thousands of qualified students who should go to college, can do college work and would prove a benefit

to the nation?" Obviously, the State of New Jersey has an obligation to find a way to provide the educational facilities for these additional thousands of students who will be seeking a college education.

This Bill under discussion today is the vital step which the State may take now to begin to meet this challenge. The proposed reorganization plan is one which over the years will be increasingly recognized as an unselfish and statesman-like action in which the Rutgers Board of Trustees, a body in existence for almost 200 years, voluntarily withdraws as the administrative body and turns over the controls of the University to a new Board of Governors. This legislation puts the control of the University in the hands of a Board of Governors which will have a high degree of autonomy and on which the State will have majority representation. This is the core and substance of this Bill. It insures that the people of the State will have, through their elected representatives, the dominant voice in the administration of their State University. They will in this way have the deciding vote in the spending of their tax dollars.

In stepping out of the operation and control of the University, the Board of Trustees eventually reduced to 35 members, will act in an advisory capacity. In addition it will make available to the Board of Governors all trusteeed properties and income from trust funds; present assets of approximately \$50,000,000 held by the Trustees will be made available to the State, and for all practical purposes in perpetuity.

In brief, this Reorganization Bill provides for a Board of Governors consisting of 13 members - two ex-officio non-voting members, the Commissioner of Education, and the President of the University; 6 members appointed by the Governor, and 5 appointed by the Board of Trustees. The Board of Governors will have general supervision of the University and will have the authority to determine policies for the organization, administration and development of this State University. That is language taken directly from the Bill.

The rights reserved to the Board of Trustees are relatively few. Aside from provisions that the name of the University cannot be changed without approval of the Board of Trustees, and the right to ratify the appointment of a new president by the Board of Governors, the chief function of the Board of Trustees will be to invest the trust funds and to turn over the income from these funds to the Board of Governors for the operation of the University. The Trustees reserve the right to withhold the use of these trust funds from the Board of Governors if the university is not maintained with high educational standards.

I am sure that every citizen would certainly be in favor of this latter provision. The people of New Jersey do not want a second-class university.

It should be pointed out too, that the decision to withhold funds will not be made solely by the Trustees rather it must ^{be} adjudicated in the courts of this State before any action is taken.

In brief, this Reorganization Bill provides for a Board of Governors consisting of 13 members - two ex-officio non-voting members, the Commissioner of Education, and the President of the University; 6 members appointed by the Governor, and 5 appointed by the Board of Trustees. The Board of Governors will have general supervision of the University and will have the authority to determine policies for the organization, administration and development of this State University. That is language taken directly from the Bill.

The rights reserved to the Board of Trustees are relatively few. Aside from provisions that the name of the University cannot be changed without approval of the Board of Trustees, and the right to ratify the appointment of a new president by the Board of Governors, the chief function of the Board of Trustees will be to invest the trust funds and to turn over the income from these funds to the Board of Governors for the operation of the University. The Trustees reserve the right to withhold the use of these trust funds from the Board of Governors if the university is not maintained with high educational standards.

I am sure that every citizen would certainly be in favor of this latter provision. The people of New Jersey do not want a second-class university.

It should be pointed out too, that the decision to withhold funds will not be made solely by the Trustees rather it must ^{be} adjudicated in the courts of this State before any action is taken.

One of the important features of this Bill is that it insures a high degree of self-government for the State University. Everyone interested in higher education is concerned about the possible pressures from outside sources which may develop and which might be brought to bear upon the Board of Governors. To forestall this the Bill, in paragraphs 18 and 20, provides for such a high degree of autonomy that these dangers or pressures are minimized.

Paragraph 18 gives broad powers to the Board of Governors and the language as set forth in paragraph 20 of the Bill is equally explicit and strong. I quote from the Bill: "It is hereby declared to be the public policy of the State of New Jersey that (1) the University shall be and continue to be given a high degree of self-government and that the government and conduct of the Corporation and the University shall be free of partisanship; and (2) that resources be and continue to be provided and funds be and continue to be appropriated by the State adequate for the conduct of a State University with high educational standards and to meet the cost of increasing enrollment and the need for proper facilities."

Every citizen of the State should be gratified that the representatives of the Executive and Legislative branches of the Government, and the State Board of Education, collaborated with the Committee in phrasing this statement of public policy. If this Bill becomes a statute, we, as private citizens, I am sure may look forward to the same statesmanlike approach by the Executive Branch and the

Legislature when the necessary steps in connection with reorganization are taken.

Now the statement has been made that the plan of reorganization of Rutgers has not been widely advertised. Since February 18th, 1955, the Special Committee on Reorganization has been consulting with leaders throughout the State and also leaders in the field of education at the national level. After the plan, which differs in no material way from the Committee Substitute for Bill No. 167, was provisionally adopted by the Board of Trustees, over 40,000 copies of the Reorganization Plan were sent throughout the State to public officials, alumni, friends of the University, and the press. Scores of New Jersey newspapers have printed editorials commenting on the proposed plan, and in almost every case supported its position.

During February and March of this year, the University conducted a series of meetings up and down the State to bring about further public understanding of the proposed Bill and its objectives.

The Plan has been thoroughly examined by the Executive Branch of the Government, including the Attorney General and the Counsel to the Governor, and by Legislative Leaders of both parties; representatives of the Special Committee on Reorganization have met with these leaders on numerous occasions. Rather than considering this a secret, those who have been working on this Plan of Reorganization are proud to have this opportunity at a public hearing to be counted among the proponents of this Bill.

In my humble opinion, this action will represent one of the great achievements of this Legislature and the Executive Branch of our State Government.

In closing, I should like to take issue also with those people who look with alarm upon the prospective increase in enrollment in institutions of higher learning. Rather this prospect should be an inspiring challenge to every one of us. By meeting this need the people of New Jersey will insure for coming generations the kind of education which has been denied to all but a relatively small fraction of this generation. Only when New Jersey has a great State University, with adequate facilities for those young people who are qualified to enter it, will New Jersey achieve its objective of providing fine educational facilities not only in the elementary and high schools but also at the college level.

Mr. Chairman, I recommend the passage of this Bill as a long step in the further development of a State University which will render the greatest possible service to the people of the State, a State University of which every citizen can be proud. Thank you.

THE CHAIRMAN: Thank you very much, Mr. Shield.

I would like to introduce Senator McCay who is the Majority Leader of the Senate, keenly interested in this Bill and other educational matters. He is here on my left.

Senator Lynch, do you have any questions you would like to ask?

SENATOR LYNCH: Nothing.

THE CHAIRMAN: Senator McCay?

SENATOR McCAY: No.

THE CHAIRMAN: I have a couple of things, Mr. Shield. There were two reservations I know when you and I discussed this - over a year ago I guess it is now. One of the fears that some of us had was if the State had a control that was satisfactory, or at least a voice in the University's administration that was satisfactory from the point of view of the State monies involved, would it be such that it also might represent political control which would enter into the educational sphere? I wondered if you would just comment on that point. It was a reservation that a good many people have had and the fear that they have had. They don't want the University politically controlled, at least in terms of its educational format.

MR. SHIELD: In Article 18 of the Bill the powers of the Board of Governors are spelled out in great detail. They will have complete freedom to employ and discharge all personnel of the University. They will be in charge of all purchasing. They will be allowed to buy properties, sell properties. They will have all the functions that a Board of Directors of a corporation might have and, in addition, the statement of public policy, which I just read in paragraph 20, I think indicates the whole tenor of the Bill.

THE CHAIRMAN: The other question that was raised by Members of the Legislature, that I mentioned to you before, I suppose it's a little hard to be specific on but it was a question of how much. If this Bill goes into effect, it is a fact that to educate additional thousands of New Jersey youngsters there would be additional State cost, and that is

the purpose, and there is always a desire on the part of those in public office to go along with additional cost but not necessarily with additional taxes. I wondered if you would comment on what you foresaw, if this Plan went through, as an additional obligation that the State is assuming, so that we can lay the groundwork, if you will, for raising the money as well as providing it.

MR. SHIELD: This Bill imposes no additional obligation upon the State other than the obligation it accepted under the Act of 1945 when it agreed to provide adequate public higher education for the people of New Jersey. There is no change in that obligation, in my opinion, Senator.

Now as to the actual funds, there is no question that a great deal of money will be needed over the next five to ten years but that will be needed under the Act of '45 just as well as under this act.

THE CHAIRMAN: Thank you very much, Mr. Shield.

I understand Mr. Carrol Shanks, one of the Public Trustees of Rutgers, had intended to appear and speak but could not be here and he has requested that his statement be read into the record. Is there somebody here to do that?

MR. EARL SILVERS: My name is Earl Silvers and I will be glad to read Mr. Shanks' statement. It is in the form of a letter to Mr. Shield, Chairman of the Special Committee on Reorganization of the Rutgers' Board of Trustees.

(Reading) Dear Mr. Shield: As a Public Trustee of Rutgers University I have become increasingly aware of

the vast problems confronting Rutgers in its effort to discharge its obligation to provide higher education for the young people of the State.

The Act of 1945 served its purpose in providing a partnership arrangement on a contractual basis between Rutgers and the State, but under present conditions it falls far short of accomplishing the necessary end of making Rutgers a truly State university. The proposed Bill accomplishes this, and has the additional merit of providing for a high degree of self-government for the University.

The Board of Governors, as provided for in the Bill, takes over the governing functions of the University and on its Board the State properly will have the dominating voice. The Board of Trustees, reduced in size, will act in an advisory capacity and will also serve the purpose of keeping interested in the University many prominent men and women who faithfully over the years have served the University. The Plan of Reorganization has been carefully thought out and, when adopted, will complete the transition of Rutgers into a strong State university.

Without qualification, I respectfully recommend the passage of this Bill. Carrol M. Shanks.

THE CHAIRMAN: Thank you. Do you have a copy of that letter?

MR. SILVERS: Yes.

THE CHAIRMAN: Now I would like to call on Mr. William Watson, Secretary of the New Jersey Farm Bureau.

MR. WILLIAM P. WATSON: My name is William P. Watson. I am Secretary of the New Jersey Farm Bureau, a dues-financed organization of over 8,000 New Jersey farm families.

The New Jersey Farm Bureau appreciates the opportunity of making a statement at this hearing in support of Senate Committee Substitute for Senate Bill No. 167, sponsored by Senators Albert McCay, Wayne Dumont, Jr., Walter H. Jones, Malcolm S. Forbes, Sido L. Ridolfi and John A. Lynch.

All citizens of New Jersey benefit from the program of Rutgers acting as a state university. Farmers feel a special closeness to the University because of the outstanding contribution made to the State's economy through the Agricultural College. The results of agricultural research and instruction have made it possible for New Jersey farmers to maintain enviable, but necessary, rankings of "firsts" in many comparisons with other states.

This legislation when passed and signed into law will place more control in the hands of the State than heretofore. We believe that as we grow in population and program, it is inevitable that it should be that way. We cannot always continue, on one hand, to recognize Rutgers as the proper recipient of substantial public monies and, on the other hand, to be operated as a traditional college founded in Revolutionary times and supported by private funds. We recognize that in other states the program of the Agricultural College within the State University has been more closely associated as a State university in fact.

The time has come to say without reservation that Rutgers is a state university. We believe this should be done. We urge passage of Senate Committee Substitute for S-167.

Mr. Chairman, if I may, I would like to supplement this, in order to save time, with a statement from the New Jersey State Grange, which they have asked me to do in cooperation with the Farm Bureau.

THE CHAIRMAN: All right.

MR. WATSON: Mr. Gauntt, Secretary of the Executive Committee of the New Jersey State Grange, has asked me to make this statement. The State Grange represents 120 subordinate Granges with about 20,000 members, and they are throughout New Jersey and have always been vitally interested in research and educational programs of Rutgers.

Last December at the State Grange Annual Meeting, on December 8th, they adopted this Resolution:

Whereas, the Board of Trustees of Rutgers University has recommended a change in management so as to give all the State of New Jersey a stronger voice in the management of the University; and

Whereas, in our study of the proposal we feel that under this arrangement Rutgers would be definitely recognized as the State University of New Jersey, and

Whereas, the Grange has a primary interest in education to the end that the youth of New Jersey have adequate opportunities for education within our State,

Therefore, be it resolved, that the New Jersey State Grange in convention assembled, approve the plan as

proposed by the Board of Trustees and urge its adoption.

THE CHAIRMAN: Do you have any questions?

SENATOR LYNCH: No.

THE CHAIRMAN: I have one. Do you know offhand how many under-graduates are involved in the agriculture phase of Rutgers' activity?

MR. WATSON: How many under-graduate students there are?

THE CHAIRMAN: Yes.

MR. WATSON: That is increasing every year. I think that the figure now, Senator Forbes, is in the area of 200. I am not an authority on that exact figure. I can, of course, get it for you.

THE CHAIRMAN: Well the main benefit is to the number that go there but primarily what comes out of the research benefits the farmers of the State, is that the point?

MR. WATSON: Well, the program of the Agricultural College is very closely aligned between research and the teaching of/research which is developed there, the people who are developing the research and to the beneficiaries of it within the College and through the short courses in agriculture and ultimately through the Extension Service, of course; the program is so closely entwined that it is certainly a part of the Agricultural College.

MR. SHIELD: I have some advanced figures here if you would like them regarding student enrollment.

THE CHAIRMAN: All right.

MR. SHIELD: 92 graduate students and 539 in the short courses.

THE CHAIRMAN: The reason I asked the question was because there are many Assemblymen and Senators from counties with large numbers of farmers and I think they are very much interested.

I would like to call on Mr. Joel Jacobson who is the Executive Vice President of the State CIO Council.

Thank you very much, Mr. Watson.

Mr. Jacobson.

MR. JOEL R. JACOBSON: My name is Joel R. Jacobson. I am the Executive Vice President of the New Jersey State CIO Council, and I appear here today as the official spokesman for the 250,000 members of the CIO in the State of New Jersey.

At the outset I would like to state that the presence here today of a representative of a workers' organization is a symbol of the CIO's traditional role of attempting to serve the welfare of the entire community and of our desire to make progress with the community, not at the expense of the community. And I think our presence here today also demonstrates our interest in all educational problems with specific emphasis on the problem of higher education and the specific status of Rutgers University as a New Jersey State University.

We approach this in somewhat of a subjective analysis, and the CIO Members in the State of New Jersey vigorously support the amended S-167 because we recognize that we would like to provide through today's generation the opportunities for higher education which we were not able to avail ourselves of at the time when we were of college age,

primarily because at that time there was no State University in New Jersey.

Now I suppose it is very fashionable these days to be recorded as being a vigorous, vociferous, enthusiastic anti-Communist. I want to do so not only because it is fashionable but because it happens to be our conviction as well. It is perfectly obvious to anyone who understands the techniques and tactics of the Communist Party that their philosophy thrives and is nurtured upon a system of class distinctions, a system where abject poverty exists in the midst of fabulous plenty. We would like to submit that there is a very effective antidote to the poison of Communism and that this antidote is not hysterical screams but rather intelligent counter-attacks. And we would like to submit further that a very fertile breeding ground for the poison of communism might be a society where the kids of the rich go to college and the kids of the poor go to work in a factory. And we would like to submit further that the institution of a State University will provide a barrel of nails to be inserted into the coffin of the Communist Party when the class distinctions are removed and all kids who are capable and intelligent and have ability and merit will be admitted to a State University on that merit with no other false demarcation.

Now the CIO is particularly happy to be supporting the amended S-167 today because frankly in the past we have not hesitated to criticize the administration of Rutgers University. As a matter of fact when the original contractual

relations between Rutgers and the State were pronounced in 1945 we were critical for several reasons. We criticized because the control of the Board remained in the hands of a group of small self-perpetuating body of men. We criticized because the State had minority membership on this governing Board. We criticized because this was reflected in the fact that for a State University the fees and tuitions for Rutgers were among the very highest in the entire nation. And we criticized finally because of the fact that scholarships were not made available in abundance to residents of the State of New Jersey.

At this time I would like to take the opportunity to thank the Governor, the State Legislature and the Rutgers administration for recognizing the validity of the arguments we made some ten or eleven years ago.

The step of placing the Board of Governors under public control is a long step forward in the direction of making Rutgers a genuine state university which we hope it to be and the CIO supports the amended S-167 and urges its adoption.

I would like to make a further recommendation that may or may not be in the purview of this Committee but may possibly be passed on to the Board of Governors when and if they are appointed, and that is this observation - that the passed Board of Trustees for Rutgers University had a complete absence of the representatives of organized labor. With over a half million organized workers in the State of New Jersey the sons and daughters of whom comprise the overwhelming

majority of students in attendance at Rutgers University, it seems a little bit paradoxical that there were no representatives of labor movement on the Board of Trustees.

Now, no one economic group possesses a monopoly on brains, on talent, on ability, on sincerity or effectiveness, and we in the labor movement feel that we have representatives of our Organization who can match other segments of the population in all these characteristics. It is our sincere hope that Governor Meyner will see fit to appoint to the Board of Governors a representative of the organized labor movement in the State of New Jersey.

This will also help settle the other problem that has concerned us deeply, the problem of providing adequate scholarships for New Jersey residents and lowering the fees and tuition so that the sons and daughters of low-income groups may also attend and enjoy the benefits of a university such as Rutgers.

This will serve in a most important capacity of removing the dollar sign and replacing it with merit and ability as the principal requirement for admission to Rutgers University.

We respectfully urge the adoption of the amended S-167 and the implementation of the other recommendations as soon as possible.

THE CHAIRMAN: Thank you, Mr. Jacobson.

Any questions? (No questions)

I would like to call now on Mr. Richard Scudder, Publisher of the Newark Evening News.

MR. RICHARD SCUDDER: Senator Forbes, Gentlemen, I am appearing here today not as a publisher but as a private individual and a public trustee of Rutgers.

The question here today is flatly whether or not New Jersey is going to care adequately for the educational rights of its qualified young people. This matter is now before the Senate and because it is the conviction of the Trustees of Rutgers, public and private, that this is the best means for fulfilling our mutual obligation to these young people. Through this means the State will receive full real control of the University. I believe that is where control belongs.

I believe that retention of private governors in a minority role is beneficial as a safeguard against politics in education. Actually if 7 years as a public trustee at Rutgers is a criterion, the private governors, ~~now~~ less than the public, will care first for the public interest. There is no question but that the State is obliged to provide a higher education for its qualified young people. That is the American system of equal opportunity. By this means the State will acquire a going plant of immense value. No similar opportunity has ever been offered to any State at any time. To refuse it would, in my opinion, be an act of irresponsibility toward the citizens of New Jersey.

Thank you.

THE CHAIRMAN: Thank you very much, Mr. Scudder.

Now, I would like to call on Dr. Frederick Hipp, Executive Secretary of the New Jersey Education Association.

DR. FREDERICK L. HIPPE: Gentlemen of the Committee, I represent the New Jersey Education Association, an organization of 33,000 public school teachers and administrators. The NJEA is very much in support of S-167. We have considered the bill and strongly urge its immediate passage. Our argument is based, not on the technical aspects of the bill, but on a few very simple facts. Some of them have been given to you.

One of these is the tremendous need for facilities for higher education in New Jersey - and especially for public facilities. No one today needs statistical proof that New Jersey does less to provide opportunities for higher education to its boys and girls than almost any other State. Thousands of our young people are literally forced to seek their higher education outside our borders. This situation is going to get progressively worse over the next decade, worse, it appears, almost beyond the bounds of our imagining. Unless something is done, and done quickly, we will lay ourselves open to the gravest criticism.

The situation which exists today regarding Rutgers is the result of years of indecision and compromise. Past Legislatures sought to have a State University without adequately footing the bill for such an institution. Now both Rutgers and the State are at a point where a solution must be found if adequate facilities for higher education are to be made available in New Jersey. Our State government cannot be expected to finance the needed expansion of Rutgers as a State University without a vastly greater measure of State control.

We believe that the measure under discussion represents the best thinking in this area of a great many men and women of ability and good will. We gravely doubt whether prolonged haggling and petty criticism can produce anything more satisfying. This bill does offer a sound basis for developing the higher education facilities which New Jersey so sorely needs. It is already late; no other feasible proposal has been offered. We urge immediate action on this one.

THE CHAIRMAN: Thank you very much, Dr. Hipp.

We would next like to hear from Mr. William Faherty, representative of the Rutgers Alumni Association.

MR. WILLIAM FAHERTY: Senators Forbes, Lynch, McCay, President Jones, fellow members of the Senate, ladies and gentlemen: I am representing today some 1200 Mercer County Alumni and Alumnae of Rutgers University. These men and women, I feel, since 1945 have been somewhat confused about the role of the State University. Bill 167, I feel and they feel, certainly will bring to the attention of the people of the State of New Jersey the true facts that Rutgers is a true State University.

I would like to refer to the remarks of the gentleman who is Executive Director of the State CIO. I feel that it is very important that everyone who has the ability to receive an education should receive an education here in our State. I have personally worked with many, many boys here in the City of Trenton in my past job as Boys Club Director of the City of Trenton. There were many boys who had to leave the State to go to other colleges. There was

just not enough room within our own State University or other colleges within the State.

I also would like to refer to Mr. Shield's remark where gentlemen from the University, Members of the Board of Trustees, and Dr. Gross, specifically, were down in Trenton and explained to the Alumni of Mercer County, Alumni and Alumnae, that reorganizational program of the Board of Trustees. They went into great detail. We held our meeting at the Hotel Hildebrecht some two and a half months ago. Every one in that room that evening at the Hildebrecht was convinced that Bill 167 should be passed by the Senate and the Assembly.

Thank you.

THE CHAIRMAN: Thank you very much, Mr. Faherty.

Next I would like to call on Anita Marlay a representative of the students at Douglass College.

MISS ANITA MARLAY: I am afraid I have no imposing title to add to my name. I am Anita Marlay a student at Douglass College, the Women's College of Rutgers University, and I expect to be graduated this June. Concomitant is the fact that I am very young and very naive and I run the risk of hurting many people's sensibilities by speaking to this august company. Yet I have been hearing the alarming figures about the increasing college enrollments in the near future, ever since I came to college. And I suppose my attitude should be to consider myself fortunate to have been a depression baby and to have attended college at a time when its facilities were still relatively uncrowded and therefore to forget the whole matter. Yet I find it difficult to be

so complacent.

I have attended the Women's College mainly on the benefit of a four-years State scholarship. An education in a good liberal arts college, in terms of what my private resources were, would have been an impossibility without the existence of this State program. As a student therefore, benefitting from such State aid, I feel a strong sense of responsibility at least to voice my disinterested support for the Bill on the reorganization. I could have stayed back on my campus today and studied for my exams as my collegiate colleagues are doing but to me this issue assumes prime importance, not only out of gratitude for my own welfare but also in hopes of achieving the same opportunities for the many future New Jersey college students do I speak on behalf of this Bill.

If the Bill is not passed, the subsequent overcrowding in the existing facilities or the deliberate neglect of the education of the thousands of applicants who couldn't be crowded in will make being a citizen of New Jersey not a privilege but a disgrace. I dread to look forward to that kind of future. To my mind there is no honorable alternative to the passage of this Bill.

Thank you.

THE CHAIRMAN: Thank you very much, Miss Marlay and I hope you don't flunk any exams for the time you have taken here.

I would like to now call on Mrs. Samuel Steinoff of the New Jersey Conference of the National Conference of Jewish Women. Is Mrs. Steinoff here?

(Mrs. Steinoff was not in attendance.)

THE CHAIRMAN: We have more time here for the proponents so I would like to call now on Mr. Lloyd Wescott who is a Member of the State Board of Agriculture and the Governor's Rural Advisory Commission.

MR. LLOYD WESCOTT: Senator Forbes and Members of the Committee, I don't think I need to emphasize again the extremely important role the College of Agriculture has played in the lives and the economy of the State. Rutgers University and the College have effected our economy greatly and will continue to do so.

It does seem to us, I think, in agriculture that the marriage between the State and the College, which was partially effected in 1945, did not solve many of the basic problems, but it is our feeling that the present proposal does solve them in as equitable manner as they can possibly be solved. And I know I can speak for the large majority of these rural people in urging the adoption of this Bill.

THE CHAIRMAN: Thank you very much, Mr. Wescott. If the Members have any questions or Senator McCay, if you have any questions, just throw them in.

I am advised that Mrs. Steinoff is here and she may not have heard me. Does Mrs. Steinoff care to speak? Can I be heard? Well, if she wishes to speak later we will be glad to call on her.

I would like to ask Mrs. Alice Turnbull who is President of the Douglass College Associate Alumnae if she would like to be heard on this.

MRS. ALICE TURNBULL: Thank you, Senator Forbes, for permitting me to speak for the graduates of Douglass College.

The Associate Alumnae of Douglass College represents almost 4,000 women living in New Jersey. Most of us are wives and mothers. Many of us are teachers, all of us are responsible citizens who are keenly aware of the ever-increasing need for public education in this democracy.

We are here today because of our great concern for the future of higher education in New Jersey. The New Jersey College for Women, now Douglass College, was founded in 1918 because of the long recognized need for a college for women in this State. From our very beginning we have received aid from the State for buildings and scholarship. The college has grown as the population of the State has grown.

Through the years we have admitted to the College about two percent of all young women graduating from the high schools of the State each year. Dean Bunting has estimated that if we continue to accept as students two percent of the young women graduating each year from New Jersey high schools, by 1968, when the College will be 50 years old, we will have doubled our present enrollment.

We have never been a wealthy college. We were never intended to be one. The State Federation of Women's Clubs has received national acclaim because of its part in founding our college and for its continued interest and support through the years in providing buildings and scholarships. Individuals have made generous gifts. But in these days of rising costs

and of increasing demands on our admissions office, these requests are far from adequate.

If we are to maintain our position as a woman's college of high standing and continue to serve the young women of the State, we must increase our facilities, enlarge and enrich our faculty and provide more scholarship aid to those who need it.

For this we must look to the citizens of New Jersey. We believe that this reorganization plan which provides a closer relationship between the State and the University will make this possible. We have gone on record as an Association in approving the plan. We hope that our forward looking Legislators will do likewise.

THE CHAIRMAN: Thank you very much, Mrs. Turnbull.

Now I would like to call on Mrs. William Leonard who is the Acting President of the New Jersey Congress of PTAs.

MRS. WILLIAM R. LEONARD, JR.: Senator McCay, Senator Lynch, Mr. Chairman, I am Mrs. William R. Leonard, Jr., Vice President and Acting President of the New Jersey Congress of Parents and Teachers, and I would like to thank you for this opportunity and make this following statement.

Since our study of S-167 has not as yet been completed, the Executive Committee of the New Jersey Congress of Parents and Teachers cannot take a stand on this Bill. However, we have been increasingly aware of the needs of higher education and we shall continue to strive to make it physically and economically available to every child of college age in the State of New Jersey. Thank you.

THE CHAIRMAN: Thank you very much, Mrs. Leonard.

Now we would like to call on Mr. Chester Wenczel who is President of the Ceramic Association of New Jersey.

MR. CHESTER WENCZEL: I am Chester Wenczel, President of the Ceramic Association of New Jersey, which represents many of the ceramic industries in this State.

The Ceramic Association of New Jersey has a direct interest in this Bill in that Rutgers University supplies many of the engineers that help maintain and promote the growth of this great industry in this State. At a recent Executive Committee meeting the Ceramic Association passed a resolution favoring this Bill. Thank you.

THE CHAIRMAN: Thank you very much, Mr. Wenczel.

Now I would like to call on Mr. Arnold Voight, Past President of the New Jersey Pharmaceutical Association.

MR. ARNOLD VOIGHT: Senator Forbes and Members of the Committee, I am appearing here as Chairman of the Board of Trustees of the New Jersey Pharmaceutical Association and, as such, I am representing the Pharmacists of this State who unanimously passed a resolution favoring the adoption of this Bill.

We, the Pharmacists of this State, are very much in favor of this Bill because our State University is presently inadequately prepared to handle properly its present students seeking not only pharmaceutical education but other higher education as well.

It is ironic that the State of New Jersey which represents the highest concentration of pharmaceutical industry in the Country is not able to fill the great demand

for pharmacists to serve the needs of the people as practicing pharmacists, as hospital pharmacists, and as manufacturing pharmacists in our pharmaceutical industries because of the lack of greater support by the State, a support which would also provide the means to foster health research in the College of Pharmacy which is an important requirement of a first-class college.

We, as pharmacists and as citizens, are very much cognizant of the fact that the number one problem in higher education in our State today is more adequate college facilities. We want a State University equal to those in other states which so admirably serve the needs of their youth and their citizenry. Heretofore a great number of our youth has been seeking their education in other states. Unfortunately, a great number of our qualified students are being turned away by these states because they are overtaxed with the increased numbers of their own youth seeking an education. What will happen to our thousands of qualified students who should go to college, who have the qualifications for going to college, for college work, and definitely would be a benefit to our State, and looking to New Jersey, to their own state, for their education?

And, I am told, and I am inclined to feel that it is right, that the worst is yet to come. The baby boom of post-war days will create a condition whereby in another few years still a larger number of students will be applying for college entrance. My children belong in this category and I am not looking forward to the time when they are going to college. This is indeed a very disturbing situation to a great segment

of the population of our State. We must act now to make up the current deficiencies and plan ahead for double or triple the enrollment that's expected.

There is no question in my mind as a taxpayer or in the minds of the pharmacists whom I represent that the people of this State want their State University truly representative of them with the firm belief that in fact it is a true state university. This can be accomplished if dominant control of the university is established as set forth in this Bill.

We pharmacists recognize Rutgers as a State University but are anxious to remove such doubts as have been expressed over the years. This Bill will definitely accomplish the stated objectives and we urge its adoption.

Gentlemen, New Jersey is one of the most forward-looking and progressive states of our Country in all phases of life and in order to maintain its prestige and leadership it must meet its obligations in the field of education.

Also I am sure you all recognize the importance of trained personnel and skilled workers on the professional level as it effects our economy and future welfare. And, last but not least, I am certain you will agree that the future of our country in general, and the future of our State in particular depends in large measure on the education of its youth. Can we afford to let them down? Thank you very much.

THE CHAIRMAN: Thank you very much, Mr. Voight. You mentioned your contribution to the baby boom, I am equally guilty.

I would like now - it is four o'clock - to call on Mr. Rafferty. Mr. Rafferty, if it is agreeable to you,

there are a number of other proponents that have signed up to be heard -- would you like to take over at this point and then we will hear any other opponents and then resume with the proponents? If that is agreeable to you --

MR. JOHN J. RAFFERTY: Senator Forbes, any plan which the Committee has is agreeable to me. I will be glad to speak now or later. I think perhaps it would be more fair, if there are other proponents here who wish to speak that they be permitted to speak.

THE CHAIRMAN: Right.

MR. RAFFERTY: And thereafter I will be glad to accommodate my situation to the convenience of the Committee. I would like to say at this point, however, Senator Forbes, that my presentation might take a little longer than is usually expected of one who is addressing a Legislative Committee, but I assure you that if it does take a longer time it will be objective, at least as objective as I can make it, and I will not waste the Committee's time.

THE CHAIRMAN: There will be no limitations on your time, Mr. Rafferty, and we will then proceed with the proponents and when we are finished with the proponents -- incidentally, if there is anybody who wants to be heard on this Bill who has not signed up either as an opponent or a proponent you are very welcome to do so. The Sergeant-at-Arms will give you the sheets to sign up and we will resume where we were. Yes, Mr. Shield?

MR. SHIELD: Mr. Chairman, I think it might be fair for the opponents if Mr. Rafferty had an opportunity to speak

at this time, particularly as he has a lengthy statement, and we will follow on if there is any time left when he is finished. That, of course, is at your pleasure.

THE CHAIRMAN: Well, suppose we do it this way - if you would like we will hear from Mr. Rafferty now and you speak at whatever length you desire, and then whatever additional time, if this is mutually agreeable, is left we will divide in half, so to speak, so that we might get to the meat of the matter in a sense with rebuttal and counter-rebuttal. Is that agreeable with you?

MR. SHIELD: Perfectly agreeable.

THE CHAIRMAN: Well, we will proceed along those lines. It is the intent of the Committee that everybody who wants to be heard, obviously it is a public hearing, be heard, and at the same time, as I say, get to the heart of the matter. As Senator Lynch points out, there is no limitation. If we don't finish today we will either carry on later this evening, resume tonight or on another day, but Mr. Rafferty you have the floor for whatever length of time you would like to state the things that are on your mind.

MR. RAFFERTY: Thank you very much, Senator.

THE CHAIRMAN: I might introduce Mr. Rafferty or you identify yourself.

MR. JOHN J. RAFFERTY: Senator Forbes and Members of the Committee, Senator McCay, I am pleased to have this opportunity at long last to discuss the situation existing between Rutgers and the State of New Jersey. I am, and now speak as, the Executive Secretary of the New Jersey Catholic

Council. This Council was organized on March 11, 1947, and I have been the Executive Secretary of the Council since its inception.

The general purpose of the Council - this is so that you will well understand my role -- The general purpose of the Council is to make continuous study of public affairs as these may have impact upon the interests of the Church and the Catholic population generally. In a special way, the Council will examine existing law, proposed legislation, and the practices and procedures of public administrative bodies as they affect these interests, and encourage in an affirmative and constructive way such revision or implementation thereof as may seem desirable and good. That is our basic function and purpose.

The structure of our organization is that there are lawyers from the four separate diocese of the State making up the Roman Catholic province of New Jersey, who meet from time to time as I may suggest as Executive Secretary, and who consider matters that are pending, who draw conclusions thereon and who refer those conclusions to the bishops of the State of New Jersey. So, therefore, what I shall say is matter which has had the consideration of the Roman Catholic Bishops of this State. And I speak as their authoritative representative.

I will necessarily have to go into a little background for you to understand the argument which I shall make but I want to say at the outset that half of my argument has already been admitted. One of the points that I anticipated I might have to prove is that Rutgers is not now the State

University in spite of the pretensions of the 1945 Act and the practical operation of the University.

Mr. Lansing Shield, if I misquote I am sorry, sir, I am doing the best I can and I hope I do not misquote, I certainly shall not misquote deliberately, and I shall be subject to correction. Mr. Shield said: "The bill is a long step in the further development of a State University." I infer from that that the state university is presently merely in the developmental stage. We are looking toward a state university which has not yet come into being.

The statement of Mr. Shanks says: "This Bill gives transition to a strong state university." In other words we are, as Mr. Shield says, in the process of going over. So we are not yet a state university.

Mr. Watson for the Farm Bureau said: "The time will come when Rutgers is really the state university."

Mr. Jacobson, for the CIO, said: "The Bill is a long step toward making Rutgers the genuine state university we hope it will be."

Mr. Wescott for the State Board of Agriculture said: "The marriage" meaning, I suppose, between the State and the University, "was partially effected in 1945."

So, therefore, I assume from those statements that nobody is arguing here that we presently have a state university. And, by the way, the burden of my argument will be precisely this - we should have a state university or we should have a Rutgers University, and not a marriage such as is proposed and suggested.

Now, there has been a great deal of confusion, and I was interested in - I think the gentleman said his name was Faherty from the Rutgers Alumni Association of Mercer County - He said: "We have been confused about the role of the University." and I think a great many other people have been confused, and I shall indicate that there is some confusion about this very Bill which you are considering by a concrete example of the confusion which comes from the lips of the young lady, a student at Douglass College as I have it here - Miss Anita Marlay - in which she sung the praises of the State University and spoke of the State scholarship which she had. Well there is an evidence of confusion because the State scholarship which the young lady has been going through Douglass College on is truly a State scholarship, maintained and paid for and provided by the State - by the State to whom? - to Rutgers. Let the young lady ask herself the question - if she did not have other means than the money provided by the State, would Rutgers have admitted her, or Douglass College? I think the answer is quite plain that she would not have been admitted.

So that is only an evidence of the confusion in the minds of the people regarding this bill.

Now, as to background. The fact that I am talking to this matter today, I am sure, comes as no surprise to Rutgers University. Over the years I have made to the officials of Rutgers University the identical points which I propose to make this afternoon. Some ten or twelve years ago I had lunch with Mr. Russell Watson and with Dr. Clothier, then the President of the University, and I said then what I

am going to say now. To bring it to a later date, I had a conference, a luncheon conference, at the invitation of the University on February 20th, 1952. This conference was arranged by a gentleman, Mr. Samuel D. Hoffman of New Brunswick who was then President of the Rutgers Alumni Association, and Dr. Jones the President of the University, and now the President of the University, and from my notes of that day I can give you the whole relationship as I and we have understood it, and as I have presented it to the authorities at Rutgers over the years. My notes are these - made the day of the luncheon engagement so, therefore, it is not afterthought, it is something that I wrote more than three years ago -- Dr. Jones and Mr. Hoffman raised the following matters for discussion -- bear in mind that I am, as we Lawyers say, the invitee -- these gentlemen raised the following matters:

1. Dr. Jones was disturbed about the hostility of the Church - and when I speak of the Church I am speaking of the Catholic Church. Dr. Jones was disturbed about the hostility of the Church toward Rutgers. He said that it was his earnest desire to establish a general attitude of good will and cooperation toward the University by all bodies and organizations, and he was particularly anxious that the opposition of Catholic groups be explored to the end that there would be complete understanding of the matters at issue, and that any ill will would be dissipated. He said the University was agreeable to extend every aid in this direction.

I replied to Dr. Jones that I was surprised to hear that there was any hostility to the University on the part of

the Church or of any Catholic group. I stated that in my experience I had never sensed any such hostility. I pointed out that I had criticized several occurrences at Rutgers from the Catholic viewpoint, but that such activity on my part did not in any sense imply hostility to the University. As an example, I spoke of the Burns History Book, the Marriage and Family Life series held at the University, and the Antho Article - I will come to the Antho Article in a moment. I offered as a rationalization that the Burns Book and the Marriage Lecture must inevitably result in the criticized Antho Article. I pointed out also that a comparatively small number of Catholic students, who were members of the Newman Club, which is a Catholic organization, gave support to the suggestion that many of the Catholic students would not join the Newman Club because they feared discriminatory action on the part of some of the professors at the University. All of this, I asserted, does not add up to hostility to the University, but rather was an exercise of my right as a Catholic representative to complain about matters which affected the Catholic body.

2. This led to the question of the status of the University. Is the University a private institution? or Is it a public institution? The University cannot be half public and half private. Dr. Jones and Mr. Hoffman vigorously insisted that the University is a State institution and they wanted me to regard it as such. We have just had some admissions this afternoon that sort of make that statement not quite correct. I said to these gentlemen that I could not

agree on this point. I reviewed the historical background, discussed the statutory arrangement between the State and Rutgers, and pointed to official publications of the University which described the relationship as a partnership between Rutgers and the State - and I might interpose here that it was Dr. Clothier himself, in his annual report on at least two occasions in which he referred to the relationship as a partnership between the State and the University. And, of course, at the point I didn't understand how a sovereign state could have a partner. A partner is our equal in dignity and capacity. I told Dr. Jones that if he were to make a public statement unqualifiedly announcing that Rutgers is no more and now the University is a public school, he would in every probability be repudiated by a majority of the Board of Trustees of the University who are the actual heads of the University.

His very great earnestness and his statement that he came to Rutgers only because he was assured that the institution is a state university, cannot alter the legal status which is that it is not a state university. I said that it was my views that denominating the institution as a state university by the Legislature and by many others was merely placing a label on the institution without changing its essential character, and served to quiet the inquisitive who might speculate upon the value to the State of the great sums of money paid by the State to the University.

Now I give that, gentlemen, only to indicate that my presentation here is not something new, it isn't something

thought up in the last week or so, but it is a matter which we have not only considered but we have discussed with the University officials from time to time. And I would like to say now that, as I said in this notation, there is no hostility whatsoever on the part of the Catholic Church to Rutgers University. It is true that traditionally and basically we disagree as to theory and practices of organization and administration of the educative process as between a secular institution and an institution operated by a religious body; but, however, our associations with Rutgers and with its responsible officials have been of the finest. Each time that I have gone to Dr. Clothier, to Dr. Jones, - I have only had one or two occasions with Dr. Jones - to Dr. Mason Gross, the Provost of the University, a citizen of outstanding reputation, a man who during the past year has rendered a service to the people of the area of New Brunswick that cannot possibly be equalled in his administration of a campaign to raise funds for hospitals. Dr. Gross is not only an outstanding citizen, he is an understanding citizen. So, therefore, I say there is no hostility, there is no personal disagreements, we are not here to grind axes, we are here to talk about the principle involved in this Bill, and nothing else.

Now, Rutgers, we think, is in an extremely difficult situation. Over the years - and it goes back more than 60 years, perhaps longer than that - Rutgers has been accepting monies from public bodies, principally the State, but also the Federal government, for the processes at the University. And this has been challenged throughout the years. It is

nothing new that this has been challenged. I refer you, for instance, to an opinion of the Attorney General of this State on March 8, 1893, John P. Stockton, the Attorney General, when the House of Assembly sent a bill to Mr. Stockton asking for his view as to the constitutionality of the bill. The bill would provide that where a private school corporation meets a certain criteria, such as filing papers in the Secretary of State's office or the County Clerk's office, then the County Superintendent of Education would appoint -- and bear in mind the parallel, gentlemen, -- the County Superintendent would appoint the officers and the board of trustees of that private educational institution, and thereupon the County Collector was ordered to pay certain monies to that private institution. So the question raised by the House of Assembly was - Is this bill constitutional?

Now Mr. Stockton had this to say about it: "The Constitution of the State, Article I, Section 20, provides that no donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever." Says Mr. Stockton: "I am of the opinion that the act attempts to appropriate money to the use of a corporation within the prohibition of the constitution." He continues: "The same question was submitted to me some years ago in reference to an appropriation for Rutgers College and I then gave the opinion that the appropriation was unconstitutional. Having reached the conclusion that the bill is unconstitutional for the reasons stated, it is unnecessary for me to con-

sider whether it is within the power of the legislature to provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children of the State between the ages of 5 and 18 years to accomplish this result by the instrumentality of a private corporation."

Now I submit that the question in 1893 was raised prior to 1893 and it was answered much as I propose to answer it today.

In 1901 Governor Foster M. Voorhees was the Governor of the State. The Attorney General was a gentleman named Gray - S. H. Gray. In addressing the Governor the Attorney General said: "I have the honor to return herewith the Memorial of the State College for the Benefit of Agriculture and the Mechanic Arts" - which, of course, is a part of Rutgers today - "presented by President Austin Scott of Rutgers College, and which you referred to me for an opinion as to the legality of making payments under the Act of March 31, 1890." And the Attorney General goes through a great many reasonings and he said: "If it" - that is the State - "had the power to contract for the collegiate education of a selected few under the guise of scholarships, the payment for such education was expressly provided for by Section 3 as a payment to be made only out of income from the fund for the support of free schools remaining after appropriations heretofore made payable out of said income are met. It is admitted in the Memorial that whether the education of youth in the State Agricultural College under the Act of 1890 is

for
an object/which the legislature can constitutionally use the
school fund is a question undoubtedly admitting of debate.
In my opinion" said the Attorney General " it is not debatable.
The legislature has no such power but accepting the view
expressed in the Memorial and the existence of the power
is extremely doubtful and should not therefore be exercised.
It cannot be claimed that the Act of 1890 creates a contract
for the collegiate education of one person from each Assembly
district which the State is bound to regard as obligatory when,
by the terms of the same Act, accepted by the College, the
funds applicable to the payment for such an education is
defined and is one beyond legislative control. If that fund
is not under legislative control for such purpose, as clearly
it is not, then the contract is incomplete and nugatory."
And I shall attempt to demonstrate that the money provided
by this State to Rutgers, and even under the proposed bill, is
not under legislative control.

Now we can come down to a more recent time, so that
I may not be charged with digging up old things that have been
forgotten. Most of us remember the tenure of Walter D.
VanRiper as the Attorney General. Mr. VanRiper wrote on this
very 1945 Act which presently is in force. Under date of
February 18, 1948, writing to Dr. Carpenter, the head of the
Civil Service Commission, in response to an inquiry as to
whether or not the employees at Rutgers were State employees,
Mr. VanRiper said: "Rutgers became the State University by
virtue of Chapter 49 of the Laws of 1945, and that Act does
not make the University a subdivision of the State, nor an

agency or department thereof, but rather creates a contractual relationship between the State and the University. Section 11 of the Act, above referred to, in my judgment very clearly points out the distinction which the legislature intended to make between employees of the University and State employees. You will see by referring to this section that it provides that employees of the State University may enjoy membership in the State Employees Retirement System in the same manner as employees of the State. This, in my opinion, is conclusive evidence of the fact that an employee of Rutgers University is not a State employee and therefore is not classified as a Civil Service employee."

So I say, by reference, the background of authority, so far as the Attorneys General are concerned indicate that the State cannot, and the constitutional provision today is not much different, under the guise of scholarships or purchasing education or whatever it may be, contribute State money to that end.

Now, over the years it has been considered that the justification for the appropriations and delivery of State money to Rutgers proceeds from a case which is known as The Trustees of Rutgers College vs. Morgan. Now that case has been argued back and forth and it has been discussed many times. The Supreme Court opinion was written by Justice VanSickle. And that case was later affirmed in the Court of Errors and Appeals. There was some dissent but it was a minority dissent and hence not important here. But the principle upon which Justice VanSickle decided that the money

might be paid to Rutgers is in this paragraph: "The Rutgers Agricultural College was adopted as a State College and such full control was maintained over it by the State as was deemed necessary to secure free public education in the Department of Agriculture and the mechanic arts." - such full control.

Now the argument of the 1945 Act is, as I understand it, that the State purchases these facilities from Rutgers - we purchase the facilities. Now Judge Jayne, one of the really great Judges in our State today, in the case of Wilentz against Hendrickson, which I am sure most of you remember, 133 Equity, said this: -- No, this is not his language, this is my summary. -- In calling the appropriation of public funds to a private corporation a contractual relationship rather than donative, which he said - now Judge Jayne said - "has long been the fashionable plea." Judge Jayne said in the Wilentz vs Hendrickson: "The contract form was the convenient expedient customarily utilized in conferring financial aid to railroads or private enterprises preceding the adoption of the constitutional restraint." And he refers to that Section, 20 I think it is. He continues: "An outright and unconditional gift of public funds to a private corporation was not so much contemplated to occur then or now. It was feared that the inimical practice which might be continued by the pursuit of some of like or artful means. The insistence that the appropriation of the public funds is contractual rather than donative has long been the fashionable plea." Now, that's what Judge Jayne said about the matter, and I think that we all know the qualities and capabilities of Judge Jayne. Judge Jayne said this is a "fashionable plea". He said it doesn't justify

it at all and you gentlemen who know the outcome of Wilentz vs Hendrickson can well understand that.

Now, I said before the University is in trouble and we think the University knows it. We are sympathetic with the University. We do not desire to destroy Rutgers University anymore than we desire to destroy the Government of the State of New Jersey or anything else. But I would demonstrate to you that in the minds of their own Counsel there is a very, very grave question in this matter.

In the circularization to the Alumni of this proposed plan, dated November 15, 1955, there is on the back page of the circular a letter to Mr. Shield, the gentlemen who spoke a little while ago, from the Attorneys who prepared this matter - Mr. Arthur H. Dean of Sullivan and Cromwell of New York; and Mr. Waldron M. Ward of Pitney, Hardin & Ward of this State. They say in their letter, after the introductory paragraph, "Under the circumstances and for the reasons more particularly set forth in our separate opinion to you, dated November 1, 1955, and upon the assumptions set forth therein, we advise you jointly that in our opinion this is all right."

Now here is the circular that went to the Alumni and which was intended to advise the Alumni about this proceeding. Now, may I ask respectfully - Number 1, what were those assumptions in the letter of November 1, 1955? Were they assumptions which lawyers may make which justify a conclusion? Were they tenable assumptions? Were they assumptions that could be supported? or Were they assumptions which said if this is the case and if this is the

case, then we believe that such and such is the case?

Let me ask in fairness - Why were not the Alumni - Why were not we advised as to what these assumptions were? And I think if we were advised as to what these assumptions were it might make a difference in the opinion of Counsel.

I say, therefore, Gentlemen, that it is a very, very serious matter and one which should certainly engage the attention of earnest people regardless of how you may feel about the merits of the controversy.

Now the prior opinions of the Attorneys General at the turn of the century emphasized the point of control. Now under the Morgan Case a good argument can be made out, I think, for the appropriation of public funds to Rutgers. I think that is a good case for Rutgers. I don't agree that it's dispositive but I think it's a good case. And in that case you will recall that Justice VanSickle spoke about control by the State. So, therefore, up until 1945, we may assume the rule of the Morgan case to have justified it. But in 1945, we think, the drafters of that legislation, and my recollection is that Counsel from Rutgers participated in the drafting of that legislation and had a great deal to do with it - I think they made a very, very serious mistake which exposed Rutgers to very serious question about the validity of the arrangement because in Section 9 of Chapter 49 of the 1945 Statute, in speaking of State property - mind you, there are millions upon millions of dollars worth of State property at Rutgers, on Rutgers land but State buildings --- the Trustees of Rutgers College, not the State University of

New Jersey, which this act pretended to create, but the Trustees of Rutgers College -- when it comes to a point like this the Trustees want to know what we are talking about, I assume -- so, therefore, they say, "The Trustees of Rutgers College of New Jersey shall have the care, custody and control of such property as the State now has or shall hereafter acquire at the State University of New Jersey" - but Rutgers has the control - "subject to the visitorial power of the State Board of Education."

Now in these early Attorney Generals' decisions the visitorial power was considered of greatest importance because the visitorial power of the Board of Regents --- I don't think that's the name - gave this Board certain powers with respect to the administration of the Department and they were effective powers. Well, now, the Act here in 1945 refers to the visitorial powers because they felt obliged to - but what did they do about those visitorial powers in the preceding Section? "The general powers of supervision and control of the Board of Visitors are hereby transferred to the State Board of Education and are extended to the State University of New Jersey as hereinbefore designated. The visitorial general powers of supervision and control are hereby defined." - Now we are going to limit them, see? They are hereby defined as "visiting the State University of New Jersey to examine into its manner of conducting its affairs and to enforce an observance of its laws and regulations and the laws of the State." In other words, the State Board of Education is nothing more nor less than a policeman. It has no powers or anything of the kind.

The State Board of Education is made merely an advisory body under Section 10. "The officers of the State University of New Jersey hereinbefore designated shall advise with the State Board of Education to the end that the facilities - etc." They serve strictly as an advisory body with the so-called State University, which doesn't exist except as it says in this book - Rutgers shall be designated the State University, not constituted, not constituted the State University but designated, and the Department of Education and the State University are these bodies, advisory merely and having no power.

Now, with that background, we will go to the merits of the Bill.

I am sorry that I am taking so long but I hope I shall be able to conclude because, having laid the background my reference to the Bill can be limited a great deal.

Now this Bill concedes that the total investment of Rutgers in this whole educational enterprise is fifty million dollars. Now, fifty million dollars, as you hear it quickly, sounds like a very, very great deal of money, but I think the folks who know more about Rutgers than anybody else would readily admit that fifty million dollars is but a very small portion of the value of the assets of that very great University. And let me demonstrate to you how comparatively small that fifty million dollars is. You gentlemen have presently before you Senate Bill No. 300 which is the General Appropriations Bill, and Senate Bill No. 301, I think it is, which is the supplemental bill, and in those two bills

the total amount of money to be contributed to Rutgers for the ensuing fiscal year is \$11,860,953, almost one-fourth in one year contributed by the State of what Rutgers say their total interest in the University is.

Now, if we contribute at that rate, and I think we have contributed at that rate, in a little more than four years the State itself will have put in \$50,000,000, to say nothing of the millions upon millions that have been put in in the years past. So I think that Rutgers can gain very little by talking about their \$50,000,000 investment.

Now the \$50,000,000 investment isn't all real estate. Much of it, I don't know how much because I have never been able to learn, as a matter of fact I haven't made very much of an inquiry about it; but much of it is in endowment funds, much of it is in funds which have been given to the University for a particular purpose, and a very real question arises, a very real legal question arises as to whether or not the Trustees of Rutgers University may build a trust upon a trust, whether or not the Trustees of Rutgers University, the holders of this trust estate or these trust estates, as the case may be, may in agreement with another party - in this case the State of New Jersey - utilize and impose upon those trusts other obligations, other duties not within the original creation of the trust and certainly without the consent of the trustor.

I think that's a very, very real question and Rutgers has not been unaware of it.

I want to point out to you gentlemen - I've never

met the gentleman but I have read a great deal about him and from everything that I have ever read about him he is an outstanding person and he is one who truly reflects - if I may use the phrase, and I know the gentlemen will not misunderstand me, - the soul of Rutgers, Mr. Tracey S. Voorhees. He dissents in this matter but his letter is here. Mr. Voorhees may not have been thinking of the legal problem which I have just proposed in terms of law but he certainly was thinking of it otherwise. This is what he said: "To realize how far a departure such a change would be" - that is the change proposed - "from the purposes and intent of our many thousands of loyal sons of Rutgers and other donors, it need only be said that they" - that is the people, the donors - "obviously did not intend to make their gifts to the State."

Now, gentlemen, there -- I don't know whether Mr. Voorhees is a lawyer or not, but he raises a very, very important question. He continues: "On the facts now before us I cannot persuade myself that, as one of the Trustees of their generous contributions made to Rutgers over almost two centuries, I would be carrying out their intent and purpose in voting in effect to turn over control to the State of what they have given to us as Trustees."

Now I am not going to argue the merits of the question but I am sure that the mere statement of the question arouses in the minds of lawyers a very, very grave legal problem -- can a public trust be imposed on a trust estate by the trustee without the prior consent of the trustor?

It seems almost elementary, gentlemen, it seems almost elementary that it cannot be done and I raise the question here and now - the gentlemen from Rutgers are here and if they desire to speak to it they certainly, I am sure as the Chairman has said, will have every opportunity to do so.

Now there are a number of other points. I think that I'll save the business of the governors and the board of trustees until last because that, I think, is very very important.

Section 12 of the Act provides that "Any governor" meaning, of course, governors of the University, "shall be subject to removal after hearing, by a majority of the Board of Governors for malfeasance or conduct injurious to the interests of the Corporation or the University." And the next subparagraph provides the same for the Board of Trustees.

Now, gentlemen, may I ask, should not the Bill, if it is to be effective, write in some standard as to what is or is not "conduct injurious to the interests of the Corporation or the University"? Are we to have standards which are subjective merely, and which will change with every different occasion that the question may arise? Is not one who is a governor or a trustee, assuming for the moment that the arrangement is proper, - is not one who assumes such an office entitled to know at least in some general description what is or what is not conduct injurious to the University? He is brought in and charged with conduct injurious to the University. What opportunity does he have

to defend himself that it is not injurious? What standards in the statute indicate what is injurious and what is not? Why is he left subject to the emotions, to the unguided pressures, if you will, of the moment of those who are hearing his cause that what he did was injurious to the University? And if he should be so found guilty, what a stain it would be upon him. I think that he is entitled to know in some outline at least what these standards of conduct are and what they should be.

We talked about a quorum of a joint meeting of the Board of Trustees and the Board of Governors. Well, if what this act has been said to stand for is true, why should there be any joint meetings of governors and trustees? We are led to believe, and it was said here this afternoon, that the Board of Governors is the power which is to run this University. Mr. Lansing Shield himself said in response to a question by the Chairman of the Committee: "They" the Board of Governors "will have all the functions which a board of directors of a corporation might have." Now, assuming that to be true, and I will demonstrate that it is not, but assuming it to be true and assuming that the Board of Trustees is merely to be an advisory body, which I will demonstrate they are not, why is it necessary? The Board of Trustees is only going to have the administration of this \$50,000,000 fund and make the proceeds available to the Board of Governors to run the University. Why should it be necessary to have joint meetings between these two bodies? If it is necessary to have joint meetings, why doesn't the Bill say what shall be the occasion

of a joint meeting? The Bill doesn't say why or when or how there should be joint meetings, merely that there shall be joint meetings. And does the Bill indicate how the votes are to be taken in this joint meeting? We are going to have 11 governors, 6 appointed by the Governor. We are going to have at least 33 trustees at least some day in the future. When enough of the charter trustees either have resigned or gone to their rewards, somehow or another someday we are going to get down to a minimum of 22, Rutgers Trustees.

Now, 6 of those 33 trustees are governors appointed to represent the State of New Jersey. Now we have a meeting, assuming 11 representatives of the State and 22 representatives of Rutgers, how is the vote to be counted in that meeting? Is it going to be 22 to 11, assuming if I may for the purpose of argument, and I think I have a right to so assume, a split down the middle, as we say vulgarly? 22 to 11, what a stacked house. What could be better?

Now there is another effect to that. These six members of the Board of Governors who are six of the Board of Trustees, and who have been outvoted at a joint meeting, what are they going to do when they revert back to their situation as Governors? Are they going to feel bound by the determinations of the joint Boards, where they clearly were out-voted, where they clearly were in the minority? Are there impressions, are there sentiments, are there moral viewpoints to consider - we have already discussed this in joint meeting and we were out-voted and therefore we are bound by the action of the joint meeting? I think that deserves

some discussion, ladies and gentlemen.

Now as to Mr. Shield who said that his Board of Directors has all of the functions as a board of directors of a corporation might have, I submit in the words of the Bill, and the understanding has been as I have stated it, the Board of Directors have this control, the Board of Trustees is merely an advisory body - that's what the public has understood but it isn't true and I will demonstrate right out of Mr. Shield's statement that he is not stating the truth - I don't say deliberately. Please don't misunderstand me, Mr. Shield, we are presenting an argument here. I say he is doing the best he can but I refer Mr. Shield to the Bill and ask him if this Board of Directors, if he will, having the powers of the board of directors of a corporation can borrow money? Sure they can borrow money, with the consent of the Board of Trustees. They can do everything. They can run the University but they can't borrow money. It is right in the Bill. They can't borrow money without the advice and consent of the Board of Trustees, anymore than the Governor of this State could appoint me to the Judiciary without the approval and consent of the Senate.

I ask Mr. Shield if this Board of Directors has wide power, can the Board of Directors appoint the President of the University? He must answer no. They cannot without the advice and consent of the Board of Trustees.

Now, gentlemen, I think they are two very, very important powers, the power to borrow money and the power to appoint the President of the University, and this Board

of Governors has not that power. They have the power to maintain, they have the power to provide the money. I question whether the Board of Governors has the power to make up the budget. This Bill doesn't say they have. This Bill says the Board of Governors has the power to present the budget, not to make up and present but to present the budget. Who then makes up the budget? That's important. The Budget will be made up as it has always been made up, by the University, and the Board of Governors is limited in its power of administration by the provisions of the budget. The Board of Governors is locked in this Trustees' joint meeting 22 to 11. The Board of Governors is locked in their authority by the provisions of the Budget Act. The Board of Governors cannot administer the University as they wish because they cannot borrow money. The Board of Governors cannot administer the corporation as they wish because they cannot appoint the President. And who is the President? Who is the President? The Bill says who the President is and what he can do. The President is the Executive Officer -- strange, I never can find that paragraph when I want it but I have enough of a recollection about it - The President is the Executive Officer of the University. The President runs the University. The President, it says in here, is subject to both Boards. How can the President of the University be subject to such administrative bodies? What is he going to do if the Board of Governors says one thing and the Trustees another? To whom is he responsible? He is responsible to both. Who is he going to respond to? He is going to respond to the

Trustees - and why? Because the Board of Governors can fire him - sure they can, but the Board of Governors cannot hire anybody else unless the Trustees say so. And the Trustees - and I am not going into figures of speech, wild imaginative processes, I am a human being, I've had public experiences and so have you all, - the Board of Trustees can say to the Board of Governors - when you put Johnny Brown back there, we'll go ahead, and not until then. So who is the President going to answer to? He is going to answer to the Board of Trustees because he is going to know that the Board of Trustees is running this show, if I may use the word and I don't use it improperly nor with any improper or invidious meaning, I use it merely as a figure of speech.

So, therefore, we find the statement in the Bill, on page 9, that "The Board of Trustees shall act in an over-all advisory capacity" is not true. It is not true. It is a misrepresentation. It is, as has been said, a deceitful statement because they do more than that. It is not within Section 19 that the Board of Trustees shall have these veto powers, it is found in another section. But they not only act as an over-all advisory body, they have veto powers in the central nerve system of this University, and that central nerve system has the power to borrow money and the power to appoint the President of the University.

I have one or two other matters that I would like to dispose of before I go back to the Trustees of Rutgers. I have already discussed the budget and who makes it up and why.

This matter of 60 days' notice - It is true, at least my reading of the Bill indicates that it must be, of course, by

court decision. But there again there are no standards, there are no standards as to whether or not the Board of Governors is running this institution the way the Board of Trustees thinks it should be run, but suppose the court should say that the Board of Trustees will run it. Well, as a practical matter, what happens? What happens is what I am sure the more conservative heads of Rutgers wants to know, has already happened in fact although not yet in form. Rutgers is going to take their \$50,000,000. They are not going to contribute it to the operation of the University. And what's that going to do to the University? Nothing. Nothing. Rutgers can take their \$50,000,000, they can take the income of the \$50,000,000. The State of New Jersey is paying the bill now, and under this bill everything except the income of that \$50,000,000 - and it's not \$50,000,000 that produces the income, only a part of it - that's all they are giving.

So, therefore, if the court says the Board of Governors didn't do what the Board of Trustees thought they should do and the Board of Trustees can take their \$50,000,000, the University is going to run right out and maybe then we will have a true State University.

Now it seems to me that the only remaining point - and I have spoken entirely too long, I hope I haven't bored you at all, but the matter is of very great importance.

You have the Board of Governors six to five. Six to five the Board of Governors. We have the Board of Trustees not less than 33 members. Now how is the Board of Trustees

representing Rutgers made up? They are made up, if you will examine this very carefully you will find that they are made up basically of those who are the Charter Trustees, those presently in office with a few Public Trustees under the 1945 Act. The Charter Trustees. Now the Charter Trustees are the core of Rutgers. All very wonderful gentlemen, all interested devotedly to Rutgers. They are the heart and center of Rutgers. Now the remaining Rutgers Trustees are to be appointed under rules and regulations adopted by the Board, that is the Board of Trustees, or under their rules and regulations and I think they can rule and regulate pretty well who these other Trustees are going to be; and certainly there is no hope - there is no hope with the 11 - the 5 Public Trustees and the 6 Governors, hopelessly overruled in a joint meeting with the Board there can be no hope at this moment that this is going to be one sweet lovely experience.

They are anticipating difficulty because in Section 12, a and b, - I have gone into that, conduct injurious to the Corporation,- there they recognize that man is a human being after all and this is not going to be one lovely, enjoyable, thrilling experience over the years. They know there is going to be difficulty and they have provided against that difficulty by the predominant majority in the Board of Trustees.

Now, gentlemen, I think I need not go on any further. I think I have demonstrated the points that I have made, that I wish to make; I think I have satisfied you, at least I hope I have, that this is not some new born thought

on our part. It is a matter that we have discussed with Rutgers in the interest of Rutgers, in the interest of Rutgers University, and we say this -- I might say in closing, as I said to Dr. Jones some four years ago, and paraphrasing the great Abraham Lincoln, if you will, - Rutgers cannot continue to exist half public and half private. Rutgers either must be the private institution that it started out to be in 1766; Rutgers must fulfill its mission as a private college or a private university; or Rutgers must be absorbed lock, stock and barrell, without any intrusion of the Board of Trustees, without any veto power as to borrowing money and appointing presidents on the part of the Board of Trustees. Rutgers must be swallowed up and absorbed in what will be a true State University.

I am not arguing for a new State University, I am not arguing for the continuance of Rutgers, I am presenting an objective statement which I think is an honest statement, at least as honest as I can make it, but that is the problem that is before this Legislature tonight. And in the light of the Attorney Generals' opinions that I have read, in the light of the Morgan case which I have indicated, in the light of the 1945 Act with limitations on the previously existing status, in the light of the fact that this -- and I insist upon it this bill has not been presented to the public in its proper light. It has been said the Board of Governors run the University, in effect the Board of Trustees is merely an advisory body, I point out that neither of those statements are true. So, therefore, I say to you gentlemen

having in mind particularly the legal problem involved upon the imposition of a trust upon a trust, that I referred to, you have a very serious problem. And Rutgers, too, has a very serious problem. Thank you.

THE CHAIRMAN: Thank you very much, Mr. Rafferty. Are there any questions from the Committee? (No questions)

I might say that, speaking personally, I would rather have you for an advocate than an adversary, Mr. Rafferty.

MR. RAFFERTY: Thank you.

THE CHAIRMAN: And I don't think anybody was bored by your discussion of the Board and its powers.

MR. RAFFERTY: Thank you very much.

THE CHAIRMAN: Now, I'll ask Mr. Shield - Would you like me to continue with the other speakers that were scheduled or would you like me to call -- we haven't heard yet from Dr. Jones. How do you want to proceed?

MR. SHIELD: Mr. Chairman, I would like to make a few brief comments referring to the statement that has just been presented.

THE CHAIRMAN: Well now, before we do that I think in fairness, as we stated before we are going to have the fifty-fifty rebuttal, you might say, and if we go into that now we will divide that time equally. It may be that there are other people here on the agenda that are not known to you or your committee, who would like to be heard, and if it's agreeable to you, John and Senator McCay, maybe we could call on some other people and then get into, what you might

say, equal time for rebuttal. Now there are a number here that have not been heard from that signed up to be heard from. We are hoping to wind up at six but I am wondering if those people who are here would like to be heard from now. Now, anybody who would like to be heard now, who signed up here, would they raise their hands. (Hands raised). All right, now this gentleman here (indicating).

MR. LAVINE: I have a very short and simple statement to make.

THE CHAIRMAN: Your name?

MR. STANLEY LAVINE: I am Stanley Lavine, Executive Vice-Chairman of Americans for Democratic Action.

Mr. Chairman, Senator Lynch, Senator McCay, Ladies and Gentlemen: I think it is one of the incidental glories of our free and democratic society that men of good will may propose and enact legislation without necessarily obtaining unanimity of opinion. This Senate Bill 167 may not be perfect but then again I may ask what would be and still be enacted. We do know, however, that this is the end product of a long and constructive study designed to create both a responsive as well as a responsible state university. Opponents of this Bill may feel that it doesn't go far enough or that it goes too far. This, I beg you, is part of the democratic process.

We in Americans for Democratic Action feel that this bill is a long step in the right direction and we urge its passage. We feel that the State of New Jersey should now assume its rightful place in the national educational picture and discharge its full obligation to its younger

citizens in terms of higher education. I thank you.

THE CHAIRMAN: There is another gentleman. Thank you very much Mr. Lavine.

MR. JOHN A. HURLEY: Senator Forbes, Senator McCay, Senator Lynch, honored attendants and spectators, and the Honorable Mr. Rafferty: My name is John A. Hurley. I am a member of the Class of 1957 at Rutgers University, New Brunswick, New Jersey.

This afternoon we have been treated to many fine examples of oratory. However, at this point I would like to do something which Mr. Rafferty, by his own admission, several times refused to do, that is to "discuss the merits of the question."

I feel that most of Mr. Rafferty's objections would have been very well put in 1945, in 1864, when the First Land Grant Bill went through. However, the Bill that we have before us is a Bill which, if passed, will take away the aspects of the bastardized state university that he refers to. At present it is true, as of today, as of today May 23d, 1956, the State is furnishing a great deal of money to our State University at Rutgers. Those of you who have received mail from Rutgers have received it as follows: Office of Physical Education, Office of the Dean, or whatever it might be, "Rutgers University, The State University of New Jersey, New Brunswick, New Jersey."

Gentlemen, I have been proud of that but I will be even prouder when it says, "Rutgers State University, New Brunswick, New Jersey."

Let me go into some of the aspects which Mr. Rafferty has treated. The 1893 verdict, edict, or whatever you will, of some of our legal lights of that period - gentlemen, if I were standing in the Capitol at Washington I could bring up edicts and opinions of the Attorney Generals of the United States of America, of Supreme Court Justices' majority opinions with no dissents which ruled out such things as the income tax, which ruled out such things as desegregation in schools. I think it only too well to point out at this time how the aspects of our State and Federal laws have changed.

It is as late as May 17th, 1954, that the Supreme Court of the United States of America held segregation illegal. This was a tremendous advance, a tremendous change from previous opinions.

Some other points brought out -- The State scholarships. These, it is true as Mr. Rafferty pointed out so ably, have been instrumental in allowing many of the greatest students from our various high schools throughout the State to attend our University. Using myself as an humble example, I can point out only too well what scholarships have meant to many students at New Brunswick, and I am sure this will apply to all the other branches. In my freshman year I finally realized what New Jersey was and that was because I came to Rutgers. In my room were men from the dairylands of Sussex County, men from Paulsboro, New Jersey, men from towns that I had never heard of; and the same is true at Douglass College. Yet there are other people from these same towns of Newton, Sparta and Paulsboro,

who have applied to Rutgers this year for entry to our State University, as it is now constituted, and are being turned away. These are people of calibre and these are people we would be glad to have but we do not have the facilities. What do they do? They write to another school. Perhaps they write to Amherst, to Brown, to Williams; perhaps they write to another state university. What is their response from another state university? I'm sorry, but we are all filled up. We hear Ohio State is having enough trouble taking care of the people from Cleveland - "we're sorry that that's the situation in your State."

Another point, this question of property in trust. I unfortunately do not have the legal background that Mr. Rafferty does, but I do know that one of the reasons for this law is the fact that perhaps in 1823 Mr. Jones, to use a hypothetical example, left property in his will to the Trustees of Rutgers College of New Jersey. Gentlemen, just as Mr. Rafferty pointed out, tomorrow that property can't be deeded over to Governor Meyner, it can't be deeded over to me, it can't be deeded over to you, it can't be deeded over to the State of New Jersey. That is the reason for this Bill. The Trustees as constituted here will take care of the property that is now standing on New Brunswick. They will take care of Kirkpatrick Chapel, they will be responsible for it. Certainly it is not fair to the people who have gone in years past, who have left property, to then have it deeded over to the State. Not only is it not fair, but it is not legal.

Another thing that Mr. Rafferty brings out is the extent of State expenditures at Rutgers. In the last five years this has been phenomenal. We are very appreciative of it. Those of you that have been up on the Banks have seen our new library and have seen our new dormitory. At this point it is only fair to point out how much Dr. Jones and how much Dr. Gross have meant in our acquiring this. Gentlemen, do you realize that at Douglass College the major State building put up since 1918 has been a new garage? Do you realize the paltry sums that are actually spent by the State in buildings at New Brunswick? This is not my point. My point is that this new Bill will give the State the opportunity for men of the calibre of Senator Forbes, Senator Lynch and Senator McCay to come up to New Brunswick and say "This year we are giving you two, three, four - this year perhaps it is eleven million dollars and this is where we would like to see it spent. We represent the people of this State." Just as Mr. Jacobson pointed out, he represents a half million of the finest working people in the country, those people we have here in New Jersey. Just as the Farm Bureau speaks out, just as the PTA speaks out; these are all people who are represented here tomorrow by you as Assemblymen and by you as Senators.

I am confident that whatever they do will be in the best interest of Rutgers, and will be in the best interest of the State of New Jersey.

Also, at several times Mr. Rafferty brought out this point of disclosure as if Mr. Shield or Dr. Jones were all of a sudden letting something slip. Gentlemen, this has

been one of the most widely publicized things, to the point of stereotyping, not only throughout the State but at our Campus at Rutgers.

On Friday afternoons when the Trustees meet, the students are interested in what the Trustees say and do. Last spring, as a member of the Student Council, I was very proud to be one of those who voted unanimously to back this new plan. The student opinion is still the same. We are proud of being members of the State of New Jersey and we want to be your State University.

Some of the other points that have been brought out - Standards for dismissal. I think this is one of the most picayune points that could ever be brought up. Would you like me to have incorporated in this Bill the following: Any member of the Board of Governors guilty of a felony, not to exceed ten years imprisonment in our State Prison, is subject to immediate dismissal, or barred; or should it be less? These are points Mr. Rafferty brought out that are very important. This is ridiculous. You gentlemen served - you served a long term here in the State Assembly of New Jersey; you gentlemen who are Senators, you know what the procedure is for impeachment or dismissal; it's not a specific thing. You know when the point has been reached. It's a fine line, and when that fine line has been reached, I am confident that the Board of Governors and the Board of Trustees will know when to act on it.

Several dates of importance in Rutgers' history: The first, and probably the most sentimental, is 1766. This

was ten years before the American Revolution, when Rutgers was founded as Queens College. Naturally, at the end of the Revolution, because of our new independence, the name was quickly changed, and also I might add because Colonel Rutgers was good enough to give \$5,000 and a bell to Rutgers College.

In 1864, Mr. Rafferty pointed out, that the Federal Government began giving money for "processes". These processes consist of such men as Kevin Featherstone - on Tuesday Lt. Col. Featherstone and myself, a humble First Lieutenant, marching about as members of the United States Air Force ROTC. This money is given to finance our Government training so that two years from now, rather than having to spend money to put us through OCS we will be officers at less expense to the Federal Government.

Other processes, as you use the word, Mr. Rafferty, are such things as our Agricultural Experiment Station, which is highly regarded. Four years ago I went out to Wisconsin to work on a farm. "Where did you go to school? Rutgers." Right away eyes light up, a famous agricultural school. This was in Wisconsin which is generally considered the dairy state. Other places where the name Rutgers has rung a bell - As Mr. Featherstone will state, when he went for interviews with Prudential Insurance, with Scott Paper, the finest corporations in the land, when you say Rutgers University it means a great deal.

Another thing. Last summer I had the pleasure of working at our State Home for Boys, more commonly known as

Jamesburg. Naturally one of the first things the inmates there would ask me was - "Where do you go to school?" and I said, "Rutgers." and right away the typical inmate would say "That's State, isn't it?" and when they said "That's State" they were proud of it. And if they are proud of it, I'm proud of it, I am sure you can be proud of it.

I have gone on at some length, and I'm afraid I don't have the legal background to completely and equivocally state some of my objections to your objections. I am sure there are men here who can do that much more adequately than I can. However, at this point, honored gentlemen, I think that the greatest opportunity that this State has ever had in the field of education is lying on the doorstep of State Street. Are you going to walk out the few feet, are you going to raise your hand here in the Senate, push the button in the Assembly and say yes, let's accept this bill?

Gentlemen, this bill will mean a lot to Rutgers, it will mean a lot for me but most of all it will mean a lot for the State.

I am sure that each person who has spoken here is thinking first and all of the interests of this State.

I very much appreciate Mr. Rafferty's objections. It is obvious that he has given considerable thought to them. However, I think the crucial point of your objections, sir, is the point that you brought out and quickly glossed over it - one, Rutgers should either be Rutgers or there should be a State University - and what actually you are getting to is the point that you don't want money going up to New

Brunswick because as far as I am concerned you would rather see money split up and sent around to different schools. As far as I am concerned that is a mock travesty of any sort of education and also a legislative responsibility.

Last Friday, before going to the race where I represented Rutgers as a member of the Rutgers Crew at Columbia, New York, I had a chance to see the Newark Evening News. On the front pagewere listed your objections.

THE CHAIRMAN: We are not going to have rebuttal yet, Mr. Hurley.

MR. HURLEY: Right. Sir, just one point I would like to bring out. When it was stated that Rutgers might not truly be the State University which actually is hokum since any day of the week our campus is besieged with people who say, "Well, we're glad to have this." From the Pharmaceutical Association, from the Police, from Juvenile Aid Bureaus; from every aspect of our life here in the State they come. And look at this article which followed the objections of the people who are opposing this Bill - Scholarship in Sanitation. Toms River firm gives Rutgers \$6,000 for two years research. To cut it short, the scholarship was established in appreciation of scientific assistance that the firm received from the University in rendering industrial waste materials harmless before their discharge into the Toms River.

What does this mean? It doesn't just mean that a factory instead of dumping material into the river gets off the hook easy; it means that our sons and daughters, our brothers and sisters have a better river in Toms River

and all because the State University. This goes on day in and day out. I'm proud to be a part of it and I am sure that each and every one of us is glad to support this bill.

Thank you for all your time.

THE CHAIRMAN: Thank you, Mr. Hurley, very much.

Now we have a lady who wants to be heard here.

Let me say here it is 5:30. If it's agreeable to the other members of the Committee, we will divide the time. You can take 15 minutes or 20 minutes or a half hour and the same for Mr. Rafferty and that will conclude the hearing, if it's agreeable to the Committee and the other people here.

MRS. HARRIET BURDICK: I am Harriet Burdick, President of the New Jersey Library Association which includes public librarians from municipal and county libraries, school librarians, college and university librarians and librarians of business firms.

The New Jersey Library Association a few years ago turned to Rutgers University as the State University of New Jersey to establish a program of education for professional librarians. The University, with money appropriated by the State, proceeded to set up a Graduate School of Library Service. The New Jersey Library Association was pleased to see this evidence that Rutgers was serving as a State University and the Association has, therefore, been very interested in the program and reorganization of Rutgers. So far as we have been able to study the proposed plan, the Association believes that this is a suitable one for our State University.

THE CHAIRMAN: Thank you very much, Mrs. Burdick.

Mr. Shield, do you want to take over?

MR. SHIELD: Thank you. Out of fairness to Mr. Rafferty, I think that we should give him --

THE CHAIRMAN: He's five minutes ahead of you already. Mr. Hurley gave him five minutes.

MR. SHIELD: -- we should give him some figures regarding the appropriations by the State for capital improvements at Rutgers. The figures in my hands show \$8,580,650 since the year 1888. I do not vouch for those figures but to the best of my knowledge they are correct.

I would like to point out too that when Mr. Rafferty says that the State is contributing one-quarter of the sum that Rutgers already has invested, - the Trustees have already invested in Rutgers University, that that one-quarter is actually about one-fifth and represents just about half of the total operating budget of the University. And ten million dollars additional each year is raised from tuition fees, income from Trust funds and private sources.

Mr. Rafferty properly raises the question whether trustees may build a trust on a trust. The Trustees are very much aware of this point and as a result they have already sought a declaratory judgment in the court, which we hope will be handed down shortly. So I don't think you need have any fear on that score.

My young friend, Mr. Hurley, here as a student commented on the question of what basis could be used to dismiss Governors and Trustees. I think that there is no question that the type of men we will have on both of these

will not act upon a whim, and this provision is not unusual in many other situations of a similar nature.

Now Mr. Rafferty made a great point about this joint meeting of the Board of Trustees and the Board of Governors. This joint session will have no authority whatsoever. It was put in as an afterthought so that there would be closer coordination between the advisory group and the controlling group. Implicit in Mr. Rafferty's statement is that these two bodies of the University will be working in opposite directions. They will have only a common aim. The record of Rutgers University and its Trustees for over two hundred years would bear out this point.

Mr. Rafferty makes the point that the Board of Governors will not function like a board of directors. May I point out that all boards of directors work within certain limitations - limitations of charters, by-laws and rules and regulations. And the limitations that we have put on the Board of Governors are only in the form of restraint which the people of the State should welcome.

The last point that Mr. Rafferty made was that probably the Board of Trustees will make up the budget of the University. This is nonsense. The Board of Governors is in control of this University. It will make up the budget and recommend it to the State Legislature in conjunction with the State Board of Education.

At this time I would like to call on Dr. Jones who would like to make a few remarks.

THE CHAIRMAN: Dr. Jones, for the benefit of those

who might not know it, is President of Rutgers University.

DR. LEWIS W. JONES: Senator Forbes and Colleagues on the Committee, certainly I don't want to comment on the legal aspect of this when we have so many talented lawyers in this room and other lawyers have been amply consulted. I would like to say just this, that certainly the present bill or the bill which is before us has already been passed by the Attorney General, we have had distinguished Counsel of broad experience pass on the legality of this.

Now I would like to go back to the report of the conversation we had, Judge Rafferty, when - , very early in my stay in New Brunswick when Sam Hoffman was generous enough to bring us together to discuss some of the problems which seemed to exist between your group and the State University. And I can't remember that conversation as well as you apparently have. I took no notes as to it and certainly we had nothing recorded. I welcomed that as a friendly gesture, the kind of thing I do with many, many groups in the State, sit down and talk with them about the common problems of the University and the people we are to serve.

As I remember our conversation, I think that I made it very clear that I came to the University because I regarded it as the State University of New Jersey; and I think in the administration of the University since I have been there every act has been on the assumption that this was the State University of New Jersey. I think I can also state, speaking for the faculty - and if there is any dissent among the faculty, I don't know it - on this point that

the entire faculty of the University, in all its branches, are directing their efforts to the end of fulfilling the function of the State University of New Jersey. Of that there can be no doubt whatsoever. I have ample evidence of that.

Moreover, I would like to point this out to you, on the same common sense aspect of this problem of our status as a State University, that the judges of state universities in the United States are two organizations - first, the American Association of Land-Grant Colleges and State Universities, whose membership is made up entirely of land-grant colleges and those land-grant colleges which are also state universities. And Rutgers University has played a very important part as member of the Land-Grant Colleges and State Universities. I have had the honor within the last year of serving as President of that Organization. I am now serving as Chairman of the Executive Committee. The other organization is the National Association of State Universities. The criteria for membership in both these organizations is to be a legitimate representative of a state university.

We have also been active, and continue to be active in that organization, serving on all its committees. In the Land-Grant Association our deans and faculty members have for years served on that and we could not be members of that if we were not regarded by the entire academic world and all our colleagues of other state universities as the State University of New Jersey.

I wish you had carried your researches into the nature of the State University further than you have, Judge

Rafferty. You dealt with some of the small legal things which, I am afraid I am compelled to agree with my student friend, Mr. Hurley, to a very large extent, are past history. But be that as it may, the State Universities throughout the Country -- you are attempting to judge Rutgers - at one point you said or you came very close to saying that it must be solely under the jurisdiction of the political forces of this State. Now, that isn't true at all, nor is it common practice, nor is it regarded as good practice by the state universities of the country.

You point out also that the members of our faculty are not State employees. They are not, they are employees of an instrumentality of the State. The same is true in Kentucky, the same is true in Minnesota, the same is true of most state universities of the country. It is the very nature of a state university to have autonomy and many of our older state universities, for example, the University of Minnesota was set up as a constitutional university. It is equivalent as a - never whole part of the state system. It enjoys that independence and its faculty and employees are not employees of the State of Minnesota, they are employees of the University which is an instrumentality of the State. And that is the status of Rutgers' faculty and Rutgers' employees. They are attached to this instrumentality of the State which is devoted and consecrated to the service of the State.

Now, if you will look at the Council of State Government - a number of years the Council of State Government made a study, a rather comprehensive study of the various types of board control of our State Universities. If you look

at that and you will find an enormous variety. It is not unusual at all, in fact it is common practice to have the alumni designate some members of the Board of Trustees of our state universities. It is not unusual at all to have advisory boards, to have boards of visitors established by alumni and other citizen groups to advise and help the Board of Trustees.

In this respect this reorganization procedure does not differ in principle from the principles which are very common in the government of state universities in the country. I think I have been on the campuses of two-thirds of the Land-Grant Colleges and State Universities and know quite intimately the practices of many of them. And I doubt if you could find a single administrative officer of a state university in these United States who would not say that Rutgers is in all respects the legitimate State University of New Jersey.

Whatever the legal difficulties or problems or hurdles may be, and I think that they have already been covered by our Counsel, there is no question about the common-sense practice and the informed judgement of the university's community among the universities and colleges of these United States on that.

I think there is no question about that at all. A university by its very nature must have the autonomy that we are talking about. That's what Senator Forbes has been concerned about. I know the first time he talked to me about it he said "We don't want partisan political control." And, thank God, New Jersey doesn't want that kind of partisan

political control. And that has been true, as I have talked about it, with people in public life on both sides of the house, members of both parties. And this bill has gone a long way in providing the kind of autonomy that you need in order to have a good state university. And that means that it should not be directly, day by day, controlled. It's a university and a state university is different. It is not a department of the State and should not be a department of the State. And there again I am quoting the best judgment of people in state university work. It should be in an independent position. And what we are considering here is simply a change in how the Board, the governing body, is to be reconstituted.

I affirm what I affirmed to you the first time I met you that we are now the State University of New Jersey. I think that there has been some ambiguity in the public mind about this. I think that this bill will go a long way to clear up that ambiguity. But I don't think that it is a radical change. I think it provides for a more efficient board organization. I think it is desirable that the State have more representatives, and ^{have} the Board of Control to create a more efficient body, a body that can act more rapidly than the larger Board of Trustees which we now have. But I think we are already a State University and in all our practices.

If you look at our program of education throughout the State. Mr. Hurley mentioned a small thing, I just came back today from Toms River, with the industry down there at

Toms River dealing with those problems. We are getting contributions from ^{industries} all over the State, from other friends in the State. We are working actively with all these organizations.- our Institute of Labor Management, we have the National Pharmaceutical Conferences, we have all these others dealing broadly with all the economic and social and other problems of the citizens of the State.

Our program is completely a State University program. Of that there can be no doubt whatsoever. And again I hope, if you do any more research into this, you will research widely in the practices of state universities in this country. Those are the practices that we are following and we are getting the approval of those organizations.

I think that we have had here, gentlemen of the Committee, some of the many hundreds of people who would really love to come and testify in behalf of this bill. I think that the very fact that we have so many people who are spontaneously interested in this, testifies to the fact that we are carrying out our function as a State University.

I want to say just one more word about your quoting Mr. Shield and some of the other speakers about - this will mark a step in the further development of a state university - exactly, that doesn't deny the fact that we are already a state university. I hope that we will go on developing and developing. We are living, according to Whitehead, in an expanding universe, and we are also developing in this country in our whole practice, our state university practice. We will continue to develop so long as we remain alive. And

I think this is another great step forward. And I have no doubt that in the future there will be other steps which we shall be called upon to take. And the quotation of that is not a contradiction of what Mr. Shield said before.

Finally, I would like to say just this one thing, that I was delighted to have the chance to talk with you, I was delighted to have the chance to meet many other Roman Catholic leaders. I think I told you at that time that the policy of a state university was to provide sympathetic hospitality to all religious groups within the State. We have the Newman Club, we have the Canterbury Club, we have the various Protestant organizations, we have the Jewish organization of Hillel, and we will continue as a University to welcome all religious groups. We are proud of our Roman Catholic students. I am proud of my association with the Newman Society. I meet with them quite often and we are very proud of our students. We think that that is a proper State University policy, to create that attitude of hospitality and friendliness to all religious groups, just as we think it is also our function to deal with the problems of labor, to have close connections with the labor movement, close connections with industry, close connections with agriculture - that's what we mean by a State University, and that, I submit, is what we are following. And, gentlemen, of the Committee, I think that this reorganization plan, which has been presented after long, long work by this Trustee Committee with the advice of some of the best lawyers in this State and in the United States, with consultation broadly among

educational leaders in this State and outside the State, I think that this measure will go far to make us an even greater State University and we want to be an even greater State University for one purpose alone and that is, better to serve the educational needs of all the people of the State. We consider it our function really to carry out that old American principle of providing equality of opportunity for all the citizens of the State.

We also consider it our function to work directly with industry, agriculture, labor, and all the others, in doing everything we can to improve the economic and cultural life of the people of this State. Thank you.

MR. CHAIRMAN: Thank you very much, Dr. Jones. Mr. Shield?

MR. SHIELD: I would like to supplement briefly Dr. Jones' remarks regarding alumni representation on governing boards.

According to the Council of State Governments 17 percent of the members on governing boards of state universities are elected by alumni groups and other similar groups. In our neighboring state, here in Pennsylvania, the State University, Penn State, has a governing board of 32 members, five of these are appointed by the Governor, nine are elected by alumni, twelve are elected by the delegates of agriculture and industrial organizations of this State, and six are ex-officio members including the President of the University and the Governor. In other words, in our

neighboring state, the overwhelming proportion of the members of the governing board of Penn State is elected by private, alumni groups and other organizations within the state.

THE CHAIRMAN: Thank you. Mr. Rafferty, the floor is yours.

MR. RAFFERTY: I want to say that I enjoyed very much listening to Dr. Jones. Dr. Jones is a very fine gentleman and a very earnest person, and I deem it a great pleasure to listen to him.

I just want to take a moment with Mr. Shield. Mr. Shield spoke of tuition fees and other income. Well that was, of course, given credit in my computation because I took it directly from the bill and those items are deducted from the amount to be paid by the State.

Now, normally, I would not answer my young friend, Mr. Hurley, but I want to say in all respect that Mr. Hurley evidenced that he is as yet not too far away from his books and it probably is unfair for me to even discuss what he has said. But if Mr. Hurley wants to learn what I think about Rutgers University, I suggest he go right into the University Library, take out the first volume of the proceedings of the Constitutional Convention, held in the gymnasium at Rutgers, wherein I had the very happy privilege of nominating Dr. Clothier to be President of that Constitutional Convention. And in nominating Dr. Clothier I extolled the work of Rutgers University. I have never said anything otherwise. I know that Dr. Gross and Dr. Jones and my friend Wally Moreland, who was there that day - they

know what I think about Rutgers, and I am sure that any implications from what Mr. Hurley has said, they know don't apply to me.

I thought it was unfair but I charge that to his immaturity to lug into this, what had been up to that point, dignified discussion a suggestion that I had some improper motive, that I would like to see the money go to other schools. I know I need not expatiate on that, that is so outrageous that I am sure, after Dr. Gross and Dr. Jones have a little talk with Mr. Hurley, he will realize that that's not right.

And about the progress of the laws, Mr. Hurley spoke about the segregation decisions - well, he can go much farther back than that, he can go back to the Declaration of Independence which he will also find in the Rutgers' Library, and there is a provision in there that all men are equal before the law, it doesn't make any difference who they are - black or white or brown or yellow, or Catholic or Protestant, or Jew or Agnostic - all men are equal before the law. We have been late in applying it but the principle was enunciated and to the establishment of that principle Jefferson, Adams and Madison and the rest of them said "We pledge our lives, our fortunes and our sacred honor." So, segregation is nothing new as far as our laws are concerned.

Now, Dr. Jones talked about religion and that sort of thing. I had tried very hard to keep it out because this is not a religious discussion. But I must say this, that that doesn't enter into it and Dr. Jones knows that it doesn't, because some two or three years ago Dr. Gross and I spent

about four months together trying to work out a program on the matter of freedom observations in the University. Dr. Gross and I worked on that years ago, and I think that it worked out very satisfactorily. And I can only say, without adding to the record, look at the record of the Constitutional Convention and right after Governor Driscoll recognized me - I was the first person recognized as a Delegate by the Governor, and I immediately proceeded to the rostrum and said what I thought of Dr. Clothier and what I thought of Rutgers University. There it is gentlemen, it's a State record.

THE CHAIRMAN: Thank you very, very much, Mr. Rafferty.

I know that all of us on the Committee are grateful to all the people who have appeared here. The hearing, I think, if it is agreeable to Mr. Rafferty and to Mr. Shield and the Members of the Committee, can be concluded now. Do you have anything further you would like to say?

MR. SHIELD: No, thank you.

THE CHAIRMAN: Mr. Rafferty?

MR. RAFFERTY: No.

THE CHAIRMAN: Well, thank you all very much, gentlemen, and I know what has been said here today will be both amply reported by the Press and by the Members of the Committee here and the Majority Leader to the Legislature tomorrow. Thank you.

(Hearing concluded)

