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COMMISSION MEETING

before

COMMISSION ON LEGISLATIVE ETHICS AND CAMPAIGN FINANCE

"Continue seeking agreement on what changes, if any, in current State laws and regulations governing conflicts of interest the Commission should recommend to the Legislature"

September 12, 1990
Room 334
State House Annex
Trenton, New Jersey

COMMISSION MEMBERS PRESENT:

Dr. Alan Rosenthal, Chairman
Albert Burstein
Patricia Sheehan
Thomas Stanton, Jr.
Senator Carmen A. Orechio
Senator Donald T. DiFrancesco
Assemblyman Thomas J. Deverin
Assemblyman Garabed "Chuck" Haytaian

ALSO PRESENT:

Marci Levin Hochman
Assistant Counsel
Office of Legislative Services

Frank J. Parisi
Office of Legislative Services
Aide, Ad Hoc Commission on Legislative Ethics
and Campaign Finance

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Meeting Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625

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State House Library



New Jersey State Legislature

AD HOC COMMISSION ON LEGISLATIVE ETHICS
AND CAMPAIGN FINANCE

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Assemblyman
Garabed "Chuck" Haytaian
Assemblyman

M E E T I N G N O T I C E

TO: MEMBERS OF THE AD HOC COMMISSION ON LEGISLATIVE
ETHICS AND CAMPAIGN FINANCE

FROM: ALAN ROSENTHAL, CHAIRMAN

SUBJECT: COMMISSION MEETING - September 12, 1990

Anyone who wishes further information on the Commission meeting may contact Marc L. Hochman, Aide to the Commission, at (609) 292-4625 or Frank J. Parisi, Aide to the Commission, at (609) 292-9106.

The Ad Hoc Commission on Legislative Ethics and Campaign Finance will hold its next meeting on Wednesday, September 12, 1990 beginning at 1:00 p.m. and ending at 3:30 p.m. in Room 334 of the State House Annex, Trenton, New Jersey.

The purpose of the meeting will be to finalize agreement on what changes, if any, in the current State laws and regulations governing conflicts of interest the Commission should recommend to the Legislature.

NOTE: The next meeting of the Commission, scheduled for Wednesday, September 26, 1990 in Room 334 of the State House Annex, will begin at 1:30 p.m. and end at 4 p.m.

Issued 9/6/90



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(MEETING OPENS AT 1:20 p.m.)

DR. ALAN ROSENTHAL (Chairman): Now that Mr. Burstein has arrived, for the record 15 minutes late, no doubt due to traffic on the New Jersey Route 1--

MR. BURSTEIN: No, there's not a car on the road. I'm just tardy.

DR. ROSENTHAL: Not a car on the road, he just got started late. Why don't we begin the meeting and call the roll? Would you call Mr. Burstein's name first so he can leave?

MR. PARISI (Committee Aide): Yes, sir. Okay. Al Burstein?

MR. BURSTEIN: Here. I have to leave.

MR. PARISI: Mike Cole is not going to be here today I understand. Ms. Sheehan?

MS. SHEEHAN: Here.

MR. PARISI: Mr. Stanton?

MR. STANTON: Here.

MR. PARISI: Senator Orechio?

SENATOR ORECHIO: Here.

MR. PARISI: Senator DiFrancesco?

SENATOR DiFRANCESCO: Here.

MR. PARISI: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MR. PARISI: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Here.

MR. PARISI: Dr. Rosenthal?

DR. ROSENTHAL: Here.

MR. PARISI: Mr. Chairman, you have a quorum.

DR. ROSENTHAL: Our next meeting is two weeks from today. We have meetings scheduled for that week and the following week. The last meeting scheduled is October 3rd. Is that correct? (confers with Mr. Parisi who confirms date) And our plan is to have a draft report to you in advance of the

next meeting. And, at the next meeting we will begin to go over that draft report -- you know -- sort of cleaning up some stuff and making sure we agree with the language.

SENATOR ORECHIO: The 26th?

DR. ROSENTHAL: Yeah, the 26th. We should also in advance of that meeting have a response from the Senate President and the Assembly Speaker in terms of any clarification they would like with regard to recommendations we've already made. So, that will be the agenda -- the report and any response from the Senate President and the Assembly Speaker to the recommendations -- the agenda for the next two meetings.

I think we stopped at our last meeting in a discussion of gifts, and, if I'm not mistaken, Senator DiFrancesco was taking a position on basically prohibiting gifts and-- You might have some general language that you would want to propose to the Commission on that matter.

SENATOR DiFRANCESCO: Well originally we thought that a simple statement would suffice and that is that a legislator could not accept a gift from a lobbyist, legislative agent or legislative whatever -- whatever definition that was used here -- and leave it at that.

That was my initial-- The thrust of my thoughts were designed for the person who theoretically would be buying the influence, as opposed to another member of the public and that would greatly limit the idea of the gift because it would still permit the acceptance of gifts from other sources who are not legislative agents, lobbyist organizations, or contract lobbyists. I guess there was another term -- "employee lobbyist" that was put in here, but that is what I thought was appropriate. I can see that much has been recommended that would enlarge the disclosure requirements, therefore, lessening the impact of any prohibition of a gift. For example, if I, of course, receive a gift, I have to report it. If a lobbyist gives a gift, he or she has to report it.

So the impact of what I originally thought was appropriate is certainly lessened by those recommendations. I know I was confusing everybody because I was generally saying we should not receive gifts, but I really intended it to apply specifically to lobbyists primarily, because I think that if I had to steal somebody else's language -- the wining and dining of legislators creates a situation where a legislator -- and I don't say unintentionally -- can become socially very close to a particular person or lobbyist. I mean obviously if you're going out to dinner with somebody regularly, it creates a relationship. The creation of a relationship could compromise the legislator's activities as in votes on legislation, etc. I mean, I believe that to be so.

I know we can argue that all day long; and I know that we could probably argue there's nothing inherently wrong with that. I'm sure the experts, perhaps, that would have testified might feel that way. I think it's not necessary. I think it would go a long way towards creating some credibility to us with the public, and I think it's still a good idea.

ASSEMBLYMAN DEVERIN: Having said all that; explain the motion. You made a motion.

SENATOR DiFRANCESCO: Prohibition against gifts by lobbyists, or lobbyist organizations to legislators.

MR. BURSTEIN: Any dollar threshold or--

SENATOR DiFRANCESCO: Well I think there should be a threshold, yes. I mean the point about the dollar a tie or whatever--

ASSEMBLYMAN DEVERIN: Two fifty, I think, didn't you say?

SENATOR DiFRANCESCO: Two dollars and fifty cents?

ASSEMBLYMAN DEVERIN: No. \$250.

MR. STANTON: Isn't the Federal government-- Do they have a threshold of quite below \$25 or something like that? It seems to me I recall one time when there was going to be an

outing of a number of congressional people, there was great scurrying around to get a souvenir that had to be under \$25. I seem to remember that number, and that was something that they could accept. Also, you read about even the President of the United States. He gets very expensive gifts; he has to turn those over to the Smithsonian or something, but occasionally they get little souvenir type gifts that they are allowed to keep. So, maybe \$25 or something like that might be--

SENATOR DiFRANCESCO: Yeah, definitely, at least that.

ASSEMBLYMAN DEVERIN: On a single basis, but on an accumulation of what -- \$250 did you say?

SENATOR DiFRANCESCO: When we talked about an aggregate, I think other people felt that that would be a nightmare because of trying to work with an aggregate -- with you having to work with an aggregate, as a legislator-- You know, four or five times a year you're with a lobbyist and having to keep track of what it adds up to might create an administrative nightmare. I think someone raised that question last time.

MR. STANTON: It takes care of all your plaques.

SENATOR DiFRANCESCO: Twenty five dollars?

MR. STANTON: Yeah, \$25. I just think that's an easy thing to--

DR. ROSENTHAL: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: I guess I'm a little confused in that, Donny-- And I agree with him saying do away with gifts, yet, and the question was asked of him, well, what about a threshold? Well, as Tom had indicated, a tie or whatnot, just given out. Who's responsibility then is it to know the cost? If Tom gives me a tie, I'm going to say, "How much did it cost?" If you're going to do away with it; do away with it. So that everyone knows that, "Don't give a gift to a legislator." Taboo. I don't want to be worried about-- I

don't want to become a bookkeeper. I don't want to worry about asking a person, how much did that cost? And then that person tells me \$25 and turns out it's \$250. Now, who's going to have the finger pointed at him, the lobbyist or the legislator? The legislator, absolutely. That's the top guy. Lobbyists, they go home. I mean they go to another state. There's no gifts? There's no gifts.

ASSEMBLYMAN DEVERIN: No gifts from who?

ASSEMBLYMAN HAYTAIAN: From anybody other than your relatives. I mean, if my son gives me a birthday gift, I'm not going to ask him how much did it cost, why did you give it to me? I mean, it's my son!

MR. BURSTEIN: Even though he represents AT&T?

ASSEMBLYMAN HAYTAIAN: No, he doesn't.

MR. BURSTEIN: Just hypothesizing. (laughter)

ASSEMBLYMAN HAYTAIAN: Otherwise, I mean, we'd get into a very major problem.

MR. BURSTEIN: You can ask for an invoice with each gift.

DR. ROSENTHAL: Well, I agree. I think you either have to kind of eliminate gifts or not eliminate gifts. And you certainly can't turn people into bookkeepers because there-- You know it has to turn out, that people will not accept any kinds of gifts. My feelings on the subject are that I think gifts are okay. I think a meal is okay. We have provided that gifts be reported. I mean there is a record, and people can interpret your receiving gifts as they desire to interpret. I think that one can overdo, you know, the regulatory mode and I think you may be doing that. I'm not terribly uncomfortable with legislators having a meal paid for. And if they don't want somebody to pay for their meal, they can pay for their own meal. That will be up to the individuals, and it will be reported.

ASSEMBLYMAN HAYTAIAN: Alan, if that occurred-- I mean if we have a prohibition on gifts, then it's up to us as legislators to say -- if someone doesn't understand the law -- sorry, no gifts. That's our responsibility. But, if you put a threshold, then someone takes one of us to lunch or dinner, are we supposed to say how much did that cost them? I'd rather say, "No. There's a prohibition on it. Sorry."

DR. ROSENTHAL: Well, I agree. My position is to continue-- Well, I'm against the prohibition. I'm for the continuation of gifts with the reporting requirements that we have recommended, in the case of lobbyists. Lobbyists, given our recommendation, will have to report gifts at more than \$25 an instance, or more than \$100 a quarter on a particular legislator.

ASSEMBLYMAN HAYTAIAN: Suppose they reported it as \$25 to us, because we're going to ask them, how much did that cost? Twenty-two dollars and fifty cents-- What's that?

MS. SHEEHAN: They have to report it.

DR. ROSENTHAL: You only have to report a gift of over \$250 as of now.

ASSEMBLYMAN HAYTAIAN: But wasn't that cumulative? We discussed that, didn't we?

SENATOR DiFRANCESCO: Two-hundred-fifty dollars was cumulative.

ASSEMBLYMAN HAYTAIAN: So now I have to start bringing cash registers--

MS. SHEEHAN: Chuck, the lobbyist has to report, not to you, but to the ELEC that they spent, whether it's \$25 or \$250 or whatever.

ASSEMBLYMAN HAYTAIAN: Your're right, but we also have a responsibility to report if it's over \$250. So, that's cumulative.

SENATOR ORECHIO: No, no.

ASSEMBLYMAN HAYTAIAN: Yes it is. It was cumulative. So we now have to start the cash register--

DR. ROSENTHAL: No, no, that's a regulation that is already in existence. That is already in existence.

SENATOR DiFRANCESCO: Marci, you mean if I got ten different gifts of \$25 of one form or another over the course of a year I would have to report?

MS. HOCHMAN: From a single source. It would have to be a gift -- gifts totaling over \$250 from the same source.

DR. ROSENTHAL: So you already have to be bookkeepers.

ASSEMBLYMAN HAYTAIAN: But Alan, isn't the basic question here if Chuck Haytaian were not a legislator that person would not be taking him to lunch, or would not be giving him a gift? Isn't that the basic question? And, don't we answer that basic question say, if Chuck Haytaian weren't a legislator he wouldn't have to worry about them giving him a gift because they wouldn't give it to him?

ASSEMBLYMAN DEVERIN: Yeah, but I don't think you ought to take the attitude that Chuck Haytaian goes to lunch to do someone a big favor or something. If somebody wants to sit down with you and have lunch and explain-- What the hell is wrong with that?

ASSEMBLYMAN HAYTAIAN: Tommy, I don't take that attitude, but that's the way the public perceives this whole problem, as I see it. Forget about the press; I believe the public perceives the problem that way.

ASSEMBLYMAN DEVERIN: You're never going to change that perception 100%.

ASSEMBLYMAN HAYTAIAN: Well, I think we can if we say no gifts.

ASSEMBLYMAN DEVERIN: Go out in the street and talk to the next 10 people you see and say, "What do you think of the President's speech?" You're going to get 10 different opinions.

ASSEMBLYMAN HAYTAIAN: I know that, Tommy.

DR. ROSENTHAL: Again, again, I see this leading to the kind of situation where you cannot accept a plaque from the local club -- I mean token gifts a lot of people give in recognition or appreciation that I'm sure doesn't buy anybody's vote and-- If you go to a reception, you know, held by a group, you're going to have to reimburse that group for food and drink that you may have. I mean, that's the way "gift" would be interpreted. So, you'll have to find somebody there and you'd have to make a contribution-- I mean I think it's going pretty far.

SENATOR ORECHIO: What happens, or has happened in New Jersey is not unique. I mean in every State House in the country, people are talking to legislators about legislation. And, as I pointed out before, from time to time the lobbyist and his organization or his attorney sometimes improves current legislation, or introduces legislation for us to consider that's in the best interest of the public at that point.

I mean, do we have to conclude that any time you sit down with somebody that's interested in the legislation representing an interest, that we're going to get involved in some illegal activity? How about elaboration, amplifying the law? As a matter of fact, I find it convenient at lunchtime, breakfast, or dinner, to discuss legislation and the same with those other parties. I don't know. I mean I think Chuck's position is a reaction too extreme. I really don't think anybody that sits down with a lobbyist has to characterize or is involved in an illegal action.

ASSEMBLYMAN HAYTAIAN: I didn't give a reaction. I'm saying that here we have a situation that the burden of responsibility is going to fall upon us because we're always the target of someone's discussion, someone's article, the public perception. And I, as a legislator, am saying that we probably would be better off if we just said, "No gifts." And, if we put a threshold on it, then we are going to have the burden of responsibility to report it. And, if someone wants

to do us in by not reporting it, and we don't report it or we do report and they don't report it-- Look, there are so many possibilities of problems involved when you have a whole host of people that have to do the reporting. The best way to take care of that is no gifts. That solves the problem.

ASSEMBLYMAN DEVERIN: Yeah, but you have to define what "gift" is. If you get invited this year to the VFW and they vote you "Legislator of the Year," you're going to show up and take that plaque and you're not going to worry about whether you report the value of that plaque. You're going to be there.

ASSEMBLYMAN HAYTAIAN: But I don't think that's a gift. I don't think that's a gift.

ASSEMBLYMAN DEVERIN: If a drink is a gift--

ASSEMBLYMAN HAYTAIAN: No, no, I didn't say the drink was a gift. I said that's not a gift. For instance if I come to Trenton and I finish the legislative session and I go home and buy a pizza, and I pay for it, there's no problem. But if I go to wherever with my "favorite lobbyist" -- which I don't have -- and he, in fact, treats me, or she, every time I'm down here, that's a gift.

ASSEMBLYMAN DEVERIN: To what?

ASSEMBLYMAN HAYTAIAN: To dinner.

DR. ROSENTHAL: If you go to the VFW dinner and get a plaque and get a dinner, that's not a gift?

ASSEMBLYMAN HAYTAIAN: If I get an invitation to go there from that organization, that I'm going to receive this plaque and I've been honored as a legislator of the year, I don't consider that a gift. No.

DR. ROSENTHAL: And what about the dinner, that's not a gift? Or the drink?

MR. BURSTEIN: How do you define "gift"?

ASSEMBLYMAN HAYTAIAN: Well, let's define gift. Maybe that's the problem. We don't have a definition of gift. Once

we define gifts then we understand what we can prohibit and what we can accept.

MR. BURSTEIN: How about anything over \$25 that's not consumable? That takes care of lunches and things like that.

DR. ROSENTHAL: I mean there are some operating definitions. Anything that you can't eat or drink in one day is a gift. (laughter)

SENATOR ORECHIO: Say someone wants to meet with me. We go out to lunch or dinner, whatever; we have a sandwich, all right? As a result of that meeting I introduce legislation which eventually is enacted into law. They have their annual meeting. They invite me to their dinner and give me a plaque. Now, I have a dinner, and I've been a beneficiary of two meals. The first one to talk about the legislation and the second one the honor and recognition because it's now law. Which should I report, Chuck? I mean, which counts?

DR. ROSENTHAL: Which can't you have bought for?

ASSEMBLYMAN DEVERIN: You know, the teachers have a big workshop meeting every year where they serve-- They have a big banquet where they usually buy us a drink if they want and then they have a workshop. Now, who the hell's going to go, if you worry so much about having a drink?

DR. ROSENTHAL: What you would have to do there is sort of specify regulations to the extent that if you can't be bought a meal in a restaurant but you can go to a reception and have a meal and then there are other receptions--

MR. BURSTEIN: The rule is they would have to eat at home before going to the NJEA or anyplace else. Now we're getting down to silly stage, I think. That's why I think Don's original motion or at least his proposition is more sensible.

ASSEMBLYMAN HAYTAIAN: Al, you made a suggestion. I don't know if that was in jest, but you suggested a definition of a gift. Maybe that's what we need. Why don't we try to work a definition of a gift? What is a gift? Then we know

that it's acceptable or not. At this point we don't know what a gift is, do we?

ASSEMBLYMAN DEVERIN: I think you're better off if you set a threshold, either on an Assembly basis or an individual basis or somewhere, or else you're never-- And honestly and truly -- and think this through -- how many gifts do you get? The last thing I got was a bottle of perfume, and I don't use perfume anymore. (laughter)

ASSEMBLYMAN HAYTAIAN: Tommy, you're right. Next to zero.

ASSEMBLYMAN DEVERIN: I mean, what the hell are you going to write down?

ASSEMBLYMAN HAYTAIAN: Yeah, but do you believe that people will believe that? Do you really believe that out there?

ASSEMBLYMAN DEVERIN: Well, do you think they're going to believe this: You're not going to say you don't take gifts?

ASSEMBLYMAN HAYTAIAN: I don't know. The point is that's part of the problem. What is believable outside of the Legislature, outside of Trenton, by the people of this State? What's believable? Right now, they don't believe anything is right.

MR. STANTON: I still think if you had a-- Say you had a \$25 threshold. You have to give people credit for their own common sense. I mean I can't tell the difference between \$25 and \$26.50. I can sure tell the difference between \$25 and \$100 and I think if somebody is laying something on me that's of real value, I'll know that. I don't have the wording here for the code of ethics for the bank. We cover things like this because a lot of people give a bank officer a bottle of scotch, but no cases of scotch, no televisions, nothing like that. It has to be of minimal value. I think there's a word we use. Part of that went back to the Comptroller of Currency's regulations on-- I think I'll see if I can find that and mail it to you. I won't be here the next time to see you. But, that satisfied the government regulator in the banking industry.

SENATOR ORECHIO: Alan, another example. Quarterly, there are employer associations throughout the State, county organizations, and they have lunches and they invite all of us and they discuss legislative -- I mean their agenda. I mean, you want to talk about gifts? That's a gift. They want information, they want to know where we stand on issues and so forth. We get a free lunch--

ASSEMBLYMAN DEVERIN: Monday night I'm speaking to the senior citizens group, and I'm going to get killed when I'm there, cause they want to know about the taxes. But, I'm going to have a kielbasa sandwich and maybe a glass of coca cola, or maybe a glass of tea. Do I really have to report that?

DR. ROSENTHAL: No, you have to pay for it. (laughter) You can't take it; you have to pay for it.

MR. BURSTEIN: It seems to me there are three approaches and we ought to make some choice among them. One would be to have an absolute prohibition, as Chuck has recommended.

ASSEMBLYMAN HAYTAIAN: No, no. Donny did. I was just elaborating because I didn't understand when he was talking about thresholds.

MR. BURSTEIN: Yeah, but as I understood it, you would oppose any and all gifts.

ASSEMBLYMAN HAYTAIAN: Well, I said that's the way Donny started, and I agreed with that.

MR. BURSTEIN: Well, that's one approach. The second would be to have a threshold, as has been proposed of \$25, or whatever else. And the third would be to perhaps have an absolute prohibition and write into the definition certain exceptions. The problem with that, obviously, is how do you define the exceptions? That always becomes a difficult task if you accept small honoraria like a plaque or things of that sort. But, if you don't mention them specifically then whoever's going to be judging you, if there's an allegation of

an infraction, would then have a difficult time of determining how it falls within the definition. My own view is--

DR. ROSENTHAL: There's a fourth possibility and that's not-- To leave it alone.

MR. BURSTEIN: --to leave it, but I always leave out that fourth possibility because that's self-evident, I would assume. In any event I think the sensible thing to do would be to take a dollar threshold because as Tom has pointed out, you use your common sense in these matters, and I don't think the reporting or the bookkeeping aspect of it which, I think Chuck has a legitimate concern about, but nonetheless is one that can be met, and that for the overall purpose the prohibition of any gifts above \$25 ought to be the way we go.

DR. ROSENTHAL: That would include meals.

MR. BURSTEIN: Yes.

DR. ROSENTHAL: And that would include a meal and a reception.

MR. BURSTEIN: That's correct.

DR. ROSENTHAL: So if you go to a reception, you have got to establish the price of the meal and know whether you can take it or not take it. Let's assume that -- I'm being silly -- but let's assume that the meal is \$30: Can you take \$25 on the cuff and pay the other five?

MR. BURSTEIN: I think the rule of reason has got to prevail. If you're going to one of these events that was described by Tom before, ordinarily the value of the meal is relatively minimal. The major cost is the use of the facility and so on.

DR. ROSENTHAL: You don't know. If you go to the Hyatt Regency to some reception, I mean that meal is likely to be \$50.

MR. BURSTEIN: I don't think the intention is to put the onus the legislator to make that kind of very finite distinction as to what is attributable as opposed to anything

else relating to the event. You've got to deal with some kind of flexibility here.

DR. ROSENTHAL: I think if you're going to regulate this and prohibit gifts, you've got to have pretty specific guidelines because if a legislator makes a mistake, he or she is really culpable. I think if you're going to do it, you can't give people a lot of discretion. It's not being reasonable; it's being safe. And I think the tendency then would be for legislators wherever they go, to pay. They're not going to take a chance that the meal at this particular reception is under \$25 or \$17; they're going to pay everywhere.

MR. BURSTEIN: But look at what you're doing. You have something like the NJEA regional meeting, and they have hired the hall and have the meal. They, themselves, don't know what the breakdown is as between meal and anything else. How are you going to do that?

DR. ROSENTHAL: I'm not saying you can do this easily. I don't like it. I don't want to do anything.

ASSEMBLYMAN HAYTAIAN: Al, that's not true. I've taken part in a lot of functions that -- not political, nonpolitical -- the American Cancer Society, Warren County American Heart. We've had functions, fund raisers, and let me tell you, it's broken down as to what they cost. We know that.

MR. BURSTEIN: They do that for tax purposes. But that's an arbitrary sort of breakdown and I really think-- It really is arbitrary.

ASSEMBLYMAN HAYTAIAN: The establishment does. They charge you per meal. They don't generally charge you for the hall in a hotel. They'll charge you per meal. It's \$65 a meal, \$55--

ASSEMBLYMAN DEVERIN: You know one of the other problems of this thing is everybody thinks that we benefit from everything that somebody does for us. When I go to an NJEA thing, I benefit just as much, maybe more than they do, because

I hear what the teachers have. I speak at the VFW I hear what the guys are teed off about. Our benefits are more than just a goddamned cup of tea or a glass of water.

SENATOR DiFRANCESCO: I am not talking about the VFW. I am not talking about the American Cancer Society. You all know what I'm talking about.

ASSEMBLYMAN DEVERIN: Lobbyists don't have banquets.

SENATOR DiFRANCESCO: If your alternative A1, is to tighten up our system of disclosure of gifts, that might be a good alternative. But if I looked at every form today that was filed in May, I would like to see who reported gifts of cumulative \$250, and then I could tell you whether or not I feel this has been an effective disclosure requirement.

DR. ROSENTHAL: Well, I'm saying that if the recommendation that we made with regard to lobbyists goes through, the gifts will be reported or should be reported by lobbyists. And the gifts to legislators, the meals-- The gifts made-- You know, the meals that you have in the VFW back in the district will not be reported, and they probably shouldn't be. It's a different kind of situation.

SENATOR DiFRANCESCO: Somebody gives you a Super Bowl ticket. Should it be reported?

DR. ROSENTHAL: Absolutely. Absolutely.

SENATOR DiFRANCESCO: Do you think they report them?

DR. ROSENTHAL: But, we're making a recommendation.

SENATOR DiFRANCESCO: If the alternative to-- Because I know you have problems with this, and I can see the problems.

DR. ROSENTHAL: The recommendation is that the expressly clause be dropped and therefore they would be reporting everything over \$25 on a legislator, every instance, and \$100 per quarter. So Super Bowl--

SENATOR DiFRANCESCO: Theoretically the guy that's giving the Super Bowl tickets should be reporting that, and the

person that's receiving-- All right I'll say it again. If I looked at every form today I'd be pressed to find a lot of gifts reported.

MS. SHEEHAN: No, that's what the recommendation we have made--

ASSEMBLYMAN DEVERIN: Do you know what I'd like? I'd like to meet the legislator that gets a Super Bowl ticket.

SENATOR DiFRANCESCO: What Alan is saying, our present law says that we report gifts over \$250.

DR. ROSENTHAL: That's correct. And, are they reported?

SENATOR DiFRANCESCO: From a single source.

DR. ROSENTHAL: From a single source?

MS. HOCHMAN: I would assume so. I mean, when you check the financial disclosure forms that have been filed, there are certainly entries under "Gifts."

MR. BURSTEIN: How many legislators have received gifts in excess of \$250?

DR. ROSENTHAL: That's aggregate from a single source.

MR. BURSTEIN: Yeah. Single source gifts.

MS. HOCHMAN: Everything that would be reported or would be required to report currently, is only of a gift that has a value in excess of \$250.

MR. BURSTEIN: Yeah, but how many legislators have received either in the aggregate or in the single gift?

MS. HOCHMAN: I can't give you an exact amount of how many times that appears on the forms, but there are quite a few entries under gifts.

ASSEMBLYMAN DEVERIN: Reporting a gift-- For instance if you go to a-- If some lobbyist took the four of us out to dinner and the total bill for the dinner would be \$250, he'd report that. And he'd report that he took Carmen, Donny and Tommy and Chuck for a \$250 dinner. Now we know he does

that. We report that \$250. If you add it all up, it's \$1000. It's really only a \$250 expenditure by this lobbyist, for four people. We can't divide, because he reports that he took Carmen and Donny-- So that's one of the things that's very confusing. But, that's true. There's no other way you can do it.

DR. ROSENTHAL: I think the major-- If our recommendation goes through, I think the major change in the system will be that the lobbyists would be reporting their expenditures on legislators, and we would also hope, that given our recommendations, that ELEC would have the capability of making information available on a timely basis. Then people could make up their minds as to what it means. But that would be, I think, the real new information in the system, and that would be a lot of information. I would also guess that a number of legislators will start to decline such gifts because they would not want it to show up on lobbyists' reports. I mean that would be another impact.

ASSEMBLYMAN HAYTAIAN: If I get somewhat facetious with the meal, the cost of it, I think you'll understand where I'm trying to get to. A lobbyist takes the four of us out. That meal costs \$1500. Yet, wait a minute-- Yet, the way I look at, well God, that couldn't cost more than \$200 per person. So that's \$800. And plus \$1500, it's over the threshold now and he knows how much he paid for it -- or she -- and he reports it. We don't, because I think it's under \$200. I didn't ask him. I didn't report it. Whose responsibility now is it, that I didn't report it? It's Chuck Haytaian's, and that is really what I'm talking about. We are going to find ourselves in a very difficult position. Because let me tell you when somebody sends in a request to investigate a legislator, they don't talk about the lobbyist and their \$1500 bill. They're going to say, I want you to investigate the reporting form of that legislator.

And Marci well knows, when that comes in, the legislator says, oh, whatever-- And now we've got a problem, and the legislator has to worry about proving that he or she thought it was under \$250. How the hell do you go around proving that? No one believes you. "Well, you didn't know it was a \$1500 meal? What the hell's wrong with you?" That's the problem. And I think we've got to correct it.

SENATOR DiFRANCESCO: All that would happen under this scenario is that their reporting requirement would precede our reporting requirement. OLS will probably wind up giving us a list of all those lobbyists that indicated on their forms that they -- "Okay, on September 10th I took Don DiFrancesco to dinner." And somebody would give me that information to remind me that those matters happen. And then I would report it. It would be administrative work for some staff people.

MR. BURSTEIN: Well, can we come back to the original proposition? Is that kind of thing suggested to be prohibited completely, that there be no such -- aside from the reporting requirement, which is what we already have agreed upon, or already have -- that there be an absolute prohibition against legislators taking the benefit of a meal of that sort?

SENATOR DiFRANCESCO: That way my proposition, but I thought where the threshold is-- I understand your problems with the threshold, Chuck. But just that, you know, as I was trying to (inaudible word)-- What some state in the Midwest-- Nineteen people were fined because they took anything from a cup of coffee to a breakfast, and they weren't supposed to take anything. They have a zero threshold. So, I don't want to be responsible for Carmen having to pay a \$500 fine for a 50 cent cup of coffee.

ASSEMBLYMAN HAYTAIAN: And then having the problem of running the next time with his opponent saying, "Well, he took the 50 cent cup of coffee, got a \$500 fine--" And now, look at that campaign issue against him. It's not fair. It's not fair to the legislator; it's not fair to any elected official.

SENATOR DiFRANCESCO: I think the legislator would have the responsibility of, if somebody buys dinner for him-- He's got to determine that it's over \$25 or under \$25, and it's always best to err on the side of caution.

UNIDENTIFIED MEMBER OF COMMISSION: This will be a boon to cheap restaurants.

ASSEMBLYMAN HAYTAIAN: I think-- You know, the question came up, and Al brought it up, about being invited to a dinner where NJEA, or any other lobbying group, where you're a speaker or you're a guest. And maybe we can define those types of legitimate invitations to appear with a group as being exempt. Now, I think that is legitimate. If you're there as a speaker, you're there -- not on a trip to Hawaii, we're talking about New Jersey, because I believe we eliminated going out of the State, didn't we? And the business-- (several members speak on this at once) No, the business community would pay for it through the State. That's what we talked about.

So there are controls there, and I don't have to worry about it. And I don't believe I should have to worry about a group inviting me to be the speaker or being part of a forum or being part of a panel, and at that forum or panel that I received an invitation to attend, and there's a meal there-- I think we can accept that. I don't have a problem with that. Maybe somebody else does; I don't have a problem with that.

I do have a problem with coming to Trenton, and then going with one person or two people who are part of a lobbying group or firm and take me individually or even two or three of us to dinner. I have a problem with that. I think that's Donny's problem, too. I'm not sure; maybe I'm speaking out. That's the problem.

DR. ROSENTHAL: Does anybody want to, you know, suggest a proposal there? What would--

MR. BURSTEIN: I think it's very hard to put into writing -- unless these geniuses sitting on either side of you can do so -- the kind of exemption that Chuck is talking about. I think it makes sense, but you can probably think of a dozen different varieties on that very same subject that might not be within the wording that you put down. In other words, how do you go about stating in proper language that's easily understood by those who are going to do the judging, the difference between a meeting of a general lobbying organization, or general public self-interest organizations--

ASSEMBLYMAN HAYTAIAN: That's right. Self-interest group it should be.

MR. BURSTEIN: --that has a dinner, as opposed to something of lesser consequence. An organization maybe not as well known as the NJEA or the Business and Industry Association or anything else.

ASSEMBLYMAN HAYTAIAN: Or veterans, or AFL-CIO.

GREGG EDWARDS (Assembly Minority Staff): Alan, one way, I think, to get to the veterans groups or senior citizens groups, some of these more community oriented, is to look not at the gift so much as the source of the gift. And you might prohibit it from sources who are either lobbyists, or individuals, or entities which employ registered lobbyists, or individuals, or entities who have lobbyists under contract with-- The VFW is not going to have--

DR. ROSENTHAL: I think that's--

MR. BURSTEIN: Yeah, but that would prevent you from going to the NJEA.

DR. ROSENTHAL: --really discriminatory. If an organization hires a lobbyist, they're in a different category than if they don't hire a lobbyist.

ASSEMBLYMAN DEVERIN: The Catholic Bishops are going to have a lobbyist. They have one now. I can't go to lunch with the guy?

DR. ROSENTHAL: I mean, you know-- I mean, I agree with Al. That's why I'm against this. I don't think you can provide for exceptions, but you can have exceptions. You can have your dinner paid for if you're in a group of 25 or more people, because nobody chooses to eat with 25 or more people; it's got to be work. I mean, I don't like it. And I'm going to vote against it. But that would be one way to do it.

ASSEMBLYMAN HAYTAIAN: Let's assume-- Let me throw out a little--

DR. ROSENTHAL: I mean, I think you guys should be getting more gifts; larger gifts. (laughter)

ASSEMBLYMAN HAYTAIAN: Unfortunately, I find myself in the hospital three days from now, and someone sends me a fruit basket. Should I call him up and ask him how much that costs? It's a gift.

DR. ROSENTHAL: You send it back, or you send a check. Well, that's the implication here.

ASSEMBLYMAN HAYTAIAN: Look, I'm telling you--

SENATOR DiFRANCESCO: They won't be sending them anymore.

ASSEMBLYMAN HAYTAIAN: That's it, they won't be sending them.

SENATOR DiFRANCESCO: They'll be sending the cards. Because they'll know that you can't accept them anymore.

ASSEMBLYMAN HAYTAIAN: That's right. That's right.

ASSEMBLYMAN DEVERIN: Yeah, but I mean, you're laying in the bed with the oxygen up your nose, and you're supposed to--

SENATOR DiFRANCESCO: I know. I went through it. I was giving flowers away every day.

DR. ROSENTHAL: You have to keep a record, I would imagine, but you can then give that fruit basket to the hospital or to charity. Just make a record that that's where the fruit basket went.

SENATOR DiFRANCESCO: I know it sounds outrageous, but if you frame it that way it's going to sound outrageous.

SENATOR ORECHIO: Alan, a month ago I was invited to a meeting of Italian Americans in South Jersey. The purpose of the meeting was to see if I could help them get Alitalia to have their flights out of Newark to Italy instead of Kennedy. And the North America general manager-- . And they had a very elaborate dinner there. Of course everybody else ate. But I mean I--

SENATOR DiFRANCESCO: You don't eat that stuff. You don't have anything to worry about, you don't eat it.

SENATOR ORECHIO: Yeah, I've got a problem. But anyway, the point is, that would be reported if we adopt some of the suggestions made.

DR. ROSENTHAL: That would be prohibited, unless you paid for it.

SENATOR ORECHIO: Yeah, or reportable, whichever.

SENATOR DiFRANCESCO: Well, you didn't eat, right?

DR. ROSENTHAL: That would certainly be reportable.

SENATOR ORECHIO: Now Friday night there's a dinner for Fred Stickle, who's the lawyer, as you probably know, and there was a gift involved as well. And I've been asked to present two resolutions because he's a member of one of my commissions. If we prohibit that, I wouldn't be able to go to that. On the other hand I--

SENATOR DiFRANCESCO: Didn't you get the same invitation that I got that asks you for the right to send in the check for \$40?

SENATOR ORECHIO: Yeah, I didn't do that. But I'm just saying if I had been invited-- For example, John Lynch, and I'm sure when he as a leader would be asked to go-- That would be different, right? He'd have to report it.

DR. ROSENTHAL: No, no, now-- I mean, only lobbyists have to report expenditures on legislators, according to our recommendation.

SENATOR ORECHIO: Alleged influence peddlers.

DR. ROSENTHAL: Whatever. Alleged influence peddlers, whatever. If we prohibit gifts, then you would have to pay for that ticket; you could not get a complimentary ticket for that, I wouldn't think, or you'd have to pay at least for as much of that ticket as goes into the meal. I don't see any other way of doing it. Unless you can prescribe in writing all the exceptions to gifts. Or maybe you get down to the fact that you just prohibit eating with Harold Hodes, and taking a dinner from him.

MR. BURSTEIN: That would blanket the invitation.

MR. STANTON: Well, didn't you suggest nonconsumables?

MR. BURSTEIN: Yeah, but I really don't think I was serious.

But, you know, you can make the argument, it seems to me, that you shouldn't even be addressing the division between the allocation for meals as opposed to anything else. Because, in effect you're taking advantage of the entire thing, that is to say the locale, as well as the meal. You're coming there to present yourself, and in theory, as a legislator, you're getting the benefit of everything that goes into that \$40 ticket. So that I think we're getting to the point where we're just straining at gnats, and not very effectively. I just don't believe that we ought to be overly concerned, particularly if the disclosure requirements are much more stringent. So we ought to go with the threshold. That is what I want to come back to.

ASSEMBLYMAN DEVERIN: You know, Mr. Chairman--

DR. ROSENTHAL: Yes?

ASSEMBLYMAN DEVERIN: --both of these gentlemen, to my right and to my left, are concerned with your perception. I remember all of those articles that formed this Commission. They are not worried about a small gift here and there, or a luncheon. I don't remember the article. We have taken care of

the problem of going to Florida for a month; going to Aspen for two or three days; going to Hawaii. That is the kind of stuff. I don't think they get upset because some lobbyist buys me a sandwich, or buys me a dinner that is worth \$25. I don't think that worries them.

SENATOR DiFRANCESCO: How about a bottle of wine that costs \$150?

ASSEMBLYMAN DEVERIN: Well, then don't take it. What the hell, you've got to be nuts to take a bottle of wine.

SENATOR DiFRANCESCO: Well, tell them not to take it, or bring your own.

DR. ROSENTHAL: That would be reportable under your recommendations.

SENATOR DiFRANCESCO: I want to see that on somebody's form.

MR. BURSTEIN: Yeah, but if you are talking about evasions, Don, there are many ways of evading all of the regulations we are talking about. So we really have to do the best we can, with the hope that those who are going to be evaders -- whatever the rules are that are adopted -- are going to do so under the possibility of being disclosed, or caught.

MR. STANTON: Yeah, regulations have to be reasonable. Otherwise they are meaningless, in my opinion. If you make it almost a crime to breathe, it is ridiculous. I mean, things like our tax laws are predicated on reasonableness. I agree with you, Al. We are dancing on small points there.

DR. ROSENTHAL: Well, Al, do you have general language for a proposal?

MR. BURSTEIN: Well, I don't; Don did. (laughter) It was really Don's proposal. I don't want to--

SENATOR DiFRANCESCO: Do you have anything that you would like to--

MS. HOCHMAN: I think what you had said initially, is that the Commission recommends that legislators should be prohibited from accepting gifts from legislative agents or lobbyists, and then, in excess of a value, if you wanted to add that, of \$25, or whatever you thought was appropriate.

MR. BURSTEIN: Right.

DR. ROSENTHAL: Per gift, with no aggregate.

MR. STANTON: No aggregate. You know, if reporters start writing about lunches everyday, the editors are going to cut that off in a hurry. Otherwise there is no other news in the world.

DR. ROSENTHAL: This would apply, then, only to registered lobbyists.

MS. HOCHMAN: It was my understanding that when Senator DiFrancesco proposed that bit, that was the way he worded it.

SENATOR DiFRANCESCO: Yes, otherwise we would have a nightmare.

DR. ROSENTHAL: So, then, you can go to your function, take a meal, get a plaque, and all of that.

SENATOR DiFRANCESCO: Yeah, I think you can.

MR. STANTON: I think so.

SENATOR DiFRANCESCO: Tom will probably quickly say, "Well, those people are lobbyists."

DR. ROSENTHAL: It is the registered lobbyists.

ASSEMBLYMAN DEVERIN: What the hell! What do you mean I am going to say it? The VFW aren't lobbyists.

SENATOR DiFRANCESCO: Wait a minute. A lot of nonprofits have lobbyists.

ASSEMBLYMAN DEVERIN: They are not registered. Hey, my neighbor's a lobbyist. The guy who picks up my garbage complained the other day. The guy who put in the recycling law is going to put him out of business. Everybody is a lobbyist.

SENATOR DiFRANCESCO: That is what I just said.

MR. STANTON: Aren't we talking--

ASSEMBLYMAN DEVERIN: I mean, the biggest lobbyist in the--

SENATOR DiFRANCESCO: I meant Carmen. Carmen is going to say that there are a lot of registered lobbyists who are nonprofits.

MR. STANTON: Are we talking about people who are registered lobbyists?

SENATOR DiFRANCESCO: Yeah, but there are-- Ed McCool is a registered lobbyist.

MR. STANTON: Well, he is not going to buy you lunch.

SENATOR DiFRANCESCO: No, I buy him lunch.

ASSEMBLYMAN HAYTAIAN: He wouldn't buy you lunch if you were dying. (laughter) And he is not here to defend himself.

SENATOR DiFRANCESCO: Al?

DR. ROSENTHAL: Yes?

SENATOR DiFRANCESCO: The point about isolating my (indiscernible) is a valid point. I mean, for example, tonight I am invited to the Union County Medical -- to a dinner given by the Union County Medical Society.

ASSEMBLYMAN DEVERIN: They didn't invite me. I am going to find out why, too.

SENATOR DiFRANCESCO: You went the last time and you said you would never go back, you got beat up so much. You know, I don't want necessarily to prevent legislators from mingling with constituents and groups of people who get an opportunity to-- That is really not my goal, but I am not--

SENATOR ORECHIO: They could be lobbyists.

SENATOR DiFRANCESCO: Well, they have a lobbyist, but--

ASSEMBLYMAN HAYTAIAN: They have a paid lobbyist, and you may have been invited by that paid lobbyist to appear before that group.

ASSEMBLYMAN DEVERIN: That could be.

ASSEMBLYMAN HAYTAIAN: Yeah.

DR. ROSENTHAL: But then, you know, the lobbyist would obviously not invite you to appear before that group.

ASSEMBLYMAN HAYTAIAN: Well, that's not true, though.

SENATOR DiFRANCESCO: Well, you know, I think the \$25 covers that, quite frankly. I mean, the threshold could even be \$35. Or, you could go a different route and try to build in exceptions. Like, it was brought up, suppose Tom has a table of tickets to the New Jersey Opera Ball and he wants to take Carmen and a guest, and now maybe he can't. Now maybe he can't. Right?

MR. STANTON: Well, I don't know.

SENATOR DiFRANCESCO: If the ticket is \$500--

MR. STANTON: I think most of that is going to support a worthy cause, not for the meal.

SENATOR DiFRANCESCO: Right, right.

ASSEMBLYMAN HAYTAIAN: You're still-- For instance, let me give you an example of where we could run into difficulty, and I will pick one of the major lobbying groups. NJEA invites all of us, and the person who signs the invitation is Dee Corona. She is a paid lobbyist, as we all know. Most of us know her. She has invited us to this function. At that function we go to, the meal is \$55 per.

SENATOR DiFRANCESCO: The county dinner.

ASSEMBLYMAN HAYTAIAN: The county dinner, sure; \$55, or \$35. It is higher than \$25; I know that.

SENATOR DiFRANCESCO: No, it's not. It's a lousy dinner.

ASSEMBLYMAN HAYTAIAN: It's a lousy dinner, but it is higher than \$25.

SENATOR DiFRANCESCO: Most of us don't eat it.

ASSEMBLYMAN HAYTAIAN: Do we now report this based on this threshold.

DR. ROSENTHAL: No, no, you pay for it.

SENATOR DiFRANCESCO: You pay for it.

DR. ROSENTHAL: I would feel you might pay for it because she is a registered lobbyist. I don't know. Then we would be into all sorts of--

SENATOR DiFRANCESCO: See, I might go and not eat the meal.

DR. ROSENTHAL: Well, you can go and not eat the meal.

SENATOR DiFRANCESCO: We do that a lot. I mean, I think a lot--

ASSEMBLYMAN HAYTAIAN: We do; a lot of us do that.

ASSEMBLYMAN DEVERIN: You could really make this impossible. I don't think anyone is looking for us to do an impossible thing. Let me just go back to the Bishop. When Bishop Hughes has a reception, he invites all of the legislators from around the district, and it is a big diocese. We go to a pub and he serves sandwiches and things like that. He talks about legislation. My God, I can't go? I've got to--

DR. ROSENTHAL: No, you ask him for the check.

SENATOR DiFRANCESCO: We could grant an exception for the Catholic Church.

DR. ROSENTHAL: I really strongly disagree with the proposal. I think it is definitely overkill. It is restrictive. It's discriminatory, and it is based on a presumption that all you guys are selling out for meals. I don't agree with it. I trust members of the Legislature to, you know, be sensible about what they do and who they eat with. And I think it is important to associate with lobbyists -- registered lobbyists. I think you get a lot of information from the views of all of the organizations out there -- from lobbyists. It is not essential that they pay for your meals. I mean, that is obviously not essential. But I do not think it is a major matter, particularly with the reporting requirements. It is there; it is out there and, you know, people can see and make of it as they will.

I don't think, given the reporting requirements-- Especially I think people will be disciplined and limited, you know, in what they take and what they do, if that is the intent of the Commission. But that is just my personal point of view. I wanted to state it again because I feel really strongly about it.

ASSEMBLYMAN DEVERIN: I think the present law on gifts and the reporting of gifts up to \$250 covers everybody. It covers your aunts, your uncles, and everybody else, doesn't it really?

MS. HOCHMAN: Yes.

ASSEMBLYMAN DEVERIN: Yeah.

SENATOR DiFRANCESCO: No, not everybody; not your family.

ASSEMBLYMAN DEVERIN: Not your immediate family -- your children and your wife. I don't think that is something the world is looking, or the papers are looking for us to change. How many guys go to lunch with a lobbyist? Maybe once a year. Some guys go out of their way looking for lunches; some guys avoid the lunches. Some guys are never even invited to lunches. Some of the women never get invited to lunches from the Legislature.

So, you know, it is not something that is steamrolling over us. If a group like the Occupational Therapists, or Physical Therapists has a bill and you are one of the sponsors, they may want to have a luncheon meeting to talk to you about it. If they ask what they can do to help this legislation get passed-- What is so terrible about that?

SENATOR DiFRANCESCO: That is the idea of the threshold, Tom. That is why we said we had to have a threshold for that purpose. If you could frame this motion with a general statement following that -- what Marci said -- that this is a recommendation and there may be the need for certain specific exceptions to this recommendation which could be left

up to the legislative process, then I would think maybe it would make it more palatable, and then they could have a much greater discussion later on in terms of the little questions that are raised by you, by everybody on this Commission.

But the general proposition that we should not accept gifts in excess of a certain threshold, I think, is an appropriate one. I am not saying that everybody is doing it, because everybody is not doing it.

DR. ROSENTHAL: Pat?

MS. SHEEHAN: It just seems to me that we have gone way off base and really can't define a meal as a "evil thing." I mean, to try to decide whether a meal cost \$22 or \$28, or trying to decide whether it is from the senior citizens or whether it is from the New Jersey Builders, whether it is held in a hall or whether it is in a fancy hotel-- It just seems to me that anywhere-- It is a waste of time, as it were.

I would like to suggest, or at least make the comment that when we-- One civilian member of this Commission, when the question of gifts was even raised, gifts to my mind-- We were talking about a gift as a tangible thing, and we talked in terms of de minimus, the tie or whatever, versus a car or a television set or four tickets to the Super Bowl or something. I mean, those, at least one member of the public here understands as gifts. Maybe if you wanted to, or had to-- If I understand it, we are already required, or you are already required to report them of \$250 or more, and reaffirm that. Forget this business about meals, whether it is a rye bread sandwich or whether it came from the senior citizens or whether it's, you know, steak tartare and it came from--

I mean, that's nonsense. I understand that is the concern and the problem-- When you say to someone out there in the public, "They are accepting these lavish gifts," they are not thinking even of a \$150 bottle of wine. They are thinking of something that you didn't have before that you are taking

home with you. That's a gift. I think we should stay with what we've got, and get out of this meal business.

DR. ROSENTHAL: We have the motion that I think reflects Senator DiFrancesco's position. Maybe we should take a vote on it. Do you want to read the motion?

MS. HOCHMAN: The motion would be: The Commission recommends a general restriction that legislators should be prohibited from accepting gifts from registered legislative agents or lobbyists in excess of a value of \$25 per gift. The Commission recognizes that the Legislature may wish to adopt various exceptions to this general restriction.

SENATOR DiFRANCESCO: Right.

DR. ROSENTHAL: Do you want to call the roll?

MS. HOCHMAN: Chairman Rosenthal?

DR. ROSENTHAL: No.

MS. HOCHMAN: Mr. Burstein?

MR. BURSTEIN: Yes.

MS. HOCHMAN: Ms. Sheehan?

MS. SHEEHAN: No.

MS. HOCHMAN: Mr. Stanton?

MR. STANTON: No.

MS. HOCHMAN: Senator Orechio?

SENATOR ORECHIO: No.

MS. HOCHMAN: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MS. HOCHMAN: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MS. HOCHMAN: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes.

DR. ROSENTHAL: It's a tie.

MS. HOCHMAN: Yes, it is.

MR. BURSTEIN: Let's have another motion. (laughter)

SENATOR DiFRANCESCO: Well, I would then move that we reduce -- that we recommend reducing the \$250 gift disclosure

to \$100. I know we could do that on our own in the Legislature, but I would suggest that failing this opportunity with respect with gifts, that we should try to be more comprehensive in our reporting requirements, and therefore lower that to \$100. Then, of course, that would apply to per-- Let's say if it is a lobbyist, \$100 a lobbyist for that year.

MR. STANTON: Doesn't this sort of fall under the "If it is not broke, don't fix it" type of category? The \$250 is there and it doesn't even have to be touched. It can be left standing as is. There is obviously a division on this, which probably primarily falls under the definition of a "gift," as much as anything else.

ASSEMBLYMAN HAYTAIAN: But, Tom, I think--

MR. STANTON: You have covered the expenditures by lobbyists. You have put thresholds on that; you've done that already. We have closed other loopholes.

MS. SHEEHAN: We expressed (indiscernible).

MR. STANTON: I don't know. I think overkill is a good word. I'm not sure I would use it.

SENATOR DiFRANCESCO: Well, it is just that I thought our disclosure requirements for the lobbyists were just as difficult--

DR. ROSENTHAL: What is the-- I'm sorry. What is the problem of the disclosure requirements, or the reporting requirements for lobbyists?

SENATOR DiFRANCESCO: Twenty-five dollars a day.

DR. ROSENTHAL: An event, an occurrence?

SENATOR DiFRANCESCO: Or, \$100 a quarter.

DR. ROSENTHAL: On an individual legislator. So, you are going to show up. You are going to show up in a lobbyist's report and then, as you say, you are going to get -- OLS is going to tell legislators, you know, what the lobbyists' reports are, and you can conform, then, with the disclosure.

ASSEMBLYMAN HAYTAIAN: Yeah. OLS is going to have to notify us, for our reporting forms, what page 3-B on this memo for lobbying -- "requires lobbyists and legislative agents to file with ELEC quarterly reports of all lobbying activity. The threshold amounts for reporting expenditures would be \$25 a day, or \$100 a quarter." They would then have to list all of those disclosures and let us know, as legislators, so that we could then put it on our disclosure forms.

DR. ROSENTHAL: It might be useful anyway for legislators to kind of review what is being spent on them by individual lobbyists, not only for the purposes of filing, but just to sort of see what they have been doing.

MR. STANTON: There might be a real surprise in there.

MR. BURSTEIN: You tend to forget over the course of a year.

DR. ROSENTHAL: Yeah.

MR. BURSTEIN: You don't keep a meticulous record of who is doing what in that respect, so it probably has a value to be reminded.

ASSEMBLYMAN HAYTAIAN: So the burden of proof there would be on the lobbyist, and the responsibility would be OLS's to get it to the legislators. So in essence, if the legislator never gets anything from OLS because the lobbyist never told them anything, and yet did it, the responsibility is not the legislator's.

DR. ROSENTHAL: Well, I think the Legislature ought to make that clear that they are going to play off the lobbyists. I mean, legislators really shouldn't be expected to keep, you know, books on every time they are out. "This guy spent \$18 on me," or, "That guy spent \$16 on me," and then add it up. You would need to enlarge your staffs. So I think it can be done with sense through playing off on the lobbyists' reports. (members confer among themselves) I mean, that was a suggestion, but I don't think that has been voted on.

SENATOR DiFRANCESCO: Actually, you know, I can bring that up in our own Committee. It is something we can change on a yearly basis.

DR. ROSENTHAL: But as of now, assuming our recommendations are accepted by the Legislature, the lobbyists would be filing and reporting their expenses. Those reports-- The Legislature would require OLS to submit those reports, breaking down the individual legislators. The legislators would get periodic reports on expenditures by lobbyists on them. Legislators would have to file anyway, in conformance with the disclosure requirements of the Legislature on gifts.

ASSEMBLYMAN DEVERIN: But the press makes the third check.

DR. ROSENTHAL: Pardon me?

ASSEMBLYMAN DEVERIN: The press makes the third check. Those lobbyist reports are available to them, and so are ours.

DR. ROSENTHAL: Right, right.

ASSEMBLYMAN DEVERIN: If they don't jibe, then there are going to be questions.

DR. ROSENTHAL: Well, they will jibe, because you will be-- Even though you are not keeping books, you are going to have to-- Or, if you do keep books-- Otherwise, you will go by what the lobbyists say.

Since the proposal didn't pass-- I don't want to run it by when Michael isn't here (referring to Commission member, Michael Cole). He might vote for it. I think we probably should.

SENATOR DiFRANCESCO: What's that?

DR. ROSENTHAL: Well, the tie vote, I think, will, you know-- We will take a vote again when Michael Cole attends.

MR. BURSTEIN: He hasn't had the benefit of this marvelous discussion here.

MR. STANTON: This is my last meeting.

DR. ROSENTHAL: What is the disposition of the Commission on that? I mean. that is an important point. Senator DiFrancesco?

SENATOR DiFRANCESCO: I thought he had expressed displeasure of that concept.

UNIDENTIFIED MEMBER OF COMMISSION: He did.

SENATOR DiFRANCESCO: I hate to say that, but I thought he had indicated the last time he was here that he felt the disclosure was out. Do you remember that, Al?

MR. BURSTEIN: Yeah, I think so.

MR. STANTON: I think that's true.

MR. BURSTEIN: Frankly, I would be satisfied with that, too, despite my vote. I didn't want to embarrass you, Don.

DR. ROSENTHAL: You thought Senator DiFrancesco was the only one who was going to be voting for his motion, but it turned out that--

MR. BURSTEIN: That's right, correct. I didn't want to--

ASSEMBLYMAN HAYTAIAN: Hey, now, wait a minute. I take exception to that. I remember eight to one votes, and you didn't express any concern then.

MR. BURSTEIN: I figure you can take it better.

ASSEMBLYMAN HAYTAIAN: Oh, I can take it better. I have broader shoulders. (laughter)

DR. ROSENTHAL: Is there anymore discussion, or should--

ASSEMBLYMAN HAYTAIAN: You lawyers stick together, don't you?

DR. ROSENTHAL: Is there anymore discussion of gifts? (no response) If not, we can move on. There are three other items we should deal with, and any other items that members want to bring up. One has to do with contracts, which is in the memo dated August 14, that Marci sent out.

A second item has to do with post legislative employment that is not in the memo. Or is it in the memo? But it is an issue as to whether or not we want to address that. A third item is a concern of mine, but it was a recommendation of Ed McCool's, and it had to do with the Legislature having, biennially, some program on ethics to sensitize members to the kinds of considerations involving ethics that may not even be regulated, but-- Sort of ethical behavior.

So, those are the three items. Any discussion of contracts?

SENATOR DiFRANCESCO: I would support prohibiting legislators from having State contracts with the State of New Jersey under any circumstances.

ASSEMBLYMAN HAYTAIAN: I would agree with that.

MR. BURSTEIN: Even with the rather severe prohibitions--

SENATOR DiFRANCESCO: Even though it's publicly bid, you mean?

MR. BURSTEIN: --that exist now?

SENATOR DiFRANCESCO: The fact that it's publicly bid wouldn't mean anything to me.

ASSEMBLYMAN DEVERIN: Do you mean an outright ban on anybody?

SENATOR DiFRANCESCO: Is that a hardship? Would that create a hardship on somebody.

SENATOR ORECHIO: No, we have a legislator now who has been involved for a number of years in being the only bidder in a particular phase of work, construction. What happens?

SENATOR DiFRANCESCO: The only person in the whole State of New Jersey who--

SENATOR ORECHIO: But he had the job for 12 years before he came here.

MR. BURSTEIN: What about somebody like--

SENATOR DiFRANCESCO: I'm only telling you what my opinion is. My opinion is, he should not be doing business with the State of New Jersey if he wants to hold office with the State.

MR. BURSTEIN: What about somebody--

SENATOR DiFRANCESCO: That's a policy thing.

MR. BURSTEIN --like Ed Crabiell, who had a construction company doing a lot of road work in the State, again, before he ever got into the Legislature?

ASSEMBLYMAN HAYTAIAN: If it's that important to his business, then he doesn't have to be in the Legislature. Those are the kinds of problems that we have to deal with.

MR. BURSTEIN: Where you have public bidding, or where you have a circumstance with a unique service--

SENATOR DiFRANCESCO: The problem I have with public bidding -- and let's use contracting as an example -- a lot of the money is made on the changes, the change orders. You can low bid on a job and make millions on change orders later that don't get bid. I know that, and I know that you're talking about big contractors, but I just think as a policy, if you want to be in the Legislature, you shouldn't be contracting with the State of New Jersey. It's one or the other.

MR. BURSTEIN: Well, I can't agree with that. I think that if there are sufficient guidelines, and I think the present statute has covered them pretty well. Granted, that the change orders are a potential for abuse, but that's in any kind of a contract, and I can't address that here. It seems to me that the effective result of having a stricter prohibition than presently exists is, once again, to eliminate a potential class of people from running for public office. I think the more we do that, the less representative will the Legislature be.

ASSEMBLYMAN DEVERIN: Mr. Chairman, I'm not sure I understand what he means. For instance, if there's a

contractor -- an excavator or a well digger -- and it happens to be DiFrancesco and Sons, and it's a big firm, and the guy who runs it gets into office, and that firm bids on big highway contracts, do you mean to tell me that it makes you a better or a worse legislator if they don't bid on those contracts; and then if they do bid, because you're an Assemblyman from somewhere, that everybody is going to rig the bids so that you're going to get it?

SENATOR DiFRANCESCO: Did you know that we had testimony at the Highway Authority that the Executive Director of the Highway Authority had the ability to sign change orders for as much as a million dollars?

MR. BURSTEIN: Yeah, but that's an administrative thing, Don. That can be addressed that way, that he shouldn't have that authority, perhaps, or that it should be subject to review by the Commission itself, the Authority itself.

SENATOR DiFRANCESCO: Well, I'm addressing the question that's raised that says, "Well, if it's publicly bid, you're protected because it's the lowest responsible bidder, and generally lowest responsible bidder gets the job, and therefore what's wrong with that?" I mean, if it's not publicly bid, I can think of a lot of reasons if it's not a public bid situation, why there could be favoritism. That's why we have public bidding laws.

ASSEMBLYMAN DEVERIN: What is your motion then; with, or without public bidding?

SENATOR DiFRANCESCO: If you're a legislator, you shouldn't do business with the State of New Jersey.

ASSEMBLYMAN DEVERIN: With or without a bid?

SENATOR DiFRANCESCO: With or without a bid.

ASSEMBLYMAN DEVERIN: Period?

ASSEMBLYMAN HAYTAIAN: Right.

ASSEMBLYMAN DEVERIN: Don't we have a Senator who grows apples or something and he sells them to the State, because he only has that apple?

SENATOR DiFRANCESCO: He sells them to Saudi Arabia, too.

MR. BURSTEIN: Well, we could--

ASSEMBLYMAN DEVERIN: Well, let Hassam (phonetic spelling) bid. Let him put--

SENATOR DiFRANCESCO: Maybe he could sell them to Iraq, I don't know? That's his problem. If he wants to be a farmer and serve in the Legislature, he doesn't have to sell his apples to the State of New Jersey.

MR. BURSTEIN: You know, if we start applying that principle across-the-board--

SENATOR DiFRANCESCO: It doesn't create a hardship though. Where is the hardship?

MR. BURSTEIN: Well, the hardship is in the people who want to run for public office who may be effected by this in a very direct way. I think that you serve to eliminate a class of people. That's very unfortunate.

The Legislature itself, many years ago, recognized that people like teachers had a particular problem running for the State Legislature. There was a statute adopted that enabled them to take the time off to be able to do legislative service.

SENATOR DiFRANCESCO: And be paid for the time off.

MR. BURSTEIN: That's correct, that's correct.

ASSEMBLYMAN HAYTAIAN: And some of them don't teach, because they're being a legislator 100% of the time. The taxpayer is paying for that.

MR. BURSTEIN: That may be, but the point is that you are singling out one class of people by the proposal you are making, as opposed to other classes of people who are favored in the law.

ASSEMBLYMAN DEVERIN: You know, it's not a widespread thing. You know, I--

SENATOR DiFRANCESCO: Does a mayor do business with his town? Does a mayor do business with his municipality?

SENATOR ORECHIO: I've got a comment. Would we then prevent lawyers from representing banks and insurance companies in New Jersey? You always have this.

SENATOR DiFRANCESCO: What does that have to do with this proposal?

SENATOR ORECHIO: You're talking about legislators being--

ASSEMBLYMAN HAYTAIAN: No, no. State contracts, it says. State contracts.

SENATOR ORECHIO: Yeah, State contracts. My point, conflict with respect to influence. A legislator now gets the benefit--

SENATOR DiFRANCESCO: This has nothing to do-- What do you mean, influence? This has to do with personal gain and public policy.

SENATOR ORECHIO: Yeah, but he gets the contract because of the fact that he's in the Legislature, and he is getting the contract from the State.

ASSEMBLYMAN HAYTAIAN: Carmen, an example. I think Donny is correct.

SENATOR ORECHIO: Only because he is in the Legislature.

SENATOR DiFRANCESCO: I don't know, that's the way I feel.

ASSEMBLYMAN HAYTAIAN: He's correct.

SENATOR DiFRANCESCO: If you don't feel that way, vote against it.

ASSEMBLYMAN HAYTAIAN: I think he's correct. Let's go back, engineering days, Haytaian engineering days; electrical, but let's assume civil. As an engineering firm, owns it, doesn't work for it but owns it, becomes a legislator, and that civil engineering firm had in the past been doing work with the State based on contracts that they bid. Haytaian now becomes a legislator. You don't bid on those contracts anymore. If you

want to be a legislator, you don't bid on those contracts. If you want to bid on those contracts, you don't run for the Legislature.

You know the rules. That's what people are excited about. They say, "You knew what the pay was when you ran, why did you increase your pay?" That's what's happening.

ASSEMBLYMAN DEVERIN: If you voted against--

MS. SHEEHAN: Doesn't that really impact on anybody that's got his or her own business, because the potential for a State contract, in whatever area that they are in, whether it's the laundry at the prison or the food at the school or a subcontract. I mean, you're really talking about administering a contract with those change orders. That has nothing to do with the fact that anybody who is in business -- whatever their business, beauty parlor, farmer -- would be denied--

SENATOR DiFRANCESCO: No. They can't do business with the State today. They can only do business with the State under these circumstances.

MS. SHEEHAN: Yeah but, potentially, they could be a public bidder for State business, and you're saying no they can't.

SENATOR DiFRANCESCO: Yeah, but that's what they get paid \$35,000 for. How many people are affected by this in the Legislature today, Marci? Are you at liberty to say?

MS. SHEEHAN: Anybody who is in private business.

MS. HOCHMAN: Well, whenever a matter comes before the Joint Committee involving the approval of a contract, that's generally in a public proceeding. We've had several of them, I think, since all of you have been members of the Legislature.

SENATOR DiFRANCESCO: Well, I've been in a long time. How many are we talking about, two or three?

ASSEMBLYMAN DEVERIN: Three at the most.

ASSEMBLYMAN HAYTAIAN: I remember one so far this year; that's all, just one.

MS. HOCHMAN: I would not say there's more than five.

ASSEMBLYMAN HAYTAIAN: Well, it's not a major problem then. So, why not eliminate them? That's right, what's the problem: Why not eliminate them?

MR. STANTON: Can anyone remember when there was a supposedly scandalous situation? I don't. I don't remember anything that was in the public purview as a scandalous -- scandalous in this public bidding process. I just can't recall anything at all.

I mean, have we had a scandal?

DR. ROSENTHAL: Is anyone aware of a scandal with regard to State contracts, that legislators--

MR. BURSTEIN: Well, to put it more precisely, undue influence exercised by a legislator on behalf of his own business.

MR. STANTON: Yeah, yeah. Well, I mean, in this connection that we're talking about here with the Legislature.

ASSEMBLYMAN DEVERIN: I only remember a couple of guys that are in business that bid on State contracts. I think there are three of them; two in the Assembly and one in the Senate that I know of. They never came before the Committee, and most of the times they filed the request with the Committee before the bids were in.

MS. HOCHMAN: That's correct. They were filed beforehand.

ASSEMBLYMAN DEVERIN: They say, "We're going to bid. There's a contract. Is it okay?" That's not after the contract's been awarded. You do it even before they put the contract in.

DR. ROSENTHAL: And then the Committee has a hearing?

MS. HOCHMAN: Generally, what would happen is the request would come in, a meeting would be convened, and the members would determine whether it was-- Usually it's a public bid. In almost all instances it's a publicly bid contract.

The member would be given a determination by the Joint Committee that it was appropriate to bid on, and if successful, to accept a contract award in a public bid situation. And then it's filed--

DR. ROSENTHAL: Personally, I'm satisfied with that.

MS. SHEEHAN: Particularly if it were a family business.

MR. STANTON: I'd almost like to say, like the magistrate said: "Next case." You know, this is a problem that's not a problem.

ASSEMBLYMAN DEVERIN: You know, it's also not fair to make motions just to get a recorded vote, either.

SENATOR DiFRANCESCO: Tom, for some reason you think I don't mean this. I mean, I feel strongly about this.

I limit my law practice because I want to be in the Legislature. I understand your point, but the point does not sit well with me because I can't go with a big firm. That big firm would be restricted from doing too many things. It would be nice to be with a 50-member firm, but that's really not in the cards today, because I want to be in the Legislature.

We can't appear in many ways before a State agency. Well, obviously, we can't appear before State agencies. We can't appear in administrative law courts now. We can't do a lot of things that other lawyers can do. Hey, I'll accept that. I want to be in the Legislature.

So, I'm not going to feel sorry for somebody who might not be able to do business with the State, because I feel it's important.

MR. BURSTEIN: But that could be the only business that the entity has, and as a matter of fact in many of these situations if not most, where you have a business that is involved in State bidding, that represents a predominant part of their business. For you to say now that a member of that

business would have to forgo legislative service because they're doing business with the State, I see as really overdoing it.

SENATOR DiFRANCESCO: I mean, wouldn't--

DR. ROSENTHAL: Assemblyman Haytaian, did you have a--

ASSEMBLYMAN HAYTAIAN: Well, I agree with Don, because I've witnessed, myself, those situations and I-- When I got into the Legislature I worked for an engineering firm. I didn't own it, I worked for it. Then I was asked to become the branch manager, and I did that. And the company wanted, and in fact, to bid on architectural and engineering contracts which were their prerogative, and I, in fact, asked for opinions whether this could be done. They said it could, but I left that engineering firm because, in my mind, there could be potential problems. I just left.

That's what they intended to do, and I said, that's not what I'm going to stay as an employee to do. I left.

I agree with Donny. If a person wants to serve in the Legislature-- I've heard this many times before this. Disclosure, everything else is important. You know, if you want to serve--

Well look, if you want to serve, you don't need State contracts. You shouldn't bid on them, and you shouldn't take them.

ASSEMBLYMAN DEVERIN: Yeah, but if your business is-- You know, I don't even know what the hell we're doing with a question like this, because we have a very strong law on it now, and the couple of people who do bid on State contracts, are done in a-- They come before the Legislature either by writing or in person and they ask, and we say, "Yes," or "No," and it's before they even bid most of the time.

Now, I'm retired. I don't even have a job. No way in the world could I bid on a contract. But, I'll be damned if I want to be part of any commission or any bill that limits

somebody's public service because his father, 100 years ago, formed a trucking company that removes snow when it snows in New Jersey. God, you're carrying it too far.

SENATOR DiFRANCESCO: This is not retroactive and I'm not--

ASSEMBLYMAN DEVERIN: Well, if it's next week, you'd be banning them. If it's retroactive or not, you're changing it to limit certain people from serving in the Legislature. There are some people who would like to put a law in to say, bar all of the lawyers. Like Shakespeare said, get rid of all the lawyers.

SENATOR DiFRANCESCO: Maybe we should.

MR. BURSTEIN: I second the motion.

ASSEMBLYMAN DEVERIN: Seconded, I agree with you. But that doesn't say that we have to do that.

MR. BURSTEIN: You see, Don, in your case as a lawyer, you have the opportunity of shifting your practice to other sources. You're talking now about businesses that don't have that kind of flexibility. That's why I think that the type of rule that you're advocating is much too rigid.

SENATOR DiFRANCESCO: I didn't realize this was such a big deal to certain people. I wasn't gearing this to one individual. I mean, I really felt that this--

ASSEMBLYMAN DEVERIN: No, we're not saying-- How about the poor guy who sells the apples, or somebody else that's--

SENATOR DiFRANCESCO: He's not such a poor guy, by the way.

ASSEMBLYMAN DEVERIN: Well, that's beside the point. The idea is, you're changing something that is okay now.

SENATOR DiFRANCESCO: That's what we're here for, Tom. We're here to review things and perhaps, to make recommendations of things that perhaps should be applied today, in the '90s. That's one of the-- I've always had this in mind--

ASSEMBLYMAN DEVERIN: I mean, just because it's here, you're going to change it.

SENATOR DiFRANCESCO: I raised this question with the Committee, by the way. You know, this is nothing new with me.

SENATOR ORECHIO: Al, could I make a quick point? (no response) You know, it seems to me that a person running for State office would almost have to acknowledge in seeking that office, that would preclude him from dealing with the State. I support that position. I really think there is some merit to that, contrary to his previous motion, which I think was a wrong thing to do, but I really think there is merit to this.

DR. ROSENTHAL: Well, why don't we vote?

MS. HOCHMAN: I have, "The Commission recommends that the Legislature prohibit legislators from contracting with the State under any circumstances." Senator, are you also including within the term "legislator," companies in which they also -- prohibiting companies in which they have a 1% interest, which is the current standard?

SENATOR DiFRANCESCO: Greater than 1% interest? Yes.

MS. HOCHMAN: Is that inherent in this?

MR. STANTON: I think that's--

MS. SHEEHAN: What about full-time employees? What does that mean?

MS. HOCHMAN: In my work sheet I was wondering just simply, whether the Commission would like to apply this standard also to certain employees? Currently the employees -- full-time employees -- are restricted in the same way that legislators are.

MS. SHEEHAN: State employees, or employees of the Legislature?

DR. ROSENTHAL: Legislative employees.

MS. HOCHMAN: State employees. The restriction with regard to legislators, the current restriction extends to individual legislators and companies in which they own in excess of 1%, and the Senator has advised that that would be--

SENATOR DiFRANCESCO: No, Marci, but it says, "and full-time employees."

MS. SHEEHAN: And I don't know who "they" are?

SENATOR DiFRANCESCO: We're talking about in the statute.

MS. HOCHMAN: Oh. Full-time legislative employees.

DR. ROSENTHAL: Legislative staff.

MS. SHEEHAN: Is that what that is?

MR. BURSTEIN: They should be barred.

DR. ROSENTHAL: Pardon me?

MR. BURSTEIN: They should be barred.

DR. ROSENTHAL: Do you want to call the roll?

MR. STANTON: Basically-- One question on the motion: Basically, the only change this makes is, it continues the present statute, except it knocks out public bidding?

DR. ROSENTHAL: It knocks out what?

MR. STANTON: Public bidding.

MR. BURSTEIN: No, it goes further than that.

DR. ROSENTHAL: No, it prohibits all legislators--

MS. SHEEHAN: It prohibits contractors.

DR. ROSENTHAL: It prohibits any legislator from having a contract with the State.

ASSEMBLYMAN HAYTAIAN: That statute is going to end with "State." "Prohibits legislators and full-time employees and the firms in which they have an interest greater than 1% from contracting with the State." Period. That's what we're saying. I think that's what we're--

SENATOR DiFRANCESCO: It knocks out public bids. It knocks out what's referred to in 52:34-10. What is that, Marci, do you know?

MS. HOCHMAN: Yes, basically 52:34-10, if you note the note in here, that there are certain circumstances under which the Joint Committee would now have the authority to approve contracting. You can read the various things. Public exigency, one source of supply, and so on.

MR. BURSTEIN: Just before we take a vote, as I would understand the impact of the recommendation, somebody in the Legislature who up to this point has provided a unique service where there was no public bidding under the statute would likewise be barred. Isn't that true?

SENATOR DiFRANCESCO: Yeah.

MR. BURSTEIN: So, that "unique service," as defined, is no longer available to the State, whatever it might be.

ASSEMBLYMAN DEVERIN: How about a college professor who is under contract to the State of New Jersey, and serves in the Legislature?

SENATOR DiFRANCESCO: He's a full-time employee.

ASSEMBLYMAN DEVERIN: What are you talking about? I'm talking about a contractor. If you're a member of the Legislature, and Rutgers or Kean gives you a contract, can you accept it, if you're a professor?

DR. ROSENTHAL: Do you mean, if you have a contract with the State as a professor, can you serve in the Legislature?

ASSEMBLYMAN DEVERIN: That's right.

MR. BURSTEIN: I think there is a statutory exemption or a regulation, something that covers that.

DR. ROSENTHAL: That would supersede that.

SENATOR DiFRANCESCO: That's happening now.

DR. ROSENTHAL: That wouldn't be interpreted as a contract.

ASSEMBLYMAN DEVERIN: No, that question was brought up when Jack Froude was a professor at Kean.

SENATOR DiFRANCESCO: That's all been--

ASSEMBLYMAN DEVERIN: No, that was never resolved.

SENATOR DiFRANCESCO: Well, this doesn't cover that.

ASSEMBLYMAN DEVERIN: This is the statute they thought covered it, and the Attorney General never made a final ruling on it.

MR. BURSTEIN: I think-- Well, I don't want to speculate.

MS. SHEEHAN: Does this mean that in the independent business, whether it's a contracting firm or a laundry or an orchard or whatever the business is, family business, that the daughter or son of the owner of that business who is in the family business him or herself, is precluded from running for the Legislature?

SENATOR DiFRANCESCO: If they own more than 1%.

MS. SHEEHAN: So, anyone who has their own business is, in effect, precluded from running for the Legislature if they participate--

DR. ROSENTHAL: If they have contracts or--

SENATOR DiFRANCESCO: If they do business with the State in excess of \$25,000.

MS. SHEEHAN: That isn't what it says.

ASSEMBLYMAN DEVERIN: You didn't say in excess of anything.

MS. SHEEHAN: Contracting with the State, period, is what you said.

MR. BURSTEIN: I thought this was an absolute prohibition--

MS. SHEEHAN: That's right.

MR. BURSTEIN: --whatever the amount.

DR. ROSENTHAL: There was no minimum.

SENATOR DiFRANCESCO: I guess I was--

ASSEMBLYMAN DEVERIN: If the legislator and his brother were painters, and they got a job to paint city hall--

SENATOR DiFRANCESCO: Well, I-- I don't--

MS. SHEEHAN: I just was asking if that was any independent business--

MR. BURSTEIN: It's an absolute prohibition.

DR. ROSENTHAL: Well, let's vote. Do you want to call the roll?

MS. HOCHMAN: Shall I read it again?

DR. ROSENTHAL: Yes, read it again.

MS. HOCHMAN: "The Commission recommends that the Legislature prohibit legislators and full-time legislative employees and companies in which they own over 1% from contracting with the State, under any circumstances."

DR. ROSENTHAL: And by "State," we mean State government. We don't mean municipalities, or do we? What do we mean?

SENATOR DiFRANCESCO: No. They can still do work with municipalities.

DR. ROSENTHAL: So, only with the State, meaning State government, okay. Do you want to call the roll?

MS. HOCHMAN: Chairman Rosenthal?

DR. ROSENTHAL: No.

MS. HOCHMAN: Mr. Burstein?

MR. BURSTEIN: No.

MS. HOCHMAN: Ms. Sheehan?

MS. SHEEHAN: No.

MS. HOCHMAN: Mr. Stanton?

MR. STANTON: No.

MS. HOCHMAN: Senator Orechio?

SENATOR ORECHIO: Yes.

MS. HOCHMAN: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MS. HOCHMAN: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: No.

MS. HOCHMAN: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes.

MS. HOCHMAN: It's five to three against.

SENATOR DiFRANCESCO: I'm not going to make any more motions.

ASSEMBLYMAN DEVERIN: You're on a roll. You don't want to quit now.

MR. STANTON: When the time comes, Donny, you can make a motion to adjourn.

SENATOR DiFRANCESCO: I mean, if you're a mayor, do you do snow plowing in your town? Of course not. I mean--

DR. ROSENTHAL: What about post legislative employment?

MR. STANTON: We don't have that in here.

DR. ROSENTHAL: No, it's not in the papers, but it is-- It may be an issue. It may be something that you want to address or you may not want to address it.

MS. SHEEHAN: One of the things that they raised at that same time that I didn't understand, that I would think that we would want to look at, it says that State employees now are not required to disclose outside employment. I mean, that was appalling to me.

DR. ROSENTHAL: Marci, do you want to address that?

MS. HOCHMAN: Okay. Currently the only requirements that have to be disclosed with regard to full-time employment -- full-time employees of the Legislature -- is if they hold a license, or they're in a business that's regulated by the State. If they have a part-time job at a Wawa in the evenings, they would not have to file for that. They would not have to file a statement currently, to that effect.

MS. SHEEHAN: But if they had an insurance business--

MS. HOCHMAN: License to practice law.

MS. SHEEHAN: --or a law business, they are required to disclose this.

MS. HOCHMAN: Currently to disclose that they either practice a regulated profession or hold a license issued by the State in a certain profession.

MS. SHEEHAN: Okay. That sounds right. I didn't understand that.

DR. ROSENTHAL: What about post legislative employment? Does anyone have any feelings on--

MR. STANTON: Can we ask a question?

DR. ROSENTHAL: Currently there are no restrictions on post legislative employment.

MR. BURSTEIN: Except for casinos.

DR. ROSENTHAL: Except with regard to casinos. There is a what, two-year--

MS. HOCHMAN: There is a two-year post employment restriction on members of the Legislature.

DR. ROSENTHAL: Working for casinos?

MS. HOCHMAN: Representing casinos.

ASSEMBLYMAN DEVERIN: With all due respect--

ASSEMBLYMAN HAYTAIAN: Representing, or working for?

MS. HOCHMAN: Both. Holding employment with or as representing.

ASSEMBLYMAN HAYTAIAN: For instance, if I were to leave the Legislature, and I wanted to become a dealer in Atlantic City, I couldn't do it.

MR. BURSTEIN: No dice.

ASSEMBLYMAN HAYTAIAN: That's no dice. (laughter)

MS. SHEEHAN: For two years.

ASSEMBLYMAN DEVERIN: Under the Kean-- It hasn't happened yet under the Florio administration, but under the Kean administration, they raided the Legislature like they were corn pickers. Every time you turned around some legislator was being appointed to some post in the Governor's office or somewhere in the State House. Now, under this law, that can't happen.

For instance, if the Governor wants to appoint him Attorney General next month, if we have this rule, he can't do that, because that's post employment.

DR. ROSENTHAL: Well, it depends. It's usually designed to prevent legislators or legislative staff from lobbying. It's usually lobbying, private lobbying. I mean, it can be whatever the Commission wants it to be

ASSEMBLYMAN DEVERIN: I agree with that. But it doesn't say-- It just says post employment.

DR. ROSENTHAL: No. The sense of it that I had was the issue of whether or not there should be restrictions on legislators or legislative staff for a period of time in terms of lobbying the Legislature.

ASSEMBLYMAN DEVERIN: The way the Federal law is written?

DR. ROSENTHAL: Yeah, and some states--

ASSEMBLYMAN DEVERIN: But not the post legislative employment restriction by the State.

DR. ROSENTHAL: No, no. It would be as lobbyists, not in government, as some people call it.

ASSEMBLYMAN DEVERIN: Because we have our eye on Donny DiFrancesco. We don't want to be able to pass that up.

MR. BURSTEIN: Is there any restriction presently with respect to post legislative employment as it relates to dealing with an agency? I'm sorry, that would be on the executive side. I was thinking in terms of, if you are an employee -- as an example -- in the Department of Energy, and you come out of that Department and you decide that you are going to be, as an example, a lawyer specializing in energy matters, can you now go back and appear before the Department of Energy with respect to any applications of what have you that relate to the function you might have had before, except with the exception that you could not deal with cases that you were handling as a member of that Department? Is there any such restriction?

MS. HOCHMAN: Okay, presently in the law there is a post employment restriction that is imposed on staff persons. Both staff in the Legislature and staff in the executive branch, which is not currently imposed on members of the Legislature.

MR. BURSTEIN: What is the nature of that restriction?

MS. HOCHMAN: That would be that you cannot represent a party other than the State, or provide confidential information to a nonstate party with regard to any matter that you were directly and substantially involved with during the course of your public employment.

MR. BURSTEIN: Okay, so exclusive of that direct and substantial language, there is nothing to prevent you from coming back to that same agency on other matters.

MS. HOCHMAN: There is no absolute prohibition on a staff person who would leave a position and coming back before that body on another matter, short of either falling in with this restriction or some sort of professional -- such as the Code of Professional Responsibility for Lawyers -- that would (indiscernible)--

MR. BURSTEIN: Okay, okay. So, that's the way the staff situations have it right now, and there's no prohibition on legislators coming before any agency in State government, post legislative service?

MS. HOCHMAN: Or the Legislature itself.

DR. ROSENTHAL: But, basically, you have a number of instances of staff people who go from particularly partisan staff to lobbying positions, or to become contract lobbyists.

MR. BURSTEIN: Yeah.

ASSEMBLYMAN DEVERIN: Yeah, many of them.

DR. ROSENTHAL: The Executive Directors of the Assembly Republicans, in particular.

MS. SHEEHAN: But you also have situations where members of the Legislature become members of the executive branch. Commissioner of this, or Director of that.

DR. ROSENTHAL: Yeah. That would be-- That's not, I think, what I would specifically have in mind in the discussion of post-legislative employment. I mean you could be appointed to an executive position.

MS. SHEEHAN: I just think we have to make that clear.

DR. ROSENTHAL: The question is really whether or not legislators and legislative staff should be restricted in any way from lobbying activities, lobbying the Legislature. I'm not saying, you know-- That's not a proposal I'm making. It's an issue for discussion.

ASSEMBLYMAN DEVERIN: But, for a period of--

DR. ROSENTHAL: For a period of whatever time you would care to specify.

Yes, Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: To take an example, a legislator is here for ten years, twelve years; has, over the course of that time, sponsored 20 bills for a certain group or industry and leaves after the 12 years and goes to work for that industry -- not as a lobbyist, somewhere in the company. Nice salary, good position. No one questions that? No one should question that?

MR. BURSTEIN: Should it be questioned?

ASSEMBLYMAN HAYTAIAN: Possibly.

MR. BURSTEIN: Well, let's work the hypothetical further. If the person doesn't have anything to do with the State, why should he be restricted from that employment, taking advantage of whatever expertise was derived from State service?

DR. ROSENTHAL: There's an implication here that the person carried industry water in order to get employment in that industry.

MR. BURSTEIN: Yeah, but so what?

ASSEMBLYMAN HAYTAIAN: We're throwing things out for discussion. Yes? No? And Al says, "So what?"

MR. BURSTEIN: As long as there's no impact on the State, it's the legislative process. Why prohibit that kind of employment?

ASSEMBLYMAN HAYTAIAN: Well, wait a minute. No impact once they get the position because they're out of the Legislature, but there was impact for the ten years proceeding.

ASSEMBLYMAN DEVERIN: How would someone know the first year he's here, that 10 years down the line he's going to go to work for--

ASSEMBLYMAN HAYTAIAN: All right, let's say two years. Look, I gave a hypothetical -- we can go to another hypothetical, two years.

SENATOR ORECHIO: Yeah, we talk about equal branches. What about the executive's -- DEP Commissioner in office four or five years, regulating chemical industries, now he goes to work for them, and so forth? No prohibition on that either.

MR. BURSTEIN: And you'll find all kinds of people coming out of the Attorney General's Office and joining law firms, and they're touted in their announcements as having been a specialist in this or that; usually in these days it's environmental law. That person may not be able to go back and lobby the agency that he used to be with on matters he handled, as Marci has pointed out, but nonetheless, the notion that's transmitted throughout the legal, as well as the business community, says this is the guy who has the knowledge and expertise to tell you where to go and how to do it. You prohibit that.

ASSEMBLYMAN DEVERIN: I think the Chairman's idea -- and I agree with it very strongly -- that you should not be allowed to join the lobbying firm, or get paid for lobbying in Legislature, because exlegislators have a better "in" than most other people do. They're allowed to come in and visit, etc., and so forth, and they have perfect knowledge of every single other legislator. I think they ought to be banned from being a lobbyist for a period of time; at least two years after they leave office. Or working-- I could never see putting a ban on someone going to work somewhere else if it doesn't affect the State itself. That would be carrying it a little bit too far.

DR. ROSENTHAL: Any feelings on this issue?

SENATOR ORECHIO: Would you also -- to follow his thinking -- getting back to the executive branch-- You have a Governor's Chief Counsel or the Attorney General in different professions. Either has a role in recommending judges. Do we mean then that they should be barred from judicial activity because they recommended Joe Blow to be a judge? And do we give him a two-year prohibition or five years from--

MR. BURSTEIN: So we vent in the courts? You don't have a prohibition right now from Senators practicing law before judges that they have confirmed.

SENATOR ORECHIO: Confirmed, sure.

DR. ROSENTHAL: What about Senator DiFrancesco? Do you have a motion? You're making all the motions today on this issue.

SENATOR ORECHIO: Al, he's a part time-legislator-- I don't think it's worth-- If Al left the Legislature and went to some firm and had to do some work with a particular department, it could be construed to be lobbying. I don't know that I would want to place that--

SENATOR DiFRANCESCO: How about Tom's point about legislators becoming lobbyists?

SENATOR ORECHIO: There are a lot of different types of lobbyists. Lobbyist is defined very broadly, and I don't know that I'm ready to impose--

SENATOR DiFRANCESCO: I don't see-- A regulator who's drawing regulations, who's dealing everyday full-time with a particular kind of specialization, or a Deputy Attorney General who's working with the Medical Board every single day, is developing an expertise and is working with industry-- We're legislators, we're doing all kinds of different things. I don't see the correlation between the two whereby it would cause us to restrict legislators from employment.

MR. BURSTEIN: I think I can offer, perhaps, a personal observation about people Don just made. When I came

out of the Legislature, there existed the two year prohibition on any activity relating to casinos. I began discussing with a couple of major firms the possibility of my joining with them after I get out of the Legislature. And immediately upon their canvassing their list of clients, and finding that a couple of the casinos were amongst them, that ended the discussion right there. While I was in the Legislature I had, except voting on the bill, nothing to do with the Casino Control Commission or anything else to do with the gambling industry. Yet, I was prohibited from joining the firm simply because of my position in the Legislature. It seems to me that that kind of prohibition speaks with a pretty broad brush, and I'm not sure it really serves any public purpose.

SENATOR DiFRANCESCO: Quite often, over the years, on the committees I've been on, I've seen many former legislators appear occasionally. You know, they may be working for a law firm, or a large pharmaceutical, or what have you, and there may be one time when they might -- because of their expertise or because of their knowledge -- might be involved in doing some form of lobby activity or testimony before a committee, and I know that doesn't necessarily mean they're lobbyists but I don't see the harm caused by that. Allowing them-- I mean I realize Tom is referring to the person who immediately puts up shop as a lobbyist and is down in the halls every single session. I see that point.

DR. ROSENTHAL: But I don't even see what's wrong with that? You know, people develop competencies. You know if you work on the staff of the Legislature, your competence is in public policy and politics and all of that. And I think your post legislative life is confined. You want to go into something you enjoy and something you're good at; it's likely to be State government relations. That's lobbying. And part of lobbying is knowing the process and knowing the people. I mean, that's a part of, you know, what lobbyists bring to the table.

So you're really taking away the post employment opportunities at least for a couple of years of people who want to leave the Legislature. I don't see, I mean I saw a need to bring it up, but I don't see any need for that kind of restriction; particularly in a citizen Legislature, as you said, or with staff, that you want to have opportunities to move toward. There could be opportunities in the executive branch and some go there. There could be opportunities in State government relations, and some go there. And some go out of that field entirely. They know people, and they can deal with people. And I think that's fine, that lobbyists know the legislative process. I think that's great. And if more people knew the legislative process it would be even greater.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, I would agree with you on this point; I agree with Al on this point, also. In fact I guess the question would come up, based on Al's personal situation at that time when he left, why should that also be any prohibition? For instance, I'm not quite sure when that law came into effect. Al, you would know. Was that when the casinos--

MR. BURSTEIN: '78, '79.

ASSEMBLYMAN HAYTAIAN: --got started?

SENATOR DiFRANCESCO: When Byrne went out.

ASSEMBLYMAN HAYTAIAN: Well, if that's the case now casinos have been here for instance now since '72, '73?

MR. BURSTEIN: No, later than that.

ASSEMBLYMAN HAYTAIAN: Later than that? So therefore the law went into effect to protect those who may have voted for it or-- Why, and I'm not sure when you left the Legislature--

MR. BURSTEIN: '81.

ASSEMBLYMAN HAYTAIAN: Okay. Someone now who leaves, why should they have a prohibition? I guess that's-- The point is I agree there shouldn't be a prohibition. But why is

that still in effect? Maybe there should be a sunset there also. Again, I just throw the question out. I'm not sure. Because those of you had been here when this occurred probably know the discussion and what occurred and why it was put into effect.

MR. STANTON: Well, there was a very special intent to make everything around the casinos very stringent, very hard, very dot all the i's, cross all the t's, and I think that that fell into that category.

ASSEMBLYMAN HAYTAIAN: And now that it's been done, do we continue it?

MR. BURSTEIN: I think the principle with regard to that type of restriction if it's to apply, it ought to apply consistently so that any regulated industry would be under the same type of prohibition. But we don't do that and I don't think we ought to.

ASSEMBLYMAN HAYTAIAN: So, if we don't do that, why do we do just one, is what I'm saying? I mean either we do it all or we don't do any.

DR. ROSENTHAL: I agree. I think that those were special circumstances at the time and those circumstances are not quite the same today. I would think the Legislature should revisit with that question.

MR. STANTON: I think that's exactly right. I think when the casinos are reexamined, it should be a comprehensive reexamination, and that may come up in the future. There's a lot of dissatisfaction in the stringency of the law, and as the casino industry is having some difficulties, that may be revisited. And if that was visited legislatively and in the executive branch, the whole thing should be examined. The Congress right now -- Congressmen are not prohibited from any lobbying. It's just members of the executive. Like the famous case of Nofzinger was one and the--

MR. PARISI: Michael Deaver?

MR. STANTON: Deaver. But that does not apply to any Congressmen or Senators.

DR. ROSENTHAL: Well, why don't we skip a vote, if we can? The last item on the agenda--

ASSEMBLYMAN HAYTAIAN: I think, though, what Tom indicated it should be revisited should be not in the form of a recommendation but a comment. I mean if we're going to do one, we might as well do all. If we're not going to do all, then why are we doing one?

MR. STANTON: Casinos have been treated as a unique industry. There's no question about it.

MS. SHEEHAN: I would hope that if that ever was revisited, we'd look at the prohibition of casino management being involved in some way, because I think in terms of the community that they were sitting, the highly trained professionals of the population work for the casinos and they can't be involved in planning, budgeting, or anything.

SENATOR ORECHIO: Except on the other hand, a guy like Parrillo, who's in charge of the Division, Tony Parrillo -- very hot property, if he were to leave tomorrow, Bally's or any other group for example, maybe make a member of the board of directors, they get about \$100,000 a year and they can still be a lawyer; pursue other interests. Look at the contacts the man has. His staff -- these are people regulating the casinos. It would be wrong to let him have carte blanche and join an organization as soon as he leaves State service.

ASSEMBLYMAN HAYTAIAN: Yeah, but that's the executive branch, Carmen. I don't think the question here-- Al was not in the executive branch at the time. We're talking about the legislative branch. We don't have any jurisdiction--

SENATOR ORECHIO: Let's say why Codey left, okay? Or Perskie was here and he left going back-- The framers of the bill that became law established casinos. Say, look, you're leaving now; in two years you're prohibited--

ASSEMBLYMAN HAYTAIAN: Well, I think in that case you could be very specific. Anyone that voted on casino legislation at the time-- How much casino legislation have we voted on? I've been here eight-and-a-half years, and I've never voted on, I don't believe, any casino legislation. No, those that did vote on it, the framers of the bill, yeah, there could be an exception there and they would have to comply with the two years. Although, now it's been 12 years, as someone said, I mean, you went back Haytaian 10, 12 years. The only reason I went back that far is because it may take 10 or 12 years to get 20 bills passed into law in one specific area, as we all know. You don't do that in two years time. But, that's what I meant and I think we ought to make comment. I think that was probably very unfair to you. It may have limited your ability at that time to go with a firm. And it did, in fact.

MR. BURSTEIN: Well, it was a distinct limitation. I mean I survived and I'm not unhappy about what happened. But still, for somebody else--

ASSEMBLYMAN HAYTAIAN: What else we got, Al?

DR. ROSENTHAL: The last item on the agenda, on my agenda, and if you have any other items we'll bring them up-- I'll put this in the form of a motion to begin with and then explain it. The Legislature shall, on a biennial basis, provide an educational program for its members on the subject of legislative ethics.

MR. BURSTEIN: Isn't that a conflict for you to be introducing an educational seminar resolution? (laughter)

DR. ROSENTHAL: I think I know it's not legislation so legislators don't quite understand it if it can't be put in bill form. But I think it's very important that a Legislature, New Jersey and others, really sensitize members to ethical issues. And I don't mean just to the law and the regs. I mean going through all types of situations, things-- Just so members start thinking it about a little and be aware of it.

This could be done however the Legislature wanted to do it, on a biennial basis, a full day program, this, that. That's up to the Legislature.

SENATOR DiFRANCESCO: Mandatory attendance?

DR. ROSENTHAL: Well, that's for the Legislature to decide, but I--

SENATOR DiFRANCESCO: Free lunch?

DR. ROSENTHAL: Actually it probably would be a good idea if each legislator paid for his or her lunch. Just to sort of wean them from free lunch, since I support the idea of not having prohibitions on gifts, but I'm willing to wean legislators.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, could you amend that to put in legislators and legislative staff.

DR. ROSENTHAL: Yeah, the Legislature shall provide an educational for its members and staff. Okay.

ASSEMBLYMAN HAYTAIAN: Right, and I would second that.

DR. ROSENTHAL: That can be done any way the Legislature wants to do it, and that was Ed McCool's suggestion.

ASSEMBLYMAN DEVERIN: He makes good ones.

DR. ROSENTHAL: Actually, they do have that provision now in California that under its new ethics package they require biennial ethics seminars.

MR. BURSTEIN: Isn't there a kind of orientation that takes place each legislative session.

DR. ROSENTHAL: I mean this to be separate and apart and on ethics. I don't mean-- This is what I mean. I don't mean a half-hour in terms of an orientation. I mean a major program on ethics where your not messing around with anything else.

ASSEMBLYMAN DEVERIN: That's an excellent idea. That's something we've never done. Even in orientation we don't talk about conflicts, etc. and so forth. We just talk about--

DR. ROSENTHAL: And you know, if you have problems paying for it, you can sell tickets to the lobbyists. (laughter) Any discussion of that proposal?

MS. HOCHMAN: Okay. The motion is the Legislature shall, on a biennial basis, provide an education program for its members and staff on the subject of legislative ethics. Chairman Rosenthal?

DR. ROSENTHAL: Yes.

MS. HOCHMAN: Mr. Burstein?

MR. BURSTEIN: Yes.

MS. HOCHMAN: Ms. Sheehan?

MS. SHEEHAN: Yes, but I have a question. Is it on the subject of ethics, period? I mean why legislative ethics, are they different than--

DR. ROSENTHAL: Well, I mean, it could be ethics-- The ethics pertaining to primarily to being a member of the Legislature, on staff of the Legislature. It gets into telling the truth, not lying--

MR. BURSTEIN: Ethics and morality.

MR. EDWARDS: Don't pressure him in his field of expertise. He stretches limits.

DR. ROSENTHAL: I mean the Legislature.

MS. HOCHMAN: Ms. Sheehan?

MS. SHEEHAN: Yes.

MS. HOCHMAN: Mr. Stanton?

MR. STANTON: Yes.

MS. HOCHMAN: Senator Orechio?

SENATOR ORECHIO: Yes.

MS. HOCHMAN: Senator DiFrancesco?

SENATOR DiFRANCESCO: Just giving the book to every legislator doesn't mean that the legislator understands the language in the book and so we would be primarily -- we've discussed this as a Committee -- here to explaining the various provisions to the ethics code in detail. You know, so that

everybody's aware of what's in that code, because it is hard to read. Very difficult to read; just that one reading. So, it would make sense.

I vote yes.

MS. HOCHMAN: Assemblyman Deverin?

ASSEMBLYMAN DEVERIN: Yes.

MS. HOCHMAN: Assemblyman Haytaian?

ASSEMBLYMAN HAYTAIAN: Yes.

MS. HOCHMAN: The vote is eight to zero. Eight, one absent.

MR. STANTON: Can we be off the record for one second? There used to be a famous definition of ethics in Hudson County. It was defined as a county west of the Passaic River.

DR. ROSENTHAL: Any other issues?

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, the last one, 7D, "Prohibit Dual Officeholding."

DR. ROSENTHAL: Do you want to bring that up?

ASSEMBLYMAN HAYTAIAN: I think it's a good prohibition. I think it's something we should discuss, and I'll give you the reason why. Because we do have, in the Legislature, and we know there are -- I don't know if they're freeholder-legislators, or mayor-, councilmen-legislators, that we know and I believe there could be a major problem for some of them when it comes time to vote on legislation because they are, in fact, wearing two hats. I think that could cause them problems and probably does at times. I'm sure they agonize, themselves, as to what in the world do I do here? When do I take one hat off and put the other hat on? And that's where I think the problem is. And I think it would be right for this Commission to recommend that we prohibit dual officeholding.

ASSEMBLYMAN DEVERIN: I disagree with that. I think, I'm surprised the League of Women Voters made that recommendation. This is still a strong democracy. If the

people don't want you as mayor and Assemblyman, let the people vote you the hell out of there. If they don't want you as freeholder and Assemblyman, let the people vote you out. You have to run for those offices, and as long as you have to run for those offices, let the people decide. If someone can be a mayor and an Assemblyman-- There have been a lot of guys-- Graves, for instance. Every time I read about Graves, from any paper, it was always, one of the outstanding Senators, the outstanding mayors. Now the people of Paterson, they have that decision to make. Do they want to keep him as mayor. Do they want to keep him as Senator? It shouldn't be a prohibition for someone who could both jobs and do them well, because this is a part-time Legislature and everyone that's in here has some kind of other income or has some other kind of job. There's no reason you can't be a mayor and be Assemblyman if you do it right and the people want you to. The people -- and I bet if you poll the League of Women Voters, they'd tell you-- The people vote you in or out. And that's the way it should be. There shouldn't be any law that says you can't have more than one office in this State, because if we go that far then we're going to start saying city clerks can't come down here anymore. People, guys who are lawyers--

SENATOR DiFRANCESCO: I knew he'd bring up the lawyers.

ASSEMBLYMAN DEVERIN: But you can't do that, particularly where there's a vote. People vote for that office. If a guy serves them well-- When I became mayor, I couldn't wait to get the hell out and become a full-time legislator. I resigned the day I got elected, practically. That's a personal opinion. That's what you want to do, but as far as the office is concerned, the people will make the decision, whether they want you to keep both or not. They vote for you every year, every two years. I don't think we should make that a law or recommendation in this Committee.

MR. BURSTEIN: Al, I'm not at all sure that this suggestion falls within the general gambit of conflicts. I think it's a matter perhaps more of a general public policy, than it is conflicts or ethics. I'm not sure there's anything ethically wrong, or essentially or inherently a matter of conflict in the dual service. It may be that it's bad, but as Tom points out, that's matter for other discussions and maybe even maybe other forums. I'm not at all certain that this is the body to make recommendation on this subject.

ASSEMBLYMAN HAYTAIAN: Well, let me disagree, respectfully. I think if we were to ask, and I do have that general consensus in my area, that people feel that dual officeholding is a negative because there are potential problems "conflicts" that may occur. And I think if I were to poll this State, you'd probably find most people that understand what is happening in government, would agree with that. That dual officeholding can present major problems for that dual officeholder.

SENATOR ORECHIO: By the same token, there's another side, Chuck, as well. If you've ever done a suburban constituency as a legislator and you're also a municipal government official, who best can tell you about the problems of the municipality that you're representing with respect to this suburban aspect, or even for an urban mayor -- for example Graves. Nobody knew more about crime and the effect around schools than Graves, who was mayor and State Senator. The State Senate did something about it. The expertise that you acquire as a municipal official, I think, augers well for a person who also is a State legislator.

ASSEMBLYMAN HAYTAIAN: Well then, let me ask this question.

SENATOR ORECHIO: I understand that because I'm going to be one.

ASSEMBLYMAN HAYTAIAN: Well, no, I wouldn't expect that. The point is though, and again I don't have any idea at all whether this has happened and I couldn't prove it, but a mayor legislator having to vote on a piece of legislation during the Committee process worked liked hell so that his municipality or her municipality gets the benefit of financial aid for that municipality. That's not a conflict?

ASSEMBLYMAN DEVERIN: We used to do that as a legislator representing a district. What the hell are you there for?

ASSEMBLYMAN HAYTAIAN: Tommy, that's fine, but he's taking away from my district -- the potential of aid, because he's the mayor.

ASSEMBLYMAN DEVERIN: If he's a mayor of that town, he's also the legislator in that town and it's his job to get money for that town.

DR. ROSENTHAL: No, I agree with Chuck Haytaian. I think there is a certain kind of conflict. I mean life is a bunch of conflicts anyway. If you're a legislator, you represent a district, and within that district is a municipality of which you are mayor. In a sense, the people of that municipality have two votes for you. They own you twice, because they elected you to the two offices. They're voting for you for legislator, and they're voting for you for mayor. So, there could be a tendency to serve those interests more than you would serve the interest of the people who are not in that particular municipality but who are also in your district when the interests come into conflict. I mean this is hypothetical and theoretical, but you have two constituencies.

ASSEMBLYMAN DEVERIN: How would that come into conflict?

DR. ROSENTHAL: You know, a school aid formula whereas your city benefits and your outcity doesn't benefit--

ASSEMBLYMAN DEVERIN: If you live in the city of Elizabeth and you're a legislator, you'd have to be a hell of a poor legislator not to be strong for some urban city money. If you were the mayor of Elizabeth, you'd have to be a pretty poor mayor not to be strong for it. And, if you were the mayor of Linden and represent Elizabeth, how in the hell could you conflict there? You'd have to vote for that-- If it's an aid. It may be a conflict in people's mind, but in your own mind there's probably no-- Because you represent that town two ways. If you're 187,000 people, in the town like Linden it's 40,000 people. If those 187,00 people think you're doing a good job, they'll put you back here. If the people in Linden think you're doing a bad job, they'll take you out of there. I don't see where there's any conflict. I can see people think there's a conflict, but I've sat here a long time with mayors, freeholders, and I've never seen anything that was voter unjust because their little town was there because they still have to go back and run in that district, not just in the town itself.

MS. SHEEHAN: Mr. Chairman, I think that that is really a policy question and not one that involves legislative ethics and campaign finance because you would just as easily have a mayor and a freeholder or a county manager and a councilman. I mean there are lots of opportunities for dual office, and that's a different debate. I don't think it's appropriate for us to--

SENATOR ORECHIO: Al, another point. I think that you make a similar argument for a person who represents the district and that are presented where you now have to doff your hat as a statewide legislator in the terms of what's best for the State at large rather than your d3strict. I mean, that's a constant thing that we fact.

ASSEMBLYMAN HAYTAIAN: Absolutely. But, that's quite different than--

DR. ROSENTHAL: I think there's some conflict there, but I'm not much bothered by conflict. because I think the only time you get rid of conflict is when you're dead. Otherwise, you're constantly balancing--

MR. BURSTEIN: Are you going to adopt that?

DR. ROSENTHAL: As a recommendation. The only good legislator is a dead legislator. (laughter)

ASSEMBLYMAN HAYTAIAN: Oh no, one who never meets. That's better. Give us a break.

MR. BURSTEIN: Well, as Justice Marshall said, we never speak ill of the dead.

DR. ROSENTHAL: I think that there's a real division on this, with a number of members thinking that it goes beyond the Committee's jurisdiction. I think it would take more general discussion. I think we may have done enough damage without seeking out any more damage to do. When the staff goes through all this and puts it in the form of a report with recommendations, and we read it; we may be horrified. So the next two meetings you have to face the results of the work you've done so far. I think that will, do and we can adjourn until two weeks from now and clean it up.

ASSEMBLYMAN HAYTAIAN: Before you adjourn, are we going to have the draft prior to the next meeting so we can at least read it?

DR. ROSENTHAL: Yes. Yes. If we don't have all of the draft, we will certainly have the campaign finance part of the draft.

MS. HOCHMAN: We're having a bit of a delay between my ability to get the transcripts that we're going to do today and then have the opportunity to actually take what you say and put it in the report.

DR. ROSENTHAL: We will have enough of the campaign finance recommendations and draft that Frank Parisi is drafting. Frank is much more able than Marci; he'll have this draft ready. Marci's got excuses.

MR. STANTON: Mr. Chairman? Before we adjourn, this is my last meeting as I'm going on an extended trip. I just want to thank the Chair and all the members of the Commission. This has been a really very interesting and satisfying group. This is the third Commission I've served on and each one has there own special character. This has been good and very productive. I also want to thank--

DR. ROSENTHAL: And our special character is Assemblyman Haytaian. (laughter)

MR. STANTON: I also want to thank Frank and Marci. I think we've gotten wonderful staff support and the whole experience has been a rather uplifting one. I think we've come up with some very significant changes. And, it's been a pleasure working with you all. Thank you.

DR. ROSENTHAL: Thank you.

ASSEMBLYMAN DEVERIN: I have one word for you. Raise the interest on those CD's in your bank.

MR. BURSTEIN: And lower it on the loans.

DR. ROSENTHAL: The next meeting is at 1:30. You'll get a notice but it's a little later, 1:30 to 4:00.

(MEETING CONCLUDED AT 3:20 p.m.)

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