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PUBLIC HEARING
BEFORE

THE COMMISSION TO STUDY THE NEW JERSEY DEPARTMENT
OF EDUCATION BUILDING CODE, APPOINTED UNDER THE
PROVISIONS OF SENATE JOINT RESOLUTION NO. 4 (1956)

Held:

Assembly Lounge
State House
Trenton, New Jersey
January 7, 1958

MEMBERS OF COMMISSION PRESENT:

Senator Thomas J. Hillery (Chairman)
Mr. Joseph Di Stasio
Dr. Frederick M. Raubinger
Mr. Victor N. Ronfeldt
Dr. Frank Slugaski
Mr. Hugh Stearns
Mr. Leon Van Zant

New Jersey State Library

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SENATOR THOMAS J. HILLERY (THE CHAIRMAN): I am going to call the meeting of the Commission to order this morning. We have quite a few absentees among the members, but we are here to take testimony on the question of the present state law which requires five bids in connection with the building of public schools. As you know, legislation was introduced at the last session of the Legislature which would give boards of education the right to decide whether they prefer a one-contract bid or five separate bids as is now provided under the law.

It was decided by the members of our Commission at the last meeting that we would have a special meeting today in order to hear testimony from those people who are interested in this problem. We sent out invitations to quite a few individuals whom we know are very much interested in stating their views and bringing the members of the Commission up to date on this subject so that we might file a proper report to the Legislature.

Now, if those who desire to speak will sign their names on this paper, we will be happy to hear from you. If there are any who must leave early, will you so indicate. We don't want to show partiality, but we will try to give preference to those who have to leave early.

We will now hear testimony of the people who desire to be heard. I will call on Eugene M. Dennis, President, New Jersey Local Architects.

MR. EUGENE M. DENNIS: Would it be possible for me to listen to some of the other comments and then answer your questions. The reason I ask that is because our Past Officer who was sitting in on this Guide problem recently is not here and I am taking his

place. I am familiar with some of the items.

SENATOR HILLERY: All right. Mr. Lester Wake.

MR. WAKE: We are part of the Mechanical and Structural trades Council, and I represent the New Jersey Association of Plumbing Contractors. We have the Mechanical Contractors Association, the Structural Steel and Electrical Contractors Association, and at the public hearing on the bill upstairs, Mr. Bookstaber, who just came in, made the major presentation.

SENATOR HILLERY: Then, you are not going to speak; is that it? Or is this the only thing you are going to speak on?

MR. WAKE: I am primarily interested in plumbing, and there is a part of the state law which, in my estimation, is ambiguous; that is R.S. 26:3-33, which gives local boards of health in municipalities the jurisdiction to compel, prescribe, regulate and control the plumbing, ventilation and drainage of every building, public or private, and the connection thereof with an outside sewer, cesspool or other receptacle. Now, I would like to know, does that mean the plumbing in a public school? My understanding is that it does. But the State Department of Education says no.

SENATOR HILLERY: This meeting this morning, as I explained, was called to have people testify on the one contract or the five contract bidding. That is the purpose of the meeting this morning and we would like to limit it to that until we have heard everybody here who desires to speak.

Is that agreeable to the members of the Commission?

Who is going to speak for your group?

MR. WAKE: Who is next on your list.

SENATOR HILLERY: Mr. Shields. Eugene H. Shields. Will you

state your name and your connection?

MR. SHIELDS: My name is Eugene H. Shields, and I am Secretary of the Mechanical Contractors' Association of New Jersey.

Our present law was enacted forty years ago. This law had quite a bit of history, and one of the leading factors that led to the separation of bids was when the City of Newark was building the old market building, they let bids out on a dual method - the single, lump-sum bid, and the five separate bids. When the bids were opened, it was found that the City of Newark saved \$16,000 by the separation of bids. That went into court, and the present statute had to be.

Now, that same saving is found today. We have had surveys made. A survey has been taken by the United States Senate, and in that survey they questioned approximately 40 of the major industries in this country as to their bidding procedures. Not one of them ever used a single contract. They do not use that.

During the public hearing of A-34, which was held on March 4, our Association presented facts and figures of surveys made by our office through our members. In that, it was found that many of the industries in the State of New Jersey use separation of bids. A survey of parochial schools since 1950 was made and 59 reported to us. Out of that 59, 58 were erected under the separation of bids contract.

It must be realized that if you let out a single bid, you are to going to restrict competition. That competition will be restricted in this manner - there are many general contractors who do public work today who will not be able to do public work if the price is too high. The reason for this is that it will be impossible for them to get performance and material bonds.

They do not have the financial backing. Therefore, competition will be restricted and you will have more of a monopoly.

I have just conducted a staff survey. This is one that isn't complete by any means, but it is one that I think is very interesting. This covers the country - the U.S. Veterans Hospital in Gulfport, Mississippi - these are combinations, gentlemen, of the lump-sum by one general contractor and separate awards. In this hospital in Mississippi - lump sum, the lowest bid received, \$1,144,680.00; the total building construction awarded by separation of contracts - \$677,000. There was a saving of \$288,893.00.

The Memorial Library, University of Wisconsin - lowest lump sum by one general - \$3,055,000.00; awarded under separation of contracts - \$2,283,700; a saving of \$112,496.00. We also have a low-rent project in Virginia where there was a saving by using this separation of bids of \$76,837,000.00; another one at Camp Polk, a saving of \$213,649.00; Brackenridge Hospital in Texas, by awarding it under the separation, \$156,190.00.

This is a very interesting one. This has just come out, in 1957, in Beloit, Wisconsin, a sewage treatment plant. There are two sections of this plant - one had to go out under separate bid, the other was that the authority could award any way they wanted to. On April 29, 1957, on items 2, 3, and 4, which were awarded, the lump sum by one general contractor was \$548,970; the separation of bids was \$546,381. The saving on these three items was \$2,589. Now, at the same time that these items were taken, they also took bids for items 1, 6, 7, and 8 on separation of contracts. One month later, May 29, 1957, they called for bids under a lump sum. Those bids that came in on 5-29-57

were \$666,890. The bids that they received the month before on the 29th on separation were \$665,198.50. Gentlemen, this authority could award either way. For some reason, they awarded it to the low lump-sum bidder and, therefore, it cost the taxpayers in Wisconsin \$1,691.50.

Now, one of the problems that faces us is - everyone wonders why separation of bids can be lower. One of the reasons I gave you - by not restricting competition. Another one I am going to quote. This is a quote that was given before the Judiciary Committee of the House of Representatives last year by a representative of the Charles H. Tompkins Company, a Washington, D. C. general contractor testifying before this Committee: "Although the use of the compromise bid and subsequent bid shopping meant additional profit to the general contractor in many cases, it was possible that the original compromise bid figure guessed by the general contractor was too low. In that case, the general contractor could not get a 'sub' to do the work for such a price. A higher figure would have to be paid by him and the government would benefit. The general contractor might win on his guess on one job, and the government on another." He testified that in the long run they should even out.

Gentlemen, we are dealing with the taxpayers' money. I don't believe the State of New Jersey wishes its citizens to gamble with their own business and with the taxpayers' moneys. That historic example of a compromise bid, which, by the way, we call bid shopping, is very true, very apt, and very apropos, and to expose it is to show its evils.

I sincerely believe that the present statutes that we do have are good statutes; they protect the citizens of the State, and a lot of good schools have gone up in this State. I believe that

it should be continued as it is.

Thank you.

SENATOR HILLERY: Mr. Shields, you don't believe that a Board of Education should be given the preference to decide whether or not they want one contract or as it is presently set up under the law?

MR. SHIELDS: We have never seen such a bill presented, sir.

SENATOR HILLERY: You have never seen such a bill?

MR. SHIELDS: No, sir. It wasn't a clear bill that we saw. We had it interpreted by five different people.

SENATOR HILLERY: Do you think that the board of education is responsible enough to have a choice or a preference or not?

MR. SHIELDS: No, I don't believe that they should be put in that position. I believe there are too many outside conditions and variations. After all, many of our boards are not elected bodies and, therefore, they are not representatives of the people. They do not truly represent the people. They represent a particular group of people who have appointed them to a position.

SENATOR HILLERY: It's too bad there isn't somebody here from the department this morning so that we could find out what percentage of the board members are elected members.

Would you know that, Mr. Best?

MR. LEONARD BEST: I don't know exactly, but there are about 500 - probably 50 or 60 of them.

SENATOR HILLERY: It's a majority, isn't it?

MR. BEST: About ten per cent.

MR. VICTOR RONFELDT: My name is Ronfeldt. I realize that shopping for bids takes place after the contractor is awarded his contract. Would you have any objection or would your organization have any objection if the contractor, when he

submits his bid, also submits along with that the name and cost or estimate for structural steel, heating, ventilating, plumbing and electrical work? In other words, he puts the name of his sub-contractors right in on his bid. Do you follow me?

MR. SHIELDS: Yes.

MR. RONFELDT: In other words, if John Smith is awarded the contract and he has John Jones as the heating and ventilating man and goes in with John Jones, John Jones is protected. Do you think that might help the situation? Of course, it doesn't help the situation by being on the contractor's list.

MR. SHIELDS: I am only thinking of it this way: Suppose Pete Smith might have figured for another contractor and came in lower, and he is just as well qualified as John Jones; the taxpayer would therefore not be getting the advantage of the saving there.

MR. RONFELDT: No, but on a composite bid, the over-all picture--

MR. SHIELDS: I don't follow that composite bid, sir.

MR. RONFELDT: Well, the combined bid of all five trades.

MR. SHIELDS: And he has the choice of--

MR. RONFELDT: No. John Jones will go in there, and suppose we take a lump-sum bid, but in the bid form it shows the five trades broken down with their various offices-- Do you follow me?

MR. SHIELDS: Yes.

MR. RONFELDT: In other words, that general contractor can't go out and get another heating and ventilating contractor. He has to stay with this one heating and ventilating contractor.

He is protected, that individual. Now, in reading the bids through, we might have found that Brown, if we read the heating and ventilating bid of some other contractor, is a couple of thousand dollars lower, but on the over-all picture that general contractor is low. In other words, the contractor is protected and it stops the shopping. Of course, there may be some shopping going on again, but you can't change contractors.

MR. SHIELDS: I am not thinking of it, nor would my members think of it as protecting the trade and the shopping. Naturally we are interested in that; we are also very much interested in the tax picture in the State of New Jersey, because our people, like everyone else in business, do pay a tremendous amount of money in taxes, and we are thinking in this instance of the taxpayer only. The taxpayer should have the advantage of the lowest possible bid from a responsible contractor. That is the prime thought and proposition that we have to face.

MR. RONFELDT: Well, now, would you say this: I would just like to get your feeling on this: Suppose you set up a test case on this where it was the option of the board of education to take a composite bid; in other words, the general contractor could come in there and try to take the whole job, or if you just take the general; in other words, you could just whack it up as five trades or take it as a composite bid. If he got himself four other sub-contractors, actually prime contractors, assuming he got five together, I think we want to realize there is an advantage in the operation of the job by one man having control of that job. I think from the standpoint-- I am an architect, and if you take a job that runs \$150,000, many good contractors, generals, are too busy to take that job. There may be in that job \$65,000 or \$75,000 worth of general;

the rest of it might go all the way down to maybe \$2,000 or \$3,000 worth of electrical work. The way the present setup is, the boards of education will find when they receive the bids that four will come in as Union and one will come in as non-Union. So where does the board stand?

MR. SHIELDS: Well, that's a legal matter for the board. I grant you they have had that in Long Branch; they are going to have it out in the western part of the State.

MR. RONFELDT: Another thing is this--

MR. SHIELDS: Are you questioning coordination now, sir?

MR. RONFELDT: I am questioning coordination, and take, for example, a low prime contract may not cooperate with the job - for example, a steel man. The general and everybody else is in good faith with the job, and just because the steel contractor cannot see a decent profit in the thing, he snags the job. What I am trying to do is to get better coordination in the whole school picture.

MR. SHIELDS: No. 1, we start on better coordination, I am sure, realizing this - that every board of education has the right to prequalify every contractor in the State of New Jersey, doesn't he? No. 2, it is my opinion, and it is the opinion of our people, that under the old structure and the history of architecture, the architect was known originally as "the master builder," if I am correct, sir - he is the master builder; he is the person who represents a client; he is the person who should have this extra money, because it will cost extra money to coordinate. No one is going to donate someone to do something for nothing. I mean, that's plain common sense. And

the Boards of Education today can have their architect with his experts that he hires, his consulting engineers, coordinate this work. The architect hires experts to help him.

MR. RONFELDT: There is no question about the coordination. I am not talking about that. The general contractor is in a very wonderful spot on some of these jobs. What I was trying to get at before on this composite bid was to protect the prime contractors, and that when the general contractor submits his bid, he submit along with it the names of these other prime contractors and they would be protected. I mean, that's getting around to your shopping.

MR. SHIELDS: Well, as I stated before: Which is best for the taxpayer and which is best for the citizen in the State of New Jersey, because that's what these statutes are for - to protect him, not to protect any industry, any individual, or any group, and that has been our main purpose for the past 40 years in going back over this, and I have made a study of it. Being a taxpayer myself, I know and you all know, taxes are pretty high today, especially on education. I have it right in my own home town. Speaking as a taxpayer and an individual now - I am not speaking as a representative - I don't want my money being fooled around with by anyone. I want it so that I get the best dollar return for what I am investing.

SENATOR HILLERY: Mr. Shields, you were questioned before about the right of boards of education to have preference. The question came up as to what percentage of members of boards of education were elected in the State. Commissioner Raubinger is here with us now; he is a member of this Commission, and I will ask him if he has any idea.

that's all.

MR. STEARNS: Tell me this: In the surveys that were prepared, are they available? I mean, would you be able to furnish them to the Commission?

MR. SHIELDS: Yes.

MR. STEARNS: We don't need it right now. I just wanted to know if it's available.

MR. SHIELDS: Yes, they are.

MR. STEARNS: The other thing is: In the 58 parochial schools out of 59, you said they had separate contractors. Could you furnish us with a list of those?

MR. SHIELDS: Surely.

MR. STEARNS: Incidentally, in that list there is no High School at Lake Mohawk as one of them?

MR. SHIELDS: Which is that? In the parochial schools?

MR. STEARNS: Yes. It was just finished, Our Lady of the Lake.

MR. SHIELDS: I don't know.

MR. STEARNS: Well, if you will just furnish us with the list.

MR. SHIELDS: O.K. Fine.

MR. STEARNS: The other thing is, could you furnish us with a list, only for New Jersey now, of the general contracts, not only for school construction but generally, that run over half a million dollars?

MR. SHIELDS: Well, that would be--

MR. STEARNS: There are 200 projects over \$500,000 that your Association must have available where they have separate bids.

MR. SHIELDS: Over what? What was that figure, sir?

MR. STEARNS: Everything over \$500,000,- as against total construction.

MR. SHIELDS: That, I think, would be quite impossible for me to get. I don't know where I could get it. I have tried to get things like that before. It may be possible. I have asked for a study to be made by a concern and they said that they would try it for me.

MR. STEARNS: In the record of your own experience as a Trade Association official, have you found instances where separate bids were not required and contractors were honorable enough and conditions favorable enough so that you people could work under a general contractor?

MR. SHIELDS: Oh, yes, we have members working under general contractors.

SENATOR HILLERY: Are there any other questions?

MR. JOSEPH DI STASIO: With reference to your statement about the taxpayers' money, if you have a preference bid; in other words, if the owner receives bids for general construction plus the mechanical trades, plus bids for the general construction alone and then the mechanical trades are separate, wouldn't that provide better competition? Wouldn't that be protecting the taxpayers' money more than if you just had one method of bidding?

MR. SHIELDS: I said, sir, we never had a bill or a statute like that ever presented, to my knowledge.

MR. DI STASIO: I think that is very important. My experience

has been a little different from yours. I have been 40 years in business, too. We have had experience in work where sub-contractors used to allocate bids, and you know, way back around the twenties or thirties, there was quite an investigation about the electrical bids. So my experience of 40 years isn't the same as yours.

MR. SHIELDS: Well, sir, can I ask you this, because you are hitting some of my people now, and I would like to know this. I represent the heating and piping industry, and I would like to know.

MR. Di STASIO: I am talking about the electrical. I happen to know about the electrical, and there was a committee that was making an investigation.

Now, going back to the taxpayers. I realize that the general contractors have done this to the sub-contractors: They have put in a bid and then they go out shopping. That, we want to prevent; no question about it. I can't see, if the owner gets the bids both ways, why that isn't protecting the taxpayers' money.

Now, in regard to parochial schools, I happen to know a little about that. I was told by the authorities that, so far as we were concerned, we were taking bids contrary to the New Jersey State law. It just happened once by the fact that we took the single bid and the parochial school authority said, "Well, I was down there in the State," and that's the reason they could take the 58 bids, not because they tried it both ways. I mean, I want to correct that statement.

MR. SHIELDS: Sir, was that a selected list of bidders that you used?

MR. DI STASIO: No. I am telling you this - the parochial schools, they take the bids on separate bids because they think that's the law, not because they tried it both ways. Of course, it's not the law.

MR. SHIELDS: Was that the Newark diocese?

MR. DI STASIO: I'll tell you. The authority for that was Bishop Ahr, himself. We had a meeting.

MR. SHIELDS: You say that Bishop Ahr said the only reason they let bids out is because it is the law. Is that right?

MR. DI STASIO: I said this: They were under the impression that they had to take separate bids. On the one job that I happened to be concerned with, we took a single bid. He just happened to mention that he wondered how that got by because he said, "We always take separate bids."

MR. SHIELDS: I questioned you to make sure that I understood you completely. I didn't want to misquote you.

MR. DI STASIO: We let a job on a single bid and then while we were talking, he said, "I wonder why they went on a single bid. We always let it out on separate bids."

SENATOR HILLERY: Are there any further questions?

MR. DI STASIO: Again, about the survey over the country - have you made a survey on many jobs as to single bids and separate bids?

MR. SHIELDS: Sir, I just explained to the gentleman here that this was a rapid survey that I had requested, and these are the answers I received. The question I had asked was this: "I would like a comparison anywhere in the country of lump sum and separation of bids." These are the replies that I have received - all of them.

MR. DI STASIO: If you will permit me, I have a little more to say. Last year, are you aware of the fact that there was a job in Newark where the structural steel contractor sold his quota? I happen to know that he sold his quota on stock prices and held up a school job for over four or five months. Do you know why? He just said he didn't have the steel. Then I found out from the steel producer that they had their quota and when he bid the job in September he had his quota for January. I have a lot of sympathy and respect for the poor sub-contractor--

MR. SHIELDS: Well, sir, what I was trying to bring out before was: We have the pre-qualification law, which the boards do not use, unfortunately, and that could stop instances of the kind you just mentioned. If they would use that pre-qualification law, I believe it would take care of some of those problems.

MR. DI STASIO: I will tell you a little something more about the sub-contractors. This shouldn't be taken.

(DISCUSSION OFF THE RECORD)

SENATOR HILLERY: Are there any other questions? If not, I will call Mr. Irving Bookstaber.

MR. BOOKSTABER: Mr. Chairman, my name is Irving Bookstaber and I represent the Structural Steel and Ornamental Iron Association of New Jersey.

To the extent that these remarks are all-inclusive, they also apply to the mechanical trades. I think that in order to present the position of the mechanical trades, and particularly the steel group, I would like to reaffirm the material which was presented at the public hearing in the Assembly Chamber before their Education Committee.

I would like to read this and then I would like to add material which, as a result of recent events, amplifies the situation and our position and to strengthen it, if that is O.K. with you, Mr. Chairman.

Forty years ago the New Jersey State Legislature enacted separate bid laws covering state construction, county construction, and municipal construction, and construction of public schools by boards of education. All public construction, from the state level down to the smallest political sub-division of this State, for 40 years has been built under the provisions of these laws.

Section 18:11-10 of the Revised Statutes applies to school construction and requires boards of education, where the entire cost of the work exceeds \$1,000, to advertise for and receive separate bids for plumbing, steam and hot water heating, ventilating, electrical work, and structural steel and ornamental iron work. The board is then required to award contracts for such work to the lowest bidder for each of such branches of the work.

Now, the far-seeing Legislature 40 years ago intended by these laws to provide a means for all of the primary separate trades to deal directly with the awarding authorities so that it would not be necessary for them to deal through brokers for the general contractors.

Now, the intent of this Legislature was to increase competition and to have public buildings erected at the lowest possible cost. And some of the events which spearheaded this law were scandals in the public construction field, particularly in the City of Newark and the Center Market situation, and others. So that the law was passed to fill a genuine need. It wasn't something that was put

through by any group, it was put through as a result of general public pressure. I want to emphasize that because every once in a while a remark is made by uninformed people, "Who put this law through?" Well, believe me, this law was put through because the entire State and all the public awarding authorities wanted it and they wanted it very badly, and they still want it. There are some groups who seem to feel that all of their troubles in school construction during the period of shortages could be corrected somehow. After all, these boards of education are hard-working groups of people, generally serving on a public service basis. Many of them are elected, some of them are appointed, but most of them are non-salaried and they are generally the most public-spirited citizens in the community. Let's face it, a school board has a terrible responsibility during periods of shortage of schools and the increase in population. When they put through a crash program some years ago and they discovered that there was a shortage of steel and there was a shortage of all materials and that the prices started to go up, as they would when there is a shortage because you have got to pay more money for material procured in a shortage and get it wherever you can get it - they cast about for some way to correct this situation and they hit upon this school bid law, and they thought, "Well, maybe this is the answer." They found that some sub-contractors couldn't get steel in time, they found that some other sub-contractors couldn't get material but if the general contractor had the responsibility, through some magic, the material would appear, forgetting that the same sub-contractors

had to supply the material for the contractor as well as for the public authority.

Now, since the statute was enacted, all school building in the State of New Jersey has been awarded on separate contracts and, let's face it, a tremendous volume of school building has been done under this law and, by and large, there is a splendid record of school construction achieved by the boards of education in the State of New Jersey.

During the past five years, with the accelerated home building program and the tremendous growth in the population of many school districts, school buildings have been planned and built under pressure of population growth, restricted budgets, bond limits. We are all familiar with these problems.

In order to build the necessary schools, boards of education must and do carefully plan these projects so that they receive as much for their money as they possibly can. The cost of school construction has gone up, as has the cost of all other construction. The separate bid law, by increasing the competition in bidding by the separate trades and by saving the school boards the profit which the general contractor would normally add to the separate contracts, helps the board to keep the cost down.

The tremendous upsurge in school construction in the past five years has been reviewed statistically within the industry I represent and the information received from members of the Structural Steel and Ornamental Iron Association of New Jersey, Inc. - and, parenthetically, I want to point out that this presentation was made several months ago - and other

fabricators of steel in the southern part of New Jersey, whom I also represent, shows that by and large these schools were constructed and delivered on or about the scheduled completion date.

Now, I am fully aware that there are some schools in various areas of the State where delays have occurred. But this is the exception rather than the rule. And, because it is the exception, it stands out like a sore thumb. In a few cases where school construction has been delayed, the delays were due to shortage of raw material, primarily steel, or the default of the general contractor. I want to emphasize that.

In reviewing the record of performance by the separate trades in the completion of their contracts, an impressive record has been established by the separate trades in fulfilling their contractual commitments on school jobs in the State of New Jersey. If the record of performance by the general contractors was as good as the performance of the separate trades, practically no delays would have occurred. But delays in construction are very infrequent and such delays would only be made more acute and more widespread if the general contractor was given the over-all job.

Now, let's face it. We work with the general contractors. They are our customers. But we are convinced that abolishing this bid law or changing it to give out tentative bids could only benefit the general contractors by increasing their profits at the expense of the taxpayer and at the expense of all of the separate trades. You would be back in

the jungle period where the separate contractor was at the mercy of the general contractor and in every case, where the thing was consummated, it cost the taxpayers money because that profit or the result of that chiseling never went back to the public authority.

Now we come to the question of coordination of the job and on this point I listened very carefully to your questions, sir. I believe you are an architect. The architect who conceives, plans and designs public schools does, in practically all cases, supervise the construction of the schools. I believe that is axiomatic today. Boards of education invariably look to the architect for such supervision and coordination, and pay the architect a fee for this service. The architects in the State of New Jersey, who are primarily responsible for the design and planning of public schools, have done a credible job in planning, designing and in supervising the construction of these public buildings. Of all people concerned with the construction of the school, the architect is the only one who has no ax to grind and who is completely impartial. His sole desire and motivation is to see that the product of his drawing board is translated into the completed building within the scheduled completion date, and that the quality of the job is maintained in accordance with the standards which he has set up for the project.

The architect, by job conferences and direct supervision, has proven that coordination and the efficiency of the job is of a high order. We must remember that the motivation of the general contractor is to complete the job within his

bid figures so that he ultimately winds up with the projected profit figure in the job at the time he bid it. There is nothing wrong with this. This is a legitimate motivation. However, if you were the school board, who would you rely on to supervise the job? the man who is interested in making as much profit as he can out of the job or the architect who, once the job has been planned and awarded, has only one interest in mind and that is to see that the building is built in conformity with his plans and specifications within the prescribed time determined at the time it was planned? I think the question answers itself.

Now, by the nature of the business, the general contractor must, if he wishes to stay in business, add a profit to every sub-contract. The general contractor is not going to stay in business very long if he sub-contracts his work and doesn't add something to it. This is his stock in trade. If the general contractor undertakes to bid on the over-all job, by the nature of his business he can only do but a small percentage of the work himself and this applies to the largest contractor, except those who have a vertical set-up where they do everything, - and there are a few very, very large contractors in New York City. I don't believe there is one in New Jersey, to my knowledge, - he must sub-contract and does sub-contract the electrical work, the plumbing work, the heating and piping work, the air conditioning, the structural steel and miscellaneous iron work. These are the four more highly specialized and more technical branches of the work, and these four primary branches of the work represent anywhere from 40 to 60 and 70 percent of the total cost of the school project. The general contractor in

sub-contracting to these specialized trades, if he handles the over-all job, must, if he is going to stay in business, add a profit to each sub-contract in computing his over-all bid. This is an accepted business practice in the construction trades. And, in addition to the four branches of the work referred to in the statute, many general contractors sub-contract other parts of their work, such as masonry work, carpentry work and others. And when he sub-contracts these other phases of the work he must also, if he wants to stay in business, add a profit to each of these sub-contracts.

Now, this is a legitimate function of the general contractor and we don't say that this is bad practice or that it is wrong. But the Legislature, 40 years ago, and all fair-minded people agree that this is not good for the taxpayer-- if there is a school project of \$2,000,000, the 4 separate trades represent \$1,000,000 of the work. If the general contractor has the over-all job and adds a profit to each of these separate contracts, the taxpayer pays this profit which may cost the taxpayer an additional \$100,000.

Now, in the period July 1, 1951, through June 30, 1956, \$248,605,000 was spent on new public school construction. In the same period \$321,391,000 was spent for capital improvements. In this period over one-half billion dollars has been expended in public school construction and improvements. Now if, during this period, this work was done on an over-all general contract basis, it would have cost the taxpayer about \$25,000,000 more to build the same schools, and you can't get away from it.

Now, if in addition to the profit paid by the taxpayer the cost of supervision is superimposed on the general contract bid, the taxpayer not only pays the profits on the sub-contracts and the general contractor's charge for supervision but the taxpayer also must pay for the architect's fee for supervision, if you are not going to rely on the general contractor for supervision of your job. The fee the architect receives for supervision should not and cannot be avoided because the architect ultimately must certify to the board of education all of the various phases of the work as they are completed. The board of education relies on the architect to tell them when the job is satisfactorily completed before they pay \$1.00 to the general contractor.

I think it should be noted that the thinking of the Legislature 40 years ago, and the thinking of most people involved in public construction today, representing the interest of the taxpayer, is the same as the thinking of the primary industrial firms in the United States today who invariably, where a major project is involved, will deal directly with the primary separate trades rather than with a general contractor on an over-all basis. And I have the information here which will tell you what firms do their work on this basis, and they are the cream of industry in this country.

It is not only good business for firms to depend on public building, it apparently is also good business for firms to depend on free enterprise.

Now we come to a very sore point, and that is the bid shopping and bid chiseling, which is bad for the separate

trades, the sub-contractor, and for the school board. It is morally and ethically wrong and it is very expensive to the taxpayer. It isn't bad for the general contractor who can get away with it. And I don't say that all general contractors do it but I will tell you this, that only last week a very reputable general contractor who had a job and bid it on the basis of sub-contract bids which he had received from some of our people, - he sends a card out, you know, when he gets his job - he sent a letter out and said, "There is some work in your trade in this job which we have been awarded. We have been awarded this job. We would like to get a price from you." - and not one of our men got it, dozens of our people got it, and one of the members sent it to me and said, "What do you think of this fellow?" A big contractor - reputable and an outstanding member of the Contractors Association - bid chiseling.

Now, if a general contractor bids the over-all job he will not necessarily seek out the sub-contractor who is both most reliable and can do the work at the lowest cost. Experience proves that the general contractor will often shop between sub-contractors and bid down the sub-contractor he wants by dangling the bid of someone else before him. Sub-contractors who are chiseled into taking work at prices that are too low cannot produce the quality job which a fair bid produces under competitive conditions.

If a general contractor is successful in chiseling the bids by bid-shopping, the taxpayer doesn't get the benefit of one buck of this money. It falls into the pockets of the general contractor and the taxpayer may very well get an

inferior job as a result of it. So that, in addition to the profit which general contractors will legitimately add to the bids of the sub-contractors, he will also, in many cases, bid-shop to fatten up the profit on the whole job at the expense of the board of education and the taxpayer.

Now, the small and medium size contractor doesn't want this bid law changed. They are very happy to bid the general contract portion of the work and they do competitively bid for it. Within the limits of their pattern of operation they secure the necessary performance bond. If this law is amended, as proposed, these general contractors in many cases will not be able to secure performance bonds in the amount required for the over-all job. Some of the large general contractors will not bid school construction under the present separate bid law, but if this bill is amended, and I am now talking about A-34 which provided for either an overall bid or separate bids, they will bid them. The reason for this is that if they can take the over-all job they can make more money. But they cannot make enough money merely handling the general contract part of the work without enjoying the profits on the sub-contractors.

So that, in effect, what you are going to create if you provide for the over-all bid or - and I will get into the question of a choice which seems to be so smooth but which is highly dangerous - either the general contract or separate bids, you are going to create a cartel in this State where the big work is going to be parceled out and be the work of a comparatively small group of large general contractors.

Now, one of the important reasons for separately bidding the mechanical trades work is that this work -- incidentally, this is a lengthy presentation, gentlemen, but this is a very complex subject and I would like you to bear with me because when I finish this there are some recent events that I must cover and then I will be very glad to sit back here and answer any questions that you have on your mind. One of the important reasons for separately bidding the mechanical trades work is that this work, which includes plumbing and electrical work, heating and piping, and structural steel and miscellaneous iron work, is highly specialized. These trades are becoming more and more complex. And the highly specialized engineering skill required in the design and in the supervision of the installation cannot possibly be provided by the general contractor. The general contractor, if he is given the over-all job, must sub-contract the highly technical mechanical work. He can't do it himself. There is no dispute about this and it is generally conceded that this type of work is the subject of sub-contract. The work involved in the separate trades generally represents between 40 and 60 percent of the cost of the school. These separate contracts are important dollar-wise and as a factor in the construction of the building. The general contractor, if he takes the over-all job and sub-contracts this work, can hardly represent that he is qualified to supervise the mechanical trades. Only the architect who is the creator of the design of this building and who has the technical and engineering assistance which went into the planning of the project can adequately supervise the mechanical

trades.

Now, among the people who are interested in destroying the separate bid law in this State are a number of promoters and investment people who operate through so-called pre-fabricated school firms who represent that they can deliver a pre-fabricated school building at lower cost.

Now, aside from the question of maintenance and standards of school construction which must be adhered to, in order to provide a safe and healthful building for our school children, it has been proven in the one instance where such a total bid was secured in this State from one of these firms that the cost of the school which they offered to supply was higher than the cost of the school which was separately bid under the public bid law. I believe that's that Tenafly school.

It must be apparent that, even in a situation where the out-of-state firm submitting the bid knew that it must cut its cost and profit to the bone in order to break into the school building program, they couldn't bid the job for less money than the separate trades and the general contractor under the bid law.

These firms are from out of the State and they ranged the country seeking to break into the emergency school program by offering purchase and lease arrangements and other methods to avoid bond limits and budget requirements. The only trouble with such schemes is that the municipality buying such a deal pays an excessive cost to the detriment of the taxpayer and on a long-range basis to the detriment of the financial structure of the municipality involved.

Now, I represent the Structural Steel Association and I also represent some independent firms in southern New Jersey, including Industrial Engineering Works in Trenton, General Iron Works, Camden Iron Works, Vernon Fabco, Peter Stewart, Fabcon, Inc., and Keystone Structural Steel. Now, these firms, including the firms in the Structural Steel Association, represent a capitalization in excess of fifty billion dollars in plant and equipment. They bear substantial tax obligations. They employ over-all in excess of six to eight thousand employees, all of them residents of the State of New Jersey. I am now only talking about the steel people. Their sales exceed forty million dollars a year and this industry has become a significant factor in the economy of the State of New Jersey. Open competitive bidding on public work has, in a significant degree, contributed to the growth of the industry and no steel fabricator wants to go back to the laws of the jungle which existed prior to the enactment of the separate bid laws. The industry in the State of New Jersey stands on equal footing with Bethlehem Steel, United States Steel, Lehigh Steel, Harris Structural Steel, and all other of the primary steel companies in the United States in their ability to bid directly with the owner. The sealed bid, the apparatus of sealed bidding, gives the responsible firm that has a stake in the economy of this State of New Jersey a chance to go in and bid knowing that if he bids low for the requirements he is going to get the job regardless of the big firms, what tie-ins, what pressures, what connections they may have with some contractor.

This I would like to emphasize, and I won't dwell on

it. We are in no dispute with general contractors but we feel that there are some general contractors who show an extreme interest in wiping out this bid law. We feel that they are either ill-informed or that they have a selfish motive, and I am not branding all general contractors this way.

We know this, that if we are forced to submit our bids on public school construction to the general contractor you will have chaos in the public construction field in this State.

I have checked some of the jobs in this State over the past few months. Things have changed. Any considerations which impelled people in the school construction field to even consider changing this law are not even valid today. Steel is in plentiful supply and will be into the foreseeable future, as far as you can see.

I want to put into the record a news release which appeared in the American Metal Market and, incidentally, in the press all over the Country, of an address of a representative of the Institute of Steel Construction, a national organization, and the statistics which he produced indicate, and they are here, that the recent over-demand for fabricated structural steel is now a thing of the past. Now, I just want to quote a few figures:

"The output of heavy structural shapes from the rolling mills in 1957 will be 25% above the 1956 levels to a new record of 6,700,000 tons." Mr. Hotchkiss continued: "This represents an increase of nearly one and one-half million tons of structural steel in a little over a year. By 1959 there will be an

additional one million tons available as the producing mills continue to expand their facilities. These facts are substantiated by the statistics of the American Institute of Steel Construction, the national organization representing the structural steel fabricating industry. The fabricating industry has ample capacity and facilities to fabricate these six million odd tons, Mr. Hotchkiss told the representatives of the steel fabricating industry of New Jersey, because many of the fabricating plants have expanded their working staff and plant facilities to the tune of millions of dollars."

SENATOR HILLERY: How much longer will you be? have you any idea? You have been on here since 11 o'clock and it is a quarter of 12. There are people waiting here who must leave at 12, and I would like to give them an opportunity to be heard.

MR. BOOKSTABER: I see. Well, I think I will need about another 15 minutes. Of course, you must remember that I am speaking not only for structural steel but for the five mechanical trades and, if you would prefer, I will defer to these people who must leave by 12, and I will come back.

SENATOR HILLERY: If you would, please.

PAUL J. BRIENZA: My name is Paul J. Brienza and I am presently Managing Director of the Building Contractors Association of New Jersey. At the conclusion of my prepared presentation, the Association has here today Mr. William Ehret who has been in the construction industry for forty years and who was the second President of our Association, in 1939 and 1940, who will be prepared to answer technically all the questions the Commission may desire to ask.

I appear here this morning on behalf of the Building Contractors Association of New Jersey, which represents well over 400 general contractors, sub-contractors and suppliers in the State of New Jersey, who are engaged in public and private, commercial and industrial construction. The greater portion of school construction in this State has been performed by general contractors who are members of this Association.

The majority of the members of our Association, and in particular the general contractors, are vitally interested in legislation that would permit the Boards of Education to obtain a single contract bid.

We urge the support and passage of the necessary legislation to permit this type of bidding.

The Building Contractors Association of New Jersey is not adverse to legislation which will give the various Boards the choice of one or the other method of advertising for bids - either through a single bid of a general contractor or by separate bids, as is the case now.

We feel that some of the outstanding reasons for giving the Boards the choice of advertising for a single bid are as follows:

1. An overwhelming majority of large, private corporations, the Federal Government and the Armed Services use the system of one over-all general contract because of efficiency and economic saving.

2. The greater majority of sub-contractors, such as roofers, excavating, lumber, plastering, landscaping, painting, sheetmetal, flooring, accoustical, woodwork, hardware, lathing, tile and terrazzo, have always bid directly to the general contractor and look to him for supervision and coordination.

3. The general contractor, after he is awarded the contract upon being the lowest responsible bonded bidder, will have the responsibility over the entire coordination of the job relative to scheduling of work, performance of work and delivery of materials to the job site, thus resulting in the expeditious completion of the school job within the time limitation prescribed by the Board of Education, which will result in economic saving to the taxpayer.

4. There will be a reduction in the duplication of the extra heavy load of paper work involved in correspondence with so many separate contracts.

5. The general contractor is on the job the entire time from start to finish while the various sub-contractors are on from a few days to a few months.

6. The building codes and inspection system in all localities insure the Boards of Education and the taxpayer that high standard materials and workmanship will prevail under either system of accepting bids.

7. It will effectively safeguard and save expenditure of public funds. Legislation of this type is in the public interest and in the American tradition by giving a "choice" in the method of advertising for bids on school construction.

As this Commission well knows, organizations which are constantly on the lookout for the best interests of the taxpayer and the economic welfare of the State, such as the New Jersey Taxpayers Association, the Federated Boards of Education of New Jersey, the New Jersey League of Municipalities, the New Jersey Home Builders Association have also expressed their support of this type legislation.

Now, in what I am about to say, it is not our intent to delay this anymore. We feel this has been on the board for the last couple of years, but in our desire to accomplish this thing that the Boards desire, and to support this legislative action which is in the best interest of the State, County and Municipal government bodies, whose taxpayers' funds provide so much work for both labor and management in the construction industry, the Building Contractors Association of New Jersey is most anxious and is ready and willing to sit down and discuss with the opponents, as well as the proponents, any area of difference of opinion regarding this type of legislation.

We feel there is an excellent possibility that a joint recommendation could come from a conference between the proponents and opponents of this bill, such as this, to satisfy the requests and needs of the Boards of Education in their efforts to build schools economically, efficiently and expeditiously.

I would like to have Mr. Ehret come to the stand now, Senator, and I think Mr. Ehret is well qualified to assist the Boards.

WILLIAM C. EHRET: Before I go into what I have to say, I feel that what two of the previous speakers had to say should be implemented. The first one was Mr. Shields, where he offered these comparisons between one bid and broken-down bids, where there was a length of time between the two. I feel he should investigate and see what changes were made in the plans and specifications, which is often done when they receive bids and bids run a little high, and then, usually, they call their engineers and architects in and call for new bids. He didn't say that it was the same identical job, that what these contractors got on these broken-down bids was the same as the original bid.

The last gentleman who was on the stand said the general contractor wanted the job all by himself. If he is opposing this bill, he is either ill-informed or there is a selfish motive. I think it is a selfish motive, because the general contractor likes to get the job done, and when there are five contractors whom you have no control over and you don't know whether they are good or bad and you have to specify a time for completion and oftentimes there are liquidated damages - how can you specify a time for completion when you don't know whether you are getting a good steel contractor or a poor steel contractor? A fellow can go out and buy his stuff, and it's the same way with a plumber.

Now, we have been in the building business about 40 years. We have built schools all around this area. In fact, we are building a couple now. On one of them, we are waiting for a plumbing contractor - we have been waiting a couple of months, because it seems previously he was a one-man plumbing shop and he went into this school work and he could get a bond and everybody on the job is waiting for him. We had a steel contractor on a Catholic school where we were tied up over the winter because he hadn't any credit and we eventually had to buy the steel for him so he could put the steel up.

Now, as to another statement that the last speaker made: He said that they made an investigation and practically all private work is built under separate bids. Well, for his information, at the present time we are building a \$400,000 building for the Public Service Gas; we are building a half million dollar building for Lawrenceville Preparatory School; and a three hundred and some thousand dollar building for DeLaval Steam Turbine; and just recently an addition to a local hospital that ran around \$300,000. We sublet the steel on all of them. I noticed among the names of some of his clients - Industrial Keystone, Bugbee - they are our steel contractors. Another thing - personally, we don't have much trouble with steel contractors. Once in a while on public school work because a fellow can provide a bond, he has the steel contract.

Then this man talks about a saving to the taxpayer. Well, if they have to wait three or four or five months longer for their school, I don't think that is much of a saving to their taxpayers when they are probably renting facilities for

children to go to school. Of course, we have no control over the school contractor.

Another thing it would eliminate would be this buck-passing. Everybody is looking to someone else who is holding them up. The architects know that. There is always somebody who is holding them up. Well, with one contractor we would eliminate that. There is no buck-passing.

Frankly, we have been very fortunate. We have through the years done a lot of work. This law hasn't hurt us too much, only in the pocketbook, due to the fact that we have to wait oftentimes for some sub-contractor who could provide a bond but wasn't capable of doing the job. But in the end we pay. As I tell you, on one school we had a superintendent and a foreman, both salaried people, and all they did all winter was put coke on a fire because the steel contractor didn't get his steel up in October or November - he got it up in March or April. They are the things that we think about.

Of course, there is better coordination when you have control over a job.

There's another statement that the last speaker made that, if you have one bid, you have inferior work, but at the same time he pats the architects and the engineers on the back for the fine supervision they give the job. Well, you can't have inferior work and good supervision from the architect. They just don't go together.

Of course, these surveys that some of these gentlemen are talking about, you have just got to take them with a grain of salt. They would, of course, show the ones that would be

opposite to our way of thinking. They wouldn't show the ones that turned out all right. We could give you a lot of them where there was no difficulty with the steel, school boards, or anything else. Of course, as to the school boards, I feel they are very eager to save the taxpayers what they can.

A lot of architects, that I could probably get to come here, have told me that they would like to have it under one contract so that there won't be such a duplication all the time, so that there won't be this buck-passing and these arguments where they have to have a meeting every week on the job with all the sub-contractors to see what this one is doing and how this one is coming along, and when they are going to get some men on the job.

I haven't much more to say but if anybody would like to ask any questions I will be glad to answer them. We've done a lot of school work and we can tell you just how we feel about it.

SENATOR HILLERY: Any questions?

MR. SLUGASKI: Senator, I like the way this was presented and the way this Board meets here. As I understood the purpose of this hearing, I think that what we would like to hear, to cut down the time, are recommendations. I would suggest that as the gentlemen are presenting their problems here, they also make recommendations so that we can make notes as to how they feel about this thing, rather than go through any lengthy discussion. After all, if we get a resume of this, we will make the decisions.

SENATOR HILLERY: Right.

MR. EHRET: I will say this one thing: As far as this hospital is concerned, and on a lot of jobs, we are requested to turn in a list of sub-contractors with our bid. Of course, that eliminates the bid-shopping that some of these men complain about. I am not too familiar with it but we haven't any objection to turning in a list of our sub-contractors with our bids.

MR. BRIENZA: Senator, there is one thing that we are well aware of in the Association. We have an office in Trenton and Newark, with a staff of 9 people who go out and handle jurisdictional disputes. It is a prevalent problem in the industry and a problem for the Boards of Education and that is, when the general is on the job and one of the five contractors is non-union. If this thing is corrected and the boards have this choice, they will either have all non-union on the job or all union on the job, and that will eliminate these situations that crop up here and there, especially in small communities where there is a political implication, where the union threatens to picket. The boards and the council may fail to do something about it and the thing is delayed for months and months at great cost and loss to the taxpayer.

MR. RONFELDT: Would you suggest that you pay the prevailing wage?

MR. BRIENZA: Yes, indeed, by all means.

SENATOR HILLERY: Any other questions?

There was a recommendation made here by Mr. Brienza that a conference be held. Would you elaborate on that a little?

MR. BRIENZA: Well, we think that this industry is a family. We are strictly at odds. We don't think this is a fight. As the eminent Mr. Bookstaber stated and Mr. Shields, we would like to assist the boards and assist the taxpayers here to come up with a solution that our family will be happy with. We have so many other problems that we have to align together to correct some of the evils of our industry, and I know we don't want to delay this thing much longer. I think some effort could be made by these other sub-contractor groups and the general group to sit down and say, "How can we offer the boards of education and this Commission what they want so that they can save money?" We are willing to do that. We offered this a year ago before the last public hearing but I think there was a little shadow over the thing. Perhaps in off-the-record conversations in the past year we have cemented some feeling that we are against bid-shopping and we are against bid-peddling. If we can overcome that one factor, I think all this family, all these sub-groups, can get together and perhaps assist the boards and the State in saving money. That's what I think we all want to do.

SENATOR HILLERY: How does the Commission feel about such a conference?

MR. VAN ZANT: To be held after this hearing? I am not in favor of it, sir.

SENATOR HILLERY: You are not in favor of it.

MR. VAN ZANT: I'm not.

SENATOR HILLERY: I don't mean specifically today.

MR. VAN ZANT: Not today. That's what I meant. It appears that this gentleman was cut off in order to give these other people an opportunity to be heard. My time is just as precious as these other people here, and I am not in favor of it.

MR. BRIENZA: Well, I don't think you meant today, Senator.

SENATOR HILLERY: No, not today.

MR. RONFELDT: I would like to make a suggestion that these two groups get together.

SENATOR HILLERY: And report back to the Commission.

MR. RONFELDT: And report back to the Commission.

MR. SHIELDS: I have extended a standing invitation to the State Federation of District Boards of Education. Mr. Best is here, I believe. Mr. Best knows it. For two years I have reiterated that to Assemblyman Ozzard, and just a few weeks ago, that if the Boards of Education wanted to have a meeting, I would use my office to get anyone they wanted, any representative they wanted, from anywhere, to sit down and have that meeting. That offer has been out for two years, gentlemen.

SENATOR HILLERY: It is my impression that this offer is to be made to the builders and the people in the same family and the contractors, not the boards of education. We will make the recommendations to the Boards of Education and to the Legislature from here, I believe. Is that right?

MR. BRIENZA: That's right.

MR. STEARNS: Senator, I think Mr. Shields misunderstands us. It is my belief, because of the forthright offer to come up with a recommendation that will help us formulate recom-

mendations, that the separate trades and the General Contractors Association discuss this out, not the local boards of education. We want to consolidate this and have a meeting of the minds so as to come up with something that could protect, for example, the municipality in the event there were consolidated bids, as opposed to individual ones, and to give labor and the separate trades such protection by having this forum with the general contractors. And our Committee would more properly be the place to have this thing germinate from.

MR. SHIELDS: Well, I will speak for myself. I believe my group has stated this before. You are asking the contractors, the people who do the work and who are making money, and also the taxpayers, by the way, to sit down, and I am just wondering about the public relations on this. Now, gentlemen, probably today while we are sitting here, we are in agreement. I'm thinking of a few years from now when, let's say, something comes up and all of a sudden we have some people who are not high-minded and they will start throwing out, "Well, what did they do? get together to cut up the pie?" I'm thinking of the future. So right now, I will not permit my association or myself to be for it, just because of public relations and what would be the best for the community and the State. That is something that would have to be thought about just a little by us, I suppose.

MR. RONFELDT: Mr. Shields, may I ask you a question? Do you feel that there would be any objection to your Association discussing with the General Contractors Association

the possibility of a one-bid job, and of submitting either a composite bid or separate bids on a particular job? What I am trying to say is that you are also protecting your individual contractor. It is also giving the State or the municipality the opportunity to see whether there is any saving by taking a composite bid. Of course, you probably cannot talk for your organization right off the bat, but do you see any real objection to your organization's going along with a thing like that? It doesn't affect the individual contractor in your particular trade. He is still, provided he is a reputable man, given the opportunity of submitting a plumbing or heating bid. He also can go along with the general contractor and submit the same bid. Do you follow me?

MR. SHIELDS: I do.

MR. RONFELDT: I know it might be that the bid openings might be a little confused for the time being, but also that particular prime sub-contractor will be protected under the general contractor by having his name listed in the bid of the general contractor and, therefore, that individual cannot be out-shopped. Do you follow me?

MR. SHIELDS: That is, after the bids are opened, he can't be out-shopped.

MR. RONFELDT: After the bids are opened. In other words, whoever reads the bids will read right straight down the line and he will read the base bid and he will read the names of those various contractors that make up that bid.

MR. SHIELDS: That was tried by one of the other States.

MR. RONFELDT: I am asking would you have any objection. You can have heating and ventilating bids and structural steel bids and everything a lot cheaper--

MR. SHIELDS: You are putting the cart before the horse when you do it that way, sir.

MR. BOOKSTABER: If you don't mind, this is one of the subjects I was going to cover. You have asked a question which, frankly, was a very plausible question. However, when I resume and finish my presentation - it won't take 15 minutes, it will take 5 minutes because I am going to answer this question now and I think I would like to lay at rest, if I can, once and for all, this very plausible but very dangerous suggestion, so plausible, you see, that it is dangerous:

"What possible objection can there be to having an over-all bid and separate bids and give the Board of Education a freedom of choice?" Well, there are numerous problems in connection with that. First of all, suppose the Board of Education decides that it is going to have both separate bids and over-all bids. Now, if you will just reflect a minute, you will see that this is an impossible situation. The general contractor in going out to get bids from the mechanical trades and structural steel is going to go to people who will give him a bid, but a responsible sub-contractor isn't going to present a bid to the general contractor and also submit a sealed bid to the Board. This would be outrageous. First of all, if he does submit a sealed bid, is it going to be smaller than the bid he gives to the general contractor? He would be crazy to do it because it would put him in a completely untenable position. So you

can't do that. So the idea of having both becomes impossible.

Now, suppose you have a situation where the Board decides --

MR. STEARNS: Pardon me, I would like to interrupt you there and I am awfully sorry to do so but I don't want to miss this single point. If your product, whether it be steel, heating or anything else, is fairly priced to cover your labor requirements, your material requirements and your overhead, why should it be any different and what is so dangerous about it?

MR. BOOKSTABER: Well, there are two reasons. You have forgotten one element, the most important element of all - who am I working for? You see? Now, if I work with a general contractor and have dealt with him over years of good experience and he is o.k., I am going to give him my lowest bid and I am going to rely on him not to undercut me. But if the general contractor is in a list of bidders, the sub-contractor doesn't know who the general contractor is going to be - he might be somebody who isn't a friend of his or somebody who is financially irresponsible who can get a bond but who is a little shaky in the trade. They know which contractors have had bad experience; they know by talking to others. They have their own friends and information -- "I had to wait for my money from this guy for six months. He was using my money and he didn't pay me. On the verge of going to court, he finally paid me." Or the man had to sue him, or the fellow went broke and came back into the business. He could still get a bond, surprising as it may seem. So you have the element of not knowing whom you are going to work for. That's the first one.

Now, the second thing is this: If the top contractor, the contractor who gets the job at the lowest bid, is always a substantial, rock-ribbed, fine contractor with an established reputation, there is no problem. They won't worry about putting a sealed bid in. They'll bid them.

Now, if you are going to bid to a general contractor where the board decides - "Let's do it on an over-all basis. We are not going to do it both ways; just do it on an over-all basis and see what happens" - and they get the bid of the general contractor and they get the names of the sub-contractors - and I want you to note that the Bill provided only for the names of the sub-contractors but not the prices, and up to the last minute they were like the rock of Gibraltar, they wouldn't even consider putting the prices in, which, obviously, is the only way you can determine what you've got there, on the basis of bid-shopping or low bid.

Now, suppose after the general contractor gets the job he has the low bid, they open the bid and they decide, for one reason or another, that this is over their appropriation or they decide that they are going to throw all the bids out, which they can do, and they are going to rebid, but this time on a separate bid basis. Now, the man who bids to the general contractors, since his price is not disclosed, might bid on the separate bid deal, you see. But suppose the price was disclosed. Suppose prices were disclosed on the general bids. Do you think that the sub-contractor is then going to put a sealed bid in to the board and be in an inconsistent position of bidding less, much less, not 5%

less or 10% less, which would be the over-all figure, but 15% less in the sealed bid? Even if he could do it, he wouldn't do it. You are going to find that no substantial sub-contractors in the mechanical trades, or the steel contractors, are going to bid school work except when they are dealing with a general contractor with whom they have a business relationship and there's no problem.

In addition to that, if you provide an alternative, you destroy the separate bid system which we have now.

The apparatus which we have now for sealed bids has provided more contractors bidding on jobs in this State than you have anywhere else in the country, even in those states where they have the same system.

There was one job - and let me point out, things have changed. I have the notes here which I got this morning. In Wall Township the Junior and Senior High School, a job a little under two million dollars, was bid on December 18th under our bid law. The general contract was \$800,000, the steel contract was \$90,350, and the total of all the bids was \$140,000 under the budget figure for the building by the town. They were amazed. Prices are down in a normal situation. The Board saved an incalculable amount of money under the separate bid law.

Now, assume in this situation that this was on a general contract only, and the general contractor bid it - \$800,000 out of the \$2,000,000 represents his work and out of this \$800,000 about four or five hundred thousand he is going to sub-contract anyway, so he has already figured in at least a profit for himself.

SENATOR HILLERY: Mr. Bookstaber, aren't you getting back to your presentation again. We have a question here before the members of this Commission as to whether or not they wanted to promote a conference.

MR. BOOKSTABER: Well, that's true, sir.

SENATOR HILLERY: You told me you were going to talk for 5 minutes. You were on here for three-quarters of an hour, you have been on for another 10 minutes or 12 minutes, and from the way it looks you can go on for another 2 hours.

MR. BOOKSTABER: I could go on for days.

SENATOR HILLERY: Well, maybe we should have a special meeting of the Commission and hear you on that day.

MR. BOOKSTABER: I would be very glad to be that witness.

SENATOR HILLERY: I think it's unfair to these other people who have been sitting here all morning and would like to be heard and they have important business to take care of.

MR. BOOKSTABER: Well, on that account I am very sorry that it is so lengthy, sir, but I assumed that this Committee and you, sir, were interested in this subject.

SENATOR HILLERY: I am interested and I heard it before at the hearings upstairs.

MR. BOOKSTABER: I know, sir.

SENATOR HILLERY: What does the Commission want to do about this recommendation that a conference be promoted? Are you interested in it, or not?

MR. SLUGASKI: Very much.

SENATOR HILLERY: Will somebody make a motion?

MR. SLUGASKI: I move that we accept this conference suggestion and that a date be set.

MR. RONFELDT: I second the motion.

SENATOR HILLERY: All those in favor, signify by saying aye.

(Chorus of Ayes)

SENATOR HILLERY: Opposed, no. So ordered.

Mr. Best, would you like to be heard?

MR. BRIENZA: Where will this take place, Senator?

SENATOR HILLERY: We will have to decide that after we finish here this morning.

This is Mr. Best from the State Federation of District Boards of Education.

MR. LEONARD BEST: I have a written presentation and after that I would like to say a few words in discussion of some of the points brought up.

My name is Leonard Best. A resident of Summit, New Jersey, I am appearing before you as the representative of the New Jersey State Federation of District Boards of Education.

We appreciate this opportunity of appearing before you to urge the amendment of Title 18:11-10 entitled "Separate Bids and Contracts for Various Types of Work," because continuous pressure from a number of boards over a period of years has led us to believe that individual boards should have the right to advertise for bids in the manner which they feel will be most advantageous for their districts.

In December, 1952, the Cedar Grove Board of Education introduced a resolution at the School Boards Delegate Assembly

is favor of the so-called "single contract", because, as they stated, the present contract requirement results in "costly delays" and makes it "hard to fix blame". This resolution was supported by the boards of East Paterson, Berlin Township, and Hillside.

The matter was referred to the Legislative Committee of the Federation for study. After considerable work the committee reported in June, 1953, and again in December, 1954.

This committee recommended "no action" because:

1. It did not seem advisable to divert legislative effort from the State Aid campaign.
2. There was some data which indicated that savings would be minor, and
3. There was considerable apathy among the boards.

However, at each subsequent delegates' meeting the question of single versus multiple contracts came up as more and more boards became involved in building programs. Because of this increasing interest among board members the Legislative Committee continued its study of the problem. Early in 1956 the New Jersey Taxpayers Association expressed a favorable interest, and in May, 1956, the Federation decided to seek sponsors for permissive legislation. This was effected in A-34 introduced in January, 1957, by Messrs. Ozzard, Fitz Maurice, and Franklin. Fundamentally the bill resembled S-102 introduced by Messrs. Hillery and Lance.

On March 16, 1957, the delegate assembly of the New Jersey State Federation of District Boards of Education went on record unanimously in favor of A-34.

We have received copies of approximately 150 telegrams and letters (many written by hand) from board members in support of A-34. They come from every county in the State.

On the basis of the information and discussions resulting from these years of consideration we feel that permissive legislation allowing boards to choose either the present five separate contracts or a single contract is desirable.

We think some boards would get schools built faster if they could deal with a single contractor instead of five.

We are impressed with the fact that industrial and commercial building is handled on a single contract basis. Obviously business finds it economical.

We are impressed with the administrative problem facing school boards dealing with as many as fifteen contractors in a medium sized district building three schools.

At a time when school boards are building \$125,000,000 worth of schools a year, we feel that no avenue of possible cost reduction should be ignored -- a saving of even 1% would be a very substantial sum.

We feel that the permissive approach gives the boards freedom to choose whichever bidding method they think is in the best interest of the communities which they represent. This is in the accepted tradition of home rule.

We appreciate the support given this program by many legislators. We think that it deserves the support of everyone interested in helping the people of New Jersey meet the critical need for new schools effectively and economically.

We hope this committee will support this program vigorously.

Thank you.

SENATOR HILLERY: Are there any questions?

MR. BEST: May I first comment on a few points which were brought up in the course of discussion?

SENATOR HILLERY: Yes.

MR. BEST: Mr. Shields, of course, said he didn't know of anything permissive. I don't quite understand just what he meant by that. Actually A-34 and our position is that there should be a chance for the boards to decide whether they want a single contract or five contracts. We feel that there may be quite a chance for a difference of opinion to the extent that most of the problems are with the small districts. And when you are talking about situations which have developed delays, you have a district where the board members are otherwise employed, where they may have a part-time secretary or business manager trying to handle the job and he has other things to do, and in many of those cases it has been very difficult for the person in charge of it to round up all the different contractors. I think most of us have probably built houses in the last few years and we know what a job it is even to build your own house. Actually, if you had to deal with all the different contractors, it would be even worse. But here you have exactly that situation. The contracts for the steel in that case may be only a few thousand dollars. It is not \$50,000 or \$90,000. It is only a few thousand dollars worth of steel. It's not too much for the plumbing, it is not

too much for the other, and you have the question of coordinating them together.

It seems to me that this kind of legislation would allow a general contractor to pick up a team of people he works with and come in and bid on the job and make a little money on the job, where, under the present system, you split them among five different small contractors and nobody is very happy because of delays in operation.

Now, Mr. Bookstaber said he doesn't know of any delays. Well, that's not our story. We have stories from all these small places. Now, this (indicating) is a stack of letters from different boards who have written in about this problem, and I think they are quite aware of the fact that it is not the end of all their troubles, that there are going to be other troubles. But here is a case where people, as Mr. Bookstaber said, are dedicated to the job and are trying to do a job for the least money. They just want to have their hands untied enough so that if in their particular situation they would rather do it the other way, they can.

Now, I come from Summit where we have an appointed board - and I don't quite appreciate the slur on appointed boards which was injected before. In the years I was on it - I am no longer on it - we had people there who were dedicated. On the other hand, we do have a Business Manager to whom we pay about \$12,000 a year, who is a competent business chap. We have never built more than one school at a time, and I know that while we were building the schools he has spent a lot of time with the architect and with the contractors trying to get the job done on time, and we have been pretty lucky. As far as I am concerned, I don't know that in our situation the school board in Summit would do anything

different in the years ahead than they have done in the past. There are a large number of boards where the situation is entirely different and where, if they could have one person with whom they could sit down, with the architect, with the general contractor and themselves and argue out these things and straighten out these things, maybe over the week end when they had a little time, I think it would do two things - it would expedite the school building and because it expedited the thing and because there was better coordination, it might result in cheaper schools. Thank you.

SENATOR HILLERY: Are there any questions?

MR. BOOKSTABER: Mr. Best, you made a statement that in private industry no one--

MR. BEST: No, I didn't say no one.

MR. BOOKSTABER: I thought that was what you said.

MR. BEST: We stated that in industry and commercial building, it is handled on a single contract basis. Now, there are exceptions.

MR. BOOKSTABER: I think you will be interested in this: This is the cream of industry in the United States and nobody uses that method. They use a combination of the other two, but nobody uses that method.

MR. BEST: If they build a new building.

MR. DI STASIO: Could we have the names of those concerns, please?

MR. BOOKSTABER: Armstrong Cork Company, Bethlehem Steel Corporation, The Budd Company, Colgate-Palm Olive Company, Consolidated Edison of New York, Chrysler.

MR. BEST: What do you say about Public Service, which the other gentleman just brought up?

MR. DI STASIO: May I say a word, please, because they don't tell the whole story. There's a reason for that.

MR. BOOKSTABER: Well, there's a combination of those, but the over-all lump contract without any supervision--

MR. DI STASIO: Those companies that are the cream of industry, they have their own engineering department generally, their own architectural department, and all kinds of personnel, and they find they can save money because they supervise the sub-bids. Now, you get the smaller owners or smaller companies, they don't have these facilities, or the people, and they cannot do it. I happen to be acquainted with some of those firms, and that is the reason.

MR. BEST: Well, I think that same thing is true of schools. You are dealing with the small school districts which have the problem of administrating and handling the deal, and if they had one person who was working with the contractors, with one contractor, who had picked his own sub-contractors and knew that this was a team, I think they would get better results. You mentioned in your presentation that it was impossible. I don't agree with that at all. I think that you get better results if the fellow knows who he is going to work with and can figure out, "Well, this is going to be a good team," than if he puts a bid in and doesn't know who he is going to work with and has to sort of cover himself because of the inaccuracies or inefficiencies of a general contractor he doesn't know.

MR. R. G. SMITH: May I interrupt and ask a question?

SENATOR HILLERY: Yes. What is your name?

MR. R. G. SMITH: I am R. G. Smith and I am President of the Structural Steel Association.

Mr. Best, you say that the Board of Education can pick a team. How can you pick a team with public bidding? You can't restrict anybody from bidding. Suppose you pick a bad team?

MR. BEST: Are you asking a question or are you making a statement?

MR. SMITH: All right. Let me ask you, how do you figure bids?

MR. BEST: In the first place, you would pick the low bidder, but I am assuming that you don't pick the team but the contractor by going in and getting the low bid has worked out his team so he knows he is going in, he is going to get the job done efficiently and, therefore, he can figure closer than he can if he doesn't know who he is going to work with and has to put a contingency in there to cover the people he is going to work with and whom he doesn't know. That's what I mean by saying you can pick a team.

MR. DI STASIO: I don't want to take up too much time, but you take the big builders such as Fuller, they work with teams and you know that, and you know why. You must know why because you represent the structural steel people. They will pick an efficient team. Let's take the Turner Company. They will pick a sub-contractor who delivers, even though they pay more money.

Now, I have another question for my friend here. How many big concerns do you know who go on a single bid? Let's take the A & P. They are a big concern. What do they do there?

MR. BOOKSTABER: The statement was made that industry generally handles it on a single contract basis and my answer is that industry generally does not do it that way, but A & P, in building super-markets, deal with a contractor--

MR. DI STASIO: They build great big warehouses.

SENATOR HILLERY: Let's go on.

MR. BEST: I would like to point out that I was given this just now by Mr. Bookstaber. Here it says - Armstrong Cork Company: "It is normally our practice to follow Method No. 1. However, the award of contract on our part is predicated on the approval by us of all sub-contractors either prior to the start of the project or prior to the start of any phases of the work in which the sub-contractor may be involved."

The No. 1 system is that one contract is let to a prime contractor without any requirement but that the mechanical and special sub-contractors and other sub-contractors be named and approved. Armstrong Cork says right here that they do award a single contract even though they do ask who the sub-contractors are.

WILLIAM G. NORDLING: My name is W. G. Nordling, President of Nordling-Dean Company in Summit, New Jersey, and I am in the construction business. I am ^{Past} President of the New Jersey Chapter of N.E.C. and present Governor.

At the outset, I would like to just say that apparently the feeling here is that all the virtues are lodged in the general contractors and all the evils are lodged in the sub-contractors or the so-called mechanical trades contractors. I would like to cite that there have been as many bankruptcies among the general contractors as there have been among the mechanical

trades contractors in the last two years, which have been fraught with tough competition.

I would also like to say that a general contractor in our own Morris County area had his contract cancelled by a board of education for lack of proper endeavor to complete his job on time. That was reported in the newspapers and is a positive fact. So you see that not all general contractors are above reproach. He could have been a general contractor on a low bid with his own selection of mechanical trades and he would still not prosecute his job to the best interest of the board of education of that particular town.

I feel this way: We are all taxpayers; the mechanical trades contractors and general contractors are all taxpayers, and we are all vitally interested in the cost of our own tax jurisdictions and areas, and I feel that under the present subdivided bidding law we have had as many as 20 electrical contractors bidding one particular school job or a number of school jobs. The same would apply to other mechanical trades contractors. The net result is that they were bound to receive the lowest possible bid that they could ever get under any circumstances. If, as has been suggested, we lodge everything in the general contractor's hands, you then automatically exclude or limit the number of bidders who will bid to the general contractor to a relatively few and, in the end, I think the essence of finding the lowest cost to the community will be defeated.

One other thing: We at the present time are doing five school jobs, one of which is a Catholic school job in Denville, and I have found that the architects who insist on bi-weekly

meetings are the ones who have received the finest coordination and the most rapid completion of their jobs. Now, I think essentially we look to the architect who is the boss of the job; he is responsible for the quality of the work we do; he approves the materials we submit for approval, and we have to meet his specifications that he prepares. We have found that the architects who have these bi-weekly or monthly meetings are the ones who have been most successful in coordinating their jobs - witness the Morris Hills Regional High School, which was occupied in September. It was a job aggregating some two millions of dollars and it was completed in fifteen months, ready for occupancy. Now, that was with a very fine qualified architect and his bi-weekly meetings were the one thing where he stressed the weaknesses of the various trades in following through.

I would like to conclude by saying for the New Jersey Chapter that we are opposed to changing the present bidding system as it exists but are in agreement as to meeting with the general contractors and any committee that you may select to go over and discuss this and possibly arrive at a satisfactory arrangement for public bidding for all. Thank you.

SENATOR HILLERY: Are there any questions?

MR. STEARNS: Yes, sir. Mr. Nordling almost eliminated what I was going to ask him about. I know that he is essentially fair and always has been wonderful in this respect, that in the legislation or the pursuit of what we are after, which is to determine whether the ultimate choice be made available of having a single bid or the other bids-- I would like to find out whether you personally are opposed to having the choice made available.

MR. NORDLING: No, we are not. My feeling is this: If the State of New Jersey, and on this I am digressing for a moment, on its public bids-- they have five sub-divisions of bid; they prequalify the bidders, and you have to fill out a questionnaire; you have to be financially responsible, and they give you a category or rating on work which you can bid up to. If something like that were worked out where you prequalify the bidders, so that any man bidding-- if his bid has to be accepted by the general contractor, whether it's workable or not-- Of course, Mr. Bookstaber here pointed out the evils of that particular phase of the work, but I think something possibly can be worked out where they have the alternate selection of either a lump sum bid or subdivided bids.

MR. STEARNS: I would like to ask you one more question. In some of the work that I am familiar with on those jobs that you have done in our area and the people with whom you have worked, would you say that it was possible, when you were going to work with a good general contractor whom you know, that some of your overhead, which was ascribed to running around and job searching and everything like that, could have been reduced?

MR. NORDLING: Unquestionably.

SENATOR HILLERY: Are there any other questions?

Thank you, sir. Mr. Bookstaber, I guess it is your turn now to finish your presentation.

MR. BOOKSTABER: I just want to make one comment and I won't burden you for more than a minute.

If you will recall, all of the pressure and all of the requests for amendment of this law took place and were paramount about two years ago. Now, this was during a period when we had the tightest shortage of steel in peacetime history and when a

few schools were delayed as the result of unavailability of steel and other materials. Now, since about six months ago, I think you will find that that pressure no longer exists. Steel is available and will be available into the future, and I think by and large all schools are being built cheaper, for less cost, and faster than they have ever been built before. I think if you would circularize the various boards right now, you would find that there is not anywhere near the concern about this bid law that existed at that time. I certainly would appreciate something from Mr. Best concerning the type of pressure which he has been getting for the past two months, for example, particularly for the last month, when steel is no longer unavailable.

MR. BEST: If I may interrupt you, I will give you the answer.

At a meeting in early December, the question was brought up before the Federated Boards in assembly and they again voted unanimously in favor of A-34.

MR. BOOKSTABER: Well, I am talking now about these letters that you say you have. You showed us a portfolio

MR. BEST: Well, these are delegates of all these firms and from all our representatives.

MR. BOOKSTABER: Have you received any communications during the past month?

MR. BEST: No. The Assembly there voted on the question and reaffirmed and asked the Legislature to please pass this bill again as of the early part of the year.

MR. BOOKSTABER: Well, I think you have answered my question. You probably won't get that kind of letter because schools are now being built. The problems are no longer concerned with

the availability of steel, time of completion, and cost. They are being built under their budget figures, as witness the Wall Township school which is being built at a cost of \$140,000 under their own budget figures.

Now is the time to build schools, and under our bid law they will build them faster and cheaper than they ever have before.

MR. RONFELDT: May I ask just one question? About 40 years ago, this law was passed and it said that we are supposed to take five bids on anything over \$1,000. Can you imagine three or four lintels in there?

MR. BOOKSTABER: I think that is unrealistic. As a matter of fact, we offered some suggestions on that, sir. I think \$2,000 is unrealistic, too.

MR. RONFELDT: What I am trying to get at, and Mr. Best mentioned these little communities. They may be putting on \$14,000 worth of renovations and they have a couple of hundred dollars' worth of electrical work. You might get a non-union contractor in there and one belligerent Union contractor, and they may be way up there in the back hills of New Jersey; they report it to the Union and they threaten the board of education with a strike or a picket line in front of the school. What we are asking for here is some way of clearing up this mess, which I think would mean more efficiency, along with some test cases, and if anything comes out of this, let us hope that we get the cooperation of the Unions as well as the trades. I think we are all in the same boat; we are trying to live.

MR. BOOKSTABER: I think you have made a very good point, sir. I think this is one of the irritants that has

produced the furor.

Speaking only for my own group, the Structural Steel Association, we are free to concede to you that a thousand or two thousand dollars on an over-all job may not have enough steel work to merit a separate bid, and where you have a job that runs \$14,000, where steel work and a few lintels may run a few hundred dollars, this is an area within which we can certainly work something out, possibly to raise that minimum on the over-all job or on the specified branches of the work.

I'll be very frank with you - I have received many calls from jobs where the over-all job is more than \$2,000 and there are few lintels, on the basis that I would object on behalf of the Association and our committee's reaction is, "Look, we are realistic, and we are not legalistic about this and we don't make any problem about it." Technically they are wrong, but we realize that this is a defect in the law, which probably could be changed to some advantage to take care of that little situation which creates an irritating situation for the smaller boards. Now, within this area, we are prepared certainly to discuss and work something out because this is a different age and prices are different and the jobs are different. A \$2,000 job 40 years ago was quite a job; today it is a very small job; let's face it.

MR. RONFELDT: What would you say should be the total cost of a job, roughly, where--

MR. BOOKSTABER: As far as the Association is concerned? We have had some discussion concerning that. The figures have ranged anywhere from \$5,000 to \$25,000. However, you must

remember that in our Association of 43 shops, they are composed of shops that have sales in excess of six or seven million dollars and shops that have one, two, three or four employees, to whom every job is important, even a cellar door, so that the job you feel might not even merit competition because it's a thousand-dollar job is very important to that small shop, and he's going to go in and bid and give the very lowest price he possibly can. So let's put it this way - it's a matter of the greatest good to the greatest many. If it means sacrificing the ability of some of these small shops to bid on a very small job, as far as the Association is concerned, we are interested in the general good of the picture, and we certainly would be prepared to discuss it. That is one of the things that I know we would be glad to discuss at this meeting which has been projected by the Chairman.

SENATOR HILLERY: Are there any questions?

MR. STEARNS: I would like to ask Mr. Bookstaber some questions. We have had quite an extensive preamble or general expression that both you and Mr. Shields used - a description of the climate of 40 years ago that precipitated the enactment of this legislation. I would like to know if the changing labor conditions, with better organization in the Unions which can better provide the pool of labor, the better understanding of the requirements of the job, and the highly organized state of the sub-contractors' fields right now - do they insure a better uniformity of cost now, whether under a general or single contract? Since you represent an Association and being an association executive and the young man who is President of one of the outfits here, as he indicated, you know this situation

pretty well, and the conditions are in a climate where so much regulation, state-wide, etc., applies. Don't you think that the climate and the uniformity of cost now is a little different than it was when this legislation was enacted? That's No. 1.

MR. BOOKSTABER: Do you want an answer to that?

MR. STEARNS: Yes.

MR. BOOKSTABER: Well, all I can tell you is this, and I think it is very easy to answer that. On this Wall Township school, my recollection is that the bids ranged from \$90,000 up to \$140,000. Now, that doesn't mean that somebody was piling it on. It just means that these shops that bid low either had the material available in the sizes that they needed - because the labor rate was the same. It may be that they have a more efficient operation or they were closer to the scene of the job, as in this case. As a matter of fact, they are right near it, within a mile and a half. There are many other factors which are involved. You can have an operation that is so close that you would think, "Well, this can't be very competitive," and yet, when the figures come in, they range over very wide variance. Let's face it - this is free enterprise and some people may be willing to take a job just to keep their shop open and keeping their men working and knock off some of their profit and some of their overhead. That condition has not changed in my opinion.

MR. STEARNS: Do the bidders under the present form of bidding have to maintain special personnel in order to handle these bids and the individual forms and to compete, where under some other system maybe they wouldn't have to have such a large staff because it would be done by others?

MR. BOOKSTABER: Well, the answer is, substantially no. When they detail a job, whether they bid it for the general contractor or for a public job, they have to use the same detail, the same estimators, the same engineering force, and the only difference is that in the case of a public job where there is a bond, somebody has to call the bonding company up. So there is no saving.

MR. STEARNS: Is there any remedy--

MR. BOOKSTABER: Mr. Katchen and Ross, if there is something I am saying here that is not true-- I am not in your shop.

MR. KATCHEN: You are doing very well.

MR. STEARNS: If there is a remedy available for this that you could make a recommendation on, I would like you to do it, because right now, while the field is fair and open and there is an availability of materials, it doesn't insure that the climate will stay the same forever in every field. I have a letter from New Providence. Their school building was held up within the last year for over six months. The Board of Education there complained that they had awarded the steel contract and the market was, as they call it, "gray" at the time, very tight. The steel contractor didn't feel that the two or three thousand dollars it would have taken to get steel in the market to supply the school was warranted on account of his close bid, yet, because of the problem of the loan and the expenses they had, it held their school up for six months or more. Is there any remedy that you in the steel business could suggest in the manner of bidding so as not to make the whole school vulnerable? There was a changing wage scale that

applied during that time. The situation became a little unhappy, to describe it modestly. We would like to have any remedy that you in the steel business might give us in the way of a recommendation, because here the amount of money that had to be paid in the gray market was two or three thousand dollars. I am sure that you will agree with me that holding the job up for six months cost the municipality more than three thousand and they would have been ready, willing and able, or the general contractor might have been, in order to facilitate that thing.

Now, if you have any recommendation as to a remedy that would make the steel contractor deliver, we would like to have it.

MR. BOOKSTABER: Well, there are two that I have in mind. One is the prequalification requirement, which certainly ought to be implemented, and secondly, in the situation that you mention-- I see Mr. Katchen has his hand up, perhaps he can amplify what I am saying.

MR. SMITH: I know about this. I happened to be the second low bidder on it.

MR. BOOKSTABER: Then you watched it.

MR. SMITH: If you have read the facts you will find it was the Buie Steel Corporation of Hillside. Well, I happened to be the second bidder on that and lost the job by, I think, about \$500. At the time the bids were taken on that job, the steel situation-- I believe that was back in April or May.

MR. STEARNS: No, it was February.

MR. SMITH: Well, from last February to last July, the steel situation was very acute; the mills were promising us one thing and giving us something else. Now, you say there

that there was a gray market, and there may have been a case where for two or three thousand dollars the steel contractor could have helped the situation. Well, they bid it and I bid it. To bid schools we have to bid mill; in other words, if you want the job you have to be the cheapest man. You bid mill and you have certain costs. Now, probably what happened in that job was that the mill at that time was very erratic; they had established mill schedules which they didn't live up to; if they got an order for a certain size material and there was a lot of it, they would let their mill schedules go by the board and they would roll that. The steel fabricators were at the mercy of the mills. That is a known fact. The only place that this contractor could have got it would have been to go out and instead of paying six cents a pound for his material, to pay nine, ten, maybe eleven, maybe as high as fifteen cents a pound. And the man couldn't do it. But I don't think that there is anything that would have prevented the architect from making a recommendation to the board that they pay some additional money, is there? Can that be done?

MR. HARRY KATCHEN: I am a member of the Steel Association.

Even in a gray market, they will only buy what they can get that may be available, but when you are designing a special job, a school for example, where you have special loads, where you have special spans, long spans over auditoriums and gymnasiums, those sizes are not even available in a gray market. I don't care what he wanted to pay. He couldn't even get it in the gray market; he just had to wait. We have had cases like that.

MR. DI STASIO: I don't want to prolong this, but you can always get plates, even during the gray market. We have had many jobs where we have welded girders. I think with a lot of these things, they may tell the truth but there's always a little left out.

SENATOR HILLERY: Are you implying they are half-truths?

MR. DI STASIO: My experience has been and my investigation during the gray market showed that these steel fellows got their quota from the steel companies but they sold them and instead of selling them for \$250 a ton, say, they sold them for \$550, stock.

MR. BOOKSTABER: That's untrue. That is untrue and you can't make an assertion like that.

MR. SMITH: You are making a broad accusation, very broad.

MR. DI STASIO: Do you know one job in Newark that was held up for about five months, a great big job?

MR. SMITH: There were lots of big jobs held up for many months.

MR. DI STASIO: And do you know the man who had the steel work on that was one of the largest steel contractors in New Jersey?

MR. SMITH: It's possible.

MR. DISTASIO: He sold his quota on stock.

MR. BOOKSTABER: The first thing I want to clear up quickly is that when a few of these schools were being held up, there were a lot of big industrial projects being held up at the same time. I mean, it wasn't only schools. There were a lot of industrial projects that took a lot longer to

build, so it's not only schools.

Now, in answer to your question: If the pre-qualification law which is not in effect on the books was amplified to provide somewhat the same apparatus which is now in effect in the State and the State Highway Department, so that before bids are accepted they must be qualified and if the town or the municipality didn't have the sole jurisdiction to prequalify - it would have to be either a state-wide or a private organization set up for the purpose - there would be no problem, for example, or an irresponsible man.

Now, in the case that you mentioned, it was not a case of irresponsibility. This was strictly an acute shortage. But we are talking about the steel man who doesn't have the capital, or he doesn't have the allotment standing to do the job that he is bidding for. This could be done - I proposed it and I have been recommending it for a year and a half to many people in the Senate and in the Assembly - I think I mentioned it to you a couple of times. Nothing has been done about this, because it's not easy to set up. If the efforts of a commission were devoted to this problem, you would have a prequalification law on the books of this State that would result in lower bonding costs and practically no defaults in the case of contractors or sub-contractors, because the State's record is and the record of the County of Essex, which has an informal pre-qualification of that type-- in the County of Essex there hasn't been one default since they have had it in effect for many years, since the late Chief Justice Vanderbilt instituted it back in those days. This is my recommendation - this is the area where all of the effort should be expended instead of the effort of

public relations which is expended on this type of bidding. Now, to me, this is the kind of thing which is coloring the situation, and I don't think it has any part in it. It's a good public relations effort but I don't think it even comes near meeting the problem.

SENATOR HILLERY: What is it? I don't know what it is, this public relations. What are you talking about? What have you got there?

MR. BOOKSTABER: This is a brochure prepared, at some expense obviously, by the Building Contractors Association of New Jersey and given widespread distribution, and it's a very slick job. I think it's a very good job but I don't think it meets the problem that we have.

SENATOR HILLERY: I see they have my name on here. It's the first time I have ever seen it.

MR. BOOKSTABER: Yes, they gave you due billing, sir.

MR. ALBERT C. BROWN: Mr. Chairman, may the architects respectfully request two minutes of this two hours and twenty-five minutes--

SENATOR HILLERY: You may. Come right over here.

MR. EUGENE DENNIS: I am President of the New Jersey Society of Architects.

MR. BROWN: And my name is Brown and I am the Industrial Director of the same organization. Albert C. Brown.

MR. DENNIS: Gentlemen, all during this discussion a number of references have been made to the architects, and I am sure I don't need to comment on the professional standing that the architects hold in any state. The interest of the architects is primarily professional and in the interest of

the public health, welfare and safety, and not for any funds or money; we have nothing to gain financially whether your school buildings go out on single contract, or whether they go out on multiple contracts. But from the architects' point of view for work to go out on multiple contracts, there is very definitely more work done by the architect - he doesn't receive additional compensation for it - he's not asking for it. If the work goes out on single contracts on public work, it sort of puts the burden of proof on the architect for work that is done by the major sub-contractors as to the quality of the work they do and after the contracts are let. If the names of the major sub-contractors were listed and their price or value put on their work when bids were received, then the architect, in consultation with the boards of education, their plants, or whatever public body it might be, could try to make an honest attempt in their own minds to find out in advance if the major sub-contractors had possibly overlooked something in order to come in with as low a bid as they did.

The point mentioned as to pre-qualifying of contractors is very well taken. It would help very much to try to keep a control on them. If the name of major sub-contractors and the amounts of their bids were not listed in a bid of the sort that you are asking for on the proposed change in the school work, it would leave it up to the architect to come back and prove to the clients, the boards, whether the men the contractors wanted to use were qualified, whether the work they did would be to the best interest of the board or not.

Now, to be very honest with you, we have difficulties at the present time with some of the general contractors' sub-contractors in that respect. If this were changed back to all

one bid, it would add that many more sub-contracts that might be affected the same way. However, the New Jersey Society of Architects at their last board meeting when they discussed this instructed us to say for them that they would be willing to endorse your proposed bill if the names and amounts of major sub-contractors were listed, otherwise they are not in favor of this setup. It, in effect, is taking separate bids under a single bid.

One other point was mentioned by the previous speaker about - could the architect do something when you have difficulties with steel contracts or any other contracts, not necessarily steel. In my own business we had such a situation. where, after bids were received on the job, we found the delivery of structural steel was going to - not delay the job beyond what we had anticipated, but it was a substantial delay. We therefore, at our own expense, completely redesigned the lower portions of the building from structural steel to reinforced concrete in order that work could proceed up out of the ground and get up to a further stage. Later on the balance of the structural steel was received and the job completed.

I don't recommend that you ask all architects to absorb the terrific cost involved on something like that in redesigning buildings, but something can be done if that situation should arise and I would recommend in the future that the architect be paid a reasonable fee for such redesign work.

That's all I have to say.

SENATOR HILLERY: Any questions? If not, thank you, sir.

I am going to appoint Mr. Stearns and Mr. Di Stasio to work with Paul Brienza and whoever will meet in that conference. Will you hold that conference before the next meeting of this Commission? How long do you think it will take to have such a conference?

MR. BRIENZA: Well, I think with Mr. Broughton, Mr. Shields, Mr. Bookstaber, and Joe Quinn, we can set it up today here, and check with Mr. Stearns as to a date.

SENATOR HILLERY: All right, if you will do that.

MR. DI STASIO: I won't be in town for the next month and a half. I will be glad to make every effort to come to the meeting, though, if you want me to, unless you want to appoint somebody else.

SENATOR HILLERY: What do you think of that, Mr. Stearns.

MR. STEARNS: Well, I think we should not put any undue load on Mr. Di Stasio.

MR. DI STASIO: How about appointing an alternate.

SENATOR HILLERY: Well, who would be the alternate? I will let you people make a recommendation.

MR. STEARNS: Well, there is Mr. O'Brien who couldn't make it today.

SENATOR HILLERY: He is from Dover?

MR. STEARNS: Right.

SENATOR HILLERY: Donald O'Brien of Dover, then, will be the alternate. His wife and child were sick today. He called in this morning.

Do you think within two or three weeks you will have that information?

MR. BRIENZA: I think so. Whatever the other members feel. Maybe sooner than that, sir.

SENATOR HILLERY: Does the Commission feel it should wait for another meeting to get this report in from the conference. We have other matters to consider. Some of the members of this Commission have recommendations to make about the School Building Guide, changes in the School Building Guide, and we would like to have a meeting for that purpose.

I have a letter here from the Commonwealth of Pennsylvania, Department of Public Instruction. I wrote to them when the Commission was created, and Mr. Charles H. Baume, who is the Superintendent of the Department of Public Instruction says in his letter:

"In my letter of August 27, 1957, I promised you information concerning the study of increasing costs of school building construction.

"In this letter I am including a brief report contrasting school building requirements in New Jersey, Pennsylvania, and several neighboring states in regard to selected items. This gives some indication of the variation in minimum standards for the various States. After each State in the first category, we have included a date. This date is the date of issue for the publication from which the information was obtained. In each case, we have been informed that this was the most recent publication of the State.

"At the present time we are collecting material from each architect or architectural firm which has constructed a school building in Pennsylvania in the last five years. We have invited their criticism of the regulations of the Department of Public Instruction in order to determine whether these regulations are responsible for excessive costs. We hope to have a progress report on this project within 30 days. We shall be most happy to send you a copy of the report."

I am going to submit this information to Mr. Ronfeldt for his consideration and I will see that you get any other information that comes to the Commission so that you can make

a report, because you are qualified to handle all that.

I am taking the letter to answer it. Would you like to have the letter sent on to you after I answer it?

MR. RONFELDT: I would appreciate it.

SENATOR HILLERY: Now is there any other information to come before the Commission or any business to come before us this morning?

MR. LESTER A. WAKE: I would like to raise the question I started off with about the plumbing in the public schools, because there is a lot of misunderstanding as to who has jurisdiction over the inspection of plumbing in the schools.

SENATOR HILLERY: Are you raising a legal question here?

MR. WAKE: I don't know whether it is legal or not.

SENATOR HILLERY: What does the law state as to the requirements?

MR. WAKE: That the local boards of education-- the local boards of health have jurisdiction over all plumbing, and drainage in all buildings, public and private. Now, if there is a public school going up on this side of the street, there is a question in the mind of the plumbing inspector whether he has jurisdiction over the plumbing that is going in that. If there is a parochial school going up across the street, there is absolutely no question of doubt in the mind of the plumbing inspector that the plumbing in that school is going to comply with the local plumbing code. Now, we have had schools here and there is one going up right at the present time in Brick Township. I think that it's a disgrace to permit the type of plumbing in a million and a half dollar school that's being permitted in a school like that.

SENATOR HILLERY: Is this the question that arose when they were rebuilding the Court House at Morristown? about the local board of health going in there and inspecting it?

MR. WAKE: Well, it's practically the same thing.

SENATOR HILLERY: And the contractor refused.

MR. WAKE: Yes, I think so.

SENATOR HILLERY: Does that come under the State Board's jurisdiction?

MR. RONFELDT: I don't believe that comes under this Committee's jurisdiction. I think that is under the State Board of Health.

MR. WAKE: That's the trouble. Everybody shoves it over on somebody else. I don't believe that the thing is straightened up. For instance, in this particular school in Brick Township, the plans and specifications of the architect say that these plans and specifications shall comply with all the state and national codes. Well, he furnishes an affidavit to the State Department of Education that the plans and specifications do comply, but I am not talking about the plans and specifications; I am talking about the plumbing. There's a whole lot of difference between what's on paper and what is going in on the installation. The plumbing does not comply with any code.

SENATOR HILLERY: How do the members of the Commission feel? Do you think this comes under our jurisdiction?

MR. STEARNS: I think it does, for the simple reason that where the requirement is stated on page 54 of the School House Guide says that all plumbing installation shall conform to the requirements of the latest published national plumbing

code and subsequent amendments thereof, and that's written in the requirement that makes it mandatory; it tells about what happens where there is no adequate disposal facilities, and so on, and says that that has to be approved by the New Jersey Department of Health, and it says "and other authorities having jurisdiction." Also, in relation to the water, it says the same thing. I think this matter so as to embrace the situations that would be particular and peculiar to every municipality should be clarified in order to make it possible to comply with what this gentleman just said.

DR. SLUGASKI: Also, do you think we could get a record of the code which is presented by the State Board of Health, their regulations?

MR. STEARNS: With regard to that, in Mr. Post's Office they have formulated a small house code, which is now in print. Now, a code that applies to the plumbing for the State, with the cooperation of the Plumbers' Association, is either in print or is about to be in print right now, and I think that matter should be investigated.

MR. RONFELDT: Senator, this is kind of a dangerous thing. As far as most specification studies indicate, the engineer's rights, the mechanical engineer's rights, or the architect's rights - the plumbing in that job has to comply with the municipality, the State, and all that sort of thing, code. But we have something like 500 and some odd separate districts, little school districts all over this area here. When you get up in the mountain districts, many of these inspectors don't even have a code of the municipality, and what happens is that you get some little plumber up there

who has never done anything larger than a residence possibly, and you throw him in on a \$500,000 school and try to inspect the plumbing of that, he can create chaos.

Now, I realize what this gentleman is saying. In the municipality that this gentleman is talking about, they happen to have a very excellent inspector. But there are a lot of little districts down in the pine country, for instance, where someone who is not ethical could create no end of chaos.

MR. WAKE: They can also create chaos in the way of health if that thing is not put in properly.

MR. RONFELDT: What I am saying is this - there are jobs there where the mechanical engineering is probably very lax, but in many, many cases these mechanical engineers go by a set code which is set up by the State of New Jersey, or in many instances where there isn't a code, they use the New York State code as a basis.

MR. WAKE: That is so, because the plans and specifications say that, but I am calling attention right now to one particular job where the architect signs an affidavit to the effect that the plumbing in this particular school in Brick Township complies with the state and national code. All the State Department of Education appears to be interested in is the fact that the architect has given this affidavit that it complies. But if you put a man down there who knows something about the installation, it does not comply, and it doesn't take a man with too much knowledge of the plumbing industry to know that some of the things are bad practice.

Just to give you an illustration of just one thing: They have a laboratory in the place in which acids are used, so

therefore they use a duro line pipe, which is a very hard pipe, acid resistive. Well, they come out of the laboratory with acid resisting pipes and where do they run it? They run it into the regular cast iron pipe. They won't have any plumbing in that system six months after the school is occupied, and it goes into the same disposal bed.

MR. STEARN: Mr. Chairman, I suggest, with the cooperation of Mr. Ronfeldt, that this matter be earmarked for consideration by the committee that is going to suggest changes in this building code.

MR. RONFELDT: I second that.

SENATOR HILLERY: All in favor signify by saying Aye.

(Motion carried)

MR. STEARN: In that connection, I suggest we have a letter from this gentleman pointing up this situation.

SENATOR HILLERY: Will you file a letter or your brief with the Commission on your problem?

MR. WAKE: Yes.

MR. RONFELDT: I would like to make a suggestion that if this gentleman could make a recommendation as to what he thinks should be done.

SENATOR HILLERY: That's why I asked him to file a brief.

MR. WAKE: I would like to make a joint recommendation with the Plumbing Inspectors Association. As a matter of fact, I am a member of the committee - a joint committee with the New Jersey State Plumbing Inspectors Association.

SENATOR HILLERY: Whichever way you like.

If there is no further business to come before us, this meeting is adjourned. Thank you all for coming.

(A D J O U R N E D)

STATEMENT SUBMITTED BY FOSTER F. BIRCH, III, Boonton, New Jersey

As a representative of the Board of Education of the Town of Boonton, I wish to present this statement in support of the bill:

Like other municipalities in the State of New Jersey and in the rest of the country, the Town of Boonton is badly in need of additional building facilities for schools. The need is so great that the estimated cost of these building needs is unusually high when compared with the wealth and tax ratables of the community. We feel duty bound to support every effort that can be made to reduce the cost of school building construction.

From our studies of school building construction costs, one of the areas where costs can be materially reduced is by making possible better coordination of the construction work. Under the present system, we have observed that delays vary frequently occur because no one contractor is responsible for coordinating the work of construction. This very frequently results in delays in the completion of the building. These delays in turn frequently require boards of education to assume extra expenses for such items as the rental of temporary headquarters to permit the operation of schools until the school buildings under construction are completed.

The second result of this lack of coordination makes it necessary for contractor to present higher bids to take care of their overhead during the periods of waiting. This brings about higher costs for the reasons that during the "extended" period caused by delays:

1. Costs of building materials rise in these days of inflation;
2. Insurance periods need to be extended thereby adding to the cost;
3. Very often delays extend construction time into the cold months, thereby adding to the costs by reason of the fact that heat must be provided when, if the delays had not occurred, it could have been avoided;
4. To finish a job on time sometimes requires night work and overtime work at overtime pay.

There are many other ways in which, as one speaks with contractors and architects, it appears that the failure to have one responsible contractor is frequently a common cause for increased costs.

We cannot readily see the opposite point of view to this question. Theoretically, in any job there is a certain amount of work to be done. Whether it is done under control of one contractor or by dividing the responsibilities among five contractors, there is still the same amount of labor, etc. to be expended. Organization, coordination and unity are essential for the efficient operation of any job. It is difficult to see, therefore, why there should be any opposition to a plan which aims to provide a legal medium for securing this coordination with power. Architects have estimated to us that the savings might range anywhere from 10 to 25 per cent. Even if the saving is only one per cent, it seems that the idea can be justified.

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