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COMMITTEE MEETING

before

SENATE JUDICIARY COMMITTEE

"Nomination Interviews of Ralph A. Loveys to be a member of the New Jersey Turnpike Authority; and Peter N. Perretti, Jr. to be Attorney General of the State of New Jersey"

February 6, 1989  
Room 424  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

- Senator Edward T. O'Connor, Jr., Chairman
- Senator Raymond J. Zane, Vice Chairman
- Senator Gabriel M. Ambrosio
- Senator Richard J. Codey
- Senator John A. Lynch
- Senator Carmen A. Orechio
- Senator Richard Van Wagner
- Senator Donald T. DiFrancesco
- Senator John H. Dorsey
- Senator William L. Gormley
- Senator Lee B. Laskin

ALSO PRESENT:

John J. Tumulty  
Office of Legislative Services  
Aide, Senate Judiciary Committee

\* \* \* \* \*

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



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M E M O R A N D U M

TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE  
FROM: EDWARD T. O'CONNOR, CHAIRMAN  
DATE: JANUARY 30, 1989  
SUBJECT: COMMITTEE MEETING - FEBRUARY 6, 1989

Please address any comments or questions to John J. Tumulty,  
Committee Aide at (609) 292-5526.

The Senate Judiciary Committee will meet on Monday, February 6,  
1989 at 10:00 a.m. in Room 424 in the State House Annex, Trenton,  
New Jersey.

The following nominations will be interviewed:

TO BE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY:

Peter N. Perretti, Jr. of Montclair, for the term prescribed by  
law.

TO BE A MEMBER OF THE NEW JERSEY TURNPIKE AUTHORITY:

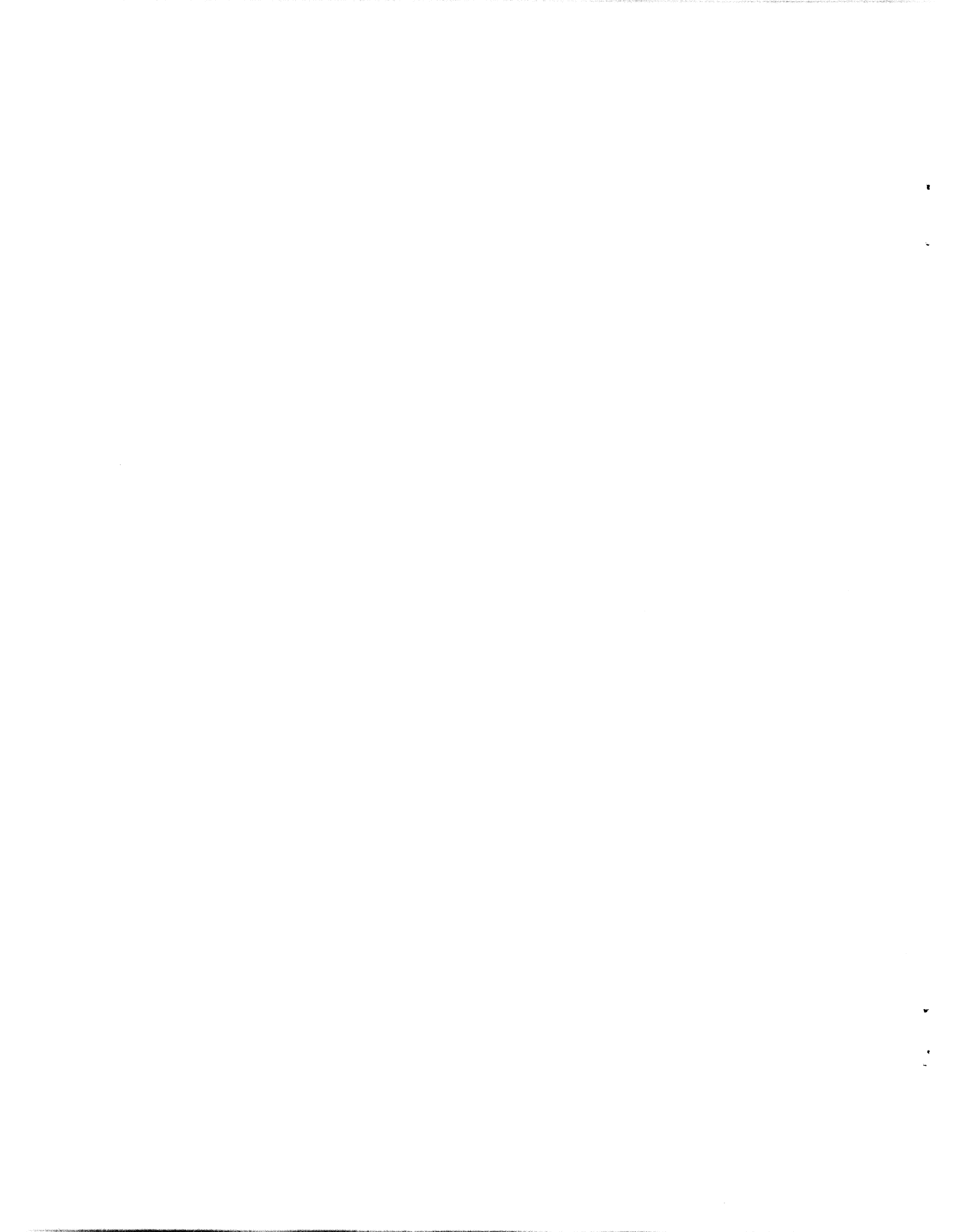
Ralph A. Loveys, of Florham Park, to replace Joseph A. Sullivan,  
resigned, for the term prescribed by law.

TO BE JUDGES OF THE SUPERIOR COURT:

Marilyn Rhyne Herr, of Lebanon, for the term prescribed by law.

James J. Ciancia, of Stockton, for the term prescribed by law.

Arthur N. D'Italia, of South Orange, for the term prescribed by  
law.



The following nominations will be considered:

TO BE A MEMBER OF THE NEW JERSEY TRANSIT CORPORATION:

Martin Brody, of Short Hills, to succeed himself, for the term prescribed by law.

TO BE A MEMBER OF THE ECONOMIC DEVELOPMENT AUTHORITY:

Michael H. Gluck, of Princeton, to replace Vincent Giblin, for the term prescribed by law.

TO BE A MEMBER OF THE STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS:

Fred H. Rohn, of Madison, to succeed himself, for the term prescribed by law.

TO BE A MEMBER OF THE MARINE FISHERIES COUNCIL:

Jack Meyer, of Brick, to succeed himself, for the term prescribed by law.

NOTE: The hearing on the Daggett nomination originally scheduled for February 6, 1989 will be continued on February 9, 1989 at 10:00 a.m.

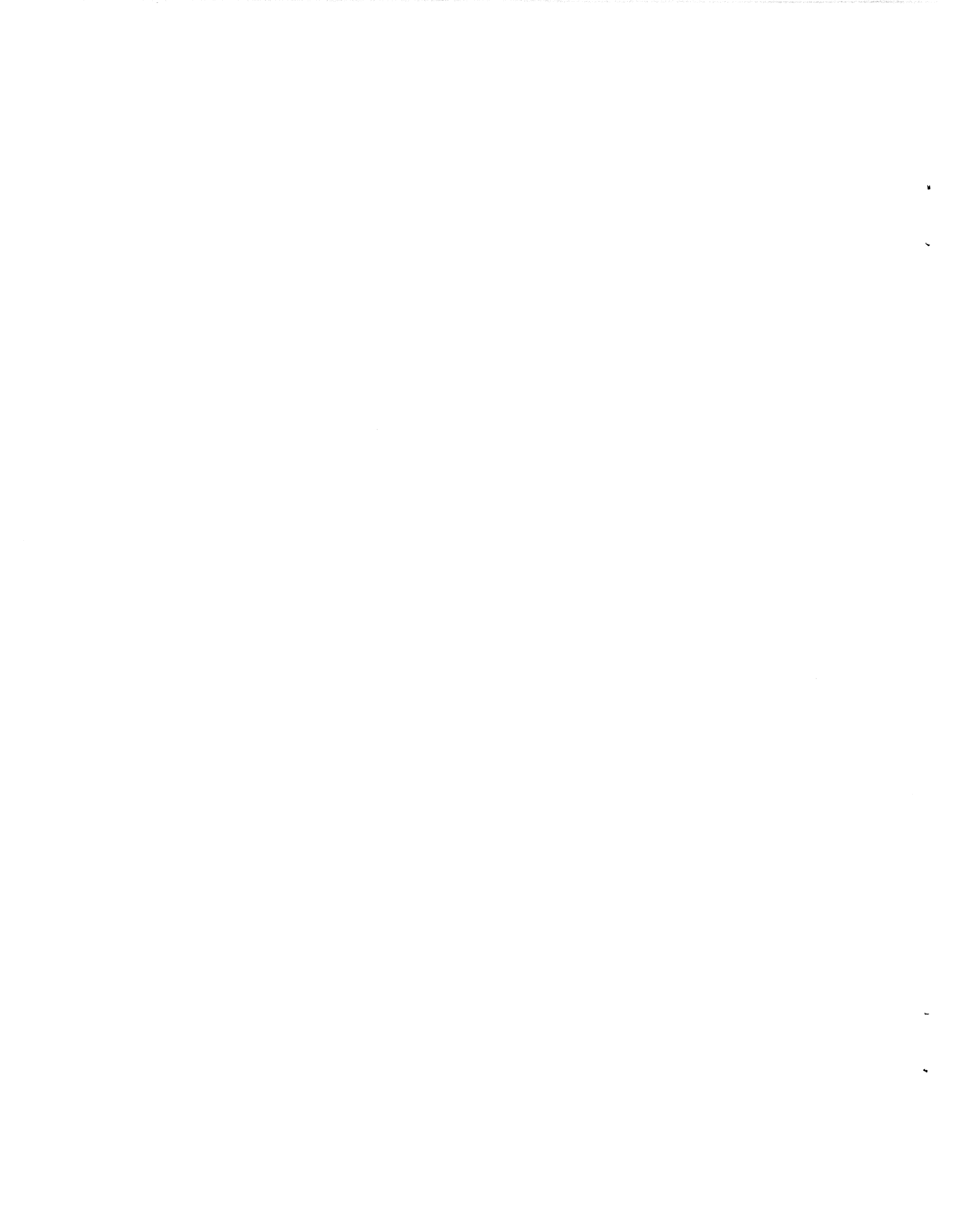
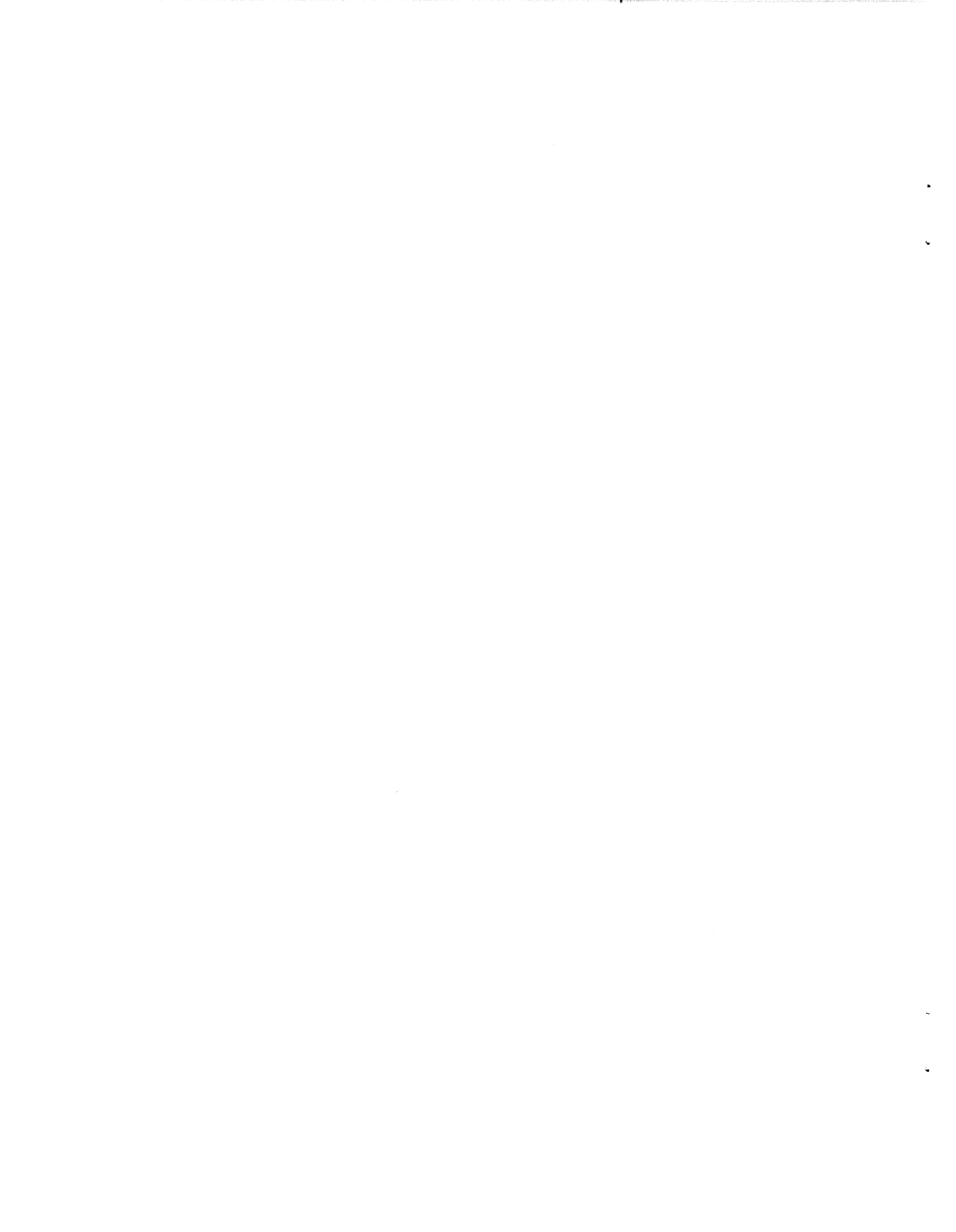


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**SENATOR EDWARD T. O'CONNOR (Chairman):** The next nomination we'll consider is that of Ralph A. Loveys of Florham Park to replace Joseph A. Sullivan, resigned, to be a member of the New Jersey Turnpike Authority. Senator Brown, good morning, and would you do the honors--

**SENATOR LEANNA BROWN:** Good morning, Mr. Chairman. It's a real pleasure to be here to support the nomination of Ralph Loveys. If you're looking for someone who's been on the firing line, knowing what it's like to receive inquiries from constituents, and somebody who's been very sensitive to the needs of the public as an elected official, I think these are great skills, combined with his business knowledge, his record as a key administrator, and I think the Turnpike is going to be in good hands.

**SENATOR DORSEY:** Mr. Chairman, I would like to say a word if I could on behalf of Ralph. He's in Leanna's district but he's known well in my district. He's now served in elective office for 20 years and done an outstanding job in each one of the phases of his elected career.

In the Assembly, as you know, he had something to do with the Insurance Committee which we don't have to dwell upon here today. But he also served as the Vice Chairman of the Assembly Committee on Independent Regional Agencies which certainly brought him in contact with the problems of the Turnpike which I think motivated his interest in this particular area. I think he has been a fine legislator and I think he will be a fine addition to the Highway Authority, and at the appropriate time, I would like to move the nomination.

**SENATOR O'CONNOR:** Thank you Senator. Senator Codey--

**SENATOR CODEY:** Good morning Assemblyman. I just thought maybe you could, for our benefit, give us your knowledge so far as to the need, really, for the Turnpike to increase tolls in the future and your own particular feelings on that.

**A S S E M B L Y M A N R A L P H A. L O V E Y S:** Senator, if I may, I think it's important for all of you to know that I have not been presumptuous in this matter. Quite frankly, I have not met the engineering people, those who are in charge of the Turnpike in the expansion program and what we are going to do in the way of tolls. I haven't done this at this juncture mainly because I do appreciate the process, and I do not intend to act in any way until you people have acted.

As far as the expansion program is concerned, the tolls will be necessary if the expansion program moves forward. I will look into this in great detail and at a later date I would be happy -- more than happy to sit down and discuss it with you to the fullest. In fact, if I may say this, I intend to bring the Turnpike closer, if that be possible, by way of our minutes with the Independent Authorities of both the Senate and the Assembly because I am dedicated to this task and I am very sensitive to the elected bodies -- elected people to know what is going on and to have more of a control, if you will, from autonomous groups. I feel very strongly in this area, so Senator, at this point I can't be-- I can't delve into any one particular area, but I certainly will do so after a full study.

**SENATOR CODEY:** Assemblyman, how about what happens to be the Parkway situation in terms of the, shall we say, back door way that they tried to bring about increases on the Parkway and how that was handled by the Parkway, which really was a disaster, public relations-wise.

**ASSEMBLYMAN LOVEYS:** Yes, well as I understand it, statutorily the Authority must, in fact, if they're to increase the tolls -- they must, in fact, have public hearings 45 days before any toll increase would take effect. And as I understand it, statutorily they have to advertise in the newspapers -- about 10 newspapers -- some 45 days before. If this be the case, if the tolls are necessary, I would suggest

to you that we would not only have one public hearing, I would like to have more than one public hearing, maybe two or three at the length of the toll road to give the opportunity to the public to voice their opinion at such an action.

SENATOR CODEY: What about your feelings in regard to some of the benefits given to employees of the Turnpike once they retire, and that situation?

ASSEMBLYMAN LOVEYS: Senator, I made my feelings public when we discussed this in the Independent Authorities Committee in the Assembly. I subscribe to the present legislation that is before both the Assembly and the Senate. I do feel that the executive people working in these authorities should, in fact, do what -- and follow the guidelines of the State of New Jersey and I will see-- I think you'll find that will be the case in the future. We should follow the policies of the State, and I believe right now there is a capping of some \$15,000 for built-up benefits. I totally agree with the action that was taken by the Independent Authorities Committee.

SENATOR CODEY: Mr. Chairman, I would just like to say that I think the Turnpike will be in good hands. I think Ralph distinguished himself as a State Assemblyman, as a man of character, integrity, and I'm sure he will do the same kind of good job in running the Turnpike. Good luck.

ASSEMBLYMAN LOVEYS: Thank you, Senator.

SENATOR O'CONNOR: Thank you, Senator.

All I know is Mr. Sullivan's been out of there for 30 days and today we tried to come down on the Turnpike for this meeting, and there was an accident and seven or eight cars were involved. Probably half of us were late as a result of it. So you're off to a good start Ralph.

ASSEMBLYMAN LOVEYS: Thank you.

SENATOR O'CONNOR: Would you give us the benefit of your thinking as to what the responsibilities of the Chairman of the toll road authority are?

ASSEMBLYMAN LOVEYS: Well, I think other than the fact that I will be in a position to exercise judgment in the administration of the Authority, I think foremost, will be the safety of the public. That will be my foremost concern. I would suggest that secondly, to move traffic as fast as we can, in an economic fashion, plus the budget. These will be the three areas I will give most concern to in that area.

SENATOR O'CONNOR: The Turnpike, at the present time, is pursuing a rather ambitious \$2 billion expansion and renovation program. Recently it was reported that this program would be scaled back to include a variety of factors. Can you tell us what the current status of the project is, and where do you foresee the cutbacks occurring?

ASSEMBLYMAN LOVEYS: Senator, I am really not in the position to do that. I understand that there has been some controversy in some of the areas of the expansion program. I have not had the ability to sit with those who have programmed this expansion program, and until I do, until I make an in-depth study, I don't think it would be fair for me at this juncture to indicate my feelings on the program as a whole.

SENATOR O'CONNOR: The Department of the Treasury and the Department of Transportation, in their reports on the operations of the Highway Authority, recommended that road authorities engage in a greater degree of long-range budgetary planning, and that their capital programs be coordinated with the overall State capital plan. What reaction do you have to these recommendations?

ASSEMBLYMAN LOVEYS: Well, I would be definitely in favor of that. In fact, I think I would even go a step further and suggest that the Port Authority of New York/New Jersey, the Sports and Exposition Authority, the Expressway, Parkway, and the Turnpike Authority meet three or four times a year to discuss the budget problems, and the overall transportation problems. I think that we've got to have stronger

communications in that whole area which will be better for the State of New Jersey, and I intend to move in that direction, Senator.

SENATOR O'CONNOR: You went into my next question. How would you facilitate this process of communication; by these meetings?

ASSEMBLYMAN LOVEYS: Very definitely.

SENATOR O'CONNOR: Questions from the Committee? Senator Ambrosio.

SENATOR AMBROSIO: Yes. I just want to pick up on the last point you made, Assemblyman, because in my area particularly, the proposed expansion of the Turnpike has raised a lot of questions; questions concerning whether or not there is really an overall transportation policy in the State of New Jersey.

When I look at the alphabet soup of authorities that are involved in planning, starting with the Department of Transportation and Hackensack Meadowlands Development Commission, the Turnpike Authority, New Jersey Transit, the Port Authority, and on and on and on, including the counties and municipal entities that have concerns about this, the need to coordinate all of the transportation problems is paramount in this State. I'm just happy to hear that you recognize that and ask you to confirm that you'll make a commitment to meet with all of these authorities on a regular basis to come up with an overall transportation plan especially for the corridor through the Hackensack Meadowlands, because there are so many things going on, that no one really knows who's in the lead, who's the lead agency, and who makes the decision as to what we should do from a transportation standpoint.

ASSEMBLYMAN LOVEYS: Senator, you have my word on that. It will be one of the things I have been thinking about. I think it's something that is very, very essential for

the good of our State, that we do have this information and we can coordinate the activities of all these areas. I will definitely do that.

SENATOR O'CONNOR: Senator Laskin.

SENATOR LASKIN: Ralph, this is a sort of a-- This is not as philosophical a question as some of the others, this pertains more to your personal philosophy.

From time to time, the Turnpike, in response to requests for information, has stated that the information requested is not public information, that they are a separate authority, that they are not governed so much by the New Jersey Right-to-Know Law -- though they are -- but, for example, let me give you something specific.

The names, addresses, and salaries of employees of the Turnpike, would you say that they are public record or not? I don't want to give you a leading question, I just want to know how you feel about it.

ASSEMBLYMAN LOVEYS: Very definitely, yes. Let me, if I may, add something to this question.

When I served as a councilman in my community for eight years, when I served as mayor of my community of Florham Park for eight years, I looked to authorities and I say this quite sincerely with jaundice eye: I looked at them that way because I was the guy who had to answer to the public. I was the elected official when this autonomous group sat there, and sometimes -- and I'm not suggesting this is the case of the New Jersey Turnpike Authority -- but sometimes these authorities took that position where, "We don't have to answer to you." This disturbed me no end, and I am suggesting to you people today if there's anything I do as Chairman of the Turnpike Authority, it will bring the authority closer to the legislative branch, to you people who have to answer to the public. I really and sincerely intend to do that.

SENATOR O'CONNOR: Any other questions?

SENATOR ORECHIO: I just have a follow-up to that.

SENATOR O'CONNOR: Senator Orechio.

SENATOR ORECHIO: Ralph, how would you go about fostering better communications and a relationship between the Legislature and the Turnpike Authority?

ASSEMBLYMAN LOVEYS: Well, number one, Senator, I think, for example in your Committee, Independent Authorities -- I understand that you're the Chairman -- you should have our minutes. We should have meetings together. There's no reason why you and say Pat Schuber and I, as Chairman, shouldn't sit and have these discussions as to what we are thinking. This would give you the flavor of what's happening with the Authority, bring back to the Senate, and you'll get the answers back to me as to how you like to see us move and in what direction you like to see us move. If we do this, I feel it's only going to strengthen my position as Chairman of the Authority, because if I can go into a new era, a new decision making process, and know that I have the backing of the State Senate, Senators and State Assemblypeople, then I'm home free. Quite frankly, this is exactly the way I'd like to -- if I am Chairman, I would like to do that very thing in the way of communications.

SENATOR O'CONNOR: Senator DiFrancesco.

SENATOR DiFRANCESCO: Ralph, when I first heard about this, I just really couldn't understand it. Here you are an Assemblyman making \$25,000 a year (laughter) which is \$25,000 more than you're going to get paid as Chairman of this Authority, I believe, and on top of that, you were chairman of one of the most powerful committees in the Legislature, a lot of high visibility, the ability to have a great impact on the State. Why did you give up all that?

ASSEMBLYMAN LOVEYS: Donny, my case is quite similar to Bill White who was recently asked to become President of the National League in baseball. When they asked Bill why he was

leaving his position where he made maybe four times as much money in announcing baseball games on TV, he said, "Did you ever have to work with Phil Rizzuto for 18 years?" My question to you gentlemen, is have any one of you had to work with Mike Aduato for five years? (laughter) I say that in jest.

Quite frankly, I thought about this, Donny, and it was-- Again I served for 22 years in elective office. I was questioning, quite frankly, whether I would run again next term and when this opportunity arose, I thought it would be a great challenge. That is why I did accept the position. I appreciate the question.

SENATOR ZANE: Not a question, I just want you to know I found Ralph Loveys, the experience that I had with him, to be a real gentleman. He just reminded me of it with what he said. I remember appearing before one of his committees with an insurance bill that I thought would resolve many of the State's problems. I was drawn, quartered, burned at the stake by Michael Aduato. The person who came to my defense was the Chairman of the Committee, who I found to be a real gentleman, I was thrilled to death he was there that day so I didn't have to tolerate any more of that nonsense. (laughter)

SENATOR DORSEY: Mr. Chairman, I think this might be a good time for me to move the nomination before we get deep--

SENATOR O'CONNOR: Well, before you do, it looks like Mr. Tomicki wants to address the Committee. I'll ask if there is anyone else that wants to address the Committee on the nomination? Mr. Tomicki.

J O H N T O M I C K I: (speaking from audience) May I take off my Right-to-Life hat for a minute?

Ralph Loveys, is our Assemblyman, and although we sometimes didn't see eye to eye, I also, Senators, agree with you that he is a quite a gentleman. He will admit, and you heard people say he is law sensitive, and I think he is government sensitive. He's had 22 years of experience in

government. He wants to keep things close to the people. He wants to be open, and from the viewpoint of private industry, he understands what cost effectiveness is. I look for a direct type of change in Ralph and the way it has (remainder inaudible)--

SENATOR O'CONNOR: Thank you Mr. Tomicki. Hearing no one else, then we'll have the nomination released by Senator Dorsey, seconded by Senator Orechio.

MR. TUMULTY (Committee Aide): Senator O'Connor?

SENATOR O'CONNOR: Yes.

MR. TUMULTY: Senator Zane?

SENATOR ZANE: Yes.

MR. TUMULTY: Senator Ambrosio?

SENATOR AMBROSIO: Yes.

MR. TUMULTY: Senator Codey?

SENATOR CODEY: Yes.

MR. TUMULTY: Senator Lynch?

SENATOR LYNCH: Yes.

MR. TUMULTY: Senator Orechio?

SENATOR ORECHIO: Yes.

MR. TUMULTY: Senator Van Wagner?

SENATOR VAN WAGNER: Yes. If I might, Mr. Chairman, I'd just like to say to Ralph that I know he's been successful as a public official, and I know he's successful as a businessman, and I'm sure he'll be successful as the new Chairman of the Turnpike Authority.

MR. TUMULTY: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MR. TUMULTY: Senator Dorsey?

SENATOR DORSEY: Yes.

MR. TUMULTY: Senator Gormley?

SENATOR GORMLEY: Yes.

MR. TUMULTY: Senator Laskin?

SENATOR LASKIN: Yes.

MR. TUMULTY: The nomination is released.

ASSEMBLYMAN LOVEYS: Thank you. Thank you very much.

SENATOR O'CONNOR: Congratulations Ralph, we know you will do a good job.

ASSEMBLYMAN LOVEYS: Thank you.

SENATOR O'CONNOR: The next nomination is that of Peter N. Perretti, Jr. of Montclair to be the Attorney General of the State of New Jersey. Senator Orechio would you do the honors?

SENATOR ORECHIO: Yes, Mr. Chairman.

Peter Perretti is a resident of Montclair and a senior member of the law firm of Riker, Danzig, Scherer, Hyland and Perretti and has had a distinguished record of public service. As a matter of fact, his family is distinguished as well. His father, who is 92, is a former judge, retired. We confirmed his sister last year, a former U.S. Magistrate, Serena Perretti. Peter has been an Essex County Prosecutor, he has been an outstanding trial attorney for a great many years, and if you look at question 15 of the resume, you'll also find that he has been a very staunch party advocate, but we can't hold that against him. He's been certainly active in the party but more than that, I think, a tremendous nominee who assumed the position of Attorney General for this interim period. And at the appropriate time, Mr. Chairman, I would be very happy to move his nomination.

SENATOR O'CONNOR: Thank you, Senator Orechio.

Mr. Perretti, good morning.

In a recent statement attributed to you, you mentioned that in your career you both prosecuted and defended in death penalty cases. Do you feel that the death penalty is a necessary component of New Jersey's criminal justice system?

P E T E R N. P E R R E T T I, E S Q.: On a very personal basis I have absolutely no problems whatsoever with the death penalty, Senator. I have prosecuted capital cases, and I'm

sure that some of us here will remember that there was an assigned counsel system before the public defender system, and when I left the prosecutor's office, I used to receive assignments from the assignment judge in Essex County for what were considered to be serious capital cases.

SENATOR O'CONNOR: Excuse me, Mr. Perretti, if you would, we are having difficulty hearing you. Would you press the button in front-- If the red light is on-- Okay. Thank you.

MR. PERRETTI: Red light is on now.

Senator, responding to your question, I'll begin again. I have absolutely no reservations whatsoever about enforcing the death penalty in this State. I've done it before as a young man. As an assistant prosecutor in Essex County, I was assigned capital cases to try. Some of us here will remember that there was a time in this State before the public defender's office, when we had the assigned counsel system--

SENATOR LASKIN: A lot better system than too.

MR. PERRETTI: --and when I left that office I received several assignments in capital cases. They were always assigned cases to defend, and I functioned on both sides of that responsibility. As a law enforcement officer, should the Senate confirm me, I would have no problems at all in enforcing vigorously the laws of this State with regard to capital punishment.

SENATOR O'CONNOR: There seems to be a growing frustration among different segments of the public and, indeed, among some of the prosecutors' offices across the State with respect to the fact that while there have been numerous convictions now in capital cases, due to decisions in the Supreme Court, there has yet to be a sentence carried out. There are some who say that the intent here is to frustrate the legislative intent so that there never will be a death penalty carried out in New Jersey, and perhaps the law will never be

used. What feeling do you have about that, and how do you feel about the court's decisions using the death penalty?

MR. PERRETTI: Since I was, I might say honored by the Governor's nomination for this high position, I have been trying to bring myself up-to-date -- you know, I have been in civil law for a very long time -- with the developments in relationship to capital crime since I left that field of the law. It's been a fascinating reading history. I think that "vigorous," the word used to be, but it's been dropped from our rules of professional conduct, "zealous"; we used to say that prosecutors and attorneys should proceed zealously to represent their cause. I think that in vigorous/zealous pleading of cases on behalf of the State, it would be the responsibility of the Attorney General's Office, and I would be prepared to discharge that responsibility in all courts throughout our system, including our high court. I think that changes in the law, if there are to be changes, rest with the lawmakers. As I see the Attorney General, he is principally an advocate on behalf of existing law to the extent that he would be called upon to appear in committees to testify and make recommendations. Quite frankly, should I receive your confirmation, I wish to prepare myself on those issues more thoroughly than I am prepared today.

SENATOR O'CONNOR: The Governor, in his recent State of the State address, referred to the drug situation as one of the major problems in the State of New Jersey. What role do you see the Department of Law and Public Safety playing in the war against drugs?

MR. PERRETTI: Just as a citizen living here deeply involved in civil litigation in the recent past, it seems to me that is our number one sickness in society.

I've had situations very recently visiting in New York where people have come up to me on the street dressed as I am, and sort of held out a hand offering to sell something. But

when they begin to see people who look like me -- look like a lawyer with a coat and tie on, something's really getting quite bad.

SENATOR DORSEY: Or you've had a mistaken image of yourself. (laughter)

MR. PERRETTI: Well, I'm not a young person any more with long hair, and I don't have to read the--

SENATOR LASKIN: What makes you think you look like a lawyer just because you have a suit and tie on? I've seen some lawyers who look like bums. (laughter) I don't know about this.

MR. PERRETTI: You're right.

It's an obvious deep sickness, and it's got to be a number one priority. I believe it is; from all that I read it is; from all that I've been reading in the past week it is, and I think it has to be kept on that order of priorities. It absolutely should be number one in law enforcement.

SENATOR O'CONNOR: What role would you see your Department playing with respect to the prosecutors' offices, the Attorney General's Office -- I mean U.S. Attorney's Office? How do you see all of this coming together?

MR. PERRETTI: I think there has-- As long as I've observed law enforcement, and back at the time when I was in it-- It's essential for any Attorney General, any prosecutor's office to establish good relationships with the United States Attorney in New Jersey and in surrounding states. Those relationships have got to be maintained. I'm under the impression that they're good today and perhaps have never been better. It has to be a cooperative effort of both Federal and State.

The Attorney General ultimately supervises all prosecutors' offices in New Jersey, and I believe still has the power to supersede prosecutors. The role of my office would be to drive home the message and to drive it home daily, each

day. This is an area where we must budget, where we need vigorous law enforcement. This is our number one priority, not to the exclusion of other obligations; but this sickness which is-- I think just looking at it, talking to young people about it, it's something that we cannot tolerate in this State or in this country.

SENATOR O'CONNOR: Have you prioritized any issues with respect to the Department and how you see your operation of it?

MR. PERRETTI: I'd rather learn a lot more about it, Senator, before making any final judgmental type of statements on that. But going in and as someone, again, coming out of a rather long term at civil law, I'd have to say on a purely personal basis, that I would never wish to neglect the civil side of that office or the other responsibilities. But the criminal side of that office, I think, is something that I would wish to devote a lot of attention to; not because I think that it's been in any way failing in its responsibilities, but rather because I just have personal interest there. I think one can do the most there. You'd have to look over all shoulders, maintain all of your obligations, but I think on a purely personal basis that's where, shall we say, my professional affections would be. That would include, in this State, environmental law and the enforcement of it.

SENATOR O'CONNOR: The last time we had a nominee for this position, similar to yourself, going on my recollection, was in 1982 when Irwin Kimmelman came before the Committee. Since he was a member of a firm that did practice somewhat before the State in many respects, the Committee asked, and was provided with a copy of his buy-out agreement with his law firm. Are you in a position to make your agreement with your firm available to this Committee?

MR. PERRETTI: Oh yes. That agreement has been in place for a very long time, and it's essentially the same

agreement that has been in place, and was in place, when other partners from our firm left to assume responsibilities in the State of New Jersey. I suspect the very same agreement has probably been supplied already and there's no problem. I'm referring to some of my former partners who are members of the judiciary.

SENATOR O'CONNOR: We'd appreciate if we could see a copy of that.

MR. PERRETTI: Yes.

SENATOR DORSEY: I think when former Attorney General Kimmelman appeared, we didn't make him provide us with his actual numbers, just the language of the agreement. But if you want to give us the numbers, you can give us the numbers too.

SENATOR O'CONNOR: Well, the numbers part-- You can white out the numbers if you like. That's not really what we're concerned about.

MR. PERRETTI: I understand.

SENATOR O'CONNOR: Any questions from the Committee?

SENATOR ORECHIO: Mr. Chairman, we're not going to hold up this nomination until they--

SENATOR O'CONNOR: No. Senator Codey--

SENATOR CODEY: Mr. Perretti, good morning.

In the past we've had Attorney Generals who have run for Governor. And of course, in the State of New Jersey, we decided a long time ago not to have our Attorney General elected. Can you give me your thoughts on an Attorney General in terms of running for Governor, whether it should be used that way?

MR. PERRETTI: Well, I'm a trial lawyer. I've been a trial lawyer for 27 years -- I think it's 27, counting back to '57. In my case, I would propose to take this office, should I be confirmed, and discharge my responsibilities in the office functioning as an attorney. I do not intend, Senator Codey, to run for office, and I would be very happy to leave this office

as a practicing lawyer. Obviously in my scale of values, which are unique to me, that's the way I would do it.

SENATOR CODEY: What are your feelings in regards to wiretapping? I'm sure you probably know that we lead the country in the number of wiretaps, that the renewal is up, I think, it's in July--

MR. PERRETTI: I think it's in July.

SENATOR CODEY: --for the wiretap statute. Just may I have your thoughts generally on wiretapping?

MR. PERRETTI: I noticed that it will be an issue for our lawmakers in July. You renewed on a one-year basis a little while ago, and it's coming up again in July. My aspiration, my hope would be, as a law enforcer, that I could leave office and say that we prosecuted vigorously, we moved the calendar, we did this in terms of indictments and convictions, and we did all of that with a declining number of reported wiretaps in place. To me that would be a goal to strive for.

Now having said that, and having reminded you that when I went to law school the law on wiretapping was Justice Holmes', "It's a dirty, dirty business." I don't see how in a modern time, we can function without it. I've noticed that the law in place in New Jersey does provide the intercession of the judicial establishment between prosecutors and individual citizens' rights. The courts are greatly involved in the supervision of wiretapping, and I think that if we can view it as something where we don't like it, we don't want to see it expanded, but we know it's a necessary evil and we treat it that way. We closely regulate it, and we are supervised by the courts as an independent judiciary. In that regard, I think, we'll probably have to recognize, and I would probably be before a committee if called upon to give views at some future time. That is probably a necessary evil in law enforcement and we ought to sharpen it up in terms of judicial supervision, but

I don't know how we can do away with it in 1989 and 1990, not in terms of the way that modern crime is conducted.

SENATOR CODEY: Mr. Perretti could you give me your thoughts on a member of your office, someone who works in the AG's Office -- on those who would leak information on pending investigations to the press that we so often read about "a source in the Attorney General's Office" or whatever, in terms of your conduct or discipline of the office?

MR. PERRETTI: The school in which I grew up in was that the activities of the grand jury investigation are secret. They are secret for a lot of reasons which are articulated in the case law. There comes a time when the reasons for secrecy no longer prevail. That's generally after indictment.

Prior to then, when I was growing up in criminal law, that secrecy was something that was sacrosanct, not to be violated. I don't know that anything's changed.

SENATOR CODEY: What would you do if someone--

MR. PERRETTI: I would come down hard on leaks about people who are under investigation and not yet even indicted. I would do that very seriously.

SENATOR CODEY: Would you prosecute?

MR. PERRETTI: If grand jury procedures were violated, I would do that very seriously, and if crimes were committed, even if crimes were committed in my office or if crimes were committed in a local prosecutor's office, I would be very concerned about that and I would, I think, because I took an oath, uphold that oath.

SENATOR CODEY: Thank you very much.

SENATOR O'CONNOR: Senator Dorsey--

SENATOR DORSEY: Mr. Perretti, I want to say I am very impressed with the background material which you have given us, and I have no doubt that you will succeed in the position in which you--

MR. PERRETTI: Senator, I'm sorry I didn't hear something.

SENATOR DORSEY: I say I'm very very impressed with your legal background and the material which we have been given today, and I have no doubt that you will succeed as Attorney General and hope that the period that you serve, is not so short that it will not give you an opportunity to leave your own brand on the operation of that office.

I would take just one moment to discuss with you something that we touched upon before this session started today. That is, in Morris County at the moment, we have a difficult situation in which a young African American young man, 21 years old, in police custody for a very short period of time, died. It would appear from the various news reports and various tapes that were taken at news conferences, that the prosecutor exonerated the police officers even before the non-police witnesses to the action were interviewed.

It's a very disappointing thing because you live in Essex County but you work in Morristown, and I think we all think of it as a very very lovely place. It's a place in which we have not had racial disharmony of the nature that has now been going on. I think there have been five or six days of continuing picketing in connection with that situation and I understand -- I think it's your understanding too -- that the FBI has sent in their special teams in connection with that situation.

Since you are in charge of all prosecutors and would be in charge of the situation, I would hope that you would look upon it seriously. It's not the sort of thing that those of us who live and practice in Morris County are pleased with at all. There are some things which I share with you this morning that are troubling: the relationship of the prosecutor with one of the police officers involved, Mulholland, (phonetic spelling) who was involved in the incident. I would just urge

you to take some time and examine that and see if you cannot, perhaps, lessen the tensions that have grown and resolve the matter in a satisfactory way.

MR. PERRETTI: Thank you, Senator. I've been in my office and I've heard the noises in the streets. I know what you are talking about.

SENATOR DORSEY: I think it's a very serious situation. It's not the sort of thing we've ever had in Morris County before, and it's certainly not a situation that anyone in law enforcement can be pleased with. Thank you.

SENATOR O'CONNOR: Senator Orechio and Senator--

SENATOR ORECHIO: Mr. Chairman, I want to ask Senator Dorsey, have you asked the present Attorney General, the one who just left office, these questions you wanted Mr. Perretti to explore?

SENATOR DORSEY: Well, the answer is very topical today, Senator Orechio, because the former Attorney General left and between his leaving and Mr. Perretti coming in today, the incident actually occurred and has continued and has now not been resolved, although there has been a great deal of attention drawn to the situation. I'm not sure who's wrong, but it is clear that there is a very difficult situation which has caused racial disharmony, something that is not commonplace in Morristown or in Morris County and a very tragic death. The young man was arrested for-- He was picked up initially because there was an outstanding warrant for him dealing with a motor vehicle violation and suddenly, in a very short period of time, while in custody of the police, he is dead. A very sad situation.

SENATOR O'CONNOR: Senator Ambrosio.

SENATOR AMBROSIO: Mr. Perretti, in the short time that is left in this administration where you'll be serving as the Attorney General, have you given thought as to what your role is going to be in terms of whether you plan to continue

the policies of your predecessor or whether you've given some thought as to any new initiatives that you wish to implement?

MR. PERRETTI: Well, Senator there's no question that I have a lot to learn, and I'll go about it as a trial lawyer and try and pick up a case and become a fast study. I realize that it's a lot more responsibility than just that.

But the Committee should know that I intend to conduct the office as vigorously and as efficiently and as imaginatively as I am capable of doing. I do not intend to postpone decisions that should be made now or refuse to take new initiatives, simply because of the short time remaining. Obviously, one cannot do in a year what one can do in four years, but I intend to do as much as I can, as well as I can. The Office of the Attorney General deserves no less.

SENATOR AMBROSIO: Thank you. Just one other question.

We've had many debates about the wisdom of mandatory sentencing, and one of the things that I'm particularly concerned about is that about 10 years ago, this Legislature adopted a sentencing guideline policy that I thought was rather ingenious in that it gave the judges structure within which to frame a sentence by balancing the mitigating and aggravating factors. We have now systematically undermined that, by removing from judges any discretion whatsoever. That, in my judgment, has led to some of the overcrowding that we are experiencing in the courts -- in the prisons. I wonder if you would care to comment on that as to whether you feel we've gone too far with mandatory sentencing?

MR. PERRETTI: Well, Senator, I'm aware of the historic tension between mandatory sentencing, and the roles of the lawmakers and the prosecutors in the judiciary. The judiciary, traditionally -- and I believe today still, of course -- prefers wide discretion in sentencing. As I see it, quite frankly, the prosecutor's role and the Attorney General's role, is to obtain convictions in cases where convictions are appropriate.

Secondly, in connection with sentencing, it is to appear before the court from time to time and advocate and urge, on behalf of the public, in appropriate cases, strenuous sentencing. I think you are getting into an area that I would view as lawmaking. I would view that as the responsibility of the Legislature whether or not the judicial discretion is to be removed from the judiciary, and that tension has been going on in this and other states for years. I think that it would be easy for lawmen -- for prosecutors to come in and say take it away from the judiciary. But I think really, appropriately, except for perhaps having some opinions which probably shouldn't be given until I've studied it again, quite honestly, that decision, I think, rests with the lawmakers. It's a tough one and always has been.

SENATOR AMBROSIO: But in terms of the policy, you don't wish to comment on whether you favor the current status of the law with regard to mandatory sentencing -- whether you would suggest that we extend that to additional crimes or in some way review it to determine whether we've gone too far. You have no policy position on it?

MR. PERRETTI: I think that if there's too much mandatory sentencing too far down the line in less serious crimes, you start to get into some difficulties. I've never had a great deal of difficulty with mandatory sentencing when you're way up the ladder with murder first, mandatory 30 years without parole, that sort of thing. That never bothered me years ago, and it doesn't bother me today. The question is where is that line? That's been the thing that lawyers and judges and legislators have been groping for for years, and I've got to tell you, I don't have the answer, as I've said here today.

SENATOR AMBROSIO: Thank you.

SENATOR O'CONNOR: Senator Lynch.

SENATOR LYNCH: I'm going to try to clear the air on a rumor that's out there. Maybe I should ask John Sheridan this question.

Since we have two blue chippers, you and Michael Cole, who are sort of going -- one going from the Governor's Office to Riker, Danzig and the other going from Riker, Danzig to the Attorney General's Office, was this a straight up swap--

MR. PERRETTI: Not as I --

SENATOR LYNCH: --or were there any draft choices involved?

MR. PERRETTI: Not as I understand it, Senator.

SENATOR LYNCH: No considerations other than that, huh?

MR. PERRETTI: No sir.

SENATOR LYNCH: Let me ask you a couple of questions about the policy of the Legislature and the Governor as enunciated in some of the laws that have passed in recent years, and the role generally that the Attorney General's Office should play in those areas. Maybe I'm just getting my oar in the water here today, not really looking for a whole lot of answers.

This Legislature and this Governor -- or previous Legislatures I should say, and this Governor -- enacted a series of laws on auto insurance reform back in 1983 or thereabouts. One of the parts was the creation of the now infamous JUA. One of the parts in funding the JUA was the collection of surcharges, those terrible, awful surcharges that we legislators get correspondence about every day of the week. But as I read the numbers, we're collecting under the auspices of the Attorney General's Office something around 40% of those surcharges, and we're not collecting something close to \$50 million a year in surcharges to support the JUA. Do you have any basic knowledge of that, have you gotten into that at this point in time with briefings or--

MR. PERRETTI: Practicing civil law, I've watched this. I sometimes represent plaintiffs, and I've watched the developments in this area. I think the present, if it is properly described as a crisis in the financing-- Quite frankly as a citizen who's paying some bills on my automobile insurance, it looks like a crisis to me. And if there's a responsibility in the office which I would seek in that regard, that's an area that I would wish to see if I could lend any help to, any creative thinking to. It's a difficult problem.

SENATOR LYNCH: It's part of that same package of bills. Of course the surcharges were designed to have a deterrent effect; to keep people driving carefully, safely, and also to pay for part of the tab of subsidizing the JUA system itself. There was another component in that package that had to do with the creation of a fraud bureau in the Department of Insurance, which doesn't come under -- would not come under your reaches.

But the Attorney General's Office already has the inherent power to address most of the things that the Department of Insurance was given powers to delve into; namely going after attorneys, doctors, lawyers, body shops, adjustment companies, and adjusters, etc. who are abusing the system, violating the law, and committing fraud on the public, and so forth. I've seen very little having ever flowing out of either the Department of Insurance or the Attorney General's Office to go after these particular groups who the only time you hear about them are in speeches when we, you know, make jokes over what's going on out there in the system, including the Governor's most recent State of the State when he pointed to that very example or an example along those lines.

Do you see a significant role for the Attorney General's Office that could be played in this area?

MR. PERRETTI: No doubt as someone practicing civil law -- and I've been doing personal injury work from time to time, I still do it -- one sees and hears about what appears to

be reality. The system's in trouble and one sees and hears that there may be some lawyers and body shops and the like who just hand out bills and know that there is no effort to cut costs or control whatsoever, and maybe even some criminal misbehavior. I would think that a responsibility of the office, and I would think that it's a responsibility to investigate and to pursue that, without question.

SENATOR LYNCH: Since it's such a high priority with the consuming public today, it would seem to me it would be a high priority area for the Attorney General's Office as well.

Are you prepared to go out and do some quick movies if you're sworn into this high office so we don't have to watch Cary Edwards in the movie theaters about anti-drug campaigns and the like?

SENATOR GORMLEY: We have to get those off the air real quick -- this afternoon. (laughter)

SENATOR LYNCH: You know it sounds funny, but it's true. It sort of goes hand in glove with what Senator Codey was talking about before--

SENATOR GORMLEY: What do you mean?

SENATOR LYNCH: --and maybe we ought to bring Dennis Crowley up here--

SENATOR GORMLEY: Is Dennis here?

SENATOR LYNCH: But the fact of the matter is it doesn't seem correct or proper, regardless of which side of the aisle we happen to be on, to see a candidate for Governor who's getting two minutes in the movie theater every night to cross this entire State on the war on drugs; probably a relatively recent production as well and also to see some of the more recent documents that have flowed from the Attorney General's Office which are extremely well done.

Based upon the brochures that I've seen over the last six months, I would hope that you expect that you're going to be having your picture taken professionally quite frequently,

if you're going to be reproducing those kinds of documents over the next 12 months -- annual reports and so forth.

Have you seen the movie on the Attorney General's war on drugs?

MR. PERRETTI: I have not, Senator--

SENATOR LYNCH: It was two or three minutes.

MR. PERRETTI: No, I have not.

SENATOR LYNCH: Well, go see "Rainman," or something like that and get a look at it. (laughter) It doesn't have a "paid for" under it, either, I think. But seriously, that's the kind of thing I think you would have to get into quickly to ensure that the integrity of the office is maintained. I'm not pointing fingers or accusing anyone. It just happens to play out that way, and it's not proper.

With regard to policy again, this Legislature was embroiled in another difficult issue. That was the Mount Laurel issue which ultimately resolved itself with the passage of the Fair Housing Act. One of the significant parts of the passage of that bill and of the language of the bill deals with the obtaining of-- Each community would have to obtain substantive certification of a housing plan if they wanted the protection of the Council on Affordable Housing and to be removed from the primary jurisdiction of the court under the Mount Laurel philosophy. It says in the law that you have "X" period of time in which to submit that plan to the Council on Affordable Housing and to go through the process of achieving substantive certification, and if you don't, you're still at the whim and mercy of the court, and you can't seek safe harbor of the Council on Affordable Housing unless you have taken affirmative action. You, the municipality, could go forward with the housing element early on so that you would then have the incentive to move forward with the creation of a legitimate housing plan in return for which you get the protection of the Council on Affordable Housing process.

What has happened is since that time, as I understand it, is that the Attorney General's Office and maybe the Council have taken a position, at least have let stand, some trial court opinions that say that municipalities can wait until there is a lawsuit, without doing anything about their housing element locally. The lawsuit started, they then seek to be transferred from the Superior Court to the Council on Affordable Housing to start the process running so that they then can begin to develop their housing element. It flies directly in the face of the policy as enunciated by this Governor and of this Legislature, and we've been told by some of the participants that, "Well maybe we ought to pass another law." Obviously it's not an area where we need to pass another law. It's one that we need to have the Attorney General's Office or someone else carry out the policy as enunciated in the current law.

It doesn't sound like a big deal to a lot of people, but it's extremely important to the Fair Housing Act being able to relate to its original role. It's not going to satisfy the need for fair housing if it doesn't have meaning and if we can keep deflecting the ball back and forth as in a tennis match.

Do you have any knowledge of that area of the law at all, or have you been down that road in practice?

MR. PERRETTI: Senator, I've learned in practice before courts that when you don't know, say, "I don't know." This is an area where quite frankly I would have to get up to speed on the nuances of Mount Laurel and its evolutionary process in this State. I recognize it as an important aspect of what's happening in our State, and I do intend to get up to speed on it.

SENATOR LYNCH: You've had an opportunity to have discussions with Col. Pagano since your nomination?

MR. PERRETTI: We've chatted on the phone very briefly. He and I both agreed that we thought we knew each

other. That goes back to days in the Essex County Prosecutor's Office. Our discussion has been purely social in that vein to date.

SENATOR LYNCH: There have been some rumors circulating -- I'm not saying from Col. Pagano either -- that the Attorney General's Office has taken over hands-on control of some of the investigatory areas of the State Police that they traditionally maintain some semblance of independence on. Are you aware of any of those areas, or any of those discussions, or any rumors or any complaints from different levels of State Police?

MR. PERRETTI: Well, I'm aware that in a free society there is, and always will be, tension between fine police organizations and civilian attorneys general and prosecutors. This is historic in our society. We all know; we've all read the books about the FBI and attorneys generals. I've had the opportunity to discuss this with former Attorney General Katzenbach, who as you know is a law partner of mine. These tensions are there. They're there from time to time, and I don't think it's unusual. I think it's something that one deals with daily, and if one does deal with it daily and appropriately and correctly, these tensions can be resolved, if they're there.

SENATOR LYNCH: This is more than a tension. The allegations are that there's-- It's not a tension issue, it's resulted in a tension issue, I guess, but there's been a direct change of policy in recent years with regard to the investigative role of the State Police and who would be setting the day-to-day policy with regard to that investigative role, and who would have hands-on control. So be it. I have no more questions.

SENATOR O'CONNOR: Senator Orechio, another question?

SENATOR ORECHIO: I'm very happy, at this time to move the nomination of this outstanding candidate for Attorney General, Mr. Chairman.

SENATOR O'CONNOR: If you would Senator, is there anyone here to address the Committee on the nomination? (no response) And hearing no one, the motion's released by Senator Orechio--

SENATOR DORSEY: Seconded.

SENATOR O'CONNOR: --and seconded by Senator Dorsey.

MR. TUMULTY: Senator O'Connor?

SENATOR O'CONNOR: Yes.

MR. TUMULTY: Senator Zane?

SENATOR ZANE: Yes.

MR. TUMULTY: Senator Ambrosio?

SENATOR AMBROSIO: Yes.

MR. TUMULTY: Senator Codey?

SENATOR CODEY: Yes.

MR. TUMULTY: Senator Lynch?

SENATOR LYNCH: Yes.

MR. TUMULTY: Senator Orechio?

SENATOR ORECHIO: Yes.

MR. TUMULTY: Senator Van Wagner?

SENATOR VAN WAGNER: Yes.

MR. TUMULTY: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MR. TUMULTY: Senator Dorsey?

SENATOR DORSEY: Yes.

MR. TUMULTY: Senator Gormley?

SENATOR GORMLEY: Yes.

MR. TUMULTY: Senator Laskin?

SENATOR LASKIN: Yes.

MR. TUMULTY: The nomination's released.

SENATOR O'CONNOR: Congratulations. Good luck to you.

MR. PERRETTI: Thank you, Mr. Chairman, thank you, Senators.

SENATOR O'CONNOR: The balance of the nominations on today's list do not require interviews, and I ask that we have a motion to release--

SENATOR ZANE: So moved.

SENATOR O'CONNOR: Senator Zane, seconded by Senator Van Wagner.

MR. TUMULTY: Senator O'Connor?

SENATOR O'CONNOR: Yes.

MR. TUMULTY: Senator Zane?

SENATOR ZANE: Yes.

MR. TUMULTY: Senator Ambrosio?

SENATOR AMBROSIO: Yes.

MR. TUMULTY: Senator Codey?

SENATOR CODEY: Yes.

MR. TUMULTY: Senator Lynch?

SENATOR LYNCH: Yes.

MR. TUMULTY: Senator Orechio?

SENATOR ORECHIO: Yes.

MR. TUMULTY: Senator Van Wagner?

SENATOR VAN WAGNER: Yes.

MR. TUMULTY: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MR. TUMULTY: Senator Dorsey?

SENATOR DORSEY: Yes.

MR. TUMULTY: Senator Gormley?

SENATOR GORMLEY: Yes.

MR. TUMULTY: Senator Laskin?

SENATOR LASKIN: Yes.

MR. TUMULTY: The nominations are released.

SENATOR O'CONNOR: We will adjourn until Thursday, at 10:00 a.m. at which time we'll take up the nomination of Christopher Daggett, for the DEP.

(MEETING CONCLUDED)

